

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

June 9, 2009
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 council members present and voting.

I. CALL TO ORDER

- Pledge of Allegiance
- Invocation
- Roll Call – Council Members Franklin, Hanna, Machisic, Robinson, Mayor Botts

**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 or future study, research, completion and/or future Council Action.) (See last page. PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD.

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

ANNOUNCEMENTS/COUNCIL REPORTS: *(Upcoming Events/Other Items and Report if any)*

*The City of Banning promotes and supports a high quality of life that ensures a safe
and friendly environment, fosters new opportunities and provides responsive,
fair treatment to all and is the pride of its citizens.*

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 8

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 – 5/26/09.	1
2.	Resolution No. 2009-45, Undergrounding of Utilities in the Downtown Area. .	19
3.	Report of Investments for March 2009.	24
4.	Report of Investments for April 2009.	37
5.	Approval of 1 st Amendment to the Joint Powers Agreement of the Western Riverside council of Governments to Add Water District to the WRCOG Governing Board.	50
6.	Approval of Disaster and Emergency Mutual Aid Agreement Between the Morongo Band of Mission Indians and City of Banning.	59
7.	Stagecoach Days City of Banning In-Kind Service Costs Waiver of \$15,500 for 2008/09	67
8.	Banning Cultural alliance In-Kind Costs Waiver of \$11,500 for 2008/09 Cool Summer Nights Events and Consideration of Request for City Hall Parking Restrictions	69

- Open for Public Comments
- Make Motion

IV. REPORTS OF OFFICERS

1. Brian Nakamura, City Manager
 - A. Municipal Code Section 3.24.140 Local Preferences in Regards to
Purchase of Goods and Professional Services. 71
**Recommendation: That the Council authorize City staff to bring forth
an amendment to Municipal Code Section 3.24.140 (b) which would
allow for the establishment of a bid preference percentage for
purchase of goods and professional services which would be set by
resolution in support of the City’s “buy local” program.**
2. Bonnie Johnson, Finance Director
 - A. Award of a Professional Services Contract o Tramutola for Public
Information and Feasibility Services Related to a Potential
Transient Occupancy Tax 73
Recommendations:
 1. The City Council of the City of Banning award a professional services
contract in an amount not-to-exceed \$18,000 to Tramutola for Phase I
public information and feasibility services related to a potential
transient occupancy tax ballot measure.

2. The City Council authorize other Phase I expenditures in an amount not-to exceed \$35,200.
3. The City Council direct staff to bring back a full report of Phase I results prior to moving into Phase II of the process.

V. ITEMS FOR FUTURE AGENDAS

New Items –

Pending Items –

1. Service Club Signage on Ramsey Street, Gateway project *(ETA 6/23/09)*
2. Courthouse Development, Land Assembly for Future Development
3. City Purchasing Policy *(ETA 6/23/09)*
4. Golf Cart Lane Policy for City of Banning *(ETA 6/23/09)*
5. Update on Sunset Grade Separation *(ETA 7/28/09)*
6. Schedule Meetings with Our State and County Elected Officials
7. Set New Date for Joint Meeting with Banning School Board
8. Policy for Naming of Street and also Parks – Policy and Procedures

FUTURE MEETINGS

1. Special Council Meeting - Budget Workshop – June 10, 2009 – 2:00 p.m.

VI. CLOSED SESSION

1. Pursuant to Government Code Section 54957.6 Conference with Labor Negotiators
Employee organization: IBEW - Utility Unit and IBEW General Unit, CBAM and BPOA. Agency Designated Representatives: Brian Nakamura, David Aleshire, Bonnie Johnson and Hoyl Belt
2. The City Council will meet in Closed Session to consider personnel matters pursuant to Government Code Section 54957.
3. Pursuant to the provisions of Government Code Section 54956.9(a) to confer with legal counsel with regards to James C. Smith et al, v. Barbara Hanna – Superior Court No. RIC 474602, Appellate Case No. E045670: Status Update
4. The City Council will 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 significant exposure to litigation.
5. The City Council will meet in closed session pursuant to the provisions of Government Code Section 54956.9 to confer with legal counsel with regard to one matter of potential litigation.
 - A. Opportunity for Public to Address Closed Session Items.
 - B. Convene Closed Session

VII. 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

5/26/09
REGULAR MEETING

A regular meeting of the Banning City Council was called to order by Mayor Botts on May 26, 2009 at 6:52 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

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

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Brian Nakamura, City Manager
Lona Laymon, City Attorney
Bonnie Johnson, Finance Director
Duane Burk, Public Works Director
Hoyl Belt, Human Resource Director
Heidi Meraz, Recreation Director
Leonard Purvis, Chief of Police
Phil Holder, Lieutenant
Fred Mason, Power Contracts and Revenue Administrator
Kahono Oei, City Engineer
Marie A. Calderon, City Clerk

Mayor Pro Tem Hanna invited the audience to join her in the Pledge of Allegiance to the Flag. Mayor Botts said the pastor for this evening was not able to attend and asked everyone to pray silently.

PUBLIC COMMENTS/CORRESPONDENCEPRESENTATIONS
ANNOUNCEMENTS/APPOINTMENT

Report by City Attorney – None at this time.

Report by City Manager – None at this time.

PUBLIC COMMENTS – *On Items Not on the Agenda*

Ellen Carr, 471 W. George Street addressed the audience and Council asking that no one drop of animals at her residence. She said that the shelter is doing a great job and thanked the Council for allowing Riverside County Animal Control to come to the city. She said that what they had before was a horror and now they have happiness. She said that the adoption

rate at the shelter has risen to 185% of what it was before and all the ladies in attendance are shelter personnel and volunteers and without them it would be awful. We own them a great deal of respect and they are just great people. The shelter is being run very, very well by an angel named Linda Angel and there is a feeling when you go there it is not one of dread and heaviness but light and airy and you know good things are happening and that is due to Riverside County Animal Services and of course, to the Council.

Mayor Botts asked those ladies that are working or volunteering to stand up and be acknowledged. He said that he visited the shelter last week after concerns were brought to the Council and he said he couldn't believe how clean it was in all of the pens and thanked everyone for what they do.

Charlene Sakurai, 43000 Dillon Road reminded everyone that this Friday Cool Summer Nights begins and runs through September. It will kick-off with "Bark and Art Festival" which they had last year and was a great success. There will be a lot of pet-friendly activities and shopping. There will be vendors and entertainment, produce and classic cars and will be a wonderful evening for the citizens of Banning. Do bring your animals down either on a lease or in a crate. The time of the event is from 5 to 9 p.m. There will also be a reception in the Gallery for Darlene Katz, the current featured artist.

Brian Romberg, 1094 Dorothy Anna Drive addressed the Council stating that he has been a Banning resident for almost 50 years, a property owner and a small business owner. He said he was here this evening to ask the City Council to grant those of us that own commercial property on Lincoln the status of legal non-conforming so that they can continue to use their property as they have for the last ten years or so. As you remember the City recently went through a revision to the General Plan and the revision included a change in some commercial uses of property on Lincoln. He is asking that they be treated like the Ramsey Street residents that had a change in land use designation. In this economy staying in business is difficult enough without having Code Enforcement fine them for continuing to use their property and telling them they need conditional use permits and then to be told because the existing land use did not conform to the new zoning they are not able to get the conditional use permit. While using that logic all of the residents on Ramsey should be forced out of their homes after all they are continuing to use the property the same way they had before the General Plan was revised and their property was rezoned. If it makes sense to designate those residents as legal non-conforming and let the residents stay, it should make sense to do the same for commercial property when the uses don't change. His plea is that you treat the commercial property owners with the same understanding as you did the residential property owners and designate their property as legal non-conforming and require the City Manager to issue them conditional use permits. Help them to stay in business by treating them with understanding and let them go about their business for which they have Banning City licenses.

Mayor Botts asked the City Manager to look into this and speak with Mr. Romberg about the situation.

Marion Johnson, 541 E. Repplier Road said that she had an opportunity to hear at an earlier meeting that Riverside County had a plan for promoting Riverside and she thought it was an

excellent idea. She thinks the Council is doing a good job of trying to get Banning ready to be promoted and promoting us to where we want to go. She thinks that we have an exciting city that is coming into being now with the new dental building, Rite Aid, the Fox Theater remodel, the remodeled building on San Gorgonio and Ramsey, the new courthouse and the new police building. She would like to ask the Council to continue with the status of trying to get a supermarket in the eastern area of the city and she realizes that there are a lot of factors involved but this would help promote our community to where we want to go.

Rand McCulloch representing Pro-Line Racing, 201 W. Lincoln Street addressed the Council stating that his purpose for coming forward was to talk about the Pro-Line story, the good news of Pro-Line, and what they have been going through in this economy and the City's desire through Code Enforcement to have them get rid of their storage containers. He said that we have all experienced a new economy here and at Pro-Line they are fighting for their jobs and they are winning. Currently they have 60 team members and have been able to retain full employment with no layoffs or loss of time and no pay reductions whatsoever. Seventy-five percent of the staff lives within a five mile radius of this business. They have accomplished this through extremely aggressive new product development where they take ideas to market in two weeks. They absorb all the raw material price increases for the past year which is cutting into their margin seriously and they have implemented a build to order program with many items are shipped in 24 hours and each team members thinks like a salesman. Ninety percent of what they make is designed and built right here in Banning and they ship worldwide and that is opposite of the trend to have things made offshore so they are proud of that. The Banning City Code Enforcement has served them notice to remove their containers that they use for storage. Their facility is full and busting at the seams. Their desire is to build a new 50,000 square foot facility right next door to the parcel they own and their plans have been submitted to the planning committee but at this time they feel it is kind of uncertain to move forward with that commitment. So right now they would like to ask the Council to consider a postponement of variance on this request to move the containers. They have looked into what the cost would be to rent space elsewhere for their raw materials and it would increase their rent by 25% to move them offsite. These containers have been here for the last eight years. Pro-Line has had a dedication to the City of Banning not just as a mere corporate renter but they actually own the property and they would like to continue to fight this economy and ask that the Council consider their financial burden and the situation with their containers.

Mayor Botts asked the City Manager to work with them to see what the possibilities are.

CORRESPONDENCE: None

PRESENTATIONS:

1. Certificate of Congratulations to Helen Mattis

Mayor Botts asked Candice McGrew with the Riverside County Department of Animal Services to give some background on this presentation.

Ms. McGrew said that they are here to recognize a special volunteer, Helen Mattis, who is their Volunteer of the Year for this year. She has been a volunteer with the County of Riverside for a little over a year. She is always there when they need her and always comes with a smile and a willingness to work. She helps with their outreach programs at Petco and Cabazon Outlets along with walking and socializing the animals at the shelter two days a week. She attended the Pet Expo in Costa Mesa this year for a wonderful outcome of 80 dogs adopted in one weekend. Helen is the mother of four and also a grandmother of 7 and is so selfless that you never hear her talking about herself because she is so involved in helping all the animals. With such a big family and active career it is no wonder Helen has such a work-a-bee ethic at the Banning Animal Shelter. The animals are rewarded by her amazing dedication. She makes a huge difference in what they do and that is why they felt she deserved this recognition.

Mayor and City Council Members presented a Certificate of Congratulations to Helen Mattis in recognition of her being named Volunteer of the Year by the Riverside County Department of Animal Services and appreciate all her hard work in working with the animals.

Mrs. Mattis thanked all the wonderful people she works with at the shelter and all the other volunteers that also worked as hard as she does.

2. Proclamation – The Church of Latter Day Saints

Mayor Botts and the City Council Members presented the proclamation to The Church of the Latter Day Saints in recognition of Outstanding Community Service for participation in the Annual Banning Community Cleanup Event in which they generously planted trees, painted buildings and cleaned up one ton of trash off city streets with the help of 400 participating church members. They also manned a booth at the Banning Disaster Preparedness Expo held on the same day and it was one of the more popular booths at the event.

Kevin Miskin addressed the Council and said they appreciated this award and he recognized Homer Spears who chaired and organized this event along with his wife Linda Spears, Wilma Hanson and Deesta West and his wife Robin. They tried to do a couple of these in their communities amongst their congregations every year and they generally get several hundred out for these types of events. This is a way they feel they can strengthen families and also strengthen the community. They didn't do it for the recognition but hope more members of the community will get more involved in their cities in keeping them clean and beautiful.

3. Proclamation to Catherine Meyers

Mayor Botts and the City Council Members presented the proclamation to Catherine Meyers for her contribution as a blood donor with the LifeStream Blood Bank for four years. She started donating blood when she learned that it would be used to help her fellow citizens including burn victims. Natalie Tanner was three months old when she was diagnosed with a brain tumor and had to undergo surgery to have it removed and blood donated by Catherine, and others, was given to Tanner during the surgery and at the end of the surgery none of Natalie's own blood was left. She only had donor blood running through her body and she is

now tumor-free. She recently met two year old Natalie and her parents during a dinner and said, "It was very rewarding to have met the child I helped. I didn't donate to get recognition, it is my civic duty and it was a very emotional experience for me to meet Natalie for the first time".

Mrs. Meyers said she never thought about becoming a blood donor but she had a friend one day that asked her to come along. She did it periodically and then she was told she had CMV blood which is a rare type of blood that people have that can only go to certain people and when she was told it was for children and for cancer patients she felt she should probably continue to do it. She understands that there are only 15% of them in America that have this rare blood. She was glad that she could help Natalie.

ANNOUNCEMENTS/COUNCIL REPORTS: *(Upcoming Events/Other Items and Report if any)*

Councilmember Franklin –

- In regards to summer activities she had a chance to go over to the library and they have a full list of activities for young people but they have started a community garden and it is really focused on having our teenagers participate in it. It is open to anyone who wants to come and any age group can participate.
- For people that have loved ones serving in the military there is an organization called Military One Source and they offer various types of counseling services and she has a whole packet of information that she will leave with the City Clerk. She said that the people who are being deployed actually get this information but because they are getting so much information at the same time often times this goes by the wayside. This counseling also applies to family members. There is another service called The Military and Family Life Consultant Program and it is free to anybody who has served where people are able to call this gentleman listed on the brochure and they can ask questions about anything that might be bothering them. She will also leave this information with the City Clerk.
- On Saturday she, Mayor Botts, Councilman Machisio and Chief Purvis had an opportunity to attend the grand opening of the Outreach Center for the Church of God in Christ on east Ramsey Street and it wasn't so much just the building that was being talked about as much as they were looking for ways that they could help the community. They are really trying hard to bring programs in to our community to help people who live here.
- The Community Action Partnership talked about what happened with some of the monies they got through the stimulus plan and they are creating 157 jobs for people who have actually been laid off through the County. So if anyone has been laid off through the County and is looking for a job they can go to the County website and will be able to see that there are jobs that have been created through the stimulus dollars to help put people back to work.
- June 27th BPAL is featuring the 4th Annual Ready to Ride from 10 a.m. to 2 p.m. at the Community Center for all community youth to participate in finding out ways to be safer whether they are riding their skateboards or bicycles or just general public safety. It is free and there will be a lot of community groups participating on the same day.

- Today she attended Advancing the Goods Movement in Riverside. Some of the information that was presented today was a little bit different from what they have heard about moving goods. John Husing opened the program and he talked about unemployment in the Inland Empire and even though we hear 12% is the current number it is actually 340,600 jobs lost this year. That is in addition to 147,000 jobs lost last year. They talked about how goods movement may not seem like it is that big a deal when you talk about the overall economy but this is the fourth largest industry in the Inland Empire. One of the things she really picked up on and is really important to us is grade separations because that is something that is really impacting goods movement throughout the Inland Empire. They talked about how we can be part of the solution and the main thing talked about was how to get people to work together. She brought information to share with the Council.
- She went to a program yesterday at Desert Lawn for Memorial Day and they offered a couple of programs that are available to anybody who has served in any part of the military. They have burial benefits, as well as, the Presidential Memorial Certificate. If anybody is interested in getting one of those the number to call is 909-795-2451.

Councilmember Machisic –

- He attended a dedication of the Sculpture Garden at the Women Club sponsored by the Cultural Alliance. If you haven't been over to that facility, they have come a long way in the past two to three years. His congratulations to them; it was a fine event.

Mayor Pro Tem Hanna –

- Echoed what Councilmember Machisic said and also said that even if you missed the grand opening, you can go any day. It is a wonderful experience and there are many photo opportunities for your family or visitors or grandchildren visiting. Also all of the sculpture is for sale so if you fall in love with an item, there is a real possibility that you could actually buy it. Also the Banning Women's Club is also for rent by the Alliance.
- She attends the Banning Chamber of Commerce meetings on behalf of the City Council and since we have been working on our mission statements and taglines for tonight their mission statement is, "The Banning Chamber of Commerce is dedicated to promoting a vibrant business environment by cooperative interaction among business, government and community." And they will be developing a proposal for Council's consideration that staff will review and be part of the budget process when we get to that.

Councilmember Robinson –

- Attended the Riverside County Solid Waste Management Advisory Council meeting and was appointed to represent WRCOG as an alternate to that Council and they did approve the 5-Year Review of the CIAWMP and they also went over a lot of legislative updates and the bottom line is that it will mean more for us as far as what we are going to pay for refuse disposal, gas monitoring, rule making, CARB and SCAQMD.
- He attended the economics conference with Dr. John Husing and a lot of other economic professionals and it is not a good news day although they looking probably

at the last quarter of this year through the second quarter of next year to see things starting to come up and we are starting to see a little bit of improvement in unemployment already.

Mayor Botts –

- He thanked the Alliance for what they have done over the last few years and he also attended the dedication of the sculpture garden and this is giant steps forward for downtown Banning.
- Congratulations to Calvary Church of God in Christ. They attended a wonderful service and it was not just about the building as Councilmember Franklin said but about what they are trying to do for our young people in mentoring and other programs.

CONSENT ITEMS

Councilmember Franklin pulled Consent Item No. 8 and Mayor Botts pulled Consent Item No. 2.

1. Approval of Minutes – Special Joint Meeting – 4/28/09

Recommendation: That the minutes of the Special Joint Meeting of April 28, 2009 be approved.

3. Approval of Minutes – Special Meeting – 5/20/09

Recommendation: That the minutes of the Special Meeting of May 20, 2009 be approved.

4. Ordinance No. 1407 – 2nd Reading: An Ordinance of the City Council of the City of Banning, California, Approving Zone Text Amendment No. 09-97501, to Amend Section 17.28.040 of the Municipal Code Pertaining to Industrial Warehousing and Industrial Manufacturing Parking Standards.

Recommendation: That Ordinance No. 1407 pass its second reading and be adopted.

5. Resolution No. 2009-38, Approving the City of Banning's Disadvantaged Business Enterprise (DBE) Program Implementation Agreement with the Department of Transportation (CALTRANS)

Recommendation: That the City Council adopt Resolution No. 2009-38.

6. Resolution No. 2009-39, Approving the Measure "A" Five Year Capital Improvement Plan

Recommendation: That the City Council adopt Resolution No. 2009-39.

7. Resolution No. 2009-40, Approving the Professional Services Agreement for Project

No. 2009-02, Design of the New Repplier Park Playhouse Bowl

Recommendation: That the City Council adopt Resolution No. 2009-40, approving the Professional Services Agreement for Project No. 2009-02, Design of the New Repplier Park Playhouse Bowl with Williams Architects, Inc. of Upland, California in an amount "not to exceed" \$457,388.00; and authorize the Director of Finance to appropriate the approved Community Development Block Grant (CDBG) program funds including a 10% contingency to cover any unforeseen requirements. Additional funding from the Parkland Development Fund is necessary in order to cover the existing shortfall until future FY 2010/11 grant funds are approved by the Riverside County Economic Development Agency (EDA).

9. Public Improvements Acceptance and Performance/Labor and Material Bond Release for Barbour Street Industrial Park

Recommendation: Accept the public improvements and release 100% of the Faithful Performance/Labor and Material Bond for Barbour Street Industrial Park.

10. Notice of Completion for Project No. 2008-08, Phase II Improvements to the Banning Community Center Gym, as complete and direct the City Clerk to record the Notice of Completion.

Recommendation: That the City Council accept Project No. 2008-08, Phase II Improvements to the Banning Community Center Gym, as complete and direct the City Clerk to record the Notice of Completion.

11. Approval of Accounts Payable and Payroll Warrants for Month of April 2009

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

Motion Hanna/Machisic to approve Consent Items 1, 3, 4, 5, 6, 7, 9, 10 and 11. Mayor Botts opened the item for public comments. There were none. **Motion carried, all in favor.**

2. Approval of Minutes – Regular Meeting – 5/12/09

Mayor Botts said that this is approval of the minutes for the May 12th meeting and he wasn't quite sure where to bring this up but he wanted to make sure that an item didn't get lost and it was under presentations by Mrs. Sakurai regarding assistance to Passcom and they were asking for \$500 support and also asked this from other cities and he wanted to ask the City Manager where they were on this item.

City Manager said that they would bring this back to the Council for consideration at the next meeting.

Motion Franklin/Machisic that the minutes of the Regular Meeting of May 12, 2009 be approved. Mayor Botts opened the item for public comments.

Mayor Pro Tem Hanna suggested that it didn't need to be brought back because it is well within the City Manager's purview when he has the budget and the standards so it would be great to see it done. She said that the \$500 does not need Council approval.

City Manager said he could authorize the \$500. Mayor Botts said they would have him authorize that.

Motion carried, all in favor for approval of the minutes.

8. Resolution No. 2009-42, Approving an Advance to the San Gorgonio Child Care Care Consortium in the Amount of \$25,000

Councilmember Franklin said that she needed to abstain because she is a Board member for the Child Care Center.

Motion Hanna/Robinson that the City Council approve a short-term loan to the San Gorgonio Child Care Consortium which would be refunded on July 1, 2009 and expire September 30, 2009, in the amount of \$25,000.

PUBLIC HEARINGS

1. Resolution No. 2009-36, Confirming a Diagram and Levy and Collection of Assessments within the City of Banning's Landscape Maintenance District No. 1 for Fiscal Year 2009/10.
(Staff Report - Duane Burk, Public Works Director)

Mr. Burk addressed this item giving the staff report as contained in the agenda packet. He said that the assessment will be raised by the Consumer Price Index by 3.53%. The new assessment for a single-family dwelling will go from \$93.49 to \$189.47 with each assessment unit being different per landscaped area.

Councilmember Machisic said that as he recalls last year when they approved the landscaping and maintenance district there was a fairly large deficit and it came from the General Fund as he recalls and they were concerned about that with the economic crises and now he notices that it is \$129,000 and we are taking approximately \$5,000 from the Landscaping Fund. Does he assume in future years that this fund will support itself without General Fund money?

Mr. Burk said last year when they came before the Council there was a General Fund draw and the Council directed staff to go back out and try to cut that and they did take it out to bid and did get a new successful contractor which reduced the cost significantly. That money is being saved in the Landscape Maintenance District and hopefully this will become a self-sufficient account in the future.

There was some discussion in regards to keeping cost down in this area of the Landscape Maintenance District.

Mayor Botts opened the public hearing for comments from the public. Seeing none he closed the public hearing on this item.

Motion Machisic/Franklin that the City Council adopt Resolution No. 2009-36, Confirming a Diagram and the Levy and Collection of Assessments within the City of Banning's Landscape Maintenance District No. for Fiscal Year 2009/10, pursuant to the provisions of Part 2 of Division 15 of the California Streets and Highways Code. Motion carried, all in favor.

Motion Franklin/Robinson authorizing and directing the City Clerk to file the diagram and assessment with the Riverside County Assessor/County Clerk-Recorder's Office. Motion carried, all in favor.

2. Resolution No. 2009-37, Edward Byrne Memorial Justice Assistance Grant
(Staff Report – Lieutenant Phil Holder)

Lt. Holder gave the staff report as contained in the agenda packet. He said that in consultation with the Chief the decision was made to use these funds to subsidize their BPAL Program which is quite successful to keep our youth busy and also to be used for overtime funds for our Tactical Unit known as ETU which is required to have training under POST recommendations twice a month for twenty hours. This would help offset some of those cost. In May they applied for this grant and they do anticipate hearing from the federal government in September of the final approval and this is part of the process.

Mayor Pro Tem Hanna asked if he could estimate what the cost is for the Emergency Tactical Unit training. It was mentioned twice a month with 20 hours and is that 20 hours for each individual or 20 hours combined.

Lt. Holder said it was 20 hours for each individual. On average right now the way they try to plan their training they usually only have one or two of the eight officers that are actually on overtime. The other officers are actually on their regular days of work. Usually every month they have at least one to two officers on overtime during that period.

Mayor Pro Tem Hanna asked what is the cost for the Emergency Tactical Unit.

Lt. Holder said he doesn't have a specific cost but since the team's inception all equipment that they have acquired has been through grants or donations. They have not used any of the General Fund money from the City to equip the team.

Mayor Botts said that this question keeps coming up and he thinks at some point as they are going through the budget perhaps they should be prepared to know what that cost is on an operating basis.

Mayor Botts opened the public hearing for comments from the public. Seeing no one come forward he closed the public hearing.

Motion Machisic/Franklin that the City Council conduct a Public Hearing and accept grant funds provided by the Office of Justice Programs in the amount of \$95,724 to cover overtime costs for police officers participating in Banning Police Activities League (BPAL) activities and training exercises for the department's Emergency Tactical Unit (ETU).

Mayor Pro Tem Hanna said that there is probably nothing much better than BPAL which is one of the best programs in this city and it is just fantastic and the amount of commitment goes far beyond any pay. People put in so many hours and our Chief is there constantly and it is doing so much good for so many children. It is very satisfying and very exciting and she is just so pleased that we have wonderful people. She thinks it is very unusual to have the quality of people who relate so well to young people. She congratulated them for what they do.

Motion carried, all in favor.

REPORTS OF OFFICERS

1. A. Adoption of Tagline "Proud History, Prosperous Tomorrow" and Establish an Ad Hoc Committee Consisting of Mayor Botts and Council Member Franklin to Facilitate a Community Effort to Market the Tagline. for the City of Banning
(Staff Report - Brian Nakamura, City Manager)

City Manager gave the staff report as contained in the agenda packet.

Councilmember Robinson asked that when we do the symbol which is the Stagecoach with Banning over the top of it, do we also use Stagecoach Town USA Established 1913 or does that part get dropped and just the new tagline goes into that area.

City Manager said that is was staff's understanding that the new tagline would replace Stagecoach Town USA.

Mayor Botts opened the item for public comments.

Dorothy Mc Lean, 916 Linda Vista Dr. addressed the Council stating that she had something else in mind for the tagline but she likes it and thinks it will work. She thinks that it will bring us into the future and thanked the Council for keeping the Stagecoach emblem.

Mayor Botts thanked the Council for coming together on the tagline and the mission statement and the other things that they have finally pulled together. He thanked those in the audience and those listening for their suggestions of over 82 different taglines and he is pleased to say this was a community effort.

Motion Robinson/Hanna that the Council adopt the tagline "Proud History, Prosperous Tomorrow" as presented with the stagecoach symbol. Motion carried, all in favor.

1. B. Resolution No. 2009-41, Finding a Severe Fiscal Hardship Will Exist If Additional City Property Tax Funds are Seized and Additional Unfunded Mandates are Adopted by the State of California

City Manager gave the staff report as contained in the agenda packet. He said that the State is facing a \$21 billion dollar deficit and clearly there will be opportunities to try to take funds from the City and we are very concerned. The League of California Cities has put together this resolution and we are joining many cities who are adopting resolutions and also making visits during Legislative Days to insure that we are protected as best possible.

Mayor Botts opened this item for public comments. There were none.

Mayor Botts said in the resolution it states that the City Clerk shall send copies of this resolution to the Governor, our state senators and state assemblymen and so forth and he doesn't know whether it is automatic but he would like to have an original cover letter from the Mayor and Council signed by the Mayor to accompany this resolution.

Mayor Pro Tem Hanna said that she thinks it is the League that is asking for Mayor's to go and do a brief video on the state of their city as to why this is so important so she would encourage our Mayor to consider doing that and putting it up on their site.

Councilmember Franklin said if it adds more importance to the document she would say yes we should all sign it to show that we are all supporting it.

There was Council consensus to have the Mayor and Council Members sign a letter to accompany the resolution.

Motion Franklin/Hanna that the City Council adopt Resolution No. 2009-41. Motion carried, all in favor.

1. C. Stagecoach Days City of Banning In-Kind Service Costs Update and Possible Funding Appropriation for FY 2009-10.

City Manager said at the previous City Council meeting it was asked that this matter be brought forward after a subsequent presentation made by J. R. Algower in regards to Stagecoach Days. He said that one is the information regarding the in-kind service costs and the amount available and also the recommendation to provide some financial assistance from the contingency for 2009 Stagecoach Days.

Mayor Pro Tem Hanna asked if there was a budget for this 2009 Stagecoach Days for in-kind services. What she is seeing is the last two years. The in-kind was \$38,000 two years ago and last year it was \$24,000 and what is it going to be for this year. She said what she is proposing is that there actually be a budget rather than saying we don't know.

Finance Director said when you say this year do you mean the next services that we incur in-kind will be in the 2009/10 budget year. Mayor Pro Tem Hanna said he would be the new fiscal year and do we have an in-kind budget for that.

Finance Director said not specifically. We are in the process of putting together the budget and our departments have budgeted like they normally would for staff time. The in-kind services that have been provided here in the past have been for staff time. There has been some overtime incurred and they have tried to do that in the normal course but it has caused some overtime. We could ask the specific departments if they allotted overtime.

Mayor Pro Tem Hanna said she thought that was what they wanted to see. What is our budget for Stagecoach Days for this year for in-kind services? We want to see what police, water, electric services are; what is it going to be that we can have a cap or maximum which staff would be expected not to go over.

Mayor Botts said he thought that is what we asked the City Manager to bring back. Bring back the numbers for the several years and give us a recommendation on the budget item so that we say yes we agree with that and don't go over it so that we give police and fire and everyone something to back up to and they can only provide so much in-kind services because we have said it is in-kind but it is taxpayer's money we are spending and we are willing to donate some of that. But he thought the request was for the City Manager to come back with a recommendation of how much for each and also a recommendation for a cash contribution.

City Manager said that was his misunderstanding then because his understanding was that there was a question as to how much was available in the contingency account to apply toward a contribution for Stagecoach Days for 2009 and that we were just to provide the basic essential services for what we have done in the previous years and those were listed the police services and also for the water utility, electric and we know there are costs for garbage pickup and those kinds of services and those were to be kept at a minimum. It was based on the FY 08/09 in-kind services cost of \$24,000 and we anticipated that we would be somewhere in that range now just for the in-kind services and the remaining balance was the information that the Council wanted in relation to what we spent today in the contingency and what would be available for a contribution.

Mayor Botts said he doesn't understand if we had \$10,000 in the contingency and we have spent \$10,321 and you show \$9,679 remaining. City Manager said that this year there was \$20,000 in the contingency.

Finance Director said the City Manager was correct. In this 08/09 Fiscal Year we had budgeted \$20,000. It was the direction from the City Council back from a March meeting to budget \$10,000 as we move forward and that is what they are looking at for the 2009/10 proposed budget that will be in front of you but the current fiscal year has \$20,000.

Councilmember Robinson said we have other projects out there like Cool Summer Nights and we have in-kind services for that and where does that fit into this number.

City Manager said that maybe there is some confusion. The amount available the \$20,000 was for specific items that the Council wished to fund throughout the year whether it is for Relay for Life or the Easter Egg Hunt. When we talk about the in-kind services for Cool Summer Nights or Stagecoach Days those come out of the budget somewhere so they typically come out of the Police budget specifically for their services, Public Works for their services if they have to put barricades out for example. Utilities for example, if you notice in 2008, the in-kind total was higher because they had to rewire some electrical at Dysart Park and the next year that cost wasn't there. For example, if we have to hang a banner those are the in-kind costs that the Utility Department will absorb. There is still a payment made but it is through those donations of those in-kind service costs that could show up in your overtime account or in your regular budget.

Councilmember Franklin said it sounds like there was some misunderstanding because she is looking at agenda page 19 and it says that Council consensus was that the City Manager would bring back a report in two weeks with the City's in-kind contributions and also bring back what was the remaining balance in the sponsorship fund. It doesn't say in the minutes that we were going to actually get a report for what this year's in-kind request would be. So it sounds like there was some miscommunication in there.

Mayor Botts said he would hate to see us say business as usual. It was \$24,000 last year so let's make it \$24,000 and he doesn't want to pick on the police department but it is wonderful that we have 10 or 12 police cars parked there and the SWAT Team and the Gang Task Force and a wonderful show of force but they inter-relate with people and it is a good experience. But in a year when we are laying people off he thinks that we need to set and say whatever it was last year we are going to cut it in half just as an example. He thinks this Council needs to be proactive and say we have to reduce those expenses. He thinks that we need to have a recommendation from the City Manager as we asked last time to say how could we reduce that in-kind and do that with each department. Times are tough and we need to set some limits.

City Manager said he knows that we are in a tight fiscal situation and Mr. Algower made a presentation a meeting ago that he would like to at least try to reduce if not minimize all contributions from the City knowing that we are in fiscal hardship. Again, our recommendation is that we provide a safe and positive environment and if minimal interaction with the City departments is imperative, then they will do that.

Councilmember Franklin said then the City Manager will be able to come back to the Council with a specific dollar amount of what the in-kind minimum cost would be by our next meeting.

City Manager said that he would come back with an estimate of that cost barring any unfortunate events that may occur that require police to be there or public utilities or public works.

Mayor Pro Tem Hanna said she would like the City Manager to come back with a maximum amount rather than a minimum amount or not-to-exceed amount so that the Council knows what they are talking about dollar wise. There was Council consensus to a not-to-exceed amount.

There was some Council discussion on a cash contribution in addition to in-kind services.

Motion Hanna/Robinson to approve a cash contribution for \$5,000 for Stagecoach Days in addition to what will be approved next meeting on in-kind. She also mentioned that this is our signature event and her particular interest is to make sure that the parade and bands are able to participate in it.

Mayor Botts opened the item for public comments. There was none.

Councilmember Machisic said we had a presentation from the Chairman of Stagecoach Days and he thinks that they have done a pretty good job and they have cut out the rodeo which is about \$50,000 he believes.

Mr. Algower, Chairman of Stagecoach Days said that they did cut the rodeo and it was in excess of \$50,000 but one of the thoughts was the same as Council's with the in-kind support. By cutting the rodeo and with the contribution from the City they can eliminate items like a tractor and get volunteers or bring in the tractor but they don't need the constant tractor work at the facility like they would if they had a rodeo. This would cut the in-kind support. This would be the same for the water and the water bill will probably be cut by 2/3rds. He said they don't need that much water in the arena for the other events. The electrical work has been done so that is going to cut down on cost. Also they have the Riverside County Sheriff that has agreed to be the Grand Marshal and with that hopefully he will bring in the Posse to add a little bit of help with security. Plus in their budget they have hired security people who have done security work and they are actually MP's with the military stationed in Pendleton where his son is and they are coming up and the Stagecoach Committee is picking up that cost.

Councilmember Machisic said you mentioned since you don't have the arena and the rodeo certain expenses have been eliminated. Was the City responsible for some in-kind things in that arena?

Mr. Algower said yes. The water, the tractor work and a number of work around the area as well that they don't need this year.

Councilmember Machisic said he would think that would make some difference. Mayor Botts said that staff would bring that back to the Council.

Mayor Botts said he wanted to make it clear that he was only using the police department as an example that we need to look at each item. He would expect that we all want a safe Stagecoach Days and that we certainly will ask the police department to give us their input of what those needs are but we do need to look at each of them.

Councilmember Franklin said that 'Mayor Pro Tem Hanna mentioned a little bit but in regards to the parade especially that if there is anything we can do to make sure it is a quality parade because a lot of other departments in other cities don't have the money so whatever we can do to help make sure it is a quality parade to bring people out would be beneficial.

Motion carried, all in favor.

ITEMS FOR FUTURE AGENDAS

New Items –

Mayor Botts said that they had a request which he thought would be on this agenda from the Alliance and the Chamber regarding their in-kind fees for Cool Summer Nights and he would hope that they could get agreement tonight from the Council to have that come back to us on the next agenda. **There was Council consensus to have this on the next agenda.**

Mayor Botts said the other item is the TOT (Transient Occupancy Tax). He asked if there was Council consensus to bring this forward as a Council agenda item for the next meeting for November 3, 2009. **There was consensus.**

Councilmember Franklin said we talked about it before the policy for naming streets. It was on a future agenda but it was dropped. Mayor Botts said also the naming of parks some policy and procedures. **There was Council consensus to add that to the list.**

Pending Items –

1. Service Club Signage on Ramsey Street, Gateway project
2. Ramsey Street Left Turn at Beaver Medical (ETA 6/1/09)
3. Courthouse Development, Land Assembly for Future Development
4. City Purchasing Policy for Buy Local Program (ETA 5/26/09)
5. Golf Cart Lane Policy for City of Banning
6. Update on Sunset Grade Separation
7. Schedule Meetings with Our State and County Elected Officials

Mayor Botts asked City Manager to work with staff to add some ETA dates on some of these items.

Mayor Pro Tem Hanna said in regards to Pending Item No. 4 that is really two different things. There is a buy local program which they discussed and gave some direction on. But there is also the notion of the City purchasing process policy and she doesn't know whether the Council wants that reviewed. Right now it is 2%. In other words if we go out to bid on any thing if a local company comes in no more than 2% higher than other companies, they are equal and they could get the contract if that is the lowest bid. She doesn't know if Council wants this to come back for review or some thing more than 2%.

Mayor Botts said that he thinks he put this on and the answer was to say how can we make sure that our purchasing policy maximizes spending money locally and if it is 2% or 10%. He knows that there are some limitations on it but we need to look at it. We are also purchasing some items out of the City that we could be purchasing here. He hears from businesses all the time why are you going to Redlands or other places when you can buy here. He knows that we have a bid process but this whole issue needs to be looked at. **There was Council consensus.**

City Manager said that staff would bring this back to the next meeting.

FUTURE MEETINGS

1. Special Council Meeting - Budget Workshop – June 3, 2009 – 9:00 a.m.
2. Special CRA Meeting - Budget Workshop – June 9, 2009 – 4:30 p.m.
3. Special Council Meeting - Budget Workshop – June 10, 2009 – 2:00 p.m.

Councilmember Franklin said that we had scheduled a joint meeting with the School Board for June 20th and she doesn't know where we are with that.

City Manger said he received feedback from the Council for the date of June 20th and unfortunately four of the five Council Members are not available on that date. He will work with Ms. Kennedy to collect some dates that will work and assumes that it will still be on a Saturday.

CLOSED SESSION

City Attorney said whereas the Redevelopment Agency Meeting was never fully adjourned the Agency will now reconvene to continue its Agency closed session discussions jointly with the City Council closed session. The matters to be discussed in the joint closed session will be from the Agency side what was noticed on the Agency agenda real property negotiations with respect to the Oddfellows Building. This discussion qualifies for closed session pursuant to Government Code Section 54956.8 conference with real property negotiators. On the City Council side we will have a closed session discussion with regard to conference with labor negotiators pursuant to Government Code Section 54957.6 and also have a City Council closed session to perform a City Manager evaluation which qualifies for closed session under Government Code Section 54957.

Meeting went into closed session at 8:21 p.m. and returned to regular session at 9:57 p.m.

City Attorney stated that on the Agency closed session item regarding the Oddfellows Building there was no reportable action. On the City Council closed session item regarding labor negotiations there was no reportable action. And on the City Council closed session item regarding City Manager evaluation the City Council unanimously provided instructions to the City Manager regarding his performance of hiring in the area of economic development and the City Manager's prioritization of that concern.

ADJOURNMENT

By common consent the meeting adjourned at 10:00 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.

**CITY COUNCIL AGENDA
CONSENT ITEM**

DATE: June 9, 2009

TO: Honorable Mayor and City Council

FROM: Duane Burk, Director of Public Works

SUBJECT: Resolution No. 2009-45, "Undergrounding of Utilities in the Downtown Area"

RECOMMENDATION: Adopt Resolution No. 2009-45, "Undergrounding of Utilities in the Downtown Area.

JUSTIFICATION: The adoption of this resolution is necessary in order to require other utility companies to underground facilities. Additionally, such undergrounding will eliminate an unusually heavy concentration of overhead distribution facilities in the downtown area.

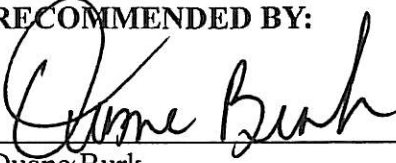
BACKGROUND: The Community Redevelopment Agency (CRA) has been working towards revitalizing the downtown area by supporting building improvements for projects such as the Banning Chamber of Commerce, Super Subs Sandwich Shop, and Ben Stephenson's building located at 89 N. San Gorgonio Avenue. Additionally, the CRA supported the landscaping and parking lot improvements to the parking lot west of City Hall.

Recently, on May 26, 2009 the CRA adopted CRA Resolution No. 2009-09 approving an amendment to the Owner Participation Agreement with Robert Freeman, Dirk Dorning, and others for the installation of an electrical conduit system at the Oddfellows building located at 42 W. Ramsey Street, currently under renovation. The electrical conduit system will service the Oddfellows building as well as other businesses operating in the vicinity including the Fox Theatre, Lithopass Printing and the building located at 33 S. San Gorgonio Avenue. Undergrounding the electrical at this location will be another step towards the beautification of the downtown area.

Although the City of Banning will be undergrounding electrical utilities at the above location an Underground Utilities District must be formed in order to enable the City to require cable and phone companies to underground their utilities in the area of concern. It is recommended that such an Underground Utility District be formed in the downtown area, as shown in Exhibit "A" attached hereto, with the adoption of this resolution. It is the City's desire that once all utilities are underground, overhead poles will be removed enhancing aesthetics of the area.

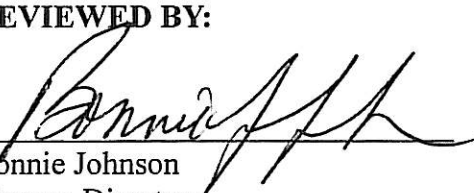
FISCAL DATA: Per the Electric Department Rules and Regulations, costs associated with replacing overheard distribution facilities with underground distribution facilities, along public streets and roads and on public lands and private property across which right-of-way has satisfactory been obtained, for reasons such as eliminating an unusually heavy concentration of overhead distribution facilities will be paid for at the expense of the City of Banning Electric Department.

RECOMMENDED BY:



Duane Burk
Director of Public Works

REVIEWED BY:



Bonnie Johnson
Finance Director

APPROVED BY:



Brian Nakamura
City Manager

RESOLUTION NO. 2009-45

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA,
UNDERGROUNDING OF UTILITIES IN THE DOWNTOWN AREA”**

WHEREAS, the City of Banning owns and operates their own electric utility, providing electrical services to all residents and businesses, and

WHEREAS, the City of Banning will be undergrounding electrical utilities at the southwest corner of San Geronio Avenue and Ramsey Street servicing businesses in the area including the Oddfellows building, the Fox Theatre, Lithopass Printing and the building located at 33 S. San Geronio Avenue; and

WHEREAS, an Underground Utilities District must be formed in order to enable the City to require cable and phone companies to underground their utilities in the area of concern; and

WHEREAS, the requirement of undergrounding utilities in the downtown area through the formation of the Underground Utility District as shown in Exhibit “A” will eliminate an unusually heavy concentration of overhead distribution facilities, as well as, be another step towards the beautification of the downtown area and the City of Banning.

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

Section I. All the utilities in the downtown area as shown in Exhibit “A” shall be underground as part of the City’s beautification program.

PASSED, ADOPTED AND APPROVED this 9th day of June, 2009.

Robert E. Botts, Mayor
City of Banning

ATTEST:

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

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

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

CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2009-45 was adopted by the City Council of the City of Banning at the Regular Meeting thereof held on the 9th day June of 2009.

AYES:

NOES:


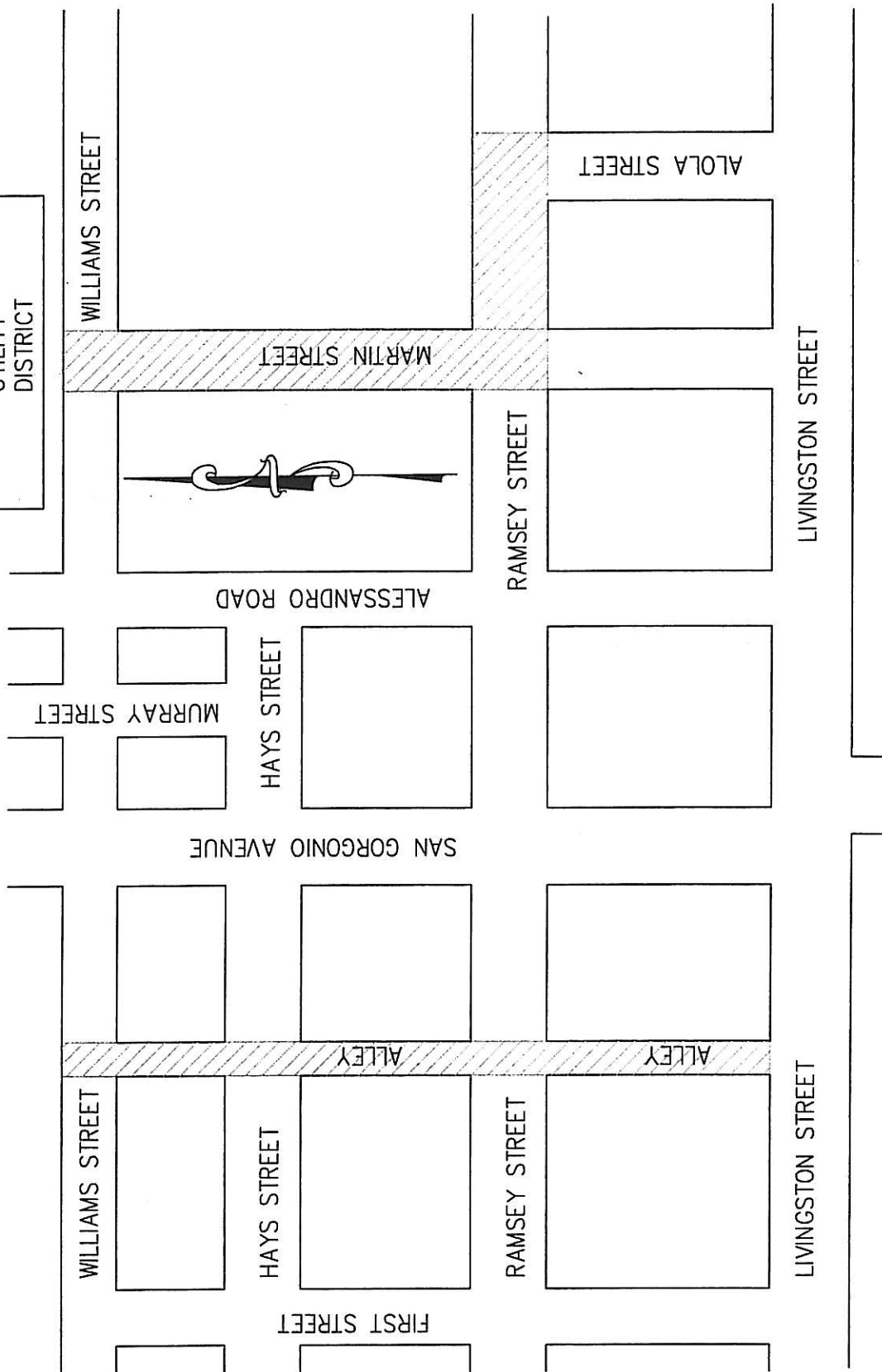
ABSENT:

ABSTAIN:

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

LEGEND

PROPOSED
UNDERGROUND
UTILITY
DISTRICT

Graphic Scale
N.T.S.

CITY OF BANNING

EXHIBIT "A"

SHEET NO.

1

OF 1 SHEET

**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: June 9, 2009
TO: City Council
FROM: Bonnie J. Johnson, Finance Director
SUBJECT: Report of Investments for March 2009

RECOMMENDATION: "The City Council receive and place these required monthly *Reports of Investments* on file."

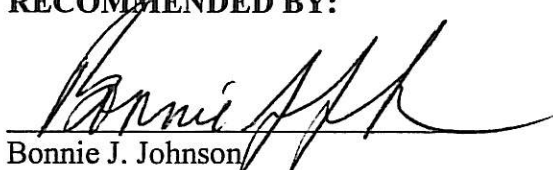
JUSTIFICATION: State law requires that a monthly report of investments be submitted to the Chief Executive Officer and the Legislative Body.

BACKGROUND: This report includes investments on hand at the end of March 2009. As of March 31, 2009, the City's operating funds totaled \$75,120,035. Included in operating funds is \$4,556,705 of restricted CRA bond proceeds that are on deposit with LAIF and reflected separately on the Treasurer's Report. As of March 31, 2009 approximately 37% of the City's unrestricted cash balances were invested in investments other than LAIF.

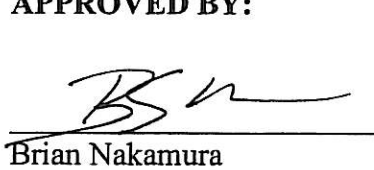
Presented are three months of Investment Reports. March is a first issue, while January and February are included to provide multiple months of statements for comparison

FISCAL DATA: The latest reports from the State indicate that the average interest achieved by the Local Agency Investment Fund (LAIF) decreased to 1.822 % in March. The average rate for all investments in March was 2.042%.

RECOMMENDED BY:


Bonnie J. Johnson
Finance Director

APPROVED BY:


Brian Nakamura
City Manager

Summary Schedule of Cash and Investments

Operating FundsPetty Cash

Amount

2,305

Bank Accounts

Interest

Rate Amount

Wells Fargo Bank

0.000% 44,996

Wells Fargo Bank-Investment Account

0.100% 2,052,969

Bank of America-Airport

0.300% 4,180

Bank of America-Parking Citations

0.300% 3,307

Bank of America-CNG Station

0.300% 3,435

Money Market and Bank Account Sub-Total

2,108,886

Government Pools

Local Agency Investment Fund: Account #1

1.822% 30,863,519

Account #2 Operating Amount 12,944,683

Account #2 CRA Bond Cash Bal 4,456,705

Local Agency Investment Fund: Account #2

1.822% 17,401,387

Government Pool Sub-Total

48,264,907

Operating Cash Balance**50,376,098**Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund

0.110%

1,148,234

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2

2.668%

23,595,703

*Operating Funds Total*75,120,035**Fiscal Agent**

Amount

BNY Western Trust Company

539,162

US Bank

74,784,210

*Fiscal Agent Total*75,323,371**Deferred Compensation**

City Employee Trust Accounts

3,812,800

*Deferred Compensation Total*3,812,800

City of Banning Investment Report

March 31, 2009

Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	Discount or (Premium) Amortization	Market Value
<u>Bank Accounts</u>								
44,996	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	44,996	n/a	44,996
2,052,969	Wells Fargo Bank-Investment Acct	n/a	0.10%	daily	varies	2,052,969	n/a	2,052,969
4,180	Bank of America-Airport	n/a	0.30%	daily	varies	4,180	n/a	4,180
3,307	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,307	n/a	3,307
3,435	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,435	n/a	3,435
Sub-total								
								2,108,886
<u>Government Pools</u>								
30,863,519	L.A.I.F. account #1	n/a	1.822%	daily	varies	30,863,519	n/a	30,863,519
17,401,387	L.A.I.F. account #2	n/a	1.822%	daily	varies	17,401,387	n/a	17,401,387
Sub-total								
								48,264,907
<u>Investments-US Bank/Piper Jaffray</u>								
6,000,000	Fedl Natl Mtg Assn	n/a	3.750%	6/10/2011	9/11/2008	6,000,000	0	6,015,000
2,000,000	Fedl Home Loan Bank	n/a	3.100%	10/29/2010	4/29/2008	2,000,000	0	2,003,760
2,000,000	Fedl Home Loan Bank	n/a	3.280%	12/9/2010	6/9/2008	2,000,000	0	2,008,760
1,500,000	Fedl Natl Mtg Assn	n/a	1.790%	6/24/2010	12/24/2008	1,500,000	0	1,499,535
3,000,000	Fedl Natl Mtg Assn	n/a	2.000%	12/30/2010	12/30/2008	3,000,000	0	3,010,080
6,000,000	Federal Farm Credit Banks	n/a	2.120%	9/23/2011	3/24/2008	6,000,000	0	6,002,040
3,000,000	Federal Farm Credit Banks	n/a	2.040%	12/30/2011	12/23/2008	3,000,000	0	3,009,390
47,138	Money Market	n/a	0.980%	daily	varies	47,138	0	47,138
US Bank/Piper Jaffray Average Rate=								
			2.668%					23,595,703

Average Rate All= 2.042%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on July 8, 2008. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 203 days and does not include Bond Reserve Fund Investments.

City of Banning Investment Report

March 31, 2009

Individual Investments with Fiscal Agent

TRUSTEE		Bond Maturity Date	Investment Description	Current Yield	Bond Reserve Bond Maturity Date	Minimum Reserve Requirement	Interest Mar-09	3/31/2009 Market Value
Bond Issue Description								
BNY WESTERN TRUST COMPANY								
1997 Admin Building COPs Refunding		2020	Republic Bank Investment Agreement Federated U.S. Treasury Money Mkt	6.270% 0.200%	11/1/2020 daily	522,375	*	522,562 16,600
US BANK								
1991 Wilson St. Assessment District		2012	AIM U.S. Treasury Money Market	0.124%	daily	265,580	45.90	265,683
			First Amer Treas Oblig Fd CL D	0.150%	daily		0.16	0
2005 Fair Oaks Ranch Estates		2035	First Amer Treas Oblig Fd CL D	0.200%	daily	190,323	13.17	216,806
2003 CRA Tax Allocation Bonds		2028	Forward Delivery Agreement - B of A	4.560%	daily	971,763	*	984,017
			First Amer Treas Oblig Fd CL D	0.200%	daily		1.92	5,839
Surplus Fund			First Amer Treas Oblig Fd CL D		daily			8
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007								
Redevelop Fund		2037	First Amer Treas Oblig Fd CL D	0.200%	daily		57.59	940,207
		11/27/2009	Reliance Trust Company GIC # 9AMGGBF37	2.950%				3,336,669
		5/21/2009	Reliance Trust Company GIC # 9AMGGBEU8	2.400%				3,500,000
		11/19/2009	Reliance Trust Company GIC # 9AMGGBEV6	2.950%				8,000,000
Reserve Fund			First Amer Treas Oblig Fd CL D	0.200%	daily	1,880,751	125.24	1,875,280
Special Fund			First Amer Treas Oblig Fd CL D	0.200%	daily		0.66	0
Surplus Fund			First Amer Treas Oblig Fd CL D	0.270%	daily			9
BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES								
Bond Fund			First Amer Treas Oblig Fd CL D	0.140%	daily			21
Principal Account			First Amer Treas Oblig Fd CL D	0.200%	daily		0.01	109
			First Amer Treas Oblig Fd CL D	0.200%	daily		247.46	3,701,010
BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES								
Bond Fund			First Amer Treas Oblig Fd CL D	0.200%	daily		0.89	13,286
Principal Account			First Amer Treas Oblig Fd CL D	0.200%	daily		0.02	285
Reserve Fund			First Amer Treas Oblig Fd CL D	0.200%	daily		154.00	2,313,052
Project Fund			First Amer Treas Oblig Fd CL D	0.150%	daily		1,302.80	18,816,262
		5/7/2009	Federal Home Loan Banks	2.740%	daily			6,190,325

City of Banning Investment Report

March 31, 2009

TRUSTEE	Bond	Investment Description	Current Yield	Bond Reserve		Interest Mar-09	3/31/2009 Market Value
	Maturity Date			Bond Maturity Date	Reserve Requirement		
BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES							
Reserve Fund	11/17/2011	First Amer Treas Oblig Fd CL D	0.200%	daily	0.11	835	
		First Amer Treas Oblig Fd CL D	0.200%	daily	0.21	1,601	
Acquisition & Construction	11/27/2009	Reliance Trust Company GIC # 9AMGGBEZ7	3.650%		0.00	3,016,508	
		First Amer Treas Oblig Fd CL D	0.200%	daily	84.40	2,319,943	
		Reliance Tr Co Contract # 9AMGGBF29	2.950%			8,036,457	
	5/21/2009	Reliance Trust Company GIC #9AMGGBEX2	2.400%			3,250,000	
	11/19/2009	Reliance Trust Company GIC #9AMGGBEY0	2.950%			8,000,000	
*Paid Semi-Annually-Deposited into Money Mkt Account				Total		2,034.54	75,323,371

*Paid Semi-Annually-Deposited into Money Mkt Account

Deferred Compensation

Balance 1/1/2009	ICMA Retirement Corporation CALPERS 457 Program NATION WIDE-PEBS CO	01/01/09 to 3/31/2009 Quarterly Activity			3/31/2009
		Contributions	Withdrawals	Gain/Loss	
724,421	Various Employee Selected Mutual Funds	206,064	(2,700)	(31,177)	896,609
2,110,524	Various Employee Selected Mutual Funds	184,288	(53,399)	(91,985)	2,149,428
801,073	Various Employee Selected Mutual Funds	3,651	(24,913)	(13,048)	766,763
<u>3,636,019</u>					<u>3,812,800</u>

Summary Schedule of Cash and Investments

Operating Funds

	Amount
<u>Petty Cash</u>	2,305

Bank Accounts

	Interest Rate	Amount
Wells Fargo Bank	0.000%	124,712
Wells Fargo Bank-Investment Account	0.100%	1,096,590
Bank of America-Airport	0.300%	4,839
Bank of America-Parking Citations	0.300%	3,691
Bank of America-CNG Station	0.300%	4,270

Money Market and Bank Account Sub-Total 1,234,102

Government Pools

Local Agency Investment Fund: Account #1 1.869% 30,863,519

Account #2 Operating Amount 15,257,770

Account #2 CRA Bond Cash Bal 4,593,618

Local Agency Investment Fund: Account #2 1.869% 19,851,387

Government Pool Sub-Total 50,714,907

Operating Cash Balance 51,951,314

Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund 0.110% 1,191,545

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2 2.839% 23,601,143

Operating Funds Total 76,744,002

Fiscal Agent

	Amount
BNY Western Trust Company	539,162
US Bank	<u>74,887,044</u>

Fiscal Agent Total 75,426,206

Deferred Compensation

City Employee Trust Accounts 3,587,466

Deferred Compensation Total 3,587,466

City of Banning Investment Report

Operational Portfolio Individual Investments

February 28, 2009

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	Discount or (Premium) Amortization	Market Value
<u>Bank Accounts</u>								
124,712	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	124,712	n/a	124,712
1,096,590	Wells Fargo Bank-Investment Acct	n/a	0.10%	daily	varies	1,096,590	n/a	1,096,590
4,839	Bank of America-Airport	n/a	0.30%	daily	varies	4,839	n/a	4,839
3,691	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,691	n/a	3,691
4,270	Bank of America-Parking Citations	n/a	0.30%	daily	varies	4,270	n/a	4,270
Sub-total								
								1,234,102
<u>Government Pools</u>								
30,863,519	L.A.I.F. account #1	n/a	1.869%	daily	varies	30,863,519	n/a	30,863,519
19,851,387	L.A.I.F. account #2	n/a	1.869%	daily	varies	19,851,387	n/a	19,851,387
Sub-total								
								50,714,907
<u>Investments-US Bank/Piper Jaffray</u>								
6,000,000	Fedl Natl Mtg Assn	n/a	3.750%	6/10/2011	9/11/2008	6,000,000	0	6,041,280
6,000,000	Federal Farm Credit Banks	n/a	2.625%	3/12/2010	3/24/2008	6,000,000	0	6,001,860
2,000,000	Fedl Home Loan Bank	n/a	3.100%	10/29/2010	4/29/2008	2,000,000	0	2,006,260
2,000,000	Fedl Home Loan Bank	n/a	3.280%	12/9/2010	6/9/2008	2,000,000	0	2,011,880
1,500,000	Fedl Natl Mtg Assn	n/a	1.790%	6/24/2010	12/24/2008	1,500,000	0	1,492,965
3,000,000	Federal Farm Credit Banks	n/a	2.370%	12/23/2010	12/23/2008	3,000,000	0	2,999,070
3,000,000	Fedl Natl Mtg Assn	n/a	2.000%	12/30/2010	12/30/2008	3,000,000	0	3,000,690
Sub-total								
								23,543,675
47,138	Money Market	n/a	0.980%	daily	varies	47,138	0	47,138
Sub-total								
								23,601,143
<u>US Bank/Piper Jaffray Average Rate=</u>								
			2.839%					

Average Rate All= 2.143%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on July 8, 2008. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 193 days and does not include Bond Reserve Fund Investments.

City of Banning Investment Report

February 28, 2009

Individual Investments with Fiscal Agent

TRUSTEE		Bond Maturity Date	Investment Description	Current Yield	Bond Maturity Date	Minimum Reserve Requirement	Interest Feb-09	2/28/2009 Market Value
BND Issue Description								
BNY WESTERN TRUST COMPANY								
1997 Admin Building COPs Refunding		2020	Republic Bank Investment Agreement . Federated U.S. Treasury Money Mkt	6.270% 0.190%	11/1/2020 daily	522,375	0.00 * 0.00	522,562 16,600
US BANK								
1991 Wilson St. Assessment District		2012	AIM U.S. Treasury Money Market First Amer Treas Oblig Fd CL D	0.220% 0.150%	daily daily	265,580	56.61 0.00	265,637 36,235
2005 Fair Oaks Ranch Estates		2035	First Amer Treas Oblig Fd CL D	0.160%	daily	190,323	5.37	283,419
2003 CRA Tax Allocation Bonds		2028	Forward Delivery Agreement - B of A First Amer Treas Oblig Fd CL D	4.330% 0.150%	daily daily	971,763	0.00 * 3.22	986,781 5,844
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007								
Redevelop Fund		2037	First Amer Treas Oblig Fd CL D	0.150%	daily		21.12	940,149
		11/27/2009	Reliance Trust Company CDARS #9AMGGBF37	2.900%				3,336,669
		2/19/2009	Reliance Trust Company CDARS #9AMGGBET1	1.800%			41,446.60	0
		5/21/2009	Reliance Trust Company CDARS #9AMGGBEU8	2.400%				3,500,000
		11/19/2009	Reliance Trust Company CDARS #9AMGGBEV6	2.950%				8,000,000
Reserve Fund			First Amer Treas Oblig Fd CL D	0.150%	daily	1,880,751	54.27	1,875,154
Special Fund			First Amer Treas Oblig Fd CL D	0.110%	daily		8.77	9
BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES								
Bond Fund			First Amer Treas Oblig Fd CL D	0.140%	daily		0.00	21
Principal Account			First Amer Treas Oblig Fd CL D	0.150%	daily		0.00	109
			First Amer Treas Oblig Fd CL D	0.150%	daily		104.88	3,700,762
BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES								
Bond Fund			First Amer Treas Oblig Fd CL D	0.150%	daily		0.37	13,285
Principal Account			First Amer Treas Oblig Fd CL D	0.150%	daily		0.01	285
Reserve Fund			First Amer Treas Oblig Fd CL D	0.150%	daily		65.12	2,312,897
Project Fund			First Amer Treas Oblig Fd CL D	0.150%	daily		608.61	18,814,959
		5/7/2009	Federal Home Loan Banks	2.750%	daily		16,402.00	6,189,568

City of Banning Investment Report

February 28, 2009

Bond Maturity Date		Investment Description	Current Yield	Bond Reserve		Minimum Reserve Requirement	Interest Feb-09	2/28/2009 Market Value
Bond Issue Description	Bond Maturity Date							
BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES								
Reserve Fund	11/17/2011	First Amer Treas Oblig Fd CL D	0.130%	daily			0.25	835
		First Amer Treas Oblig Fd CL D	0.130%	daily			0.48	1,601
Acquisition & Construction	11/17/2011	Reliance Trust Company CDARS #9AMGGBEZ7	3.650%				0.00	3,016,509
		First Amer Treas Oblig Fd CL D	0.130%	daily			3.82	2,319,859
		Reliance Trust Company CDARS #9AMGGGBF29	2.950%					8,036,457
		Reliance Trust Company CDARS #9AMGGBEW4	1.800%			65,910.10	0	
	2/19/2009	Reliance Trust Company CDARS #9AMGGBEW4	2.400%					3,250,000
	5/21/2009	Reliance Trust Company CDARS #9AMGGBEX2	2.950%					8,000,000
	11/19/2009	Reliance Trust Company CDARS #9AMGGBEY0						
Total							124,691.60	75,426,206
*Paid Semi-Annually-Deposited into Money Mkt Account								

*Paid Semi-Annually-Deposited into Money Mkt Account

Deferred Compensation

Balance		
2/1/2009		
704,776	Various Employee Selected Mutual Funds	2/28/2009
2,063,898	Various Employee Selected Mutual Funds	850,424
784,589	Various Employee Selected Mutual Funds	1,986,925
<u>3,553,263</u>		<u>750,117</u>
		<u>3,587,466</u>

ICMA Retirement Corporation
CALPERS 457 Program
NATION WIDE-PEBS CO

Summary Schedule of Cash and Investments**Operating Funds**Petty Cash

Amount

2,305

Bank Accounts

Interest

Rate

Amount

Wells Fargo Bank

0.000%

127,334

Wells Fargo Bank-Investment Account

0.100%

1,559,955

Bank of America-Airport

0.300%

3,329

Bank of America-Parking Citations

0.300%

3,155

Bank of America-CNG Station

0.300%

3,410

Money Market and Bank Account Sub-Total

1,697,183

Government Pools

Local Agency Investment Fund: Account #1

2.046%

30,863,519

Account #2 Operating Amount 10,447,784

Account #2 CRA Bond Cash Bal 4,703,603

Local Agency Investment Fund: Account #2

2.046%

15,151,387

Government Pool Sub-Total

46,014,907

Operating Cash Balance

47,714,395

Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund

0.110%

1,416,736

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2

2.921%

24,561,344

Operating Funds Total

73,692,475

Fiscal Agent

Amount

BNY Western Trust Company

539,162

US Bank

80,433,020

Fiscal Agent Total

80,972,182

Deferred Compensation

City Employee Trust Accounts

3,553,263

Deferred Compensation Total

3,553,263

City of Banning Investment Report

Operational Portfolio Individual Investments

January 31, 2009

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	Discount or (Premium) Amortization	Market Value
<u>Bank Accounts</u>								
127,334	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	127,334	n/a	127,334
1,559,955	Wells Fargo Bank-Investment Acct	n/a	0.10%	daily	varies	1,559,955	n/a	1,559,955
3,329	Bank of America-Airport	n/a	0.30%	daily	varies	3,329	n/a	3,329
3,155	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,155	n/a	3,155
3,410	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,410	n/a	3,410
Sub-total								
								1,697,183
<u>Government Pools</u>								
30,863,519	L.A.I.F. account #1	n/a	2.046%	daily	varies	30,863,519	n/a	30,863,519
15,151,387	L.A.I.F. account #2	n/a	2.046%	daily	varies	15,151,387	n/a	15,151,387
Sub-total								
								46,014,907
<u>Investments-US Bank/Piper Jaffray</u>								
925,000	Fedl Home Loan Bank	n/a	5.000%	2/13/2009	12/14/2006	924,873	127	926,156
6,000,000	Fedl Natl Mtg Assn	n/a	3.750%	6/10/2011	9/11/2008	6,000,000	0	6,050,640
6,000,000	Federal Farm Credit Banks	n/a	2.625%	3/12/2010	3/24/2008	6,000,000	0	6,009,360
2,000,000	Fedl Home Loan Bank	n/a	3.100%	10/29/2010	4/29/2008	2,000,000	0	2,010,000
2,000,000	Fedl Home Loan Bank	n/a	3.280%	12/9/2010	6/9/2008	2,000,000	0	2,015,620
1,500,000	Fedl Natl Mtg Assn	n/a	1.790%	6/24/2010	12/24/2008	1,500,000	0	1,496,250
3,000,000	Federal Farm Credit Banks	n/a	2.370%	12/23/2010	12/23/2008	3,000,000	0	3,001,890
3,000,000	Fedl Natl Mtg Assn	n/a	2.000%	12/30/2010	12/30/2008	3,000,000	0	3,004,290
Sub-total								
								47,138
47,138	Money Market	n/a	0.980%	daily	varies	47,138	0	47,138
Sub-total								
								24,561,344
US Bank/Piper Jaffray Average Rate=								
			2.921%					

Average Rate All= 2.297%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on July 8, 2008. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 212 days and does not include Bond Reserve Fund Investments.

City of Banning Investment Report

January 31, 2009

Individual Investments with Fiscal Agent

Bond Issue Description	Bond Maturity Date	Investment Description	Current Yield	Bond Maturity Date	Minimum Reserve Requirement	Interest Jan-09	1/31/2009 Market Value
TRUSTEE							
BNY WESTERN TRUST COMPANY							
1997 Admin Building COPs Refunding	2020	Republic Bank Investment Agreement Federated U.S. Treasury Money Mkt	6.270% 0.100%	11/1/2020 daily	522,375	0.00 * 0.05	522,562 16,600
US BANK							
1991 Wilson St. Assessment District	2012	AIM U.S. Treasury Money Market First Amer Treas Oblig Fd CL D	2.400% 0.200%	daily daily	265,580	84.67 0.00	269,150 98
2005 Fair Oaks Ranch Estates	2035	First Amer Treas Oblig Fd CL D	0.300%	daily	190,323	0.64	190,777
2003 CRA Tax Allocation Bonds	2028	Forward Delivery Agreement - B of A First Amer Treas Oblig Fd CL D	4.330% 0.300%	daily daily	971,763	5,062.86 * 0.00	992,000 270,453
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007							
Redevelop Fund	2037	First Amer Treas Oblig Fd CL D	0.300%	daily		2.50	750,009
	11/27/2009	Reliance Trust Company CDARS #9AMGGBF37	2.900%				3,336,669
	2/19/2009	Reliance Trust Company CDARS #9AMGGBET1	1.800%				1,000,000
	5/21/2009	Reliance Trust Company CDARS #9AMGGBEU8	2.400%				3,500,000
	11/19/2009	Reliance Trust Company CDARS #9AMGGBEV6	2.950%				8,000,000
Reserve Fund		First Amer Treas Oblig Fd CL D	0.300%	daily	1,880,751	6.43	1,927,407
Special Fund		First Amer Treas Oblig Fd CL D	0.030%	daily		0.00	569,289
BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES							
Bond Fund		First Amer Treas Oblig Fd CL D	0.050%	daily		0.00	21
Principal Account		First Amer Treas Oblig Fd CL D	0.300%	daily		0.00	109
Project Fund	12/1/2008	First Amer Treas Oblig Fd CL D Transamerica Occidental Life Ins Co C/O Aegon Institutional Markets Inc	0.300% 4.240%	daily		12.42 -	3,724,940 0
BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES							
Bond Fund		First Amer Treas Oblig Fd CL D	0.300%	daily		0.04	13,285
Principal Account		First Amer Treas Oblig Fd CL D	0.300%	daily		0.00	285
Reserve Fund		First Amer Treas Oblig Fd CL D	0.300%	daily	2,310,737.50	7.71	2,312,832
Project Fund	5/7/2009	First Amer Treas Oblig Fd CL D Federal Home Loan Banks	0.300% 2.780%	daily daily		72.09 0.00	21,616,389 6,191,141

City of Banning Investment Report

January 31, 2007

Bond Issue Description	Bond Maturity Date	Investment Description	Current Yield	Bond Reserve		Minimum Reserve Requirement	Interest Jan-09	1/31/2009 Market Value
				Bond Maturity Date	Reserve			
BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES								
Reserve Fund		First Amer Treas Oblig Fd CL D	0.290%	daily			0.48	835
		First Amer Treas Oblig Fd CL D	0.290%	daily	2,961,500		0.87	1,601
	11/17/2011	Reliance Trust Company CDARS #9AMGGBEZ7	3.650%				0.00	3,016,509
Acquisition & Construction		First Amer Treas Oblig Fd CL D	0.270%	daily			7.25	12,766
	11/27/2009	Reliance Trust Company CDARS #9AMGGBF29	2.950%					8,036,457
	2/19/2009	Reliance Trust Company CDARS #9AMGGBEW4	1.800%					3,450,000
	5/21/2009	Reliance Trust Company CDARS #9AMGGBEX2	2.400%					3,250,000
	11/19/2009	Reliance Trust Company CDARS #9AMGGBEY0	2.950%					8,000,000
Total							5,258.01	80,972,182
*Paid Semi-Annual ly-Deposited into Money Mkt Account								

*Paid Semi-Annually-Deposited into Money Mkt Account

Deferred Compensation

Balance			1/31/2009
ICMA Retirement Corporation	724,421	Various Employee Selected Mutual Funds	704,776
CALPERS 457 Program	2,110,524	Various Employee Selected Mutual Funds	2,063,898
NATION WIDE-PEBSO	801,025	Various Employee Selected Mutual Funds	784,589
	<u>3,635,970</u>		<u>3,553,263</u>

**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: June 9, 2009
TO: City Council
FROM: Bonnie J. Johnson, Finance Director
SUBJECT: Report of Investments for April 2009

RECOMMENDATION: "The City Council receive and place these required monthly *Reports of Investments* on file."

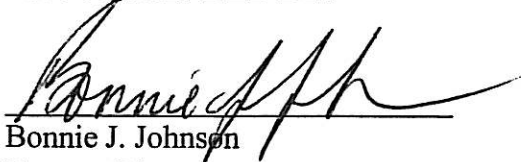
JUSTIFICATION: State law requires that a monthly report of investments be submitted to the Chief Executive Officer and the Legislative Body.

BACKGROUND: This report includes investments on hand at the end of April 2009. As of April 30, 2009, the City's operating funds totaled \$73,939,615. Included in operating funds is \$4,340,167 of restricted CRA bond proceeds that are on deposit with LAIF and reflected separately on the Treasurer's Report. As of April 30, 2009 approximately 33% of the City's unrestricted cash balances were invested in investments other than LAIF.


Presented are three months of Investment Reports. April is a first issue, while February and March are included to provide multiple months of statements for comparison.

FISCAL DATA: The latest reports from the State indicate that the average interest achieved by the Local Agency Investment Fund (LAIF) decreased to 1.607 % in April. The average rate for all investments in April was 1.889%.

RECOMMENDED BY:


Bonnie J. Johnson
Finance Director

APPROVED BY:


Brian Nakamura
City Manager

Summary Schedule of Cash and Investments

Operating FundsPetty Cash

Amount

2,305

Bank Accounts

Interest

Rate

Amount

Wells Fargo Bank

0.000%

58,588

Wells Fargo Bank-Investment Account

0.100%

900,073

Bank of America-Airport

0.300%

7,034

Bank of America-Parking Citations

0.300%

5,003

Bank of America-CNG Station

0.300%

4,282

Money Market and Bank Account Sub-Total

974,980

Government Pools

Local Agency Investment Fund: Account #1

1.607%

31,009,664

Account #2 Operating Amount

14,837,207

Account #2 CRA Bond Cash Bal

4,340,167

Local Agency Investment Fund: Account #2

1.607%

19,177,374

Government Pool Sub-Total

50,187,038

Operating Cash Balance**51,164,322**Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund

0.110%

1,157,629

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2

2.628%

21,617,663

*Operating Funds Total*73,939,615**Fiscal Agent**

BNY Western Trust Company

Amount

644,610

US Bank

68,033,784

*Fiscal Agent Total*68,678,393**Deferred Compensation**

City Employee Trust Accounts

4,065,285

*Deferred Compensation Total*4,065,285

City of Banning Investment Report

April 30, 2009

Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	Discount or (Premium) Amortization	Market Value
<u>Bank Accounts</u>								
58,588	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	58,588	n/a	58,588
900,073	Wells Fargo Bank-Investment Acct	n/a	0.10%	daily	varies	900,073	n/a	900,073
7,034	Bank of America-Airport	n/a	0.30%	daily	varies	7,034	n/a	7,034
5,003	Bank of America-Parking Citations	n/a	0.30%	daily	varies	5,003	n/a	5,003
4,282	Bank of America-Parking Citations	n/a	0.30%	daily	varies	4,282	n/a	4,282
Sub-total								
								974,980
<u>Government Pools</u>								
31,009,664	L.A.I.F. account #1	n/a	1.607%	daily	varies	31,009,664	n/a	31,009,664
19,177,374	L.A.I.F. account #2	n/a	1.607%	daily	varies	19,177,374	n/a	19,177,374
<u>Investments-US Bank/Piper Jaffray</u>								
6,000,000	Fedl Natl Mtg Assn	n/a	3.750%	6/10/2011	9/11/2008	6,000,000	0	6,011,280
2,000,000	Fedl Home Loan Bank	n/a	3.280%	12/9/2010	6/9/2008	2,000,000	0	2,005,620
1,500,000	Fedl Natl Mtg Assn	n/a	1.790%	6/24/2010	12/24/2008	1,500,000	0	1,500,945
3,000,000	Fedl Natl Mtg Assn	n/a	2.000%	12/30/2010	12/30/2008	3,000,000	0	3,016,380
6,000,000	Federal Farm Credit Banks	n/a	2.120%	9/23/2011	3/24/2008	6,000,000	0	6,023,160
3,000,000	Federal Farm Credit Banks	n/a	2.040%	12/30/2011	12/23/2008	3,000,000	0	3,013,140
47,138	Money Market	n/a	0.980%	daily	varies	47,138	0	47,138
US Bank/Piper Jaffray Average Rate=								
			2.628%					21,617,663
Average Rate All= 1.889%								

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on July 8, 2008. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 182 days and does not include Bond Reserve Fund Investments.

City of Banning Investment Report

April 30, 2009

Individual Investments with Fiscal Agent

TRUSTEE		Bond Maturity Date	Investment Description	Current Yield	Bond Reserve	Minimum Reserve Requirement	Interest Apr-09	4/30/2009 Market Value
Bond Issue Description								
BNY WESTERN TRUST COMPANY								
1997 Admin Building COPs Refunding		2020	Republic Bank Investment Agreement Federated U.S. Treasury Money Mkt	6.270% 0.200%	11/1/2020 daily	522,375	*	522,562 122,048
US BANK								
1991 Wilson St. Assessment District		2012	AIM U.S. Treasury Money Market First Amer Treas Oblig Fd CL D	0.096% 0.150%	daily daily	265,580	27.95 0.08	265,710 0
2005 Fair Oaks Ranch Estates		2035	First Amer Treas Oblig Fd CL D	0.150%	daily	190,323	11.34	216,817
2003 CRA Tax Allocation Bonds		2028	Forward Delivery Agreement - B of A First Amer Treas Oblig Fd CL D First Amer Treas Oblig Fd CL D	4.560% 0.200%	daily daily daily	971,763	*	980,835 5,839 8
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007								
Surplus Fund		2037	First Amer Treas Oblig Fd CL D	0.150%	daily		48.52	940,256
Redevelop Fund		11/27/2009	Reliance Trust Company GIC # 9AMGGBF37	2.950%				3,336,669
		5/21/2009	Reliance Trust Company GIC # 9AMGGBEU8	2.400%				3,500,000
		11/19/2009	Reliance Trust Company GIC # 9AMGGBEV6	2.950%				8,000,000
Reserve Fund			First Amer Treas Oblig Fd CL D	0.150%	daily	1,880,751	96.78	1,875,376
Surplus Fund			First Amer Treas Oblig Fd CL D	0.270%	daily			9
BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES								
Bond Fund			First Amer Treas Oblig Fd CL D	0.140%	daily			262,887
Principal Account			First Amer Treas Oblig Fd CL D	0.150%	daily		0.01	109
			First Amer Treas Oblig Fd CL D	0.150%	daily		191.01	3,686,853
BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES								
Bond Fund			First Amer Treas Oblig Fd CL D	0.150%	daily		0.69	1,154,922
Principal Account			First Amer Treas Oblig Fd CL D	0.150%	daily		0.01	285
Reserve Fund			First Amer Treas Oblig Fd CL D	0.150%	daily		119.38	2,313,171
Project Fund			First Amer Treas Oblig Fd CL D	0.150%	daily		971.12	19,080,497
		5/7/2009	Federal Home Loan Banks	2.760%	daily		83,625.00	1,190,325

City of Banning Investment Report

April 30, 2009

Bond Issue Description	Bond Maturity Date	Investment Description	Current Yield	Bond Reserve		Interest Apr-09	4/30/2009 Market Value
					Bond Maturity Date		
BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES							
Reserve Fund		First Amer Treas Oblig Fd CL D	0.150%	daily		0.03	835
		First Amer Treas Oblig Fd CL D	0.150%	daily		0.06	1,601
Acquisition & Construction	11/17/2011	Reliance Trust Company GIC # 9AMGGBEZ7	3.650%				306,509
		First Amer Treas Oblig Fd CL D	0.150%	daily		80.93	1,627,813
	11/27/2009	Reliance Tr Co Contract # 9AMGGBF29	2.950%				8,036,457
	5/21/2009	Reliance Trust Company GIC #9AMGGBEX2	2.400%				3,250,000
	11/19/2009	Reliance Trust Company GIC #9AMGGBEY0	2.950%				8,000,000
Total						85,173.21	68,678,393
*Paid Semi-Annually-Deposited into Money Mkt Account							

*Paid Semi-Annually-Deposited into Money Mkt Account

Deferred Compensation

Balance		
	4/1/2009	4/30/2009
ICMA Retirement Corporation	896,609	varies
CALPERS 457 Program	2,149,428	varies
NATION WIDE-PEBS CO	766,763	varies
	<u>3,812,800</u>	<u>4,065,285</u>

Summary Schedule of Cash and Investments

Operating Funds		<u>Amount</u>
<u>Petty Cash</u>		2,305
<u>Bank Accounts</u>	Interest Rate Amount	
Wells Fargo Bank	0.000% 44,996	
Wells Fargo Bank-Investment Account	0.100% 2,052,969	
Bank of America-Airport	0.300% 4,180	
Bank of America-Parking Citations	0.300% 3,307	
Bank of America-CNG Station	0.300% 3,435	
<i>Money Market and Bank Account Sub-Total</i>		2,108,886
<u>Government Pools</u>		
Local Agency Investment Fund: Account #1	1.822% 30,863,519	
Account #2 Operating Amount	12,944,683	
Account #2 CRA Bond Cash Bal	4,456,705	
Local Agency Investment Fund: Account #2	1.822% 17,401,387	
<i>Government Pool Sub-Total</i>		48,264,907
Operating Cash Balance		50,376,098
<u>Restricted Operating Funds at Riverside Public Utilities</u>		
Highmark U.S. Government Money Market Fund	0.110%	1,148,234
<u>Other Investments</u>		
Investments-US Bank/Piper Jaffray - See Page 2	2.668%	23,595,703
Operating Funds Total		<u>75,120,035</u>

Fiscal Agent		<u>Amount</u>
BNY Western Trust Company		539,162
US Bank		74,784,210
Fiscal Agent Total		<u>75,323,371</u>

Deferred Compensation		<u>Amount</u>
City Employee Trust Accounts		3,812,800
Deferred Compensation Total		<u>3,812,800</u>

City of Banning Investment Report

March 31, 2009

Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	Discount or (Premium) Amortization	Market Value
<u>Bank Accounts</u>								
44,996	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	44,996	n/a	44,996
2,052,969	Wells Fargo Bank-Investment Acct	n/a	0.10%	daily	varies	2,052,969	n/a	2,052,969
4,180	Bank of America-Airport	n/a	0.30%	daily	varies	4,180	n/a	4,180
3,307	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,307	n/a	3,307
3,435	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,435	n/a	3,435
Sub-total								2,108,886
<u>Government Pools</u>								
30,863,519	L.A.I.F. account #1	n/a	1.822%	daily	varies	30,863,519	n/a	30,863,519
17,401,387	L.A.I.F. account #2	n/a	1.822%	daily	varies	17,401,387	n/a	17,401,387
								48,264,907
<u>Investments-US Bank/Piper Jaffray</u>								
6,000,000	Fedl Natl Mtg Assn	n/a	3.750%	6/10/2011	9/11/2008	6,000,000	0	6,015,000
2,000,000	Fedl Home Loan Bank	n/a	3.100%	10/29/2010	4/29/2008	2,000,000	0	2,003,760
2,000,000	Fedl Home Loan Bank	n/a	3.280%	12/9/2010	6/9/2008	2,000,000	0	2,008,760
1,500,000	Fedl Natl Mtg Assn	n/a	1.790%	6/24/2010	12/24/2008	1,500,000	0	1,499,535
3,000,000	Fedl Natl Mtg Assn	n/a	2.000%	12/30/2010	12/30/2008	3,000,000	0	3,010,080
6,000,000	Federal Farm Credit Banks	n/a	2.120%	9/23/2011	3/24/2008	6,000,000	0	6,002,040
3,000,000	Federal Farm Credit Banks	n/a	2.040%	12/30/2011	12/23/2008	3,000,000	0	3,009,390
47,138	Money Market	n/a	0.980%	daily	varies	47,138	0	47,138
US Bank/Piper Jaffray Average Rate=								23,595,703
Average Rate All=								2.042%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on July 8, 2008. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 203 days and does not include Bond Reserve Fund Investments.

City of Banning Investment Report

March 31, 2009

Individual Investments with Fiscal Agent

Bond Issue Description	Bond Maturity Date	Investment Description	Current Yield	Bond Reserve Bond Maturity Date	Minimum Reserve Requirement	Interest Mar-09	3/31/2009 Market Value
1997 Admin Building COPs Refunding	2020	Republic Bank Investment Agreement Federated U.S. Treasury Money Mkt	6.270% 0.200%	11/1/2020 daily	522,375	*	522,562 16,600
US BANK							
1991 Wilson St. Assessment District	2012	AIM U.S. Treasury Money Market					
		First Amer Treas Oblig Fd CL D	0.124%	daily	265,580	45.90	265,683
		First Amer Treas Oblig Fd CL D	0.150%	daily		0.16	0
2005 Fair Oaks Ranch Estates	2035	First Amer Treas Oblig Fd CL D	0.200%	daily	190,323	13.17	216,806
2003 CRA Tax Allocation Bonds	2028	Forward Delivery Agreement - B of A	4.560%	daily	971,763	*	984,017
		First Amer Treas Oblig Fd CL D	0.200%	daily		1.92	5,839
		First Amer Treas Oblig Fd CL D		daily			8
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007							
Redevelop Fund	2037	First Amer Treas Oblig Fd CL D	0.200%	daily		57.59	940,207
	11/27/2009	Reliance Trust Company GIC # 9AMGGBF37	2.950%				3,336,669
	5/21/2009	Reliance Trust Company GIC # 9AMGGBEU8	2.400%				3,500,000
	11/19/2009	Reliance Trust Company GIC # 9AMGGBEV6	2.950%				8,000,000
Reserve Fund		First Amer Treas Oblig Fd CL D	0.200%	daily	1,880,751	125.24	1,875,280
Special Fund		First Amer Treas Oblig Fd CL D	0.200%	daily		0.66	0
Surplus Fund		First Amer Treas Oblig Fd CL D	0.270%	daily			9
BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES							
Bond Fund		First Amer Treas Oblig Fd CL D	0.140%	daily			21
Principal Account		First Amer Treas Oblig Fd CL D	0.200%	daily		0.01	109
		First Amer Treas Oblig Fd CL D	0.200%	daily		247.46	3,701,010
BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES							
Bond Fund		First Amer Treas Oblig Fd CL D	0.200%	daily		0.89	13,286
Principal Account		First Amer Treas Oblig Fd CL D	0.200%	daily		0.02	285
Reserve Fund		First Amer Treas Oblig Fd CL D	0.200%	daily		154.00	2,313,052
Project Fund		First Amer Treas Oblig Fd CL D	0.150%	daily		1,302.80	18,816,262
	5/7/2009	Federal Home Loan Banks	2.740%	daily			6,190,325

City of Banning Investment Report

March 31, 2009

Bond Issue Description	Bond Maturity Date	Investment Description	Current Yield	Bond Reserve		Minimum Reserve Requirement	Interest Mar-09	3/31/2009 Market Value
				Bond Maturity Date	Reserve			
BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES								
Reserve Fund		First Amer Treas Oblig Fd CL D	0.200%	daily			0.11	835
		First Amer Treas Oblig Fd CL D	0.200%	daily			0.21	1,601
Acquisition & Construction	11/17/2011	Reliance Trust Company GIC # 9AMGGBEZ7	3.650%				0.00	3,016,508
		First Amer Treas Oblig Fd CL D	0.200%	daily			84.40	2,319,943
	11/27/2009	Reliance Tr Co Contract # 9AMGGBF29	2.950%					8,036,457
	5/21/2009	Reliance Trust Company GIC #9AMGGBEX2	2.400%					3,250,000
	11/19/2009	Reliance Trust Company GIC #9AMGGBEY0	2.950%					8,000,000
Total							2,034.54	75,323,371
*Paid Semi-Annually-Deposited into Money Mkt Account								

Deferred Compensation

Balance 1/1/2009	01/01/09 to 3/31/2009 Quarterly Activity			3/31/2009
	Contributions	Withdrawals	Gain/Loss	
ICMA Retirement Corporation	724,421	206,064	(31,177)	896,609
CALPERS 457 Program	2,110,524	184,288	(91,985)	2,149,428
NATION WIDE-PEBSO	801,073	3,651	(13,048)	766,763
	3,636,019			3,812,800

Summary Schedule of Cash and Investments**Operating Funds**

	Amount
<u>Petty Cash</u>	2,305

	Interest Rate	Amount
<u>Bank Accounts</u>		
Wells Fargo Bank	0.000%	124,712
Wells Fargo Bank-Investment Account	0.100%	1,096,590
Bank of America-Airport	0.300%	4,839
Bank of America-Parking Citations	0.300%	3,691
Bank of America-CNG Station	0.300%	4,270

Money Market and Bank Account Sub-Total 1,234,102

Government Pools

Local Agency Investment Fund: Account #1 1.869% 30,863,519

Account #2 Operating Amount 15,257,770

Account #2 CRA Bond Cash Bal 4,593,618

Local Agency Investment Fund: Account #2 1.869% 19,851,387

Government Pool Sub-Total 50,714,907

Operating Cash Balance 51,951,314

Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund 0.110% 1,191,545

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2 2.839% 23,601,143

Operating Funds Total 76,744,002

Fiscal Agent

	Amount
BNY Western Trust Company	539,162
US Bank	74,887,044

Fiscal Agent Total 75,426,206

Deferred Compensation

City Employee Trust Accounts	3,587,466
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Deferred Compensation Total 3,587,466

City of Banning Investment Report

Operational Portfolio Individual Investments

February 28, 2009

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	Discount or (Premium) Amortization	Market Value
<u>Bank Accounts</u>								
124,712	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	124,712	n/a	124,712
1,096,590	Wells Fargo Bank-Investment Acct	n/a	0.10%	daily	varies	1,096,590	n/a	1,096,590
4,839	Bank of America-Airport	n/a	0.30%	daily	varies	4,839	n/a	4,839
3,691	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,691	n/a	3,691
4,270	Bank of America-Parking Citations	n/a	0.30%	daily	varies	4,270	n/a	4,270
Sub-total								
								1,234,102
<u>Government Pools</u>								
30,863,519	L.A.I.F. account #1	n/a	1.869%	daily	varies	30,863,519	n/a	30,863,519
19,851,387	L.A.I.F. account #2	n/a	1.869%	daily	varies	19,851,387	n/a	19,851,387
Sub-total								
								50,714,907
<u>Investments-US Bank/Piper Jaffray</u>								
6,000,000	Fedl Natl Mtg Assn	n/a	3.750%	6/10/2011	9/11/2008	6,000,000	0	6,041,280
6,000,000	Federal Farm Credit Banks	n/a	2.625%	3/12/2010	3/24/2008	6,000,000	0	6,001,860
2,000,000	Fedl Home Loan Bank	n/a	3.100%	10/29/2010	4/29/2008	2,000,000	0	2,006,260
2,000,000	Fedl Home Loan Bank	n/a	3.280%	12/9/2010	6/9/2008	2,000,000	0	2,011,880
1,500,000	Fedl Natl Mtg Assn	n/a	1.790%	6/24/2010	12/24/2008	1,500,000	0	1,492,965
3,000,000	Federal Farm Credit Banks	n/a	2.370%	12/23/2010	12/23/2008	3,000,000	0	2,999,070
3,000,000	Fedl Natl Mtg Assn	n/a	2.000%	12/30/2010	12/30/2008	3,000,000	0	3,000,690
Sub-total								
								47,138
47,138	Money Market	n/a	0.980%	daily	varies	47,138	0	47,138
Sub-total								
								23,601,143
<u>US Bank/Piper Jaffray Average Rate=</u>								
			2.839%					

Average Rate All= 2.143%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on July 8, 2008. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 193 days and does not include Bond Reserve Fund Investments.

City of Banning Investment Report

February 28, 2009

Individual Investments with Fiscal Agent

Bond Issue Description	Bond Maturity Date	Investment Description	Current Yield	Bond Reserve Bond Maturity Date	Minimum Reserve Requirement	Interest Feb-09	2/28/2009 Market Value
1997 Admin Building COPs Refunding	2020	Republic Bank Investment Agreement Federated U.S. Treasury Money Mkt	6.270% 0.190%	11/1/2020 daily	522,375	0.00 * 0.00	522,562 16,600
US BANK							
1991 Wilson St. Assessment District	2012	AIM U.S. Treasury Money Market First Amer Treas Oblig Fd CL D	0.220% 0.150%	daily daily	265,580	56.61 0.00	265,637 36,235
2005 Fair Oaks Ranch Estates	2035	First Amer Treas Oblig Fd CL D	0.160%	daily	190,323	5.37	283,419
2003 CRA Tax Allocation Bonds	2028	Forward Delivery Agreement - B of A First Amer Treas Oblig Fd CL D	4.330% 0.150%	daily daily	971,763	0.00 * 3.22	986,781 5,844
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007							
Redevelop Fund	2037	First Amer Treas Oblig Fd CL D	0.150%	daily		21.12	940,149
	11/27/2009	Reliance Trust Company CDARS #9AMGGBF37	2.900%				3,336,669
	2/19/2009	Reliance Trust Company CDARS #9AMGGBET1	1.800%			41,446.60	0
	5/21/2009	Reliance Trust Company CDARS #9AMGGBEU8	2.400%				3,500,000
	11/19/2009	Reliance Trust Company CDARS #9AMGGBEV6	2.950%				8,000,000
Reserve Fund		First Amer Treas Oblig Fd CL D	0.150%	daily	1,880,751	54.27	1,875,154
Special Fund		First Amer Treas Oblig Fd CL D	0.110%	daily		8.77	9
BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES							
Bond Fund		First Amer Treas Oblig Fd CL D	0.140%	daily		0.00	21
Principal Account		First Amer Treas Oblig Fd CL D	0.150%	daily		0.00	109
		First Amer Treas Oblig Fd CL D	0.150%	daily		104.88	3,700,762
BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES							
Bond Fund		First Amer Treas Oblig Fd CL D	0.150%	daily		0.37	13,285
Principal Account		First Amer Treas Oblig Fd CL D	0.150%	daily		0.01	285
Reserve Fund		First Amer Treas Oblig Fd CL D	0.150%	daily		65.12	2,312,897
Project Fund		First Amer Treas Oblig Fd CL D	0.150%	daily		608.61	18,814,959
	5/7/2009	Federal Home Loan Banks	2.750%	daily		16,402.00	6,189,568

City of Banning Investment Report

February 20, 2007

Bond Issue Description	Bond Maturity Date	Investment Description	Current Yield	Bond Reserve Bond Maturity Date	Minimum Reserve Requirement	Interest Feb-09	2/28/2009 Market Value
BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES							
Reserve Fund		First Amer Treas Oblig Fd CL D	0.130%	daily		0.25	835
		First Amer Treas Oblig Fd CL D	0.130%	daily		0.48	1,601
Acquisition & Construction	11/17/2011	Reliance Trust Company CDARS #9AMGGBEZ7	3.650%			0.00	3,016,509
		First Amer Treas Oblig Fd CL D	0.130%	daily		3.82	2,319,859
	11/27/2009	Reliance Trust Company CDARS #9AMGGBF29	2.950%			65,910.10	8,036,457
	2/19/2009	Reliance Trust Company CDARS #9AMGGBEW4	1.800%				0
	5/21/2009	Reliance Trust Company CDARS #9AMGGBEX2	2.400%				3,250,000
	11/19/2009	Reliance Trust Company CDARS #9AMGGBEY0	2.950%				8,000,000
Total						124,691.60	75,426,206
*Paid Semi-Annually-Deposited into Money Mkt Account							

Deferred Compensation

ICMA Retirement Corporation	Balance	
CALPERS 457 Program	2/1/2009	
NATION WIDE-PEBS CO	704,776	varies
	2,063,898	varies
	784,589	varies
	<u>3,553,263</u>	
	2/28/2009	
	850,424	
	1,986,925	
	750,117	
	<u>3,587,466</u>	

**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: June 9, 2009

TO: Honorable Mayor and Members of the City Council

FROM: Brian S. Nakamura, City Manager

SUBJECT: Approval of 1st Amendment to The Joint Powers Agreement of The Western Riverside Council of Governments to Add Water Districts to The WRCOG Governing Board

RECOMMENDATION:

That the City Council approve the Joint Powers Agreement amendment to add water districts to the WRCOG Governing Board.

JUSTIFICATION:

Currently sixteen cities located within western Riverside County and the County of Riverside have entered into a Joint Powers Agreement on April 1, 1991, and through subsequent amendments thereto (the "JPA"), to form the Western Riverside Council of Governments ("WRCOG").

BACKGROUND & ANALYSIS:

Western Municipal Water District and the Eastern Municipal Water District (the "Water Districts") have approached WRCOG to express that their involvement in WRCOG will be beneficial to both WRCOG member agencies and the Water Districts. The Water Districts believe that cooperation with WRCOG will create synergies which will facilitate a variety of joint goals, including (1) improved coordination on major infrastructure planning; (2) improved and consistent implementation of landscape water conservation ordinances; (3) improved coordination of shared legislative and regulatory strategies; (4) better positioning to overcome resource management challenges; and (5) improved regional response and compliance with a merging case law tightening the connection between land use and water resources; and

Pursuant to Government Code sections 6500 *et seq.*, the parties to the JPA desire to amend the JPA to add the Water Districts to the Governing Body of WRCOG.

FISCAL IMPACT:

There is no anticipated fiscal impact associated with this action.

RECOMMENDED BY:



Brian Nakamura
City Manager

**AMENDMENT TO THE JOINT POWERS AGREEMENT OF
THE WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS
TO ADD WATER DISTRICTS TO THE WRCOG GOVERNING BOARD**

This Amendment to the Joint Powers Agreement ("Amended Agreement") is made and entered into on the 11th day of May, 2009, by and between sixteen cities located within western Riverside County and the County of Riverside (collectively the "Parties").

RECITALS

WHEREAS, sixteen cities located within western Riverside County and the County of Riverside have entered into a Joint Powers Agreement on April 1, 1991, and through subsequent amendments thereto (the "JPA"), to form the Western Riverside Council of Governments ("WRCOG"); and

WHEREAS, the Western Municipal Water District and the Eastern Municipal Water District (the "Water Districts") have approached WRCOG to express that their involvement in WRCOG will be beneficial to both WRCOG member agencies and the Water Districts; and

WHEREAS, the Water Districts believe that cooperation with WRCOG will create synergies which will facilitate a variety of joint goals, including (1) improved coordination on major infrastructure planning; (2) improved and consistent implementation of landscape water conservation ordinances; (3) improved coordination of shared legislative and regulatory strategies; (4) better positioning to overcome resource management challenges; and (5) improved regional response and compliance with a merging case law tightening the connection between land use and water resources; and

WHEREAS, WRCOG agrees and strongly supports coordination with the Water Districts, and believes that permitting the Water Districts membership on the WRCOG Governing Body is the best manner which would most efficaciously serve the interests of the WRCOG member agencies and the Water Districts; and

WHEREAS, pursuant to Government Code sections 6500 *et seq.*, the parties to the JPA desire to amend the JPA to add the Water Districts to the Governing Body of WRCOG.

MUTUAL UNDERSTANDINGS

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions hereinafter stated, the Parties hereto agree as follows:

Section 1: Section 2.1 to the JPA is hereby amended to read as follows:

2.1 Parties.

The parties to WRCOG shall be the County of Riverside and each city located within western Riverside County which has executed or hereafter executes this Agreement, or any addenda, amendment, or supplement thereto and agrees to such become a member upon such terms and conditions as established by the general counsel or Executive Committee, and which has not, pursuant to provisions hereof, withdrawn therefrom. Only the parties identified in this section shall be considered contracting parties to the JPA under Government Code section 6502.

Section 2: Section 2.4 to the JPA is hereby amended to read as follows:

2.4 Governing Body.

2.4.1. WRCOG shall be governed by a General Assembly with membership consisting of the appropriate representatives from the County of Riverside, each city which is a signatory to this Agreement, Western Municipal Water District, and Eastern Municipal Water District, the number of which shall be determined as hereinafter set forth. The General Assembly shall meet at least once annually, preferably scheduled in the evening. Each member agency of the General Assembly shall have one vote for each mayor, council member, county supervisor, and water district board member present at the General Assembly. The General Assembly shall act only upon a majority of a quorum. A quorum shall consist of a majority of the total authorized representatives, provided that members representing a majority of the member agencies are present. The General Assembly shall adopt and amend by-laws for the administration and management of this Agreement, which when adopted and approved shall be an integral part of this Agreement. Such by-laws may provide for the management and administration of this Agreement.

2.4.2. There shall be an Executive Committee which exercises the powers of this Agreement between sessions of the General Assembly. Members of the Executive Committee shall be the Mayor from each of the member cities, four members of the Riverside County Board of Supervisors and the President of each Water District, the remaining member of the Board of Supervisors shall serve as an alternate, except any City Council, at its discretion, can appoint a Mayor Pro Tem or other city council member in place of the Mayor and each water district board, at its discretion, can appoint another board member in place of the President. The Executive Committee shall act only upon a majority of a quorum. A quorum shall consist of a majority of the member agencies. Membership of the Water Districts on the General Assembly and Executive Committee of WRCOG shall be conditioned on the Water Districts entering into a separate Memorandums of Understanding with WRCOG.

Section 3: Section 2.18 is hereby added to the JPA to read as follows:

2.18 Water Districts and TUMF Matters.

Pursuant to this Joint Powers Agreement, WRCOG administers the Transportation Mitigation Fee ("TUMF") for cities in western Riverside County. The fee was established prior to the Water District's involvement with WRCOG and will fund transportation improvements for the benefit of the County of Riverside and the cities in western Riverside County. As such, the Western Municipal Water District and the Eastern Municipal Water District General Assembly and Executive Committee Members shall not vote on any matter related to the administration of the TUMF program or the expenditure of TUMF revenues.

Section 4: Section 3.5 is hereby added to the JPA to read as follows:

3.5 Contributions from Water Districts.

The provisions of section 3.4 above shall be inapplicable to the Western Municipal Water District and the Eastern Municipal Water District. The amount of contributions from these water districts shall be through the WRCOG budget process.

Section 5: This amendment is to become effective upon execution by all of the parties that are currently signatories to the JPA.

Section 6: All other provisions and terms of the JPA are to remain unchanged.

Section 7: This Amendment may be executed in counterparts.

IN WITNESS WHEREOF, the Parties hereto have caused this Amended Agreement to be executed and attested by their officers thereunto duly authorized as of the date first above written.

[SIGNATURES ON FOLLOWING PAGES]

ATTEST:

City Clerk
City of Banning

By: _____

Dated: _____

CITY OF BANNING

By _____
Mayor

ATTEST:

City Clerk
City of Beaumont

By: _____

Dated: _____

CITY OF BEAUMONT

By _____
Mayor

ATTEST:

City Clerk
City of Calimesa

By: _____

Dated: _____

CITY OF CALIMESA

By _____
Mayor

ATTEST:

City Clerk
City of Canyon Lake

By: _____

Dated: _____

CITY OF CANYON LAKE

By _____
Mayor

ATTEST:

City Clerk
City of Corona

By: _____

Dated: _____

CITY OF CORONA

By _____
Mayor

ATTEST:

City Clerk
City of Hemet

By: _____

Dated: _____

CITY OF HEMET

By _____
Mayor

r

ATTEST:

City Clerk
City of Lake Elsinore

By: _____

Dated: _____

CITY OF LAKE ELSINORE

By _____
Mayor

ATTEST:

City Clerk
City of Menifee

By: _____

Dated: _____

CITY OF MENIFEE

By _____
Mayor

ATTEST:

City Clerk
City of Moreno Valley

CITY OF MORENO VALLEY

By: _____

By _____
Mayor

Dated: _____

ATTEST:

City Clerk
City of Murrieta

CITY OF MURRIETA

By: _____

By _____
Mayor

Dated: _____

ATTEST:

City Clerk
City of Norco

CITY OF NORCO

By: _____

By _____
Mayor

Dated: _____

ATTEST:

City Clerk
City of Perris

CITY OF PERRIS

By: _____

By _____
Mayor

Dated: _____

ATTEST:

City Clerk
City of Riverside

By: _____

Dated: _____

CITY OF RIVERSIDE

By _____
Mayor

ATTEST:

City Clerk
City of San Jacinto

By: _____

Dated: _____

CITY OF SAN JACINTO

By _____
Mayor

ATTEST:

City Clerk
City of Temecula

By: _____

Dated: _____

CITY OF TEMECULA

By _____
Mayor

ATTEST:

City Clerk
City of Wildomar

By: _____

Dated: _____

CITY OF WILDOMAR

By _____
Mayor

ATTEST:

County Clerk
County of Riverside

COUNTY OF RIVERSIDE

By: _____

By _____
Chairman

Dated: _____

**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: June 9, 2009

TO: Honorable Mayor and Members of the City Council

FROM: Brian S. Nakamura, City Manager

SUBJECT: Approval of Disaster and Emergency Mutual Aid Agreement Between the Morongo Band of Mission Indians and City of Banning

RECOMMENDATION:

That the City Council approve the Disaster and Emergency Mutual Aid Agreement ("MAA") between the Morongo Band of Mission Indians and City of Banning.

JUSTIFICATION:

It is in the public's interest that a mutual aid Agreement providing a method whereby the Morongo Band of Mission Indian Tribe and City of Banning agree to voluntarily furnish available resources, equipment, and manpower, on an emergency basis, to each other should a natural or other disaster occur.

BACKGROUND & ANALYSIS:

The Morongo Band of Mission Indians and City of Banning are responsible for the safety and health of their communities, continuity of government, public safety, and community recovery after disasters; Both parties are subject to natural and man-made disasters, which could overwhelm their resources and value the intergovernmental relationships and continuously seek to improve response and recovery capabilities following a disaster and an informed, cooperative, coordinated response by all governments provides the most safe and immediate response and recovery to disasters and emergencies.

Pursuant to the MAA, the Receiving Entity may request assistance from the Lending Entity in personnel and equipment to respond to emergencies and the Lending Entity is entitled to reimbursement for employee costs and for the use or destruction of equipment based on the Federal Emergency Management Association Schedule of Rates.

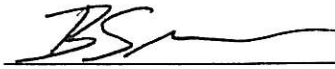
The MAA provides for continuing coordination by the parties and permits a 90-day written notice of termination.

We are anxious to get this MAA in place to deal with any possible emergencies. Any additional issues with the MAA can be dealt with through future amendments.

FISCAL IMPACT:

The fiscal impacts are outlined within the Agreement and shall be incurred and agreed upon by both parties accordingly.

RECOMMENDED BY:

A handwritten signature in black ink, appearing to read 'BS', followed by a horizontal line.

Brian Nakamura
City Manager

**DISASTER AND EMERGENCY
MUTUAL AID AGREEMENT
BETWEEN THE CITY OF BANNING AND
THE MORONGO BAND OF MISSION INDIANS**

This Joint Resolution and Agreement ("Agreement") is made and entered into by and between the City of Banning ("City") and the Morongo Band of Mission Indians ("Tribe"), hereinafter collectively referred to as the "Parties."

WHEREAS, the City is a municipal corporation incorporated in the State of California and located in the County of Riverside; and

WHEREAS, the Tribe is an Indian tribe recognized by the Secretary of the Interior as maintaining government-to-government relations with the United States and exercising governmental authority over the lands of the Morongo Indian Reservation ("Reservation") in Riverside County, California; and

WHEREAS, the Parties respectively are responsible for the safety and health of their communities, continuity of government, public safety, and community recovery after disasters; and

WHEREAS, the Parties are subject to natural and man-made disasters, which could overwhelm their resources; and

WHEREAS, the Parties value the intergovernmental relationships and continuously seek to improve response and recovery capabilities following a disaster; and

WHEREAS, an informed, cooperative, coordinated response by all governments provides the most safe and immediate response and recovery to disasters and emergencies; and

WHEREAS, it is lawful and in the public interest that a mutual aid Agreement providing a method whereby the City and Tribe agree to voluntarily furnish available resources, equipment, and manpower, on an emergency basis, to each other should a natural or other disaster occur.

NOW, THEREFORE, based on the foregoing and for good and valuable consideration, the Parties agree to the following:

DEFINITIONS:

The following terms shall have the following meaning:

1. **Disaster:** shall mean any happening that causes great harm or damage likely to be beyond the control of the services, personnel, equipment, and facilities of either of the Parties, requiring the combined forces of other levels of government or political subdivisions to combat.

2. **Emergency Situation:** shall mean the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within the jurisdiction of either of the Parties caused by such conditions as air pollution, fire, flood, storms, epidemic, riot, earthquake, or other conditions, including conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of the Parties, requiring the combined forces of other political subdivisions to combat.
3. **Lending Entity:** shall mean the governmental agency (either the City of Banning or the Morongo Band of Mission Indians) that sends equipment, materials and/or personnel to assist the Requesting Entity during a Disaster or Emergency Situation.
4. **Requesting Entity:** shall mean the governmental agency (either the City of Banning or the Morongo Band of Mission Indians) that requests and receives equipment, materials, and/or personnel from the Lending Entity to assist during a Disaster or Emergency Situation.

PURPOSE:

The purpose of this Agreement is to provide a formal mechanism for intergovernmental cooperation and coordination between the City and the Tribe during disasters and emergency situations.

No provision of this Agreement shall be construed as relieving any Party hereto of any duty to respond to emergency situations in ways required by applicable laws of the United States, the State of California, and the constitution and bylaws of the Tribe.

SERVICES:

Whenever any Party to this Agreement suffers a Disaster or Emergency Situation which requires additional aid beyond that which either Party is able to provide for itself, it shall request help from the other Party to this Agreement through the City of Banning's Police Department Dispatch Center, Emergency Services Coordinator or the City Manager and the Tribe's Office of Emergency Services (OES). Each Party to this Agreement shall consider the request for aid and shall in its sole discretion determine what equipment, resources and manpower it can make available to the entity making the request.

The services that a Lending Entity may provide include, but are not necessarily limited to, trained and equipped emergency management, law enforcement, public works, and other City or Tribal resources, with the intent of making all resources available.

Nothing in this Agreement shall require a Lending Entity to commit or supply personnel, equipment and/or other resources the Lending Entity determines in its sole discretion to be necessary for the protection of its own community.

JOINT EMERGENCY OPERATION PLAN:

Upon Execution of this Agreement, the City's Emergency Coordinator and the Tribe's Office of Emergency Services (OES) shall prepare a Joint Emergency Operation Plan ("JEOP"). The JEOP shall state the particular personnel, equipment and/or services each Party can provide under this Agreement and shall provide a management and command structure, which will

incorporate the National Incident Management System (NIMS) as recommended by the United States Department of Homeland Security (DHS) and the California Standardized Emergency Management System (SEMS). The JEOP shall also provide all current emergency contact information of both Parties as necessary for the execution of this Agreement. The Parties agree that the JEOP will be updated as necessary to maintain an effective emergency plan.

WORKERS COMPENSATION:

It is understood and agreed that any workers furnished to the Requesting Entity will be covered under applicable Worker's Compensation insurance by the Lending Entity and shall receive benefits for any injury or death that may occur under applicable Worker's Compensation law.

LIABILITY:

Each of the Parties to this Agreement does hereby expressly waive all claims against the other Party for compensation for any loss, damage, personal injury, or death arising from the performance of this Agreement.

INDEMNIFICATION:

The City shall, with respect to all actions covered by or incidental to this Agreement, indemnify and hold harmless the Tribe and its officers, employees and agents from and against any and all claims, losses, liabilities, demands, damages or costs (including reasonable attorneys' fees and costs) made against the Tribe, but only to the extent any such claim arises from the negligence or willful misconduct of the City or an individual or entity for which the City is legally liable including, but not limited to, officers, agents, employees, consultants or sub-contractors of the City. The Tribe shall, with respect to all actions covered by or incidental to this Agreement, indemnify and hold harmless the City and its officers, employees and agents from and against any and all claims, losses, liabilities, demands, damages or costs (including reasonable attorneys' fees and costs) made against the City, but only to the extent any such claim arises from the negligence or willful misconduct of the Tribe or an individual or entity for which the Tribe is legally liable including, but not limited to, officers, agents, employees, consultants or sub-contractors of the Tribe.

INSURANCE:

(A) Each Party shall procure and maintain, at its own cost and expense during the period of this Agreement, comprehensive general liability insurance coverage, for its acts or omissions described herein in the following minimum amounts:

Bodily Injury (including death)	\$2,000,000.00
Each person, each occurrence	\$2,000,000.00
Property Damage	\$2,000,000.00

(B) Each policy of insurance satisfying any of the obligations set forth in (A) above shall name the other Party as an additional insured, shall state that it is primary as to that Party, and shall provide at least thirty (30) days' written notice to the other Party prior to any material change in coverage, termination or cancellation. Each Party shall provide the other Party with certificate(s) issued by the insurer evidencing the existence of the insurance and that it satisfies the obligations set forth herein and in (A) above.

- (C) Each policy of insurance shall insure against all liability of the Party procuring insurance, its representatives, employees, invitee and agents arising from, or in connection with, each Party's acts or omissions in connection with this Agreement and shall insure performance by such Party of any of the hold-harmless provisions set forth herein.
- (D) The insurance required under this section shall be issued by either a reputable insurance company admitted to do business in California, in a form reasonably acceptable to the other Party, or through a joint powers agency, or similar entity, formed for the purpose of providing insurance to public entities.
- (E) The Parties recognize that insurance practices and requirements of a municipality may differ from that of private parties and may change from time to time. During any period of time in which the Parties, as regular practice do not maintain insurance but rather self-insure or participate in a Joint Powers Agreement with other governmental entities, the Parties may meet their insurance requirements under this Section in the same manner.

REQUEST FOR ASSISTANCE:

The City and Tribe will detail mutual aid requesting procedures in emergency operations plans that are approved from time to time by appropriate legislative authorities.

A Lending Entity shall be responsible for providing equipment that is properly inspected and maintained. A Lending Agency will provide operators for equipment as required. Operators shall have current licenses and/or certifications as required for the equipment they are operating.

COSTS AND PAYMENT:

A Lending Entity rendering aid to a Requesting Entity pursuant to this Agreement agrees to provide such aid at no charge for the first twenty-four (24) hours starting from the time personnel and/or equipment reports to a Requesting Entity.

The Parties agree that a Lending Entity shall receive payment for all services rendered under this Agreement beyond the first twenty-four (24) hours as follows:

1. For any employee provided by a Lending Entity, a Receiving Entity shall reimburse a Lending Entity at the employee's regular pay rate including employee benefits, plus overtime where applicable.
2. For any equipment provided by a Lending Entity, a Receiving Entity shall reimburse a Lending Entity per the current Federal Emergency Management Association's Schedule of Equipment Rates plus twenty-five percent to account for cost of resources in California.

In addition to any charges a Lending Entity is entitled for services rendered under this Agreement, a Lending Entity shall be reimbursed by the Requesting Entity for any loss of, or damage to, any equipment incurred while rendering services under this Agreement in an amount not to exceed the cost of repair or replacement cost, whichever is the lesser amount. A Lending Agency shall also be entitled to reimbursement for the replacement of materials used while rendering services in the first twenty-four (24) hours under this Agreement in an amount not to exceed the actual cost of replacement.

It is understood that both the City and the Tribe are responsible for their own submittal of claims for reimbursement of costs incurred under this Agreement for Stafford Act and other declared disasters. Reimbursement from the federal or other levels of government has no bearing on payments under this Agreement.

Agreement Review. The City (Emergency Services Coordinator) and Tribe (Director of Emergency Services) will meet at least once a year to review this Agreement.

EFFECT AND TERMINATION:

Termination. Any Party to this Agreement may withdraw from the Agreement at any time and for any reason before the date of expiration by providing a ninety (90) day written notice to the other Party, as follows:

City Manager City of Banning Post Office Box 998 Banning, CA 92220	Finance Director City of Banning Post Office Box 998 Banning, CA 92220	Emergency Services Coordinator City of Banning Post Office Box 998 Banning, CA 92220
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Chief Administrative Officer Morongo Band of Mission Indians 11581 Potrero Road Banning, CA 92220	Director, Office of Emergency Services Morongo Band of Mission Indians 11581 Potrero Road Banning, CA 92220
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RECOMMENDED BY: <hr/> Brian S. Nakamura City Manager	REVIEWED BY: <hr/> Bonnie Johnson Finance Director	
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**MORONGO BAND OF MISSION INDIANS
CERTIFICATION**

The undersigned hereby certify that the foregoing Tribal Resolution No. _____ was adopted, as presented, at a duly called meeting of the Morongo Band of Mission Indians Tribal Council at which a quorum was present on _____, 2008, by a vote of ____ "for," ____ "against," ____ "abstaining."

ROBERT MARTIN, CHAIRMAN

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: May 26, 2009

TO: Honorable Mayor and Members of the City Council

FROM: Brian S. Nakamura, City Manager

SUBJECT: Stagecoach Days City of Banning In-Kind Service Costs Waiver of \$15,500 for 2008/09

RECOMMENDATION:

That the City Council approve a fee waiver of \$15,500 to Stagecoach Days for FY 2008/09.

JUSTIFICATION:

One of the primary goals of the City Council is to continually provide support for programs and community functions that sustain, enhance and expand the social and economic conditions within the City of Banning.

BACKGROUND & ANALYSIS:

At the May 26, 2009 City Council meeting the City Council directed staff to estimate basic city services in-kind service costs for the FY 2009/10 Stagecoach Days program. Costs breakdowns are estimated at the following:

Public safety costs, which include basic traffic control for parade and Stagecoach activities: approximately \$9,000. Public works and public utilities services for barricade setup and takedown, refuse removal, and personnel services \$4,500, and internal personnel and overhead services costs \$2,000. Please note that anticipated costs do not include emergency calls for services.


For reference, in FY 2007/08 the City of Banning in-kind services costs totaled approximately \$38,000 which includes public safety services (police and fire), electric and water utilities, and public works services, such as barricades, waste management services and city personnel. Police services in 2007 were approximately \$18,878 and costs for repairing and installing electrical services in Dysart Park increased overall costs for FY 2006/07.

In FY 2008/09 the City of Banning in-kind services costs totaled approximately \$24,000, which includes public safety services (police and fire), electric and water utilities, and public works services, such as barricades, waste management services and city personnel. Police services in 2008 were down from previous year, \$14,924 and utility costs were less due to previous year repairs and installations.

FISCAL IMPACT:

Given the significant staff reductions the City is facing, providing in-kind services will cause the need for additional overtime. The proposed budget does not include a specific allocation of overtime for these services. If approved, staff will amend the proposed budget to include an allocation of overtime in the respective departments as described in this report.

RECOMMENDED BY:



Brian Nakamura
City Manager

**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: May 26, 2009

TO: Honorable Mayor and Members of the City Council

FROM: Brian S. Nakamura, City Manager

SUBJECT: Banning Cultural Alliance In-Kind Service Costs Waiver of \$11,500 for 2008/09 Cool Summer Nights Events and Consideration of Request for City Hall Parking Restrictions

RECOMMENDATION:

That the City Council approve a public safety fee waiver of \$11,700 for FY 2008/09 Cool Summer Nights, an event sponsored by the Banning Cultural Alliance, and consider the Alliance's request to close City Hall parking lot at 12 noon for event preparation.

JUSTIFICATION:

One of the primary goals of the City Council is to continually provide support for programs and community functions that sustain, enhance and expand the social and economic conditions within the City of Banning.

BACKGROUND & ANALYSIS:

At the May 26, 2009 City Council meeting City staff was directed to bring forth the Banning Cultural Alliance's public safety costs waiver request.

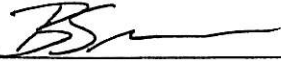
The Banning Cultural Alliance is co-sponsoring the Cool Summer Nights every Friday from May 29th through September 25th, to continue to bring people downtown. Public safety costs are estimated to be \$650.00 for each cool summer night event, for a total of \$11,700 to cover the 18 Fridays.

Additionally, the Banning Cultural Alliance has requested that the City Hall parking lot be closed to public at 12 noon for the 16 remaining Fridays for event preparation. City staff recommends that parking in the north portion of the parking lot be made available to the general public and staff during normal City Hall business hours and handicapped access be made available prior to, during, and subsequent to all events. Overflow parking for citizens and staff will be made available in the San Geronio Inn Parking Lot.

FISCAL IMPACT:

Given the significant staff reductions the City is facing, providing in-kind services will cause the need for additional overtime. The proposed budget does not include a specific allocation of overtime for these services. If approved, staff will amend the proposed budget to include an allocation of overtime in the respective departments as described in this report.

RECOMMENDED BY:

A handwritten signature in black ink, appearing to be 'Brian', written over a horizontal line.

Brian Nakamura
City Manager

**CITY COUNCIL AGENDA
REPORT OF OFFICERS**

Date: June 9, 2009

TO: Honorable Mayor and Members of the City Council

FROM: Brian S. Nakamura, City Manager

SUBJECT: Municipal Code Section 3.24.140 Local Preference, in Regards to Purchase of Goods and Professional Services.

RECOMMENDATION:

That the City Council authorize City staff to bring forth an amendment to Municipal Code Section 3.24.140 (b) which would allow for the establishment of a bid preference percentage for purchase of goods and professional services which would be set by resolution, in support of the City's "buy local" program.

In an effort to minimize the implementation timeframe of this Municipal Code amendment the City Council may, at this time, to specify the percentage amount for local preference to be adopted by resolution and specify the desired duration of said percentage amount.

JUSTIFICATION:

One of the primary goals of the City Council is to promote the economic health of the City and continually provide local support for the purchase of goods and professional services within the City of Banning. Due to current economic times it is critical that the City attempt to support local businesses when purchasing goods and professional services, whenever possible.

BACKGROUND & ANALYSIS:

At the May 26, 2009 City Council meeting the City Council directed staff to bring forth Municipal Code Section 3.24.140 Local Preference and recommendations related to how the City can amend its purchasing policy to support "buying local."

Currently, the Municipal Code reads as follows:

3.24.140 Local preference.

A. In order to promote the economic health of the city and to encourage local participation in the procurement process, the city council shall give a preference to local businesses, to the extent that such preference does not give an unlawful advantage to such local business over its foreign competition, and is otherwise permitted by law.

B. In the assessment of any responsive bid submitted by a local business pursuant to this chapter, the amount bid by the local business shall be deemed to be two percent lower, for purposes of award, than the amount actually bid. (Code 1965, § 18A-14.)

The City Council should note that the local preference program applies only to purchases of goods and professional services and not to public project contracts.

FISCAL IMPACT:

The anticipated fiscal impact is directly associated to the percentage amount adopted by the City Council.

RECOMMENDED BY:



Brian Nakamura
City Manager

**CITY COUNCIL AGENDA
REPORTS OF OFFICERS**

Date: June 9, 2009

TO: City Council

FROM: Bonnie Johnson, Finance Director

SUBJECT: Award of a Professional Services Contract to Tramutola for Public Information and Feasibility Services related to a Potential Transient Occupancy Tax

RECOMMENDATION:

1. "The City Council of the City of Banning award a professional services contract in an amount not-to-exceed \$18,000 to Tramutola for Phase I public information and feasibility services related to a potential transient occupancy tax ballot measure."
2. "The City Council authorize other Phase I expenditures in an amount not-to exceed \$35,200."
3. "The City Council direct staff to bring back a full report of Phase I results prior to moving into Phase II of the process."

JUSTIFICATION: At the Council Meeting on May 26, 2009 the Council directed staff to move forward with preparation for a potential TOT ballot measure. Hiring of the consultant is one of the initial and key steps in the process.

BACKGROUND & ANALYSIS: As reported to Council in its January 28, 2009 and June 3, 2009 workshops, for the past three years, the City's General Fund expenditures would have exceeded the General Fund revenues if there had not been one-time revenue sources and/or one-time salary savings from vacant positions to offset this. In addition with the recent drastic downturn in the economy, the City's existing tax revenue bases, primarily sales tax, property tax and transient occupancy tax, have seen significant declines. These sources of revenue are the main source for many City services.

In response to the fiscal situation, the City Council directed staff to move forward with cutting up to \$5.7 million in recurring expenditures from the General Fund budget in 2009-10 as well as start the process related to a potential transient occupancy tax measure (TOT).

In November 2007, staff solicited proposals from three experienced, well-known teams that do ballot measure feasibility and preparation work. At that time, the City selected the firm of Tramutola. However, after the completion of Phase I, the City ultimately opted not to complete the public education phase. Due to Tramutola's familiarity with the City and the urgent nature of the City's budget situation, staff is recommending the hiring of Tramutola for this project. A proposed contract with Tramutola is attached. This contract has been modified to include specific City of Banning requirements and will meet the City of Banning's terms and conditions. The scope of services includes public information and feasibility services (Phase I) as well as ballot measure planning and preparation (Phase II). However, there will be other costs included in Phase I that will be incurred in addition to the costs in the proposal. As noted in the above recommended motion, these costs are expected to be approximately \$35,200 and include the following: producing and distributing a professional two-way mailer \$9,200; a tracking poll to gage the level of community support \$24,000; and miscellaneous other costs associated with public information phase \$2,000. The balance of the estimated costs, or \$46,800, is expected to be incurred in Phase II of the project. This will include a consultant fee of

\$30,000 and as well as two mailers and minor expenses for stakeholder meetings. The consultant is estimating total project costs of approximately \$100,000 (Phase I cost: \$53,200; Phase II costs: \$46,800).

The Council has indicated they would like to pursue a November 2009 election. In order to provide the Council with flexibility, the proposed contract includes a November 2009 option as well as a June 2010 option. The costs are the same for either option. If the Council pursues the November 2009 option, the Consultant would recommend conducting a poll by the end of June and reporting back to Council shortly thereafter with the findings. Polling is a key component in the process to help shape the message and structure of the campaign. Based on the request of the Council, the Consultant has agreed to retain a different polling firm than was used in early 2008. Furthermore, given the compressed timeframe for a November election, it is recommended that the Phase I process and the Community Group/Committee formation be working on a parallel track to ensure the Community Groups/Committees are in place to take the campaign forward should the City opt to move into Phase II and go to the ballot.


If the Council desires to put any type of measure on a future ballot, staff is strongly recommending the use of a consultant. These types of consultants have a great deal of experience and training and have proven strategies and processes that have been successful time and time again. Staff recommends moving forward with the full scope of services as delineated in the attached contract.

FISCAL IMPACT: The estimated cost to bring this project to the ballot (excluding the actual cost of a special election) is \$100,000. At the March 10, 2009 City Council meeting, Council approved a reallocation of existing appropriations to fund this project. Therefore, project funding is in place and no further appropriation is requested at this time. The proposed 2009-10 budget includes a \$35,000 line item for the estimated cost of an election.

RECOMMENDED BY:


Bonnie Johnson
Finance Director

APPROVED BY:


Brian Nakamura
City Manager



AGREEMENT FOR REVENUE MEASURE FEASIBILITY & PUBLIC INFORMATION SERVICES

THIS AGREEMENT FOR REVENUE MEASURE FEASIBILITY & PUBLIC INFORMATION SERVICES ("Agreement") is effective as of the below Effective Date (as defined below) by and between Sidewalk Strategies, a division of TRAMUTOLA LLC ("Consultant") and City of Banning, 99 E. Ramsey Street (P. O. Box 998), Banning, CA, 92220-0998 ("Client").

Basic Terms

Consultant shall, as an independent contractor, provide the services set forth below during the Term (as defined in the attached Terms and Conditions) pursuant to the terms and conditions set forth in this Agreement.

Services: Consultant shall, with consultation from Client and for the direct benefit of Client, perform the following services, as needed, towards determining feasibility and preparing to place a Transient Occupancy Tax (TOT) measure on the ballot in June 2010 ballot, or on an earlier qualifying ballot such as the November 2009, including:

Phase I: Ballot Measure Feasibility & Public Information

- Conduct a demographic assessment of the local electorate
- Review results of recent local elections and political conditions
- Review and assess Client's existing public communications
- Provide a strategy for preliminary collection of input from key stakeholders prior to conducting public opinion research, and provide guidance and assistance to Client to implement this strategy
- Coordinate and supervise graphic designers, printers, mail houses and other vendors associated with print production as needed
- Develop revenue measure concepts, including potential rates to be tested in opinion research
- Assist in the design, execution and interpretation of public opinion research to understand current voter perceptions
- Provide recommendations regarding revenue measure feasibility and optimal election timing

Phase II: Ballot Measure Planning, Preparation & Public Information

- Coordinate development of a revenue ballot measure---provide recommendation(s) to Client on financing/electoral options, tax rates, term, election dates, and ballot language
- Provide a Phase II public INFORMATION-ONLY program moving into and through Phase 2, including (non-advocacy) materials to assist Client in informing the local community about its needs and measure;
- Coordinate and supervise graphic designers, printers, mail houses and other vendors associated with print production
- Prepare the 75-word ballot question and review Client's resolution prepared by legal counsel
- Coordinate and collaborate with other Client consultants as needed, including financial advisor, pollster and legal counsel
- Provide ongoing strategic counsel as needed

Compensation:

Phase I \$18,000.00 (Eighteen Thousand Dollars) "Flat Fee" plus business expenses.
Phase II Immediately following Phase 1, upon written notice of Client to Consultant to proceed to Phase II, payable only if Client proceeds to Phase II services-
\$30,000.00 (Thirty Thousand Dollars) "Flat Fee" plus business expenses.

Effective Date: June 15, 2009

Expiration Date: If Client proceeds to Phase II and calls for an election, Phase II shall expire no later than **March 12, 2010**, assuming a June 8, 2010 election, or 88 days prior to an earlier qualifying election date. If at the conclusion of Phase 1, Client determines not to proceed to Phase II, the contract shall expire on or before **July 10, 2009**.

- Assuming November 2009 Ballot: Phase I expires July 10, 2009
Phase II expires September 15, 2009
- Assuming November 2010 Ballot: Phase I expires July 10, 2009
Phase II expires April 15, 2010

This Public Information & Feasibility Services Agreement, including the attached Terms and Conditions collectively, constitute the "Agreement" as that term is used herein. This Agreement is hereby executed by duly authorized representatives of Consultant and Client as of the Effective Date.

City of Banning, 99 E. Ramsey Street (P. O. Box 998), Banning, CA, 92220-0998

By: _____

Name: _____

Title: _____

Date: _____

SIDEWALK STRATEGIES, 191 Ridgeway Avenue, Oakland, CA 94611

Larry Tramutola, Managing Member

Date: _____

Terms and Conditions

1. Client's Obligations. At all times while Consultant is providing the Services (as defined in the Basic Terms) ("Services") or otherwise assisting Client, Client shall promptly provide Consultant with access to the facilities, personnel and other resources reasonably necessary for Consultant to provide the Services.

2. Compensation. Phase 1 compensation of \$18,000.00 (Eighteen Thousand Dollars) shall be paid in one payment of \$18,000.00 (Eighteen Thousand Dollars) due on July 1, 2009; Phase II compensation of \$30,000.00 (Thirty Thousand Dollars) shall be paid in two equal payments of \$15,000.00 (Fifteen Thousand Dollars) each. If Client chooses the November 2009 election, Phase II payments shall be due on July 15 and July 31, 2009 respectively. If Client chooses the June 2010 election, Phase II payments shall be due on July 31 and October 1, 2009 respectively.

3. Consultant's Expenses. Client shall separately reimburse Consultant for Consultant's reasonable and necessary expenses (the "Expenses") including, without limitation, travel, meals, lodging; long distance telephone charges, teleconferencing, and/or cellular telephone toll charges; photocopying and faxes; express mail, messenger or delivery service incurred in performing the Services hereunder. These expenses shall be charged by Consultant and Consultant shall be reimbursed by Client within thirty (30) days following presentation of Consultant's invoice or statement. Expenses will not exceed \$1,000.00 per month without Client's prior approval.

4. Vendor Costs and Payments. Subject to prior approval of Client, Consultant is authorized to enter into third party contracts on behalf of Client for Client's public information efforts. Payment of vendor for all good, services, and costs shall be Client's sole responsibility, and shall be in addition to the Compensation or any other fees for the Services. Such third party contracts include, without limitation, contracts for printing, graphic artwork, demographic data, opinion research, mailing services, and postage.

5. LIMITED WARRANTY; LIMITATION ON LIABILITY. CONSULTANT WARRANTS THAT IT SHALL COMPLY WITH THE APPLICABLE STANDARD OF PROFESSIONAL CARE IN THE PERFORMANCE OF THE SERVICES. CONSULTANT MAKES NO WARRANTY, EXPRESS OR IMPLIED, CONCERNING THE RESULTS OF THE SERVICES. THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, AND, TO THE FULL EXTENT PERMITTED BY LAW, ALL IMPLIED WARRANTIES ARE HEREBY EXCLUDED. CONSULTANT'S SOLE AND MAXIMUM LIABILITY FOR A BREACH OF THIS AGREEMENT, INCLUDING ANY WARRANTY, SHALL BE A REFUND OF THE COMPENSATION ACTUALLY PAID TO CONSULTANT UNDER THIS AGREEMENT. IN NO EVENT SHALL CONSULTANT BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY OR ANY OTHER TYPE OF DAMAGES ARISING OUT OF OR RELATED TO THE SERVICES OR THIS AGREEMENT. SUCH LIMITATION APPLIES REGARDLESS OF WHETHER SUCH DAMAGES ARE CAUSED BY BREACH OF CONTRACT, WILLFUL MISCONDUCT, NEGLIGENT ACT OR OMISSION, OR OTHER WRONGFUL ACT OR OMISSION.

6. Indemnification.

(a) Each party agrees to indemnify, defend and save harmless from all loss, liability, damage, claim, cost or expense (including reasonable attorney fees or court costs) to the extent caused by the actual or alleged infringement of any patent, copyright, trade secret, or other proprietary right arising from or related to any material it furnished to such other party pursuant to this Agreement.

(b) Each party (the "Indemnifying Party") agrees to indemnify, defend, and save harmless the other party from all loss, liability, damage, claim, cost or expense (including reasonable attorney fees or court costs) arising from or relating to any personal injury, death, damage to property, or economic loss to the extent caused by the Indemnifying Party's sole negligent act or omission, intentional misconduct, or other breach of duty. In the event both Consultant and Client are at fault, indemnification shall be proportionate to their respective shares of fault. In the event neither party is at fault, each party shall bear responsibility for its own losses, expenses and liabilities.

7. Term; Termination.

(a) The term of this Agreement shall commence on the Effective Date and continue through the Expiration Date as those terms are defined in the Basic Terms of this Agreement (the "Term"). Should services continue beyond the Expiration Date, the contract shall be extended at a rate mutually agreed upon by Client and Consultant.

(b) In the event Consultant is in default of one or more of its obligations under this Agreement, Client shall have the right to terminate this Agreement if within thirty (30) days of written notice to Consultant a detailed description of Client's basis for such termination, Consultant fails to cure any such breach, or commence to cure such breach if the breach will in good faith take a larger period to cure.

(c) Failure by Client to make timely payments of the Compensation, vendor costs, or other expenses arising from performance of this Agreement by Consultant shall entitle Consultant to notify Client and issue Client a 30-day Notice to Cure. If Client does not cure within 30 days, Consultant will have the right to immediately terminate or suspend performance of this Agreement by sending written notice of termination to Client. In the event of termination by Consultant under this subsection, Client will be obligated to pay the current amount due and Consultant shall issue an invoice for all Compensation due for the portion of work completed to date. Client agrees to then pay the outstanding fees due, for the completed portion of work, to Consultant within ten (10) days of the termination.

8. Ownership of Work Product. All finished documents and other materials prepared by Consultant under this contract shall be jointly owned by Client and Consultant with the exception of artistic renderings. Future use of such artistic renderings by Client shall be subject to negotiation between Client and the appropriate artist/sub-vendor.

9. Agreement Is Confidential. Client agrees that Client shall not during, or at any time following termination of Agreement with Consultant, disclose or divulge to other parties, the specific terms of this Agreement, except as required by law.

10. Protection of Confidential Information. Each party has and will develop, compile, and own certain proprietary techniques and confidential information and data that have great value in its business (such techniques, and information and data are referred to in this Agreement collectively as "Confidential Information"). Confidential Information includes, without limitation, (a) all information that has or could have commercial value or other utility in the business in which the party is engaged or in which it contemplates engaging and (b) all information of which the unauthorized disclosure could be detrimental to the interests of the party, whether or not such information is identified as Confidential Information by Consultant.

Except as require by law, the party receiving Confidential Information (the "Receiving Party") shall keep confidential any and all Confidential Information regardless of means of transmission and storage. Failure to mark any of the Confidential Information as confidential or proprietary shall not affect its status as Confidential Information under the terms of this Agreement. The Receiving Party shall take all reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information. Without limiting the foregoing, the Receiving Party shall take at least those measures that the Receiving Party takes to protect its own most highly confidential information. The Receiving Party acknowledges that it is impossible to measure fully, in money, the injury that will be caused in the event of a breach or threatened breach of this provision and the disclosing party shall be entitled to injunctive relief to enforce the provisions of this Agreement, without prejudice to any other remedy that such party may have at law or in equity.

11. Insurance. Consultant shall obtain and maintain at its sole cost and expense throughout the Term the following insurance coverage: Commercial (Comprehensive General) Liability with minimum limits of \$1,000,000.00 for bodily injury and property damage per occurrence and \$1,000,000.00 for bodily injury and property damage in the aggregate.

12. Late Charges. Consultant may charge a late fee of 1.5% per month on any payment due under this Agreement and not paid in full on the date due, and on any balance due and unpaid more than thirty (30) days after presentation of any statement or invoice from Consultant.

13. Notice. All notices required or permitted under this Agreement must be in writing and will be deemed given (a) when delivered personally, (b) two (2) days after having been sent by commercial express courier with written verification of receipt, (c) on transmission by facsimile, provided that receipt is confirmed by a report generated by the facsimile machine transmitting such notice, or (d) on the earlier of receipt or seven (7) business days after having been sent by U.S. first class mail, return receipt requested, postage prepaid. The delivery address for any such notice shall be as follows:

Consultant: Sidewalk Strategies
Attn: Larry Tramutola
191 Ridgeway Avenue
Oakland, CA 94611

Client: City of Banning
Attn: Bonnie Johnson, Finance Director
99 E. Ramsey Street (P. O. Box 998)
Banning, CA, 92220-0998

14. Survival. All terms and provisions hereof intended to be observed and performed by the parties after the termination hereof, shall survive such expiration or termination and shall continue thereafter in full force and effect, subject to applicable statutes of limitations. Provisions that shall survive include, without limitation, Sections 2, 5, 6, and 8 through 19, inclusive.

15. Severability. If a court of competent jurisdiction finds any provision of this Agreement void, illegal, invalid or unenforceable as applied to any person or circumstance, the remainder of this Agreement and the application of such provision to other persons or circumstances shall be interpreted so as best to effect the intent of the parties hereto. The parties further agree to replace any such void, illegal, invalid or unenforceable provision with a valid and enforceable provision that will achieve, to the fullest extent possible, the economic, business, and other purposes of such provision.

16. Assignment Prohibited; Binding Effect; No Third Party Rights. No party to this Agreement may assign any right or obligation pursuant to this Agreement. Any attempt to assign such rights or obligations shall be null and void. Notwithstanding the prior limitation, this Agreement shall be binding on and inure to the benefit of the parties hereto, their successors and assigns. This Agreement shall not create any rights or benefits to parties other than Client and Consultant. No third party shall have the right to rely on Consultant opinions rendered in connection with the Services without the prior written consent of Consultant.

17. Attorney Fees and Expenses. In the event of any action or proceeding arising from or related to this Agreement, the prevailing party shall be entitled to recover its costs including, without limitation, reasonable attorney fees and expenses.

18. Governing Law; Venue. This Agreement shall be governed by the laws of the State of California without regard to any conflicts of law doctrine. In any action or proceeding brought to enforce this Agreement or any other claim arising out of or related to this Agreement, the exclusive venue shall be at the discretion of the party initiating litigation and shall be either Alameda County, California if the Consultant initiates litigation, or Riverside County, California, if the Client initiates litigation. Each party submits to the exclusive jurisdiction of any state or federal court sitting in either Alameda County, or Riverside County, California and waives, to the maximum extent permitted by law, any and all rights, either substantive or procedural, which in any way limit or prevent enforcement of the terms of this Agreement.

19. Entire Understanding; Waiver; Modification. This Agreement constitutes the complete and exclusive statement of the agreement among the parties about the described subject matter. It supersedes all prior written and oral statements, including any prior representation or statement. No waiver or indulgence of any failure to keep or perform any promise or condition of this Agreement shall be a waiver of any preceding or succeeding breach of the same or any other promise or condition. No waiver of any right shall be construed as a waiver of any other right. Neither party shall be required to give notice to enforce strict adherence to all terms of this Agreement. No waiver or modification of any of the terms of this Agreement shall be valid unless in writing, signed by the party to be bound.