

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

March 5, 2008
Council Chambers
6:30 p.m.

Banning Civic Center
99 E. Ramsey St.

The following information comprises the agenda for a regular meeting of the City Council and a Joint Meeting of the City Council and the Banning Utility Authority.

Per City Council Resolution No. 1997-33 matters taken up by the Council before 10:00 p.m. may be concluded, but no new matters shall be taken up after 10:00 p.m. except upon a unanimous vote of the councilmembers present and voting.

I. CALL TO ORDER

- . Pledge of Allegiance
- . Invocation
- . Roll Call – Councilmembers Botts, Franklin, Hanna, Machisic, Mayor Salas

**II. PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS
ANNOUNCEMENTS/APPOINTMENTS**

Report by City Attorney

PUBLIC COMMENTS – *On Items Not on the Agenda*

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

*Our Mission as a City is to provide a safe, pleasant and prosperous
community in which to live, work and play. We will achieve this in
a cost effective, citizen friendly and open manner.*

PRESENTATIONS

1. Love Your City Day – Raffle Winner (ORAL)

ANNOUNCEMENTS/COUNCIL REPORTS:

(Upcoming Events/Other Items and Reports if any) (ORAL)

APPOINTMENTS

1. Appointment of 2 Councilmembers to An Ad Hoc Committee
to Meet with Banning Heights Mutual Water Company
Regarding Flume Agreement 1

III. A. CONSENT ITEMS

(The following items have been recommended for approval and will be acted upon simultaneously, unless any member of the City Council wishes to remove an item for separate consideration.)

**Motion: That the City Council approve Consent Item 1 through 10
Items to be pulled _____, _____, _____ for discussion.**

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

1. Ordinance No. 1385 – 2nd Reading: an Ordinance of the City
Council of the city of Banning, California, Approving General
Plan/Zoning Map Amendment #07-2502 to Change the Zoning
Classification from Low Density Residential to Professional
Office at 935 E. Williams Street/APN 541-121-022 2
2. Resolution No. 2008-30, Authorizing the Appropriation of
\$5,000 for the 2008 California Seat Belt Compliance
Campaign Mini-Grant. 7
3. Resolution No. 2008-31, Approving a Memorandum of
Understanding (MOU) with the Banning Police Officer's
Association and the City of Banning. 11
4. Resolution No. 2008-32, Temporarily Delaying the Collection of
of the City's Residential Development Impact Fees Until
Certificate of Occupancy 42
5. Sole Source Purchase from Kustom Signals, Inc. for Upgrades to
the Existing Kustom Signals, Inc. Camera System in Patrol
Vehicles 47
6. Accept the Right-of-Way Dedication from Mark Heslop for
Street Improvements at Assessor's Parcel Number 537-160-002. 49
7. Emergency Pavement Repairs to Birdie Drive at Sunnindale
Street Caused by a Leak in the Existing 8" Water Line 54

8. Emergency Protection of the Existing 15" Sewer Line Located Along the West Bank of Pershing Creek North of Westward Avenue and West of Sunset Avenue 59
9. Emergency Repairs to the Dirt Roadway Covering the Existing 8" Water Line Located on Shirleon Drive in South Riverside County. 64
10. Approval of Accounts Payable and Payroll Warrants for the Month of January 2008 69

- Open for Public Comments
- Make Motion

IV. **PUBLIC HEARINGS**

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

1. Amendments to Title 16 Subdivisions of the Banning Municipal Code.
Staff Report 71

Recommended Motions:

- 1) **Mayor asks the City Clerk to read the Title of Ordinance No. 1384**
"Ordinance No. 1384, An Ordinance of the City Council of the City of Banning, Amending Various Provisions of Title 16 Subdivisions of the Banning Municipal Code."

Motion: I move to waive further reading of Ordinance No. 1384.
 (Requires a majority vote of Council)

Motion: I move that Ordinance No. 1384 pass its first reading.
 (A minimum of three votes required)

Alternatives:

Continuance:

- 1) I move the City Council continue the public hearing to its March 11, 2008 meeting.

Denial: I move the City Council deny the Amendments to Title 16 Subdivisions of the Banning Municipal Code on the following basis: (The City Council will need to make its findings.)

V. REPORTS OF OFFICERS

1. Bonnie Johnson, Finance Director
 - A. Appointments to the Budget Ad Hoc Committee 86Recommendation: **That the City Council appoint two of its members to serve on the Budget Ad Hoc Committee during the preparation of the upcoming 2008-09/2009-10 budget.**

VI. RECESS CITY COUNCIL MEETING TO A JOINT MEETING OF THE CITY COUNCIL, and the BANNING UTILITY AUTHORITY.

Call to Order Joint Meeting

A. REPORTS OF OFFICERS

- A-1. Bonnie Johnson, Finance Director
 - 1) City Council Resolution No. 2008-28, Authorizing Fiscal Year 2007-08 Mid-Year Adjustments and Utility Authority Resolution No. 2008-02UA Authorizing Fiscal Year 2007-08 Mid-Year Adjustments to the Water and Wastewater Enterprises 87

Recommendations:

- a) **That the City Council adopt Resolution No. 2008-28, Authorizing revenue and expenditure line item adjustments reflected in the Fiscal Year 2007-08 Mid-Year Budget Review.**
- b) **That the Utility Authority Board adopt Resolution No. 2008-02UA, Authorizing revenue and expenditure line item adjustments in the Water and Wastewater Enterprises as reflected in the Fiscal Year 2007-08 Mid-Year Budget Review.**

B. Open for Public Comments

C. Make Motion

Adjourn Joint Meeting

VII. ITEMS FOR FUTURE AGENDAS

New Items –

Pending Items –

1. Review of “Green Plan” in All Departments (*Machisic-10/9/07*) (*Earhart*) (ETA 4/08)
2. Annual Review of General Plan (*Hanna- 10/9/07*) (*Orci*) (ETA 3/25/08)

3. Review of Lease with Armory by end of the year. (*Franklin- 10/9/07*) (*City Atty.*)
4. Schedule Special Meeting with the Beaumont City Council (*Salas- 11/27/07*) (*City Mgr.*)
5. Schedule Special Jt. Meeting the Banning United School District Board –
(*Botts – 11/27/07*) (*City Mgr.*)
6. Schedule Special Jt. Meetings with the City's Various Committees (Planning Commission, Economic Development Committee, Parks & Recreation) –
(*Franklin – 11/27/07*)
7. Review of Development Fees (*Hanna – 12/11/07*) (*Orci*) (*ETA 3/08*)
8. Ordinances in Regards to Group Homes (*Botts – 12/11/07*) (*Orci & Purvis*) (*ETA 3/25/08*)
9. Performance Review of City Attorney's Office (*Hanna – 1/22/08*) (*ETA 4/08*)
10. Need to Set Date for Meeting with Morongo Band of Mission Indians regarding
The Banning Municipal Airport (*Hanna -2/12/08*) (*City Mgr.*)

FUTURE MEETINGS

1. Next Regular City Council Meeting – Tuesday, March 11, 2008

VIII. ADJOURNMENT

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 and Council. 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 three-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor and Council. A thirty-minute time limit is placed on this section. No member of the public shall be permitted to "share" his/her three minutes with any other member of the public. 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 (909) 922-3102. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.02-35.104 ADA Title II].

**CITY COUNCIL AGENDA
APPOINTMENTS**

Date: March 5, 2008

TO: City Council

FROM: James Earhart, Electric Utility Director

SUBJECT: Appoint two Council members to an ad-hoc committee to meet with Banning Heights Mutual Water Company, legal counsel and city staff to discuss the approved Flume Agreement.

RECOMMENDATION: "The City Council appoints two members to serve on an ad-hoc committee with staff, legal counsel and two members of the Banning Heights Mutual Water Co."

BACKGROUND & ANALYSIS: The Banning City Council approved the "flume agreement" on January 17, 2008. The agreement requires the formation of a committee consisting of representatives from the City, the San Geronio Pass Water Agency (SGPWA) and the Banning Heights Mutual Water Company (BHMWC). The purpose of the committee is to negotiate the future operations and maintenance of the water flume.

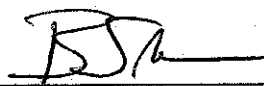
The BHMWC board has not yet approved the agreement, and BHMWC has requested that the Banning City Council appoint two members to an ad-hoc committee to meet with them to discuss their concerns with the agreement. The committee will consist of two Banning council members, two BHMWC board members, legal counsel and city staff.

FISCAL DATA: There is no fiscal impact.

RECOMMENDED BY:


James Earhart
Electric Utility Director

APPROVED BY:


Brian Nakamura
City Manager

2nd Read

ORDINANCE NO. 1385

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING GENERAL PLAN / ZONING MAP AMENDMENT #07-2502 TO CHANGE THE ZONING CLASSIFICATION FROM LOW DENSITY RESIDENTIAL TO PROFESSIONAL OFFICE AT 935 E. WILLIAMS STREET/APN 541-121-022.

WHEREAS, the City undertook a comprehensive General Plan and Zoning Ordinance update in 2003; and

WHEREAS, the Municipal Code allows for Zoning/General Plan Map Amendments consistent with the goals and policies of the General Plan; and

WHEREAS, an application for a Zoning/General Plan Map Amendment to change the zoning from Low Density Residential to Professional Office has been duly filed by:

Applicant / Owner:	VicSeth Construction
Authorized Agent:	Elena Labastida
Project Location:	935 E. Williams Street
APN Number:	APN 541-121-022
Lot Area:	4.6 acres

WHEREAS, in accordance with Government Code § 65854, on November 16, 2007 the City gave public notice by advertisement in the Press Enterprise Newspaper and by mailing public notices to property owners within a 300 foot radius, of the holding of a public hearing at which the project would be considered by the Planning Commission; and

WHEREAS, on December 4, 2007 and January 2, 2008 the Planning Commission held the noticed public hearings at which interested persons had an opportunity to testify in support of, or opposition to, the Zone Change and at which the Planning Commission considered the GPA / Zone Change; and

WHEREAS, at these public hearings the Planning Commission considered, heard public comments on, and on January 2, 2008 adopted Resolution No. 2008-01 recommending denial of the proposed zone change; and

WHEREAS, in accordance with Government Code § 65854, on January 11, 2008 the City gave public notice by advertisement in the Record Gazette and by mailing public notices to property owners within a 300 foot radius, of the holding of a public hearing at which the project would be considered by the City Council; and

WHEREAS, on January 22, 2008 and February 12, 2008 the City Council held the noticed public hearings at which interested persons had an opportunity to testify in support of, or opposition to, the GPA / Zone Change and at which the City Council considered the Zone Change; and

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

SECTION 1. ENVIRONMENTAL FINDINGS.

The City Council, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines and Thresholds of Significance, the recommendation of the Community Development Director as provided in the Staff Report dated January 22, and February 12, 2008 and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. CEQA: The approval of this General Plan Amendment is in compliance with requirements of the California Environmental Quality Act ("CEQA"), in that on February 12, 2008, at a duly noticed public hearing, the City Council approved and adopted a Negative Declaration reflecting its independent judgment and analysis and documenting that there was not 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 East Ramsey Street, Banning, California 92220.

2. Multiple Species Habitat Conservation Plan (MSHCP). The project is found to be consistent with the MSHCP. The project is located outside of any MSHCP criteria area and mitigation is provided through payment of the MSHCP Mitigation Fees paid for by developer of the property when that land is developed.

SECTION 2. REQUIRED ZONE CHANGE FINDINGS.

Pursuant to Banning Municipal Code Section 17.44.010, the City Council makes the following findings pertaining to GPA / Zone Change No. 07-2502:

Finding #1: The proposed Amendment is consistent with the goals and policies of the general plan.

Fact: The property is located at 935 Williams Street, in the Low Density Zone of the General Plan. The property is bound by Williams Street on the south, Nicolet Street on the north, is west of Phillips Street and is approximately 330 feet east of Hargrave Street. This area is made up of a variety of land uses. There are office and commercial uses to the south of Williams Street, there are single family and multifamily developments on the north, east and west and, therefore, the proposed zone change supports the City's Vision Statement that includes: "We see well-balanced commercial development, where revenue generating commercial neighborhoods provide a diversified economy and a wide range of

jobs, where people can live and work without needing their cars...". The introduction of the low impact uses that are permitted in the Professional Office Zone will provide jobs and much needed services close to home, in an office complex designed to be architecturally low key and residential in character.

One of the Land Use Element's areas of focus for development opportunities is the use of neighborhood plans as an opportunity to revitalize neighborhoods, to enhance their character and identity and to create a livable city. The Zone Change is for a parcel that lies on the boundary of a Low-Density Residential neighborhood; is on a street that straddles the transition between commercial and residential uses; therefore the low impact uses that are permitted in the Professional Office Zone can provide not only jobs and much needed services close to home, but can serve as a transitional buffer between the more intense uses located along Ramsey Street, while revitalizing a blighted neighborhood by setting the tone for an upgraded neighborhood aesthetic.

Finding #2: The proposed Amendment is internally consistent with the Zoning Ordinance.

Fact: Changing the zone from Low Density Residential to Professional Office is internally consistent with the Zoning Ordinance, because the uses included for Professional Office zoning in the permitted uses matrix of the Zoning Ordinance are suitable for within residential neighborhoods as evidenced by the successful co-existence of similar neighborhood offices located in older, established neighborhoods throughout the country. Moreover, through the conditional use permit and design review processes provided for in the Zoning Ordinance, the site can be designed and conditioned to ensure neighborhood compatibility.

SECTION 3. CITY COUNCIL ACTION.

The City Council hereby takes the following actions:

Approve GPA / Zone Change No. 07-2502 changing the General Plan and Zoning Map from Low Density Residential to Professional Office as shown in Exhibit A, which is attached hereto and incorporated herein by reference.

PASSED, APPROVED AND ADOPTED this 12th day of February, 2008.

Brenda Salas, Mayor
City of Banning

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

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

ATTEST:

Marie A. Calderon, City Clerk
City of Banning

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1385 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 12th day of February, 2008, and was duly adopted at a special meeting of said City Council on the 5th day of March, 2008 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

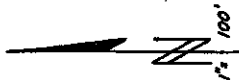
Marie A. Calderon, City Clerk
City of Banning, California

541-12

T.C.A. 100

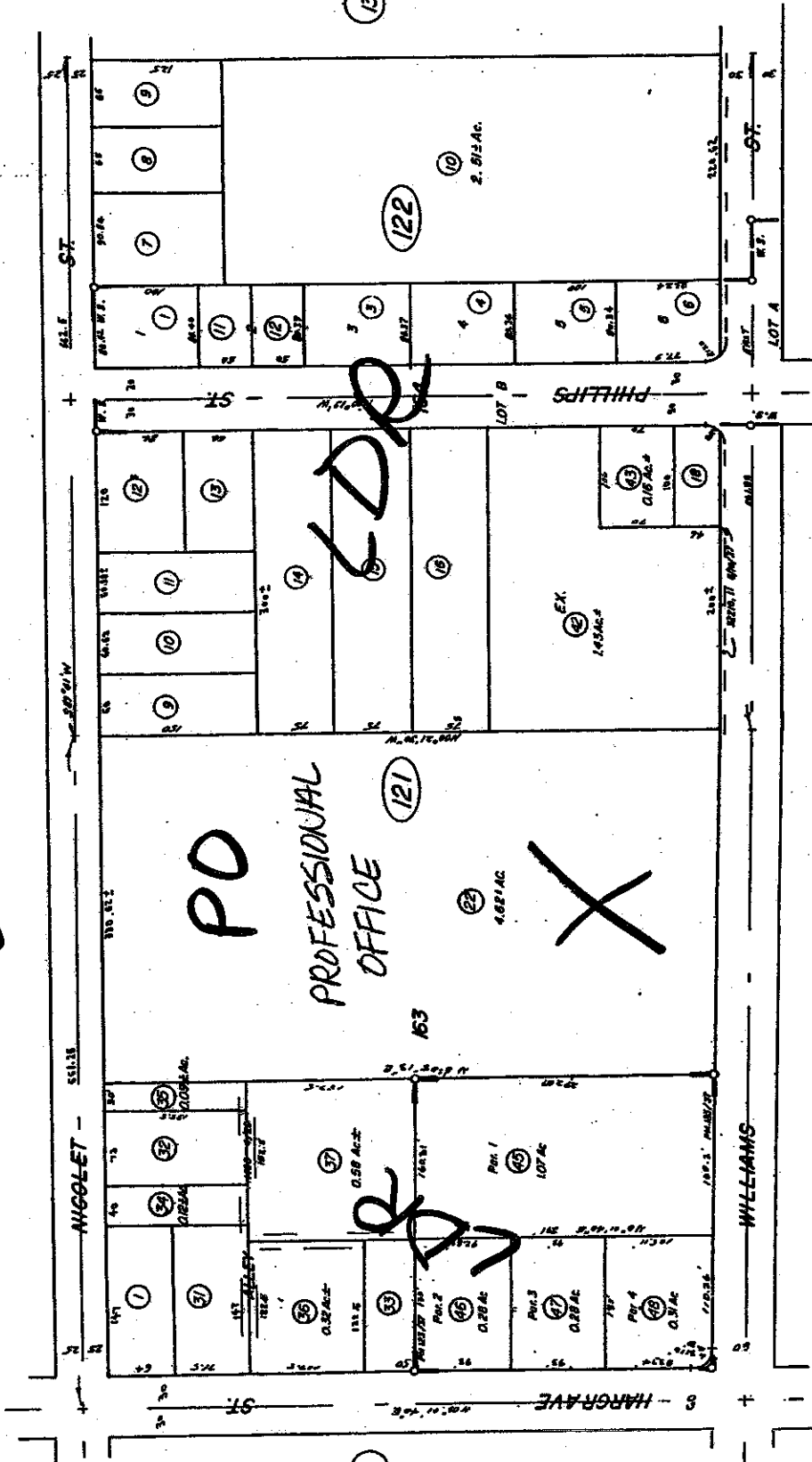
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LDR 8



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EXHIBIT "A"



M.B. 5/186 RIV. Banning Colony Lands (Part of)
M.B. 3/149 S.D.
M.B. 18/77 Warran Sub.
P.M. 123/37-38 Patch Map No. 17989

BP 16

ASSESSOR'S MAP, BK. 841, PG. 12
RIVERSIDE COUNTY, CALIF.

SEPT. 1969

**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: March 5, 2008

TO: City Council

FROM: Leonard Purvis, Chief of Police

SUBJECT: Resolution No. 2008-30, authorizing the appropriation of \$5,000 for the 2008 California Seat Belt Compliance Campaign Mini-Grant

RECOMMENDATIONS: "The City Council adopt Resolution No. 2008-30 appropriating \$5,000 into police department account 001 2200 421 1030 to fund the Banning Police Department's grant agreement with the California Office of Traffic Safety (OTS) for the California Seat Belt Compliance Campaign in the City of Banning."

JUSTIFICATION: Utilizing funds from the 2008 California Office of Traffic Safety Seat Belt Grant to pay overtime for officers to participate in the 2008 California Seat Belt Compliance Campaign will enhance the police department's ability to proactively educate the public on the importance of wearing seat belts and seek out seat belt violators between the campaign's target dates of May 12, 2008 – June 1, 2008. The campaign includes two additional weeks, one before and one after the noted target dates, for the collection of pre and post seatbelt enforcement statistics.

BACKGROUND: The California Office of Traffic Safety has notified the Banning Police Department that \$5,000 is available in overtime for Banning Police Officers to participate in the 2008 California Seat Belt Compliance Campaign beginning May 12, 2008. During the five week campaign officers will conduct surveys to determine seat belt usage in the City of Banning and proactively patrol and ticket seat belt violators in support of the "Click It or Ticket" national campaign.

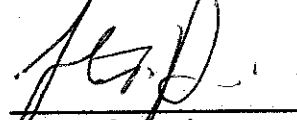
ACTION PLAN:

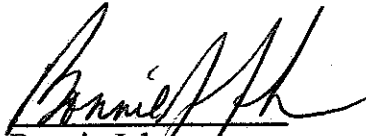
1. Obtain City Council approval to complete and submit an agreement between the Banning Police Department and the California Office of Traffic Safety to participate in the 2008 Seat Belt Compliance Campaign.
2. Participate in campaign and submit required reports to California OTS.
3. At conclusion of campaign, submit appropriate paperwork for reimbursement of OT funds.

STRATEGIC PLAN INTEGRATION: Approval of this request will enhance the City's image and provide the Citizens of Banning a safe, pleasant, and prosperous community in which to live, work, and play, while remaining cost effective.

FISCAL DATA: This grant will require the City Council to authorize an appropriation in the amount of \$5,000 to the police department's overtime account (001 2200 421 1030), which will be reimbursed to the City's General Fund upon completion of the grant by the California Office of Traffic Safety.

RECOMMENDED BY:


Leonard Purvis
Chief of Police


Bonnie Johnson
Finance Director

APPROVED BY:


Brian Nakamura
City Manager

RESOLUTION NO. 2008-30

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BANNING AUTHORIZING THE POLICE DEPARTMENT TO ENTER INTO AN AGREEMENT WITH THE CALIFORNIA OFFICE OF TRAFFIC SAFETY TO RECEIVE \$5,000 IN OVERTIME FUNDS TO BE USED FOR OFFICERS PARTICIPATING IN THE 2008 CALIFORNIA SEAT BELT COMPLIANCE CAMPAIGN.

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

WHEREAS, the City of Banning Police Department is committed to better traffic safety measures in the City of Banning; and

WHEREAS, the City of Banning Police Department is committed to educating the public on traffic safety issues; and

WHEREAS, the City of Banning Police Department is committed to participating in the national "Click It or Ticket" campaign; and

WHEREAS, the City's procedures requires the City Council to adopt a resolution authorizing the expenditure funds procured through grants.

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Banning authorizes the Banning Police Department to enter into an agreement with the California Office of Traffic Safety accepting overtime funds from the California Seat Belt Compliance Campaign Grant in the amount of \$5,000. Additionally, the City Council of Banning authorizes the appropriation of \$5,000 into the Banning Police Department Overtime Account (001-2200-421-1030), which will be reimbursed into the general fund when funds are received from the California Office of Traffic Safety. The Finance Department is authorized to make necessary budget adjustments related to these funds.

PASSED, APPROVED, AND ADOPTED this 5th day of March, 2008.

Brenda Salas, Mayor
City of Banning

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

Burke, Williams & Sorensen, LLP
City Attorney

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ATTEST:

Marie A. Calderon, City Clerk

CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2008-30 was duly adopted by the City Council of the City of Banning, California, at a special meeting thereof held on the 5th day of March 2008, by the following to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

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**CITY COUNCIL AGENDA
CONSENT ITEM**

DATE: March 5, 2008

TO: Honorable Mayor and City Council

FROM: Chris Paxton, Director of Human Resources

SUBJECT: Banning Police Officer's Association (BPOA) Memorandum of Understanding

RECOMMENDATION: Adopt Resolution No. 2008-31 approving a Memorandum of Understanding (MOU) with the Banning Police Officer's Association which represents sworn non-management police personnel and a number of non-sworn employees.


JUSTIFICATION: The City's most recent MOU with the BPOA expired on June 30, 2007. A new MOU has now been negotiated.

BACKGROUND: With the expiration of its MOU with the BPOA on June 30, 2007, the City entered into negotiations with this bargaining group.

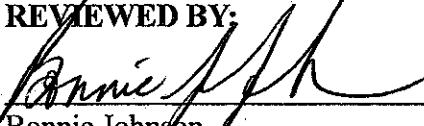
After several months of meetings under the provisions of the Myers-Milias-Brown Act and the City's Employer-Employee Relations Ordinance, a new agreement has been reached. The term of the MOU is July 1, 2007 through June 30, 2009. This new agreement provides for an increase to health insurance contributions under the City's cafeteria plan, allows employees to accrue additional leave hours and provides for cash pay out of accrued leave time.

FISCAL DATA: The annual fiscal impact of this agreement is approximately \$144,600 with the existing health plan choices. However, the annual costs could be as high as \$171,000 if employees opt for the plans with higher premiums. All adjustments for these costs have been incorporated into the mid-year budget adjustments.


RECOMMENDED BY:


Chris Paxton
Director of Human Resources

REVIEWED BY:


Bonnie Johnson
Director of Finance

APPROVED BY:


Brian Nakamura
City Manager

Resolution 2008-31 with MOU

11

RESOLUTION NO. 2008-31

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING
APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE
BANNING POLICE OFFICER'S ASSOCIATION AND THE CITY OF BANNING**

WHEREAS, the City of Banning has recognized the Banning Police Officer's association as the bargaining unit representing a group of its employees; and,

WHEREAS, the prior Memorandum of Understanding (MOU) between the City and the BPOA expired on June 30, 2007; and

WHEREAS, the City and BPOA have successfully met and conferred under the Meyers-Milias-Brown Act (MMBA) and the City's Employer-Employee Relations Resolution to negotiate a new MOU for the period July 1, 2007 through June 30, 2009;

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

1. The City Council approves the MOU, a copy of which is attached hereto and by this reference made a part hereof.
2. The Mayor is authorized to execute the original document.

PASSED, APPROVED, AND ADOPTED this 5th day of March, 2008.

Brenda Salas, Mayor
City of Banning

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

Burke, Williams & Sorenson LLP
City Attorney

ATTEST:

Marie A. Calderon, City Clerk

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2008-31 was duly adopted by the City Council of the City of Banning, California, at a special meeting thereof held on the 5th day of March, 2008, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

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**MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF BANNING,
AND
THE CITY OF BANNING POLICE OFFICERS ASSOCIATION
JULY 1, 2007 – JUNE 30, 2009**

ARTICLE 1 - PREAMBLE

1.1 - Agreement - This agreement is entered into between The City of Banning, a Municipal Corporation, hereinafter known as "the City" or "City" and the authorized representatives of the Banning Police Officers Association, the recognized employee organization of the Police Unit, hereinafter known as "the Union" or "Union", relative to wages, hours, and other terms and conditions of employment as provided by Sections 3500 - 3510 of the California Government Code, otherwise known as the Meyers-Milias-Brown Act.

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

1.3 - Term - Except as otherwise provided herein, this agreement between the City and the Union relative to wages, hours, and other terms and conditions of employment shall become effective on July 1, 2007 through June 30, 2009 and thereafter shall remain in full force and effect and continue in effect year-by-year unless one (1) of the parties notifies the other in writing no later than March 31, 2009 of its request to modify, amend or terminate this MOU or no later than March 31st of any year after 2009.

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

ARTICLE 2 - CONTINUATION OF RULES & POLICIES

2.1 - Other Written Policies - Subject to the terms of this Memorandum of Understanding ("MOU" or "Agreement"), all City ordinances, resolutions, rules and regulations, including the City's Personnel Rules and Regulations, the Employer-Employee Relations Resolution (Resolution No. 2007-41) and the Administrative Policies of the City of Banning and the Banning Police Department shall apply during the term of this Agreement.

2.2 - Meet and Confer - The Union and the City agree to meet and confer during the term of this MOU over the adoption, amendment or revision, including repeal, of City ordinances, resolutions, rules and regulations, including the City's Personnel Rules and Regulations, the Employer-Employee Relations Resolution (Resolution No. 2007-41) and the Administrative Policies of the City of Banning and the Banning Police Department, to the extent that such documents contain mandatory subjects of bargaining pursuant to the Meyers-Milias-Brown Act. Should an impasse be reached following such meet and confer

sessions, the provisions of the Employer- Employee Relations Resolution (Resolution No. 2007-41) will apply.

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

ARTICLE 3 - EMPLOYEE RIGHTS

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

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

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

3.4 - GC Section 3502 - Employees shall have the rights provided to them under Government Code section 3502.

3.5 - Locker Searches - No represented employee shall have the locker assigned to him or her searched or inspected except in his or her presence, or with his or her consent, or unless a valid search warrant has been obtained, or where he or she has been notified that a search will be conducted. This section shall apply only to lockers that are owned by or leased by the City and assigned to individual employees by the City.

ARTICLE 4 - MANAGEMENT RIGHTS

4.1 - The Union recognizes and agrees that the City and its representatives have the responsibility and the authority to manage and direct all operations and activities of the City including, but not limited to the exclusive right to determine the mission of its constituent departments, commissions and boards and the processes and the materials to

be employed; the right to subcontract any work or operation; to expand or diminish services; to determine the procedures and standards of selection for employment and promotion; determine classifications; direct its employees; take disciplinary action; relieve its employees of duty because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted and to assign work to employees and to establish and change work schedules and assignments and to determine the days and hours when the employees shall work; take all necessary actions to carry out its mission in emergencies; and, exercise complete control and discretion over its organization and work performance technology.

ARTICLE 5 - DUES DEDUCTION

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

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

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

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

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

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

ARTICLE 6 - UNION REPRESENTATIVES

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

ARTICLE 7 - BULLETIN BOARDS

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

- (a) Scheduled Union Meetings, Agenda and Minutes.
- (b) Information on Union Elections and the Results.
- (c) Posting of Union special, recreational, and related bulletins.
- (d) Reports of Official Business of Union Including Reports of Committees or the Board of Directors
- (e) MOU, Pay Scales, Job Announcements, Promotion Lists, Etc.
- (f) Such other items as may be approved by the Department Head upon request of the Union.

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

ARTICLE 8 - MEMORANDUM OF UNDERSTANDING COPIES

8.1 - The City shall provide the Union with thirty-five (35) executed copies of this Memorandum after it has been fully executed by the parties. The City shall also provide a copy of the executed MOU to any represented employee hired or promoted into the bargaining unit after the effective date of the Agreement. The City may charge for any additional copies. The Union shall be responsible for providing copies of this MOU to represented employees at Union expense.

ARTICLE 9 - MEETINGS

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

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

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

ARTICLE 10 - HOURS OF WORK

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

- (a) Employees assigned to uniformed patrol shall have a work schedule of seven (7) twelve (12) hour shifts each fourteen (14)-day work period.
- (b) Employees assigned to the detective bureau shall have a work schedule as assigned by the Department Head.

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

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

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

10.5 - Shift Assignments - Each year, the Department Head shall post a shift assignment notice on which officers shall indicate their shift assignment preference. The notice will solicit three shift preferences and any additional information regarding their reasons for requesting a particular shift. The Department Head shall consider each request, giving those with seniority a higher priority, and make an effort to accommodate individual

preferences. However, it is recognized that the Department Head shall have the ultimate authority to make shift assignments based on the needs of the department.

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

ARTICLE 11 - SHIFT EXCHANGE

11.1 - Employees may be permitted to trade shifts provided that:

- (a) No additional compensation or other cost to the City results from such assignment;
- (b) Exchanging employees are fully qualified to perform the required tasks of both assignments; and
- (c) Written requests for shift representation must be submitted on the prescribed Department form and approved by the Department Head or his or her designee prior to the start of the requested shift.

ARTICLE 12 - SALARIES, PERFORMANCE EVALUATIONS, INCENTIVE PAY

12.1 - Assignment to Ranges - Retroactive to December 1, 2006, City agrees to place all unit members on the ranges as reflected in the PSPC salary survey dated January 2006. Pursuant to the attached schedule, the City and Union further agree as follows: 1) any employee currently below the minimum of the new range will be placed at the minimum of the new range with no further movement; 2) any employee who has attained permanent status as of July 1, 2006 (non-probationary) who is placed at a point on the new range which is above minimum and below maximum will receive a 5% increase on the range, except that no employee will exceed the maximum or otherwise receive any bonus; and 3) any employee whose hire date with the city precedes July 1, 2004 and whose salary placement on the new range is below midpoint will be moved to midpoint, with a minimum 5% increase.

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

- Professional Standards Supervisor (Sgt. rank only)
- Detective Sergeant
- Detective (ARCNET)
- K-9 Officer
- Motor Officer
- School Resource Officer
- Youth Resource Officer

- CET
- Any other assignment determined to be appropriate and approved by the Chief of Police in consultation with the Human Resources Department.

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

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

12.5 - Wage Increases/Performance Evaluations

As set forth in subparagraphs (A) through (D), below of this agreement, the pay for performance compensation model shall sunset (terminate) effective July 1, 2009 unless:

- (i) The parties mutually agree to continue the compensation model with or without modification for a specified duration; or
- (ii) The parties are unable to reach an agreement to continue/modify the compensation model, with the city exercising its rights pursuant to the MMBA act following the meet and confer process.
- (iii) In the event the plan terminates, the traditional model of structured annual step increases based upon satisfactory performance in existence prior to implementation of the pay for performance compensation model shall be reinstated prospectively.
- (iv) The parties shall endeavor to meet and confer at least 90 days prior to July 1, 2009, i.e., by April 1, 2009, in an effort to reach agreement or any plan revisions.
- (v) The sunset provisions of the pay for performance compensation model shall not affect any other provisions of this agreement.

- (A) Salary increases are to be based upon performance, rather than market increases. All employees shall have their performance evaluated annually on the City of Banning Police Department achievement evaluation form in

accordance with their salary anniversary date. A copy of the evaluation forms for supervisor and non-supervisor are attached hereto.

- (B) Pursuant to the levels of achievement on their annual performance evaluation, employees who have not reached within two (2) percent of the mid point of their salary range as shown on exhibit 1 would receive the following salary percentage increase corresponding with their achievement evaluation form rating. Once an employee reaches within two (2) percent of the mid point of their salary range, then these employees would receive increases up to the maximum of their range as set forth in paragraph c, below:

2.50 – 2.99 = 4% SALARY INCREASE
3.00 – 3.49 = 5% SALARY INCREASE
3.50 – 3.99 = 6% SALARY INCREASE
4.00 – 4.49 = 7% SALARY INCREASE
4.50 – 5.00 = 9% SALARY INCREASE

- (C) Pursuant to the levels of achievement on their achievement evaluation form, employees who have reached within two (2) percent or above of the mid point of their salary range would receive the following salary percentage increase corresponding with their annual achievement evaluation form rating, up to the maximum of their range. Once an employee reaches the maximum of their salary range as shown on the permanent salary table, then the employee will be given a one time bonus as set forth in paragraph d, below:

- I. 2.50 – 2.99 = 3% salary increase
- II. 3.00 – 3.49 = 3.5% salary increase
- III. 3.50 – 3.99 = 4% salary increase
- IV. 4.00 – 4.49 = 4.5% salary increase
- V. 4.50 – 5.00 = 5% salary increase

If any percentage increase set forth above, causes an employee's base salary to exceed the maximum of their salary range as shown on the permanent salary table, only the percentage increase up to the maximum of their salary range will be applied to their base salary and the remaining percentage increase will be paid as a one time bonus.

- (D) Employees who have attained the maximum of their respective salary ranges may continue to receive performance pay in the form of one time annual bonuses, which is PERS reportable income. These bonuses do not become part of the employee's base salary range.

- I. 3.50 – 4.49 = 2% one-time annual bonus
- II. 4.50 – 5.00 = 3% one-time annual bonus

- III. If during the course of administering pay for performance, there is mutual agreement by POA and the City that meet and confer is necessary, POA and the City shall commence the meet and confer process, pursuant to the identified pay for performance deficiencies.

(E) A denial of a performance increase shall not be an allowable subject of the exercise of employee rights under the grievance procedure outlined herein.

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

12.6 - Performance Evaluation Plan - The City and BPOA desire to streamline the current pay for performance evaluation process. The City agrees to facilitate communication between police management and the BPOA in an effort to achieve the City's pay for performance goals while reducing the time currently being spent on the preparation of performance evaluations.

12.7 - Compensation Survey - City agrees that, no later than April, 2009, it will conduct a compensation survey related to all unit members. The survey results shall be given to the BPOA for informational purposes only. The results of the survey and subsequent implementation, if any, shall be subject to the collective bargaining process.

12.8 - Retirement Health Savings Plan - The City agrees to add all unit members to its Retirement Health Savings Plan with ICMA and will process the amendment to the Plan at the next available plan amendment period.

ARTICLE 13 - OVERTIME

13.1 - 7K Exemption - The City has adopted a fourteen (14)-day work period pursuant to the 7k exemption under the Fair Labor Standards Act (FLSA). Except as provided below in connection with uniformed patrol officers, an employee shall be paid at the rate of one and one-half (1-1/2) times the employee's regular hourly base rate of pay for all hours worked in excess of eighty (80) hours in the fourteen (14)-day work period. Uniformed patrol officers assigned to work twelve (12)-hour shifts as outlined in Article 10.1 above, shall be paid at the rate of one and one-half (1-1/2) times the employee's regular hourly base rate of pay for all hours worked in excess of eighty-four (84) hours in the fourteen (14)-day work period. This section 14.1 does not preclude the Chief of Police from establishing the practice of scheduling an employee to work a pay period of any duration which is not less than eighty (80) hours and not more than eighty-four (84) hours, subject to the shift change provisions of the MOU. At all times, the full eighty-four (84) hours shall be accounted for on the time card. Unassigned hours of the eighty-four (84) shall be so indicated.

(a) The City shall pay the PERS contribution, as required by the MOU, for the first eighty-four (84) hours of PERS eligible time worked during a pay period. Hours earned as overtime and paid at time and one-half (1/2) shall not be counted as PERS eligible hours. All overtime worked shall be authorized by a supervisor in advance, if possible. Otherwise, the claim for overtime shall be subject to review.

by the Department Head. Overtime may be paid as accrued compensatory time subject to the following: Compensatory time may not be accumulated in excess of two hundred forty (240) hours. Employees may cash out accumulated comp time twice per year (July and December) up to a maximum of 80 hours per year. Any cash out will be at the employee's current rate of pay inclusive of all premium pay.

- (i) The "regular hourly base rate of pay" includes only salary as described in Article 13.1. Acting pay as set forth in Section 15.1 and educational incentive pay as provided in Article 13.5.
- (b) In calculating overtime, the practice of the Finance Department shall be as follows:
 - (i) All hours appearing on the time card as "Reg Hours" shall first be totaled.
 - (ii) All hours otherwise defined as "hours worked" under the MOU shall then be totaled.
 - (iii) Finally, all hours recorded as overtime on the time card shall be totaled.
 - (iv) All hours totaled above, which are in excess of eighty-four (84) hours for patrol personnel and eighty (80) hours for special assignments during the pay period, shall be treated as overtime.
 - (v) In the case of correction of the time card by the Finance Department, employee shall be given timely notice of such correction prior to the preparation of the pay check.
- (c) Any assigned hours which are not worked, and are not otherwise accounted for through a reduction in accrued leave, shall be treated as Leave-Without-Pay ("LWOP") and the employee may be subject to a personnel action as prescribed in the personnel policies of the City.
- (d) Accruals, and reductions in accruals, are based on an eighty (80) hour pay period.

13.2 - Hours Worked. - "Hours worked" means time spent in required court appearances as set forth in Article 16, and time paid for vacation, holidays, sick leave, CTO and administrative leave for officer involved shooting or other non-disciplinary leave.

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

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

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

13.6 - Maximum Comp Time Accrual . - Comp time may be accrued to a maximum of 240 hours.

ARTICLE 14 - ACTING PAY AND PROMOTION PAY

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

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

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

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

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

15.3 - Employees required to be on call for court appearances before noon shall be compensated for one (1) hour. Those required to be on call for court purposes after noon

shall be compensated for one (1) hour. Requirement for multiple court appearances in the same time frame shall constitute one (1) period of on call. For purposes of this section an employee shall not be deemed to be on call while appearing in court. Employee shall not be paid for being on call under this Section for a day on which the employee is compensated for being in court under Section 16.2.

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

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

- (a) the employee is scheduled to provide a mandatory response; and
- (b) that response is to be to the station, or other designated location within two (2) hours; and
- (c) the employee is required to provide the department with sufficient information to obtain immediate contact with the employee.

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

ARTICLE 16 - EQUIPMENT, UNIFORM ALLOWANCE, SAFETY AND TRAINING

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

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

16.3 - The City agrees to pay a uniform allowance of \$110 per month to unit members. Payments will be made on a monthly basis on the second pay period of the month. Such money shall be used for the purpose of purchasing and maintaining uniforms in order that individual officers and civilian employees who wear regulation uniforms may maintain a professional appearance.

16.4 - The City shall reimburse unit employees the reasonable replacement value of personal property, not including uniforms for which the above uniform allowance is paid, which is destroyed in the course and scope of their employment. The employee shall make application for reimbursement by presenting to the Department Head the damaged or destroyed article. Personal property subject to this provision consists of personal

property necessary to fulfill the employee's job duties and that is approved in advance for use on the job. Replacement for prescription eyewear is limited to \$200 per pair. Replacement for watches is limited to \$50. Sums paid hereunder shall be secondary to any applicable insurance. If an individual pays a sum of money to the City pursuant to a court order as restitution for damaging the uniform of a bargaining unit employee, the City will reimburse that amount to the bargaining unit employee.

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

ARTICLE 17 - MILEAGE, MEALS AND OTHER TRAVEL REIMBURSEMENT

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

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

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

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

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

ARTICLE 18 - TUITION AND BOOKS REIMBURSEMENT; EDUCATION INCENTIVE

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

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

(b) Unit employees will receive a maximum of \$3,000 for tuition and actual expenses paid for books for expenses incurred per fiscal year for any

academic training in a university or college recognized by an accrediting institution as determined by the Human Resources Director.

18.2 - Reimbursement Requirements

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

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

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

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

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

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

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

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

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

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

month; Possession of an Intermediate POST Certificate, and a Ph.D. in any academic field entitles the employee to \$500 per month.

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

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

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

ARTICLE 19 - SICK AND BEREAVEMENT LEAVE

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

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

19.3 - [Intentionally left blank]

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

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

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

19.7 - Use of Other Leave - An employee who has exhausted all accumulated Sick Leave while on Sick Leave may utilize accrued Vacation or Holiday Leave or accrued compensated time off for the purposes described in Section 20.8 below.

19.8 - Bereavement Leave - Employees covered by this Agreement will be allowed three (3) shifts off duty with pay for Bereavement Leave upon the death of a member of their family. For the purpose of this subsection, "family" includes the following persons: the employee's spouse, mother, father, brother, sister, children, grandparents, grandchildren and the employee's spouse's mother, father, brother, sister, children, grandparents and grandchildren.

ARTICLE 20 - VACATION AND HOLIDAY LEAVE

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

- (a) one (1) through four (4) years service: ten (10) days per year = three and eight-hundredth (3.08) hours per pay period
- (b) Beginning the fifth (5th) year through the ninth (9th) year: fifteen (15) days per year = four and sixty-two hundredth (4.62) hours per pay period
- (c) Beginning the tenth (10th) year & thereafter: twenty (20) days per year = six and fifteen hundredth (6.15) hours per pay period

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

20.3 - Approval Required - Vacation Leave shall be taken with approval of the Department Head at any time following the completion of the one (1) year probationary period, but the Vacation Leave taken shall not be in excess of that actually accrued at the

time such Vacation Leave is taken. Vacation Leave must be approved a minimum of fourteen (14) days in advance of the first day of such Vacation by the Department Head or his or her designee. Exceptions may be made to the fourteen (14)-day notice requirement for emergencies or at the discretion of the City by the Department Head or Division Supervisor.

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

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

20.6 - Holidays - City Holidays are as follows:

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

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

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

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

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

ARTICLE 21 - MEDICAL AND DENTAL INSURANCE

21.1 City Contributions to Cafeteria Plan - Effective with the ratification of this agreement, the City contribution to each employee's cafeteria account will be as follows: The City will contribute to each employee's cafeteria account an amount equal to the payment of that employee's medical insurance premium related to a City sponsored medical plan (excludes dental) up to a maximum of \$11,000 annually. In addition, the City will contribute \$50 per month into each employee's cafeteria account. An employee opting out of a City sponsored medical plan, i.e. demonstrating proof of medical coverage from another plan, will receive a cafeteria contribution equal to \$5,725 plus an additional \$50 per month. These dollars may be used toward any City benefit offered under the cafeteria plan. All dollars will be allocated equally on a monthly basis. No cafeteria plan contributions may be converted to cash and taken as income. In lieu of any retroactive payment of cafeteria benefits, City agrees to disburse the cafeteria plan savings accrued from July 1, 2007 through December 31, 2007 equally to all unit members. Employees will be responsible for all taxes associated with this payment.

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

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

- (i) Health insurance for the employee's spouse and/or dependents.
- (ii) Dental Plan for the employee, and the employee's spouse and/or dependents.
- (iii) Eye care plan for the employee, and the employee's spouse and/or dependents.
- (iv) Deferred compensation program.

21.2 IRS 125 Plan - Bargaining Unit Employees may participate in the City's Internal Revenue Section 125 program which will allow employees to allocate specified amounts

of monthly pretax salary or wages for the reimbursement of medical care expenses, dependent care expenses, or both. Premiums for LTD are excluded from the pretax provisions of the Section 125 program.

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

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

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

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

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

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

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

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

ARTICLE 22 – RETIREMENT AND MEDICARE.

22.1 PERS - The City will pay the employee's contribution to the Public Employees Retirement System (PERS). The City shall pay nine percent (9%) of the Public Safety (sworn personnel) employees' regular and special compensation as defined by PERS as the date of this agreement and eight percent (8%) of the Miscellaneous (civilian personnel) employees.

22.2 PERS Formulas - The City agrees to continue to pay the employer's portion of the "Three Percent at Fifty" (3% @ 50) Public Safety PERS Retirement for Public Safety (sworn personnel) employees and the Two Point Five Percent at Fifty-Five (2.5% @ 55) Miscellaneous PERS Retirement. Both plans contain the "single highest year" benefit.

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

ARTICLE 23 – MISCELLANEOUS BENEFITS

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

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

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

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

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

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

ARTICLE 24- LAYOFFS AND RE-EMPLOYMENT

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

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

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

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

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

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

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

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

ARTICLE 25- GRIEVANCE AND DISCIPLINE APPEALS PROCEDURE

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

25.2 - Definitions:

(a) For the purposes of, and subject to the terms, provisions and conditions of, this MOU, "grievance" is defined as a dispute between the employee and the City, or the Union and the City, over the interpretation or application of this MOU, or the second denial of a step increase to an employee, as set forth in section 13.2, subsection "d" of this MOU. The term "grievance" does not include "discipline" as defined herein.

(b) For the purposes of, and subject to the terms, provisions and conditions of, this MOU, "discipline" is limited to any action taken by the City against a permanent bargaining unit employee which (1) is punishment or discipline of the employee, (2) will result in a reduction or loss in the employee's salary as provided for in section 13.1 of this MOU, (3) is either (i) an involuntary termination from City employment (ii) involuntary suspension from employment without pay, (iii) involuntary move from one (1) job classification to another job classification where the second job classification has a lower rate of pay at the top step than the top step of the job classification from which the employee was moved, or (iv) involuntary reduction in step within a job classification, and (4) is not the result of a lay off or (v) a written reprimand.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 26- SEVERABILITY CLAUSE

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

ARTICLE 27- COMPLETE AGREEMENT

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

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

ARTICLE 28- INVESTIGATION DOCUMENTS AND MATERIALS

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

ARTICLE 29 - RE-OPENERS

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

In witness whereof, the parties have caused their signatures to be affixed this ____ day of March, 2008.

For: the City of Banning

For the Banning POA

Brenda Salas, Mayor

Greg Herrington, President

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**CITY COUNCIL
CONSENT CALENDAR**

DATE: March 5, 2008

TO: City Council

FROM: Oscar W. Orci, Community Development Director

SUBJECT: Resolution No. 2008-32, temporarily delaying the collection of the City's residential development impact fees.

RECOMMENDATION: That the Council adopt Resolution No. 2008-32, temporarily deferring the collection of certain residential development fees until the Certificate of Occupancy (C of O) permits are issued.

JUSTIFICATION: The City has the ability to establish fees and collection protocols for such fees.

BACKGROUND:

The Riverside chapter of the Building Industry Association (BIA) has requested that the City assist the home builders during the challenging market conditions by deferring the collection of fees until the home is ready to be occupied (Certificate of Occupancy). Currently, fees are collected when the building permit is issued.

Attached to this report is Resolution No. 2008-32, this would defer the collection of Impact fees until the C of O for one year. Impact fees are collected by Banning to pay for such things as roadway improvements, including signals. The following is a list of the Banning Impact Fees:


- Administrative Program Processing Fee
- Development Impact Fee
- Fire Protection Facilities & Equipment Fee (Fire Facilities Fee)
- General Facility & Equipment Fee
- General Plan
- Park Land Fee
- Police Facilities Fee
- Solid Waste Facility & Equipment Fee
- Traffic Control Facility Fee (Transportation-Signals Fee)
- Water Capital Facilities Fee

This resolution would improve the home builders' cash flow by allowing the flexibility of paying fees at end of the building process. Developers would still have the option of paying fees when the building permit is issued.

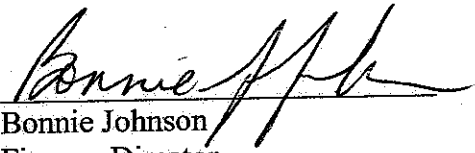
Cities such as Hemet, San Jacinto, Moreno Valley, Corona, Riverside, Perris, Lake Elsinore and Riverside County have agreed to similar fee deferrals. Please note that Banning has also deferred the collection of fees on a case-by-case basis, including deferring fees beyond the C of O phase. This Resolution would affirm the Council's commitment to that policy.

FISCAL DATA: None, except that the collection of fees would be deferred.


RECOMMENDED BY:


Oscar W. Orci
Community Development Director

REVIEWED BY:


Bonnie Johnson
Finance Director

APPROVED BY:


Brian Nakamura
City Manager

Exhibits:

1. Resolution No. 2008-32

*TEMPORARY DEFERRAL
OF RESIDENTIAL IMPACT
FEES*

***RESOLUTION
NO. 2008-32***

EXHIBIT “1”

RESOLUTION NO. 2008-32

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BANNING, CALIFORNIA, TEMPORARILY DELAYING THE
COLLECTION OF THE CITY'S RESIDENTIAL
DEVELOPMENT IMPACT FEES UNTIL CERTIFICATE OF
OCCUPANCY**

WHEREAS, due to the effects of the current housing conditions and other economic factors, the Riverside Chapter of the Building Industry Association (BIA) has asked that collection of residential development impact fees be delayed until certificate of occupancy and

WHEREAS, the BIA has made verbal representations to City staff that other cities and counties that have been contacted by them with a similar request to defer collection of the development impact fees until certificate of occupancy have done so, and

WHEREAS, given the need to promote economic development during the slowdown in the current housing market, the City Council hereby finds the temporary deferral of the collection of such fees until certificate of occupancy, to be in the best interest of the City.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BANNING DOES
RESOLVE, DETERMINE, FIND AND ORDER AS FOLLOWS:**

CITY COUNCIL ACTION.

The City Council hereby takes the following action:

- a. Effective immediately, as of March 5, 2008 the collection of the City's Residential Development Impact Fees shall be temporarily deferred until Certificate of Occupancy.
- b. This Resolution shall be in effect for a period of one year from the effective date.

PASSED, APPROVED AND ADOPTED this 5th day of March, 2008.

Brenda Salas, Mayor
City of Banning

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

Burke, Williams & Sorensen, LLP
City Attorney

ATTEST:

Marie A. Calderon, City Clerk

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2008-32, was duly adopted by the City Council of the City of Banning, California, at a special meeting thereof held on the 5th day of March, 2008 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: March 5, 2008

TO: City Council

FROM: Leonard Purvis, Chief of Police

SUBJECT: Sole Source Purchase from Kustom Signals, Inc. for Upgrades to the Existing Kustom Signals, Inc. Camera System in Patrol Vehicles

RECOMMENDATION: "Review and approve the Police Department's request to purchase a wireless system upgrade for 13 of the existing patrol vehicle digital camera systems through Kustom Signals, as a sole source provider, in the amount of \$68,402.44."

JUSTIFICATION: Upgrading the current digital camera system in the Police Department's patrol cars to a wireless transfer system will enhance the department's ability to capture critical video evidence without having to physically remove the information from the vehicle system and manually transfer it onto a DVD. The upgraded wireless transfer system will automatically collect video data from patrol vehicles, located in the Police Department's parking lot, and download it onto a hard drive located in the department's evidence room.

The upgraded system will allow the department to remove all existing digital camera systems from the trunks of the patrol cars and place them in the front passenger compartment of the vehicles. Subsequently, patrol vehicle battery drainage issues will be reduced as the digital camera systems will no longer require continuous fan activation during extreme temperatures.

BACKGROUND: On October 23, 2007, the Banning City Council approved Resolution 2007-122 accepting the 2008 Supplemental Law Enforcement Services Fund (SLESF) allocation in the amount of \$100,000 and authorized the Police Department to apply the funds towards the purchase of law enforcement related equipment and training. SLESF funds must be used to supplement frontline municipal police services.

The City Finance Department received the noted SLESF funds in December of 2007, which are presently available for use.

The current digital camera systems in the Police Department's patrol vehicles are manufactured by Kustom Signals, Inc. The requested wireless upgrade can only be provided through Kustom Signals, Inc., as no other company has the ability or equipment necessary to upgrade our current digital camera systems.

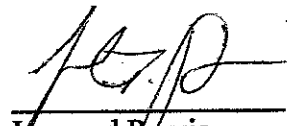
STRATEGIC PLAN INTEGRATION: Council approval of this recommendation will help facilitate the Police Department's goals of improving the department's image in the community.

FISCAL DATA: Funds to cover the cost of the wireless digital camera system upgrade are available through the 2008 SLESF allocation, which was accepted and approved for use by the

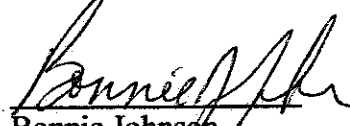
47

City Council under resolution 2007-122. No new funds are required for this purchase. The Finance Department is authorized to make necessary budget adjustments related to these funds.


RECOMMENDED BY:


Leonard Purvis
Chief of Police

REVIEWED BY:


Bonnie Johnson
Finance Director

APPROVED BY:


Brian Nakamura
City Manager

**CITY COUNCIL MEETING
CONSENT ITEM**

DATE: March 5, 2008

TO: City Council

FROM: Kahono Oei, City Engineer



SUBJECT: Accept the Right-of-Way dedication from Mark Heslop for Street Improvements at Assessor's Parcel Number 537-160-002

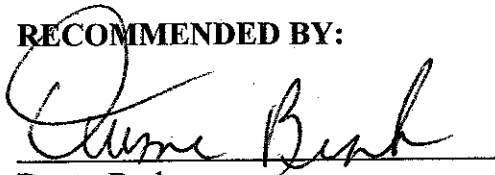
RECOMMENDATION: Accept the Right-of-Way dedication from Mark Heslop for Street Improvements at Assessor's Parcel Number 537-160-002, as described in Exhibit "A" and Exhibit "B", and direct the City Clerk to accept and record said dedication.

JUSTIFICATION: It is essential to obtain the right-of-way in order to construct the street improvements and meet the proposed right-of-way width requirement set forth by the adopted Circulation Element.


BACKGROUND: The property owner has submitted an application to build a new single family dwelling at Assessor's Parcel Number 537-160-002, also known as 880 S. 22nd Street. As part of the Conditions of Approval, the owner is required to dedicate the necessary right-of-way fronting his property in order to be able to build the street improvements at the proper location, per the City's general plan

FISCAL DATA: Not applicable.


RECOMMENDED BY:


Duane Burk
Director of Public Works

REVIEWED BY:


Bonnie Johnson
Finance Director

APPROVED BY:


Brian Nakamura
City Manager

EXEMPT RECORDING
REQUESTED BY
City of Banning
PER GOV'T CODE 6103
AND WHEN RECORDED
MAIL TO:

City of Banning – City Clerk
P.O. Box 998
Banning, CA 92220

MAIL TAX STATEMENTS
TO:

City of Banning – City Clerk
P.O. Box 998
Banning, CA 92220

OFFER OF DEDICATION – ROAD PURPOSES

The undersigned, being the present title owner(s) of record of the herein described parcel of land, do hereby make an irrevocable offer of dedication to the City of Banning, a political subdivision of the State of California, and its successors or assigns, for public road, street, highway and utility purposes, the real property situated in the City of Banning, County of Riverside, State of California, described in Exhibit "A" (legal description) and shown on Exhibit "B" (plat map) attached hereto and incorporated herein by this reference as though set forth in full.

It is understood and agreed that the City of Banning and its successors or assigns shall incur no liability with respect to such offer of dedication, and shall not assume any responsibility for the offered parcel of land or any improvements thereon or therein, until such offer has been accepted by appropriate action of the City Council, or of the local governing bodies or its successors or assigns.

The provisions hereof shall inure to the benefit of and be binding upon heirs, successors, assigns, and personal representatives of the respective parties hereto.

IN WITNESS THEREOF, these presents have executed this instrument this 23RD day of JANUARY, 2008.

Corporation (Type Name)

Signature

Name and Title (Type)

Corporation (Type Name)

Signature

Name and Title (Type)

STATE OF CALIFORNIA } SS.
COUNTY OF RIVERSIDE }

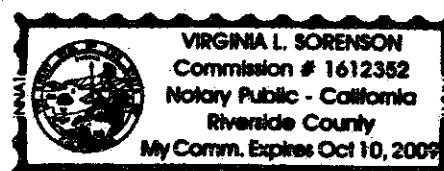
On JANUARY 23, 2008, before me, VIRGINIA L. SORENSON, a Notary Public in and for the State of CALIFORNIA, personally appeared MARK HESLOP, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature

K:\engineering\Library\Templates\OfferOfDedicationForm-Road.doc



**EXHIBIT "A"— LEGAL DESCRIPTION
OFFER OF RIGHT OF WAY DEDICATION**

An offer of dedication for right of way purposes over a portion of Block 31 of C.O. Barkers Subdivision in the City of Banning, as shown by map on file in Book 7 of Maps, page 21, in the office of the County Recorder, County of Riverside, State of California, described as follows:

Beginning at the southwest corner of said Block 31, said corner lying on the easterly right of way line of 22nd. Street (50 feet wide);

Thence along said right of way line, North 00°34'00" West, 360.00 feet;

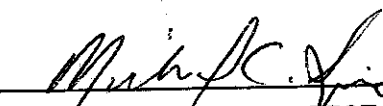
Thence leaving said right of way line, North 89°26'00" East, 8.00 feet;

Thence parallel and 8 feet east of the easterly right of way line, South 00°34'00" East, 360.00 feet to a point on the south line of Block 31;

Thence along said line, South 89°26'00" West, 8.00 feet to the Point of Beginning.

The above-described parcel of land contains 2,880 s.f. (0.066 acs.), more or less.

See Exhibit "B" attached hereto and by this reference made a part hereof.

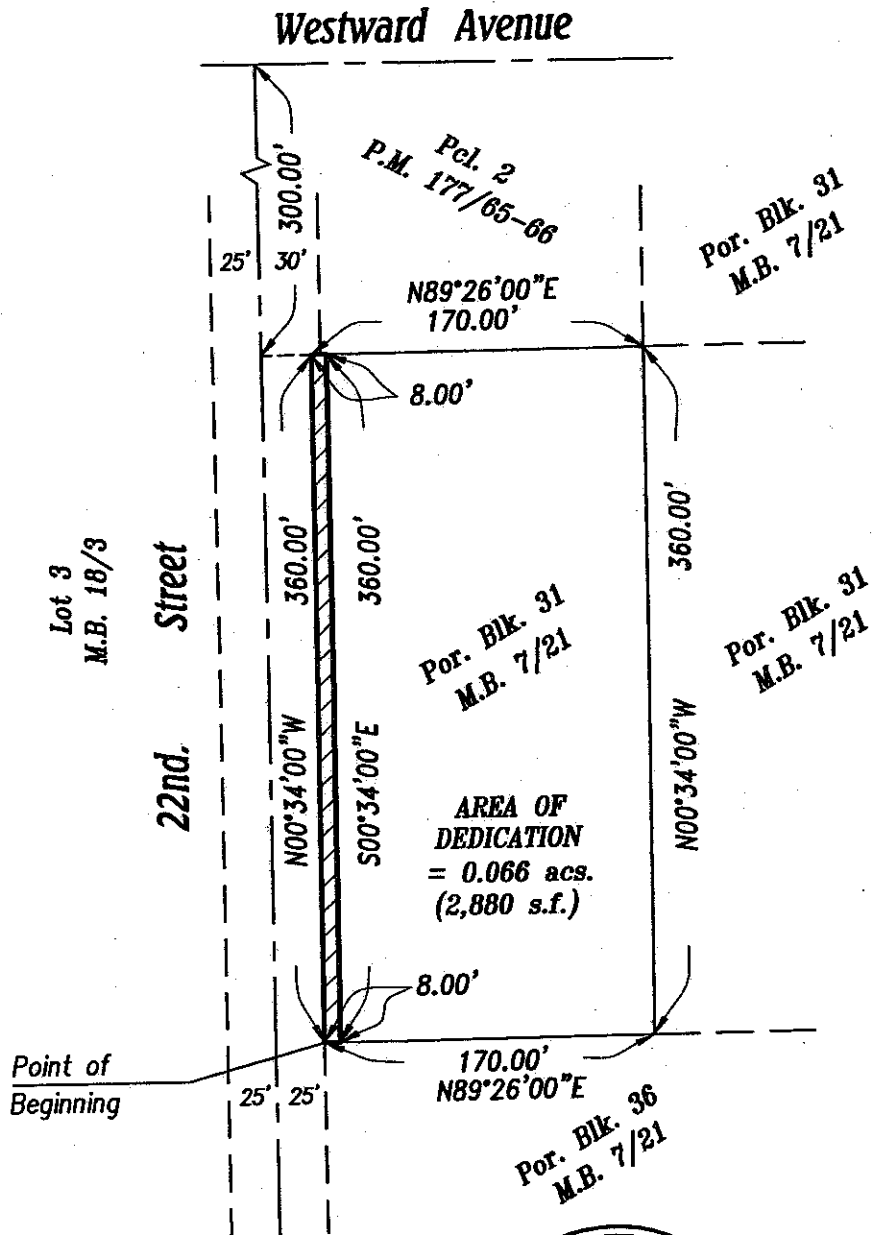

Michael C. Spiro, LS 5567
Exp 9-30-09

11-28-07
Date



EXHIBIT "B"

OFFER OF RIGHT OF WAY DEDICATION



Michael C. Spiro 11-28-07
 Michael C. Spiro, LS 5567 Date
 Exp 9-30-09



APN 537-160-002
 880 S. 22nd. Street

Owner: Mark Heslop
 Address: 314 W. Wilson St.
 Banning, Ca. 92220

Date of Drawing:
 November 27, 2007

52

ACCEPTANCE CERTIFICATE

The City of Banning hereby accepts the Offer of Dedication hereby attached and consents to the recordation of this document as set forth above by _____, on behalf of the Grantee pursuant to the authority delegated to him by City Council Resolution No. _____, adopted on _____. Nothing herein is intended nor shall anything herein be construed as acceptance of the property until such dedication has been accepted by appropriate action of the City Council, as of the local governing bodies or its successors or assigns.

CITY OF BANNING

Brenda Salas
Mayor

ATTEST:

Marie A. Calderon
City Clerk

APPROVED AS TO FORM:

City Attorney

**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: March 5, 2008

TO: City Council

FROM: George Thacker, Assistant Public Utilities Director

SUBJECT: Emergency Pavement Repairs to Birdie Drive at Sunnindale Street Caused by a Leak in the Existing 8" Water Line

RECOMMENDATION: Approve the pavement repairs (±4,000 sq ft) to Birdie Drive caused by a major waterline leak in the amount of \$15,000.00 and direct the City Clerk to record the *Notice of Completion*.

JUSTIFICATION: The existing pavement was lifted, fractured, and washed away in some areas caused by the large amount of water discharged from the leak of an 8" PVC pipeline triggering safety concerns for both the driving public and pedestrians.

BACKGROUND: The City of Banning owns and operates its own water system throughout the City. On January 16, 2008, a major waterline leak on Birdie Drive at Sunnindale Street in the community of Sun Lakes was called in early in the morning. The existing 8" PVC waterline had sprung a major leak with a large amount of water being discharged causing the roadway AC pavement and some concrete sidewalk to be lifted, fractured, and washed away. This generated a safety concern for the driving public and pedestrians. Water crews immediately repaired the leak and began repairing the street. With the removal of the damaged pavement and sidewalk, a contractor was needed to make the final repairs.


Staff requested proposals from two firms who could immediately start pavement repairs of Birdie Drive in Sun Lakes Community. JB Paving & Engineering submitted a proposal in the amount of \$15,000.00 to do the work and the other proposal was in the amount of \$15,940.00 from Roquet Paving, Inc.

JB Paving & Engineering was selected, started work, and completed the project on February 15, 2008.

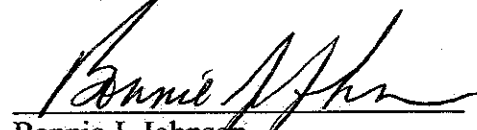
Authorization for this repair work is consistent with the City Policy as set forth in Ordinance No. 1266 for emergency pipeline repairs.

FISCAL DATA: The funds for repairs to the roadway shall be utilized from the FY 07-08 Water Division Operation Budget, Water Mains Account No. 660-6300-471-9510.

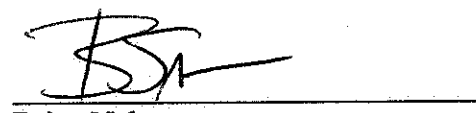
RECOMMENDED BY:


Jim Earhart
Electric Utility Director

REVIEWED BY:


Bonnie J. Johnson
Finance Director

APPROVED BY:


Brian Nakamura
City Manager

1 WHEN RECORDED MAIL TO:

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

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

12
13
14 NOTICE OF COMPLETION

15 Construction of Emergency Work to Repair Street and Sidewalk Damaged by a Water
16 Line Leak on Birdie Drive

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18 THIS NOTICE OF COMPLETION IS HEREBY GIVEN by the City of Banning,
19 a municipal corporation, pursuant to the provisions of Section 3093 of the Civil Code of
20 the State of California, and is hereby accepted by the City of Banning pursuant to
21 authority conferred by the City Council this March 5, 2008, and the grantees consent to
22 recordation thereof by its duly authorized agent.
23

24 (1) That the City of Banning and JB Paving & Engineering entered into a
25 written Agreement dated January 24, 2008, for the Construction of Emergency Work to
26 Repair Street and Sidewalk Damaged by a Water line Leak on Birdie Drive ("Work of
27 Improvement").
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29 (2) That the Work of Improvement was substantially completed on February
30 15, 2008.
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32 (3) That the City of Banning, a municipal corporation, whose address is
33 Banning City Hall, 99 E. Ramsey Street, Banning, California 92220, is the owner of said
34 Work of Improvement.
35

36 (4) That the said Work of Improvement was performed on Birdie Drive at
37 Sunnindale Street in the Community of Sun Lakes located in the City of Banning.

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39 (5) That the original contractor for said improvement was JB Paving &
40 Engineering, State Contractor's License No. 720218.

41
42 (6) Performance and payment bonds where not required for this emergency
43 work.

44
45
46 Dated: March 5, 2008

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48 CITY OF BANNING
49 A Municipal Corporation

50
51
52 By _____
53 Brian Nakamura, City Manager
54

55
56 APPROVED AS TO FORM:

57
58
59
60 _____
61 Burke, Williams & Sorensen, LLP
62 City Attorney
63

1 STATE OF CALIFORNIA)

2) ss

3 COUNTY OF RIVERSIDE)

4

5

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

7

8 That she is the City Clerk of the City of Banning, which City caused the work to
9 be performed on the real property hereinabove described, and is authorized to execute
10 this Notice of Completion on behalf of said City; that she has read the foregoing Notice
11 and knows the contents thereof, and that the facts stated therein are true based upon
12 information available to the City of Banning, and that she makes this verification on
13 behalf of said City of Banning.

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21 Subscribed and sworn to before me this 5 day of March 2008.

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City Clerk of the City of Banning

Notary Public in and for said County
and State

**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: March 5, 2008

TO: City Council

FROM: George Thacker, Assistant Public Utilities Director

SUBJECT: Emergency Protection of the Existing 15" Sewer Line Located Along the West Bank of the Pershing Creek North of Westward Avenue and West of Sunset Avenue

RECOMMENDATION: Approve the placement of 300 lineal feet of rip rap (large rock) on the west bank of the Pershing Creek to protect the existing sewer line located just adjacent to the creek in the amount of \$43,650.00 and direct the City Clerk to record the *Notice of Completion*.

JUSTIFICATION: Installation of the rip rap along the bank of the Pershing Creek will protect the bank from erosion and the existing sewer line from being washed out; which could cause a spill of sewerage into the water ways.

BACKGROUND: The City is the provider of Wastewater Treatment and collection of sewerage in the Sanitary Sewer System for the service area of the City of Banning. The recent storms in February eroded the existing levee protection located within the Pershing Creek exposing the west bank of the Pershing Creek to erosion; which then could uncover and damage the sewer line located next to the bank of the creek. This would then cause sewerage being discharged to the water ways.


Staff requested proposals from two firms who could immediately start work installing the rip rap protection on the bank, since, more storms were expected. Merlin Johnson, Inc. submitted a proposal in the amount of \$43,650.00 to do the work and the other proposal was in the amount of \$78,250.00 from Larry Jacinto Construction, Inc.

Merlin Johnson Construction, Inc. was selected, started work, and completed the project on February 22, 2008. This company has successfully completed numerous projects with the City of Banning, including the recent construction project, Waterline Main Replacement Program.

Authorization for this repair work is consistent with the City Policy as set forth in Ordinance No. 1266 for emergency pipeline repairs.

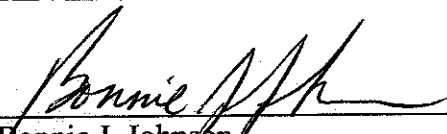
FISCAL DATA: The funds for the installation of the rip rap shall be utilized from the FY 07-08 Wastewater Division Operation Budget, Sewer Mains & Collection System Account No. 680-8000-454-9514.

RECOMMENDED BY:



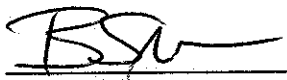
Jim Eamhart
Electric Utility Director

REVIEWED BY:



Bonnie J. Johnson
Finance Director

APPROVED BY:



Brian Nakamura
City Manager

1 WHEN RECORDED MAIL TO:

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

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

12
13
14 NOTICE OF COMPLETION

15 Construction of Emergency Work Installing a Rip Rap Wall on Pershing Creek Bed
16 North of Westward Avenue

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18 THIS NOTICE OF COMPLETION IS HEREBY GIVEN by the City of Banning,
19 a municipal corporation, pursuant to the provisions of Section 3093 of the Civil Code of
20 the State of California, and is hereby accepted by the City of Banning pursuant to
21 authority conferred by the City Council this March 5, 2008, and the grantees consent to
22 recordation thereof by its duly authorized agent.
23

24 (1) That the City of Banning and Merlin Johnson Construction, Inc. entered
25 into a written Agreement dated February 8, 2008, for the Construction of Emergency
26 Work Installing a Rip Rap Wall on Pershing Creek Bed North of Westward Avenue
27 ("Work of Improvement").
28

29 (2) That the Work of Improvement was substantially completed on February
30 22, 2008.
31

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

61

36 (4) That the said Work of Improvement was performed on the west bank of
37 the Pershing Creek north of Westward Avenue and west of Sunset Avenue in the City of
38 Banning.

39
40 (5) That the original contractor for said improvement was Merlin Johnson
41 Construction, Inc., State Contractor's License No. 467306.

42
43 (6) Performance and payment bonds where not required for this emergency
44 work.

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46
47 Dated: March 5, 2008

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49 CITY OF BANNING
50 A Municipal Corporation

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52
53 By _____
54 Brian Nakamura, City Manager
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57 APPROVED AS TO FORM:

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61 _____
62 Burke, Williams & Sorensen, LLP
63 City Attorney
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**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: March 5, 2008

TO: City Council

FROM: George Thacker, Assistant Public Utilities Director

SUBJECT: Emergency Repairs to the Dirt Roadway Covering the Existing 8" Water Line Located on Shirleon Drive in South Riverside County

RECOMMENDATION: Approve the repairs to Shirleon Drive, a dirt roadway eroded by the recent storms in February exposing approximately 2000 lineal feet of existing 8" waterline in the amount of \$15,040.00 and direct the City Clerk to record the *Notice of Completion*.

JUSTIFICATION: The existing exposed water line on Shirleon Drive needs to be covered to protect the water line from any further damage and possible blowing out without the needed earth weight to the hold the pipe in alignment.

BACKGROUND: The City of Banning owns and operates its own water system throughout the City and in a portion of the County. The recent storms in February eroded the existing dirt cover of the 8" water line located on Shirleon Drive leaving the pipe exposed to possible damage from the public or not enough weight from the soil to hold it in place.

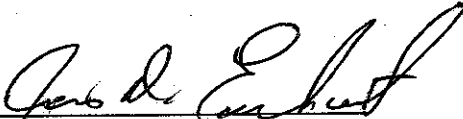
Staff requested proposals from two firms who could immediately start work moving earth to cover the pipeline, since, more storms were expected. Larry Jacinto Construction, Inc. submitted a proposal in the amount of \$15,040.00 to do the work and the other proposal was in the amount of \$19,950.00 from Merlin Johnson Construction, Inc.

Larry Jacinto Construction, Inc. was selected, started work, and completed the project on February 19, 2008. This company has successfully completed several projects for the City of Banning.

Authorization for this repair work is consistent with the City Policy as set forth in Ordinance No. 1266 for emergency pipeline repairs.

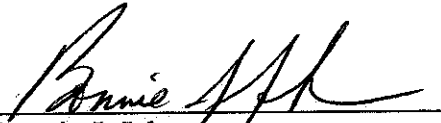
FISCAL DATA: The funds for repairs to the roadway and pipeline shall be utilized from the FY 07-08 Water Division Operation Budget, Water Mains Account No. 660-6300-471-9510.

RECOMMENDED BY:




Jim Earhart
Electric Utility Director

REVIEWED BY:



Bonnie J. Johnson
Finance Director

APPROVED BY:



Brian Nakamura
City Manager

1 WHEN RECORDED MAIL TO:

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

8 FREE RECORDING:

9 Exempt Pursuant to
10 Government Code §6103
11

12
13
14 NOTICE OF COMPLETION

15 Construction of Emergency Erosion Repair on Shirleon Drive

16
17 THIS NOTICE OF COMPLETION IS HEREBY GIVEN by the City of Banning,
18 a municipal corporation, pursuant to the provisions of Section 3093 of the Civil Code of
19 the State of California, and is hereby accepted by the City of Banning pursuant to
20 authority conferred by the City Council this March 5, 2008, and the grantees consent to
21 recordation thereof by its duly authorized agent.
22

23 (1) That the City of Banning and Merlin Johnson Construction, Inc. entered
24 into a written Agreement dated February 8, 2008, for the Construction of Emergency
25 Erosion Repair on Shirleon Drive ("Work of Improvement").
26

27 (2) That the Work of Improvement was substantially completed on February
28 19, 2008.
29

30 (3) That the City of Banning, a municipal corporation, whose address is
31 Banning City Hall, 99 E. Ramsey Street, Banning, California 92220, is the owner of said
32 Work of Improvement.
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34 (4) That the said Work of Improvement was performed on the roadway of
35 Shirleon Drive in Riverside County.

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(5) That the original contractor for said improvement was Larry Jacinto Construction, Inc., State Contractor's License No. 458118.

(6) Performance and payment bonds where not required for this emergency work.

Dated: March 5, 2008

CITY OF BANNING
A Municipal Corporation

By _____
Brian Nakamura, City Manager

APPROVED AS TO FORM:

Burke, Williams & Sorensen, LLP
City Attorney

1 STATE OF CALIFORNIA)

2) ss

3 COUNTY OF RIVERSIDE)

4

5

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

7

8 That she is the City Clerk of the City of Banning, which City caused the work to
9 be performed on the real property hereinabove described, and is authorized to execute
10 this Notice of Completion on behalf of said City; that she has read the foregoing Notice
11 and knows the contents thereof, and that the facts stated therein are true based upon
12 information available to the City of Banning, and that she makes this verification on
13 behalf of said City of Banning.

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21 Subscribed and sworn to before me this 5 day of March 2008.

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City Clerk of the City of Banning

Notary Public in and for said County
and State

68

**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: March 5, 2008

TO: City Council

FROM: Bonnie Johnson, Finance Director

SUBJECT: Approval of Accounts Payable and Payroll Warrants for Month of
January 2008

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 2008.

The reports are:

Expenditure approval lists

January 3, 2008	962,836.32
January 10, 2008	865,032.85
January 17, 2008	423,511.19
January 23, 2008-Void & Reissue	-15,000.00 ⁽¹⁾
January 24, 2008	474,104.66
January 31, 2008	826,020.74
February 12, 2008	3,938,976.26 (January Month End)

Payroll check registers

January 4, 2008	5,815.88
Manual check dated Jan. 10, 2008	341.62
Manual check dated Jan. 16, 2008	120.74
Manual check dated Jan. 16, 2008	480.69
January 18, 2008	7,054.08
Manual check dated Jan. 25, 2008	10,519.30
Manual check dated Jan. 25, 2008	444.23

Payroll direct deposits*

January 4, 2008	483,528.52
January 18, 2008	365,796.09

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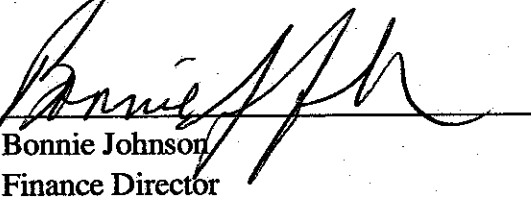
As you review the reports, if you have any questions please contact the Finance Department so that we can gather the information from the source documents and provide a response.

* Included on the JANUARY month end expenditure approval list of 2/12/2008.

⁽¹⁾ Due to Positive Pay reporting, manual checks must be recorded in the accounting system separately from the weekly check register.


Report Prepared by: Michelle Green, Accounting Manager

RECOMMENDED BY:



Bonnie Johnson
Finance Director

APPROVED BY:



Brian Nakamura
City Manager

**CITY COUNCIL
PUBLIC HEARING**

Date: March 5, 2008

TO: City Council

FROM: Oscar Orci, Community Development Director

SUBJECT: Amendments to Title 16 SUBDIVISIONS of the Banning
Municipal Code

RECOMMENDATION: "I move that the City Council:

Approve Ordinance No. 1384, amending various provisions of Title 16 Subdivisions of the Banning Municipal Code"

(Mayor Salas asks the City Clerk to read the Title of Ordinance No. 1384).

Motion: "I move to waive further reading of Ordinance No. 1384" (Requires a majority vote of Council)

Motion: "I move that Ordinance No. 1384 pass its first reading and be adopted" (a minimum of three votes required).

ALTERNATIVES:

Continuance:

"I move the City Council continue the public hearing to its March 11, 2008 meeting".

Denial:

"I move the City Council deny the Amendments to Title 16 Subdivisions of the Banning Municipal Code on the following basis" (the City Council will need to make its findings).

JUSTIFICATION: The proposed Amendments to Title 16 Subdivisions of the Banning Municipal Code integrates the Subdivision Code with the recently adopted Zoning Code and makes other procedural changes to the Code.

BACKGROUND/ANALYSIS:

Title 16 Subdivisions of the Banning Municipal Code is supplemental to the Subdivision Map Act (State of California Government Code §§ 66410-66499.58), which regulates and controls the design and improvements of subdivisions. The purpose of this amendment is to 1) better integrate existing subdivision regulations with the newly

adopted zoning regulations including designating the respective responsibilities of the City Engineer and Community Development Director more clearly. 2) Add a provision for extending the time for approved or conditionally approved tentative maps including the provision to extend maps during litigation. 3) Include provisions of the Banning Municipal Code on the processing of lot line adjustments and the request to waive requirements for parcel maps (subdivisions involving generally 4 or fewer lots), which provisions are silent in the current Code; and, 4) include other procedural items that require clarification. Please see the proposed amendments described specifically in Ordinance No. 1384 attached to this report as Exhibit 1.

**Environmental
Consideration:**

The code amendment has been determined to be exempt from the California Environmental Quality Act (CEQA) in that the activity is covered under the general rule that CEQA applies only to projects, which have the potential for causing significant effect on the environment. The proposed amendments would not result in increased densities or intensification of uses. They are consistent with and serve to implement the City's General Plan and integrate the existing Subdivision Code with the Zoning Code recently adopted on January 31, 2006. 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 exempt from CEQA per Section 15061(b)(3).


FISCAL DATA: These amendments will have no fiscal impact.

RECOMMENDED BY:



Brian Guillot
Associate Engineer-Planning

REVIEWED BY:




Oscar W. Orci
Community Development Director

REVIEWED BY:



Bonnie Johnson
Finance Director

APPROVED BY:



Brian Nakamura
City Manager

Exhibits:

- 1) Ordinance No. 1384

*AMENDMENT TO
TITLE 16 SUBDIVISIONS*

***ORDINANCE
NO. 1384***

EXHIBIT “1”

ORDINANCE NO. 1384

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF BANNING AMENDING VARIOUS
PROVISIONS OF TITLE 16 SUBDIVISIONS OF THE
BANNING MUNICIPAL CODE**

WHEREAS, the City Council adopted a comprehensive General Plan and Zoning Ordinance update on January 31, 2006; and

WHEREAS, it is necessary to update Title 16 (Subdivisions) of the Municipal Code to be consistent with the goals and policies of the Zoning Code; and

WHEREAS, on the 22nd day of February 2008, the City gave public notice as required under Zoning Code Section 17.68.020 by advertising in the Press Enterprise newspaper of the holding of a public hearing at which the amendments would be considered; and

WHEREAS, on the 5th day of March 2008, the City Council held a noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the amendment of the Subdivisions Ordinance; and

WHEREAS, at this public hearing on the 5th day of March 2008, the City Council considered and heard public comments on the amendments to the Subdivisions Ordinance; and

WHEREAS, the City has analyzed the proposed amendments and determined that they are exempt from the California Environmental Quality Act ("CEQA") under 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.

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

SECTION 1. ENVIRONMENTAL FINDINGS.

The City Council, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines, the recommendation of the Community Development Director as provided in the Staff Report dated March 5, 2008, and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and §21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. CEQA: The City has analyzed the proposed amendments and has determined that they are exempt from the California Environmental Quality Act ("CEQA") under 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, as here, 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 Municipal Code do not relate to any one physical project and will not result in any physical change to the environment. Further, projects subject to this ordinance will trigger individual analysis and documentation related to CEQA. Therefore, it can be seen with certainty that there is no possibility that this ordinance may have a significant adverse effect on the environment, and therefore the adoption of this ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

SECTION 2. FINDINGS

Finding No. 1. The proposed amendments to the Subdivisions Code are consistent with the goals and policies of the General Plan.

Fact: The amendments to the Subdivisions Code are consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations will not change, and the amendments will result in clarifying the goals, policies and programs of the General Plan. The primary General Plan Land Use Policy 2 states: *"The Planning, Public Works and Economic Development staffs shall be closely coordinated to assure efficient and cost effective processing of applications."* Furthermore, the Housing Element Program 18 Efficient Processing states: *"The evaluation and review process required by the City procedures contributes to the housing costs incurred by developers and are ultimately reflected in the unit's selling price. In order to minimize project holding costs, jurisdictions should streamline their review procedures to the greatest extent possible and without compromising adequate review."*

This amendment will better clarify the responsibilities of the City Engineer and Community Development Director, and expedite the processing of applications by integrating the Subdivisions review procedures with the Zoning Code procedures and therefore shorten the time-line of review.

Finding No. 2. The proposed amendments are internally consistent with the Zoning Ordinance.

Fact: The amendments to the Subdivisions Code are consistent with the existing provisions of the Zoning Ordinance. The amendments will implement the Zoning Code provisions for such things as lot line adjustments, parcel maps, and certificates of compliance processing.

Finding No. 3. That the City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.

Fact: The City has analyzed the proposed amendments and has determined that they are exempt from the California Environmental Quality Act ("CEQA") under 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, as here, 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 Municipal Code do not relate to any one physical project and will not result in any physical change to the environment. Further, projects subject to this ordinance will trigger individual analysis and documentation related to CEQA. Therefore, it can be seen with certainty that there is no possibility that this ordinance may have a significant adverse effect on the environment, and therefore the adoption of this ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

SECTION 3. CITY COUNCIL ACTIONS

The City Council hereby takes the following actions:

A) Chapter 16.04 General Provisions of the Subdivisions Ordinance of the Banning Municipal Code is amended to read as follows:

"16.04.010 Supplemental to State Act--Applicability of title.

Pursuant to the Subdivision Map Act, the provisions of the Banning Municipal Code are supplemental to those of said Act, and shall apply to all subdivisions of land hereafter made when such land is entirely or partially within the city.

A. **Lot Line Adjustment.** This code does not apply to a lot line adjustment provided that:

1. No additional parcels are created and the adjustment is limited to four or fewer existing adjoining parcels; and,
2. The resulting parcels conform to the Banning Zoning Code, California Building Code, and the City's General Plan; and,
3. The resulting parcels do not interfere with existing utilities infrastructure or easements; and,
4. The resulting parcels conform to the California Fire Code as determined by the Fire Department; and,
5. Real property taxes have been prepaid; and,
6. The owner, or owners, cause to be prepared a legal description and plat map, and any deeds if so required. However, if a record of survey is required under Business and Professions Code §8762 the owner shall cause to be prepared a record of survey;
7. If the parcels are not legal subdivisions in accordance with Subdivision Map Act §66499.34, the City approves a Certificate of Compliance.

An application and plot plan shall be required to determine conformance with these requirements.

B. Waiver of Tentative Parcel Map. The Community Development Director may waive the requirements for a tentative parcel map for the following:

1. A division of real property or interests therein created by probate, eminent domain procedures, partition or other civil judgments or decrees;
2. A division of property resulting from conveyance of land or interest therein to or from a public entity or public utility for a public purpose such as school sites, public building sites, rights-of-ways, or easements for streets, sewers, utilities, and drainage. Land conveyed to or from a governmental agency includes a fee, interest, a leasehold interest, an easement, or a license;
3. A division of property which has been merged under the Subdivisions Code, the Subdivision Map Act, or any prior ordinance of the City;
4. Where existing public improvements meet the minimum requirements of this Code.

To waive the tentative parcel map requirements the Community Development Director upon the recommendation of the City Engineer shall find that the proposed division of land complies with requirements of the Banning Zoning Code, Banning development standards, and the Subdivision Map Act.

A waiver of the tentative parcel map requirement may be conditioned to require payment by the subdivider of park land dedication, drainage, transportation, and other applicable fees by a method approved by the Community Development Director.

Whenever a tentative parcel map is waived under this section, an application and parcel map shall be submitted and approved in accordance with the Subdivisions Code. The City Clerk shall transmit the map to the County Recorder. If the County Recorder rejects that map for filing, the City shall rescind its approval of the map per the requirements of Government Code §66466.

16.04.020 Advisory agency designated--Powers and duties generally.

The Planning Commission is hereby designated as the "advisory agency" referred to in the Subdivision Map Act and is charged with the duty of making investigations and reports on the design and improvement of proposed subdivisions; and, is hereby authorized to recommend the approval, conditional approval, or disapproval of tentative maps for subdivisions of five lots or more prepared and filed according with this Code and the Subdivision Map Act; to recommend the kinds, nature and extent of the improvements required to be installed in subdivisions and to report to the City Council the action taken on tentative maps for subdivisions of five lots or more.

The Community Development Director is hereby designated as the "advisory agency" referred to in the Subdivision Map Act and is charged with the duty of making

investigations and reports on the design and improvement of proposed subdivisions; and, is hereby authorized to recommend the approval, conditional approval, or disapproval of tentative maps for subdivisions of four lots or less prepared and filed according to this Code and the Subdivision Map Act; to recommend the kinds, nature and extent of the improvements required to be installed in subdivisions and to report to the City Council the action taken on tentative maps for subdivisions of four lots or less.

16.04.030 Record of survey map--Generally.

[§16.04.030 Record of survey map--Generally, of the Banning Municipal Code is repealed]

16.04.040 Record of survey map--Certificates.

[§16.04.040 Record of survey map--Certificates, of the Banning Municipal Code is repealed]

16.04.050 Map fees.

- A. Fees shall be paid to the City to cover the costs of checking tentative and final maps and parcel maps and for construction inspection as well as any other related items identified in the Subdivision Code requiring the submittal of an application. These fees shall be adopted by resolution.
- B. The Finance Director shall issue a receipt for fees received in behalf of the City, identifying the same as related to the description for which such fee was tendered."

B) Chapter 16.08 TENTATIVE MAP--FOUR LOTS OR LESS of the Subdivisions Ordinance of the Banning Municipal Code is amended to read as follows:

"16.08.010 Filing of copies.

Five copies of the tentative map of proposed subdivision of land into four or less lots shall be filed with the Community Development Department.

16.08.020 Contents.

The tentative map shall be in the form of a parcel map, as described in Government Code §66444 et seq., unless waived by the Community Development Director.

16.08.030 Action by Community Development Director.

The Community Development Director shall determine whether the proposed subdivision of land into four or less lots is in conformity with law and the Subdivisions Code, and whether the size of the proposed lots is in conformance with the provisions of the Zoning Code, and whether all the proposed lots will have adequate access to public streets, sanitary sewer lines, water mains, fire hydrants, drainage structures and utilities. The

Community Development Director shall approve such tentative map by noting approval thereof by endorsement on the map.

16.08.040 Disposition of copies.

One copy of the tentative map for the subdivision of land into four or less lots shall be retained in the files of the Community Development Department and one copy shall be retained in the files of the City Engineer. The third copy shall be returned to the subdivider with proper notations thereon indicating the actions taken.

16.08.050 Effect of approval.

[§16.08.050 Effect of approval, of the Banning Municipal Code is repealed]"

C) Chapter 16.12 TENTATIVE MAP—FIVE OR MORE LOTS of the Subdivisions Ordinance of the Banning Municipal Code is amended to read as follows:

“16.12.070 Preparation in accord with state law—Time of filing.

The tentative map shall be prepared in accordance with the Subdivision Map Act and the provisions of the Subdivisions Code, and shall be filed with the Community Development Director. Such filing shall be prior to the completion of final surveys of streets and lots and before grading or any construction work within the proposed subdivision that might be affected by changes in the tentative map. The Planning Commission shall act upon such tentative maps in accordance with times set forth in the Subdivision Map Act.

16.12.080 Report of City Engineer.

Prior to the consideration by the Planning Commission or Community Development Director of a tentative map, the City Engineer shall make a report in writing to the Planning Commission or Community Development Director as to any recommendations in connection with the tentative map and its bearing on particular functions. Failure to so report shall be deemed approval.”

D) Chapter 16.16 FINAL MAP of the Subdivisions Ordinance of the Banning Municipal Code is amended to read as follows:

“16.16 FINAL OR PARCEL MAP

16.16.010 Preparation generally.

After approval of the tentative map of a subdivision by the Planning Commission or the Community Development Director and approval of the final map or parcel map by the

City Council, the subdivider may cause a final map or parcel map to be prepared in accordance with a completed survey of the subdivision and in substantial compliance with the approved tentative map, and in full compliance with the Subdivision Map Act and the Subdivisions Code.

16.16.020 Information to be shown generally.

The final map or parcel map of a subdivision shall give the following information:

- A. The title, date, north arrow, and scale.
- B. The legal description of the land included in the subdivision.
- C. The location and names, without abbreviations, of all
 - 1. Proposed streets and alleys;
 - 2. Proposed public areas and easements;
 - 3. Adjoining streets;
 - 4. Street names.
- D. The dimensions in feet and decimals of a foot, or as required by state law.
- E. The dimensions of all lots.
- F. Each lot shall be numbered. Each block may be lettered or numbered. Each lot shall be shown entirely on one sheet.
- G. The center line data of streets, alleys, and easements, including bearings and distances.
- H. If any portion of the land within the boundaries shown on any final map or parcel map is subject to inundation or flood hazard by storm waters, such fact, and an identification of the affected portion, shall be clearly shown on the final map or parcel map by a prominent note on each sheet of such map whereon any such portion shall be shown.
- I. In the event that a dedication of right-of-way for storm drainage purposes is not required, the City Engineer may require that the location of any watercourse or channel be shown on the final map or parcel map.

16.16.040 Easements.

- A. The final map or parcel map of a subdivision shall show the center line data, width and side lines of all easements to which the lots are subject. If the easement cannot be definitely located by the recorded documents, a statement as to the easement shall appear on the title sheet.
- B. Easements from storm drains, sewers and other purposes shall be denoted by broken lines.
- C. The easement shall be clearly labeled and identified, and if already of record proper reference to the records shall be given.
- D. Easements being dedicated shall be so indicated in the certificate of dedication.

16.16.050 Surveying data generally.

Each final map or parcel map of a subdivision shall have indicated thereon the following:

- A. The radius, tangent, arc, and central angle of curves.
- B. Suitable primary survey control points including section corners, and monuments existing outside of subdivision.

- C. The location of all permanent monuments within the subdivision.
- D. Ties to and identification of adjacent subdivisions.
- E. Ties to any city boundary lines involved.
- F. All required certificates.

16.16.060 Polyester film and ink to be used; size of sheets.

The final map or parcel map of a subdivision shall be clearly and legibly delineated upon polyester film of good quality. All lines, letters, figures, certificates, acknowledgments and signatures shall be made in black waterproof ink, except that affidavits, certificates and acknowledgments may be legibly stamped or printed upon the map with black opaque ink. The size of each sheet of the map shall be eighteen by twenty-six inches.

16.16.070 Marginal line.

A marginal line shall be drawn completely around each sheet of the final map or parcel map of a subdivision, leaving an entirely blank margin of one inch.

16.16.140 Title report.

Each subdivision shall be accompanied by a title report showing the names of all persons or parties having any record title interest in the real property proposed to be subdivided.

16.16.220 When to be filed.

After receipt of the report of the City Council approving or conditionally approving the final map or parcel map of a subdivision the subdivider may, within one year from the date of such approval, proceed to prepare and file with the county recorder a final map or parcel map as provided for in the Subdivisions Code. If such final map or parcel map is not submitted to the City Engineer within one year from the date of the approval of the final map, or parcel map, such map shall be considered abandoned.

16.16.240 Polyester film copy to be furnished to City Engineer.

After the final map or parcel map of a subdivision has been recorded in the County Recorder's office, one polyester film print of such map shall be furnished to the City Engineer by the subdivider.

16.16.280 Dedications for public use.

All streets, highways, and parcels of land shown on the final map or parcel map of the subdivision and intended for any public use shall be offered for dedication for public use. Streets or portions of streets may be offered for future dedication where the immediate opening and improvement is not required, but where it is necessary to insure that the City can later accept dedication when such streets are needed for the further development of the area or adjacent areas."

E) Chapter 16.33 Tentative Map Extensions of the Subdivisions Ordinance of the Banning Municipal Code is added as follows:

“Chapter 16.33 Tentative Map Extensions

16.33.010 General

Upon formal application by the subdivider submitted prior to the expiration of the tentative map, the City Council may approve an extension to the tentative map for a period, or periods, as stipulated in the Subdivision Map Act. A public hearing shall be required.

16.33.020 Pending Litigation

If a lawsuit involving an approved or conditionally approved tentative map is pending, the City Council may upon request of the subdivider by formal application stay the approval period of the tentative map for up to five years in accordance with Government Code § 66452.6(c). A public hearing shall be required.

16.33.030 City right to condition or deny approval

A. This chapter does not enlarge or diminish the types of conditions which the City may impose on a development or diminish or alter the City power to protect against a condition dangerous to the public health or safety (Government Code § 66498.6).

B. The City may condition or deny a permit approval extension or entitlement relating to a vesting tentative map if it determines that either the failure to do so would place the residents of the subdivision or the community in a condition dangerous to their health, or safety or the condition or denial is required to comply with state or federal law (Government Code §66498.1(c)).”

F) Chapter 16.34 City Engineer review and approval final and parcel maps of the Subdivisions Ordinance of the Banning Municipal Code is added as follows:

“Chapter 16.34 City Engineer review and approval of final and parcel maps

A. **Final maps.** The City Engineer in consultation with the Community Development Department shall review the final map to determine if it conforms to the approved tentative map conditions, the Subdivision Map Act, and this Code. The subdivider shall make corrections and additions until the map is acceptable to the City Engineer. The City Engineer shall apply the development standards of the City, the provisions of the Subdivision Map Act and the Subdivisions Code in order to determine what is acceptable, or not, for final maps.

B. **Parcel maps.** The City Engineer in consultation with the Community Development Director shall review the parcel map to determine if it conforms to the approved tentative map conditions, the Subdivision Map Act, and the Subdivisions Code. The subdivider shall make corrections and additions until the map is acceptable to the City Engineer.

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The City Engineer shall apply the development standards of the City, the provisions of the Subdivision Map Act and this Code in order to determine what is acceptable, or not, for parcel maps.

C. **Amendments.** After a final or parcel map is filed in the office of the county recorder it may be amended by a certificate of correction or an amending map in accordance with Article 7 of the Subdivision Map Act."

G) Chapter 16.35 Certificate of Compliance of the Subdivisions Ordinance of the Banning Municipal Code is added as follows:

"Chapter 16.35 Certificate of compliance

A. A person owning real property or a vendee of such person under a contract of sale may request the Community Development Department to determine whether the real property complies with the provision of the Subdivision Map Act and the Subdivisions Code. A written application for a certificate of compliance shall be accompanied by a current title report showing the names of all persons or parties having any record title interest in the real property.

B. If the Community Development Director determines that the real property complies with the provision of the Subdivision Map Act and the Subdivisions Code, the City shall file a certificate of compliance for recordation with the County Recorder. The certificate of compliance shall identify the real property and shall state that the division of the real property complies with the provisions of the Subdivision Map Act and the Subdivisions Code.

C. If the Community Development Director determines that the real property does not comply with the provisions of the Subdivision Map Act or the Subdivisions Code, the Community Development Director may as a condition to granting a conditional certificate of compliance impose conditions in accordance with Government Code §66499.35, except that where the applicant was the owner of record at the time of the initial violation and the current owner of record of one or more parcels which were created as a result of the violation then the City may impose any conditions that would be applicable to a current division of the property. Upon the Community Development Director making such a determination and establishing such conditions, the City shall file a conditional certificate of compliance for recordation with the County Recorder. The certificate shall serve as notice to the property owner and any successor that the fulfillment and implementation of such conditions shall be required before subsequent issuance of a permit or other grant of approval for development of the property. Compliance with such conditions is not required until the City issues a permit or other grant of approval for development of the property."

SECTION 4. SEVERABILITY.

If any section, subsection, sentence, clause, or phrase 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 hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. NON-EXCLUSIVITY.

Nothing in this Ordinance shall limit or preclude the enforcement of other applicable laws.

SECTION 6. EFFECTIVE.

This Ordinance shall take effect thirty (30) days after its enactment in accord with California law.

SECTION 7. PUBLICATION.

The City Clerk is directed to cause a summary of this Ordinance to be published within 15 days of its passage in a newspaper of general circulation published and circulated within the City of Banning.

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PASSED, APPROVED AND ADOPTED this 5th day of March, 2008.

Brenda Salas, Mayor
City of Banning

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

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

ATTEST:

Marie A. Calderon, City Clerk

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1384 was duly introduced at a special meeting of the City Council of the City of Banning, held on the 5th day of March, 2008, and was duly adopted at a regular meeting of said City Council on the ____ day of _____, 2008, by the following vote, to wit:

AYES:

NOES:

ABSEN:

ABSTAIN:

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

**CITY COUNCIL AGENDA
REPORTS OF OFFICERS**

Date: March 5, 2008
TO: City Council
FROM: Bonnie J. Johnson, Finance Director
SUBJECT: Appointments to the Budget Ad Hoc Committee

RECOMMENDATION: That the City Council appoint two of its members to serve on the Budget Ad Hoc Committee during the preparation of the upcoming 2008-09 / 2009-10 budget .

ALTERNATIVE: Form a Finance Committee and appoint two Council Members to serve on the Committee.

JUSTIFICATION: The Budget Ad Hoc Committee has been used in past budget cycles and is a valuable tool.

BACKGROUND & ANALYSIS: During the past several budget cycles, a Budget Ad Hoc Committee has been part of the process. The Committee's function has been to review, evaluate and make recommendations with respect to the proposed budget. In as much as this year's process will involve development of a two-year budget, it will be necessary to have 4 or 5 Committee meetings to complete the process. These meetings will take place primarily during late April and during the month of May.

For the recent 2007-08 mid-cycle budget review, Mayor Pro-Tem Franklin and Council Member Hanna were the appointed representatives on the Ad Hoc Committee. Other members included the City Manager and City Treasurer. Staff recommends continued participation by the City Manager and City Treasurer.


As an alternative, the Council can consider establishing a Finance Committee. This Committee would be a standing committee called upon to meet whenever there were financial matters to be discussed such as proposed bond issues, audits, donation requests, etc. This Committee would be responsible for initial review and analysis and then submit recommendations to Council when appropriate.

FISCAL DATA: None.

RECOMMENDED BY:


Bonnie J. Johnson
Finance Director

APPROVED BY:


Brian Nakamura
City Manager

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**CITY COUNCIL AGENDA
BANNING UTILITY AUTHORITY AGENDA
JOINT MEETING
REPORTS OF OFFICERS**

Date: March 5, 2008

TO: City Council

FROM: Bonnie J. Johnson, Finance Director

SUBJECT: City Council Resolution No. 2008-28 Authorizing Fiscal Year 2007-08 Mid-Year Adjustments and Utility Authority Resolution No. 2008-02 BUA Authorizing Fiscal Year 2007-08 Mid-Year Adjustments to the Water and Wastewater Enterprises

RECOMMENDATION:

1. "The City Council adopt Resolution No. 2008-28, A Resolution of the City Council of the City of Banning authorizing revenue and expenditure line item adjustments reflected in the Fiscal Year 2007-08 Mid-Year Budget Review."
2. "The Utility Authority Board adopt Resolution No. 2008-02 BUA, A Resolution of the Utility Authority of the City of Banning authorizing revenue and expenditure line item adjustments in the Water and Wastewater enterprises as reflected in the Fiscal Year 2007-08 Mid-Year Budget Review."

JUSTIFICATION: The Mid-Year Budget Review is an important process. It provides the opportunity to make necessary adjustments to appropriations and revenue estimates based upon the most current information available. This process provides the City Council with reliable and relevant financial information that is key to responsible financial management and decision making.

BACKGROUND & ANALYSIS: Revised revenue estimates and expenditure projections are reflected in the Mid-Year Budget Review. A comprehensive analysis was performed on the City's "Adjusted Budget" which incorporated all previously approved Council adjustments through December to the City's 2007-08 mid-cycle budget adopted last June as well as all adjustments for recently completed labor negotiations.

Mid-Year Budget Review Process

The Mid-Year Review Process is similar, but somewhat less in scope, than the method used in developing the annual budget. The two major objectives in this year's process were to identify those operational adjustments necessary to complete the 2007-08 fiscal year and to propose adjustments to the previously adopted revenue and expenditure projections, where needed, to more accurately reflect 2007-08 expected trends.

Department Heads were asked to review and analyze their respective budgets and propose adjustments, as well as submit requests for additional funding that were of an urgent nature to their operation. The City Manager then considered all of the requests and recommended only those that were deemed to be operationally necessary. In addition, the Finance Department calculated a comprehensive payroll projection that incorporates any position vacancies and all other previously approved changes including recently negotiated MOU's. The attached report includes the aforementioned payroll adjustments and all previously approved budget changes. A

bound copy of the Budget Line Item Report, detailing all recommended adjustments by account number, is on file at the City Clerk's Office and was provided to each City Council Member with this report.

Material changes occurring to any fund have been identified and analyzed within this staff report. The Fund Summary Status (*Attachment A*) has been updated to reflect audited available balances at July 1, 2007 and projected 2007-08 year-end revenue and expenditure figures that incorporate the recommended mid-year adjustments for each fund.

Several attachments are provided for reference. They are as follows:

- Attachment A: Fund Summary Status
- Attachment B: General Fund Overview
- Attachment C: General Fund Revenue Status
- Attachment D: Mid-Year General Fund Requests
- Attachment E: General Fund Reserve Status
- Attachment F: Mid-Year Other Fund Requests
- Attachment G: Mid-Year Other Fund Revenue Adjustments

GENERAL FUND - The FY 2007-08 Mid-Year Review projects a cumulative net increase of \$1,371,309 to the General Fund's available balance in the current fiscal year when compared to the original adopted budget. This includes the estimated \$1,506,000 million increase from fiscal year 2006-07 identified in the 1st Quarter Review report presented to Council in November, as well as the additional adjustments (net decrease of \$134,691) for 2007-08 as identified in this report. As a result of these adjustments, the available balance is projected to be \$5,995,102. At this level the operating reserve (working capital /contingency) is 31.33%.

A General Fund Overview (*Attachment B*) has been prepared which recaps the financial activity and provides revenue and expenditure variances when comparing the recommended Mid-Year Budget to the Adjusted Budget. An overview of the variances is presented below. The detailed revenue and expenditure variances are summarized in *Attachments C and D*, respectively.

Revenues - Net revenues are estimated to decrease by \$274,112 from the Adjusted Budget as follows:

	Increase (Decrease)
1. Property Taxes – net	446,000
2. Sales & Use Tax	(83,342)
3. Other Taxes	(43,700)
4. Fines/Forfeitures/Penalties	(15,000)
5. Use of money and Property	10,000
6. Police	(144,467)
7. Fire	(2,400)
8. Building and Safety	(534,033)
9. Engineering	11,989
10. Recreation	37,975
11. Other Revenue	<u>42,866</u>

Net Revenue Decrease

\$(274,112)

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With respect to General Fund revenues there are a few areas of note. First, property taxes have been adjusted to reflect an increase based on final County and VLF backfill information, as well as \$100,000 in one-time money due to supplemental property taxes coming in higher than original estimates. Sales tax has been adjusted downward to reflect current receipts as well as information received from the City's sale tax consultant. In addition, sales tax figures incorporate updated sales tax backfill figures received from the County as well as updated information related to the Desert Hills tax sharing agreement. In addition, the Police Department revenue has been adjusted downward to reflect the County MOU money being transferred to a separate fund for ease of tracking. This decrease is therefore not a true reduction in available funding it is merely being separated to show that it is restricted for a specific purpose. Furthermore, recreation revenues have been adjusted to "gross up" the accounting for Stagecoach Days. These increases are offset by expenditure increases. Finally, development related revenues, specifically Building & Safety, have been adjusted downward to reflect current trends. In general, although there has been some activity in the planning and engineering stages, many of those projects have yet to pull building permits. With the current condition of the housing market, the building permit revenues have been adjusted to essentially eliminate the residential component and target only the commercial/industrial component. Staff will continue to track this activity very closely.

Appropriations - Net expenditures are expected to decrease by \$192,093. The summary by Department is as follows:

	Increase (Decrease)
1. City Council	4,790
2. City Manager	87,259
3. Human Resources	10,031
4. City Clerk	3,166
5. Finance	(64,527)
6. Police	(243,393)
7. Fire	11,270
8. Building & Safety/Planning	(20,748)
9. Public Works	2,765
10. Recreation	<u>17,294</u>

Net Expenditure Decrease

\$(192,093)

With respect to expenditures, many of the adjustments being proposed relate to the recently negotiated employee MOU's. However, overall the current year implementation of the 4 new MOU's has been more than offset by salaries and benefit savings from open funded positions. Salary savings in the General Fund through December, net of MOU implementation costs, totaled approximately \$478,634. Increases in the General fund expenses include \$150,000 transfer to the County MOU fund for money received in the prior fiscal year, \$31,483 to gross up Stagecoach Days expenses (offset by revenue), \$36,282 to adjust accruals per the audit (offset by beginning fund balance adjustments – see note on Attachment D) and \$68,776 of miscellaneous adjustments for a total of \$286,541. All of these adjustment net to a savings of \$192,093.

Reserves – The adopted June 30, 2007 General Fund reserves totaled \$9,206,386 as detailed on *Attachment E*. The estimated General Fund reserves at June 20, 2008 total \$6,650,448. The difference is attributable to the carryover of funding for continuing appropriations and encumbrances (\$528,382), an increase to the Cash Flow reserve (\$104,589) as well as the use of the Contingency reserve to fund the 2007-08 budget (\$2,132,145) for a net impact of (\$2,555,938) to fund the adjusted budget as presented in this report. As noted earlier in this report

the projected operating reserve (working capital /contingency) is 31.33% of projected expenditures. Although this percentage is higher than the Council required 10% reserve, recurring expenditures continue to be more than recurring revenues on an annual basis.

OTHER FUNDS – As shown on *Attachments F and G*, there are several other City funds that require adjustment at mid-year. Many of the adjustments are of a housekeeping nature and/or relate to the adjustment of salary and benefits from funded but vacant positions as well as the recently negotiated labor MOU's. Below is a summary of the *major* adjustments being requested:

Riverside County Police MOU – This is a new fund that will be used to track the funding coming from Riverside County as a result of the jail expansion. The recommended adjustments move all prior and current activity from the General Fund to this fund.

Street Fund – The additional appropriation relates to the correction of an accrual and will be offset by an increase in beginning fund balance. The remainder of the adjustments relate to net salary savings from vacant positions.

Measure A - The additional appropriation relates to the correction of an accrual and will be offset by an increase in beginning fund balance. In addition, the estimated revenue has been reduced by 8%, or \$60,000, in accordance with current receipts and information from RCTC.

Police Facilities Development Fund – Development impact fees are collected when building permits are issued. Due to lack of development activity the expected revenue in this fund has been significantly reduced.

Fire Facilities Development Fund – Development impact fees are collected when building permits are issued. Due to lack of development activity the expected revenue in this fund has been significantly reduced.

Traffic Control Facilities Fund – Development impact fees are collected when building permits are issued. Due to lack of development activity the expected revenue in this fund has been significantly reduced.

General Facilities Fund – Development impact fees are collected when building permits are issued. Due to lack of development activity the expected revenue in this fund has been significantly reduced. In addition, an additional appropriation is being requested to fund minor repairs at the animal shelter.

Sunset Grade Separation Fund – This fund will be used to track all expenditures related to the construction of the Sunset Grade Separation. The adjustments being recommended relate to contracts that have already been approved by the Council pending TUMF funding approval. The City has been approved by WRCOG to be reimbursed by TUMF dollars.

Park Development Fund – Development impact fees are collected when building permits are issued. Due to lack of development activity the expected revenue in this fund has been significantly reduced.

Capital Improvement Fund – A portion of the additional appropriation relates to the correction of an accrual and will be offset by an increase in beginning fund balance. The remainder relates to the lease costs related to the current police facility. In addition, interest income has been increased in as much as the money on hand has not been spent as quickly as originally anticipated thus more interest has been earned.

Transit Fund - The adjustments being requested relate to salary savings from vacant positions as well a reallocation of savings to fund a transit management contract.

Water Operations – Although a net increase of \$674,813 is being requested, all adjustments are routine in nature.

Water Capital Facility Fund – Development impact fees are collected when building permits are issued. Due to lack of development activity the expected revenue in this fund has been significantly reduced.

BUA – Water Capital Improvement Fund –Interest income has been increased in as much as the bond money on hand has not been spent as quickly as originally anticipated thus more interest has been earned.

Electric Operations – The adjustments being requested relate to salary savings from vacant positions as well as routine adjustments.

Electric Bond Project Fund –Interest income has been increased in as much as the bond money on hand has not been spent as quickly as originally anticipated thus more interest has been earned.

Wastewater Operations – A portion of the additional appropriation relates to the correction of an accrual and will be offset by an increase in beginning fund balance. The balance relates to costs associated with the implementation of labor contracts as well as fiscal agent bond fees.

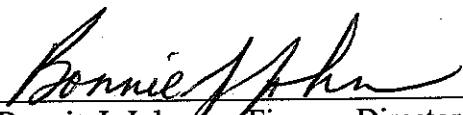
Insurance Fund – The additional appropriations relate mainly to adjustments needed for various premium payments as well as the appropriation of retention reserves on two pending liability claims. These amounts are partially offset by salary savings and an insurance dividend received by the City.

Fleet Maintenance – The adjustments being requested are routine in nature. A fund balance reserve is maintained in this fund in to cover increases in gas prices and unanticipated and non-routine vehicle repairs.


Community Redevelopment Agency Funds - Although referenced on Attachment A, there is no discussion of these funds in this report. A separate mid-year presentation to the Redevelopment Agency is Board is scheduled at its regular meeting on March 5, 2008.

FISCAL IMPACT: Many of the City's operating programs and capital improvement projects are subject to change throughout the year. The mid-year process realigns the budget with actual operating results. Resolutions No. 2008-28 and 2008-02 BUA have been prepared for Council and Board consideration in adjusting the current FY 2007-08 budgeted revenues and appropriations.

RECOMMENDED BY:


Bonnie J. Johnson, Finance Director

APPROVED BY:


Brian Nakamura, City Manager

CITY OF BANNING
Fund Summary Status
Mid-Year Budget Review
FY 2007-2008

FUND NAME	(1) Estimated Balance @ July 1, 2007	(2) Revised Budgeted Revenue	(3) Revised Budgeted Expenditures	(4) Proj. YTD Gain/(Loss) (Col. 2-3)	(5) Proj. Balance @ June 30, 2008 (Col. 1+4)
<u>Governmental & Special Revenue Fds</u>					
General	8,551,041	16,578,249	19,134,188	(2,555,939)	5,995,102
Developer Deposits - Community Dev.	0	25,000	25,000	0	0
County of Riverside - Police MOU	0	300,000	125,229	174,771	174,771
Gas Tax	254,156	1,077,263	1,228,789	(151,526)	102,630
Gas Tax - AB 2928	321,674	10,000	320,375	(310,375)	11,299
Measure A Street	1,183,187	887,000	1,685,856	(798,856)	384,331
SB300 Street Improvement	136,548	5,000	0	5,000	141,548
Article 3 - Sidewalk Construction	123,835	712,230	826,076	(113,846)	9,989
C.D.B.G.	0	314,525	314,525	0	0
Landscape Maintenance Assmt. Dist.#1	43,571	173,000	173,000	0	43,571
Air Quality	208,393	36,000	162,789	(126,789)	81,604
Asset Forfeiture	2,306	200	0	200	2,506
Local Law Enforcement Block Grant	0	0	0	0	0
San Gorgonio Task Force	3,062	0	0	0	3,062
Supplemental Law Enforcement	32,774	100,233	133,007	(32,774)	0
Public Safety - Sales Tax	65,419	232,600	240,000	(7,400)	58,019
State Park Bond Act	890	25	0	25	915
Special Donations	25,515	16,500	23,690	(7,190)	18,325
Senior Center Activities	64,958	11,025	17,175	(6,150)	58,808
Animal Control Reserve	4,518	200	0	200	4,718
Police Volunteer	1,436	3,300	4,628	(1,328)	108
D.A.R.E./Great Grant	16,900	120,483	137,383	(16,900)	0
City Hall COP Debt Service	26,409	517,500	517,500	0	26,409
Sun Lakes CFD #86-1	32,730	1,200	0	1,200	33,930
Assessment Dist - #91-1 Wilson St. Debt	304,442	332,500	342,690	(10,190)	294,252
Area Police Computer	26,522	40,088	38,688	1,400	27,922
Fair Oaks 2004-1 Debt Service	127,337	205,000	206,400	(1,400)	125,937
Cameo Homes	42,162	1,000	0	1,000	43,162
Sub-Total	11,599,785	21,700,121	25,656,988	(3,956,867)	7,642,918

* Col. (1) includes continuing appropriations

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CITY OF BANNING
Fund Summary Status
Mid-Year Budget Review
FY 2007-2008

FUND NAME	(1) Estimated Balance @ July 1, 2007	(2) Revised Budgeted Revenue	(3) Revised Budgeted Expenditures	(4) Proj. YTD Gain/(Loss) (Col. 2-3)	(5) Proj. Balance @ June 30, 2008 (Col. 1+4)
<u>Capital Improvement Funds</u>					
Police Facilities Development	22,893	26,000	0	26,000	48,893
Fire Facility Development	811,508	78,000	0	78,000	889,508
Traffic Control Facility	500,709	30,500	217,532	(187,032)	313,677
Ramsey & Highland Home Traffic Signal	74,311	3,000	0	3,000	77,311
General Facilities	434,880	23,000	14,830	8,170	443,050
Sunset Grade Separation Fund	-	1,384,777	1,384,777	0	0
Wilson Median	347,723	12,500	0	12,500	360,223
Park Development	420,179	24,000	293,188	(269,188)	150,991
Capital Improvement Funds	15,749,686	600,000	587,258	12,742	15,762,428
Sub-Total	18,361,889	2,181,777	2,497,585	(315,808)	18,046,081
<u>Enterprise Funds</u>					
Airport	170,839	427,982	451,931	(23,949)	146,890
Transit Operations	0	2,244,397	2,161,991	82,406	82,406
Water Operations	7,733,069	8,526,000	9,813,881	(1,287,881)	6,445,188
Water Capital Facility Fee	2,237,612	592,220	2,061,569	(1,469,349)	768,263
Irrigation Water	2,633,635	255,000	0	255,000	2,888,635
BUA Water Capital Project Fund	15,323,624	1,913,600	7,091,733	(5,178,133)	10,145,491
BUA Water Debt Service Fund	36,288	2,314,500	2,309,000	5,500	41,788
Electric Operations	7,185,005	27,077,611	29,207,134	(2,129,523)	5,055,482
Rate Stability	11,787,807	475,000	6,479,974	(6,004,974)	5,782,833
Electric Improvement	5,345,923	26,524,019	21,468,784	5,055,235	10,401,158
Electric Bond Project Fund	0	41,842,000	20,000,000	21,842,000	21,842,000
Public Benefit Fund	1,855,709	715,500	594,173	121,327	1,977,036
Electric Debt Service Fund	42,577,046	130,000	42,645,295	(42,515,295)	61,751
Wastewater Operations	3,707,348	2,582,500	3,217,873	(635,373)	3,071,975
Wastewater Capital Facility Fees	8,974,882	975,000	226,000	749,000	9,723,882
BUA Wastewater Capital Project Fund	4,836,230	175,000	1,790,531	(1,615,531)	3,220,699
State Revolving Loan	771,497	305,000	304,289	711	772,208
BUA Wastewater Debt Service Fund	10,760	533,500	533,000	500	11,260
Refuse	378,727	2,893,348	2,910,214	(16,866)	361,861
Sub-Total	115,566,001	120,502,177	153,267,372	(32,765,195)	82,800,806

* Col. (1) includes continuing appropriations

CITY OF BANNING
Fund Summary Status
 Mid-Year Budget Review
 FY 2007-2008

FUND NAME	(1) Estimated Balance @ July 1, 2007	(2) Revised Budgeted Revenue	(3) Revised Budgeted Expenditures	(4) Proj. YTD Gain/(Loss) (Col. 2-3)	(5) Proj. Balance @ June 30, 2008 (Col. 1+4)
<u>Internal Service Funds</u>					
Insurance	1,550,505	1,461,755	2,142,893	(681,138)	869,367
Fleet Maintenance	127,393	1,260,000	1,354,293	(94,293)	33,100
Information Systems Services	132,569	554,000	604,530	(50,530)	82,039
Utility Billing Services	347,316	1,465,000	1,690,784	(225,784)	121,532
Sub-Total	2,157,783	4,740,755	5,792,500	(1,051,745)	1,106,038
<u>Community Redevelopment Agency Funds</u>					
Low\Mod Housing	1,967,531	1,165,064	559,856	605,208	2,572,739
Debt Service Fund	1,681,522	5,928,905	6,489,177	(560,272)	1,121,250
Administration Fund	23,975	1,041,194	1,041,194	0	23,975
1992 Low\Mod Housing Bond Proceeds	43,371	600	0	600	43,971
Tax Allocation Bonds-2007 Tabs	24,965,450	400,000	6,426,129	(6,026,129)	18,939,321
Tax Allocation Bonds-2003 Tabs	6,060,926	75,000	5,761,329	(5,686,329)	374,597
Low\Mod Tax Alloc Bonds-2003 Tabs	2,162,401	80,000	598,880	(518,880)	1,643,521
Project Fund	1,009,124	1,328,000	1,752,962	(424,962)	584,162
Sub-Total	37,914,300	10,018,763	22,629,527	(12,610,764)	25,303,536
GRAND TOTAL ALL FUNDS	185,599,758	159,143,593	209,843,972	(50,700,379)	134,899,379

* Col. (1) includes continuing appropriations

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General Fund Mid-Year Overview For Fiscal Year 2007-08

Balance @ 07/01/07 (Audited)	\$ 8,551,041
<i>(includes encumbrances and continuing appropriations)</i>	

FY 07-08 Adjusted Budget Projected Net	(2,473,920)
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Mid-Year Summary

Revenues

Mid-Year Estimate	16,578,249	
Less: Adjusted Budget	16,852,361	

Revenue decrease	(274,112)
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Expenditures

Mid-Year Projection	19,134,188	
Less: Adjusted Budget	19,326,281	

Expenditure decrease	192,093
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FY 2007-2008 Net @ Mid Year	(2,555,939)
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Mid-Year

Projected Year End Balance @ 6/30/08	5,995,102
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Original Budget Adoption

Projected Year End Balance @ 6/30/08	4,623,793
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Increase to Projected 6/30/08 Balance	1,371,309
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Projected Operating Reserve Level @ 6/30/08	31.33%
<i>(Projected Year End Balance divided by Projected Expenditures)</i>	

CITY OF BANNING
GENERAL FUND REVENUE STATUS
DECEMBER 31, 2007

Revenue Description	Adjusted Budget	Year to Date Revenues (5)	Revised Projected Revenues	Adjustment Requested
Property Taxes (1)	4,508,437	918,347	4,954,437	446,000
Sales Tax (2)	3,132,571	654,350	3,049,229	(83,342)
Other Taxes	1,065,216	346,216	1,021,516	(43,700)
Use of Money	472,400	139,762	482,400	10,000
Motor Vehicle In Lieu Fees	160,000	48,900	160,000	0
Internal Services	2,367,500	1,183,746	2,367,500	0
Interfund Transfer Revenue	250,000	0	250,000	0
Departmental Fees and Other Revenues:				
<i>TV Government Access</i>	580,000	44,180	580,000	0
<i>Police (3)</i>	1,351,373	831,009	1,206,906	(144,467)
<i>Fire</i>	680,438	579,292	678,038	(2,400)
<i>Building & Safety (4)</i>	985,850	140,972	451,817	(534,033)
<i>Planning</i>	225,975	132,351	225,975	0
<i>Engineering</i>	363,300	216,695	375,289	11,989
<i>Recreation</i>	55,000	30,240	57,910	2,910
<i>Aquatics</i>	57,053	20,167	48,692	(8,361)
<i>Senior Center</i>	6,450	2,250	6,450	0
All Other	590,798	262,153	662,090	71,292
TOTAL REVENUE	16,852,361	5,550,630	16,578,249	(274,112)

(1) Adjusted per updated assessed valuation information from County

(2) Net decrease based on final data for the prior year, current trends and updated backfill figures from County

(3) Moved County MOU funding to a separate fund to simplify tracking

(4) Adjusted projected revenues to reflect current development trends

(5) Revenues such as property taxes and franchise fees come in primarily in the second half of the fiscal year.

Other large revenues such as sales tax are received monthly but do not reflect a full 6 months of payments due to the required method of accounting. A full 12 month's payments will be received/recorded during the fiscal year.

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CITY OF BANNING
MID-YEAR 2008
GENERAL FUND APPROPRIATION REQUESTS

Attachment D

	<u>Cost</u>	<u>Department Total</u>
City Council		
Salaries/Benefits - Various	4,090	
Food/Meals	700	4,790
City Manager		
General Expenses - CM Contract costs	20,000	
Salaries/Benefits - Various	67,259	87,259
Human Resources		
Salaries/Benefits - Various	10,031	10,031
City Clerk		
Professional services - Ordinance Codification	5,547	
Salaries/Benefits - Various (savings)	(2,381)	3,166
Finance		
Salaries/Benefits - Various (savings -Accounting)	(16,843)	
Contract Employment Services	10,826	
Salaries/Benefits - Various (savings-Purchasing)	(58,299)	
Salaries/Benefits - Various (savings-Channel 10)	(211)	(64,527)
Police		
Salaries/Benefits - Various (savings - Police)	(337,499)	
Transfer to GREAT/DARE Fund	3,392	
Salaries/Benefits - Various (Dispatch)	41,395	
Salaries/Benefits - Various (SB 621 Grant)	658	
Machinery/Equipment (SB 621 Grant)	22,150	
Salaries/Benefits - Various (County MOU)	(123,489)	
Transfer to County MOU Fund	150,000	(243,393)
Fire		
Salaries/Benefits - Various	234	
Emergency Medical Supplies*	10,942	
Computer Software*	94	11,270

CITY OF BANNING
MID-YEAR 2008
GENERAL FUND APPROPRIATION REQUESTS

Attachment D

	Cost	Department Total
Community Development		
Salaries/Benefits - Various (savings - Building)	(20,751)	
Weed Abatement*	17,339	
Contract Employment Services - Code Enf.	10,000	
Salaries/Benefits - Various (savings - Planning)	(27,336)	(20,748)
Public Works		
Salaries/Benefits - Various (savings -Engineering)	(2,923)	
Salaries/Benefits - Various (Bldg. Maint.)	8,032	
Salaries/Benefits - Various (savings-Parks)	(10,251)	
Land Improvements - Parks*	7,907	2,765
Recreation		
Salaries/Benefits - Various (savings-Recreation)	(11,241)	
Salaries/Benefits - Various (Aquatics)	11,821	
Pool Project - Balance for start up supplies/equipment	16,987	
Salaries/Benefits - Various (savings-Sr. Center)	(31,756)	
Stagecoach Days - gross up expenses	31,483	17,294
Grand Total of General Fund Requests		<u>(192,093)</u>

* This is a housekeeping adjustment.

Expense originally accrued to prior year, but should be expensed in current year.

Fund balances were adjusted accordingly. No effect on projected June 2008 balances.

FY 2007-2008

General Fund

Status of Reserves

Attachment E

General Fund Equity Section	Audited 6/30/2007	FY 2007-08 Adopted budget and Adjustments	Estimated Status at 6/30/2008
Legally Designated (long-term receivables, computer loans)	32,166	-	32,166
Designated - Continuing Appropriations (annually approved and used)	528,382	(528,382)	-
Designated - Council 10% Reserve Level	1,808,275	104,589	1,912,864
Designated - Capital Improvements or Equipment	-	-	-
Designated - Compensated Absences -(50% funding of liability)	623,180	-	623,180
Designated - Cal-PERS Liability (set aside to offset rate increases)	-	-	-
Undesignated - Contingency	6,214,383	(2,132,145)	4,082,238
	<u>9,206,386</u>	<u>(2,555,938)</u>	<u>6,650,448</u>

Fund Balance	
Contingency	4,082,238
Cash Flow	1,912,864
Total	<u>5,995,102</u>

**CITY OF BANNING
MID-YEAR 2008
APPROPRIATION REQUESTS
OTHER FUNDS**

	<u>Cost</u>	<u>Fund Total</u>
Riverside County Police MOU		
Salaries/Benefits - Various	125,229	125,229
Gas Tax Street Fund		
Salaries/Benefits - Various (savings)	(31,637)	(31,637)
Gas Tax Street Fund - AB2928		
Street Improvements*	284,397	284,397
Measure A Street Fund		
Transfer-Sidewalk Fund	(63,639)	
Measure A Street Improvements*	354,416	290,777
Article 3 Sidewalk Fund		
Sidewalk Improvements	19,471	19,471
Supplemental Law Enforcement		
Repair/Maint. - Vehicles	5,721	
Ordinance	534	
Clothing/Accessories	555	6,810
Special Donation Fund		
July 4th Celebration*	6,750	
Drill/Cheer Team	440	7,190
DARE/GREAT Fund		
Salaries/Benefits - Various	16,259	16,259
Wilson St. 91-1 Assessment District		
Administration Services	100	
Principal - Limited Oblig Bonds	10,000	
Premium Bond Redemption	90	10,190
Fair Oaks Assessment District - Debt Service Fund		
Bond Paying Agent Fees	1,400	1,400
General Facilities Fund		
Building Improvements	5,981	5,981

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**CITY OF BANNING
MID-YEAR 2008
APPROPRIATION REQUESTS
OTHER FUNDS**

	<u>Cost</u>	<u>Fund Total</u>
Sunset Grade Separation Fund		
Sunset Grade Separation	1,384,777	1,384,777
Park Development Fund		
Planning/Engineering	3,188	3,188
Capital Improvement Fund		
Relocation Expense	77,368	
Building Improvements*	15,000	
Transfer - General Fund (Pool)	11,739	
Building Improvements*	8,943	113,050
Airport Fund		
Salaries/Benefits - Various (savings)	(173)	(173)
Transit Fund		
Salaries/Benefits - Various (savings)	(122,298)	
Professional Services	39,892	(82,406)
Water Fund		
Salaries/Benefits - Various	173,033	
Alarm Service	200	
Utilities - Banning	700,000	
Natural Gas Service	500	
Water Purchase - Resale	(250,000)	
Rental of Building	14,000	
Professional Services*	29,919	
Refunds	10,483	
Water Reg, Valves, etc.*	8,620	
Transfer Gen'l Fund - S/C Days	(11,942)	674,813
Electric Fund		
Salaries/Benefits - Various (savings)	(76,875)	
Repair/Maintenance - Software*	3,913	
Professional Services*	12,560	
Transfer Gen'l Fund - S/C Days	(11,942)	(72,344)
Public Benefit Fund		
Salaries/Benefits - Various	31,935	31,935

**CITY OF BANNING
MID-YEAR 2008
APPROPRIATION REQUESTS
OTHER FUNDS**

	<u>Cost</u>	<u>Fund Total</u>
Wastewater Fund		
Salaries/Benefits - Various	59,008	
Professional Services*	31,642	
Bond Paying Agent Fees	1,150	91,800
Refuse Fund		
Salaries/Benefits - Various (savings)	(921)	(921)
Insurance Fund		
Salaries/Benefits - Various (savings)	(37,364)	
Contract Employment Services	16,998	
Worker's Comp Insurance Premium	49,752	
Property Insurance Premiums	53,823	
Liability Insurance Premiums	31,340	
Blanket Bond Premiums	841	
Airport Liability Premiums	829	
Claims - Liability	100,000	216,219
Fleet Maintenance		
Salaries/Benefits - Various	36,439	
Repair/Maintenance - Vehicles	15,000	
Gasoline/Diesel Fuel	40,000	
State Fuel Tax	(2,000)	
Auto Parts	12,000	101,439
Information Systems Fund		
Salaries/Benefits - Various (savings)	(2,246)	(2,246)
Utility Billing Fund		
Salaries/Benefits - Various	27,018	
Contract Employment Services	2,800	
Computer Hardware*	409	
Computer Software*	3,258	33,485
Grand Total of Fund Requests		<u><u>3,228,683</u></u>

In all of the above funds, there is sufficient existing fund balance or a corresponding revenue adjustment to fund the request.

* This is a housekeeping adjustment.

Expense originally accrued to prior year, but should be expensed in current year.

Fund balances were adjusted accordingly. No effect on projected June 2008 balances.

**CITY OF BANNING
MID-YEAR 2008
RECOMMENDED ADJUSTMENTS
OTHER FUND REVENUE**

	<u>Requested Adjustment</u>	<u>Fund Total</u>
Riverside County Police MOU		
County Police MOU	150,000	
Transfer from General Fund	<u>150,000</u>	<u>300,000</u>
Measure A		
Measure A Sales Tax	<u>(60,000)</u>	<u>(60,000)</u>
Article 3 Sidewalk Fund		
Sidewalk Grant - Art 3	(31,936)	
Transfer from Measure A Fund	<u>(63,639)</u>	<u>(95,575)</u>
Supplemental Law Enforcement		
Investment Interest	<u>233</u>	<u>233</u>
DARE/GREAT Fund		
Transfer from General Fund	<u>3,392</u>	<u>3,392</u>
Police Facilities Fund		
Investment Interest	(18,000)	
Police Facilities Development Fees	<u>(98,450)</u>	<u>(116,450)</u>
Fire Facilities Fund		
Fire Facilities Development Fees	<u>(160,250)</u>	<u>(160,250)</u>
Traffic Control Facilities Fund		
Traffic Control Facilities Fees	<u>(25,000)</u>	<u>(25,000)</u>
General Facilities Fund		
Investment Interest	(4,000)	
General Facilities Fees	<u>(61,700)</u>	<u>(65,700)</u>
Sunset Grade Separation Fund		
TUMF Funding	<u>1,384,777</u>	<u>1,384,777</u>

**CITY OF BANNING
MID-YEAR 2008
RECOMMENDED ADJUSTMENTS
OTHER FUND REVENUE**

	<u>Requested Adjustment</u>	<u>Fund Total</u>
Wilson Median Fund		
Investment Interest	(1,500)	(1,500)
Park Development Fund		
Investment Interest	(26,000)	
Parkland Dedication Fees	(283,250)	(309,250)
Capital Improvement Fund		
Interest Earned - Fiscal Agent	200,000	200,000
Airport Fund		
Other Airport Rentals	6,750	
Misc. Receipts/Revenue	450	7,200
Water Fund		
Restitution/Subrogation	11,000	11,000
Water Capital Facility Fund		
Investment Interest	(34,000)	
Capital Facilities Fees	(626,580)	
Capital Frontage Fees	(6,000)	(666,580)
BUA - Water Capital Project Fund		
Interest Earned - Fiscal Agent	175,000	175,000
BUA - Water Debt Service Fund		
Interest Earned - Fiscal Agent	5,000	5,000
Electric Fund		
Sale of Surplus Property	10,739	
Restitution/Subrogation	7,501	
Misc. Receipts/Revenue	1,420	
Project Management Fees	132,076	151,736
Electric Rate Stability Fund		
Investment Interest	(100,000)	(100,000)

**CITY OF BANNING
MID-YEAR 2008
RECOMMENDED ADJUSTMENTS
OTHER FUND REVENUE**

	<u>Requested Adjustment</u>	<u>Fund Total</u>
07 Electric Revenue Bonds Project Fund		
Interest Earned - Fiscal Agent	1,300,000	1,300,000
07 Electric Revenue Bonds Debt Service Fund		
Interest Earned - Fiscal Agent	61,751	61,751
Wastewater Capital Facilities Fund		
Capital Facilities Fees	(127,900)	
Capital Frontage Fees	(25,000)	(152,900)
BUA - Wastewater Capital Project Fund		
Interest Earned - Fiscal Agent	75,000	75,000
Refuse Fund		
Turn On Charges	10,000	10,000
Insurance Fund		
Investment Interest	(35,300)	
Restitution/Subrogation	2,150	
Insurance Dividend	114,273	81,123
Grand Total of Revenue Adjustments		<u><u>2,013,007</u></u>

RESOLUTION NO. 2008-28

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING
AUTHORIZING REVENUE AND EXPENDITURE LINE ITEM
ADJUSTMENTS REFLECTED IN THE FISCAL YEAR 2007-08 MID-
YEAR REVIEW**

WHEREAS, the City of Banning adopts a fiscal year budget prior to July 1st each year; and

WHEREAS, the City Council desires to have a timely Mid-Year Review performed annually; and

WHEREAS, the City Council desires to take the formal action of adjusting the current fiscal year's budget based on the Mid-Year Review;

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

1. City Council approves the Mid-Year Budget Adjustments for the City's Funds as summarized in Attachments C, D, F and G and detailed, by account number, in the bound Revenue and Expenditure Detail Report.

PASSED, APPROVED AND ADOPTED this 5th day of March 2008.

Brenda Salas, Mayor
City of Banning

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

Burke, Williams & Sorensen, LLP
City Attorney

ATTEST:

Marie A. Calderon, City Clerk

CERTIFICATION

I, MARIE A. CALDERON, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2008-28 was duly adopted by the City Council of the City of Banning at a special meeting thereof held on the 5th day of March, 2008, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

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

RESOLUTION NO. 2008-02 UA

**A RESOLUTION OF THE UTILITY AUTHORITY OF THE CITY OF
BANNING AUTHORIZING REVENUE AND EXPENDITURE LINE
ITEM ADJUSTMENTS IN THE WATER AND WASTEWATER
ENTERPRISES AS REFLECTED IN THE FISCAL YEAR 2007-08 MID-
YEAR REVIEW**

WHEREAS, the Banning Utility Authority adopts a fiscal year budget prior to July 1st each year; and

WHEREAS, the Authority Board desires to have a timely Mid-Year Review performed annually; and

WHEREAS, the Authority Board desires to take the formal action of adjusting the current fiscal year's budget based on the Mid-Year Review;

NOW, THEREFORE, BE IT RESOLVED by the Banning Utility Authority Board as follows:

1. The Banning Utility Authority Board approves the Mid-Year Budget Adjustments for the Water and Wastewater Funds as summarized in Attachments F and G and detailed, by account number, in the bound Revenue and Expenditure Detail Report.

PASSED, APPROVED AND ADOPTED this 5th day of March 2008.

Brenda Salas, Chairman
Banning Utility Authority

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

Burke, Williams & Sorensen, LLP
Authority Counsel

ATTEST:

Marie A. Calderon, Secretary
Banning Utility Authority

CERTIFICATION

I, MARIE A. CALDERON, Secretary of the Banning Utility Authority do hereby certify that the foregoing Resolution No. 2008-02 BUA was duly adopted by the Board of the Banning Utility Authority at a special meeting thereof held on the 5th day of March, 2008, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Marie A. Calderon, Secretary
Banning Utility Authority
Banning, California