

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

September 9, 2008
6:30 p.m.

Banning Civic Center
Council Chambers
99 E. Ramsey St.

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

Report by City Manager

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.

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. Presentation by Amy Herr of the Boys and Girls Club (*Oral*)
2. Presentation to Chuck Chappel by City Council (*Oral*)

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

ANNOUNCEMENTS/COUNCIL REPORTS:

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

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 17
Items to be pulled _____, _____, _____, _____ for discussion.

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

1. Approval of Minutes – Regular Meeting – 08/12/08	1
2. Ordinance No. 1394, An Urgency Ordinance of the City Council of the City of Banning, California, Amending Chapter 8.12 of the Banning Municipal Code Revising the Regulations Pertaining to the Maintenance of Vacant and Distressed Buildings	19
3. Resolution No. 2008-94, Establishing a Classification and Compensation Policy for Part-Time Employees of the City of Banning.	27
4. Resolution No. 2008-100, Authorizing the Police Department to Destroy Internal Affairs Records in Excess of Five Years from Date of Completion Per California Government Code Section 34090 and California Penal Code Section 832.5.	32
5. Resolution No. 2008-101, Approving a Side Letter to Memorandum of Understanding Between the City of Banning and the City of Banning Association of Managers (CBAM)	38
6. Resolution No. 2008-102, Authorizing the Expenditure of \$65,729 received from the Riverside County Fire Department Office of Emergency Services, under the FY 08 State Homeland Security Grant Program (HSGP), for the purchase of a state-of-the-art fiber optic inspection and viewing kit	43
7. Resolution No. 2008-103, Authorizing the Police Department to Receive a One Time Appropriation of \$10,683.33 from the City's General Fund to Pay for Educational Materials Used in the Red E. Fox Program Taught to Elementary School Children on How to Use the Emergency 9-1-1 System . .	46

8. Resolution No. 2008-104, Authorizing the Destruction of Banning Police Department Informational and Criminal Records as Provided by Section 34090 of the California Government Code and Resolution No. 2003-26 of the City of Banning	50
9. Resolution No. 2008-106, Participating with the County of Riverside Mortgage Credit Certificate (MCC) Program	55
10. Emergency Repairs to Well No. C-4 Booster Motor & Pump Assembly....	60
11. Amending the Existing Contract with E. S. Babcock for Laboratory Services in the Amount of \$7,000.00.	65
12. Percolate Purchased State Project Water (SPW) into the Noble Creek Recharge Facilities.	66
13. Amending the Existing Agreement for Consultant Services with PARSONS Water & Infrastructure, Inc. to Provide Additional Work for the Design of the Wastewater Treatment Plan Expansion in the amount “Not to Exceed” \$34,910.00.	68
14. Accept the Grant of Easement from Pastor Richard S. Szydłowski of the Mountain Avenue Baptist Church, located on Parcel No. 1 of Parcel Map No. 76-4, as per Map Recorded in Book 27, Page 61 of Parcel Maps in the Office of the Riverside County Recorder	87
15. Update on Stagecoach Days	92
16. Approval of Accounts Payable and Payroll Warrants for the Month of June 2008	95
17. Approval of Accounts Payable and Payroll Warrants for the Month of July 2008.	97

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

IV. ORDINANCE-INTRODUCTION

1. Increase of Council Compensation Staff Report	99
Recommendation: That the City Council introduce Ordinance No. 1395, Amending the City Municipal Code to increase compensation of City Council Members.	

Mayor asks the City Clerk to read the title of Ordinance No. 1395

“An Ordinance of the City Council of the City of Banning, California, Amending Section 2.04.030 of the Banning Municipal Code Regarding Compensation of City Council Members in the Amount and At the Time Allowed by Law.”

Motion: I move to waive further reading of Ordinance No. 1395.

(Requires a majority vote of Council)

Motion: I move that Ordinance No. 1395 pass its first reading.

(A minimum of three votes required)

V. 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. General Plan Amendment #08-2501 & Zone Change #08-3501:
Consideration of a Request to Amend the General Plan Land Use Element and Zoning Map by changing the land use designation from Industrial (I) to General Commercial (GC) for the properties generally located at the southwest corner of San Gorgonio Avenue and Lincoln Street (APN No. 540-250-008 & 061).

Staff Report **102**
Recommendation: That the City Council approve Ordinance No. 1397.

Mayor asks the City Clerk to read the title of Ordinance No. 1397

“An Ordinance of the City Council of the City of Banning, California, Approving General Plan Amendment #08-2501 and Zone Change #08-3501 to Amend the General Plan Land Use Map and Zoning Map from Industrial (I) to General Commercial (GC) for the Properties Generally Located at the Southwest Corner of San Gorgonio Avenue and Lincoln Street (APN: 540-250-008 & 061).

Motion: I move to waive further reading of Ordinance No. 1397.

(Requires a majority vote of Council)

Motion: I move that Ordinance No. 1397 pass its first reading.

(A minimum of three votes required)

2. General Plan Amendment #08-2502 & Zone Change #08-3503:
Consideration of a Request to Amend the General Plan Land Use Element and Zoning Map from General Commercial (GC) to Business Park (BP) for the property located at 2909 W. Lincoln Street (APN No. 538-190-015).

Staff Report **115**
Recommendation: That the City Council approve Ordinance No. 1398.

Mayor asks the City Clerk to read the title of Ordinance No. 1398

“An Ordinance of the City Council of the City of Banning, California, Approving General Plan Amendment #08-2521 and Zone Change #08-353 to Amend the General Plan Land Use Map and Zoning Map from General Commercial (GC) to Business Park (BP) for the Property Located at 2909 W. Lincoln Street (APN: 538-190-008 & 015).

Motion: I move to waive further reading of Ordinance No. 1398.

(Requires a majority vote of Council)

Motion: I move that Ordinance No. 1398 pass its first reading.

(A minimum of three votes required)

VI. ITEMS FOR FUTURE AGENDAS

New Items –

Pending Items –

1. Annual Review of General Plan (*Hanna- 10/9/07*) (*Comm. Dev.*) (*ETA 9/23/08*)
2. Schedule Meeting with the Beaumont City Council (*Salas- 11/27/07*) (*City Mgr.*)
3. Schedule Special Jt. Meeting the Banning Unified School District Board – (*Botts – 11/27/07*) (*City Mgr.*) (**Sept. 12, 2008 2x2 Meeting – Botts/Franklin**)
4. Schedule Special Jt. Meetings with the City's Various Committees (Planning Commission, Economic Development Committee, Parks & Recreation) – (*Franklin – 11/27/07*)
5. Review of Development Fees (*Hanna – 12/11/07*) (*Johnson*) (*ETA 9/23/08*)
6. Review of Ordinance regarding the selling of cars in shopping center parking lots – (*Salas – 9/9/08*) (*Hansen*) (*ETA 9/23/08*)
7. Ordinance regarding smoke free parks (*Hanna – 8/12/08*) (*Nakamura*) (*ETA 9/23/08*)
8. Report on “One Stop Shop” - (*Franklin – 8/12/08*) (*Hansen/Nakamura*)
9. Bring back Riverside County Policy regarding animal rescue groups – (*Salas*) (*Nakamura*) (*ETA 9/23/08*)
10. Report on “Request Partner” - (*Hanna – 6/24/08*) (*Nakamura*) (*ETA 9/23/08*)

VII. CLOSED SESSION

1. The City Council will meet in Closed Session pursuant to Government Code Section 54957 with regard to City Manager evaluation.
 - A. Opportunity for Public to address closed session items.
 - B. Convene to Closed Session

VIII. ADJOURNMENT

Pursuant to amended Government Code Section 54957.5(b) staff reports and other public records related to open session agenda items are available at City Hall, 99 E. Ramsey St., at the office of the City Clerk during regular business hours, Monday through Friday, 8 a.m. to 5 p.m.

NOTICE: Any member of the public may address this meeting of the Mayor and Council on any item appearing on the agenda by approaching the microphone in the Council Chambers and asking to be recognized, either before the item about which the member desires to speak is called, or at any time during consideration of the item. A five-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor 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].

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

08/12/08
REGULAR MEETING

A regular meeting of the Banning City Council and a Joint Meeting of the City Council and the Banning Utility Authority was called to order by Mayor Salas on August 12, 2008 at 6:30 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Botts
Councilmember Franklin
Councilmember Hanna
Councilmember Machisic
Mayor Salas

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Brian Nakamura, City Manager
Julie Hayward Biggs, City Attorney
Duane Burk, Public Works Director
Jim Earhart, Public Utility Director
Nicole Mihld, Purchasing Manager
Leonard Purvis, Police Chief
Phil Holder, Lieutenant
Matthew Bassi, Interim Community Development Dir.
Ted Yarbrough, Fire Marshal/Emergency Services Coordinator
George Thacker, Asst. Public Works Dir., Water/Wastewater
Heidi Meraz, Recreation Director
Tim Steenson, Development Services Manager
Marie A. Calderon, City Clerk

Mayor Salas invited the audience to join her in the Pledge of Allegiance to the Flag. The invocation was given by Max Sternjacob, Life Point Church.

PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS
ANNOUNCEMENTS/APPOINTMENTS

Report by City Attorney – Nothing to report at this time.

Report by City Manager

- Goal Setting session was held on August 2nd and followed up as an extension of that a CRA workshop which was held yesterday evening and there was clear and definitive directions given to staff and they will be brought back to the Council at the next meeting.

- This may be the last meeting under this context for Mr. Bassi who has been with us for the last several months helping as our Community Development Director. City Manager thanked him for the wonderful job he has done for our City.
- An urgency item was asked to be put on by the League and would like the Council to add it to the agenda. It is Resolution No. 2008-98, A Resolution of the City of Banning, California, Opposing fiscally Irresponsible State Budget Decisions That Would “Borrow” Local Government, Redevelopment and Transportation Fund. He would be glad to discuss it further when it comes forward.

Motion Botts/Machisic to add this urgency item to the agenda. Motion carried, all in favor.

PRESENTATIONS:

1. Presentation by O'Reilly Public Relations regarding the Liberty Quarry Project Report was given by Gary Johnson, Aggregate Resources Manager for Granite Construction.

Gary Johnson, Aggregate Resources Manager with Granite Construction, Indio, California addressed the Council stating that they hold the third oldest general contractor license in California and are the leading producer of aggregate sand and gravel and concrete and asphalt in California. What he is talking about is the aggregate resource shortage in the state of California. He said that the Department of Conservation, Caltrans, the State geologists, the Business Transportation and Housing Agency have all been raising the flag and waving it as hard as they can to let local government agencies know about the shortage of local aggregate. The Department of Conservation has recently estimated that there is a 72% shortage in the Inland Empire and even worse in San Diego County. Riverside County's current existing reserves are being exported out of county to Orange County and San Diego County. Western Riverside County uses over 9 million tons of aggregate per year. The Pass and the Desert Area transfers over 3 million tons of aggregated a year on average through this area from the Desert moving to San Diego, Western Riverside County, Orange County and even Los Angeles because of the shortages in that area which has adverse consequences obviously because of more traffic, more air emissions and higher costs for our public transportation projects. He gave a power-point presentation on the regional benefits in the area of traffic reduction, air quality benefits and some the other ancillary regional benefits of having a local aggregate resource in the area.

Mayor Salas opened the item for public comments. There were none Mayor Salas thanked Mr. Johnson for the presentation.

CORRESPONDENCE: None

PUBLIC COMMENTS – On Items Not on the Agenda

Bill Dickson addressed the Council regarding the Concerts in the Park and went over the schedule of upcoming performers. Also Stagecoach Days is coming in October so mark your calendar if you would like to participate.

David Barjeren, 430 West King Street was told to come to the Council and talk about truck parking. He owns a truck and has been parking at his home for 13 years and the ordinance was changed that would not allow him to park there and that is his only means of transportation. **Mayor Salas asked him to work with the City Manager.**

ANNOUNCEMENTS/COUNCIL REPORTS:

Mayor Pro Tem Franklin –

- Reported on the Transit Conference she attended during the last City Council Meeting. There were people across the country in attendance and they talked about the vision for transit through the year 2050. It was a combination of bus, light rail and heavy rail. The session in regards to Strategic Thinking was really good and also the Parliamentarian that spoke on handling meetings correctly. There were also some break-out groups and there was discussion on those that take care of transit and some are not run by government.
- T-NOW Ad Hoc is dealing with the Pass Area and is looking at how we can improve our transit between Banning, Beaumont, Cabazon and even stretching to Calimesa. She introduced Gene Lawton, Transit Manger for Banning and his office is located at the Community Center. There was also discussion in regards to raising the rates and that will come forward at some time.
- Friends of the College for Mt. San Jacinto College met and new flyers are out for the classes and also high school students can take courses free. High school students can graduate high school and can also get an Associate of Arts Degree at the same time. There are efforts being made now to make sure that there is funding available if they need assistance in getting books. For more information you can call 951-922-1327 – Monday through Thursday.
- She attended the G.R.E.A.T. graduation last week and 45 young people finished the program.
- Cool Centers are still available at the Senior Center and Praise Tabernacle Church on Nicolet Street. When it continues to be over 100 degrees on multiple days you can go to these two locations as a place to cool off and snacks and water are provided by Community Action Partnership.
- PASSCOM – there was a presentation this morning and it was given by the Metropolitan Water District and they talked about how we need to be prepared for anything that happens and need to be prepared with storing water for our future needs.
- There will be a major drive later this month for Pass Area Supporting Soldiers and flyers will be out soon and they want to get boxes ready for those serving overseas on our behalf and they are hoping to match the 96 boxes that they sent out last time.

Councilmember Machisic –

- Added in regards to transportation and as you have probably been reading in the newspaper about gas prices people have been forced to do different kinds of things than they are used to. Recently he met with the hotel manager at the casino and he mentioned that they have about 3000 people who work out there and with the gas prices they are no different than anyone else. He was sent our bus schedule and he will take a look at it because they permit their people to come at different times. Also there are a large number of people who work at the Desert Hills Shopping Center and they need transportation. Also in the meeting with the community college if you don't have transportation for young people to go to a college campus, they won't go. It has to be right in their immediate proximity so we are looking at the possibility that the bus schedule could serve the college and the college classes.
- From WROCG we welcomed the new City of Windomar and it is the 15th City in WRCOG and the 25th City in Riverside County.
- AB1881 was signed into law and this legislation required by the Department of Water and Power Resources updates its model local efficient landscaping ordinance by January 1, 2009. Local jurisdictions are required to adopt the updated model ordinance or its equivalent by Jan. 1, 2010 or the model State ordinance will automatically be adopted by statute. There is a task force working in Riverside County to see how the state model would match up with the one that Riverside County has. We should also be cognizant of that as far as we are concerned.
- There has been a group formed called Riverside Red Team and their purpose is to perform a high level, time sensitive Red Team to identify and implement region-wide stimulus measures to help the housing market rebound as soon as possible. In this they have bankers, developers, local elected officials and they are going to have a series of meetings to find out if there is something they can do to alleviate the situation in regards to housing.

Councilmember Hanna –

- Commended Mayor Brenda Salas for her leadership in organizing a trip to the City of Vista last week. She provided some great leadership in getting a group of Council Members and community members to go to this City. The City of Vista is different from Banning in numerous ways but the two things that she got from it was that they realized that they had some significant needs that were not going to be met by their existing revenue sources and it included things like fire buildings, police buildings, a new city hall and also included the development of the Moonlight Amphitheater that needed to be developed. They way they did it was to have in-home meetings throughout the community. Most of these in-home meetings had about 20 people and perhaps the City Manager and a couple of staff to talk about the needs in the community and they listened to people and talked about what their interests were and theirs was a sales tax measure. But they took the time and almost went house to house to gain support for this measure. She said we could learn from their efforts in what they did given the demands on our budget in the coming years. The other thing was that for this outdoor venue that they had they incrementally improved it and it is really great to have a vision say for the Repllier Park amphitheater if we had a vision of what we would like it to be ultimately.

Urgency Item

Dave Willmon, Regional Representative with the League of California Cities addressed the Council regarding the Urgency Item Resolution No. 2008-98. He said he was here to give a short budget report and ask the Council to pass a Balanced Budget Resolution which so far nine Riverside Cities have passed and which is being passed all over the state of California. He said that the State faces a budget deficit a figure they have agreed to call \$15.2 billion dollars although some calculations place it higher. The reason why they are talking about the budget deficit is because the Governor and legislative leadership in the past have failed to address the problem. The budget continues to grow in total expenditures and Sacramento looks to postpone decision making until they can figure out a way to do structural budget reform. Up until 2004 it was common for the State to look at local government whenever it had a difficult budget year. They customarily appropriated from cities and counties and special district billions of dollars. Our loss on an annual basis is somewhere around \$3 billion dollars. In 2004 we passed with your help Proposition 1A which passed by over 84% the highest approval of a ballot measure in the history of California and it safeguarded property tax, sales tax revenue and vehicle license fees from the capricious action of the State government. However, it is important to see Prop 1A in its realistic light. It was a deal reached by cities, counties and special districts with the Governor and legislative leadership and as soon as we reached a deal brilliant minds in the legislature began to try to find ways to circumvent it. He offered no criticism of that process and this is the process under which we operate. We have a budget cycle which is open and competitive and the League is good at it on your behalf and we compete for first and last dollar often with communities that are our allies in other circumstances like the education community and sometimes with groups with which we have very little in common. The problem is not the budget cycle; the problem is how the State addresses its revenues and expenditures and once again they have come to a point where easy answers are over and they are looking to take local government money. He said he received an email from Kevin Jeffries office where Mr. Jeffries took a pledge to not participate in a budget that seeks to borrow either enforced borrowing or taking under Prop 1A from local government. The City of Temecula said they had the same commitment from Senator Hollingsworth and that is great. The fact is that the legislative leadership is considering pulling the Prop 1A trigger. Under Prop 1A in a state of fiscal emergency declared by the Governor and reaffirmed by at least a 2/3rds margin of each house of the legislature the State may borrow twice in ten years from local government. If they borrow once, they must pay it back within three years and at local agency investment fund rates before they can borrow a second time. That is the good news. The problem is that Prop 1A has no real enforcement provisions. The same people who are talking about pulling the Prop 1A figure are also talking about securitizing the loan that they take from local government with some future lottery proceeds. When we suffered the ERAF shifts in the past cities that have real immediate need for that money were able to securitize those revenues because we acted with Wall Street a fund from which they could take the money. It cost them about 3% which at the time was a pretty good rate. Wall Street will not acknowledge a loan securitized by potential lottery earnings and cities will not be able to draw on that money no matter how needy they are and there is no sort of adjudication that will compel the legislature to

repay and even then it is an open question as to whether or not courts will have jurisdiction to impose repayment. That is the reason why we are so aggressively and insistently demanding that the legislative and Governor not take local government funds. We ask them to cut up the credit card from the bank of local government where they have taken \$50 billion dollars from 1991. He is asking the Council and thanking you for passing a resolution that calls upon the State to pass a balanced budget and live within its means and not take local government expenditures. The Capital right now is awash in rumors and there is a rumor that there is a budget deal on the table and one of the rumors is that the Governor has figured out a way to secure enough support for his 1 cent sales tax increase. An increase that will sunset over five years and that it would relieve local governments from the prospect of enforced borrowing. We need to continue to talk to our local legislators and leaders and the Governor and join our voices with voices all over the state and demand that the State balance its budget using its own revenues and that is the resolution before the Council.

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

Motion Hanna/Botts to approve the Resolution No. 2008-98, Opposing Fiscally Irresponsible State Budget Decisions That Would “Borrow” Local Government, Redevelopment and Transportation Funds. Motion carried, all in favor.

CONSENT ITEMS

Mayor Pro Tem Franklin pulled Consent Items 1 and 5 for discussion. Councilmember Hanna pulled Consent Items 2 and 8 for discussion.

3. Award the Construction for Project No. 2008-01WW, Cleaning of Anaerobic Digesters to Wastewater Solids Management, Inc. of Yachats, Oregon, in the amount not to exceed \$34,500.00.

Recommendation: Award the Construction Contract for Project No. 2008-01WW, Cleaning of anaerobic digesters to Wastewater Solids Management, Inc. of Yachats, Oregon, in the amount not to exceed \$34,500.00.

4. Emergency Repair to the Roof of Digester #2 at the Wastewater Treatment Plant.

Recommendation: Approve the emergency repair to the roof of Digester #2 at the WWTP damage by the High wind stores this pas December, 2007, in the amount of \$9,104.00 and direct the City Clerk to record the Notice of Completion.

6. Resolution No. 2008-93, Approving the Local and System Resource Adequacy Capacity Purchase Agreement with Reliant Energy Services, Inc. for Calendar Year 2009.

Recommendation: That the City Council approve the local and system resource adequacy capacity purchase with Reliant Energy Services, Inc. ("Reliant") for calendar year 2009, attached herewith as Exhibit "A".

7. Resolution No. 2008-95, Authorizing the FY08 Gang Resistance Education and Training Grant with funding for a Portion of the G.R.E.A.T. Police Officer's Salary, along with Related Equipment, Training, Travel, and Supplies in the Amount of \$104,341.00.

Recommendation: That the City Council adopt Resolution No. 2008-95, Authorizing the Banning Police Department to accept the 2008 G.R.E.A.T. Grant in the amount of \$104,371 which will be used to fund the Banning Police Department's G.R.E.A.T. Programs.

Motion Machisic/Franklin to approve Consent Item 2, 3, 4, 6 and 7.

Mayor Salas opened the item for public comments.

Ellen Carr, 471 W. George Street spoke to Consent Item No. 2, Ordinance No. 1393. She said that she spoke the last time about this and this is going to be a really big problem. She said that she gets on the average 15 to 20 phone calls everyday and they are all from people asking for help. Some people don't know what to do because they are homeless or about to lose their house or they are elderly and they are moving and have no where to put their animal. There are a lot of people in this city that rescue animals. You have no idea of how many people in this town have hearts of gold who rescue animals off of the streets and it is unbelievable. You have to think about the ramifications of how this. She has always said that she is the spokesperson for the animals and she intends to continue to speak for them and the people who are afraid to come to meetings because they don't want people to know that they have a certain amount of animals. These people are good people and nobody is breaking the law. Somehow you have to consider what is going to happen to the animals. It is not just her problem but the Council's problem and the City's problem. We have to work together somehow because it is not fair to the animals.

Mayor Salas pulled consent item No. 2 so that she could ask staff questions on this item.

Motion was changed to approve Consent Items 3, 4, 6 and 7. Motion carried, all in favor.

1. Approval of Minutes – Regular Meeting – 07/22/08

Mayor Pro Tem Franklin said she was abstaining because she was not there. Mayor Salas opened the item for public comments. There were none.

Motion Hanna/Machisic to approve Consent Item No 1. Motion carried, all in favor with Mayor Pro Tem Franklin abstaining.

2. Ordinance No. 1393, An Ordinance of the City Council of the City of Banning

California, Amending the Municipal Code by Revising Table 17.40.030 in Order to Clarify the Number of Animals Permitted in Certain Residential Zoning Districts.

Mayor Salas wanted to know how the ordinance changes from present to what the proposed ordinance would be and how it would affect the residents and how are we planning to implement it.

Mr. Bassi said that the ordinance doesn't change its contexts at all from what is existing. The only thing that this ordinance does is to clarify how many dogs and cats and other animals that you can have as listed in Table 17.40.030. The only thing that they wanted to do was to clarify and make it clearer because people have interpreted the old code to read that you could have 8 dogs and 8 cats in a particular zone versus a total of 8 dogs or 8 cats or any combination thereof. So it is really a text change in terms of the clarification of what you can do and not how many you can have. That has stayed the same since the 2006 ordinance was adopted.

Councilmember Hanna asked Mr. Bassi to go over what the animal keeping standards are. Mr. Bassi went over those standards as listed in Ordinance No. 1393 on pages 23 and 24 of the agenda packet.

Mayor Salas asked how do you plan to enforce this such as going house to house. The issue was raised if a person has 4 or 5 animals will they be made to turn them into the shelter or are we giving Riverside County extra money to get the animals adopted, etc.

Mr. Bassi said he doesn't know if they have a procedural plan for that. Obviously if a person has 10 cats in their apartment and a neighbor notifies code enforcement, we would go out. He doesn't know if code enforcement has a program as to what a person could do with the extra animals.

Tim Steenson, Chief Building Official said that they do not currently have a program. They respond to complaints of too many animals. They do not go door to door. As they have worked with Ms. Carr for the last couple of years they work with anyone to try to arrange for these animals to be dealt with other than euthanized. That is not their intent. He said that their intent is to maintain the residential regulations that Council established in the zoning ordinance.

Mayor Salas opened the item for public comments.

Charlene Sakurai, 43000 Dillon Road asked if there has been any thought given to making an exception for our rescue organizations either if they are licensed or designated as a rescuer that they can have a certain number of more animals because their effort is really to find homes for them. So if the meantime a cat has kittens, you suddenly raise the population by 8 or whatever. Eventually that is going to change but it seems that if there could just be some kind of caveat that if this is a rescue organization it just seems reasonable that they may have more than what the ordinance calls for. She would like to

see that discussed in some fashion otherwise rescue organizations are going to go elsewhere and then we are going to be without a very valuable resource.

Mayor Salas closed the item for public comments.

Mayor Salas said if we get a motion she would ask that with that motion we also adopt the Riverside County Board of Supervisors policy that includes rescue groups. The numbers don't go up much higher, but it at least does improvise something.

Councilmember Machisic said he would be happy to consider something else but he would like to read what the something else is and he has never seen it. He agrees with Charlene but the important thing is that you have to have a standard base to operate from and then if you want to deviate, then you consider those deviations and all the characteristics of them and the criteria and so on. His concern is for the whole neighborhood. We are sensitive to individuals but at the same time our commitment is to the whole community.

City Attorney said this is the second reading of the ordinance and there is no amendment process here that is possible. You can deny it or vote against it but you cannot add to it.

Mayor Salas asked that at a future meeting it be brought back to take a look at that as well.

Motion Franklin/Machisic to approve Consent Item No. 2. Motion carried, all in favor.

5. Resolution No. 2008-92, Approving the Supplemental Agreement for the Use of Community Development Block Grant (CDBG) Funds, Fiscal Year 2008-2009.

Councilmember Hanna said that her basic question is that apparently the Federal Government has changed its policy and does not wish to see Community Development Block Grant Funds for less than \$10,000 so that has changed the original vote that the Council took on CDBG funds. The community needs to know this so that in the future if you apply you must request a minimum of \$10,000 to be considered and the Council would need to make that decision also.

Mr. Burk said that is correct. This year the City asked for \$300,000.00 and was awarded \$175,896.00. Of that amount we are only allowed to divide up to 15% of that number to non-profits. Of that the federal government and the county are saying we only want projects that are \$10,000 or more. In the past when those applications were put forward to the county they have allowed lesser amounts but this year when the applications were submitted to the County that this Council approved these were the two that they came back with. This just came back to City staff.

Mayor Pro Tem Franklin said because she sits on the Board of both those non-profits even though legally she probably could vote applicably she doesn't feel it is proper to do so, so she will be abstaining from this vote.

Councilmember Botts said that he and Mr. Burk discussed this earlier and think that it is really important that we communicate back to those that sat in this room and watched this Council approve their applications and then they were kicked back and that we let those people know what happened and why they were not approved or awarded this grant.

Councilmember Hanna said that we are awarding what was approved by EDA and that includes: \$12,312.00 to the Banning Police Activities League; \$12,313.00 to the San Gorgonio Child Care Consortium and \$151,271.00 to the Repplier Park Bowl Rehabilitation.

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

Motion Hanna/Machisic to approve Consent Item No. 5. Motion carried, all in favor with Mayor Pro Tem Franklin abstaining.

8. Resolution No. 2008-97, Authorizing the Director of Public Works to Procure Lockers, Spacesaving Equipment and Furniture for Project No. 2007-07, Construction of New Banning Police Station for An Amount Not to Exceed \$998,000.00.

Councilmember Hanna said she would like to see the full budget for the police station. We have indicated that we do not want to exceed a budget of \$14 million dollars.

Chief Purvis addressed the Council regarding this item. He passed out a budget to the Council (Exhibit "A") and stated that all the items on that budget except for one was presented and was the same as the budget estimate that the Police Department and the Director of Public Works presented on June 24th when the City Council awarded the construction contract for the new Banning Police Station. The only thing that has changed is the actual budget for the furniture, fixtures and equipment. They had estimated on June 24th that the price was going to be approximately \$917,000.00 and the reason they did not bring it in front of the City Council on June 24th was because they needed to know that a police station was going to be built. Once they knew the police station was going to be built that is when they went out and secured quotes to give them an idea as to how much this equipment was going to cost. At this time Chief Purvis gave a power-point presentation to the Council showing the conditions that they are working in right now and some of the furniture that they have in the department at this time. He said that the only number that has changed in the budget is the furniture, fixtures and equipment and it went from \$917,000.00 which was the estimate back on June 24th to \$998,000.00 currently. They want to lock in those prices as soon as they can because both companies that they have been working with to design these systems have told them that costs will be going up. They want to have the equipment in time to install it in the new facility as it is being built.

Councilmember Hanna said she appreciated the presentation because when we are spending a million dollars the public may not understand that and it really helps to have the visuals, as well as, the full budget.

Mayor Pro Tem Franklin said she is looking at the information that they received from the Finance Director and the amount that they have is \$15,834,105.00 and the only difference she sees from what was presented here in addition to the furniture is another \$473,984.00 for inspections and her understanding was that this was going to come in under \$14 million and right now we are at almost \$16 million. She is looking at this and the number has changed from \$917,844.00 to \$998,000.00 and that is \$86,000.00 more than what the Council was told before. She is very concerned about numbers going up and the commitment was to keep it at \$14 million. We have already approved \$15 million and now you are asking for \$86,000.00 more. She asked what was done to try to maintain that cost and not necessarily that everything has to be new but was something done to look at how you can refurbish or how you could bring that cost down instead of going up.

Chief Purvis said that they looked at all those options. This also does not take into account the \$890,000.00 that they have in contingency. They are hoping to work with the contractor and keep those costs as low as they can and bring this project in under \$14 million that we have all agreed to do. He said that this amount is turn-key and that they could walk into this police station when it is completed and it will run the way they want it to run.

There was some further Council discussion in regards to keeping the costs at \$14 million and also the contingency amount.

Mayor Salas opened the item for public comments.

Ellen Carr, 471 W. George Street addressed the Council stating that if we are going to have an effective police department you need organization and what she saw in the pictures was like organized chaos and she thinks the police department deserves to have the type of furniture, space-saving furniture that they need in order to be effective. She said she is a taxpayer and really thinks that if we are going to have a state-of-the-art police department, then let's have a state-of-the-art police department.

Mayor Salas closed the item for public comments and called for the motion.

Motion Botts/Hanna to approve Consent Item No. 8, adopting Resolution No. 2008-97, I) Authorizing the Director of Public works to Procure Lockers, Spacesaving Equipment and Furniture for Project No. 2007-07, Construction of New Banning Police Station for An Amount Not to Exceed \$998,000.00; and II) Authorizing the Director of Finance to make necessary budget appropriations from the City's Capital Improvement Funds (BUA lease payment monies) to Account No. 470-2200-413.90-45. Motion carried with Mayor Pro Tem Franklin voting no.

Meeting recessed at 7:58 p.m. and returned to regular session at 8:08 p.m.

PUBLIC HEARINGS

1. Ordinance No. 1394, Amendment to Section 8.12 of the Banning Municipal Code to Address Vacant and Distressed Buildings in the City of Banning.
(Staff Report – Tim Steenson, Development Services Manager)

Mr. Steenson said currently there is a three month grace period once a building is identified as being vacant or abandoned before the owner has to follow the provisions of the Municipal Code. This ordinance would eliminate that three month grace period and secondly, it removes the burden of identifying these buildings from the City and places it on the building owner or the note holder on the building. Staff feels this is important because they have seen a tremendous increase in the number of vacant properties over about the last 18 months. This would make it easier for staff to monitor the vacant buildings in town and would act in concert with the recent State Law SB 1137 which allows the City to identify specifically those items which are violations under our ordinance and assign specific fine amounts to those.

Mayor Pro Tem Franklin asked if this would be retroactive to the buildings that are already vacant. Mr. Steenson said it is not retroactive. She also asked if they are not taking care of the property and they are noticed and they still don't follow through then what happens to keep those properties looking nice or do we take over at that point.

Mr. Steenson said under the State law where we levy fines and collect those fines the State law requires that those then be used for local code enforcement. Certainly it would be appropriate in his mind to establish some kind of a program to do that. Other cities are currently discussing the issue of maintenance.

Mayor Pro Tem Franklin asked if there was a way on our website where someone can report a house that has been vacated that is in their neighborhood. Mr. Steenson said we have a web-based program for reporting violations or complaints to the City called "Request Partner" and under this you can report those directly to code enforcement and it can be done anonymously.

Councilmember Machisic said if we are eliminating the three-month grace period how long do they have to correct the problems on that property.

Mr. Steenson said under the State law which really governs here the State law allows up to 30-days and we can establish based on the type of violation what that time frame is and can also establish a fine amount and then proceed from there.

Councilmember Hanna asked how these owners of the note will be made aware of this new law. Mr. Steenson said our ordinance mimics the State law and they are all aware of the State law and each week there is a notice of default list published and from that list we would review it and identify those properties in Banning and make the property owners aware of the condition of the property.

Councilmember Hanna said in regards to this on-line web-based complaint program "Request Partner" we never had a report on it as to how often it is used and what is the turnaround, etc. She would like to hear someday how that works.

Mr. Steenson said that they do track that and can bring it back to a future meeting.

Mayor Salas asked the City Clerk to read the title of Ordinance No. 1394. City Clerk read: An Ordinance of the City Council of the City of Banning, California, Amending Chapter 8.12 of the Banning Municipal Code Revising the Regulations Pertaining to the Maintenance of Vacant and Distressed Buildings.

Motion Machisic/Hanna to waive further reading of Ordinance No. 1394. Motion carried, all in favor.

Motion Hanna/Machisic that Ordinance No. 1394 pass its first reading. Motion carried, all in favor.

DISCUSSION ITEM

1 Armory Lease
(Staff Report - Brian Nakamura, City Manager)

City Manager said this matter is before the Council for basically direction and discussion amongst the Council. Recently he received an email about some of the concerns of the Armory with respect to maintain and operations. He had a discussion with Mayor Pro Tem Franklin about it as well. He doesn't have a lot of history on this and felt it would be good to have discussion and he understands that former City Council Member Sue Palmer is here and may have more background and maybe helpful to the discussion.

Mayor Pro Tem Franklin said that this came up several months ago in regards to the maintenance of the Armory and gave a brief background as to how this was started by then Councilmember Palmer started with a group called Pass Area Supporting Soldiers (P.A.S.S.). A lot of money was raised and a lot of work was done to the tune of several hundred thousand dollars in upgrading it and several people were involved in this project and since then the people that use the Armory, the National Guard, have not taken many efforts to maintain it. Through PASS and as current president, they have had several meetings with the National Guard to try to see what they could do to help maintain it. They own the building and the City owns the land and they were going to maintain the landscaping and the building. They have not been cooperative and there have been times when they cannot use the building. In a conversation with Assemblyman Cook she asked him what they could possible do because it didn't seem right that there was a facility that so much effort had been put in by the community to bring it up to a nice standard and the National Guard was pretty much letting it go. He has had several conversations with someone named Anderson and the contract that we had with the National Guard for mutual use actually expired in November 2007. The suggestion was made that since they are not able to keep the Armory in a way that we think would be beneficial to the City, as well as, they are not around when we ask if we could use it if we could have through concurrence of the Council, a reverse use agreement where we would maintain it as a City and then they would have the opportunity to use it when needed. Assemblyman Cook said he would take this letter forward himself.

Mayor Salas asked how much would the maintenance cost per year? Mayor Pro Tem Franklin said there may not be any to the City because there are organizations that have said that they would maintain it.

Councilmember Machisic said he is interested in a comment made that we own the land and they own the building. Do they lease the land from us? Mayor Pro Tem Franklin said she believes it is \$1.00 a year. Councilmember Machisic said that one of the things that we lack in our City is large meeting areas. We are really in need of large meeting areas and that certainly is larger than anything we have in the city and if there are groups that would support it and if we can find the need for it and do a little research then maybe we should move forward with the letter.

Councilmember Botts asked if we had any idea if they, the National Guard, would be open to this. Have we done any homework that we should even write the letter. Is there any precedent that the Defense is going to turn over a building to us to use and have somebody else control it? He would hate for us to put a lot of time and effort into it if we don't have some idea that perhaps they are receptive to it.

Mayor Pro Tem Franklin said that Assemblyman Cook said that he would continue moving forward with negotiating with the National Guard directly and he is the one that is talking to whoever is in charge. All we are doing is a letter and then he would take that letter forward.

Mayor Salas opened the item for public comments.

Bill Dickson, 5700 W. Wilson addressed the Council stating that if you look at it from the National Guard's perspective this kind of relieves them of a lot of responsibilities that they haven't really accepted anyhow. He watched Sue Palmer and her group and everyone who put time and effort to put a facility back on its feet and he thinks that the National Guard has shown that they are not willing to do the maintenance so maybe this is not only a blessing for us because we do need the space for big meetings but it also takes them off the hook a little bit.

Dorothy Mc Lean, 916 Linda Vista Dr. said she is a member of PASS and anytime that we use the facility in the future it will have to have a representative of the Armory there and would be able to promise us that we would have that in the future.

Mayor Pro Tem Franklin said she thinks that what would have to happen would be that an area would have to be designated either through the storage units that are on the back or some other method that if they continue to keep any kind of weaponry there, that it would not be accessible to the public. One of the issues that she knows that they have had so far is that if we wanted to use the Armory, they would have somebody there. But the person that is in charge of the Armory actually lives in Santa Barbara so he doesn't come out here very often and that is one of the issues that we have had so far. So that would be something she would think that Assemblyman Cook would be able to work out with the National Guard because he has been working on this for several months.

Sue Palmer, 651 N. 17th Street said that over the last five to six years while this community has been working on the Armory in the beginning everything was very positive and we were getting so much cooperation. Unfortunately the people that were helping us retired and at that time we had a member of PASS that was a retired Guard Member and he was given a key so that they could have full access to do any renovation that we needed to do. For whatever reason the Guard had a change of heart and they took the key away and changed all the locks at the Guard and PASS was no longer given a key and access and the point of contact has really deteriorated and she is no longer the President of PASS and hasn't had as much interaction with them over the last year. But while she was the President every time she would contact the Guard out of pure desperation and frustration and told them this is it, we have spent over \$250,000 renovating this facility for the Guard members and for the community and for you not to maintain it is just ridiculous and then she would get a lot of cooperation for about two months. Then it would slide again. She can see Debbie Franklin's complete frustration now because it has gotten completely out of control from when she was on PASS. She concurs that something needs to be done and the neighborhood doesn't want to look at a distressed building. Luckily Sgt. O'Brien is the recruiter that is stationed there and if it were not for him she would hate to see what that building would look like. He is the only one at that building that she can see that does any maintenance whatsoever and has helped with whatever bit they can get. Whatever the Council can do to help the Armory situation would be very good.

There was some discussion regarding use of the facility by the Guard.

Dorothy Mc Lean, 916 Linda Vista Dr. said that about six weeks ago they did have a weekend at the Armory. There were 15 people there who were leaving and Pass Area Supporting Soldiers gave them a farewell barbecue so they do use it. They don't use it as much as we would like them to use it but they do use it. They are fixing up the armory in San Bernardino and that may be one of the reasons we are not getting much done here.

There was Council consensus to send the letter.

RECESS CITY COUNCIL MEETING TO A JOINT MEETING OF THE CITY COUNCIL AND THE BANNING UTILITY AUTHORITY

Mayor Salas called the joint meeting to order.

RESOLUTIONS

A-1. Adoption of City Council Resolution No. 2008-96 and Utility Authority Resolution No. 2008-04UA, Awarding the Construction Contract for Project No. 2008-01W, Brinton Reservoir.
(Staff Report- Jim Earhart, Public Utility Director)

Mr. Earhart addressed the Council stating that this project was identified back in 2002 and the study identified that the City is short on water storage. We need 16 million gallons of water storage and this is the first step in that project being 8 million gallons.

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

Motion Franklin/Botts that the City Council: I) adopt Resolution No. 2008-96, awarding the Construction Contract for Project No. 2008-01W, Brinton Reservoir to Pacific Hydrotech Corp. of Perris, Calif., in the amount of not to exceed \$10,458,265.00 with a 10% construction contingency fund in the amount of \$1,045,826.50 for a total construction budget of \$11,504,095.50; II) That the Utility Authority Board adopt Resolution No. 2008-04UA, awarding the Construction Contract for Project No. 2008-01W, Brinton Reservoir to Pacific Hydrotech Corp. of Perris, Calif., in the amount of not to exceed \$10,458,265.00 with a 10% construction contingency fund in the amount of \$1,045,826.50 for a total construction budget of \$11,504,095.50; and III) that the City Council and the Utility Authority Board approve an appropriation of \$1,145,995.00 from the Banning Water Utility Authority Reserves and authorizing the Finance Director to make the necessary budget adjustments to the BUA Water Capital Project Fund Account No. 663-6300-471.95-09 Reservoirs. Motion carried, all in favor.

Mayor Salas adjourned the joint meeting and reconvened the regular City Council Meeting.

ITEMS FOR FUTURE AGENDAS

New Items –

Councilmember Botts said he noticed in the minutes of the last meeting that they asked for a Stagecoach Days report and that it would be forthcoming and he doesn't think they specified when but he would like a full report at the next meeting. Also the other item that he would like to put on the agenda is that the Mayor and Council received directly a letter from a law firm in regards to one of our staff. He would suggest that it needs to go on under closed session. We need to respond to it in some fashion.

City Attorney Biggs said that this is a personnel matter and while it is appropriate certainly for closed session it really needs to be handled confidentially.

Mayor Pro Tem Franklin would like a report on the one-stop shop. She thought maybe to kick-start it each Councilmember could give the City Manager what our thoughts are about one-stop shop and somehow it could include that and give us a report next month.

Councilmember Hanna said that this has been discussed many, many times over the years and one of the things that our City Manager told us recently is that almost every city describes it and defines it differently so perhaps he could offer some of the alternative approaches and make recommendations to what he recommend given our circumstances.

Councilmember Botts suggested looking at Riverside County's one-stop shop.

Mayor Salas also suggested the League of California Cities where you can look up one-stop shops throughout the state and see what other cities are doing.

Councilmember Hanna said for development on the east side of Banning in particular, our second priority in the City is for a grade separation at I-10 and railroad on Hargrave. We are in the process of developing the Sunset Grade Separation and we are almost there in terms of the funding and moving forward on that. She would suggest that it would be a good idea to move forward quickly in developing a Bridge and Thoroughfare District to fund a grade separation at Hargrave. The concept behind this is that any new development that would need to access the I-10 and avoid the railroad would pay into a fund that would underwrite this cost. We have very big increases to our Riverside County Jail that is increasing traffic to that facility and there are other potential projects on the east side that would tremendously increase traffic and she thinks this grade separation is really important. Staff has to suggest the approach to take and we should start developing it now. **There was Council support for this.**

Mayor Salas said there were a couple of typos in the agenda packed on pages 2 and 17 (page 2, Item No. 3 "funs" should be "funds" and on page 17 the City Manager's name is misspelled.

Pending Items –

1. Annual Review of General Plan (*Hanna- 10/9/07*) (*Comm. Dev.*) (*ETA 9/23/08*)
2. Schedule Meeting with the Beaumont City Council (*Salas- 11/27/07*) (*City Mgr.*)
3. Schedule Special Jt. Meeting the Banning Unified School District Board –
(*Botts – 11/27/07*) (*City Mgr.*) (**Oct. 1, 2008 2x2 Meeting**)
4. Schedule Special Jt. Meetings with the City's Various Committees (Planning Commission, Economic Development Committee, Parks & Recreation) –
(*Franklin – 11/27/07*)
5. Review of Development Fees (*Hanna – 12/11/07*) (*Johnson*) (*ETA 9/23/08*)
6. Review of Ordinance regarding the selling of cars in shopping center parking lots – (*Salas – 9/9/08*)
7. Ordinance regarding smoke free parks (*Hanna – 6/24/08*)

City Manager said in regards to pending items as you know he has been trying to schedule the meeting with the school district and what he and Ms. Kennedy discussed was that before there is a full meeting of the Council and the School Board is that we do what she would like to call a 2x2 Meeting and have two Council Members appointed by the Council itself to meet with himself and Ms. Kennedy and two Board Members and then set an agenda for a full meeting. Unfortunately October 1st doesn't work for the Chairman of the School Board but more importantly the Council needs to select two Council Members and he will get back to the Superintendent to set the date.

Mayor Salas said that Mayor Pro Tem Franklin and Council Member Botts have volunteered. She also asked how we are doing in scheduling a meeting with the Beaumont City Council. City Manager is working on that and the dates are October 1st and Sept. 29th.

Mayor Salas asked the Council to check their calendars so that she could set the date for the State of the City. **There was consensus to Thursday, December 4, 2008 at Noon.**

Councilmember Botts asked that the Community Calendar be checked to see if there is any other major event going on that may conflict.

CLOSED SESSION

City Attorney stated that the City Council will meet in closed session to confer with legal counsel pursuant to the provisions of Government Code Section 54956.9(a) with regard to the following matters of pending litigation:

- Highland Springs Conference and Training Center v. City of Banning - (RIC 460950)
- Center for Biological Diversity v. City of Banning - (RIC 460967)
- Cherry Valley Pass Acres and Neighbors, and Cherry Valley Environmental Planning Group v. City of Banning - (RIC 461035)
- Banning Bench Community of Interest Association, Inc. v. City of Banning - (RIC 461069)

The City Council will also meet in closed session pursuant to the provisions of Government Code Section 54956.9 (b) to confer with legal counsel with regard to one (1) matter of exposure to potential litigation; and also pursuant to the provision of Government Code Section 54956.9(a) with regard to the following matter of pending litigation: Banning Airport Associates, et al v. City of Banning (RIC 497338).

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

Meeting went into closed session at 8:50 p.m. and returned to regular session at 9:17 p.m. with no reportable action.

ADJOURNMENT

By common consent the meeting adjourned at 9:17 p.m.

Marie A. Calderon, City Clerk

**THE ACTION MINUTES ARE A SUMMARY OF ACTIONS TAKEN BY THE CITY COUNCIL.
A COPY OF THE MEETING IS AVAILABLE IN DVD FORMAT AND CAN BE REQUESTED IN WRITING TO THE CITY CLERK'S OFFICE.**

2nd Reading

ORDINANCE NO. 1394

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AMENDING CHAPTER 8.12 OF THE BANNING MUNICIPAL CODE REVISING THE REGULATIONS PERTAINING TO THE MAINTENANCE OF VACANT AND DISTRESSED BUILDINGS.

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

SECTION 1. Amendment of Chapter 8.12 of the Banning Municipal Code. Chapter 8.12, "Boarded or Vacant Buildings," is hereby amended and shall read as shown in Exhibit "A" to this Ordinance.

SECTION 2. Declaration of Facts Constituting Urgency. Vacant and distressed residential properties pose an immediate risk to the public peace, health and safety of the citizens of the City of Banning because the detrimental effects from the lack of security and maintenance of vacant and distressed residential properties endangers children unprotected from unsecured pools and other attractive nuisances, and further endangers neighborhoods affected by the resulting squatting, vandalism, burglaries, other crimes and physical and economic blight.

SECTION 3. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted 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 4. Effective Date. This Ordinance shall take immediate effect upon its passage by the City Council.

SECTION 5. Publication. The City Clerk is directed to cause 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.

PASSED, APPROVED, AND ADOPTED this 12th day of August, 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
City of Banning

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1394 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 12th day of August, 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:

ABSENT:

ABSTAIN:

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

EXHIBIT “A”

Chapter 8.12

VACANT AND DISTRESSED BUILDINGS

Sections:

- 8.12.010 Purpose
- 8.12.020 Definitions
- 8.12.030 Registration/Fees
- 8.12.040 Maintenance Requirements
- 8.12.050 Signage Requirements
- 8.12.060 Enforcement, Violations and Penalties
- 8.12.070 Additional Authority

8.12.010 Purpose. Vacant buildings are a major cause and source of blight in both residential and non-residential neighborhoods, especially when the owner of the building fails to actively maintain and manage the building. Vacant buildings discourage economic development, retard appreciation of property values, are potential fire hazards, and can jeopardize the ability of owners of neighboring property from securing or maintaining affordable fire insurance, among other things. The purpose of this Chapter is to establish uniform and reasonable regulations to prevent the immediate risks and detrimental effects associated with vacant and distressed residential properties.

8.12.020 Definitions. As used in this Chapter, the following terms shall have the following meanings:

- (a) Abandoned property. A residential property that is vacant and is under a current Notice of Default and/or Notice of Trustee's Sale, pending Tax Assessors Lien Sale, or a property that has been the subject of a foreclosure sale where the title was retained by or transferred to the beneficiary of the deed of trust involved in the foreclosure, or a property transferred under a deed in lieu of foreclosure/sale.
- (b) Beneficiary. A lender under a note secured by a deed of trust.
- (c) Building Official. The development services manager of the City's building and safety department.
- (d) Days. Consecutive calendar days.
- (e) Deed of Trust. An instrument by which title to real estate is transferred to a third party trustee as security for a real estate loan. (This type of instrument is used in California instead of a mortgage.) This definition

applies to any and all subsequent deeds of trust, i.e.: second deed of trust, third deed of trust, etc.

- (f) Deed in lieu of foreclosure/sale. A recorded document that transfers ownership of a property from the trustor to the holder of a deed of trust upon consent of the beneficiary of the deed of trust.
- (g) Default. The failure to fulfill a contractual obligation, monetary or conditional.
- (h) Evidence of vacancy. Any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions include but are not limited to, overgrown and/or dead vegetation, dry brush, weeds, accumulation of newspapers, circulars, flyers, notices and/or mail (except those required by federal, state or local law), abandoned automobiles not properly stored within a building, past due utility notices and/or disconnected utilities, accumulation of trash, junk, building materials and/or debris, discarded personal items including but not limited to furniture, clothing, large and small appliances, the absence of window coverings such as curtains, blinds and/or shutters, the absence of furnishings and/or personal items consistent with residential habitation, observations by neighbors, passersby, delivery agents, government employees or others that the property is vacant.
- (i) Foreclosure. The process by which a property, placed as security for a real estate loan, is sold to satisfy the debt if the trustor (borrower) defaults.
- (j) Local. Within forty (40) road/driving miles distance of the subject property.
- (k) Notice of Default. A recorded notice that a default has occurred under a deed of trust and that the beneficiary intends to proceed with a trustee's sale.
- (l) Owner. Any person, co-partnership, association, corporation, or fiduciary having a legal or equitable title or any interest in any real property.
- (m) Property. Any improved real property, or portion thereof, situated in the incorporated territory of the City of Banning, including any buildings or structures located on such improved real property.
- (n) Secured. Treated with such measures as may be directed by the Director of Community Development or his or her designee that assist in rendering the property inaccessible to unauthorized persons, including, but not limited to, the closure, locking, padlocking, chaining, repair and/or boarding of fences, walls, windows, door(s) (walk-through, sliding and garage), and/or other openings of such size that may allow a child access to the interior of the accessible property. In the case of broken windows, secured includes

the re-glazing or boarding of the window. Boarding shall be completed to a minimum of the current HUD securing standards set at the time the boarding is completed or required, and shall additionally require painting the boards with an exterior grade paint that matches the color of the accessible property.

- (o) Trustee. The person, firm or corporation holding a Deed of Trust on a property.
- (p) Trustor. The borrower under a deed of trust, who deeds property to a trustee as security for the payment of a debt.
- (q) Vacant. A building that is not legally occupied.

8.12.030 Registration/Fees.

- (a) Any beneficiary/trustee who holds a deed of trust on a property located within the City of Banning shall perform an inspection of the property that is the security for the deed of trust upon default by the trustor and prior to recording a Notice of Default with the Riverside County Recorders Office.
 - (i) If the property is found to be vacant, the beneficiary/trustee shall, within ten (10) days of the inspection, register the property with the City of Banning Building & Safety Department on forms provided by the City of Banning.
 - (ii) If the property is legally occupied, the beneficiary/trustee or his designee shall inspect the property monthly until either 1) the trustor or other party remedies the default, or 2) it is found to be vacant, at which time the beneficiary/trustee is required to register the property with the City of Banning Building & Safety Department on forms provided by the City of Banning within ten (10) days of finding the property to be vacant.
- (b) The registration shall contain the name of the beneficiary/trustee (corporation or individual), the direct street/office mailing address of the beneficiary/trustee (no postal boxes), a direct contact name and phone number for the beneficiary/trustee, and, in the case of a corporation or non-local beneficiary/trustee, the local property maintenance company and/or real estate agency responsible for the security, maintenance and marketing of the property. Any change of the information in the registration required under this paragraph shall be reported within ten (10) days of the change.
- (c) The City Council shall establish a registration fee by resolution. An annual registration fee shall accompany the registration form. The fee and registration shall be valid for the calendar year, or remaining portion of the

calendar year, in which the registration was initially required. Subsequent registrations and fees are due January 1st of each year and must be received no later than January 31 of the year due. Registration fees will not be prorated.

- (d) A vacant property subject to this section shall be registered annually for as long as it remains vacant.

8.12.040 Maintenance Requirements. Vacant buildings and property shall be maintained in compliance with the following:

- (a) The property is kept free of evidence of vacancy.
- (b) The exterior of any building, including but not limited to paints and finishes, is maintained in good condition and in accordance with previously approved plans, if any;
- (c) The landscaping of visible front and side yards is maintained in good condition and in accordance with previously approved plans, if any.
- (d) Exterior trash, debris, abandoned automobiles and graffiti are promptly and regularly removed.
- (e) Pools and spas shall either (a) be kept in working order so the water remains clear and free of pollutants and debris or (b) drained and kept dry. In either case, properties with pools and/or spas must comply with the minimum security fencing requirements of the State of California.
- (f) The property is secured.
- (g) The building is maintained in compliance with all applicable codes and regulations.

Adherence to this section does not relieve the beneficiary/trustee or owner of any obligations set forth in any Covenants Conditions and Restrictions and/or Home Owners Association rules and regulations which may apply to the vacant property.

8.12.050 Signage Requirements. Vacant property that is under a Notice of Default or has been foreclosed upon shall be posted with the name and 24-hour contact phone number of the local property maintenance company and/or real estate agency retained by the beneficiary/trustee. The posting shall be no less than 18" X 24" and shall be of a font that is legible from a distance of forty-five (45) feet and shall contain, along with the name and 24-hour contact number, the words "THIS PROPERTY MANAGED BY" and "TO REPORT PROBLEMS OR CONCERNS CALL." The posting shall be placed on the interior of a window facing the street to the front of the property so that it is visible from the street, or secured to the exterior of the building/structure facing the street to the front of the property so it is visible from the street; if no such area exists, on a stake of sufficient size to support the posting in a location that is visible from the street to the front of the property but not readily accessible to

vandals. The exterior posting must be constructed of and printed with weather resistant materials.

8.12.60 Enforcement, Violations And Penalties.

- (a) *Penalty.* The City of Banning Code Enforcement Division shall have the primary responsibility for enforcing this Chapter. In addition to any other remedies provided by law, any property owner or beneficiary/trustee who violates this Chapter shall be liable for an administrative penalty in an amount not to exceed one thousand dollars (\$1,000.00) for each calendar month, or portion thereof, the violation exists. The administrative penalty shall be waived if the building official or hearing officer finds that imposition of the penalty would cause a substantial economic hardship on the owner or would hinder the rehabilitation of the building.
- (b) *Procedure.* The administrative penalty shall be imposed by a hearing officer upon the recommendation of the building official and after the owner or trustee/beneficiary shall have been afforded a hearing before the hearing officer. The hearing shall be conducted in accordance with the provisions of Section 8.48.470 of this title. In setting the penalty, the hearing officer shall consider the severity of the blighting conditions of the property and the owner's efforts, or lack thereof, to remedy the problem. The decision of the hearing officer shall be final;
 - (i) The administrative penalty shall be due and payable within thirty days after the decision of the hearing officer. If the penalty is not paid within forty-five days after the decision of the hearing officer, the City Council may thereupon order that the penalty be a personal obligation of the property owner, the beneficiary/trustee or that it be specially assessed against the property involved. If the City Council orders that the penalty be specially assessed against the property, it shall confirm the assessment and thereafter said assessment may be collected at the same time and in the same manner as ordinary real property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary real property taxes. All laws applicable to the levy, collection, and enforcement of real property taxes are applicable to the special assessment;
 - (ii) The City Council may also cause a notice of lien to be recorded. The notice shall, at a minimum, identify the record owner or possessor of the property and set forth the last known address of the record owner or possessor, the date on which the penalty was imposed, a description of the real property subject to the lien, and the amount of the penalty

- (c) Nothing in either this Chapter or any other provision of this Code shall prevent the City of Banning Code Enforcement Division from engaging in efforts to obtain voluntary compliance by means of warnings, notices, educational programs, administrative citations or any other administrative remedy.
- (d) Payment of a penalty for violation of this Chapter shall not excuse the failure to correct the violation nor shall it bar further enforcement action.
- (e) This section provides a civil penalty remedy that is in addition to all other legal remedies, criminal or civil, which may be pursued by the city to address any violation of this chapter. The administrative penalty imposed pursuant to the provisions of this section may be imposed concurrently with any administrative citation penalties imposed pursuant to Section 1.20.030 of this Code.

8.12.070 Additional Authority. In addition to the enforcement remedies established in Chapters 1.20 and 1.28 of this Code, the City of Banning Code Enforcement Division shall have the authority to require the beneficiary/trustee/owner and/or owner of record of any property affected by this Chapter to implement additional maintenance and/or security measures including, but not limited to, securing any/all door, window or other openings, installing additional security lighting, increasing on-site inspection frequency, employment of an on-site security guard, or other measures as may be reasonably required to arrest the decline of the property.

**CITY COUNCIL AGENDA
CONSENT CALENDAR**

Date: September 9, 2008
TO: Honorable Mayor and City Council
FROM: John Ruiz, Interim Human Resources Director
SUBJECT Part-time Classification Salary Resolution

RECOMMENDATION: Adopt Resolution No. 2008-94 amending the City's Part-time Classification Salary Plan to reflect new job classification and salary range.

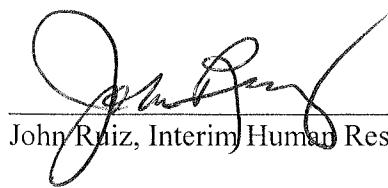
JUSTIFICATION: The City Council approved the City of Banning Classification and Compensation Plan on January 25, 2005. The plan has since been amended, most recently on May 27, 2008. Maintenance of this plan is a dynamic process in which Human Resources works continuously with operating departments to develop classifications which reflect the current needs of the department in their efforts to deliver quality services to residents. City Personnel Rules require that the City Council approve all changes to the City's Classification Plan. Council approval of this recommendation will meet the City's goal to provide top quality and reliable service to both internal and external customers and to ensure labor market competitiveness in both recruitment and retention.

BACKGROUND: The Community Services Department has proposed a reorganization of the Department in order to more effectively offer its services and provide coverage for the Department's recreation related activities. The Department is proposing the creation of a part-time Senior Recreation Leader position. This part-time position can be assigned to Senior Services, Classes and Programs or Sports Leagues/Programs. The Department is also proposing the elimination of a vacant full-time Recreation Coordinator position approved in the FY 2008/09 budget. Utilizing the fund from this position, the department would fund three part-time Senior Recreation Leader positions. The proposed hourly salary for the Senior Recreation Leader is Range 36 \$12.22 – 12.85 – 13.52. In conjunction with this proposed action the Department is proposing to increase the current hourly salary range for the Recreation Leader from Range 19 \$ 8.03 - \$8.80 to Range 22 \$8.64 – 9.09 – 9.56. This will maintain parity with the new position Senior Recreation Leader position. As with the Recreation Leader the Senior Recreation Leader position does not receive fringe benefits.

As part of these salary adjustments, it is also proposed that the period for part-time merit increase salary adjustment be reduced from 2080 hours to 1000 hours. This is recommended because most part-time employees work less than 19 hours per week. Under the current structure for part-time employee merit increases, most part-time employees would have to be employed two (2) years or longer for merit increase consideration.

FISCAL DATA: The above classification changes will not increase the Community Services Department's FY 2008/09 budget. Funding from the elimination of an approved vacant Recreation Coordinator position and benefit savings from the current $\frac{3}{4}$ time Recreation Coordinator position will be used to fund the proposed new position and salary increase.

RECOMMENDED BY:



John Ruiz, Interim Human Resource Director

APPROVED BY:



Brian Nakamura, City Manager

RESOLUTION 2008-94

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING
ESTABLISHING A CLASSIFICATION AND COMPENSATION POLICY FOR
PART-TIME EMPLOYEES OF THE CITY OF BANNING**

WHEREAS, part-time employees are individuals who customarily work less than 1,000 hours per fiscal year, or an average of 20 hours per week on a regular year-round basis; and

WHEREAS, it is necessary and desirable to employ persons on a part-time basis to provide valuable services to augment the provision of City services by permanent, full-time employees; and

WHEREAS, such part-time employees are unrepresented “at-will” individuals that pay no dues to, nor receive benefits from, negotiations by employee unions; and

WHEREAS, there is currently no formal policy regarding the compensation to be paid to such employees for the rendering of such valuable service;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

Section 1: Classification and Pay Structure

Part-time classification titles shall be set forth in Attachment I effective September 9, 2008. The minimum and maximum hourly rates for such part-time classifications shall be as shown on the Permanent Salary Range Table, attached as Exhibit “A” which includes the addition of the Senior Recreation Leader position.

Section 2: Performance Review System for Part-Time Employees

Part-time employees will receive performance reviews and merit adjustments after completing 1,000 hours of the service and thereafter upon completion of each additional period of 1,000 hours of service. Recommended merit adjustments must be based upon written performance evaluations and included in the City’s annual budget review and adoption. No merit adjustments above the Midpoint of salary range may be recommended, unless the evaluation is based upon the City’s Pay for Performance Compensation Model, as adopted by the City Council.

PASSED, APPROVED, AND ADOPTED this 9th day of September, 2008.

Brenda Salas, Mayor
City of Banning, California

**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- 94 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 9th day of September, 2008, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

ATTACHMENT I

PART-TIME CLASSIFICATION TITLES (INCLUDING SEASONAL)

EFFECTIVE SEPTEMBER 9, 2008

Airport Attendant	Range 17
Bus Driver	Range 41
Cashier	Range 12
Crossing Guard	Range 12
Development Assistant	Range 42
Dial-A-Ride Driver	Range 31
Financial Services Specialist	Range 44
Lifeguard	Range 17
Recreation Leader	Range 22
Lifeguard w/WSI Certification	Range 19
Assistant Pool Manager	Range 22
Pool Manager	Range 27
Senior Center Coordinator	Range 49
Senior Recreation Leader	Range 36
Utility Billing Representative	Range 40
Police Records Assistant	Range 29

**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: **September 9, 2008**

TO: **City Council**

FROM: **Leonard Purvis, Chief of Police**

SUBJECT: **Resolution No. 2008-100, authorizing the destruction of city records as provided by Section 34090 of the California Government Code, Section 832.5 of the California Penal Code, and Resolution No. 2003-26 of the City of Banning.**

RECOMMENDATIONS: "The City Council adopt Resolution No. 2008-100 authorizing the destruction of city records as provided by Section 34090 of the California Government Code, Section 832.5 of the California Penal Code, and Resolution No. 2003-26 of the City of Banning."

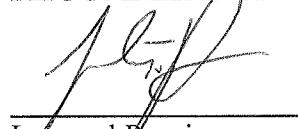
JUSTIFICATION: The City Clerk and the City Attorney have certified the records listed in Attachment A to Resolution 2008-100 are no longer required to be kept by the City.

BACKGROUND: In March of 2003, the City Council adopted Resolution No. 2003-26, setting forth the schedule for destruction of City Records. The records listed in Attachment A of Resolution No. 2008-100 have all reached the end of their retention period.

STRATEGIC PLAN INTEGRATION: Council approval of this request will meet the City's goal to comply with California Government Code Section 34090 and California Penal Code Section 832.5, concerning the destruction of city records.

FISCAL DATA: This request requires no funds.

RECOMMENDED BY:



Leonard Purvis
Chief of Police

APPROVED BY:



Brian Nakamura
City Manager

RESOLUTION NO. 2008-100

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BANNING AUTHORIZING THE BANNING POLICE DEPARTMENT TO DESTROY INTERNAL AFFAIRS RECORDS IN EXCESS OF FIVE YEARS FROM DATE OF COMPLETION PER CALIFORNIA GOVERNMENT CODE SECTION 34090 AND CALIFORNIA PENAL CODE SECTION 832.5.

WHEREAS, Penal Code Section 832.5 requires that citizen complaints against police department personnel and any related reports or findings be maintained for a period of at least five years; and

WHEREAS, Government Code Section 34090 expressly authorizes the Chief of Police for the City of Banning, upon resolution of the City Council and written consent of the City Attorney, to destroy City records, documents, instruments, and other papers under his charge after the same are no longer required; and

WHEREAS, the Chief of Police has agreed to review the status of any such citizens complaint investigation in excess of five years for pending related civil or criminal litigation prior to its destruction; and

WHEREAS, the City Attorney hereby give his written consent for the destruction of the following records (See Attachment A); and

NOW, THEREFORE, BE IT RESOLVED, that the Chief of Police is hereby granted the authority to order the destruction of any and all records, reports, and findings relating to citizen complaints in excess of five years from the date of completion once the Chief of Police has determined that such are no longer required;

BE IT FURTHER RESOLVED that nothing in this resolution is intended to supersede or otherwise conflict with any law or any lawful judicial process which might affect retention or destruction of such records.

PASSED, APPROVED, AND ADOPTED this 9th day of September, 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 Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2008-100 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 9th day of September, 2008, by the following to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

Attachment A

REQUEST FOR DESTRUCTION OF RECORDS

Date: 08-20-08
Department: Banning Police Department

We are requesting destruction of the attached records due to:

A copy has been made in accordance with Administrative Policy #A-28.
 The retention period on the following records has elapsed.

Approvals:

Department Head



Date 08-20-08

City Clerk

Date _____

City Attorney

Date _____

Destruction Date:	Destroyed By:	Remarks:

Return signed original to City Clerk when completed.

**CITY COUNCIL AGENDA
CONSENT ITEM**

DATE: September 9, 2008

TO: Honorable Mayor and City Council

FROM: John Ruiz, Interim Human Resources Director

SUBJECT: City of Banning Association of Managers (CBAM)
Memorandum of Understanding Side Letter

RECOMMENDATION:

- I. Adopt Resolution No. 2008-101 approving a side letter to the Memorandum of Understanding (MOU) with the City of Banning Association of Managers (CBAM) Unit.

JUSTIFICATION: The City recently approved the MOU with the CBAM effective July 1, 2008. A side-letter is necessary to clarify a Section 14.2 (a) of the MOU.

BACKGROUND: Section 14.2 (a) of the CBAM MOU provides (exempt) management employees (exempt) with 80 hours of compensatory time per fiscal year. Section 14.2 (c) allows management employees to “cash out” a maximum of 60 of these hours per fiscal year and per Section 14.2 (b) upon separation the employee may “cash out” all unused compensatory time. Per Section 14.10 of the CBAM MOU exempt management employees also receive 18 hours of personal leave per fiscal year.

Some time ago these hours were combined and titled personal leave due to the fact that these hours do not represent “accruals of hours actually worked, but not yet paid.” They continue to be designated as personal leave on the employees’ paychecks.

The combined hours have continued to be subject to the same annual and separation payout rules as the previous compensatory time in the MOU. Per Section 14.10 there was no provision for the payoff of personal leave hours at termination, but due to the combination of these hours they have followed the compensatory time rules and have therefore been subject to payoff at termination. The City will maintain this practice. It is not the City’s intention to discontinue the practice of allowing employees to “cash out” these hours.

FISCAL IMPACT: There is no fiscal impact as a result of this side-letter to the CBAM MOU.

RECOMMENDED BY:


John Ruiz
Interim Director of Human Resources

APPROVED BY:


Brian Nakamura
City Manager

RESOLUTION 2008-101

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING
APPROVING A SIDE LETTER TO MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF BANNING AND THE CITY OF BANNING
ASSOCIATION OF MANAGERS (CBAM)**

WHEREAS, the City of Banning has recognized the City of Banning Association of Managers (CBAM) as the bargaining unit representing a group of its employees; and,

WHEREAS, the City Council approved a Memorandum of Understanding (MOU) between the City and CBAM effective July 1, 2008 through June 30, 2010; and,

WHEREAS, the City and CBAM have successfully met and conferred under the Meyers-Milias- Brown Act (MMBA) and the City's Employer-Employee Relations Resolution to clarify Section 14.2 (a) of the MOU;

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

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

PASSED, APPROVED, AND ADOPTED this 9th day of September, 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. 2008-101 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 9th day of September, 2008, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

LETTER OF UNDERSTANDING
Between
The City of Banning
And the
City of Banning Association of Managers (CBAM)

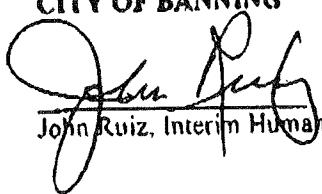
The City of Banning ("City") and CBAM have conferred and reached an understanding on the language in Section 14.2 (a) of the CBAM Memorandum of Understanding (MOU). The parties have reached the following understanding:

Section 14.2 (a) of the CBAM MOU provides management employees (exempt) with 80 hours of compensatory time per fiscal year. Section 14.2 (c) allows management employees to "cash out" a maximum of 60 of these hours per fiscal year and per Section 14.2 (b), upon separation the employee may "cash out" all unused compensatory time. Per Section 14.10 of the CBAM MOU exempt management employees also receive 18 hours of personal leave per fiscal year.

Some time ago these hours were combined and titled personal leave due to the fact that these hours do not represent accruals of hours actually worked, but not yet paid. They continue to be designated as personal leave on the employees' paychecks.

The combined hours have continued to be subject to the same annual and separation payout rules as the previous compensatory time in the MOU. Per Section 14.10 there was no provision for the payoff of personal leave hours at termination, but due to the combining of these hours they have followed the compensatory hour rules and have therefore been subject to payoff at termination. The City will maintain this practice. It is not the City's intention to discontinue the practice of allowing employees to "cash out" these hours.

CITY OF BANNING



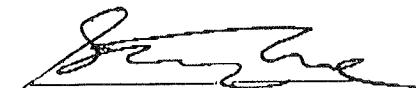
John Ruiz, Interim Human Resources Dir.

Brenda Salas, Mayor
City of Banning

CBAM



Fred Mason, President



Stacey Cue
San Bernardino Public
Employees Association

**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: September 9, 2008

TO: City Council

FROM: Phil Holder, Lieutenant

SUBJECT: **Resolution No. 2008-102. Authorizing expenditures under the FY08 State Homeland Security Grant Program**

RECOMMENDATION: "Adopt Resolution No. 2008-102 authorizing the expenditure of \$65,729 received from the Riverside County Fire Department Office of Emergency Services, under the FY08 State Homeland Security Grant Program (HSGP), for the purchase of a state-of-the-art fiber optic inspection and viewing kit."

JUSTIFICATION: The goal of this project is to purchase and deploy a state-of-the-art fiber optic system that will provide visual dominance, involving Improvised Explosive Devices (IEDs) and other hazardous situations, while maintaining safety through distance. The fiber optic system will afford a safe look into inaccessible or simply "unknown" areas where it might be otherwise fatal to enter prior to visual assessment.

BACKGROUND: On June 13, 2008, the Banning Police Department submitted a proposal for the FY08 HSGP to the Riverside County Office of Emergency Services in the amount of \$65,729. The proposal identified the police department's need for a state-of-the-art fiber optic inspection and viewing kit.

On August 8, 2008, FY08 HSGP Administrator Lin Bonesteel notified the Banning Police Department that the Riverside County Anti Terrorism Approval Authority had approved the police department's grant request in its entirety for \$65,729.

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, while improving its technology and equipment.

FISCAL DATA: The funds for the FY08 HSGP must first be appropriated from the General Fund in the amount of \$65,729 to pay for the equipment. Upon purchase of the equipment, paid invoices will be submitted to the Riverside County Fire Department Office of Emergency Services who will reimburse the entire amount of \$65,729 to the City of Banning General Fund. This grant does not require matching funds.

RECOMMENDED BY:


Leonard Purvis
Chief of Police

REVIEWED BY:


Bonnie Johnson
Finance Director

APPROVED BY:


Brian Nakamura
City Manager

RESOLUTION NO. 2008-102

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BANNING AUTHORIZING THE EXPENDITURE OF FY08 HOMELAND SECURITY GRANT PROGRAM FUNDS IN THE AMOUNT OF \$65,729.

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 operates a 24 hour a day operation; and

WHEREAS, the Police Department is responsible for assessing threats to the community; and

WHEREAS, state of the art technology has been incorporated into the daily operations of the Police Department; and

WHEREAS, there is a need to purchase a fiber optic inspection and viewing kit; and

WHEREAS, the City's procedures requires the City Council to adopt a resolution authorizing the expenditure of grant funds.

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Banning appropriates grant funds in the amount of \$65,729 and authorizes the expenditure of those funds for the purchase of a fiber optic inspection and viewing kit. Additionally, the Finance Department is authorized to make necessary budget adjustments related to these grant funds.

PASSED, APPROVED, AND ADOPTED this 9th day of September, 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 Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2008-102 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 9th day of September 2008, by the following to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: September 9, 2008

TO: City Council

FROM: Leonard Purvis, Chief of Police

SUBJECT: Resolution 2008-103. Appropriating funds to the Red E. Fox Program for educational materials.

RECOMMENDATIONS: "The City Council receive Resolution 2008-103 and approve the Banning Police Department's request for an appropriation of \$10,683.33 from the City's General Fund to pay for educational materials used in the Red E. Fox program to teach elementary school children how to use the emergency 9-1-1 system."

JUSTIFICATION: The Red E. Fox program is designed to teach pre-school and elementary school aged children how to use the emergency 9-1-1 system. The program emphasizes when the emergency system should be used and how misuse of the system can place others in jeopardy. Materials handed out during the program, such as pencils, badges, stickers, and activity books help to reinforce the lessons taught in school at the students' homes.

BACKGROUND: On August 22, 2008, the California 9-1-1 Emergency Communications Office notified the Banning Police Department it will reimburse the City of Banning for the full cost (\$10,683.33) of the educational materials used in the Red E. Fox program. The Red E. Fox program has been in place since the beginning of the school year and the educational materials are in the process of being ordered. The appropriation of the requested funds will allow the police department to pay Emergency Ready Corporation (the sole vendor for these types of materials) for the supplies and then submit a reimbursement request to the California 9-1-1 Emergency Communications Office.

ACTION PLAN:

1. Obtain City Council approval for a one time appropriation of \$10,683.33 from the General Fund to the Police Department's McGruff account (001-2200-421-4192).
2. Pay for the education materials and submit a reimbursement of funds request through the California 9-1-1 Emergency Communications Office in the amount of \$10,683.33.
3. Place reimbursed funds back into the City's General Fund.

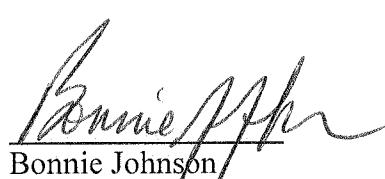
STRATEGIC PLAN INTEGRATION: Approval of this request will enhance the City's image and provide the Citizens of Banning a safe, pleasant, and prosperous community in which to live, work, and play, while remaining cost effective.

FISCAL DATA: This grant will require the City Council to authorize an upfront appropriation in the amount of \$10,683.33 from the City's General Fund to the Police Department's McGruff account (001-2200-421-4192), which will be reimbursed to the City's General Fund upon receipt of the reimbursement from the California 9-1-1- Emergency Communications Office.

RECOMMENDED BY:



Leonard Purvis
Chief of Police



Bonnie Johnson
Finance Director

APPROVED BY:



Brian Nakamura
City Manager

RESOLUTION NO. 2008-103

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BANNING AUTHORIZING THE POLICE DEPARTMENT TO RECEIVE A ONE TIME APPROPRIATION OF \$10,683.33 FROM THE CITY'S GENERAL FUND TO PAY FOR EDUCATIONAL MATERIALS USED IN THE RED. E. FOX PROGRAM TAUGHT TO ELEMENTARY SCHOOL CHILDREN ON HOW TO USE THE EMERGENCY 9-1-1 SYSTEM.

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 educating Banning Youth; and

WHEREAS, the City of Banning Police Department is committed to its ongoing presentation of the Red E. Fox Program; and

WHEREAS, the City's procedures requires the City Council to adopt a resolution authorizing the appropriation of funds from the City's General Fund.

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Banning authorizes the appropriation of \$10,683.33 from the City's General Fund into the Banning Police Department's McGruff account (001-2200-421-4192), which will be reimbursed into the general fund when funds are received from the California 9-1-1- Emergency Communications Office. The Finance Department is authorized to make necessary budget adjustments related to these funds.

PASSED, APPROVED, AND ADOPTED this 9th day of September, 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 Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2008-103 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 9th day of September 2008, by the following to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: September 9, 2008

TO: City Council

FROM: Phil Holder, Lieutenant

SUBJECT: Resolution No. 2008-104, authorizing the destruction of city records as provided by Section 34090 of the California Government Code and Resolution No. 2003-26 of the City of Banning.

RECOMMENDATION: The City Council adopt Resolution No. 2008-104, "Authorizing the Destruction of City Records as Provided by Section 34090 of the California Government Code and Resolution No. 2003-26 Of The City Of Banning."

JUSTIFICATION: The City Clerk and the City Attorney have certified the records listed in Attachment A to Resolution 2008-104, are no longer required to be kept by the City.

BACKGROUND: On March, 2003, the City Council adopted Resolution No. 2003-26, setting forth the schedule for destruction of City Records. The records listed in Attachment A of Resolution No. 2008-104 have all reached the end of their retention period.

FISCAL DATA: This request requires no funds.

RECOMMENDED BY:



Leonard Purvis
Chief of Police

APPROVED BY:



Brian Nakamura
City Manager

RESOLUTION NO. 2008-104

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING AUTHORIZING THE DESTRUCTION OF BANNING POLICE DEPARTMENT INFORMATIONAL AND CRIMINAL RECORDS AS PROVIDED BY SECTION 34090 OF THE CALIFORNIA GOVERNMENT CODE AND RESOLUTION NO. 2003-26 OF THE CITY OF BANNING.

WHEREAS, the City Council has adopted Resolution No. 2003-26 setting forth the schedule for the destruction of records; and

WHEREAS, Section 34090 of the California Government Code provides a procedure whereby any City record that has served its purpose and is no longer required may be destroyed; and

WHEREAS, the City Clerk has endorsed on Attachment A to this resolution her determination the records set forth in Attachment A are not required to be kept by the Banning Police Department; and

WHEREAS, the City Attorney's Office has endorsed on Attachment A to this resolution its determination that the records set forth on Attachment A are not required to be kept by the Banning Police Department; and

NOW, THEREFORE, BE IT RESOLVED, the Banning Police Department Records Bureau is hereby granted the authority to follow through with the destruction of any and all records described in Attachment A to this resolution.

BE IT FURTHER RESOLVED that nothing in this resolution is intended to supersede or otherwise conflict with any law or any lawful judicial process which might affect retention or destruction of such records.

PASSED, APPROVED, AND ADOPTED this 9th day of September, 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 Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2008-104 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 9th day of September 2008, by the following to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

REQUEST FOR DESTRUCTION OF RECORDS

Date: 8-29-2008

Department: BANNING POLICE DEARTMENT

We are requesting destruction of the attached records due to:

A copy has been made in accordance with Administrative Policy #A-28.
 The retention period on the following records has elapsed.

Non-Criminal, Infractions, Misdemeanor, and Felony reports along with citations, pawns and misc. logs dated between 1990 and 2005 that meet the police records destruction guidelines set by the Secretary of State Records Management guide.

Approvals:

Department Head



Date 8-29-08

City Clerk

Date _____

City Attorney

Date _____

Destruction Date:	Destroyed By:	Remarks:

Return signed original to City Clerk when completed.

RECORDS INVENTORY WORKSHEET

RESOLUTION 2008-104

Attachment A

STD. 70 (REV. 5-92)

DEPARTMENT
Banning Police Department
PERSON RESPONSIBLE FOR RECORDS
Lt. Phil Holder

DIVISION/SECTION
Records

ADDRESS
321 W. Ramsey Banning, CA 92220

TELEPHONE NUMBER
951-922-3170

PAGE 1 OF 1

ROOM NUMBER

Records

RECORDS INVENTORY

(1) RECORDS SERIES	(2) DESCRIPTION	(3) FILE LOCATION	(4) MEDIA TYPE	(5) YEARS COVERED	(6) REFER- ENCE STATUS	(7) DOCUMENT ORIG. COPY	(8) VOLUME OF RECORDS IN CUBIC FEET	(9) REMARKS (Vital or Confidential Records, Retention Authority, etc.)
Police Reports	Non-Criminal Infractions	BPD Records Bureau	Paper	1990-2005	A	X		Police records that need the Secretary of State Records
" "	Felony and Misdemeanor Reports	" "	Paper	1990-2005	A	X		Management guidelines for destruction.
" "	Citations, Pawns, and Logs	" "	Paper	1990-2005	A	X		All records will be placed in a Shred-it box for destruction by Shred-It.
								DATE

**CITY COUNCIL AGENDA
CONSENT ITEM**

DATE: **September 9, 2008**

TO: **Honorable Mayor and Members of the City Council**

FROM: **Brian S. Nakamura, City Manager**

SUBJECT: **Approval to Participate in Riverside County Mortgage
Certificate Program (MCC) and Adoption of Resolution No.
2008-106, Approving Participation in the Mortgage Certificate
Program**

RECOMMENDATION:

That the City Council approve Resolution No. 2008-106, which will allow the City to participate in the County MCC Program for mortgage loans available for first-time homebuyers in Banning. Adopting of the attached resolution is necessary for the City to participate in the County's MCC Program.

BACKGROUND:

The Riverside County Board of Supervisors has authorized the County Economic Development Agency (EDA) to apply to the California Debt Limit Allocation Committee for an allocation of Mortgage Credit Certificates on or about July 28, 2008, which allows for the City of Banning's participation.

A mortgage Credit Certificate (MCC) entitles qualified home buyers to reduce the amount of federal tax liability on a home mortgage. This tax credit allows the buyer to qualify more easily for a loan by effectively increasing the stated income of the buyer.

The Riverside County MCC Program allows a 15% rate, which can be applied against the interest paid on the mortgage loan. The borrower can then claim a credit on their taxes equal to 15% of the interest paid during the year. Since the taxes paid by the borrower are being reduced, the annual take-home pay is effectively increased. The borrower can still deduct the remaining part of the interest paid as a standard deduction. When underwriting a loan, a lender takes this potential increase in income into consideration and the borrower is able to qualify for a larger loan than would otherwise be possible.

This program can be used with all types of homes, including foreclosures, new and resale single-family and/or manufactured homes, and may be the "extra cushion" future homebuyers will need to purchase in Banning.

The EDA will be submitting an application for approximately \$12 mil. on or about July 28, 2008 for applicants acquiring homes within the County. Program guidelines include Income restrictions, as well as limits to the purchase price of the home. Future Banning homebuyers can qualify for the MCC on their own through their lender, even if the City is not approving any down payment assistance.

The City of Banning has participated in the MCC Program in past years. Staff recommends approval of the attached updated resolution, to provide another tool for qualified homebuyers to purchase a home in Banning.

FISCAL DATA:

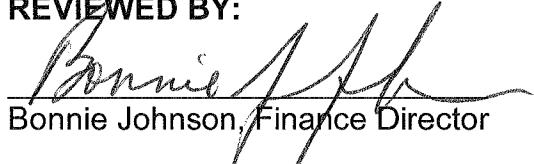
No impact to the City or the Redevelopment Agency budget. Potential buyers can qualify through a lender to receive the MCC from the County.

**RECOMMENDED AND
APPROVED BY:**



Brian S. Nakamura, City Manager

REVIEWED BY:



Bonnie Johnson, Finance Director

RESOLUTION NO. 2008-106

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING,
CALIFORNIA, PARTICIPATING WITH THE COUNTY OF RIVERSIDE
MORTGAGE CREDIT CERTIFICATE (MCC) PROGRAM**

WHEREAS, the Tax Reform Act of 1986 established the Mortgage Credit Certificate Program (“MCC Program”) as a means of assisting qualified individuals with the acquisition of new and existing single family housing; and

WHEREAS, pursuant to Division 31, Part 1, Chapter 3.5, Article 3.4 of the California Health and Safety Code Sections 50197 et seq, local issuers are authorized to issue Mortgage Credit Certificates (“Certificates”) and administer MCC Program; and

WHEREAS, the Board of Supervisors of the County of Riverside adopted Resolution No. 87-564 on December 22, 1987 establishing a Mortgage Credit Certificate Program; and

WHEREAS, the Board of Supervisors of the County of Riverside has authorized the Riverside County Economic Development Agency (“EDA”) to administer the MCC Program pursuant to the applicable federal, state and local policies and procedures, and to enter into those agreements necessary for efficient administration of the MCC Program; and

WHEREAS, the County of Riverside (“County”) will be applying to the California Debt Limit Allocation Committee (“CDLAC”) for a mortgage credit certificate allocation on July 28, 2008 or thereabouts; and

WHEREAS, the City of Banning wishes to participate in the MCC Program administered by the EDA in connection with mortgage loans it will make available for the acquisition of new and existing single-family housing in Riverside County; and

WHEREAS, the adoption of this resolution is necessary to include the City of Banning as a participating unit of general government under County’s MCC program; and

WHEREAS, the City agrees to cooperate with the County of Riverside to undertake the MCC program within City jurisdiction to assist persons or households of limited income to purchase new and existing single family residences located in the city; and

WHEREAS, the City by adopting this Resolution, hereby gives notice of its election to participate in the Riverside County MCC program.

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

The City of Banning agrees

1. to participate in the MCC Program administered by the EDA in connection with mortgage loans it will make available for the acquisition of new and existing single-family housing in Riverside County;
2. to assist the County of Riverside to market the MCC Program within the city's jurisdictional boundary by publishing a general public notice in the local newspaper at least twice a year.

PASSED, APPROVED, AND ADOPTED this 9th day of September, 2008.

Brenda Salas, Mayor
City of Banning, California

**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. 2008-106 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 9th day of September, 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: September 9, 2008

TO: City Council

FROM: George Thacker, Assistant Public Utilities Director

SUBJECT: Emergency Repairs to Well No. C-4 Booster Motor & Pump Assembly

RECOMMENDATION: Approve the repairs to the Well No. C-4 Booster Motor and Pump Assembly in the amount of \$7,670.00 and direct the City Clerk to record the *Notice of Completion*.

JUSTIFICATION: The existing Well No. C-4 Booster Motor and Pump Assembly failed causing a possible shortage of water being pump to the Foothill West Pressure Zone.

BACKGROUND: The City of Banning owns and operates its own water system throughout the City. In October of 2008, staff noticed a noise coming from the Well No. C-4 booster motor and pump assembly (The Well No. C-4 site is located on the southwest side of Wilson Street and Smith Creek). Staff requested proposals from two firms who could immediately start and perform the necessary repairs with the results as follows:

<u>Firm</u>	<u>Amount</u>
1) SoCal Pump & Well Drilling, Inc., Riverside, CA	\$ 7,670.00
2) Layne Christensen Company, Fontana, CA	\$14,362.00

SoCal Pump & Well Drilling, Inc. was selected, started work, and completed the project on June 24, 2008. This company has successfully completed numerous projects with 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.

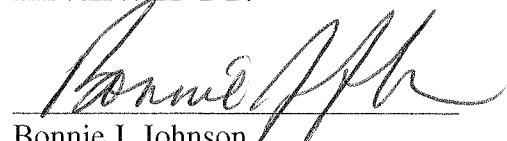
FISCAL DATA: The funds for repairs to the Well C-4 Booster Motor & Pump Assembly shall be utilized from the FY 07-08 Water Division Operation Budget, Wells/Pumping Equipment Account No. 660-6300-471.9508.

RECOMMENDED BY:



James D. Earhart
Director of Public Utilities

REVIEWED BY:



Bonnie J. Johnson
Finance Director/Assistant City Manager

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 Well No. C-4 Booster Motor & Pump
16 Assembly

17
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 September 9, 2008, and the grantees consent
22 to recordation thereof by its duly authorized agent.

23
24 (1) That the City of Banning and SoCal Pump & Well Drilling, Inc. entered
25 into a written Agreement dated December 20, 2007, for the Construction of Emergency
26 Work to Repair Well No. C-4 Booster Motor & Pump Assembly ("Work of
27 Improvement").

28
29 (2) That the Work of Improvement was substantially completed on June 24,
30 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.

(4) That the said Work of Improvement was performed at the Well No. C-4 site (The Well No. C-4 site is located on the southwest side of Wilson Street and Smith Creek) in the City of Banning.

(5) That the original contractor for said improvement was SoCal Pump & Well Drilling, Inc., State Contractor's License No. 510836-C57 C61/D21 C10A.

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

Dated: September 9, 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)

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.

14

15

16

17

 City Clerk of the City of Banning

18

19

20

21 Subscribed and sworn to before me this 9 day of September, 2008.

22

23

24

25

 Notary Public in and for said County

26 and State

27

28

29

30

31

32

**CITY COUNCIL AGENDA
CONSENT**

Date: September 9, 2008

TO: City Council

FROM: George Thacker, Assistant Water/Wastewater Director

SUBJECT: Amend the Existing Contract with E. S. Babcock for Laboratory Services

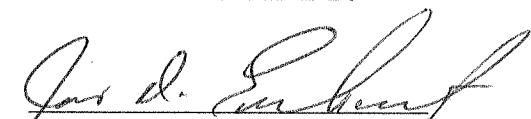
RECOMMENDATION: Amend the existing Contract with E. S. Babcock for Laboratory Services in the amount of \$7,000.00.

JUSTIFICATION: The State Public Health Department has required additional sampling this past 07-08 FY of the 22 water wells the City has in production, which sampling costs exceeded the existing contract amount of \$25,000.00.

BACKGROUND: The City is the Urban Water Supplier and provider of Wastewater Treatment for the service area of the City of Banning. Presently, the City has a contract with E. S. Babcock for laboratory testing of the City's water system. There is a numerous variety of sampling the State Public Health Department requires the Public Utilities Department to take throughout the fiscal year. This past 07-08 FY year required additional sampling of the City's 22 Water Wells, which was not taken into count when issuing the present contract with Babcock. Nevertheless, a supplemental amount of \$7,000.00 is necessary to cover the additional costs of the laboratory testing of the wells.

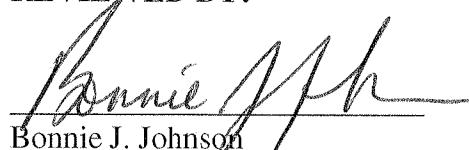
FISCAL DATA: Funding of this amendment in the amount of \$7,000.00 is available within the FY 07-08 Water Operations Budget, Account No. 660-6300-471.2332.

RECOMMENDED BY:



James D. Earhart
Director of Public Utilities

REVIEWED BY:



Bonnie J. Johnson
Finance Director/Assistant City Manager

APPROVED BY:



Brian Nakamura
City Manager

CITY COUNCIL AGENDA CONSENT

Date: **September 9, 2008**

TO: **City Council**

FROM: **George Thacker, Assistant Water/Wastewater Director**

SUBJECT: **Percolate Purchased State Project Water (SPW) into the Noble Creek Recharge Facilities**

RECOMMENDATION: Authorize the payment in the amount of \$75,000.00 to Beaumont Cherry Valley Water District (BCVWD) for the costs of spreading water into the Beaumont Groundwater Basin, in which the City has existing storage water rights. Also, allow staff to increase this amount an additional \$50,000.00 when the opportunity to purchase and spread more water presents itself.

JUSTIFICATION: The purchase of water is essential to ensure long-term reliable to the Banning utility customers. Percolating already purchased SPW into the Beaumont Basin will be utilized to build water storage reserves for future use on an “as needed basis.”

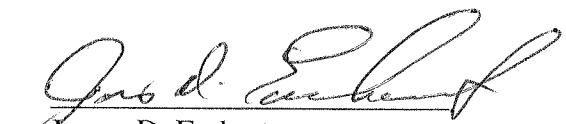
BACKGROUND: The City is the Urban Water Supplier and provider of Wastewater Treatment for the service area of the City of Banning. Presently, the City has purchased 1,200 Acre Feet of SPW from the San Gorgonio Pass Water Agency (SGPWA), which was placed in the Little San Gorgonio Recharge Facilities. It has been stated by the Watermaster that this area is not in the Beaumont Groundwater Basin and credit is not given to the City.

BCVWD and SGPWA has allowed the City to move the 1,200 Ac Ft to the Noble Creek Recharge Facilities owned by BCVWD, which is in the Beaumont Groundwater Basin and credit is then given to the City’s groundwater storage account by the Watermaster. The City has already purchased the water from SGPWA and a charge by BCVWD of \$61.14 per Ac Ft now needs to be paid for the costs to spread the water into their facilities.

It should be mentioned, the City’s SPW is presently being percolated into the Beaumont Basin, since, everything lined up for this to take place quickly without losing the opportunity to do it.

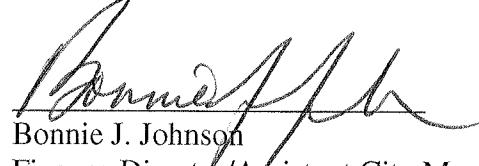
FISCAL DATA: Funding of this amount of \$75,000.00 and the future spreading of water in the amount of \$50,000.00 is available within the FY 08-09 Water Operations Budget, Account No. 660-6300-471.2714 Water Purchase-Resale.

RECOMMENDED BY:



James D. Earhart
Director of Public Utilities

REVIEWED BY:



Bonnie J. Johnson
Finance Director/Assistant City Manager

APPROVED BY:



Brian Nakamura
City Manager

**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: **September 9, 2008**

TO: **City Council**

FROM: **George Thacker, Assistant Water/Wastewater Director**

SUBJECT: **Amending the Existing Agreement for Consultant Services with PARSONS Water & Infrastructure, Inc. to Provide Additional Work for the Design of the Wastewater Treatment Plant Expansion.**

RECOMMENDATION: The City Council approves amending the existing Consultant Services Agreement for “Design and Construction Management of the Wastewater Treatment Plant Expansion” in the amount “Not to Exceed” of \$34,910.00.

JUSTIFICATION: Expansion of the Wastewater Treatment Plant is essential to accommodate growth and recycled water for irrigation purposes.

BACKGROUND: The City Council approved a Consultant Services Agreement for “Design and Construction Management of the Wastewater Treatment Plant” with PARSONS Water & Infrastructure, Inc. at the July 25, 2006 Council Meeting in the amount of \$2,229,652.00. Amendment No. 1 was signed on March 21, 2007, in the amount of \$42,000.00 for designing the selected Membrane Bioreactor (MBR) System and other related processes. Then Amendment No. 2 was signed June 24, 2008, in the amount of \$91,367.00 for the design engineering as follows: Influent Flow Meter specification and drawing, additional Landscape Work, design combined Standby Generator, include Wrought Iron Fence and Road Improvements for Charles Street, develop specification for Laboratory Equipment, additional work for the CEQA document, review Liberty Energy proposal involving the WWTP, and Evaluation of TDS and TN Discharge Concentrations at the WWTP.

The additional *Scope of Work* included in this Amendment No. 3 is to provide a Title 22 Engineer’s Report for the usage of recycled water in the City of Banning. This report is required by both the Colorado River Water Quality Control Board (CRWQCB) and the State Department of Public Health as part of the permitting process to allow the use of Recycled Water from the WWTP.

PARSONS has completed 99% of the design of the expansion of the plant. Staff is presently working with the CRWQCB for a new Discharge Permit and with the State Water Resources Control Board for an SRF loan and grant for this project.

Amendment No. 3 is in the amount of not to exceed of \$34,910.00 and the new contract amount will now be a total of \$2,397,929.00.

FISCAL DATA: The funds for this Amendment No. 3 shall be utilized from the FY 08-09 BUA Wastewater Capital Project Fund, Account No. 683-6300-454-9078 Planning/Design-Capital.

RECOMMENDED BY:



James D. Earhart
Director of Public Utilities

REVIEWED BY:



Bonnie Johnson
Finance Director/
Assistant City Manager

APPROVED BY:



Brian Nakamura
City Manager

THIRD AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES
BETWEEN THE CITY OF BANNING
AND
PARSONS WATER & INFRASTRUCTURE, INC.

ARTICLE 1. PARTIES AND DATE

1.1 This Third Amendment to the Agreement for Consultant Services ("Third Amendment") dated as of the 9th day of September, 2008 is entered into by and between the City of Banning ("City") and PARSONS Water and Infrastructure, Inc., a California Corporation ("Consultant").

ARTICLE 2. RECITALS

2.1 City and PARSONS entered into that certain Agreement for Consultant Services dated 26th day of July, 2006, ("Agreement"), Amendment No. 1 dated March 21, 2007, and Amendment No. 2 dated June 10th, 2008, whereby PARSONS agreed to provide engineering design and construction management services for the expansion of the Wastewater Treatment Plant (WWTP).

2.2 City and PARSONS now desire to amend the Agreement plus Amendment No. 1 and Amendment No.2 to include additional compensation of \$34,910.00 to the original Contract Amount plus Amendment No. 1 and Amendment No. 2, and add to the Scope of Services. The original Agreement and plus Amendment No. 1, Amendment No. 2, and Amendment No.3 Scope of Work Tasks and subtasks are modified and revised to include a Title 22 Engineer's Report for Recycled Water usage. The attached Exhibits "A", "B", and "C" for this Amendment No. 3 describes the revisions more clearly.

ARTICLE 3. TERMS

3.1 Contract Amount: Original Amount and Amendment No. 1 plus Amendment No. 2 of \$2,363,019.00 plus \$34,910.00 for Amendment No. 3 equals a Total Amount of \$2,397,929.00 (7.6% Increase).

3.2 Continuing Effect of Agreement. Except as amended by this Third Amendment, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Third Amendment, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement plus Amendment No. 1 and Amendment No. 2 and as amended by this Third Amendment to the Consultant Services Agreement.

3.3 Affirmation of Agreement; Warranty Re Absence of Defaults. City and PARSONS each ratify and reaffirm each and every one of their respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement. Each party represents and warrants to the other that the Agreement is currently an effective, valid and binding obligation.

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

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

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

3.5 Counterparts. This Third Amendment may be executed in duplicate originals, each of which is deemed to be an original, but when taken together shall constitute but one and the same instrument.

CITY OF BANNING

CONSULTANT: PARSONS

By: _____
Brian Nakamura, City Manager

By: _____
(Authorized Officer)

Title: _____

Print Name

By: _____
(Authorized Officer)

Title: _____

Print Name

APPROVED AS TO FORM:

Burke, Williams & Sorensen, LLP
City Attorney

Exhibit "A"

The Scope of Work for the Consultant Services dated June 10, 2008, is modified and revised per this amendment to include a Title 22 Engineer's Report for Recycled Water usage.

A more detailed report provided by PARSONS Water & Infrastructure, Inc. is reflected in the attached pages of this Exhibit "A".

EXHIBIT "B" SCHEDULE OF SERVICES

The design of the project will be completed by a revised target date of September, 2008, and construction will start by revised date of December, 2008. The anticipated completion of the construction of the project is still projected to be by target date of December, 2010. Services are to be rendered through the date of Notice of Completion for the construction of the project.

EXHIBIT “C” COMPENSATION

The increase in scope of fees for Amendment No. 3 is \$34,910.00. The total scope of fees is now the original amount plus Amendment No. 1 and Amendment No. 2 of \$2,363,019.00 plus \$34,910.00 for this Amendment No. 3, which equals \$2,397,929.00 (7.6% Increase).

Please note Fee Estimate provided by Consultant attached to this Exhibit “C”.

PARSONS

100 West Walnut Street • Pasadena, California 91124 • (626) 440-6263 • Fax: (626) 440-6337 • www.parsons.com

August 12, 2008

City of Banning
Mr. George Thacker, Assistant Director of Water & Wastewater Utility
176 E. Lincoln Street
P.O. Box 998
Banning, CA 92220-0998

**Subject: Scope and Fee Update for the Agreement for Consulting Services between the
City of Banning and Parsons Water & Infrastructure Inc – Amendment No.3**

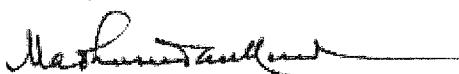
Dear George:

Parsons Water & Infrastructure Inc. (Parsons) would like to present the additional work item requested by the City as a result of our meeting with the City of Banning, Regional Water Quality Control Board, and Department of Public Health in August 6th, 2008 for your consideration and approval. Please find enclosed a summary of the additional work item (Attachment 1) and the fee estimate (Attachment 2).

Based on the revised Fee Estimate presented in the attached table, the increase in scope fee for Amendment No.3 is \$34,910.

Should you have any questions please contact me at (626) 440 6190.

Sincerely,



Madhu Kundu, P.E., DEE
Project Manager

Enclosures

cc: Masoud Samee, Ph.D.
Project Engineer



ATTACHMENT 1

**City of Banning
1.5 MGD Water Reclamation Facility Expansion
Summary of Additional Work – Amendment No. 3**

Original scope of work tasks and subtasks as described and subsequently modified in Amendment No.2 are further modified during the detailed design phase of the project. During the last meeting with the City, the following additional work is added to the existing scope of work. The cost associated with this work is attached for your consideration.

1. **Title 22 Engineer's Report** – At a meeting with the City of Banning, Department of Public Health, and Regional Water Quality Control Board on August 6, 2008, the Regional Board asked the City to submit their Title 22 Report (Engineer's Report) for the Banning 1.5 mgd Water Reclamation Facility (WRF) expansion project as a requirement of the permit process. The City requested Parsons to prepare the report. Parsons will address the following criteria in the report.
 - a. The produced recycled water quality from the 1.5 mgd WRF expansion plant and wastewater treatment requirements for the various types of allowed uses.
 - b. Use area requirements pertaining to the actual location of use of recycled water
 - c. Reliability features required in the 1.5 mgd WRF treatment facilities to ensure safe performance.
 - d. Rules and regulations, producer-distributor-user, wastewater chemical quality, treatment processes, plant reliability features, supplemental water supply, monitoring and reporting, and contingency plan.
 - e. Maps and/or plans showing the transmission and distribution systems.
 - f. Use areas including irrigation, impoundments, dual plumbed use areas, other industrial uses, use area design, use area inspections and monitoring, and employee training.

A copy of the guidelines for the preparation of an engineering title 22 report from the Department of Health Services is attached to this amendment for the City's information.

ATTACHMENT 2**City of Banning 1.5 MGD WRF Expansion - Fee Estimate for Additional Work**

August 12, 2008

Additional Items	# of Add. Drawgs	Labor Category	Hours	Rate/hr	Total Labor Cost	ODCs	Total Cost
1. TITLE 22 ENGINEER'S REPORT		Project Manager	40	185			
		Senior Technical Advisor	55	170	\$34,110.00	\$800.00	\$34,910.00
		Senior Engineer	70	128			
		Engineer	80	105			\$34,910.00



**GUIDELINES FOR THE
PREPARATION OF AN ENGINEERING REPORT
FOR THE PRODUCTION, DISTRIBUTION AND USE OF RECYCLED WATER**

March 2001

(Replaces September 1997 Version)

1.0 INTRODUCTION

The current State of California Water Recycling Criteria (adopted in December 2000) require the submission of an engineering report to the California Regional Water Quality Control Board (RWQCB) and the Department of Health Services (DHS) before recycled water projects are implemented. These reports must also be amended prior to any modification to existing projects. The purpose of an engineering report is to describe the manner by which a project will comply with the Water Recycling Criteria. The Water Recycling Criteria are contained in Sections 60301 through 60355, inclusive, of the California Code of Regulations, Title 22. The Criteria prescribe:

- * Recycled water quality and wastewater treatment requirements for the various types of allowed uses,
- * Use area requirements pertaining to the actual location of use of the recycled water (including dual plumbed facilities), and
- * Reliability features required in the treatment facilities to ensure safe performance.

Section 60323 of the Water Recycling Criteria specifies that the engineering report be prepared by a properly qualified engineer, registered in California and experienced in the field of wastewater treatment.

Recycled water projects vary in complexity. Therefore, reports will vary in content, and the detail presented will depend on the scope of the proposed project and the number and nature of the agencies involved in the production, distribution, and use of the recycled water. The report should contain sufficient information

to assure the regulatory agencies that the degree and reliability of treatment is commensurate with the requirements for the proposed use, and that the distribution and use of the recycled water will not create a health hazard or nuisance.

The intent of these guidelines is to provide a framework to assist in developing a comprehensive report which addresses all necessary elements of a proposed or modified project. Such a report is necessary to allow for the required regulatory review and approval of a recycled water project.

References which may assist in addressing various project elements include:

- State of California Water Recycling Criteria (December 2000)
- State of California Regulations Relating to Cross-Connections
- California Waterworks Standards
- California Water Code
- Guidelines for the Distribution of Non-potable Water, (California-Nevada Section-AWWA, 1992)
- Guidelines For The On-Site Retrofit of Facilities Using Disinfected Tertiary Recycled Water (California-Nevada Section-AWWA, 1997)
- Manual of Cross-Connection Control/Procedures and Practices (DOHS)
- Ultraviolet Disinfection - Guidelines for Drinking Water and Water Reuse (NWRI/AWWARF, December 2000)

2.0 RECYCLED WATER PROJECT

The following sections discuss the type of information that should be presented and described in the engineering report. Some sections may be applicable only to certain types of uses.

2.1 General

The report shall identify all agencies or entities that will be involved in the design, treatment, distribution, construction, operation and maintenance of the recycled facilities, including a description of any legal arrangements outlining authorities and responsibilities between the

agencies with respect to treatment, distribution and use of recycled water. In areas where more than one agency/entity is involved in the reuse project, a description of arrangements for coordinating all reuse-related activities (e.g. line construction/repairs) shall be provided. An organizational chart may be useful.

2.2 Rules and Regulations

The procedures, restrictions, and other requirements that will be imposed by the distributor and/or user should be described. In multiple projects covered under a Master Permit issued by the Regional Boards where the reuse oversight responsibility is delegated to the distributor and/or user, the requirements and restrictions should be codified into a set of enforceable rules and regulations. The rules and regulations should include a compliance program to be used to protect the public health and prevent cross connections. Describe in the report the adoption of enforceable rules and regulations that cover all of the design and construction, operation and maintenance of the distribution systems and use areas, as well as use area control measures. Provide a description of the organization of the agency or agencies who has the authority to implement and enforce the rules and regulations, and the responsibilities of pertinent personnel involved in the reuse program. Reference to any ordinances, rules of service, contractual arrangements, etc. should be provided.

2.3 Producer - Distributor - User

The producer is the public or private entity that will treat and/or distribute the recycled water used in the project. Where more than one entity is involved in the treatment or distribution of the recycled water, the roles and responsibilities of each entity (i.e. producer, distributor, user) should be described.

2.4 Raw Wastewater

Describe the chemical quality, including ranges with median and 95th percentile values;

Describe the source of the wastewater to be used and the proportion and types of industrial waste, and

Describe all source control programs.

2.5 Treatment Processes

Provide a schematic of the treatment train;

Describe the treatment processes including loading rates and contact times;

All filtration design criteria should be provided (filtration and backwash rates, filter depth and media specifications, etc.). The expected turbidities of the filter influent (prior to the addition of chemicals) and the filter effluent should be stated;

State the chemicals that will be used, the method of mixing, the degree of mixing, the point of application, and the dosages. Also describe the chemical storage and handling facilities, and

Describe the operation and maintenance manuals available.

2.6 Plant Reliability Features

The plant reliability features proposed to comply with Sections 60333 - 60355 of the Water Recycling Criteria should be described in detail. The discussion of each reliability feature should state under what conditions it will be actuated. When alarms are used to indicate system failure, the report should state where the alarm will be received, how the location is staffed, and who will be notified. The report should also state the hours that the plant will be staffed.

2.7 Supplemental Water Supply

The report should describe all supplemental water supplies. The description should include:

- * Purpose
- * Source
- * Quality
- * Quantity available
- * Cross-connection control and backflow prevention measures

2.8 Monitoring and Reporting

The report should describe the planned monitoring and reporting program, including all monitoring required by the Water Recycling Criteria, and include the frequency and location of sampling. Where continuous analysis and recording equipment is used, the method and frequency of calibration

should be stated. All analyses shall be performed by a laboratory approved by the State Department of Health Services.

2.9 Contingency Plan

Section 60323 (c) of the Water Recycling Criteria requires that the engineering report contain a contingency plan designed to prevent inadequately treated wastewater from being delivered to the user. The contingency plan should include:

- * A list of conditions which would require an immediate diversion to take place;
- * A description of the diversion procedures;
- * A description of the diversion area including capacity, holding time and return capabilities;
- * A description of plans for activation of supplemental supplies (if applicable);
- * A plan for the disposal or treatment of any inadequately treated effluent;
- * A description of fail safe features in the event of a power failure, and

A plan (including methods) for notifying the recycled water user(s), the regional board, the state and local health departments, and other agencies as appropriate, of any treatment failures that could result in the delivery of inadequately treated recycled water to the use area.

3.0 TRANSMISSION AND DISTRIBUTION SYSTEMS

Maps and/or plans showing the location of the transmission facilities and the distribution system layout should be provided. The plans should include the ownership and location of all potable water lines, recycled water lines and sewer lines within the recycled water service area and use area(s).

4.0 USE AREAS

The description of each use area should include:

- * The type of land uses;
- * The specific type of reuse proposed;

- * The party(s) responsible for the distribution and use of the recycled water at the site;
- * Identification of other governmental entities which may have regulatory jurisdiction over the re-use site such as the US Department of Agriculture, State Department of Health Services, Food and Drug Branch, the State Department of Health Services, Licensing and Certification Section, etc. These agencies should also be provided with a copy of the Title 22 Engineering Report for review and comment.
- * Use area containment measures;
- * A map showing:
 - Specific areas of use
 - Areas of public access
 - Surrounding land uses
 - The location and construction details of wells in or within 1000 feet of the use area
 - Location and type of signage
- * The degree of potential access by employees or the public;
- * For use areas where both potable and recycled water lines exist, a description of the cross-connection control procedures which will be used.

In addition to the general information described above, the following should be provided for the following specific proposed uses:

4.1 Irrigation

-Detailed plans showing all piping networks within the use area including recycled, potable, sewage and others as applicable.

-Description of what will be irrigated (e.g. landscape, specific food crop, etc.);

-Method of irrigation (e.g. spray, flood, or drip);

-The location of domestic water supply facilities in or adjacent to the use area;

- Site containment measures;
- Measures to be taken to minimize ponding;
- The direction of drainage and a description of the area to which the drainage will flow;
- A map and/or description of how the setback distances of Section 60310 will be maintained;
- Protection measures of drinking water fountains and designated outdoor eating areas, if applicable;
- Location and wording of public warning signs,
- The proposed irrigation schedule (if public access is included), and
- Measures to be taken to exclude or minimize public contact.

4.2 Impoundments

- The type of use or activity to be allowed on the impoundment;
- Description of the degree of public access;
- The conditions under which the impoundment can be expected to overflow and the expected frequency, and
- The direction of drainage and a description of the area to which the drainage will flow.

4.3 Cooling

- Type of cooling system (e.g. cooling tower, spray, condenser, etc.);
- Type of biocide to be used, if applicable;
- Type of drift eliminator to be used, if applicable, and
- Potential for employee or public exposure, and mitigative measures to be employed.

4.4 Groundwater Recharge

An assessment of potential impacts the proposal will have on underlying groundwater aquifers. The appropriate information

shall be determined through consultation with the Department on a case by case basis.

4.5 Dual Plumbed Use Areas

In accordance with Sections 60313 through 60316 of the Water Recycling Criteria.

4.6 Other Industrial Uses

The appropriate information shall be determined on a case by case basis.

4.7 Use Area Design

The report should discuss how domestic water distribution system shall be protected from the recycled water in accordance with the Regulations Relating to Cross-Connections and the California Waterworks Standards, and how the facilities will be designed to minimize the chance of recycled water leaving the designated use area. Any proposed deviation from the Water Recycling Criteria and necessity therefore, should be discussed in the report.

4.8 Use Area Inspections and Monitoring

The report should describe the use area inspection program. It should identify the locations at the use area where problems are most likely to occur (e.g. ponding, runoff, overspray, cross-connections, etc.) and the personnel in charge of the monitoring and reporting of use area problems.

4.9 Employee Training

The report should describe the training which use area employees will receive to ensure compliance with the Recycled Water Criteria, and identify the entity that will provide the training and its' frequency. The report should also identify any written manuals of practice to be made available to employees.

**CITY COUNCIL MEETING
CONSENT ITEM**

DATE: **September 9, 2008**

TO: **City Council**

FROM: **George Thacker, Assistant Water/Wastewater Director**

SUBJECT: **Accept the Grant of Easement Dedication from Pastor Richard S. Szydlowski of the Mountain Avenue Baptist Church, located on Parcel No. 1 of Parcel Map No. 76-4, as per Map Recorded in book 27, page 61 of Parcel Maps in the Office of the Riverside County Recorder.**

RECOMMENDED: Accept the Grant of Easement Dedication from Pastor Richard S. Szydlowski of the Mountain Avenue Baptist Church, located on Parcel No. 1 of Parcel Map No. 76-4, as per Map Recorded in book 27, page 61 of Parcel Maps in the Office of the Riverside County Recorder, for water purposes, as shown on attached Exhibit "B", and direct the City Clerk to accept and record said easement.

JUSTIFICATION: It is essential that an easement be established in order for the City to gain access and egress to maintain/repair the water facilities serving this property.

BACKGROUND: The Pastor has submitted the required Grant of Easement to the Water Division as part of the conditions of the project on Mountain Avenue. It is essential that the City of Banning accept the easement, as shown on the attached Exhibit "B", in order for the City to properly access and egress the required utilities and to maintain/repair the water facilities serving said property.

FISCAL DATA: Not applicable

RECOMMENDED BY:



James D. Earhart
Director of Public Utilities

REVIEWED BY:

Bonnie Johnson
Finance Director/Assistant City Manager

APPROVED BY:



Brian Nakamura
City Manager

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Riverside

} ss.

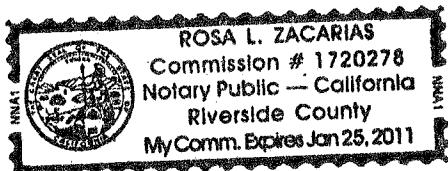
On this the July 8, 2008, before me, Rosa L Zacarias ,Notary Public

Date

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Richard S. Szydłowski

Name(s) of Signer(s)

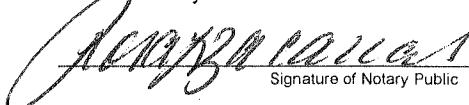


Place Notary Seal Above

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) 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 of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Grant of Easement

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

Individual

Corporate Officer - Title(s): _____

Partner - Limited General

Attorney in Fact

Trustee

Guardian or Conservator

Other: _____

Signer's Name: _____

Individual

Corporate Officer - Title(s): _____

Partner - Limited General

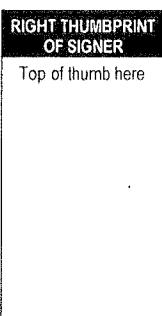
Attorney in Fact

Trustee

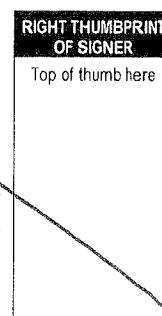
Guardian or Conservator

Other: _____

Signer is Representing:



Signer is Representing:



RECORDING REQUESTED BY:

CITY OF BANNING

WHEN RECORDED, MAIL THIS DEED AND,
REQUIRED UNLESS OTHERWISE SHOWN
BELOW, MAIL TAX STATEMENTS TO:

NAME: KAHONO OEI
P.O. BOX 998
BANNING, CA. 92220

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT OF EASEMENT

DOCUMENTARY TRANSFER TAX IS \$_____

_____ Computed on full value of property conveyed, or
_____ Computed on full value less liens and
encumbrances remaining at time of sale
Unincorporated Area City of Banning

For a valuable consideration, receipt of which is hereby acknowledged,

The Grantor, **MOUNTAIN AVENUE BAPTIST CHURCH**, does hereby grant to the City of Banning, a Municipal Corporation, its respective successors and assigns, an easement and the right to construct, use, operate, maintain, repair, replace and/or remove water supply and distribution system facilities, including pipelines, fire hydrants, metering, regulating and appurtenant equipment for the transportation of water over, under and across that certain parcel of land situated in the City of Banning, County of Riverside, state of California, described as follows: "See Exhibit A legal Description, and Exhibit B Plat, attached hereto and made a part hereof"

Dated 7/8/08

MOUNTAIN AVENUE BAPTIST CHURCH

By: Richard S. Sydorowski
Title: Pastor

See attached for Notary

Attach above or affix to this document a California All Purpose Acknowledgement:

EXHIBIT "A"

THAT PORTION OF PARCEL NO. 1, PARCEL MAP NO. 76-4, AS PER MAP RECORDED IN BOOK 27, PAGE 61 OF PARCEL MAPS, IN THE OFFICE OF THE RIVERSIDE COUNTY RECORDER, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID PARCEL NO. 1 AS SHOWN ON SAID MAP, THENCE WESTERLY ON A BEARING OF SOUTH 89°35'15" WEST A DISTANCE OF 651.02 FEET TO THE POINT OF BEGINNING. SAID POINT BEING A POINT ON THE SOUTH LINE OF CHESTNUT LANE AS SHOWN ON TRACT MAP NO. 30906-1, RECORDED IN BOOK 399 OF MAPS, PAGES 24-32, RECORDS OF SAID COUNTY. THENCE SOUTH 00°24'45" EAST A DISTANCE OF 20.00 FEET; THENCE NORTH 89°35'15" EAST A DISTANCE OF 89.00 FEET; THENCE SOUTH 00°24'45" EAST A DISTANCE OF 14.00 FEET; THENCE NORTH 89°35'15" EAST A DISTANCE OF 25.50 FEET; THENCE SOUTH 00°24'45" EAST A DISTANCE OF 10.00 FEET; THENCE SOUTH 89°35'15" WEST A DISTANCE OF 25.50 FEET; THENCE SOUTH 00°24'45" EAST A DISTANCE OF 133.50 FEET; THENCE NORTH 89°35'15" EAST A DISTANCE OF 252.09 FEET; THENCE NORTH 00°24'45" WEST A DISTANCE OF 17.50 FEET; THENCE NORTH 89°35'15" EAST A DISTANCE OF 15.00 FEET; THENCE SOUTH 00°24'45" EAST A DISTANCE OF 37.50 FEET; THENCE SOUTH 89°35'15" WEST A DISTANCE OF 287.09 FEET; THENCE NORTH 00°24'45" WEST A DISTANCE OF 157.50 FEET; THENCE SOUTH 89°35'15" WEST A DISTANCE OF 89.00 FEET; THENCE NORTH 00°24'45" WEST A DISTANCE OF 40.00 FEET TO A POINT ON THE SOUTH LINE OF CHESTNUT LANE; THENCE NORTH 89°35'15" EAST ALONG SAID SOUTH LINE A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING.

DESCRIPTION PREPARED BY:



STEVEN H. RITCHIEY, P.L.S. 7319

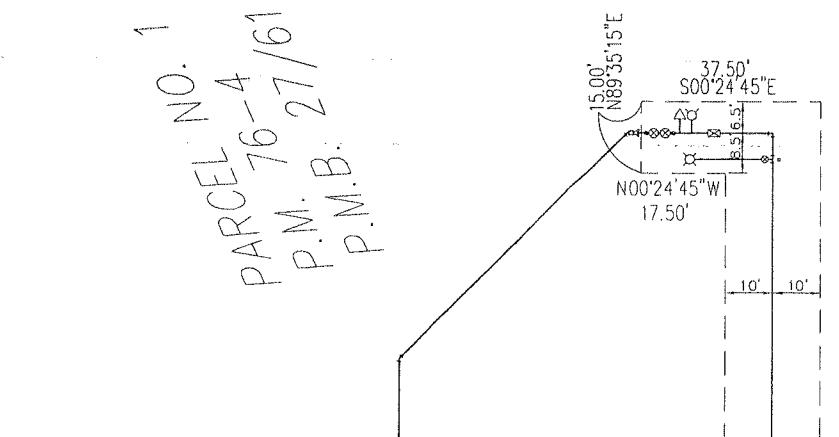
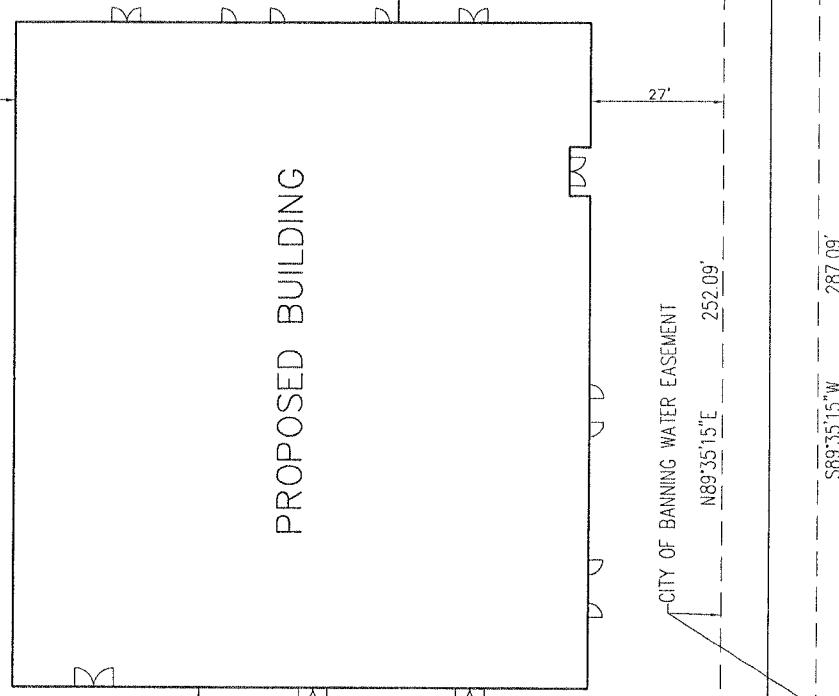
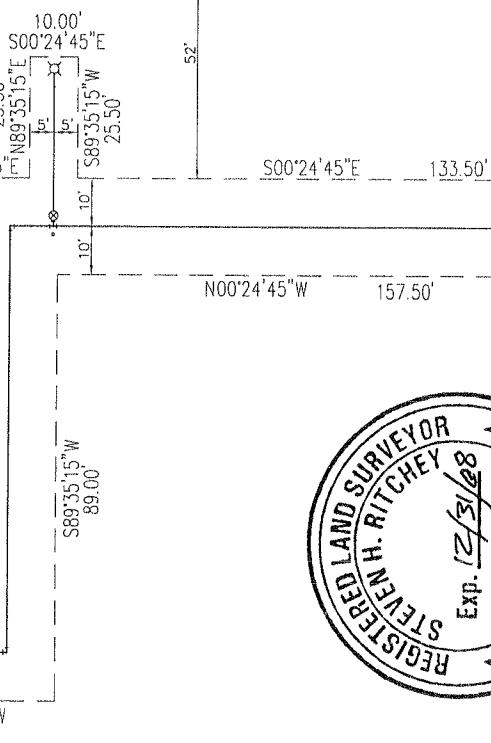
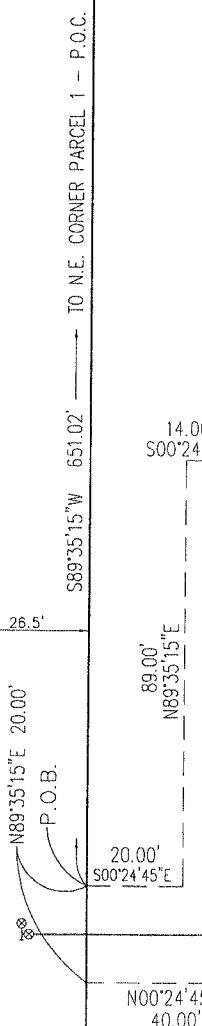


EXHIBIT "B"

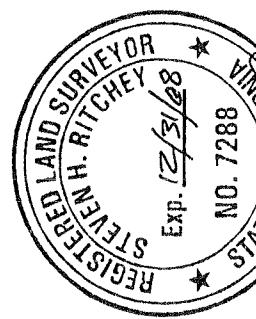
CITY OF BANNING WATER EASEMENT

CHESTNUT LANE

SCALE: 1" = 40'



PARCEL NO. 1
PARCEL 76-4
P.M. 27/61
P.M.B.



Land Engineering Consultants, Inc.
P.O. BOX 541, 650 AVENUE K, CALIMESA, CALIFORNIA 92320
PH: (909) 795-8882, FAX: (909) 795-8818

**CITY COUNCIL AGENDA
CONSENT CALENDAR**

DATE: September 9, 2008

TO: City Council

FROM: Heidi Meraz, Recreation Director

SUBJECT: Update on Stagecoach Days

Recommendation: Receive and file update on Stagecoach Days.

Justification: Council requested an update on the status of Stagecoach Days planning and preparation.

Status of Scheduled Events:

Saturday, September 27th

Kiwanis Club Pancake Breakfast, which will be held at the Banning Community Center.

Downtown Event “On Board with Stagecoach Days” will be held on San Gorgonio Avenue. This event is being produced by the Banning Cultural Alliance and will have interactive booths and activities relative to the Old West period.

Dance and Queens Coronation at the Banning Armory, 7 – 11pm

Monday, September 29th

Street Fair on 1st Street between Ramsey & Hays, 6 – 8pm, event put on by the Banning School District.

Wednesday, October 1st

Rotary Club Grandmother & Grandfather of the Year & Spaghetti Dinner at the Community Center 4:30 – 7:30pm

Thursday, October 2nd

Festival grounds open 5 -10pm

Vendors & Carnival

Riverside County Barrel Racers Association in Arena at 6pm

Friday, October 3rd

Festival grounds open 5 -10pm
Vendors & Carnival
Karaoke in the Beverage Garden 4 – 7pm
Team Penning in Arena at 6PM
Saturday, October 6th

Saturday, October 4th

Parade 10am
At Dysart Park:
Carnival & Vendors
Parade Awards at 12:30
Micro Brewing Competition in the Beverage Garden
Mountain Men Encampment with over 20 camps. Re-enactors will bring history alive throughout the day with their live-in camps. There will be demonstrations and displays of period crafts, arms, clothing and authentic equipment of days gone by.
The Border Renegades will perform old west gunfight shows throughout the day.
Micro Brewing Competition in the Beverage Garden
PRCA Rodeo in Arena 6pm
Western Dance & BBQ in Beverage Garden 8:30 – 10pm. Music by Nitro Express

Sunday, October 6th

Carnival & Vendors
Micro Brewing Competition in the Beverage Garden
PRCA Rodeo in Arena 4pm
Mountain Men Encampment
Gunfighter shows throughout the day

Promotion and Advertising

Advanced Ticket Sales for Carnival & Rodeo will begin September 8th
Web Site www.banningstagecoachdays.com
Street Banners and Wagon Wheels will be placed the second week of September.
Advertising campaigns in print media will begin the week of September 8th
Posters and flyers will continue to be distributed until the event begins.
Time Warner will run a 30 second PSA for the 2008 Stagecoach Days in Banning four hundred (400) times across available cable network channels throughout the Desert Cities system. The PSA will air beginning Monday, September 15, 2008.

Sponsorships and Program Ads

Sponsorships are currently being sought and program ads are being sold.

PREPARED BY:



Heidi Meraz
Recreation Director

REVIEWED BY:



Bonnie Johnson
Finance Director

APPROVED BY:



Brian Nakamura
City Manager

**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: September 9, 2008

TO: City Council

FROM: Bonnie Johnson, Finance Director

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

The reports are:

Expenditure approval lists	
June 5, 2008	922,689.72
Manual check date June 9, 2008	76.75
June 12, 2008	2,407,898.25
June 19, 2008	1,093,586.29
Manual check date June 24, 2008	151.93
June 26, 2008	1,213,498.93
June 30, 2008	409,100.80
July 10, 2008	3,048,167.98 (June Month End)
Payroll check registers	
Manual check date June 5, 2008	637.13
Manual check date June 5, 2008	335.04
Manual check date June 5, 2008	90.98
June 6, 2008	9,568.55
Manual check date June 10, 2008	1,201.29
Manual check date June 12, 2008	2,669.91
June 20, 2008	12,013.74
Manual check date June 23, 2008	453.90
Payroll direct deposits*	
June 6, 2008	339,732.35
June 20, 2008	346,429.15

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 June month end expenditure approval list of 07/10/2008.

⁽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 AGENDA
CONSENT ITEM

Date: September 9, 2008

TO: City Council

FROM: Bonnie Johnson, Finance Director

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

The reports are:

Expenditure approval lists	
July 2, 2008	2,248,111.94
July 10, 2008	175,935.79
Manual check date July 15, 2008	113.36
July 17, 2008	674,201.03
Manual check date July 22, 2008	-9,499.14
July 24, 2008	1,000,146.54
July 31, 2008	454,438.26
August 12, 2008	3,270,151.05 (July Month End)
Payroll check registers	
July 3, 2008	18,489.03
Manual check date July 18, 2008	2,388.00
Manual check date July 18, 2008	908.24
July 18, 2008	20,126.89
Manual check date July 31, 2008	243.90
Payroll direct deposits*	
July 3, 2008	347,568.83
July 18, 2008	349,023.62

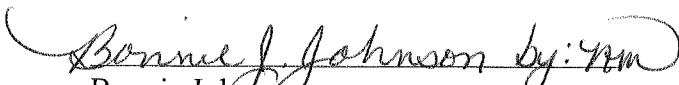
As you review the reports, if you have any questions please contact the Finance Department so that we can gather the information from the source documents and provide a response.

* Included on the July month end expenditure approval list of 08/12/2008.

⁽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

**STAFF REPORT
ORDINANCE – INTRODUCTION**

DATE: **September 9, 2008**

TO: **Honorable Mayor and City Council Members**

FROM: **Julie Hayward Biggs, City Attorney**

SUBJECT: **Increase of Council Compensation**

RECOMMENDATION:

That the City Council introduce Ordinance No. 1395 amending the City Municipal Code to increase compensation of City Council Members.

BACKGROUND & ANALYSIS:

State law allows cities to enact an ordinance providing that each member of the City Council may receive a salary based on the population of the City. The base salary may be up to \$300 for cities with a population of up to 35,000 people. Section 2.03.040 of the City's Municipal Code provides that City Council Members may receive a base salary of \$300 per month.

State law also allows the City to increase the base compensation amount, through an ordinance amendment, by 5% for each calendar year that has passed since the last increase. However, State law will not allow this increase in compensation to take place during a council member's term of office. The adjustment in salary for all City Council Members may only take place when one or more members become eligible for a salary increase because he or she is beginning a new term of office.

City Council Member base salary has been increased over the years until it has reached its current amount of \$390. The base salary may now be increased, should the Council so desire, by 10% (\$39) to equal \$429 for December 2008, when new terms of office begin.

FISCAL IMPACT:

Adoption of this ordinance will result in an increase in the total cost of compensation paid to the City Council by \$2,519 per year.

ORDINANCE NO. 1395

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AMENDING SECTION 2.04.030 OF THE BANNING MUNICIPAL CODE REGARDING COMPENSATION OF CITY COUNCIL MEMBERS IN THE AMOUNT AND AT THE TIME ALLOWED BY LAW

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

SECTION 1. Section 2.04.030 of the Banning Municipal Code is hereby amended to read in its entirety as follows:

"Section 2.04.030. Compensation

(a) Pursuant to California Government Code § 36516(a)(1), each council person shall receive a monthly salary of \$300.00.

(b) Pursuant to California Government Code § 36516.5 the increase in salaries provided for in subsection (c) shall become effective upon the seating of the next succeeding council following the November 2008 municipal election.

(c) In accord with the provisions of Government Code Section 36516 et seq., the compensation of members of the city council is hereby increased by ten percent over the amount established for calendar year 2006, for service commencing in December 2008. The total compensation as so increased shall be \$429.00 per month and shall take effect as to all members of the city council only upon the commencement of the new or re-elected term of office by any member of council, as provided in Government Code Section 36516.5."

SECTION 2. 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 3. NON-EXCLUSIVITY. Nothing in this Ordinance shall limit or preclude the enforcement of other applicable laws.

SECTION 4. EFFECTIVE. This Ordinance shall take effect thirty (30) days after its enactment in accord with California law.

SECTION 5. PUBLICATION. The City Clerk is directed to cause 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.

INTRODUCED at the regular meeting of September 9, 2008.

PASSED, APPROVED, AND ADOPTED this _____ day of _____, 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
City of Banning

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1395 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 9th day of September, 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:

ABSENT:

ABSTAIN:

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

**CITY COUNCIL
PUBLIC HEARING**

Date: September 9, 2008

TO: Honorable Mayor and City Council Members

FROM: Community Development Department

SUBJECT: General Plan Amendment #08-2501 & Zone Change #08-3501: Consideration of a Request to amend the General Plan Land Use Element and Zoning Map by changing the land use designation from Industrial (I) to General Commercial (GC) for the properties generally located at the southwest corner of San Gorgonio Avenue and Lincoln Street (APN No. 540-250-008 & 061).

RECOMMENDATION:

City Council adoption of Ordinance No. 1397, approving General Plan Amendment #08-2501 and Zone Change #08-3501.

JUSTIFICATION: The proposed General Plan Amendment and Zone Change are consistent with the General Plan. The Planning Commission has reviewed these amendments and after taking testimony in a noticed public hearing on August 5, 2008, adopted Resolution 2008-16 recommending approval of General Plan Amendment #08-2501 and Zone Change #08-3501.

BACKGROUND: On August 5, 2008 the Planning Commission reviewed the proposal in a noticed public hearing and voted 4-0 to recommend approval to change the zoning on the parcel from Industrial (I) to General Commercial (GC).

PROJECT DESCRIPTION AND ANALYSIS

General Plan Amendment #08-2501 & Zone Change #08-3501 is a request by Mr. Darwin Manuel (applicant) to amend the General Plan Land Use Element and Zoning Map from Industrial (I) to General Commercial (GC) for the properties generally located at the southwest corner of San Gorgonio Avenue and Lincoln Street (Attachment 2, Vicinity Map). The proposal is a request to establish commercial/retail opportunities on the project site. The proposed land use and zone change sites involve two vacant parcels that contain approximately 3.75 acres and .75 acres.

Surrounding Neighborhood

The project site is surrounded by a variety of land uses. To the north and west is industrial zoned property which includes a non-conforming residence and a convenience store. To the east is the City yard and to the south is vacant residential property with an approved tentative residential subdivision map (Barbour Villas).

Project Analysis

Mr. Manuel currently has a buyer for a portion of the larger parcel on the project site who is very interested in building a "John's Restaurant" (similar in style to Farmer Boys). This is the primary reason staff is supporting the proposed General Plan Amendment and Zone Change. Staff has met with the owner of John's Restaurant and he will be submitting a Design Review application in the near future for Commission consideration. The applicant has also stated that the owner of John's Restaurant feels that the project site is an excellent location given its proximity to residential and industrial neighborhoods. They anticipate that the new restaurant will be very successful in attracting both industrial and office employees from the surrounding businesses. John's Restaurant is a successful restaurant which has locations in the cities of Palm Springs, Artesia, Chino and in several other locations in the inland empire.

In evaluating the General Plan Amendment and Zone Change, the Council has certain findings that need to be made to recommend approval of the project to City Council. First, staff believes that the proposed amendment is internally consistent with the General Plan in that the proposed land use designation will not cause any inconsistencies with the other elements of the General Plan. Second, the proposed amendment will not be detrimental to the public interest, health, safety, convenience or welfare of the City in that the proposed land use designation from Industrial (I) to General Commercial (GC) will create new commercial/retail opportunities for the industrial and residential neighborhoods south of the I-10 freeway that do not currently exist. These new commercial and retail opportunities will certainly result in increased sales tax revenues to the City's general fund (an important factor given the economic status of the region).

Third, the proposed amendment will maintain the appropriate balance of land uses within the City because there is a limited number of commercially zoned parcels in the southern section of the City that have land use designations that will encourage and promote commercial/retail development for Banning residents. Lastly, the subject parcels are physically suitable (including, but not limited to, access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints) for the requested land use designation and the anticipated land use developments.

The Kosmont Study recently reviewed by the City Council identified a lack of commercial/retail opportunities in the southern portion of the City. Approval of the general plan amendment and zone change will provide an opportunity for commercial

development in the southern portion of the City and may stimulate additional commercial and industrial development in the area.

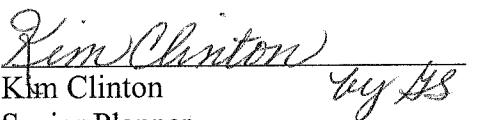
Summary Statement

Both the City Council and the Planning Commission have expressed an interest in attracting more sit-down restaurants to Banning. The location of these parcels at the corner of Lincoln Street and San Gorgonio Avenue near existing residences and industrial businesses makes the proposed General Commercial zoning a more compatible zoning designation than the current Industrial zoning. Given the size of the project site, commercial/retail projects would be much easier to develop than industrial uses. Also, as the Paseo San Gorgonio Overlay District is approved and implemented to help revitalize the downtown area, the proposed zoning on the project site would be an appropriate transition to the more intense industrial uses further down Lincoln Street.

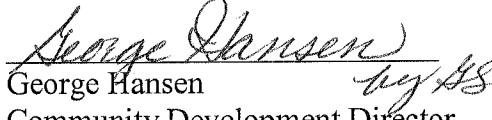
PLANNING COMMISSION RECOMMENDATION: On August 5, 2008, the Planning Commission approved Resolution No. 2008-16, recommending to the City Council approval of General Plan Amendment #08-2501 and Zone Change #08-3501. The Resolution indicates that the proposed amendments are Categorically Exempt under Section 15332 (Class 32, (In-fil Development) of CEQA. The proposed amendments as approved will be consistent with the General Plan and Zoning Ordinance, the parcel is smaller than five acres, the project site has no value as habitat for endangered, rare or threatened species, the project will not have a significant effect upon the environment and the site can adequately be served by utilities and public services.

FISCAL DATA: These amendments will have no fiscal impact.

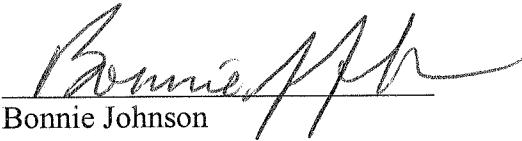
RECOMMENDED BY:


Kim Clinton
Senior Planner

REVIEWED BY:


George Hansen
Community Development Director

REVIEWED BY:


Bonnie Johnson
Finance Director

APPROVED BY:


Brian Nakamura
City Manager

Exhibits:

1. Ordinance No.1397
2. Vicinity Map

*GPA #08-2501
& ZC #08-3501
SAN G KONSOLIDATED*

*ORDINANCE
NO. 1397*

EXHIBIT “1”

ORDINANCE NO. 1397

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING GENERAL PLAN AMENDMENT #08-2501 AND ZONE CHANGE #08-3501 TO AMEND THE GENERAL PLAN LAND USE MAP AND ZONING MAP FROM INDUSTRIAL (I) TO GENERAL COMMERCIAL (GC) FOR THE PROPERTIES GENERALLY LOCATED AT THE SOUTHWEST CORNER OF SAN GORGONIO AVENUE AND LINCOLN STREET. (APN 540-250-008 & 061).

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 General Plan Amendment and Zone Change to change the land use and zoning from Industrial (I) to General Commercial (GC) has been duly filed by:

Applicant / Owner:	San G Konsolidated and Robert W. Crawley
Authorized Agent:	Darwin Manuel
Project Location:	SWC of Lincoln and San Gorgonio Avenue
APN Number:	APN 540-250-008 & 061
Lot Area:	3.75 acres and .74 acres

WHEREAS, in accordance with Government Code § 65854, on July 25, 2008 the City gave public notice by advertisement in the Record Gazette 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 August 5, 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 this public hearing the Planning Commission considered, heard public comments on, and on August 5, 2008 adopted Resolution No. 2008-16 recommending approval of the proposed zone change; and

WHEREAS, in accordance with Government Code § 65854, on August 29, 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 September 9, 2008 the City Council held the noticed public hearing 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 September 9, 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: Upon submittal of the applications, staff reviewed the proposed project in accordance with the California Environmental Quality Act (CEQA) guidelines. After examining the proposed project, staff determined that the project is Categorically Exempt under Section 15332 (Class 32, (In-fil Development) of CEQA. The proposed project as approved will be consistent with the General Plan and Zoning Ordinance, the parcel is smaller than five acres, the project site has no value as habitat for endangered, rare or threatened species, the project will not have a significant effect upon the environment and the site can adequately be served by utilities and public services.

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 GENERAL PLAN AMENDMENT FINDINGS.

Pursuant to Banning Municipal Code Section 17.44.010, the City Council makes the following findings pertaining to GPA #08-2501 and Zone Change #08-3501:

1. The proposed amendment is internally consistent with the General Plan in that the proposed land use designation will not cause any inconsistencies with the other elements of the General Plan.
2. The proposed amendment will not be detrimental to the public interest, health, safety, convenience or welfare of the City in that the proposed land use designation from Industrial (I) to General Commercial (GC) will create new commercial/retail opportunities for the industrial and residential neighborhoods south of the I-10 freeway that do not currently exist. These new commercial and retail opportunities will certainly result in increased sales tax revenues to the City's general fund (an important factor given the economic status of the region)

3. The proposed amendment will maintain the appropriate balance of land uses within the City in that this project proposes to change the general plan land use designation from Industrial (I) to General Commercial (GC). This amendment will maintain appropriate balance of land uses within the City because there is a limited number of parcels in the southern section of the City that have land use designations that will encourage and promote commercial/retail development for Banning residents.
4. The subject parcels are physically suitable (including, but not limited to, access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints), for the requested land use designation and the anticipated land use developments. The project proposes to change the land use element of the general plan from Industrial (I) to General Commercial (GC) and the area where the site is located will be adequately served by utilities, will have proper access per City code, and will be compatible with the surrounding uses.

SECTION 3. REQUIRED ZONE CHANGE FINDINGS

Pursuant to Banning Municipal Code, the City Council makes the following findings pertaining to Zone Change No. 08-3501 a zoning change from Industrial (I) to General Commercial (GC):

1. The proposed zone change is consistent with the goals and policies of the General Plan.

The property is located in the Industrial Zone on the southwest corner of Lincoln Street and San Gorgonio Avenue. This area is made up of a variety of land uses including single family neighborhoods to the south, industrial uses to the east and west and commercial uses to the north. The proposed zone change supports the General Plan Vision Statement that includes: “Well balanced commercial development where revenue generating commercial neighborhoods provides a diversified economy and a wide range of jobs, where people can work without needing their cars and where revitalization and beautification provide a safe and enjoyable shopping experience for visitors and residents alike.”

Furthermore, Policy 1 of the Commercial and Industrial Goals, Policies and Programs states that: *“The land use map shall include sufficient commercial lands to provide a broad range of products and services to the City and region while carefully considering compatibility with adjacent residential lands”*. The proposed zone change is on parcels that are on the boundary of a residential neighborhood and on a street that straddles the transition area between industrial and residential uses. A commercial/retail development at this corner would be a compatible transitional use, as well as, would serve as both a buffer and a gateway between commercial uses to the north on San Gorgonio Avenue, industrial uses along Lincoln Street east and west of the site and residential uses to the south.

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

Changing the zone from Industrial to General Commercial will not cause any internal inconsistencies with the Zoning Ordinance. Because the uses allowed in commercial zones are generally compatible with the surrounding industrial and residential uses and provides a transition between the less intense residential zone and the industrial properties. Furthermore, the land is located in an urbanized environment and City water, sewer and other services are existing and available to serve the site. Lincoln Street is a major highway and is adequately designed to carry the traffic generated by the zoning type. Thus, the proposed project is not anticipated to result in exceeding, either cumulatively or individually, any applicable level of service standards.

SECTION 4. CITY COUNCIL ACTION.

The City Council hereby takes the following actions:

1. **Notice of Exemption.** In accordance with Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062 the City Council hereby approves that General Plan Amendment No. 08-2501 and Zone Change No. 08-3501 for a land use and zoning change from Industrial (I) to General Commercial (GC) is Categorically Exempt from CEQA as outlined in Section 15332 (In-fill Projects).
2. **Approve General Plan Amendment No. 08-2501.** Approve General Plan Amendment No. 08-2501 changing the land use from Industrial (I) to General Commercial (GC) as shown in Exhibit A of this Resolution which is attached hereto and incorporated herein by reference.
3. **Approve Zone Change No. 08-3501.** Approve Zone Change No. 08-3501 changing the zoning from Industrial (I) to General Commercial (GC) as described and shown in Exhibit B of this Resolution which is attached hereto and incorporated herein by reference.

PASSED, APPROVED AND ADOPTED this _____ day of September, 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
City of Banning

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1397 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 9th day of September, 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:

ABSENT:

ABSTAIN:

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

EXHIBIT 'A'

POR. SEC 9 T. 3S., R. 1E
CITY OF BANNING

(22)

WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY
IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. ASSESSOR'S PARCEL
COMPLY WITH LOCAL LOT-SPLIT OR BUILDING SITE ORDINANCES.

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Exhibit 'B'

Legal Description

General Plan Amendment No. 08-2501 & Zone Change No. 08-3501

BLOCKS 296 AND 297 OF SUBDIVISION OF LANDS ADJOINING BANNING ON THE SOUTHWEST, BEING PARTS OF SECTION 9 AND 16, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO BASE AND MERIDIAN, ON FILE IN BOOK 14, PAGE 662 OF MAPS, RECORDS OF SAN DIEGO COUNTY, CALIFORNIA.

EXCEPTING FROM SAID BLOCK 296 THE SOUTH 377.00 FEET; AND

ALSO, EXCEPTING FROM SAID BLOCK 297 THE WEST 60 FEET OF THE SOUTH 377.00 FEET; AND

ALSO, EXCEPTING FROM SAID BLOCK 297 THE EAST 125 FEET OF THE NORTH 290 FEET; AND

ALSO, EXCEPTING FROM BLOCK 297 THE SOUTH 242 FEET OF THE EASTERLY 270 FEET.

EXHIBIT "B"

*GPA #08-2501
& ZC #08-3501
SAN G KONSOLIDATED*

VICINITY MAP

EXHIBIT “2”

Attachment 2



Vicinity Map

Not to Scale

General Plan Amendment No. 08-2501 & Zone Change No. 08-3501

**CITY COUNCIL
PUBLIC HEARING**

Date: September 9, 2008

TO: Honorable Mayor and City Council Members

FROM: Community Development Department

SUBJECT: General Plan Amendment #08-2502 & Zone Change #08-3503: Consideration of a Request to Amend the General Plan Land Use Element and Zoning Map from General Commercial (GC) to Business Park (BP) for the property located at 2909 W. Lincoln Street (APN 538-190-015).

RECOMMENDATION:

City Council adoption of Ordinance No. 1398, approving General Plan Amendment #08-2502 and Zone Change #08-3503.

JUSTIFICATION: The proposed General Plan Amendment and Zone Change are consistent with the General Plan. The Planning Commission has reviewed these amendments and after taking testimony in a noticed public hearing on August 5, 2008, adopted Resolution 2008-17 recommending approval of General Plan Amendment #08-2502 and Zone Change #08-3503.

BACKGROUND: On May 2, 2007, a Planning Commission and City Council joint meeting/workshop discussion took place regarding non-conforming uses and structures and, more specifically, the reintroduction of the Commercial Manufacturing (CM) land use/zone along Lincoln Street. The application to rezone Sunset Storage from General Commercial to Business Park was one of the catalysts to this discussion. As a result of not only the issue of non-conformities along Lincoln Street, but broader concerns regarding market conditions in the City, the City Council and Planning Commission approved a moratorium on new warehousing/storage uses until a City-wide market study and strategy could be developed. This effectively tabled the application for the Sunset Storage Zone Change until the moratorium was over. The moratorium expired on June 25, 2008. On August 5, 2008 the Planning Commission reviewed the proposal in a noticed public hearing and voted 4-0 to recommend approval to change the zoning on the parcel from General Commercial to Business Park.

PROJECT DESCRIPTION AND ANALYSIS

General Plan Amendment #08-2502 and Zone Change #08-3503 is a request by Mr. Gene Taylor to amend the General Plan Land Use Element and Zoning Map from General Commercial (GC) to Business Park (BP) for the property located at 2909 W. Lincoln

Street. This request will affect an 8.28 acre parcel located on the north side of Lincoln Street approximately 600 feet east of Sunset Avenue (Attachment 2, Vicinity Map). Currently there is a mix of leased uses located in the development. The site includes a 97,800 square-foot self storage facility located on the eastern and northern portions of the property. The remainder of the site includes several buildings that include a mix of commercial and industrial/business park type uses totaling 53,880 square feet. Staff has provided a copy of a matrix for Council consideration that illustrates the uses on the property (Attachment 3).

Zoning History and Current Conditions

The complex was originally built in 1985 when the zoning was Manufacturing (M). In 1991 the zoning was changed to General Commercial (C-2). In 1998 and 1999, the self storage portion of the project was expanded. Although self-storage was not listed as a permitted use in the zoning code (see permitted uses from the 1993 code attached), self-storage was interpreted to be a conditionally permitted use in the General Commercial zone and two conditional use permits were processed to add 15,600 and 23,400 square feet, respectively to the self storage facility.

Please see attached letter from applicant Gene Taylor (Attachment 4), wherein he states that he is having trouble finding tenants. Additionally, he has stated that he cannot get a loan to upgrade his property because it contains non-conforming uses. The property is in need of renovation which the applicant is planning to do upon approval of the General Plan Amendment and Zone Change. The storefronts are "dated" and the landscaping and screening on the site is in disrepair. With or without the zone change, the project site needs physical improvements. Mr. Taylor is not alone in his dilemma in regard to nonconforming issues. The City has many obsolete and nonconforming properties that are not generating enough business for the owners to upgrade their buildings and properties. Business loans are difficult to obtain in the current market (especially when a site has nonconforming uses) and even the owners of viable new commercial projects are having difficulty securing construction loans.

Attached for the Council's consideration, are copies of the permitted uses matrixes from the Zoning Ordinance prior to and after the 2006 Zoning Ordinance update (Attachments 5 & 6). Many of the commercial businesses that are leased on the subject site are currently permitted by right since they are considered retail uses or have a retail warehouse component. The self-storage units are the only buildings on the site that have received approval via a conditional use permit. Since there are permitted uses in the General Commercial zone that would be suitable tenants for the complex, to state that the center is not rentable and completely non-conforming due to the zoning is not entirely accurate. For example, warehousing with point of sale, auto and auto body repair, hardware and garden stores, light assembly and/or repair of household goods, dry cleaning plants and several other uses are permitted and presumably could rent space in the high bay portion of the center located behind the retail strip.

It is important to note that the permitted uses listed in the code for General Commercial are substantially unchanged from the 1990's to the 2006 update except for very minor changes. County records show the site was last sold in 2003 and prior to that in 1993. As evidenced by the use matrices, warehousing, storage, trucking and manufacturing have not been permitted at this location since 1993.

Surrounding Neighborhood

Directly west of the site is a 7.91 acre vacant parcel at the NEC corner of Sunset Avenue and Lincoln Street. It is also zoned General Commercial. To the east are nonconforming residences in the same zone. To the north is the Union Pacific Railroad right-of-way and tracks.

Because there is an existing residential neighborhood directly south of this parcel, truck traffic, noise and screening are important considerations. The addition of trucking, contractor yards, warehousing, sheet metal and other manufacturing uses have the potential to conflict with the residential uses to the south. A change in zone would permit these uses and conceivably the present mix of low-intensity uses could be converted to warehousing or manufacturing uses exclusively and that could greatly change the character of this site.

Kosmont Study

The Kosmont study recommended that zoning be adjusted to be compatible with existing uses, and that the City codes should be strictly enforced. The study also concluded that the areas adjacent to the I-10 and Highland Springs Avenue and Sunset Avenue are the most viable commercial retail sites in the City. Although single family development is currently at a standstill, if the development of the Loma Linda, Lariat and Five Bridges Specific Plans move forward in the future, Sunset Avenue will be the primary I-10 off-ramp and access road for those developments. Furthermore, construction of the Sunset Avenue grade separation will remove one of the major infrastructure hurdles to development south of the railroad tracks, increasing the commercial viability of this site.

Summary Statement

A Business Park use can coexist with adjacent residential uses if the impacts are mitigated through well-thought-out design and by ensuring that the tenant mix is compatible with the adjacent properties. As it currently exists, the Sunset Storage complex has low impact retail uses facing Lincoln Street and more industrial uses located in the interior of the site.

With a facelift (the applicant has committed to doing this in the near future), the complex has the potential to be an asset to the neighborhood and will provide a mix of tax-

generating small businesses and neighborhood services, as well as small warehouse/light assembly uses. If the Council wishes to support the applicant in his desire to eliminate the nonconforming status of the project, approval of the General Plan Amendment and Zone Change will be a significant step forward in assisting the applicant to revitalize the site.

PLANNING COMMISSION RECOMMENDATION: On August 5, 2008, the Planning Commission approved Resolution No. 2008-17, recommending to the City Council approval of General Plan Amendment #08-2502 and Zone Change #08-3503. The Resolution indicates that the proposed amendment is not a project as stipulated 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.

FISCAL DATA: These amendments will have no fiscal impact.

RECOMMENDED BY:

Kim Clinton
Kim Clinton
Senior Planner
by SS

REVIEWED BY:

George Hansen
George Hansen
Community Development Director
by GS

REVIEWED BY:

Bonnie Johnson
Bonnie Johnson
Finance Director

APPROVED BY:

Brian Nakamura
Brian Nakamura
City Manager

Exhibits:

1. Ordinance No.1398
2. Vicinity Map
3. Lease Matrix
4. Letter from Applicant
5. Land Use Matrix prior to 2006 Update
6. Land Use Matrix after 2006 Update

*GPA #08-2502
& ZC #08-3503
SUNSET STORAGE*

*ORDINANCE
NO. 1398*

EXHIBIT “1”

ORDINANCE NO. 1398

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING GENERAL PLAN AMENDMENT #08-2502 AND ZONE CHANGE #08-3503 TO AMEND THE GENERAL PLAN LAND USE MAP AND ZONING MAP FROM GENERAL COMMERCIAL (GC) TO BUSINESS PARK (BP) FOR THE PROPERTY LOCATED AT 2909 W. LINCOLN STREET (APN 538-190-015).

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 General Plan Amendment and Zone Change to change the land use and zoning from General Commercial (GC) to Business Park (BP) has been duly filed by:

Applicant / Owner:	Banning Storage LLC
Authorized Agent:	Gene Taylor
Project Location:	2909 W. Lincoln Street
APN Number:	APN 538-190-015
Lot Area:	8.21 acres

WHEREAS, in accordance with Government Code § 65854, on July 25, 2008 the City gave public notice by advertisement in the Record Gazette 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 August 5, 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 this public hearing the Planning Commission considered, heard public comments on, and on August 5, 2008 adopted Resolution No. 2008-17 recommending approval of the proposed zone change; and

WHEREAS, in accordance with Government Code § 65854, on August 29, 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 September 9, 2008 the City Council held the noticed public hearing 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 September 9, 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 the requirements of the California Environmental Quality Act (CEQA) in that General Plan Amendment No. 08-2502 and Zone Change No. 08-3503 for a land use and zoning change from General Commercial (GC) to Business Park (BP) is Categorically Exempt from CEQA as outlined in Section 15061(b)(3) in that it is consistent with all applicable General Plan policies and that there is no potential that the GPA/ZC will result any significant effects on the environment until development is proposed for the site, at which time an initial study will be required. As such, the project meets the criteria for exemption under the CEQA Guidelines.

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 GENERAL PLAN AMENDMENT FINDINGS.

Pursuant to the Banning Municipal Code, the City Council makes the following findings pertaining to General Plan Amendment No. 08-2502 for a land use change from General Commercial (GC) to Business Park (BP):

1. The proposed amendment is internally consistent with the General Plan in that the proposed land use designation will not cause any inconsistencies with the other elements of the General Plan.
2. The proposed amendment will not be detrimental to the public interest, health, safety, convenience or welfare of the City in that the proposed general plan land use designation from General Commercial (GC) to Business Park (BP) will not be detrimental to the public interest, health, safety, convenience or welfare because the existing uses within the business park complex are very light industrial uses that have existed for 20 years. Further, with the non-conforming status being

resolved through approval of the land use designation change, the property owner will be able to secure new financing to physically and architecturally upgrade and improve the site.

3. The proposed amendment will maintain the appropriate balance of land uses within the City in that this project proposes to change the general plan land use designation from General Commercial (GC) to Business Park (BP). This amendment will maintain appropriate balance of land uses within the City because the site is only 8.2 acres in size and there are adequate sites available in the City for additional General Commercial zoning opportunities. This will still enable the City to promote and encourage commercial/retail development for Banning residents that will bring in sales tax revenues.
4. The subject parcels are physically suitable (including, but not limited to, access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints), for the requested land use designation and the anticipated land use developments. The project proposes to change the land use element of the general plan from General Commercial (GC) to Business Park (BP) and the area where the site is located will be adequately served by utilities, will have proper access per City code, and will be compatible with the surrounding uses.

SECTION 3. REQUIRED ZONE CHANGE FINDINGS

Pursuant to Banning Municipal Code, the City Council makes the following findings pertaining to Zone Change No. 08-3503, a zoning change from General Commercial (GC) to Business Park (BP):

1. The proposed zone change is consistent with the goals and policies of the General Plan.

The proposed Amendment is consistent with the goals and policies of the general plan because the property is located in the General Commercial Zone of the General Plan at 2909 W. Lincoln Street. This area is made up of a variety of land uses including single family development on the south, General Commercial zoned land to the west General Commercial to the east and the Union Pacific Rail Road tracks to the north. Policy 1 of the Commercial and Industrial Goals, Policies and Programs is: "The land use map shall include sufficient commercial lands to provide a broad range of products and services to the City and region while carefully considering compatibility with adjacent residential lands". The Business Park designation allows for a broad range of products and services.

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

Changing the zone from General Commercial to Business Park is internally consistent with the Zoning Ordinance because the uses allowed in Business Park zones are generally compatible with the existing and surrounding

industrial/business park and residential uses. Furthermore, the land is located in an urbanized environment and City water, sewer and other services are existing and available to serve the site. Lincoln Street is a major highway and is adequately designed to carry the traffic generated by the zoning type. Thus, the proposed project is not anticipated to result in exceeding, either cumulatively or individually, any applicable level of service standards.

SECTION 4. CITY COUNCIL ACTION.

The City Council hereby takes the following actions:

1. **Notice of Exemption.** In accordance with Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062 the City Council hereby approves that General Plan Amendment No. 08-2502 and Zone Change No. 08-3503 for a land use and zoning change from General Commercial (GC) to Business Park (BP) is Categorically Exempt from CEQA in that there is no potential that the GPA/ZC will result any significant effects on the environment until development is proposed for the sites, at which time an initial study will be required.
2. **Approve General Plan Amendment No. 08-2502.** Approve General Plan Amendment No. 08-2502 changing the land use from General Commercial (GC) to Business Park (BP) as shown in Exhibit A of this Resolution which is attached hereto and incorporated herein by reference.
3. **Approve Zone Change No. 08-3503.** Approve Zone Change No. 08-3503 changing the zoning from General Commercial (GC) to Business Park (BP) as described and shown in Exhibit B of this Resolution which is attached hereto and incorporated herein by reference.

PASSED, APPROVED AND ADOPTED this _____ day of September, 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
City of Banning

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1398 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 9th day of September, 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:

ABSENT:

ABSTAIN:

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

Exhibit 'B'

Legal Description

General Plan Amendment No. 08-2502 & Zone Change No. 08-3503

**LOT 7 OF C.D. BARKER'S SUBDIVISION AS SHOWN BY MAP ON FILE IN
BOOK 7, PAGE 21 OF MAPS, RECORDS OF RIVERSIDE COUNTY**

EXHIBIT "B"

*GPA #08-2502
& ZC #08-3503
SUNSET STORAGE*

VICINITY MAP

EXHIBIT “2”

Attachment 2



Vicinity Map

Not to Scale

General Plan Amendment No. 08-2502 & Zone Change No. 08-3503

*GPA #08-2502
& ZC #08-3503
SUNSET STORAGE*

LEASE MATRIX

EXHIBIT “3”

SUNSET STORAGE INDUSTRIAL/COMMERCIAL TENANTS

Unit #	Business Name	Type of Business	Contact Person	Sq Ft	Initial Start Date	1st Renewal	Current Renewal	BP Zone Permitted
101	RV Casuals	Retail - Aparel	Kay & Ted Palotoy	1001	10/31/2006	10/31/2006	10/30/08	P
102	RV Casuals	Retail - Aparel	Kay & Ted Palotoy	2163	???	5/1/2007	9/30/08	P
103	Greeno Construction	Contractor	Everett Greeno	1624	9/1/2006	10/1/2007	9/30/08	P
104	Ronald Thompson	Storage overflow	Ron Thompson	1624	???	10/1/2007	9/30/08	P
105	Flex Temp Corp	Temp agency	Derek Bergeon	1624	10/1/2007	10/1/2007	9/30/08	P
106-108	Celebrity Carpets	Carpet distribution	Willie Mendoza	4648	1/15/2002	6/1/2008	5/31/09	P
109	Lighting FX	Gen'l Merchandise;retail	Everett Greeno	1624	8/1/2007	???	7/31/2008	P
110	JK Hair	Hair Salon	ED & Wantanna Srisoopan	1624	1/1/2007	???	12/31/16	P
201	Dream Team/Auto Sounds	car stereo shop	Tony/Priscilla Ann Torres	1624	8/16/2006	???	8/15/08	P
202-203	Daddy & Sons Enterprises	retail store	Deborah Whaley	3248	8/1/2007	???	7/31/08	P
204	RB Desert Sales, Inc. dba Red Bull	Warehouse/Distribution	Mark Iverson 602-453-9130	1624	???	8/29/2007	8/31/09	P
205	M&D Performance	Boat equipment sales	Nick constantino	1624	???	10/1/2006	9/30/08	P
206	Kool Kat Productions	retail, warehouse-clothing???	David Kelsey	1624	9/1/2007	???	8/31/08	P
207	Kentwood Industries, Inc	retail-college products	Roland E. Lau	1624	5/1/2007	???	4/30/09	P
208	Currently Vacant	Unknown at this time	Unknown at this time	1624	N/A	N/A	N/A	N/A
209	Xenia Pacific Company	warehousing- promotion items	Oleg Ivanshuck	1624	???	1/1/2008	12/31/10	P
210	Inland Distributing	soft drink distribution	William Gray	1624	???	11/1/2006	10/31/08	P
301-302	Coach	warehouse	Anthony J. Galvin 212-631-2070	5250	5/14/2007	???	5/14/11	P
303	Currently Vacant	Unknown at this time	Unknown at this time	2625	N/A	N/A	N/A	N/A
304	Michael Dickerson	insulation contractor	Mike Dickerson 909 567-6670	2625	8/1/2007	???	7/31/09	P
401	Quality World Imports	wholesaler	Scott Pearce 760-325-4516	2625	11/1/2007	10/31/2008	5/31/09	P
402-403	J&L Daycare	Adult Education	Kathy , Lee Spoelstra	5250	???	1/1/2006	12/31/08	P
404	Mojo Lures	Retail-Fishing	Larry	2625	???	???	n/a	P
Cell	Wireless Cingular	Phone Cell Tower	???	???	???	???	12/1/20	CUP

*GPA #08-2502
& ZC #08-3503
SUNSET STORAGE*

*LETTER FROM
APPLICANT*

EXHIBIT “4”

BANNING STORAGE, LLC

C/O THE ATHERTON GROUP, LLC
1 NORMANDY COURT
COTO DE CAZA, CA 92679
949-742-5535 VOICE
949-459-0198 FAX

February 2, 2007

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

Dear Oscar:

Per our recent conversations, attached please find our Application for Zoning Change for our existing multi-use property located at 2909 - 2985 W Lincoln Street in the City of Banning. As you are aware, this property is comprised of 97,800 sq. ft. of self-storage, 32,800 sq. ft. of commercial or storefront retail and 21,000 sq. ft of high-bay industrial buildings with three-phase electrical service. As you are aware, it was originally developed under M-1 (manufacturing / industrial) zoning in the mid-1980s and the self-storage element was expanded under a conditional use permit in the late-1990s, after the property was rezoned to C-2 in 1991.

Our present problem focuses upon the industrial element of the property, which has become virtually unmarketable following the rezoning last January to GC (General Commercial). This zoning classification specifically excludes the warehousing, R & D, industrial and light manufacturing uses for which the buildings were originally intended (see the leasing brochure located in the CUP file for the self-storage expansion in the mid-1990s).

As discussed, our facility is poised to provide a valuable service to the City of Banning, its residents and business owners, in that there is a real need for skilled jobs in the community, if we are allowed to provide them. We are also anxious to upgrade the facility as Lennar's development further enhances the marketability of our property. In order to accomplish this, we ask for the City's support in approving this Zoning Change, to help us protect the value of our property and continue to contribute to the local economy.

If you have any questions or wish to further discuss this matter, please do not hesitate to call.

Sincerely,

BANNING STORAGE, LLC



THE ATHERTON GROUP, LLC, Manager
by Eugene W Taylor, managing member

SITUATION

The subject property is a multi-use commercial facility, located on the north side of Lincoln Street, adjacent to the railroad right of way. The property is located 650 feet to the east of Sunset Road encompassing street addresses from 2909 to 2985 W Lincoln. The current owners, Banning Storage, LLC, acquired the property in December, 2001.

The facility is comprised of:

- 660 units of self storage, totaling 97,800 net rentable square feet, and ranging in size from 25 sq ft (5'x5') to 600 sq ft (20'x30').
- Two retail store front buildings. Each building provides a total of 10 rentable units. One building is 232'x70' (16,240 sq ft) while the other is 237'x70' (16,590 sq ft). Combined, the buildings yield a total of 32,830 net rentable square feet of retail
- Two industrial tilt-up buildings. Each building totals 10,500 sq ft (150'x70'), with small offices and large open workspaces. These buildings provide high-bay roll-up door access in the rear and 3 phase (industrial-grade) electrical service. One building is demised into three units: two 37.5'x70' (2,625 sq ft) units and one 75'x70' (5,250 sq ft) units. The other building is set up as a single user building with a secured vehicle storage yard in the rear.

At the time we acquired it, the self-storage facility enjoyed good occupancy, but the commercial and industrial buildings were only sparsely occupied, with several questionable tenants. In fact, we faced serious problems in finding a lender who would finance the property, because of its location. Yet, we believed in the City of Banning and made a significant financial commitment to this community.

After acquisition, we immediately began to upgrade the tenant base. During the acquisition process, we also met with local officials, including the Economic Development Director, Chief of Police and the Executive Director of the Chamber of Commerce. At their suggestion, we:

- Offered a vacant retail suite to the Police Department as a Local Policing Station. When that was found to be impossible, we offered the use of a vacant suite for conducting community meetings.
- Dismantled the non-functional do-it-yourself car wash that was located on the south-eastern corner of the property.
- Removed the pay telephone from the corner of one of the commercial buildings, which was found by the Police to be a gathering point for juveniles and drug peddlers.

All this was done to be a good corporate citizen. Since we had committed several million dollars to the investment, our goal was to make a positive contribution to the City of Banning.

BACKGROUND

When the facility was originally constructed (in the mid-1980s), the property was zoned M (manufacturing). During due diligence, we met with people in City Planning, and were told (incorrectly, as we later learned) that the property was still zoned M. In fact, the property was rezoned from M to C-2 during the revision General Plan revision that was adopted in 1991. In the most recent revision to the General Plan (January, 2006), the property was further down-zoned: from C-2 to GC (General Commercial).

IMPACT

The problem we face as property owners under the current zoning focuses specifically upon the **two industrial tilt-up buildings**. These buildings were developed for industrial use, including such industrial characteristics as high-bay interiors, high-bay (14') roll-up doors and three-phase electrical power. Marketing materials provided to us by the City (from the previous owner's zoning variance application which preceded the expansion of the self-storage facility) confirm that these two buildings were built and ALWAYS intended for industrial use.

Under the current zoning, **virtually all of the real potential uses for these buildings are prohibited**, including: **construction and contractor storage, research & development, distribution, mixed use office/industrial, warehousing, wholesaling, auto mechanical, body repair, auto painting and storage of any type.**

In a recent meeting with one of the property owners, the City's Community Development Director asserted that these two buildings were originally designed for storage, yet the **current zoning specifically excludes storage or warehousing of any type.**

The net impact of the recent rezoning is to render these two buildings (totaling 21,000 sq ft) **VIRTUALLY UNUSABLE**. We are told that we can use them for retailing, but a 10,500 sq ft retail facility requires more than the 20 or so parking spaces that are available to the tenants and their customers of each building. Retail use requires five parking spaces per 1,000 sq ft, or 105 spaces **PER BUILDING**. According to the current the parking regulations and requirements which are now incorporated into the Master Plan, the buildings are virtually useless, given the amount of parking space available on the site.

The City says that a multi-use facility of this type should never have been built – and that may well be true. But the fact is, it **was built – and approved by the city BEFORE construction**. Unfortunately, none of the people involved in the development, construction or approval of this facility are still around to explain their rationales. The original owner/developer lost the property to foreclosure (evidence that it was a bad plan – or at least bad timing), and none of the folks with the City who approved the plans are still on the City payroll.

The current owner is simply holders in due course, who has made a significant commitment to the City of Banning and is simply seeking to find a way to attract tenants to the property. By keeping the property occupied we will **create jobs and generate tax revenue in and for the City of Banning**. If we are forced to let the buildings set empty seeking a tenant who would never consider this type of facility, they will eventually go into disrepair and become an eyesore and attract the kind of attention none of us want. At this point in time, all we are asking the City to do is recognize exactly what we have, and help us find zoning that will be in the best interest of the City, it's citizens and the property owners.

PROPOSED SOLUTION

The owners of the property are seeking regulatory relief in the form of a Zoning Change. In a meeting with the City, the Community Development Director suggested that we consider a rezoning from GC to BP (Business Park). A Business Park is defined by the City Code as a multi-use development, combining retail stores, office/warehouses, light industrial and office uses within a single property. That mixed-use designation describes this property perfectly: 98,000 sq ft of self-storage, 33,000 sq ft of storefront retail and 21,000 sq ft of high bay industrial – all on a single parcel of land.

Without zoning relief, we will continue to be unable to find tenants which are suitable to the City for the two industrial buildings. As a result, the owners are being deprived of our legitimate use for of these buildings intended uses at the time they were approved and constructed (the kinds of uses businesses would consider renting a tilt-up industrial building for). If the City had not intended the buildings to be occupied and used by industrial users, they would surely have denied the building permits. And, we have received no objection, neither written nor verbal, to the tenants which have occupied these buildings at any time since we acquired the property in 2001 (including a moving and storage company)

Not permitting these buildings to be used for their intended use devalues the entire property. We understand that the City needs to plan for the future, but "plans" and future prognostications should not be at the expense of the City's current residents and business owners who have made significant investments in the City, only to have their properties devalued via a "plan" that doesn't adequately protect them, or take into account the current use of the property IN IT'S PRESENT FORM. When a home is rezoned from residential to commercial, they can continue to live in it or rent it out. But, when a commercial or industrial property is rezoned, the City can prevent the owners from using the property for its intended use.

In summary, a zoning change to BP (Business Park) would allow this existing property to continue to operate for its intended use, returning us to full occupancy, maximizing its contribution to the current and future growth of the City – both in sales tax revenue and its employment base. Thank you for your prompt attention to this important matter.

*GPA #08-2502
& ZC #08-3503
SUNSET STORAGE*

*LAND USE MATRIX
PRIOR TO 2006 UPDATE*

EXHIBIT “5”

c. Minor repairs conducted outdoors shall be rendered within ten feet of an occupied automotive service bay, and not within any portion of a required parking stall. The service area shall be demarcated by reflective cones, rope, chain or other method approved by the city's planning department.

d. All permitted repairs shall be conducted during normal hours of the business operation.

e. Vehicles scheduled for repair shall not be stored in required off-street parking spaces overnight, and shall not be stored on-site for a period greater than seven days.

f. Such repairs shall not impede vehicular or pedestrian traffic or block access required by emergency vehicles on the property.

g. Such repairs including vehicles, parts, and tools shall not encroach onto any portion of a public right-of-way. (Ord. No. 886, § 1 (part); Ord. No. 1210, § 1 (part); Ord. No. 1211, § 1 (part).)

ARTICLE 9

C-1--LIMITED COMMERCIAL ZONE (C-1 ZONE)

§ 9109:	Permitted uses.
§ 9109.A:	Permitted uses subject to a conditional use permit.
§ 9109.05:	Permitted uses subject to an approved land use.
§ 9109.1:	Height.
§ 9109.2:	Front yard.
§ 9109.3:	Side yards.
§ 9109.4:	Rear yard.
§ 9109.5:	Limitations on permitted uses in C-1 Zone.

Sec. 9109: Permitted uses.

In a C-1 Zone no building shall be erected, reconstructed or structurally altered, nor shall any building or land be used for any purpose except as hereinabove provided and allowed by this article. The following uses are permitted, subject to the provisions of Article 13, governing off-street parking requirements.

- (1) Any residential use when located above a ground floor.
- (2) Bakeries, retail.
- (3) Banks.
- (4) Barbershops or beauty shops.

(5) Cafes and restaurants. No dancing, entertainment or on-site sale of alcoholic beverages permitted except as otherwise expressly provided in this code.

(6) Cleaning and dyeing agencies (including sponging, pressing and spotting only).

(7) Drugstores.

(8) Food markets.

(9) Furniture and appliance stores.

(10) Gasoline service stations (automotive service stations), subject to review and issuance of a conditional use permit as set forth in article 16 and 16B.

(11) Grocery stores.

(12) Hardware stores.

(13) Jewelry stores.

(14) Laundry agencies, hand laundries and self-service laundries (self-operated and automatically equipped).

(15) Deleted.

(16) Locksmiths.

(17) Meats, retail sale of.

(18) Notions stores.

(19) Nurseries, stores or greenhouses for production or sales of plants and flowers.

(20) Poultry, retail sale of (dressed only, and no live poultry on premises).

(21) Real estate offices.

(22) Recycling facilities as defined in article 28.

(23) Signs, as permitted in article 25 hereof.

(24) Stationery and book stores.

(25) Studios, record recording studios, interior decorating studios, stores or shops.

(26) Similar establishments catering directly to consumers.

(27) Animal feed stores. (Ord. No. 614, § 2; Ord. No. 621, § 8; Ord. No. 935 (part); Ord. No. 1095, § 2(part); Ord. No. 1114, § 3; Ord. No. 1123, § 1.)

Sec. 9109A: Permitted uses subject to a conditional use permit.

In the C-1 Zone, permitted uses subject to a conditional use permit include:

1. All off-site sale of alcoholic beverages from any business occupying less than five thousand square feet in area. Subsequent to the adoption of this section, there shall follow a period of eighteen months before the provision requiring the conditional use permit shall become applicable to any "pre-existing" business. A "pre-existing" business is defined as a business for which a business license has been issued on or before the effective date of the adoption of this section. No pre-existing business shall be required to pay fees for the initial issuance of the conditional use permit. Additionally, no pre-existing business shall be required to make expenditures in excess of one thousand dollars as a condition of the initial issuance of the conditional use permit.

2. Churches. (No fee for processing same.) (Ord. No. 1112, § 2; Ord. No. 1114, § 4.)

Sec. 9109.05: Permitted uses subject to an approved land use permit.

In the C-1 Zone, permitted uses subject to an approved land use permit include:

(1) On-site sale (on-sale license) of alcoholic beverages for consumption within a cafe or restaurant. (Ord. No. 1123, § 2.)

Sec. 9109.1: Height.

No building or structure, or any part thereof in a C-1 Zone shall be erected to a height exceeding two and one-half stories or thirty-five feet, whichever is the lesser.

Sec. 9109.2: Front yard.

Every lot and every parcel of land in a C-1 Zone shall have a front yard only when any one or more of the following conditions apply:

(1) When property classified as C-1 comprises part of the frontage in a block on one side of a street between intersecting streets and the remainder of the frontage in the same block is classified for "R" purposes, the front yard in such C-1 Zone shall conform to the front yard required in the "R-3" Zone.

(2) A front yard shall be provided as may be required by an official plan, variance or conditional use permit.

Sec. 9109.3: Side yards.

Every lot and every parcel of land in a C-1 Zone, when devoted to a use permitted initially in a C-1 Zone, but not permitted in an R-3 Zone, need provide no side yards except as may be required by an official plan, variance or conditional use permit.

Sec. 9109.4: Rear yard.

Every lot and every parcel of land in the C-1 Zone, when used for C-1 purposes and the rear of the lot abuts upon property classified for R-1, R-2 and R-3 purposes, and does not abut upon an alley, it shall provide a rear yard fifteen feet in depth. In all other cases, when such lot or parcel of land is devoted to a use permitted initially in a C-1 Zone, no rear yard need be provided except such as may be required by an official plan, variance or conditional use permit.

Sec. 9109.5: Limitations on permitted uses in C-1 Zone.

Every use permitted in a C-1 Zone shall be subject to the following conditions and limitations:

(1) Except as otherwise specifically set forth herein, every purpose for which land may be used within this zone shall be conducted wholly within a building. This limitation shall not apply to landscape nurseries and similar enterprises which routinely store and display merchandise which has an external use. This limitation shall not apply to the outdoor display of merchandise which does not have an external use when such merchandise is displayed in the following manner:

(a) All merchandise being displayed shall occupy the same parcel of land as the business making the display. The above notwithstanding, merchandise may be displayed within the city's right-of-way upon the approval of an encroachment permit for such use by the city engineer. Any such encroachment permit shall specifically set forth the following:

Permittee shall hold harmless, indemnify and defend the city and its officers, employees, and agents from any and all losses, claims or judgments for damages to any person or property arising from the installation, maintenance or presence of the facilities or out of the acts or omissions of permittee's lessees. Permittee shall obtain and maintain comprehensive general liability insurance covering any liability of permittee, permittee's lessees, the city of Banning, and their officers, employees and agents arising out of the use or occupation of the premises in an amount not less than one million dollars. This insurance limit does not constitute the limit of permittee's obligation hereunder. Permittee shall furnish the city with proof of such insurance coverage in a form and manner that is satisfactory in all respects to city attorney.

(b) All merchandise shall be displayed in a manner that will not endanger customers or onlookers.

(c) No merchandise shall be allowed to be placed/established within off-street parking areas without first obtaining approval from the city's planning department.

(d) All merchandise shall be freestanding and shall not be allowed to be attached to roofs, walls, windows, or doors of buildings.

(e) Merchandise shall only be allowed to be displayed during the normal business hours of the business at which the item is displayed. The presence of a security guard shall be considered an extension of normal business hours.

(f) No "sexually oriented" items shall be displayed outside.

(2) Products made incident to a permitted use shall be sold only at retail on the premises.

(3) Deleted.

(4) Not more than five persons may be employed in the processing and treatment of products made incident to a permitted use.

(5) Storage shall be limited to accessory storage on commodities sold at retail on the premises.

(6) Any garage having an entrance fronting on an alley shall be located not closer than twenty feet from the centerline of such alley.

(7) Minor automotive repairs may be conducted outside of a building subject to the following:

(a) Minor automotive repairs shall be limited to: tire repair and rotation, brake jobs, minor engine tune-ups not involving removal of engine parts/fluids, excepting: points, spark plugs, distributor wires and caps, rotors, air filters, etc. The changing or discharge of engine oil, antifreeze, transmission fluids, axle fluids, or any other automotive fluids is prohibited.

(b) The minor repairs listed in subsection (a) may be conducted outdoors providing: (1) all automotive service bays within the building are occupied with vehicles undergoing repairs, or (2) the vehicle to be repaired does not fit into a service bay.

(c) Minor repairs conducted outdoors shall be rendered within ten feet of an occupied automotive service bay, and not within any portion of a required parking stall. The service area shall be demarcated by reflective cones, rope, chain or other method approved by the city's planning department.

(d) All permitted repairs shall be conducted during normal hours of the business operation.

(e) Vehicles scheduled for repair shall not be stored in required off-street parking spaces overnight, and shall not be stored on-site for a period greater than seven days.

(f) Such repairs shall not impede vehicular or pedestrian traffic or block access required by emergency vehicles on the property.

(g) Such repairs including vehicles, parts, and tools shall not encroach onto any portion of a public right-of-way. (Ord. No. 621, § 9; Ord. No. 1095, § 2 (part); Ord. No. 1210, § 1 (part); Ord. No. 1211, § 1 (part).)

ARTICLE 10

C-2--GENERAL COMMERCIAL ZONE (C-2 ZONE)

- § 9110: Permitted uses.
- § 9110.1: Uses permitted, subject to an approved land use permit.
- § 9110.2: Uses permitted, subject to an approved conditional use permit.
- § 9110.3: Similar uses, ambiguity, or omission.
- § 9110.4: Property development standards.
- § 9110.5: Limitations on permitted uses in the C-2 zone.

Sec. 9110: Permitted uses.

In a C-2 zone, no building shall be erected, reconstructed or structurally altered, nor shall any building or land be used for any purpose except as herein provided. The following uses are permitted:

- (1) All permitted uses in the C-1 zone district.
- (2) The assembly of manufactured and premanufactured materials, provided:
 - (a) The products produced are sold at retail on the premises;
 - (b) 25% of floor space is maintained as a retail sales area;
 - (c) In addition to the on-site improved parking space for customers, one space for each two employees, including owners, shall be provided;
 - (d) No more than 50% of floor area is devoted to manufacturing uses.
- (3) Deleted.
- (4) Bakeries, provided that a minimum of 25% of floor area is devoted to retail sales.
- (5) Bowling alleys.
- (6) Carpet and rug cleaning plants.
- (7) Cleaning and dyeing plants using cleaning fluids with flash point of not less than 140 degrees Fahrenheit.
- (8) Coin operated laundries and retail services laundries only.
- (9) Commercial swimming pools.
- (10) Health Spa/Gymnasium.
- (11) Manufacturing of ceramics, a maximum of one (1) kiln not exceeding eight (8) cubic feet in size and any product produced shall be sold at retail on the premises.
- (12) Parking lot for automobiles (see Section 9113.8(B)(14) and 9113.8(E) for improvements required).
- (13) Pawn shops.

- (14) Pet stores and/or grooming services.
- (15) Public parking facilities.
- (16) Radiator repair and sales, provided that all repair work is conducted wholly within a building.
- (17) Deleted.
- (19) Sales of new or used licensed motor vehicles.
- (20) Service and repair, including mechanical and body work, of all motor vehicles provided all such activities shall be conducted wholly within a building.
- (21) Upholstery shops. (Ord. No. 545, § 26; Ord. No. 614, § 2; Ord. No. 621, § 10; Ord. No. 663, § 1; Ord. No. 670, § 1; Ord. No. 681, § 1; Ord. No. 739, § 2; Ord. No. 760, § 1; Ord. No. 792, § 2; Ord. No. 794, § 3; Ord. No. 807, § 3; Ord. No. 809, § 1; Ord. No. 845, § 1; Ord. No. 925 (part); Ord. No. 1123, § 4; Ord. No. 1202, § 1.)

Sec. 9110.1: Uses permitted subject to an approved land use permit.

- (1) Commercial car wash.
- (2) Funeral homes.
- (3) On-site sale (on-sale license) of alcoholic beverages for consumption within a cafe or restaurant. (Ord. No. 809, § 1; Ord. No. 1123, § 5.)

Sec. 9110.2: Uses permitted subject to an approved conditional use permit.

- (1) Any use permitted in the R-3 provided that any residential use shall conform to the provisions governing the R-3 zone.
- (2) Automotive service stations.
- (3) Bars and cocktail lounges.
- (4) Deleted.
- (5) Motels, Hotels, Recreational Vehicles and Mobile Home Parks, provided that no such Recreational Vehicle or Mobile Home Park may be permitted on any parcel less than five acres in size.
 - (a) Notwithstanding any other provision of this ordinance code to the contrary, following the effective date hereof, each motel operating within the

City that does not possess a Conditional Use Permit shall be issued such permit by the City. The permit shall be issued pursuant to the procedures set forth at Banning Ordinance Code Section 9116.1 et seq. Every motel operating within the City of Banning shall thereafter operate consistent with the conditions set forth in the conditional use permit for that motel. No motel, after the issuance of the conditional use permit, shall have nonconforming status as to its operation. The permit shall be issued without charge to any motel operating under an active and valid business certificate on the effective date of this section. The owner of the motel shall have one year following date of the issuance of the conditional use permit within which to complete any capital improvements to the facility which may be required as a condition of operation under the conditional use permit. All conditions not related to capital improvements shall otherwise become effective on the date set by the Planning Commission or the City Council after hearing an appeal.

(b) Any motel already issued a Conditional Use Permit prior to the effective date of this Ordinance shall be subject to the City amending said permit and attaching new conditions. The amendments to the permit shall be issued without charge to any motel operating under an active and valid business certificate on the effective date of this section.

- (6) Manufacturing, sale or lease of signs.
- (7) Pinball and video arcade.
- (8) Deleted.
- (9) Equipment rental yards.

(10) All off-site sale of alcoholic beverages from any business occupying less than five thousand (5,000) square feet in area. Subsequent to the adoption of this section, there shall follow a period of eighteen (18) months before the provision requiring the conditional use permit shall become applicable to any "pre-existing" business. A "pre-existing" business is defined as a business for which a business license has been issued on or before the effective date of the adoption of this section. No pre-existing business shall be required to pay fees for the initial issuance of the conditional use permit. Additionally, no pre-existing business shall be required to make expenditures in excess of one thousand dollars (\$1,000.00) as a condition of the initial issuance of the conditional use permit.

- (11) Churches. (No fee for processing same.)
- (12) Public facilities and uses.
- (13) Billiard Parlors, pool halls.

(14) Auditoriums, theaters (both live and motion pictures) and other places of public assembly.

(15) Recycling facilities as defined in Article 28. Such facilities shall be exempt from processing a Conditional Use Permit in instances where statutes mandate that recycling facilities be established as an ancillary use to the primary land use. (Ord. No. 809, § 1; Ord. No. 845, § 1; Ord. No. 881, § 1; Ord. No. 1112, § 3; Ord. No. 1114, § 5; Ord. No. 1183, § 3(part); Ord. No. 1202, § 2; Ord. No. 1244 § 1; Ord. No. 1312, § 1.)

Sec. 9110.3: Similar uses, ambiguity, or omission.

Should a similar use, ambiguity, or an omission arise concerning the appropriate classification of a particular use within the meaning and intent of this section or when a use is not specifically listed as a permitted use, Land Use Permit or Conditional Use Permit, then the provisions of Section 9113.3 of this Ordinance shall apply. (Ord. No. 790, § 1; Ord. No. 809, § 1.)

Sec. 9110.4: Property development standards.

The following minimum property development standards shall apply to all land and buildings located within this zone district.

(1) Lot Area - All lots hereafter created in this district shall contain a minimum of six thousand five hundred (6,500) square feet and no lot in this district shall be reduced below this standard.

(2) Lot Dimensions - All lots shall maintain the following minimum standards and no lot shall be created which does not satisfy these standards:

- (a) Width of Lot: Sixty-five (65) feet.
- (b) Depth of Lot: One hundred (100) feet.

(3) Minimum Yard Requirements.

(a) Front Yard: None, except where the frontage is partially in a residentially developed block in which case the front yard shall be the same as established by an average setback of said residential units of that block.

(b) Side Yard: None, except where the side of a lot abuts the side of a residentially developed lot, in which case the side yard shall not be less than five (5) feet.

(c) Rear Yard: None, except where the rear of a lot abuts residentially developed lot, in which case the rear yard shall not be less than ten (10) feet.

(d) In the case of commercial uses, setback requirements derived from an abutting residential use, may be less than those required by this Section upon securing an approved Land Use Permit.

(e) Maximum Structural Height: Thirty-five (35) feet. Additional height may be permitted upon securing an approved Conditional Use Permit.

(f) Off-Street Parking and Loading Facilities: Off-street parking and loading facilities shall be required in the C-2 district as specified in Article 13, Section 9113.11 through 9113.15 of this Ordinance code.

(g) Converted Structures: Structures originally designed or intended for residential purposes shall be subject to the following conditions:

(1) The required front yard of the residential structure be either permanently maintained in landscaping or shall be occupied by a structure as approved by procedures as set forth in Article 16-E of Appendix "A" (Design Review Board) of this Ordinance code.

(2) Site and Building Design--Site plans and architectural elevations of all proposed projects shall be submitted to and approved by the Planning Department and Design Review Board. (Ord. No. 809, § 1.)

Sec. 9110.5: Limitations on permitted uses in C-2 zone.

Every use permitted in a C-2 Zone shall be subject to the following conditions and limitations.

(1) Except as otherwise specifically set forth herein, every purpose for which land may be used within this zone shall be conducted wholly within a building. This limitation shall not apply to landscape nurseries and similar enterprises which routinely store and display merchandise which has an external

use. This limitation shall not apply to the outdoor display of merchandise which does not have an external use when such merchandise is displayed in the following manner:

(a) All merchandise being displayed shall occupy the same parcel of land as the business making the display. The above notwithstanding, merchandise may be displayed within the city's right-of-way upon the approval of an encroachment permit for such use by the city engineer. Any such encroachment permit shall specifically set forth the following:

Permittee shall hold harmless, indemnify and defend the city and its officers, employees and agents from any and all losses, claims or judgments for damages to any person or property arising from the installation, maintenance or presence of the facilities or out of the acts or omissions of permittee's lessees. Permittee shall obtain and maintain comprehensive general liability insurance covering any liability of permittee, permittee's lessees, the city of Banning, and their officers, employees and agents arising out of the use or occupation of the premises in an amount not less than one million dollars. This insurance limit does not constitute the limit of permittee's obligation hereunder. Permittee shall furnish the city with proof of such insurance coverage in a form and manner that is satisfactory in all respects to city attorney.

(b) All merchandise shall be displayed in a manner that will not endanger customers or onlookers.

(c) No merchandise shall be allowed to be placed/established within off-street parking areas without first obtaining approval from the city's planning department.

(d) All merchandise shall be freestanding and shall not be allowed to be attached to roofs, walls, windows, or doors of buildings.

(e) Merchandise shall only be allowed to be displayed during the normal business hours of the business at which the item is displayed. The presence of a security guard shall be considered an extension of normal business hours.

(f) No "sexually oriented" items shall be displayed outside.

(2) Any use which may generate noxious odors, noise, nuisance or hazards to life or property shall not be permitted.

(3) Minor automotive repairs may be conducted outside of a building subject to the following:

(a) Minor automotive repairs shall be limited to: tire repair and rotation, brake jobs, minor engine tune-ups not involving removal of engine parts/fluids, excepting: points, spark plugs, distributor wires and caps, rotors, air filters, etc. The changing or discharge of engine oil, antifreeze, transmission fluids, axle fluids, or any other automotive fluids is prohibited.

(b) The minor repairs listed in subsection (a) may be conducted outdoors providing: (1) all automotive service bays within the building are occupied with vehicles undergoing repairs, or (2) the vehicle to be repaired does not fit into a service bay.

(c) Minor repairs conducted outdoors shall be rendered within ten feet of an occupied automotive service bay, and not within any portion of a required parking stall. The service area shall be demarcated by reflective cones, rope, chain or other method approved by the city's planning department.

(d) All permitted repairs shall be conducted during normal hours of the business operation.

(e) Vehicles scheduled for repair shall not be stored in required off-street parking spaces overnight, and shall not be stored on-site for a period greater than seven days.

(f) Such repairs shall not impede vehicular or pedestrian traffic or block access required by emergency vehicles on the property.

(g) Such repairs including vehicles, parts, and tools shall not encroach onto any portion of a public right-of-way. (Ord. No. 670 § 2; Ord. No. 794, § 3; Ord. No. 807, § 3; Ord. No. 809, § 1; Ord. No. 1210, § 1 (part); Ord. No. 1211, § 1 (part).)

*GPA #08-2502
& ZC #08-3503
SUNSET STORAGE*

*LAND USE MATRIX
AFTER TO 2006 UPDATE*

EXHIBIT “6”

Chapter 17.12

COMMERCIAL AND INDUSTRIAL DISTRICTS

Sections:

Article I.

General Provisions

17.12.010 Purpose—Districts designated.
 17.12.020 Permitted, conditional and prohibited uses.

Article II.

Land Use District Development Standards

17.12.030 Table of commercial and industrial development standards.
 17.12.040 General standards.
 17.12.050 Use specific standards.
 17.12.060 Applicable regulations.

Article III.

Commercial and Industrial Development

Design Guidelines

17.12.070 General.
 17.12.080 Applicability.
 17.12.090 General design principles.
 17.12.100 Site planning.
 17.12.110 Parking and circulation.
 17.12.120 Landscaping.
 17.12.130 Walls and fences.
 17.12.140 Screening.
 17.12.150 Architectural design guidelines.
 17.12.160 Roofs.
 17.12.170 Lighting.

Article I.

General Provisions

17.12.010 Purpose—Districts designated.

A. This chapter is intended to support the development of a broad range of commercial and industrial businesses, by:

1. Preventing uses which are incompatible with commercial and industrial land uses from locating in these districts.

2. Providing for different types of commercial and industrial land uses which can locate in areas where they are assured compatible neighbors.

3. Providing sufficient safeguards for the City's residents and workers by providing for buffers, clean industry and safe circulation.

4. Minimizing the negative impacts of traffic intensity, such as noise, polluted air, gridlock, and danger to pedestrians.

5. Planning for the provision of public improvements and infrastructure to serve Banning's commercial and industrial neighborhoods.

6. Improving declining or blighted commercial and industrial areas.

B. Each of the commercial and industrial districts being created is described below.

1. Downtown Commercial (DC).

a. This District occurs on Ramsey Street, between 8th Street and Hargrave Street on the west and east, by Interstate 10 on the south, and by Williams and Nicolet on the north. This area is the City's traditional commercial core, and has special significance to the community because small scale commercial retail and office uses, services, restaurants, and entertainment retail are the primary uses in this district. Large single users in excess of 25,000 square feet are not appropriate in this district. Mixed Use, residential land uses in combination with commercial businesses, are also encouraged. Bed & breakfasts, hotels and motels are also appropriate in this district.

b. New auto related uses proposed after adoption of the 2005 General Plan will be prohibited. All existing auto uses in existence as of the adoption of the 2005 General Plan will be permitted until such time as the use in a particular location ceases operation for a period of six months.

c. Special standards and permits are applied to this district, and are included under Development Standards, Article II of this chapter.

2. General Commercial (GC).

a. This district is the broadest of the City's commercial districts, and allows food and drug

stores; home improvement; auto sales, leasing, service and repair; department and general retail outlets; merchandise leasing; neighborhood serving retail and services; restaurants; entertainment uses; gas stations; general offices (secondary to retail); mixed uses; and financial institutions.

b. All uses in existence as of the adoption of the 2005 General Plan will be permitted until such time as the use in a particular location ceases operation for a period of six months.

3. Highway Serving Commercial (HSC). This district allows land uses geared toward the Interstate 10 traveller, including restaurants (fast food and sit down), hotels and motels, auto related retail, repair and services, including gas stations, convenience stores and similar uses.

4. Professional Office (PO). This district allows professional offices and social services, and financial institutions, all with only ancillary retail. Mixed use projects may also be permitted, with approval of a conditional use permit.

5. Industrial (I). This district includes industrial parks and freestanding industrial users. Examples of permitted uses include light and medium intensity manufacturing operations, warehousing and distribu-

tion, ministorage, and associated offices. Commercial recreation facilities, auto storage and repair is also allowed. Retail uses ancillary to the industrial use are also appropriate.

6. Airport Industrial (AI). Land uses must be focused on airport-related and transportation-related functions, including machining, manufacturing, warehousing, flight schools, restaurants and office uses. Aircraft maintenance, repair and catering services are also appropriate.

7. Business Park (BP). Light industrial and office/warehouse buildings are appropriate in this district. Restaurants and retail uses ancillary to a primary use, and professional offices are also appropriate. Commercial development, such as large-scale retail (club stores, home improvement, etc.) and mixed-use project may also be permitted, subject to a conditional use permit.

8. Industrial – Mineral Resources (I/MR). This district allows surface mining operations on lands designated by the City or the state as having significant potential for mineral resources. All the requirements of the State Department of Mining and Geology shall apply. (Zoning Ord. dated 1/31/06, § 9103.01.)

17.12.020 Permitted, conditional and prohibited uses.

The following list represents those uses in the commercial and industrial districts which are Permitted (P), subject to a Conditional Use Permit (C) or Prohibited (X). All uses proposed in the Commercial and Industrial districts are subject to Design Review.

Table 17.12.020
Permitted, Conditional and Prohibited Commercial and Industrial Uses

	DC	GC	HSC	PO	I	AI	BP	IMR
Resource and Open Space Uses								
Plant nurseries, with on-site sales	X	P	X	X	X	X	C	C
Plant nurseries, without on-site sales	X	C	X	X	X	X	X	C
Surface Mining ¹	X	X	X	X	C	X	X	D
Cargo/Storage Containers ²	X	T	T	X	C	C	C	C
Recreation, Education and Public Assembly								
Adult entertainment	X	X	X	X	C	X	X	X
Adult day care facilities	X	C	C	C	X	X	C	X

	DC	GC	HSC	PO	I	AI	BP	IMR
Automobile race track	X	X	X	X	C	C	X	X
Billiard parlors/pool halls	C	C	C	X	X	C	C	X
Churches	X	X	X	C	C	X	C	X
Community centers	P	P	C	C	X	X	X	X
Convention facilities	P	P	P	X	X	P	X	X
Day Care Centers	C	C	C	C	X	X	C	X
Health/fitness facilities	C	P	P	P	X	X	C	X
Indoor recreation centers	C	P	P	X	X	C	X	X
Libraries	P	P	P	P	X	P	X	X
Membership organization facilities	X	X	X	C	C	P	C	X
Museums	P	P	P	P	X	P	X	X
Outdoor commercial recreation	P	P	P	C	X	C	C	X
Public parks and playgrounds	P	P	P	P	X	P	P	X
Recreational vehicle (RV) parks	X	X	C	X	X	X	X	X
Recreational vehicle (RV) storage	X	X	X	X	C	X	C	X
Schools	X	X	X	C	X	P	X	X
Sport facilities and outdoor public assembly	C	C	C	C	X	C	C	X
Studios for dance, art, music, photography, etc.	P	P	P	P	C	X	C	X
Theatres and meeting halls	P	P	X	C	X	C	X	X
Retail Uses								
Accessory retail uses	P	P	P	P	P	P	P	X
Alcoholic Beverage Sales, on- or off-site	X	C	C	C	X	X	X	X
Antique stores	P	P	P	X	X	X	P	X
Art Galleries	P	P	C	C	X	P	P	X
Auto, mobile home, and motor vehicle sales, and part sales, new	X	P	P	X	C	X	C	X
Auto, mobile home, and motor vehicle sales, and part sales, new and used ³	X	P	P	X	C	X	C	X
Bakeries, retail	P	P	P	C	X	X	P	X
Bars and drinking establishments	C	C	C	X	X	C	X	X
Building material stores	X	P	P	X	X	X	P	X
Certified farmers' markets	P	P	P	X	X	X	X	X
Convenience Stores	C	P	P	C	X	C	X	X
Convenience Stores, no liquor sales	P	P	P	X	X	X	P	X
Department stores	P	P	P	X	X	X	P	X
Drive-in and drive-through sales	X	P	P	C	X	X	C	X
Drug stores	P	P	P	C	X	X	C	X
Factory outlet centers	X	P	P	X	X	X	C	X
Farm and ranch supply stores	X	P	P	X	X	X	X	X

	DC	GC	HSC	PO	I	AI	BP	IMR
Furniture, furnishings, home equipment stores	P	P	P	X	X	X	P	X
Gift shops	P	P	P	C	X	P	P	X
Grocery stores, retail butchers and green grocers	P	P	P	X	X	X	C	X
Hardware/lumber stores	X	P	C	X	X	X	P	X
Liquor stores (off-site consumption)	X	C	C	C	X	X	X	X
Outdoor retail merchandise display & activities	P	C	C	C	X	X	C	X
Outdoor retail sales, temporary	T	T	T	T	X	T	T	X
Pawn shops	X	P	P	X	X	X	C	X
Pet stores and grooming	P	P	C	X	X	X	C	X
Restaurants, no beer, wine or liquor sales	P	P	P	C	X	P	P	X
Restaurants, serving beer, wine or liquor	C	C	C	C	X	P	C	X
Restaurants, drive-in, take-out, fast food	C	P	P	C	X	X	C	X
Retail stores, general merchandise	P	P	P	X	X	X	P	X
Second hand/thrift stores	X	C	C	X	X	X	X	X
Shopping centers, 15,000 square feet or more	C	P	P	X	X	X	C	X
Video rental stores	P	P	P	X	X	X	P	X
Warehouse or club stores (i.e. "Big box stores")	X	P	P	X	X	X	P	X
Services								
Automatic teller machine (ATM), not at a bank	P	P	P	P	X	P	P	X
Banks and financial establishments/services	P	P	P	P	X	X	P	X
Barber Shops and Beauty Shops	P	P	P	X	X	X	P	X
Bed and breakfast establishments	P	C	C	X	X	X	X	X
Business support/secretarial services	P	P	P	P	X	P	P	X
Car wash	X	P	P	X	X	X	C	X
Columbariums and mortuaries	X	C	C	X	X	X	C	X
Construction storage (indoor and/or outdoor)	X	X	X	X	P	X	C	C
Drive-in and drive-through services	X	P	P	C	X	X	C	X
Dry cleaning, retail	C	P	P	C	X	X	P	X
Equipment rental yards	X	X	C	X	P	C	C	X
Government offices	X	C	C	P	X	P	X	X
Hotels and motels	P	P	P	X	X	X	C	X

	DC	GC	HSC	PO	I	AI	BP	IMR
Laundry, coin operated	C	P	P	X	X	X	X	X
Massage Parlors	C	C	C	C	X	X	X	X
Medical services, clinics and labs	C	C	C	P	X	X	C	X
Vehicle fueling/service stations	X	P	P	X	X	P	X	X
Professional offices	P	P	C	P	X	C	P	X
Public parking	P	P	P	P	P	P	P	X
Public utility and safety facilities	P	P	P	P	P	P	P	P
Real estate offices	P	P	C	P	X	X	C	X
Repair and maintenance of consumer products	X	P	P	C	X	X	P	X
Repair and maintenance of motor vehicles, including auto body	X	C	P	X	P	P	P	X
Research and development facilities	X	X	X	C	C	C	P	X
Storage, accessory, including self-storage	X	X	X	X	C	X	C	X
Veterinary clinics, animal hospitals, grooming	C	P	C	C	X	X	X	X
Manufacturing and Processing Uses								
Assembly from prefabricated parts or products	X	C ⁴	X	X	P	P	P	X
Auto wrecking/parts salvaging	X	X	X	X	C	X	X	X
Bakeries, wholesale	X	X	X	X	P	X	P	X
Breweries and distilleries	C	C	C	X	C	X	C	X
Breweries and distilleries, ancillary to a bar or restaurant	C	C	C	X	X	P	C	X
Cabinet shops, carpentry, furniture manufacturing & assembly	X	X	X	X	P	X	P	X
Ceramics manufacturing & assembly	X	X	X	X	P	X	P	X
Cleaning and dyeing plants	X	X	X	X	P	X	X	X
Contractor's storage yards	X	X	X	X	P	C	P	P
Creameries and dairies	X	X	X	X	C	X	X	X
Distribution	X	X	X	X	P	P	P	X
Food products manufacturing	X	X	X	X	P	X	C	X
Furniture and fixtures	X	X	X	X	P	X	P	X
Garment and shoe manufacturing	X	X	X	X	P	X	P	X
Ice and cold storage	X	X	X	X	P	P	P	X
Laundries and dry cleaning plants	X	C	C	X	P	X	X	X
Lumber yards	X	X	X	X	P	X	C	X
Machining, welding and blacksmithing	X	X	X	X	P	P	C	C
Manufacturing facilities, Light	X	X	X	X	P	C	P	X
Manufacturing facilities; Heavy	X	X	X	X	P	C	X	X
Metal Plating shops	X	X	X	X	C	X	X	X

	DC	GC	HSC	PO	I	AI	BP	IMR
Mixed use office/industrial	X	X	X	X	P	C	P	C
Mixed use industrial/commercial	X	X	X	X	P	X	C	X
Packing plant	X	X	X	X	P	X	P	X
Printing/publishing	C	C	C	C	P	X	P	X
Recycling facilities	X	X	X	X	P	X	C	X
Recycling - reverse vending machines	P	P	P	X	P	X	P	X
Sheet metal shops	X	X	X	X	P	P	C	C
Stone and granite storage and sales	X	X	X	X	P	X	C	P
Storage Yard	X	X	X	X	P	C	C	P
Tire recapping, retreading and storage	X	X	X	X	C	C	C	X
Truck (commercial) repair, towing, storage and service	X	X	X	X	P	P	C	C
Trucking yard or terminal	X	X	X	X	C	C	C	X
Warehousing	X	X	X	X	P	P	P	C
Wholesaling	X	X	X	X	P	C	P	X
Residential Uses								
Caretaker/watchperson's dwelling	C	X	X	X	C	C	C	C
Group homes	X	X	X	X	X	X	C	X
Guest house	X	X	X	X	X	X	X	X
Home occupations	P	X	X	X	X	X	X	X
Mixed Use, residential/commercial	P	P	C	C	X	X	C	X
Organizational and boarding houses	X	X	C	X	X	X	X	X
Residential accessory uses and structures	C	X	X	X	X	X	X	X
Senior Citizen/Congregate Care	C	X	X	C	X	X	C	X
Housing								
Single room occupancy facilities	C	X	C	X	X	X	X	X
Single family dwellings, existing	C	X	X	X	X	X	X	X
Single family dwellings, new	X	X	X	X	X	X	X	X
Other Uses								
Commercial or Telecommunications Antennae	X	C	C	C	C	C	C	C
Public utility facilities	X	P	P	P	P	P	P	P

¹ Surface Mining Permit required. See Chapter 17.100.

² Cargo and storage containers in the commercial zones are only to be used for temporary (seasonal) storage, and require a Temporary Use Permit.

³ Must include a minimum of 50% new product sales.

⁴ When undertaken in conjunction with on-site retail as a primary use.

(Zoning Ord. dated 1/31/06, § 9103.02; Ord. No. 1355, § 3 (part).)