

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

August 25, 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**

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

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

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 12**

**Items to be pulled \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ for discussion.**

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

1.	Approval of Minutes – Special Joint Meeting – 06/30/09 . . . . .	1
2.	Approval of Minutes – Regular Meeting-07/28/09 . . . . .	3
3.	Ordinance No. 1408 – 2 <sup>nd</sup> Reading: An Ordinance of the City Council of the City of Banning, California, Amending Section 3.24.140(B) of the Banning Municipal Code Regarding Local Preference Pursuant to the City's Purchasing System . . . . .	28
4.	Ordinance No. 1410, 2 <sup>nd</sup> Reading: An Ordinance of the City Council of the City of Banning, California, Adopting a New Ordinance to Prohibit, Within the City of Banning, the Burning, Thermal Conversion, or Partial Thermal Conversion of Any Class of Sewage Sludge or Bio-Solids to Ash . . . . .	30
5.	Resolution No. 2009-64, Authorizing the Appropriation of General Account Funds for the P.O.S.T. Law Enforcement Command College Program in the Amount of \$2,245.00, Which Will Be Reimbursed to the City of Banning Through the California Commission on Peace Officer Standards and Training Upon Completion of Each Session Completed by Lt. Holder . . . . .	33
6.	Resolution No. 2009-65, Authorizing the Appropriation of General Account Funds for the P.O.S.T. Sherman Block Supervisory Leadership Institute Program in the Amount of \$8,866.00, Which Will Be Reimbursed to the City of Banning Through the California Commission on Peace Officer Standards and Training Upon Completion of Each Session . . . . .	37
7.	Resolution No. 2009-71, Authorizing the Acceptance of the FY 09 Gang Resistance Education and Training Grant with Funding for a Portion of the G.R.E.A.T. Police Officer's Salary, Along with Related Supplies in the Amount of \$42,593 . . . . .	41
8.	Resolution No. 2009-72, Authorizing A One Time Appropriation from the City's General Fund to the Police Department's Clothing and Accoutrements Account in the Amount of \$4,893 to Purchase Bulletproof Vests. . . . .	45
9.	Resolution No. 2009-75, Rescinding Resolution No. 2009-12 to Amend the Classification & Compensation Plan for the City of Banning . . . . .	48
10.	Resolution No. 2009-77, Awarding the Purchase of One (1) Chevrolet Tahoe 2 WD Hybrid for the City of Banning Police Department and Appropriating the Necessary Funds for the Purchase in a total amount of \$51,667.00. . . . .	61
11.	Report of Investments for June 2009. . . . .	64
12.	Approval of Accounts Payable and Payroll Warrants for Month of July 2009 . . . . .	77

- Open for Public Comments
- Make Motion

#### **IV. PUBLIC HEARINGS**

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

1. Consideration of an adjustment to the City of Banning's Electric Utility Rates.  
*(Note: This item will be continued to September 8, 2009)*

The Mayor will need to open the public hearing from comments from the public and continue the public hearing to September 8, 2009.

#### **V. STUDY SESSION**

1. Fred Mason, Electric Utility Director
  - A. Study Session Regarding Consideration of an adjustment to the City of Banning Electric Utility Rates (ORAL) ..... 80

#### **VI. REPORTS OF OFFICERS**

1. Duane Burk, Public Works Director
  - A. Resolution No. 2009-70, Approving the Airport Improvement Program (AIP) Grant Agreement Offer With the Federal Aviation Administration (FAA) for Project No. 2009-01, Airport Drainage Improvements and Lincoln Street Improvements ..... 94

Recommendations:

- 1) **That the City Council adopt Resolution No. 2009-70, Approving The Airport Improvement Program (AIP) Grant Agreement Offer from the Federal Aviation Administration (FAA) for Project No. 2009-01, Airport Drainage Improvements and Lincoln Street Improvements.**
- 2) **Authorize the City Manager to execute the Grant Agreement Offer and upcoming Grant Agreement with the Federal Aviation Administration (FAA).**
- 3) **Authorize the Finance Director to appropriate FAA Phase I grant funds in the amount of \$561,536.00 to the Airport Fund Account No. 600-5100-435-93-42.**

- B. Resolution No. 2009-76, Awarding the Construction Contract and Approving the Professional Services Agreement for Surveying Services for Project No. 2009-01, Airport Drainage Improvements and Lincoln Street Improvements, Federal Project No. 3-06-0018-008-2009, Subject to the Final Execution of the Federal Aviation Administration Phase II Grant in the Amount of \$561,536.00 ..... 99

Recommendations:

- 1) **That the City Council adopt Resolution No. 2009-76, Awarding the Construction Contract for Project No. 2009-01, “Airport Drainage Improvements and Lincoln Street Improvements,” to Matich Corporation of San Bernardino, California, for an amount of “Not to Exceed” \$993,399.00, Subject to the Final Execution of the Federal Aviation Administration Phase II Grant in the Amount of \$561,536.00, and rejecting all other bids.**
- 2) **Authorizing an additional ten-percent (10%) construction contingency in the amount of \$99,340.00 to be used for additional work that arises from unforeseen conditions.**
- 3) **Approving the Professional Services Agreement for Surveying and Construction Staking Services with S.D. Engineering and Associates of San Bernardino, California, for an amount of “Not to Exceed” \$24,500.00 and an additional \$25,500.00 for Inspection and Material Testing Services.**
- 4) **Authorizing the Director of Finance to appropriate funds from the Measure “A” Funds to Account No. 600-5100-435-93-42, in the amount of \$91,510.00.**

2. Leonard Purvis, Police Chief

- A. **Resolution No. 2009-73, Authorizing the Acceptance of State Funds in the Amount of \$176,145.57 from the State of California Department of General Services for the Purpose of Procuring a “New Generation 9-1-1 System” and Associated Hardware. .... 114**  
 Recommendation: **That the city council adopt Resolution No. 2009-73, authorizing acceptance of funding from the State of California Department of General Services California 9-1-1 Emergency Communication’s Office in the amount of \$176,145.57 for the purchase of an upgraded “NEXT GENERATION 9-1-1 System” for the police department’s communication center.**
- B. **Resolution No. 2009-74, Authorizing the Acceptance of State Funds in the Amount of \$64,542.62 from the State of California Department of General Services for the Purpose of Procuring New 9-1-1 Dispatch Consoles ..... 118**  
 Recommendation: **That the City Council adopt Resolution No. 2009-74, authorizing acceptance of funding from the State of California General Services California 9-1-1 Emergency Communication’s Office in the amount of \$64,542.62 for the purchase of new 9-1-1 dispatch consoles for the police department’s communication center.**

3. Sam Racadio, Interim City Manager

- A. **Economic Development Committee ..... 122**  
 Recommendations: **That the City Council receive and file this report and provide direction regarding the Economic Development Committee.**

B. Approval of Employment Agreement for Interim City Manager . . . . . **135**  
Recommendation: **Approve the contract for Interim City Manager Sam Racadio.**

## **VII. ITEMS FOR FUTURE AGENDAS**

New Items –

Pending Items –

1. Service Club Signage on Ramsey Street, Gateway project (*ETA 9/8/09*)
2. Local Economic Stimulus Program (*ETA 9/8/09*)
3. Golf Cart Lane Policy for City of Banning (*ETA 9/8/09*) *Pending Beaumont Policy Development*
4. Schedule Meetings with Our State and County Elected Officials
5. Set New Date for Joint Meeting with Banning School Board (*ETA 9/09*) (*Date to be determined*)
6. Policy for Naming of Street and also Parks – Policy and Procedures (*ETA 9/08/09*)

## **VIII. CLOSED SESSION**

1. Pursuant to Government Code Section 54957.6 Conference with Labor Negotiators and Employee organization: BPOA  
Agency Designated Representatives: San Racadio, David Aleshire, Bonnie Johnson and Hoyl Belt
2. Potential Litigation-Proposed Settlement  
Pursuant to Government Code Section 54956.9 (a) & (b) - State of California et al., ex rel. Nora Armeta v. James Jones Company, et al, Los Angeles Superior Court, Case No. C 173487 (A lawsuit under the California False Claims Act in which the City of Banning is a Real Party in Interest) and City of Banning et al. v. James Jones Company et al., Los Angeles Superior Court, Case No. BC 321513.
3. Potential Litigation pursuant to Government Code Section 54956.9.

**A.** Opportunity for Public to Address Closed Session Items.  
**B.** Convene Closed Session

## **IX. 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/  
COMMUNITY REDEVELOPMENT AGENCY  
BANNING, CALIFORNIA

06/30/09  
SPECIAL JOINT MEETING

A special joint meeting of the Banning City Council and the Community Redevelopment Agency was continued and called to order by Mayor Botts on June 30, 2009 at 9:02 a.m. at the Banning Civic Center Large Conference Room, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS/  
BOARD MEMBERS PRESENT:

Councilmember/Boardmember Hanna  
Councilmember/Boardmember Machisic  
Councilmember/Boardmember Robinson  
Mayor Botts

COUNCIL MEMBERS/  
BOARD MEMBERS ABSENT:

Councilmember/Boardmember Franklin

OTHERS PRESENT:

Brian Nakamura, City Manager/Executive Director  
David J. Aleshire, City Attorney/Agency Counsel  
John Jansons, Redevelopment Manager  
Marie A. Calderon, City Clerk/Secretary

PUBLIC COMMENTS – On Items Not on the Agenda

There were none.

Mayor Botts said that there was an issue last night about recessing to perhaps 9:30 a.m. to accommodate Councilman Machisic.

**Motion Hanna/Robinson to recess the meeting for 30 minutes and reconvene at 9:30 a.m.**

City Attorney said that he needed to add an item to the closed session in regards to the Schoen case.

**Motion Hanna/Robinson to add this matter to the closed session item. Motion carried, all in favor.**

**Motion carried, all in favor to recess the meeting and reconvene at 9:30 a.m.**

Councilmember Machisic arrived at 9:24 p.m. and meeting reconvened.

CLOSED SESSION

City Attorney announced that the City Council will meet in closed session pursuant to the provisions of Government Code Section 54956.8 in regards to the property located at Ramsey and 22<sup>nd</sup> Street 0 APN#538-162-016, Fox Theater located at 60 W. Ramsey Street – APN# 540-240-012, Mt. San Jacinto College and the Schoen issue and also to consider personnel matters pursuant to Government Code Section 54957.

Meeting went into closed session at 9:30 p.m. and returned to regular session at 11:45 p.m. in regards to the items mentioned by the City Attorney and there was no reportable action taken.

ADJOURNMENT

By common consent the meeting adjourned at 11:54 p.m.

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Marie A. Calderon, City Clerk

MINUTES  
CITY COUNCIL  
BANNING, CALIFORNIA

07/28/09  
REGULAR MEETING

A regular meeting of the Banning City Council was called to order by Mayor Botts on July 28, 2009 at 6:45 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  
Zaiton Abu-Bakar, Community Development Dir.  
Leonard Purvis, Police Chief  
Fred Mason, Electric Utility Director  
Jeff Stowells, Battalion Chief  
Perry Gerdes, Public Utilities Superintendent  
Nicole Mihld, Purchasing Manager  
Chuck Thurman, Electrical Operations Manager  
Gene Lawton, Transit Manager  
Marie A. Calderon, City Clerk

Agency Counsel said that the Agency Board is reconvening from closed session in which they discussed two of the real property negotiations items with the first one having to do with property at north First and Hays and the second one having to do with the San Gorgonio Inn property. On both of the property matters the instruction from the Agency Board was to continue negotiations with respect to both the acquisition and project for those parcels. The Agency Board will reconvene actually and continue its closed session jointly with the City Council Meeting to finish discussions regarding 6217 Joshua Palmer Way.

Chairman Robinson said that the Agency Board will reconvene the CRA Meeting jointly with the City Council when the closed session items are to be discussed to finish their item.

Councilmember Robinson invited the audience to join him in the Pledge of Allegiance to the Flag. The invocation was given by Pastor Chris Johnson, Calvary Chapel of the Pass.

PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS  
ANNOUNCEMENTS/

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

Report by City Manager

- In regards to the closed session item which is on the agenda after public comments will be removed as it is also posted at the end of the meeting and they will be having a discussion on that.
- He said that this item is in regards to the organization and as you know the City has been seeking a Utility Director for the past several months due to the departure of Mr. Earhart who led the department and did a tremendous job in doing so and so carrying on that torch in trying to do so in the times we are facing and also with the upcoming issues we will be dealing with in the City we have restructured the organization somewhat to focus specifically on electricity and electrical distribution and also on operation. He has taken the opportunity to appoint Mr. Fred Mason as the Electric Utility Director. He has been with the organization for several years and he is very qualified in his field and comes to us with much experience and clearly stood out among the several candidates that were interviewed for the position.
- Also with that they have restructured and have allowed our Public Works Department to expand. Mr. Duane Burk will continue to serve as our Public Works Director but will not oversee water and wastewater operations. As you know water is essential for our Pass Area region and his expertise will definitely blend and bode well for our community for the future. These two people are a great team and they are essential for the success of Banning in the future. He said that Mr. Burk has been here for several years and expertise is definitely well warranted in this agency as well as this organization and profession.

Mayor Botts said he would be remiss if we didn't say a special thank you since this will be Brian's last City Council meeting. On behalf of the Council we appreciate your years of service with us here and we wish you the best of luck as you move on to a new city and thank you.

City Manager Nakamura said that he has truly enjoyed serving here under this Council and this community. You have something very special here in Banning and very unique. If you look around at other cities throughout the state there are many cities three times our size that are doing a lot less in terms of growth and development and he thinks that is something to be honored and treasured. He thinks that people are recognizing that the Pass Area is going to be a very essential player in the Riverside County area.

PUBLIC COMMENTS

Edward Miller, resident of Banning said that he would like to thank the City Attorney for the clear analysis, evaluation and enunciation of the legal points involved in the initiative to stop the burning of sewage sludge in Banning. He believes that we are very fortunate to have such an excellent communicator as our attorney. In that evaluation the City Attorney also addressed a point of vital importance to the democratic election of our City Council members and their actions during campaigns. Obviously the possibility of the building of a sewage sludge plant was one of the critical issues during that campaign. Some incumbent candidates stated that they could not

divulge any opinion on that matter because it was an item before the Council. Another incumbent stated, "At this time with the knowledge I have now" she was opposed to the project. The Mayor at a meeting claimed that this statement qualified her from voting on that matter. This disagreement he believes led to further serious acquisitions that still hinder cooperation among Council members. The City Attorney at that time to the best of his recollection recommended that Council members not say anything about that project but their constitutional rights permitted them to do so. That ambiguous advice he believes was not helpful. Our present City Attorney clearly identified the fact that the Council is both political and judicial and as a result its members may be prohibited from certain statements. However, he for one is uncertain as to how to interpret the possible prohibition of campaign rhetoric. Since anything may come before the Council should the Council members refrain from discussing any topic? If someone talks before the Council about a possible project, does that prohibit further campaign discussion? If a project is presented as an agenda item, does that stop campaign discussion? Does a letter of intent which clearly specifies the letter is not a contract and has not reached the hearing stage stop discussion. Exactly at what stage if any does a project become unmentionable in a campaign. As a layman listening to other politicians discuss every possible topic he always assumes that the electorate had a complete right to know a candidate's position on any topic. He believes this is a fundamental question that requires a definitive answer from our attorney both for the guidance of future Council Members during an election and for the voters so that they can understand where the silence on a subject is appropriate. He is asking the Council to request that the City Attorney give a complete legal analysis of this question. It is fundamental to our understanding of how a democratic election should proceed in this city or any city.

Bill Dickson, 5700 W. Wilson said that we are coming up on our 57<sup>th</sup> Annual Playhouse Bowl Association performances a week from Thursday is their first performance. Backbeat will perform on August 6<sup>th</sup> which is a tribute to the Beatles; August 13<sup>th</sup> is Lights which is a tribute to Journey, August 20<sup>th</sup> Dean Martin and Marilyn Monroe and August 27<sup>th</sup> Dolly Parton and Reba McEntire. They really make an effort to bring quality entertainment to everyone. This takes place at Repplier Park at 7:30 p.m. They will have 50/50 and will be looking for donations to continue this program on for years to come.

Inge Schular resident of Banning said she had a question regarding a point of order. She doesn't know when to address the public hearing, Section 4 – No. 1. She has some concerns that it is an item on the agenda but it is not open for discussion. When does she address that?

City Attorney said that the item will actually not be coming up for hearing because it was extended pursuant to State Law.

Ms. Schular said that she had some concerns about AB 333. She has not been privileged to the details of it and just saw it when it came up on the agenda. She understands that now the tentative tract map can be extended indefinitely without notification, without Council input and does that impede the influence that the cities and communities have on these tract maps. She would like to have that discussed at some time and maybe some of the legal aspects need to be clarified for the public. If this item was pulled, future items that may come before the Council or maybe just automatically extended, how would the public know about this. If it is not on the agenda even in the rather cryptic format that you have on Section 4, 1, how would we know that certain things are

extended in perpetuity, whether an EIR should be changed on these items or whether any specifications should be changed? She has a real problem with that and thinks maybe you would like to address that and maybe contact the State to clarify that.

Mayor Botts said he doesn't know if we need to answer this tonight but a fuller explanation of the new State law that we have to abide by need to be done.

CORRESPONDENCE: There were none.

PRESENTATIONS:

1. Presentation by Wind Power Consulting Group

City Manager said that as you know as we kind of go through the process of determining opportunities for the City of Banning we come across opportunities that are definitely viable or considered opportunities. We have tonight a presentation by Wind Power Consulting and basically it is a renewable opportunity and Mr. Pat Oberg will introduce the team that he brought. Essentially what we would do after the presentation is look for direction from the Council for staff to work with Mr. Oberg and his group.

Mr. Oberg thanked the City for inviting Wind Power Consulting for the presentation. He is excited not only for the City of Banning but for the citizens of Banning and the economic impact that it will have on this community this year, next year and years to come. He said that he is with Inland Development and it is a small development company and they are a property owner here in Banning interested in the expansion of Banning and his partner Harold Wright is a part of Inland Development and he has been in development for over thirty years in the Inland Empire, low desert and high desert. He said that Gerald Rauch, President of Wind Power Consulting has 30 years of real estate development contracting and has a great, great background in highbred power, wind and solar. Also Tony Penna, Vice President of Inland Energy is also in attendance. Inland Energy is doing a high speed train from Victorville to Las Vegas and they have either in the planning stages or have built 2000 mega watts of power, they built the 43 mega watt power plant just to the east of Banning so he is very familiar with Riverside County. Also in attendance is John Zimmerman with the Zimmerman Group which helps to finance projects. Mr. Oberg said the last thing he would like to introduce is the economic impact. He said that for every mega watt of power that is going to be built it will have a one million dollar impact on this community. Not only will it revitalize but wind and power will always be the source of employment in the 21<sup>st</sup> century. He said wind is free and fossil fuel will keep on rising.

Gerald Rauch addressed the Council stating that he was here to promote wind and solar energy to utility companies and city-owned partner utility groups. According to the Department of Energy wind can be provided much more as much as 20% of America's renewable energy needs. California Executive Order, S-14-08 calls for California to be 33% renewable energy by 2020 which is ten years sooner than the federal mandate. He said why wind and why solar energy – first of all green energy is renewable. It is a cost effective source of energy. The sun and the wind produce no emissions and do not pollute the air or the water. He said that their group is engaged in the promoting the business of developing hybrid, solar and wind power that will generate clean,

profitable, renewable energy from the sun and the wind. Mr. Rauch said that wind energy is an especially good choice when buying green power because it is on the cheapest and cleanest renewable energy sources available. It does not require extraction or consumption of fuel and the wind is literally free. Energy credits often referred to as green tags which are tradable renewable certificates sometimes call renewable energy credits or green tags are an important factor to consider in a solar and wind project and he further explained green tags. The web site for the National Wind Coordinating Committee is [www.nationalwind.org](http://www.nationalwind.org) which offers information about opportunities and guidelines for green tag products. He hopes this information will be helpful to the City of Banning when it comes to making the final decision on meeting or exceeding your California renewable energy standards by 2020 of the 33% requirement for renewable energy. He said that they are promoting a hybrid, solar and wind generation plant for your city.

Tony Penna with Inland Development, Inc. addressed the Council stating that he is the engineer that tells you if you decide to do this hybrid project that is being proposed which is a combination of wind and solar combined at one facility, fully integrated that Wind Energy who is a partner in this group has the full wherewithal and is well suited to make sure that the permitting and engineering is done to meet not only all of the CEQA requirements but clearly any of the technical requirements that the engineering department here, this State or the industry as a whole what happens. They are presently involved citing the world's largest solar, thermal and natural gas hybrid projects one for the City of Victorville and one for the City of Palmdale. He said that they are not new to hybrid technologies or proposals and are well able to navigate through the California permitting process. The plant that Mr. Rauch is suggesting is of size and design that would not need to go through the California Energy Commission and for those of you who have experience with the Energy Commission you will know that permitting through the County is a much more direct process and more logical and sound. He said as you weigh the options that Mr. Rauch put in front of you he would extend the invitation for them to visit that power plant and he is extending that invitation for two reasons and one is to understand what power plants are and get some exposure to the technologies. In the energy industry today the transition of technology is happening so rapidly that the future opportunities for research and development once you have a facility cited in your community abound be it with technical universities such as Cal Poly, USC or others for with well-known firms who are looking to advance technologies or manufacturing coming to a community that employs both technologies.

John Zimmerman addressed the Council stating that his background is in municipal debt and bond financing. As part of any feasibility study for a renewable energy project his role would be to identify potential revenue sources that would be available for leveraging bonds for raising funds to fund such a project. That is always a critical item in any project and the opportunities would come out of a feasibility study and would be included in that. The ultimate goal from the City's perspective is can this be profitable and provide an economic benefit to the members of the community. Ultimately the project would be owned free and clear by the City and provide residual income to the City on a long term basis.

Mr. Oberg addressed the Council stating that he hopes this was informative and their ultimate goal was basically to get an introduction to their group and colleagues. If you want more information, you can access [www.awea.org](http://www.awea.org) and there is enough on there to educate yourself for the next ten

years. They would like to do a proposal to do the feasibility study for the City and they are asking today if that is possible.

City Manager said that this was something staff wanted to bring to the Council because it is a viable opportunity in terms of working with our electric utility and our departments and he would ask that they work with Mr. Oberg and his group at the staff level and if the viability is there, they will bring it forward and continue to work with the individuals that make the presentation but there is no commitment on the City's behalf at this time.

Mayor Botts said this would go on the City Manager's list and this something that Mr. Mason will deal with but we need to take some next steps and develop more information.

#### ANNOUNCEMENTS/COUNCIL REPORTS:

Councilmember Robinson –

- He attended the State Summit in Sacramento last weekend and this was cities, counties and schools getting together and trying to put forward a proposal for the State to not have the same type of budget problems we had this year and some way to come up with some reforms specifically dealing with mandates and things that really make our life miserable and the takeaways.
- Also he was able to go to the Community Leader's Briefing at the Metropolitan Water District of Southern California put on by the Honorable John Benoit on July 24<sup>th</sup>. He spoke about the importance in the upcoming water projects up in the Delta and Jeff Kightlinger the General Manager of the Metropolitan Water District gave an insight on to bills that are coming forward and things that we need to do to support water projects for the State of California.

Mayor Pro Tem Hanna –

- This Saturday, August 1<sup>st</sup> at 4:00 p.m. you and your family can enjoy a free performance of Dragon Tales a story of a young man who coaxes a reluctant dragon from his cave. Join the Youth Arts Council and others. It will be held at the former Episcopal Church, 109 W. Hays. There will be another showing of that on Aug. 29<sup>th</sup> as a fundraiser.
- Every Friday night at Cool Summer Nights September 4<sup>th</sup> through the 25<sup>th</sup> there is going to be a talent competition and show called "Banning Gots Talent". On September 4<sup>th</sup> it will be people ages 19 to 40, Sept. 11<sup>th</sup> ages 41 plus, Sept. 18<sup>th</sup> ages 13 to 18 and Sept. 25<sup>th</sup> ages 0 to 12. There are rules of the competition and you must comply with those rules. Applications are available from the Banning Cultural Alliance in the Banning Women's Club, Monday through Thursday from 9 a.m. to 1 p.m. located at 175 W. Hays or you can call 922-4911. They are also available at the Banning Chamber of Commerce, Happy Faces and at Cool Summer Nights every Friday on San Gorgonio Avenue from 5 to 9 p.m. Final competition will be held at Stagecoach Days.

Councilmember Machisic said that he was thinking about this over the past month and we have been pretty warm and a couple of Saturdays ago we are over 108 degrees and the problem is that the night temperatures and unusually high in the low 70's and we operate a cool center for people

who don't have air-conditioning and he wanted Heidi or Gene to mention where they are and the hours.

Gene Lawton, Transit Manager, said that the Cool Center is in operation as we speak Monday through Saturday at the Community Center at 789 N. San Gorgonio.

Mayor Botts said that he is not aware that we allow animals in there but there are two businesses in Banning which are official cool sights for animals and that is Renaissance and Hollywoofs.

Councilmember Franklin –

- In regards to the cool center there is another located at Praise Tabernacle Church, 1400 block of Nicolet and they are open any time the weather is over 100 degrees. It is a project that continues and it is through the Community Action Partnership and they offer snacks and movies and socialization.
- Another project from Community Action Partnership to help people who are struggling now with mortgages and foreclosures on August 1<sup>st</sup> there is going to be a Foreclosure and Eviction Workshop in Riverside at 2038 Iowa Street and the phone number is 955-4900 and it is free and the hours at 9 a.m. to 1 p.m.
- On August 7<sup>th</sup> they are going to be collecting all the supplies that different churches have been donating as well as businesses and individual residents. These are back to school supplies that will go to all the schools in the Banning Unified School District and once they are all collected they will be divided and given to the schools so that they will be able to provide them to the children that need them the most. If anyone wants to contribute they can bring the items over to either Community Center during the week before August 7 and on August 7<sup>th</sup> they will actually be collecting them at the Highland Springs Christian Centers which is next to the old fire station which is the dispatch center. If anyone wants to write a check they can make it out to the San Gorgonio Education Fund and they will buy the items and give them to the schools.
- Last Thursday she attended a Give the Green Initiative Prosperity Workshop and she came away from it with two different things. They were really talking about not only what we can do differently but said think differently about conservation, about trying to move forward in terms of don't just think of doing things the same but just a little bit better but we needed to think about things such as the for example, in a car, you have multiple sensors and electronics and those are to help tell you when things are going wrong in your car but we don't have the same in houses. We need to consider are we thinking about how we can prevent things from happening in our homes. How can we prevent energy waste in businesses and we should try to think outside of what is normal and try to think more global about different things. The second thing they talked about was how to help businesses today to do more with less. If we can do more with less, then we are conserving energy and that is one of the things that we are all supposed to be focused on.
- She gave a thank you to one of the employees that she has heard repeatedly get compliments from the public and other people that she works with and that is Daniele Sevard. She knows that we often talk about how we hear complaints from different people but she has heard nothing but compliments repeatedly for Daniele and it would be good to recognize the fact that she is getting a lot of compliments from the public.

- August 10<sup>th</sup>, Job Seekers Summit will be held at the Riverside Convention Center and it is a collaborating effort between Assembly Member Brian Nestande, The Riverside County Workforce Investment Board and the Riverside County Economic Development Division. This is a summit that is offering attendees an array of professional career development, industry workforce economic and education workshops with giving them ideas on how effective job searching, resume preparation and a fashion show. You can call 951-955-5783.

### CONSENT ITEMS

Councilmember Robinson pulled Consent Items 1, 5, 7 and 8 for discussion.

Councilmember Machisic said that recently we cut the budget quite a bit and if you will note in Item No. 5 that is a grant for \$118,000.00, Item No. 6 is for \$164,000 and Item No. 10 is for \$975,000.00 and the total allocation of grants is \$1.257 million and that supplements the budget with money we don't have and he would like to compliment Public Works and Recreation and Transportation for going out and getting those grants otherwise we wouldn't be able to afford some of these things. It is a compliment to some of the employees who do it.

#### 2. Approval of Minutes – Adjourned Meeting-07/17/09

Recommendation: That the minutes of the adjourned meeting of July 17, 2009 be approved.

#### 3. Approval of Minutes – Special Meeting – 07/20/09

Recommendation: That the minutes of the special meeting of July 20, 2009 be approved.

#### 4. Resolution No. 2009-61, Amending Resolution No. 1997-41 Employer Pickup Resolution Pre-Tax Payroll Deduction Plan for Service Credit Purchases (Contribution Code 14).

Recommendation: That the City Council adopt Resolution NO. 2009-61.

#### 6. Resolution No. 2009-62, Accepting Community Development Block Grant (CDBG) Program Funds for Fiscal Year 2009-2010.

Recommendation: That the City Council adopt Resolution No. 2009-62.

#### 9. Police Officer fees for security during the 2009 Playhouse Bowl Evenings in the Park Concert Series beginning August 6, 2009 at the Repplier Park Bowl.

Recommendation: That the City Council review and provide direction on a request from the Banning Community Services Department for two police officers to be present between the hours of 6:30 – 9:30 p.m. for each of the four concerts during the Playhouse Bowl Evenings in the Park Concert Series.

#### 10. Award of Piggyback Purchases of 2 Transit Buses and 2 Dial-A-Ride Buses for the Transit Division of the Community Services Department in the amount not to exceed \$975,214.00 to

Creative Bus Sales from the funds obtained through the FY 08-09 RCTC Transit Grant as listed in the Short Range Transit Plan.

Recommendation: That the City Council award of Piggyback Purchases of 2 Transit buses and 2 Dial-A-Ride buses for the Transit Division of the Community Services Department in the amount not to exceed \$975,214.00 to Creative Bus Sales from the funds obtained through the RY 08-09 RCTC Transit Grant.

**Motion Hanna/Robinson to approve Consent Items 2, 3, 4, 6, 9 and 10.** Mayor Botts opened the item for public comments. There were none. **Motion carried, all in favor.**

1. Approval of Minutes – Regular Meeting – 07/14/09

Councilmember Robinson said in our last meeting in our minutes we have that Mayor Pro Tem Hanna said in regards to Item No. 4, which is on page 12 of our packet, will be on the next agenda and the City Manager said yes. He wanted to make sure that everybody was aware that it is not on our agenda tonight as we indicated and we wanted to let the public know as far as enough in advance when this golf cart issue was going to be on the agenda so people could come and give their comments to the City Council. He said that was the only problem he had with Consent Item No. 1.

**Motion Hanna/Machisic that the minutes of the regular meeting of July 14, 2009 be approved.** Mayor Botts opened the item for public comments. There were none. **Motion carried, all in favor.**

5. Resolution No. 2009-63, Accepting and Authorizing the Expenditure of SB-821 Bicycle and Pedestrian Facilities Grant Program Funds for Fiscal Year 2009/10.

Councilmember Robinson said that he would like to commend the staff for putting these together but he would like to ask Mr. Burk obviously these are an important part of our budget process and as we see grants from county, state and the federal government he understands that one of the cutbacks we made and had to make was the person that actually worked on preparing some of these grant requests and she has now been cut back to approximately 10 hours per week and is there anything we can do to change that so that we can get some more grants out there as part of the stimulus and ARRA funds that are available.

Mr. Burk said as we increase revenues maybe at the counter and across the city we could probably increase her hours but we are at a point in time of dire straits as it relates to the budget in Public Works. She is an asset that they are keeping on for ten hours a week. She does other things also but hopefully they can increase those hours soon enough.

Councilmember Robinson said he just wanted to make sure that we knew that the persons that actually goes after these grants has been cut back and as soon as possible we need to bring her back.

**Motion Hanna/Robinson that the City Council adopt Resolution No. 2009-63, Accepting and Authorizing the Expenditure of SB-821 Bicycle and Pedestrian Facilities Grant Program Funds**

**for Fiscal Year 2009/10, to be utilized to pay for sidewalk improvements on Woodland Avenue, as well as, handicap ramp improvements at various locations throughout the city that will be constructed as part of the City's Annual Street Rehabilitation Project.**

Mayor Botts opened the item for public comments.

Charles Hough, 2649 Winter Court addressed the Council stating that the bicycle part of this is what caught his eye and as he can see it appears to him that grant money was applied for those specific projects and there is no chance of reallocation at all. So he is here to continue his protest that this City has no bike lanes as far as he is aware of and a couple of gallons of white paint doesn't cost \$100,000 dollars. He said our whole city is only about five miles long and there is no safe way to get from end to end on a bicycle and when we get into the golf cart the Planning Commission has put a nice little block in the middle of the city so it is not crossable for Councilmember Hanna or himself to emerge from their driveway with a golf cart and this should be coordinate. He said his sister is in a wheelchair and he highly applauds the curb cuts and thank you very much.

Mayor Botts said personally he would hope that as we move forward with the golf cart discussion and he is not quite sure where that is but a lot of discussion in a number of areas and he is assuming that bicycle lanes should play a part in that discussion.

**Motion carried, all in favor.**

7. Resolution No. 2009-66, Authorizing the Submittal of the FY 2009-10 Local Transportation Fund (LTF) and approving the FY 2009/10 Short Range Transit Plan (SRTP).

Councilmember Robinson said he was concerned about this as far as the pass transit system. He said we recently approved monies to help support through an MOU some funding for the college and he didn't see anything in here if we had increased the time that we go past Banning High School and Beaumont High School to bring these potential college students back to their homes. It looks like a cutoff time of 7 p.m. He doesn't know when they get out of those college courses at the high school.

Gene Lawton addressed the Council stating that at this point they haven't pursued any additional service hours due to the nature of the structure we are in right now. Eventually once they get passed the crisis additional extension of service hours will be looked at aggressively. He hasn't been in communication with anyone yet as to extending hours. Right now the level of service that they have is very sufficient for the crisis that we are in. As a matter of fact, they have new schedules that will be coming out in a couple of weeks because they have started earlier service out in Cabazon due to the request of some of the surveys that we have taken. Buses going out of service in different locations of the city now the customers do not have to worry about getting from Wal-Mart all the way back to the east side of Banning where they have a bus that goes out as an example goes out of Indian School Lane so once the system closes down at 7 p.m. everybody is safely at home and their last run will virtually empty. As they get past the crisis they will aggressively pursue the extension of service because it is something that has been requested and even though we are in fiscal crisis it is still being a request because they are fielding calls everyday.

Councilmember Franklin said one of the things that she wanted to bring up was the fact that we do have transit sitting at the table with the Friends of the College talks. Because one of the things that they are trying to do is coordinate not only for the college classes here but how do we get people back and forth from the main campus in San Jacinto. So they are looking at that on a regular basis to provide the best service possible to anybody that wants to go to school.

**Motion Hanna/Robins that the City Council adopt Resolution No. 2009-66, authorizing submittal of the FY 2009-10 Local Transportation Fund (LTF Claim in the amount of \$1,145,000.00 and approving the FY 2009/10-2011/12 Short Range Transit Plan (SRTP).** Mayor Botts opened the item for public comments. There were none. **Motion carried, all in favor.**

8. Approval of Accounts Payable and Payroll Warrants for Month of June 2009.

Councilmember Robinson said that he wanted to get a clarification on the policy of reimbursing Council Members for projects that they are working on. If a Council Member is going to use a credit card let say to help a project along is that reimbursable to that Council Member.

Finance Director said she believes what Councilmember Robinson is referring to are two different reimbursements but specifically to one that she is familiar with which is a reimbursement to Councilmember Franklin regarding the Disaster Expo. And the funds for the Disaster Expo are 100% donations and they are not City funds per say. The City does help sponsor that event. The City did make a donation to the 2009 event for approximately \$1,900. She said the City doesn't go out and solicit those donations. Those donations come in and there is a committee that works on the Expo. The City acts as sort of like the custodian of funds and they are not City funds. As expenditures are incurred either the City facilitates help making those expenditures or in this case both Councilmember Franklin and another staff member from the Fire Department were both reimbursed for some expenses related to the Expo for supplies and things of that nature. Our records reflect that there are valid receipts for all of those expenditures and when those were submitted for reimbursement we simply reimbursed those expenses like we would pay any other bill that was submitted for that event because we are the keepers of the money of that deposit but it is not City revenue per say and we just act as the keeper of the funds and disperser of the funds.

**Motion Hanna/Machisic that the City Council review and ratify the following reports per the California Government Code.** Mayor Botts opened the item for public comments. There were none. **Motion carried, all in favor.**

Councilmember Franklin said just so the public is aware the Disaster Expo was a project that was started while she was not on the Council. It was started with the approval of the Council at that time as a project to help the City be more aware of what to do in the event of a disaster. The process that we started at that time was all to be done by volunteers and we did have some staff time allocated from the Fire Department and this was part of the plan for Disaster Preparedness. She thinks that with any project that you have where you have volunteers it is always good to try to use volunteers to do some of the work that staff would do to reduce the amount of expense on the City. She would say this is something that has benefited the City and she would hope that the Council would continue to support an effort that utilizes volunteers not only to plan it but to work it on a regular basis and we strive very hard not to have any of the expenses out of any City's General Fund.

Mayor Botts said he could appreciate that and he wasn't going to raise the issue. He is just concerned about Council Members, any of them, using credit cards. If you read the paper and he is not suggesting a problem here. When Council Members start spending money with credit cards and get reimbursed there can be some real issues. He is just concerned internally do we have a policy that says that I am working on a project and I got some donations so I am going to take everyone to lunch on my credit card and then it is submitted and the City pays me back. He is talking about the mechanics of that and he is just concerned about that.

Mayor Pro Tem Hanna said you are not suggesting that is a City credit card. Is it a personal credit card?

Mayor Botts said a personal credit card and then we are reimbursed by the City. His challenge is that he just learned about this tonight and how do you distinguish donations from the money that we gave to the Expo.

Councilmember Franklin said that the City donated the booths and the monies that the City donated were paid directly to the company that provided the booths.

Mayor Botts said his point is that they don't know that. We donated money and he is just saying from a reporting standpoint all of a sudden we look and checks are being cut to Council people and it is a surprise. And if there is a policy for it and there is documentation, how the money was spent, what were the donations and it is a City sponsored event and so he would think that they should have a whole report. Councilmember Franklin said that there is a whole report. Mayor Botts said it would be nice to have it.

Councilmember Franklin said that there is a full accounting that is done by Lynn in the Fire Department that talks about every dollar that comes in, every dollar that is spent, why we are spending the dollars and it is hard to get a purchase order when you are talking about buying balloons, buying snacks for the people who are working from 7 a.m. to 4 p.m.

City Attorney said since this is coming under the general consent calendar description of just general warrants for the month of June and if this is an item that the Council would like to discuss in more detail and would like to see returned on a future agenda that would be appropriate as opposed to discussing it under this consent calendar description.

Mayor Botts said he doesn't think it needs to come back on the agenda unless you all want it. He just thinks the Council ought to have a report of what goes on and monies spent by Council people and reimbursed by the City.

## PUBLIC HEARINGS

1. Tentative Tract Map 31614 – Time Extension: Located on Banning Bench APN: 531-240-008, -009, -010 *(This item has been removed from the agenda)*  
*(Per AB 333 – this map is extended for an additional 2 years.)*

Mayor Botts said that they address this item sort of before that this item was pulled because of the State law and absent any disagreement would we like some explanation on the State bill for ourselves and for Inge and others. So between the City Manager and the City Attorney they could have some explanation. City Manager said that they will get that information to the Council.

2. Adoption of Ordinance No. 1408 - Amending the Municipal Code Regarding the Local Preference Pursuant to the City's Purchasing System; Adoption of Ordinance No. 1408 Amending Section 3.24.140(B) of the Banning Municipal Code Regarding Local Preference Pursuant to the City's Purchasing System.  
(Staff Report – Bonnie Johnson, Finance Director)

Finance Director gave the staff report as contained in the agenda packet in regards to bring forward an amendment to the City's Municipal code that would allow the local preference to be changed by resolution. The resolution raises the 2% preference to 5% pursuant to the past Council discussion on this topic.

Mayor Botts asked how we arrived at the 5% because he remembers asking for 10% and he is not sure that we had a vote on that and thought it was consensus. How did we arrive at 5%?

Finance Director said she could be wrong but she believes the consensus after the last meeting was 5%. If that is not what the Council wants to go forward with, you can do an amended motion to amend the resolution.

Mayor Pro Tem Hanna asked the Finance Director to explain how the percentage works.

Finance Director said when we receive a quote from the City for example, three quotes come in per State law and our policy and procedures, we are required to go with the lowest bidder quote that we obtain as long as they are able to supply the product or service, etc. This would allow us to give a percentage preference. We would in essence lower, if you were a local bidder business in Banning, we would artificially for purposes of deciding who to award the contract or purchase order to we would lower your bid by the specific percentage. So you would get a 5% advantage, if you will, over quotes or bids that we would solicit outside the city of Banning.

Mayor Botts asked if she knew what other cities are using. Finance Director said she doesn't have an idea but typically what she has seen is a local preference percentage of 1% and a maximum of 2%. And the justification of a one percent is generally that a jurisdiction will give back those dollars in the form of sales tax if those transactions happen within their city because the city does get 1% of the sales tax rate back as revenue.

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

Mayor Botts asked the City Clerk to read the Title of Ordinance No. 1408. City Clerk read: An Ordinance of the City Council of the City of Banning, California, Amending Section 3.24.140(B) of the Banning Municipal Code regarding local preference pursuant to the City's purchasing system.

**Motion Hanna/Robinson to waive further reading of Ordinance No. 1408. Motion carried, all in favor.**

**Motion Hanna/Robinson that Ordinance No. 1408 pass its first reading. Motion carried, all in favor.**

**Motion Hanna/Robinson that the City Council adopt Resolution no. 2009-60 a Resolution of the City Council of the City of Banning Setting the Local Preference Percentage pursuant to the City's Purchasing System at 5%.**

City Attorney said she wanted to raise as a point of order on the resolution. She said normally the resolution wouldn't be able to go into effect until the enabling ordinance is in effect. We filled in some automatic language in here so the resolution isn't going to immediately take affect tonight but will take affect when the ordinance is in effect.

**Motion carried, all in favor.**

#### REPORTS OF OFFICERS

1. Consideration of a Transient Occupancy Tax (TOT) Ballot Measure.  
(Staff Report – Bonnie Johnson, Finance Director)

Finance Director gave her staff report as contained in the agenda packet in regards to the proposed transient occupancy tax ballot measure referred to as a TOT or hotel/motel bed tax. The current rate for TOT is 6% and proposed ballot measure would increase that to 12%. In addition the City has been utilizing a consultant to assist the City with educating the public on the City's financial situation, as well as, providing information to the public regarding the proposed measure. As part of that effort the consultant conducted a telephone poll to determine whether or not support existed for this measure. The preliminary poll percentages indicate that approximately 60% of those polled would be supportive of this measure. Again, these numbers are preliminary and the final report hasn't been issued. In addition the City recently sent out a mailer asking for comments related to the proposed measure. All registered voters in the city of Banning were mailed this mailer last week. We have received quite a response from the mailer and she has over 100 comment cards and they also set up a separate email address and have approximately 35 to 40 emails that have come in and also had four telephone messages that were left from folks expressing their views on this measure of where they stand in support of the measure. What is before the Council is consideration of two resolutions and the deadline for filing these resolutions with the County is August 7, 2009. She gave information on the two resolutions and what they will do.

Mayor Botts opened the item for public comments.

Clark Hamilton, 847 Riviera Avenue addressed the Council stating that he did not receive this brochure until Saturday afternoon. He had read a little bit about this in the newspaper but he personally doesn't think they had an opportunity other than being able to come here tonight because he thinks it is too much. Being someone who travel and does have to stay in hotels he

does take into consideration certain cities that have higher bed tax than others if he is going to stay there. For instance, he does not stay in Oakland because they are 18% now so he will pick a city outside of it and drive in and take care of his business. He thinks this is something we should consider when we think of raising it this much.

Dorothy McLean resident addressed the Council stating that when she gave her form to the City Clerk she had a note on there as to how many people will be affected that live in motels in Banning. She thinks that the City Clerk was going to check with Bonnie to see if she could come up with an answer for that. It would be worth knowing how many people would be affected that actually lives here.

Scott Downs, 3726 Cypress Street addressed the Council stating that we need to look at ways in which we can benefit and support our local emergency, fire, police, etc. and this might be a very good avenue from the little he has seen of it. He had been burglarized himself this past April and they have cut back so much in the detective section that they haven't even had a chance to get to it in the last three months. He wants to support the increase for the TOT tax. He also did not receive the notice until Saturday stuck in his screen door so he thought he needed to show up here tonight just to show support.

Mr. Patel with the Hampton Inn & Suites Hotel, the Super 8 and Travelodge here in Banning said he was designated as spokesman for the various lodging establishments in the area. He read a resolution that basically they have written. Essentially it says, "Whereas, it is the collective interest of all the various lodging establishments in the city of Banning to support those initiatives which encourage and promote tourists, leisure and corporate activities in the city of Banning and the surrounding areas; Whereas, it has come to the attention of the Banning Hotel/Motel Council that the City of Banning is proposing a transient occupancy increase of 100% from 6% to 12% at a time when economic conditions have decreased our occupancy percentages by more than 50%; Whereas, the current occupancy rate of 6% provides their lodging establishments with the distinct competitive advantage over those of our direct competitors in other cities as nearby as Beaumont and as far away as Riverside and Indio; Whereas, the proposed transient occupancy tax increase would put our lodging establishments at a competitive disadvantage as the cities our establishments directly compete with have transient occupancy rates as low as 8% and no higher than 10% as opposed to the 12% that is being proposed; Whereas, our guests many of whom patronize our establishments repeatedly choose to stay in the city of Banning based solely on the basis of price after tax and not necessarily before tax; Whereas, a proposed transient occupancy tax increase will raise taxes on the residents of the city of Banning when they themselves patronize our establishments for various reasons including and not limited to weddings, funerals, reunions and other business related activities; Whereas, the purpose of the proposed TOT increase is to balance the current shortfall in the City's General Fund and not necessarily to be allocated to a separate fund that is dedicated to the promotion and growth of tourism and business activities that directly result in overnight stays in the city of Banning; Whereas, the Banning Hotel/Motel Council feel that lodging establishments of the city of Banning which will in evidently be faced with further decreased occupancy rates and rates are being asked to bear an unfair burden; Whereas, other businesses in the city of Banning such as restaurants, bars, drug and convenience stores, gas stations, etc. all of whom benefit from our guests that stay at our establishments will also be faced with decreased revenues; Therefore, be it resolved that the Council formally opposes

any ballot measure with the purpose of raising the TOT occupancy tax; Further, be it further resolved that the Council respectfully advises the City of Banning to postpone the ballot measure to a time where it will be able to fully understand the impact the increase will have on our establishments and some of the families that have owned and operated these establishments for over 30 years. Mr. Patel said personally he has been here, has lived here and grew up here and they have three establishments and there are a number of other owners and operators in the room and they can share a unique perspective to this that a lot of other people obviously cannot. If you have any questions, please do ask. He would also encourage the Council to sit down together and talk about this and there is a possibility that we can make this a win, win situation and not just a take it or leave it situation.

Don Smith, resident of Banning addressed the Council stating that he guesses that the Council is being asked to vote on two things tonight. The first one is whether or not we have a fiscal crisis or fiscal emergency or something along those lines. Somebody is just going to have to show up at City Hall on Friday or try to go into the Police Department lobby on Friday and that person will quickly find out that Banning has a fiscal emergency. Services were cut to that degree to be able to come to the City and do City business by 20%. Probably for the first time in the city of Banning we haven't been a five-day operation so if that is not a fiscal emergency, he doesn't know what is. Luckily we didn't have a major cut in fire services but we did have a major cut in the budget which is good but we just had a major cut in police services. A general tax is one by definition has no purpose and goes into the General Fund to pay for the things that the General Fund pays for. 67% of the General Fund pays for police and fire services. Certainly the City of Banning needs to have adequate finances to provide adequate police and fire services. Like the other people who spoke he received the flyer on Friday and those of you who thought it was junk mail that are watching on TV ought to get this out of their mail and read it. There are some very important facts in it and it answers some questions. He strongly supports this. Any tax of any type is going to affect somebody. The City only has three alternatives – cut expenses which they just did by 30%, raise revenues or raise some sort of a user fee and he doubts people are going to be willing to pay into one of the parks, so basically your only choice is some sort of a tax that you have discussed for two years now which would be the best tax to bring forward and you came up with this one was the one that stood the best chance based on everything you reviewed of having a success of actually bringing money to pay for police and fire services. This is money that most of it is going to be paid by visitors just like when we go out of town and stay at hotels we pay the same tax. We have probably the lowest tax right now in Southern California at least no one as been able to find a lower one to his knowledge. This is money that is going to stay in town to be paid by people who are visiting town. It is going to provide police and fire services for the entire town and he strongly suggests that the citizens of Banning look at this and decide how important these services are to them and determine if they would rather pay some other tax or whether they are more comfortable with this hotel bed tax. He strongly urges the Council to declare a fiscal emergency to put this on the ballot and let the people decide whether or not this is the best way to raise money.

Charles Hough, 2649 Winter Court addressed the Council stating that they received those emails and coupons but didn't say how many of them got read so he prefers to come to the microphone. He would like to speak against this tax and caution the City Council to approach this carefully. A tax like this is like free money if it doesn't affect you supposedly. It is like a non-smoker thinking

a cigarette tax is a good idea. We as the gentleman representing the hotel industry said it puts them in a disadvantage competitively when in fact we should be encouraging that is a good business to have in this city. It is not polluting and brings in people to other businesses like restaurants like they said. He is personally terribly annoyed at heavy taxes on room when he travels and he has turned around from Anaheim and has gone home at 1:30 in the morning just to avoid staying overnight down there. Also he is a recreational vehicle owner and this also affect the RV Park in town when we should probably be encouraging another one of those because it is a lot cooler up here than in the desert. It is a real insult when you have paid for your own bed and brought it with you to still be taxed on it at that percentage rate. It is not free money and it is going to affect somebody and affect our local businesses and we should be very careful before we embark on something like this at least at that rate.

Councilmember Machisic said he agrees with the speaker that we have a fiscal emergency and we are hurting and you can see the affects of it whether it is city hall closed on Friday or some other services being slow to respond. As we saw in the State budget on May 19<sup>th</sup>, the State as a group refuses to approve any additional taxes. This is a tuff time and people are hurting. At the same time when he posed the question to people that he talked to if you don't like this tax what would you like to have in the way of raising money. The question comes back to him and it says it is up to you. You are a City Councilman; you decide. We are kind of in a catch 22 in that we just keep going around. We have to look for the fiscal responsibility of this City and we are trying to protect the residents although it might reflect on business badly. We have to make a decision and the Council as far as he is concerned he is will to support this. Also he would like to concur with all the people that said they got this on Saturday; so did he. He hopes that any other literature that is sent out is done in a timely manner.

Mayor Pro Tem Hanna said perhaps that should be addressed and the City Council should take responsibility because we are the ones that are really moving this along. We have been discussing this for over two years with other alternatives as well and all five of us finally came to decide that we should go forward with this and we wanted to get it on the ballot for November 3<sup>rd</sup> so it had to happen very quickly. We wanted to do the poll and the Finance Director gave a different number than what she heard before from the pollster but what she understood was that if the election was held today, it might pass just around that 55% but the polls is accurate to a certain plus or minus degree so it might not pass. There are a number of people who are saying we shouldn't have hired a consultant and we shouldn't be doing the polling but in fact, it has been very, very helpful to the Council to know exactly who is supporting it now and of those who would not tend to support it today, what would convince them those that could be convinced to support it. We found that out and it is very encouraging because we found out that once people really understood that we are talking about a hotel/motel bed tax for visitors that they were much more likely to support it. When they realize that the money will stay local and the State government can't take it away from us and it will be used for basic services police, fire parks, anti-graffiti and so forth. She said that she actually has a different opinion right now than when she came into this room and she is a little disconcerted with herself and she would appreciate the opportunity to express it and then see what the rest of the Council says. She had heard that most of the hotel/motel bed tax around Riverside/San Bernardino County was in the realm of 12% and they received information and in fact it is not true that most of them are 12%. Really Beaumont is 10% and if you look at page 5 of 13 there is about a dozen or 15 cities in Riverside County and they are all in the 10% range. She is

having trouble right now recommending that we go to 12%. On the one hand this is not something that we can increase on our own. The law requires that it go to an election. It is not something that the Council can decide on their own. It has to go before the people and that is why they are doing that. He said that she is a little disconcerted about the idea of being higher than most of the cities in the region. This not something that you want to take to the electorate frequently. Once every ten years is more than enough so by saying 10% today we are going to be behind the other cities as they increase their rates. Going to 10% as she figured it out would be something under \$100,000 less that we would get.

Finance Director said it would decrease it by a third if you went with 10%. The estimate she has is about \$185,000.

Mayor Pro Tem Hanna said the public also needs to understand that this is not anywhere close to solving our economic problems but every quarter of a million dollars helps so why not do this and why not support it.

Councilmember Robinson said that he had the same feeling. Unfortunately we get this information tonight when we got here and there are 21 communities that are at 6% in the whole State as we read this report. There are some community at zero percent and few at 3.5% and the majority of the State appears to be at 10%. There is quite a number at 12% and some at 14% and 18%. So 10% seems to make more sense to him after receiving solid information that we didn't have prior to this evening. He could definitely support 10%; he is not sure about 12%.

Mayor Botts said that all five of the Council voted to support his and he doesn't think that is the question and now it becomes the amount. And it has already been said that they start at 3.5% up to 15% and he would say why be behind the power curve. We purposely built into this a sunset and governments don't even like sunsets and they want to put something into place and it goes forever and he thinks staff and or Council said we need a sunset and we building in ten years if he is correct in that which means in ten years we need to come back and have this reauthorized or re-approved. If we don't make it 12% now a few years from now when the economy starts coming back we don't know is how many of those cities have been at 10% so he is not sure how valid that is and how many of those 10's are ready to move up or should have been moved up or will move up as the economy start to come back. So that is one of his thoughts and the other is that the economy is going to come back in a couple of years and whatever we set now we are locked into it for the next ten years. He never felt that anyone said that everybody was at 12% and he never picked that up before. We know that our neighbors to the west are at 10% and the neighbors to the east are at 9% plus 16% resort fee plus some other things.

Finance Director said she wanted to make a point of clarification on another point that was made. Perhaps this was her oversight in her working with the City Attorney's Office but the exhibit that is here that would go into effect which is on page 97 and 98 of the agenda packet is the language of the ordinance that would go into effect should this be approved. And that language, which she was re-reading, does not contain a 10-year sunset. That is perhaps her oversight and she never gave the City Attorney's Office that direction. She knows that they discussed the concept in one of their meetings and this as written does not contain that language and she apologizes for that.

Mayor Botts said if that is required to put in and if this moves forward at whatever rate, we simply make it subject to adding that. Finance Director said we can amend the language but she just wanted on the record that there isn't language here now but staff can certainly work with the City Attorney's office and still meet our deadline filing date and amend that and it could be approved with the amended language and she will insure that it is put in there.

Councilmember Franklin said in regards to Section 2 on the Exhibit on page 97; let's say it is voted in at 12% that the Council could actually lower that rate by ordinance. So even though it might be approved at 12% and if we felt more comfortable right now with only going up to 10% and that at a later date going up to 12% would that be feasible.

Finance Director said that this establishes a maximum rate so yes; you could always charge less than your maximum.

City Attorney said you can always charge less than your maximum and that is the Prop 218 requirement. So what you have here is a 12% cap. What you wouldn't be able to do is if you were to approve a 10% right now, you would have to have another ballot measure to have it at 12%.

Mayor Pro Tem Hanna said it happened in Banning and the Banning City Council actually lowered the hotel bed tax at one time. To increase it again it would have to go to a vote of the people if though it had been voted on say for 12% we lowered it to 10% and if we every want to raise it, we have to go to another vote.

City Attorney said no. It is a max tax and she would think you are okay and you don't have to take it back to a vote if you have a cap.

Councilmember Franklin said if the tax itself is 12%, we could actually by ordinance go to 10% and then later without another vote of the people we could go back up to 12% if we did it by ordinance again. City Attorney said that was correct. Mayor Pro Tem Hanna said that should be checked.

Councilmember Franklin said if we talked about doing something like that, are we locked in to the ten year sunset because maybe we would want to look at a sooner sunset if there was a concern about it changing later on or just going in with the 12% and lowering it to 10% and then bringing it back up.

Finance Director said a sunset is strictly at the Council's option. That is not something that is required of us or not required of us. It is how the Council would like to move forward. So no we are not locked into a sunset. We can add sunset language if that is what you want. If you want to go into a different direction that is fine as well.

Mayor Pro Tem Hanna said that she personally doesn't suggest a sunset on a hotel bed tax. She thinks that the City will always have a hotel bed tax and doesn't see a reason to have a sunset on it. She doesn't see them going much lower and we can choose to go lower if we want to but it is very unusual for cities to go lower. She doesn't see any reason to have a sunset.

Mayor Botts said that they had this discussion and voted 5/0 to put a sunset in it and we can go back and start changing it now. In fact, he said he asked for five years. The taxpayer generally wants a sunset so they have a chance to defeat it. Not necessarily on the bed tax but on any tax.

Don Smith addressed the Council stating that they brought in a whole new topic in there since the public spoke the 10% versus the 12% and the sunset versus the non-sunset. He thinks that what Councilmember Franklin suggested is probably the best course of action in his opinion so you don't have to every year or every two years judge what everybody else is doing and keep going back to the ballot to keep us competitive with what the other cities in our area are doing would be to set the going rate for the most recently passed taxes versus the older taxes. And for the sake of our local businesses keep our local rate at 10% below that cap until Beaumont raises theirs up and then without spending extra money the City will be able to follow suit without giving a disadvantage to the local people. Regarding the sunset he feels like to have been here before where we used to have a higher bed tax and it went down and it stayed at the 6% for a long time for a variety of reasons. Certainly with the ability of the Council to lower it that is a type of way to lower it and as recently exhibited by certain members of the community the community knows how to bring a petition to you telling you that they want something on the ballot. You have to decide what a fair rate is and then that should be the rule until the rule is changed rather than every five years reinventing the wheel. He would encourage doing what Councilmember Franklin suggested in keeping our rate by resolution low but not having a sunset otherwise you are just dooming the next Council to having the same two-year argument.

City Attorney said actually just to correct on page 97 it would be set by ordinance.

Councilmember Machisic said he is sitting here listening and we have talked about this decision on this particular tax for at least two years and one of the problems that he sees and this is just one of them is that for some reason former Council reduced it down to 6% and why we don't know. When he first came on the Council he sat in on a budget meeting and one of the things he found whether you were talking about utility rates, where we are talking about fees and he remembers one particular evening when we proposed raising the airport rental fees and they had not been raised in about 15 or 20 years and as long as people enjoyed those nice low rates and the low gasoline prices there was no complaint. The problem we had was that we didn't look at these things every year or every two years and as prices go up you have to look at these things just as we are going to look at a utility rate. The previous utility rate we hadn't looked at for about 9 or 10 years. And when people see this huge jump of a fee they really get excited. And the problem is you have to look at these things regularly. He doesn't care if it is every year or every two years and you could jump up the rates a percent a year or 2% or whatever but when you jump it 10% or 6% everyone gets excited. He thinks that has been one of our problems that we have had in our City. We need to look at that as a Council all the time and he thinks this is just another issue.

**Motion Machisic/Robinson to approve Resolution No. 2009-67, a Resolution of the City Council of the City of Banning calling and giving notice of a special municipal election on Tuesday, November 3, 2009, for the submission to the voters of the City a proposed ordinance amending the City's transient occupancy tax; unanimously declaring a fiscal emergency under proposition 218 and in accordance therewith requesting the County of**

**Riverside to consolidate the City's special election with the special and general municipal elections held within Riverside County on that date.**

Mayor Botts asked does that include the amendment that we excluded the language for 10 year sunset. Councilmember Robinson and Machisic said sure.

Mayor Pro Tem Hanna said that she would support this except for the sunset and that is why she will not support it. She doesn't want the expense of elections.

**Motion carried, all 4/1 with Hanna voting no.**

City Attorney said that the previous motion needs to be a unanimous vote in order to declare the fiscal emergency.

Mayor Pro Tem Hanna asked was it necessary to include the 10 year sunset.

City Attorney said that we can do two motions; one with the sunset provision and one without.

City Manager said it's the fiscal emergency because it was combined in the motion. We can separate the motion out. The first one the Council can vote on is the fiscal emergency. The second one would then separate that out.

City Attorney said that you can make amendments as you need with that second motion.

**Councilmember Robinson made a motion to declare the fiscal emergency. Seconded by Mayor Botts. Motion carried, all in favor.**

**Motion Hanna/Machisic that the City Council approve Resolution No. 2009-68, a Resolution of the City Council of the City of Banning directing the City Attorney to prepare an impartial analysis, setting priorities for filing written arguments, and providing for rebuttal arguments regarding the Banning transient occupancy tax measure.**

Mayor Botts asked don't we need to vote on one and two excluding the emergency.

City Attorney said the first vote we had a proposed amendment to add a sunset provision into the TOT ballot measure and that was passed with one no. And then we separated out from that the fiscal emergency vote and that passed unanimously.

Councilmember Franklin asked if they had to go back and talk about the sunset clause.

Mayor Botts said the City Attorney just ruled that we voted 4 to 1 in favor of that and we separated that. Councilmember Franklin said but the City Attorney said it has to be a unanimous vote.

City Attorney said on the fiscal emergency clause. We separated number one into two separate motions. Councilmember Franklin said so we don't have to worry about the sunset piece again.

City Attorney said if you would like for clarity to revote on it again, feel free to. Councilmember Franklin said no, as long as it is clear.

**Motion carried, all in favor.**

Mayor Pro Tem Hanna said that they have an ad hoc committee of the Mayor and herself regarding this hotel bet tax and she would really encourage the Banning Hotel/Motel Council to meet with them and as you see there is some flexibility in this and would certainly like this to be much of a win, win as possible. If that meeting could be arranged, it would be appreciated.

There was some further Council and City Attorney discussion in regards to what the Council can talk about regarding this measure out in the public.

City Attorney said you certainly have a right to express your opinion as long as you are not in violation of the Brown Act in deliberating amongst each other. As far as any kind of campaign discussion, restrictions she would have to get back to the Council about that.

There was some Council discussion in regards to the time approaching 9 p.m. and they still have closed session items to discuss and should they eliminate the last two items on the agenda.

Mayor Pro Tem Hanna said she would like to suggest that the item she is proposing may not take very much time but it is something that is time sensitive. We need to be going forward with any community conversations she would suggest in September in order for them to make timely decisions regarding the utility rates and so forth.

2. Economic Development Committee

**The City Council postponed this item to the next Council Meeting.**

3. Need for Community Conversations  
(Report – Mayor Pro Tem Barbara Hanna)

Councilmember Robinson said in regards to this item he wasn't really clear on what this was all about and is that any different than our public comments section of the City Council where we are speaking from a podium and it is televised. Is this something different than that?

Mayor Pro Tem Hanna said yes it would be.

Councilmember Franklin said that she proposed twice in the past that we have some kind of town hall meeting and she knows that there was no interest from the Council of these so is this different because the times that she has brought it up was for the community to have a conversation with staff regarding whatever issues might come up and nobody was interested. What makes this different?

Mayor Pro Tem Hanna said this is a different approach. The Council did receive a DVD presentation from the International City/County Manager's Association of an interview of Peter Block who is the author of a Community: the Structure of Belonging. She would like to talk to it specifically in terms of utility rate increases. It is natural for people who have to pay bills that when they hear that their electric rate or their wastewater treatment or their water rates are going to go up to respond as though they were a customer. What Peter Block talks about is that we need to treat our residents and to relate to our residents as though we are co-owners and they need to understand that we are in a business together of providing electricity, of providing water, of providing wastewater services and they need to understand what is involved in this. So rather than a town hall perspective where it would be a presentation by the experts, then an opportunity for questions and answers, this would be an opportunity where people would hear again presentations but very brief ones and also have simple handouts to explain what is involved in utility rate increases and this could also be used for the TOT education. People would have a chance to get into small groups and discuss those issues that concern them about these rates and be able to talk amongst each other. Each small group could write its own report of their findings and share them with the Council. Of course the Council should be an active participant in this. He talks about it being opportunities and not talking about problems. She said it was hard for her to think about how to create this conversation as an opportunity and so she suggested it to be your invited to a conversation about the City of Banning's finances and expect that it will be highly interactive. She is recommending that there be two conversations in September with one in Sun Lakes and one at the Banning High School Gym. If we go through the process where people are only permitted a chance first of all, if they can attend the City Council meeting and the second if they have the nerve to come up to the podium to speak, that it is all one way conversations. This is a chance for people to interact and talk about what is significant to them.

Councilmember Franklin said that we should be having these conversations with the public on a regular basis and it should not be just driven by what may be of a concern to the Council. The other thing is that it shouldn't be political. If these kinds of conversations are going on, they should not really be led by anyone on the Council but really by independent people in the community so that there is no bias to whether or not a Council Member is trying to drive any kind of issues. And that these are meetings that sounds like they should be fairly small and not saying only two meetings for the City but if they were going to happen, she would think that people who would be intimidated by coming to a Council meeting might be as much intimidated by coming to a meeting where you might have 100 people show up. If you are talking about only two meetings for the city and this is the only time we are asking the community for input that could be just as intimidating as opposed to smaller meetings where people actually have a chance to talk. She said she brought this up before where it would be very similar to a meeting with the Mayor which is what the Mayor of Riverside does where it is actually location specific and a community actually comes and they talk about what the issues are for their particular community not across the city. Sometimes the issues are the same but sometimes they are not. She thinks that something like this if we were going to do it, needs to have some kind of preparation to make sure that we are really dealing with the issues of the residents.

Councilmember Machisic said he remembers some of the groups that we have had like this and as a result we came out with about 10 or 12 pages of recommendations and people who participated in these groups if they bring up a problem, they expect you to do something about it. And within

the restrictions of time, money, space you just can't do all of these things. And so what you have to do is funnel this down to a very narrow result of maybe two or three things. When you have a big group meeting like this you can't do that.

Mayor Botts said he is a big believer in communications but as Councilmember Machisic said we've called these by a lot of different names but this is a new one and we have had forum after forum and what happens is that the expectation is raised so high that you are going to do something about whatever the issue is and Councilmember Hanna is focusing on the utility rates and what he hears all the time coming back is that you never did anything and nothing every happened. So he is reluctant to do this. He senses a real difference in. So he thinks that we ought to postpone this and put it on another agenda.

Mayor Pro Tem Hanna said she will speak again and would like to suggest that she agrees with what Councilmember Franklin is saying that we should provide many opportunities. She said that she was making a modest proposal because she didn't think there would be a lot of support for it on the part of the Council. She doesn't think that they should go about increasing utility rates without allowing people an opportunity to interact with the accurate information that our staff would easily be able to provide for us about why we believe these rates need to be increase. She thinks that the community conversations are wonderful. It is not a political thing and she is a trained facilitator and she is happy not to facilitate them. She is happy to have other people do that.

#### ITEMS FOR FUTURE AGENDAS

##### New Items –

##### Pending Items –

1. Service Club Signage on Ramsey Street, Gateway project (*ETA 8/25/09*)
2. Local Economic Stimulus Program (*ETA 8/25/09*)
3. Golf Cart Lane Policy for City of Banning (*ETA 9/8/09*) *Pending Beaumont Policy Development*
4. Schedule Meetings with Our State and County Elected Officials
5. Set New Date for Joint Meeting with Banning School Board (*ETA 8/09*) *(Date to be determined)*
6. Policy for Naming of Street and also Parks – Policy and Procedures (*ETA 8/25/09*)

#### CLOSED SESSION

City Attorney said that they would be reconvening the Agency meeting in order to continue the closed session item from the Agency meeting and that is the real property negotiation on APN #419-120-025 the property at 6217 Joshua Palmer Way. On the City Council side of the closed session we have a conference with labor negotiators regarding employee organization BPOA, we also have City Council meeting in closed session with regard to recruitment of City Manager/Interim City Manager. The potential litigation item has been proposed to be moved to August 25<sup>th</sup> at a time when Mr. Taylor who is working on that litigation can be here.

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

Meeting went into closed session at 8:55 p.m. and returned to regular session at 9:45 p.m.

Agency Counsel reported on the closed session item stating that with respect to APN 419-120-025 property at 6217 Joshua Palmer Way the Agency Board provided direction to not proceed with any proposal for acquisition or a project respecting this property at this point in time.

City Attorney said that with respect to the closed session items for the City Council portion of the meeting the City Council provided instructions on closed session Item No. 1, the negotiations and employee organization BPOA issue. The Council's recommendation was to pursue further negotiations and also to pursue the issuance of a counter offer on the part of the City to BPOA. In regards to closed session Item No. 2, it was continued to a future agenda. As to closed session Item No. 3 the closed session regarding a recruitment of Interim City Manager the Council directed that the current City Manager, Brian Nakamura, should be designated to enter into a temporary contract with an Interim City Manager until its formal adoption by the Council in open session.

**ADJOURNMENT**

By common consent the meeting adjourned at 9:50 p.m.

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Marie A. Calderon, City Clerk

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

*2nd Read.*

**ORDINANCE NO. 1408**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY  
OF BANNING, CALIFORNIA, AMENDING SECTION  
3.24.140(B) OF THE BANNING MUNICIPAL CODE  
REGARDING LOCAL PREFERENCE PURSUANT TO THE  
CITY'S PURCHASING SYSTEM**

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

**SECTION 1. RECITALS.** The City Council hereby amends Section 3.24.140(B) of the Banning Municipal Code and finds and declares as follows:

WHEREAS, one of the City Council's primary goals is to promote the economic health of the City,

WHEREAS, the City Council desires to provide support to its local businesses whenever possible,

WHEREAS, the City Council desires to amend the Municipal Code to provide flexibility in setting the local buying preference, and

WHEREAS, the City Council conducted a duly noticed public hearing on this ordinance on July 28, 2009 at City Hall, 99 E. Ramsey St., Banning, California.

**SECTION 2.** Section 3.24.140(B) ("Local Preference") of the Banning Municipal Code is hereby amended to read, in its entirety, as follows:

- 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 lowered by the local preference percentage, for purposes of award, than the amount actually bid. The local preference percentage will be set by City Council resolution.

**SECTION 3. SEVERABILITY.** If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 4. NON-EXCLUSIVITY.** Nothing in this Ordinance shall limit or preclude the enforcement of other applicable laws.

**SECTION 5. EFFECTIVE.** This Ordinance shall take effect thirty (30) days after its enactment in accord with California law.

**SECTION 6. PUBLICATION.** The City Clerk is directed to cause this Ordinance to be published within 15 days of its passage in a newspaper of general circulation published and circulated within the City of Banning.

**PASSED, APPROVED AND ADOPTED** this 25<sup>th</sup> day of August, 2009.

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Robert E. Botts, Mayor  
City of Banning

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

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

**ATTEST:**

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Marie Calderon, City Clerk

**CERTIFICATION:**

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1408 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 28<sup>th</sup> day of July, 2009, and was duly adopted at a regular meeting of said City Council on the 25<sup>th</sup> day of August, 2009 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Marie Calderon, City Clerk  
City of Banning, California

*2nd Read.*

## ORDINANCE NO. 1410

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA ADOPTING A NEW ORDINANCE TO PROHIBIT, WITHIN THE CITY OF BANNING, THE BURNING, THERMAL CONVERSION, OR PARTIAL THERMAL CONVERSION OF ANY CLASS OF SEWAGE SLUDGE OR BIO-SOLIDS TO ASH.

### INITIATIVE ORDINANCE

It shall be unlawful to burn, incinerate or utilize any process which will convert any untreated or treated sewage sludge or bio-solids of any classification, partially or totally, into ash, within the city of Banning, California. Such sewage sludge or bio-solid burning treatment processes include, but are not necessarily limited to: incineration, destructive distillation, thermal oxidation, thermal destruction, pyrolysis, fluidized bed heating, plasma arc oxidation, adding other fuel components to the sewage sludge or bio-solids, or heating of the sewage sludge or bio-solids by an external source. Composting shall not be affected by this ordinance. No Banning government agency, Banning governmental body or Banning governmental contractor, shall authorize any of the above activities. Should any part of this ordinance be found unconstitutional, the other provisions of this ordinance shall remain in full force and effect.

### DEFINITIONS:

#### **BIO-SOLIDS**

Bio-solids are defined, for this ordinance, as sewage sludge that has been treated and tested and shown to be capable of being beneficially and legally used as a soil amendment for agriculture, silviculture, horticulture and land reclamation activities.

#### **BURN OR BURNING**

Burn or burning, for purposes of this ordinance, means the process of setting on fire, or causing combustion, or any other process which reduces sewage sludge to ash.

#### **COMPOSTING**

Composting is defined for this ordinance as the decaying of vegetable matter or manure by aerobic bacteria and other organisms, to produce solid additives.

#### **INCINERATE**

To cause to burn into ashes.

#### **SEWAGE SLUDGE**

For the purpose of this ordinance, sludge and sewage sludge are synonymous. Sewage sludge (or sludge) shall include all governmental classes of sewage sludge. Sewage sludge is defined as treated or untreated solid or semi-solid residues

generated as the result of the treatment of sewage. These residues include scum and solids removed in primary, secondary or advanced wastewater treatment processes. Sewage sludge includes the solid matter that settles to the bottom during wastewater treatment plant sedimentation processes.

**PENALTY OR VIOLATION:**

Any person, or entity, violating any provision of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof is punishable by a fine of not more than one thousand dollars (\$1,000.00) for each day a violation occurs. Every subsequent violation of this ordinance shall be construed as a separate offense, and each day during which such subsequent violation continues, shall also be punishable, by a fine of not more than one thousand dollars (\$1,000.00). Any violation of this ordinance shall also result in the forfeiture of all City permits (i.e. use permits) that have been issued to said person or entity, for the site that has been utilized for the activities proscribed in this ordinance.

**Severability.** If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

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

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

**PASSED, APPROVED AND ADOPTED** this 25<sup>th</sup> day of August, 2009.

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Robert E. Botts, Mayor  
City of Banning

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

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

**ATTEST:**

Marie A. Calderon, City Clerk

**CERTIFICATION:**

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1410 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 23rd day of June, 2009, and was duly adopted at a regular meeting of said City Council on the 25th day of August 2009, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

**CITY COUNCIL AGENDA  
CONSENT ITEM**

**Date:** **August 25, 2009**

**TO:** **City Council**

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

**SUBJECT:** **Resolution No. 2009-64 Reimbursable Funding for California P.O.S.T. Law Enforcement Command College**

**RECOMMENDATION:** "Adopt Resolution No. 2009-64 authorizing an appropriation of \$2,245 from the City's general fund to the police department's training account, which will be reimbursed by the California Commission on Peace Officers Standards and Training (P.O.S.T.) under the P.O.S.T. Command College Program."

**JUSTIFICATION:** The Law Enforcement Command College Program is an eighteen month program designed to prepare today's law enforcement leaders for the challenges of the future. The Command College Program is a dynamic learning experience that focuses on the most effective methods, skills, and strategies needed to confront tomorrow's law enforcement issues. The program focuses on:

- Leadership principles needed to influence the future direction of the organization
- Strategies to identify emerging issues and provide a proactive response
- Skills and knowledge necessary to anticipate and prepare for the future
- Methods and benefits of sharing information
- Use of stakeholders in problem solving

The primary goal of the Command College Program is to provide an enhanced leadership course with a futures perspective to prepare the law enforcement leaders of today to lead into the future. The program has an emphasis on adult learning theories, placing accountability and responsibility on the student.

One of the capstone experiences in the Command College Program is authoring a professional journal article to capture the outcomes of the students' research project. The purpose of the journal article is to explore an important topic that will affect the future of law enforcement operations or service.

**BACKGROUND:** During the FY 2008-09 period, Lt. Phil Holder attended the first four sessions of the California Law Enforcement Command College Program. The program consists of six one-week bi-monthly sessions with a final 3 day culmination session occurring 6 months after the sixth session. Lt. Holder must still attend the last three sessions during the FY 2009-10 period with a graduation date of May, 2010.

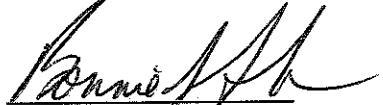
**STRATEGIC PLAN INTEGRATION:** Council approval of this recommendation will help facilitate the police department's goals of better serving the community and the citizens who live here through providing a well educated and professional staff.

**FISCAL DATA:** The Cost of the California P.O.S.T. Law Enforcement Command College Program during the 2009-10 fiscal year is \$2,245, which will be reimbursed to the City's General Fund upon the completion of each bi-monthly session.

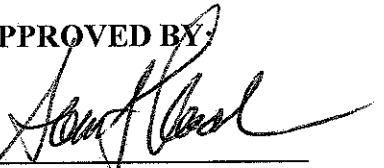
**RECOMMENDED BY:**

  
Leonard Purvis  
Chief of Police

**REVIEWED BY:**

  
Bonnie Johnson  
Finance Director

**APPROVED BY:**

  
Sam Racadio  
Interim City Manager

**RESOLUTION NO. 2009-64**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BANNING AUTHORIZING THE APPROPRIATION OF GENERAL ACCOUNT FUNDS FOR THE P.O.S.T. LAW ENFORCEMENT COMMAND COLLEGE PROGRAM IN THE AMOUNT OF \$2,245.00, WHICH WILL BE REIMBURSED TO THE CITY OF BANNING THROUGH THE CALIFORNIA COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING UPON COMPLETION OF EACH SESSION COMPLETED BY LT. HOLDER.**

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

**WHEREAS**, the Police Department is proactive in its efforts to provide quality training for its employees; and

**WHEREAS**, the City's procedures requires the City Council to adopt a resolution authorizing the appropriation of funds from the City's general account.

**NOW, THEREFORE, BE IT RESOLVED**, the City Council of the City of Banning authorizes the appropriation of general funds (\$2,245) to the Banning Police Department Training Account (001-2200-421-23-06), which will be reimbursed from the California Commission on Peace Officer Standards and Training, under the P.O.S.T. Command College Program. The Finance Department is authorized to make necessary budget adjustments related to these funds.

**PASSED, APPROVED, AND ADOPTED** this 25th day of August, 2009.

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Bob Botts, Mayor  
City of Banning

APPROVED AS TO FORM  
AND LEGAL CONTENT

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Aleshire & Wynder, LLP  
City Attorney

ATTEST

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Marie A. Calderon, City Clerk  
City of Banning

**CERTIFICATION:**

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2009-64 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 25th day of August 2009, by the following to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

**CITY COUNCIL AGENDA  
CONSENT ITEM**

**Date:** **August 25, 2009**

**TO:** **City Council**

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

**SUBJECT:** **Resolution No. 2009-65 Reimbursable Funding for California P.O.S.T. Sherman Block Supervisory Leadership Institute**

**RECOMMENDATION:** "Adopt Resolution No. 2009-65 authorizing an appropriation of \$8,866 from the City's general fund to the police department's training account, which will be reimbursed by the California Commission on Peace Officers Standards and Training (P.O.S.T.) under the P.O.S.T. Sherman Block Supervisory Leadership Institute Program."

**JUSTIFICATION:** The Sherman Block Supervisory Leadership Institute (SBSLI) is an 8 month program designed to stimulate personal growth, leadership, and ethical decision-making in California law enforcement front-line supervisors. Designed and implemented in 1988 through the efforts of California law enforcement professionals and top educators and trainers, the SBSLI is an intense program based on experiential learning techniques. Students are challenged to learn new ways to resolve issues through group and individual work.

The curriculum, consisting of eight 3 day courses, takes students through an analysis of management (planning, organizing, directing, etc.) and leadership (inspiring, challenging, developing, etc.) and how each discipline compliments the other. The course progresses from self-evaluation, to interpersonal evaluation, to organizational relationships.

During the program, a typical successful student develops the ability to:

- Correlate the relationship between personal and organizational principles and values
- Exercise greater leadership in personal and professional activities
- Increase personal influence with individuals and groups to accomplish organizational goals
- Analyze issues from multiple perspectives
- Develop increased self-confidence and confidence in the ability of others
- Provide support and development for peers and subordinates
- Recognize and address areas for personal improvement
- Effectively integrate management skills and leadership qualities

A typical successful student is willing to learn, open to new ideas, and able to engage in deep self-examination of values and beliefs. The program is not a "how-to" course and should not be viewed as a fix for problem individuals. The curriculum provides a forum for personal growth and development of qualities necessary for effective public safety leadership.

**BACKGROUND:** In July of 2009, the California Commission on Police Officer Standards and Training (P.O.S.T.) notified the Banning Police Department that four of our Sergeants are scheduled to attend the Sherman Block Supervisory Leadership Institute during FY 09-10. Two of the Sergeants are scheduled to start the 8 month program in August and September of this year. The other two Sergeants will start the program in March and May of 2010 and complete the program during FY 10-11.

**STRATEGIC PLAN INTEGRATION:** Council approval of this recommendation will help facilitate the police department's goals of better serving the community and the citizens who live here through providing a well educated and professional staff.

**FISCAL DATA:** The Cost of the Sherman Block Supervisory Leadership Institute during the 2009-10 fiscal year is \$8,866, which will be reimbursed to the City's General Fund throughout the FY 2009-10 budget.

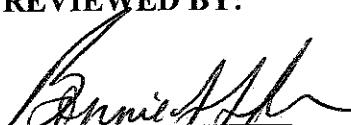
**RECOMMENDED BY:**



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Leonard Purvis  
Chief of Police

**REVIEWED BY:**



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Bonnie Johnson  
Finance Director

**APPROVED BY:**



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Sam Racadio  
Interim City Manager

**RESOLUTION NO. 2009-65**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BANNING AUTHORIZING THE APPROPRIATION OF GENERAL ACCOUNT FUNDS FOR THE P.O.S.T. SHERMAN BLOCK SUPERVISORY LEADERSHIP INSTITUTE PROGRAM IN THE AMOUNT OF \$8,866.00, WHICH WILL BE REIMBURSED TO THE CITY OF BANNING THROUGH THE CALIFORNIA COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING UPON COMPLETION OF EACH SESSION.**

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

**WHEREAS**, the Police Department is proactive in its efforts to provide quality training for its employees; and

**WHEREAS**, the City's procedures requires the City Council to adopt a resolution authorizing the appropriation of funds from the City's general account.

**NOW, THEREFORE, BE IT RESOLVED**, the City Council of the City of Banning authorizes the appropriation of general funds (\$8,866) to the Banning Police Department Training Account (001-2200-421-23-06), which will be reimbursed from the California Commission on Peace Officer Standards and Training, under the P.O.S.T. Sherman Block Supervisory Leadership Institute Program. The Finance Department is authorized to make necessary budget adjustments related to these funds.

**PASSED, APPROVED, AND ADOPTED** this 25th day of August, 2009.

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Bob Botts, Mayor  
City of Banning

APPROVED AS TO FORM  
AND LEGAL CONTENT

ATTEST

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Aleshire & Wynder, LLP  
City Attorney

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Marie A. Calderon, City Clerk  
City of Banning

**CERTIFICATION:**

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2009-65 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 25th day of August 2009, by the following to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

**CITY COUNCIL AGENDA  
CONSENT ITEM**

**Date:** August 25, 2009

**TO:** City Council

**FROM:** Phil Holder, Lieutenant

**SUBJECT:** Resolution No. 2009-71 Accepting the 2009 G.R.E.A.T. Grant

**RECOMMENDATION:** "Adopt Resolution No. 2009-71 authorizing the Banning Police Department to accept the 2009 G.R.E.A.T. Grant in the amount of \$42,593, which will be used to fund the Banning Police Department's G.R.E.A.T. Program."

**JUSTIFICATION:** Continuation of the G.R.E.A.T. program places a sworn police officer in a classroom setting teaching elementary and middle school students how to avoid becoming involved in gangs and other deviant behavior. The program complements the police department's strategy to address the current gang problem through prevention, intervention, and suppression. Additionally, the G.R.E.A.T. Officer is responsible for coordinating the G.R.E.A.T. Summer Program, which reinforces the G.R.E.A.T. curriculum through sports and other extracurricular activities.

During the 2009-2010 school year, the G.R.E.A.T. Officer will continue to present the G.R.E.A.T. Families Component, which uses group interaction, activities, and skills practice to engage parents and children ages, 10 to 14, in order to foster positive family functioning. Each session is facilitated under the guidance of a specifically trained G.R.E.A.T. Families Lead Facilitator.

**BACKGROUND:** In January 2009, the Banning Police Department submitted a grant proposal to the United States Bureau of Justice Assistance, under the FY09 G.R.E.A.T. Grant Program in the amount of \$42,593. The grant provides \$25,341 for the G.R.E.A.T. Officer's salary and an additional \$17,252 for supplies, incentive and recognition items, and food for the G.R.E.A.T. summer program.

In a partnership with the City of Banning, the Banning Unified School District has agreed to provide \$64,436 towards the FY09-10 G.R.E.A.T. Officer's salary.

It should be noted that this is the fourth year in a row the Banning Police Department has received G.R.E.A.T. Grant funding. This is a competitive grant that is open to police agencies throughout the nation.

The combined funding for the G.R.E.A.T. Officer's salary, made available through the G.R.E.A.T. Grant and the Banning Unified School District, reduces the impact to the general fund by \$89,777.

**STRATEGIC PLAN INTEGRATION:** Council approval of this recommendation will help facilitate the police department's goals of better serving the community and the citizens who live

here through increased services and working in a partnership with the Banning Unified School District.

**FISCAL DATA:** This grant requires a 10% match of funding. The portion of Detective Monte's salary from the general fund (\$47,882) will satisfy this grant requirement.

Reimbursements for G.R.E.A.T. Program costs are retroactive to July 1, 2009. No additional funds are required from the City's General Fund Account.

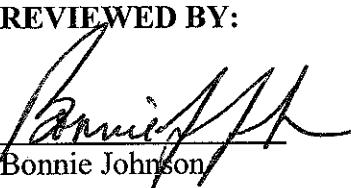
**RECOMMENDED BY:**



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Leonard Parvis  
Chief of Police

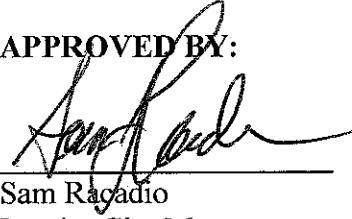
**REVIEWED BY:**



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Bonnie Johnson  
Finance Director

**APPROVED BY:**



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Sam Ragadio  
Interim City Manager

**RESOLUTION NO. 2009-71**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BANNING AUTHORIZING THE ACCEPTANCE OF THE FY09 GANG RESISTANCE EDUCATION AND TRAINING GRANT WITH FUNDING FOR A PORTION OF THE G.R.E.A.T POLICE OFFICER'S SALARY, ALONG WITH RELATED SUPPLIES IN THE AMOUNT OF \$42,593.**

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

**WHEREAS**, the Police Department is proactive in its efforts to ensure the safety of children while they are attending school; and

**WHEREAS**, the Police Department is proactive in its efforts to stop children from becoming involved in gangs; and

**WHEREAS**, the Police Department promotes working in a partnership with the Banning Unified School District to provide assistance to "at risk youth;" and

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

**NOW, THEREFORE, BE IT RESOLVED**, the City Council of the City of Banning authorizes City Staff to accept the FY09 G.R.E.A.T. Grant in the amount of \$42,593 and authorizes expenditures of these funds to pay \$25,341 towards the G.R.E.A.T. Officer's salary and \$17,252 for supplies.

The Finance Department is authorized to make necessary budget adjustments related to these funds. Furthermore, City Staff is authorized to enter into a contractual agreement with the United States Bureau of Justice Assistance for the 2009 G.R.E.A.T. Grant Award.

**PASSED, APPROVED, AND ADOPTED** this 25<sup>th</sup> day of August, 2009.

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Bob Botts, Mayor  
City of Banning

APPROVED AS TO FORM  
AND LEGAL CONTENT

ATTEST

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Aleshire & Wynder, LLP  
City Attorney

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Marie A. Calderon, City Clerk  
City of Banning

**CERTIFICATION:**

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2009-71 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 25th day of August 2009, by the following to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

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

**CITY COUNCIL AGENDA  
CONSENT ITEM**

**Date:** August 25, 2009

**TO:** City Council

**FROM:** Phil Holder, Lieutenant

**SUBJECT:** Resolution No. 2009-72 Authorizing an appropriation of funds from the City's General Fund to the police department's clothing and accoutrements account for the purchase of replacement bulletproof vests.

**RECOMMENDATION:** "Adopt Resolution No. 2009-72 authorizing an appropriation from the General Fund in the amount of \$4893 for the purchase of replacement bulletproof vests for police officers."

**JUSTIFICATION:** During FY 09-10 the police department must replace 6 bulletproof vests that were issued in 2005. Each vest has an effective life span of 5 years.

**BACKGROUND:** The Banning Police Department actively participates in the U.S. Department of Justice's Bulletproof Vest Program. The program allows law enforcement agencies to recoup 50% of their costs on bulletproof vest purchases for law enforcement officers. Based on the estimated cost of six replacement vests (\$4893), the U.S. Department of Justice Bulletproof Vest program will reimburse the City of Banning \$2,446.50. The noted amount will be electronically transferred into the City's General Fund within three months of the reimbursement request.

**STRATEGIC PLAN INTEGRATION:** Council approval of this recommendation will help facilitate the Police Department's goal of maintaining proper safety equipment for its police officers.

**FISCAL DATA:** The appropriation request of \$4893 from the General Fund into the police department's clothing and accoutrements account (001-2200-421-3604) is for non-budgeted items. The General Fund will receive a reimbursement of \$2,446.50 during the FY 09-10 for these purchases. The total cost to the General Fund for the vest purchases will be \$2,446.50.

**RECOMMENDED BY:**

  
Leonard Purvis  
Chief of Police

**REVIEWED BY:**

  
Bonnie Johnson  
Finance Director

**APPROVED BY:**

  
Sam Racadio  
Interim City Manager

**RESOLUTION NO. 2009-72**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BANNING AUTHORIZING A ONE TIME APPROPRIATION FROM THE CITY'S GENERAL FUND TO THE POLICE DEPARTMENT'S CLOTHING AND ACCOUTREMENTS ACCOUNT IN THE AMOUNT OF \$4893 TO PURCHASE BULLETPROOF VESTS.**

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

**WHEREAS**, the City of Banning Police Department is responsible for providing bulletproof vests for its police officers; and

**WHEREAS**, the Police Department is responsible for replacing each police officer's bulletproof vest every 5 years; and

**WHEREAS**, a bulletproof vest is one of the most essential pieces of safety equipment a police officer must have; and

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

**NOW, THEREFORE, BE IT RESOLVED**, the City Council of the City of Banning appropriates general funds in the amount of \$4893 to the police department's clothing and accoutrements account (001-2200-421-3604) for the purchase of replacement bulletproof vests. Additionally, the Finance Department is authorized to make necessary budget adjustments related to these grant funds.

**PASSED, APPROVED, AND ADOPTED** this 25<sup>th</sup> day of August, 2009.

---

Bob Botts, Mayor  
City of Banning

APPROVED AS TO FORM  
AND LEGAL CONTENT

ATTEST

---

Aleshire & Wynder, LLP  
City Attorney

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Marie A. Calderon, City Clerk  
City of Banning

**CERTIFICATION:**

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2009-72 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 25<sup>th</sup> day of August 2009, by the following to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

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

**City Council Agenda  
Consent Calendar**

**DATE:** August 25, 2009  
**TO:** Honorable Mayor and City Council  
**FROM:** Hoyl E. Belt, Human Resources Director  
**SUBJECT:** Classification Plan Amendment

**Recommendation:** Adopt Resolution No. 2009-75 amending the City of Banning's Classification Plan to revise the classification of Public Works Director to incorporate the Water/Wastewater functions and raise the salary from range 88 to 96 effective July 28, 2009. Also, create the classification of Electric Utilities Director. Staff recommends these changes to reflect the reorganization of the two departments.

**Justification:** City Council approved the City of Banning Classification and Compensation Plan on January 25, 2005. The plan was amended and approved on November 14, 2008 and March 24, 2009. Maintenance of this plan is a dynamic process in which Human Resources works with operating departments to develop classifications which reflect the current needs of the departments in their efforts to deliver quality services to residents. City Personnel Rules require that the City Council approve all changes to the City's Classification Plan. Council approval of this recommendation will meet the City's goal to provide top quality and reliable service to both internal and external customers.

**Background:** The Classification Plan amendments being recommended are a result of a recent reorganization of City departments. As you are aware, the Water/Wastewater division of the Public Utilities Department was recently moved to the Public Works Department. The Public Utilities Department was changed to the Electric Utilities Department (see attached memo from Brian Nakamura, City Manager). With these changes, it is recommended that the salary of the Public Works Director be raised from range 88 to 96. This recommendation is based on a recent salary study. Revised job descriptions of the two positions are attached and are recommended for approval.

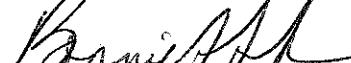
**Fiscal Data:** The overall estimated cost of \$36,942; there will be an estimated General Fund savings of \$74,416, but a cost to other city funds totaling an estimated \$111,358.

**Recommended By:**



Hoyl E. Belt  
Human Resources Director

**Reviewed By:**

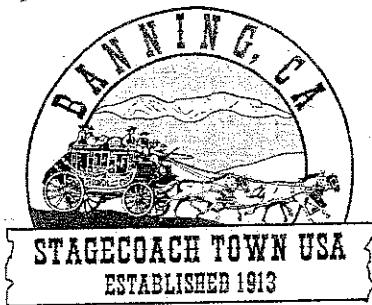


Bonnie J. Johnson  
Finance Director

**Approved By:**



Sam Racadio  
Interim City Manager



# City of Banning

## Office of the City Manager

### MEMORANDUM

DATE: July 28, 2009

TO: Honorable Mayor and Members of the Council

FROM: Brian S. Nakamura, City Manager

SUBJECT: Restructure of Public Utilities Department to Electric Utility Department and Expansion of Duties for Public Works Department

Honorable Mayor and Members of the City Council:

It is my pleasure to announce that I have selected Mr. Fred Mason to be the City of Banning's Electric Utility Director. This restructure will establish the Electric Utility Director position and replace the Public Utilities Director position. In addition, the Public Works Department will assume water and wastewater operations expanding the duties of Mr. Duane Burk, who will continue to serve as Public Works Director.

#### Background and Justification

As you all are aware the City has been seeking to fill its Public Utilities Director position since retirement of the previous director. Numerous applications were received, but qualifications of the candidate pool as related to both electric and water utility management and supervision were very limited. Efforts to find a department director candidate with in-depth knowledge and experience in both fields were limited, primarily due to the unique professional qualifications for each specific field.

In review of the City's organizational structure, I have found that many California cities with electric and water utility departments delegate those duties to specialized departments and divisions, as operations are very specific to each field. Cities which conduct business accordingly include Azusa, Healdsburg, Pasadena, Roseville, and Turlock. In other words, cities may define utilities as a Department of Water and Power, such as Metropolitan Water and Power, but there are clearly two separate and defined director duties for each division. Or a

special district is formed, such as Beaumont Cherry Valley Water District, Pass Water Agency, Alameda Bureau of Electricity, and Sacramento Municipal Utilities District (SMUD), which only provide specific utility management and operations.

The Electric Utility Department will focus on major energy projects, electric distribution and service requirements, rates, and rebate and public benefit programs. The Electric Utility Department is a core component of the City's economic vitality and its core focus should be meeting the electricity demands of its residents and businesses in the most economical, efficient and effective manner possible. Mr. Mason has the skills and ability to lead and manage the Electric Utility Department. Mr. Mason's knowledge in electric policy, budgeting and rate structure analysis are critical for the City's future in attracting businesses for growth in the City and Pass Area.

The Public Works Department will expand its focus to include water, wastewater infrastructure and maintenance, and continue to oversee streets and roads maintenance, building and vehicle maintenance, and parks maintenance. The water staff will be transitioned into the Public Works Department and the Director will oversee contract wastewater services accordingly. Mr. Burk's knowledge of water policy, distribution, and conservation are essential to insure a prosperous future for economic development in Banning.

Mr. Mason and Mr. Burk's combined expertises will significantly improve opportunities for the City of Banning. It is my belief that the City value and capitalize on its talented staff and I am confident that Mr. Mason and Mr. Burk will prove this reorganization to be tremendously successful for the City.

#### Budget Impact

The salary ranges for the Electric Utility and Public Works Directors will be based upon the classification/compensation studies available to the Human Resources Department. The reorganization budget impact is anticipated to be nominal for the enterprise accounts and should have no adverse impact to the general fund.

The Electric Utility Director salary range was established by a City classification and compensation study conducted by an independent consultant. This salary range is less than that of the Public Utilities Director classification. The Public Works Director classification will be structured similarly, thus transferring associated personnel costs from one department to another.

RESOLUTION 2009-75

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING  
RESCINDING RESOLUTION NO. 2009-12 TO AMEND THE CLASSIFICATION &  
COMPENSATION PLAN FOR THE CITY OF BANNING

WHEREAS, it is necessary to amend the City's Classification Plan from time to time to maintain a current plan which reflects the nature of work, organizational structure, or otherwise;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1:

The City Council adopts as its official Classification Plan the attached Schedule "A" setting forth all classifications of the City and their corresponding salary ranges effective July 28, 2009.

SECTION 2:

The City Council approves the amendments to the FY 2009-2010 City budget. The amendments will reflect a \$74,416 Net General Fund savings; Water Fund savings of \$5,543; Electric Fund increases of \$96,675; Wastewater increase of \$2,513, Refuse increases of \$7,062 and Utility Billing increases of \$10,651

SECTION 3:

The Finance Director is authorized to make necessary budget adjustments related to these amendments.

PASSED, APPROVED, AND ADOPTED this 25<sup>th</sup> day of August, 2009.

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Robert E. Botts, Mayor  
City of Banning, California

APPROVED AS TO FORM AND  
LEGAL CONTENT

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David Aleshire, Attorney  
Aleshire & Wynder, LLP

ATTEST:

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

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2009-75 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 25th day of August, 2009, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

**CITY OF BANNING**  
**CLASSIFICATION & COMPENSATION PLAN**  
**REVISED AUGUST 25, 2009**  
**(AMENDING RESOLUTION NO. 2009-75)**  
**(AMENDING RESOLUTION NO. 2009-12)**

**MATRIX BY CLASS SERIES/JOB CODE**

Class Series/Occupational Job Group	Job Code	Classification/Position	Salary Range	Bargaining Unit
<b>1000 – CITY ADMINISTRATION SERIES</b>				
<b>City Administration Group</b>	<b>1010</b>	<b>City Manager</b>	<b>109</b>	<b>Council Contract</b>
	1005	Assistant City Manager	97	Council Contract
	1020	City Clerk/City Manager Secretary	55	Elected
<b>Financial Services Group</b>	<b>1110</b>	<b>Finance Director/Assistant City Manager</b>	<b>97</b>	<b>Contract</b>
	1130	Financial Services Specialist	45	IBEW-G
	1150	Accounting Manager	73	Mgmt/Conf
	1140	Accountant	52	General
	1160	Purchasing Manager	73	CBAM
	1165	Buyer	52	General
<b>Human Resources Group</b>	<b>1210</b>	<b>Human Resources Director</b>	<b>88</b>	<b>Contract</b>
	1220	Human Resources Analyst	60	Mgmt/Conf
	1225	Senior Human Resources Analyst (Recruitment & Benefit Manager)	68	Mgmt/Conf
	1240	Risk Management Analyst	60	CBAM
	1230	Human Resources Technician	52	Conf/Gen
<b>Utility Billing Group</b>	<b>1310</b>	<b>Customer Services Manager</b>	<b>67</b>	<b>CBAM</b>
	1340	Sr. Utility Billing Rep	46	IBEW-G
	1350	Utility Billing Representative	41	IBEW-G
<b>Information/Cable Systems Group</b>	<b>1405</b>	<b>Information Technology Manager</b>	<b>73</b>	<b>CBAM</b>
	1410	Information Technology Coordinator	57	IBEW-G
	1416	Police Information Technology Technician	57	IBEW-G
	1415	Info Technology/Media Technician	55	IBEW-G
	1510	Cable Services Specialist	42	IBEW-G
<b>Office Support Group</b>	<b>1610</b>	<b>Executive Secretary</b>	<b>51</b>	<b>IBEW-G</b>
	1620	Office Specialist	42	IBEW-G
	1630	Receptionist	29	IBEW-G

2000 – POLICE SERIES		2010	Police Chief	96	Contract
Police Group		2015	Deputy Police Chief	86	Police Mgmt/Conf
		2025	Police Lieutenant	82	Police Mgmt/Conf
	2030A	Police Staff/Master Sergeant		75	POA
	2030	Police Sergeant		68	POA
	2050	Police Officer		64	POA
	2060	Police Recruit/Trainee		N/A	At-Will
Police Support Group		2143	Lead Public Safety Dispatcher	54	IBEW-G
		2110	Public Safety Dispatcher	50	IBEW-G
		2120	Property & Evidence Specialist	48	POA
		2130	Community Services Officer	42	POA
		2140	Lead Police Records Specialist	43	IBEW-G
		2141	Police Records Assistant	31	IBEW-G

## 3000-COMMUNITY DEVELOPMENT SERIES

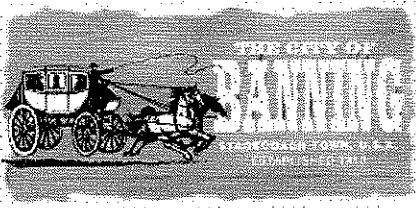
Community Development Group	3010	Community Development Director	88	Contract
	3021	Planning Engineer	72	CBAM
	3050	Senior Planner	75	CBAM
	3020	Associate Planner	64	CBAM
	3015	Assistant Planner	59	CBAM
	3026	Development Project Coordinator	56	IBEW-G
	3025	Planning Technician	54	IBEW-G
Economic/Redevelopment Group	3116	Redevelopment Manager	81	CBAM
	3103	Economic/Redevelopment Project Coordinator	56	IBEW-G
Development Services Group	3210	Development Services Manager (Building Official)	80	CBAM
	3215	Senior Building Inspector	65	IBEW-G
	3220	Building Inspector	60	IBEW-G
	3235	Senior Code Compliance Officer	59	IBEW-G
	3230	Code Compliance Officer	56	IBEW-G
	3240	Building Permit Specialist	53	IBEW-G

## 3300-COMMUNITY SERVICES GROUP

Community Services Group	3310	Community Services Director	82	Contract
	3325	Recreation Coordinator	49	IBEW-G
	3350	Lead Bus Driver/Trainer	53	IBEW-G
	3340	Bus Driver	45	IBEW-G

4000-PUBLIC WORKS SERIES					
Public Works Management Group	4010	Public Works Director	96	Contract	
Streets/Parks Group	4210	Public Works Superintendent	77	CBAM	
	4220	Streets/Parks Maintenance Manager	64	CBAM	
	4230	Work Release Crew Leader	45	IBEW-G	
	4240	Sr. Maintenance Worker	48	IBEW-G	
	4250	Maintenance Worker	43	IBEW-G	
	4260	Motor Sweeper Operator	48	IBEW-G	
Engineering Group	4300	City Engineer	81	CBAM	
	4350	Senior Civil Engineer (Water/Wastewater)	78	CBAM	
	4320	Associate Civil Engineer	72	CBAM	
	4325	Assistant Civil Engineer	64	CBAM	
	4330	Public Works Inspector	60	IBEW-G	
General Maintenance and Support Group	4340	Engineering Services Assistant	46	IBEW-G	
	4410	Fleet Maintenance Manager	71	CBAM	
	4425	Lead Fleet Maintenance Mechanic	54	IBEW-G	
	4420	Fleet Maintenance Mechanic	51	IBEW-G	
	4430	Building Maintenance Specialist	47	IBEW-G	
	4440	Custodian	32	IBEW-G	
Water/Wastewater Group	4450	Warehouse Services Specialist	50	IBEW-G	
	4110	Assistant Water/Wastewater Director	81	CBAM	
	4115	Water/Wastewater Superintendent	77	CBAM	
	4120	Assistant Water Superintendent	65	IBEW-U	
	4130	Water Crew Supervisor (Distribution Specialist)	58	IBEW-U	
	4140	Water Services Worker	50	IBEW-U	
	4141	Water Production Operator I	52	IBEW-U	
	4142	Water Production Operator II	54	IBEW-U	
	4145	Wastewater Collection System Technician	50	IBEW-U	
	4150	Wastewater Collection System Specialist	52	IBEW-U	
	4160	Water Crew Supervisor (Production Specialist)	58	IBEW-U	
	4132	Water Valve Flushing Crew Lead	54	IBEW-U	
	4133	Water Construction Crew Lead	54	IBEW-U	
	4131	Water Meter Crew Lead	54	IBEW-U	
	4155	Wastewater Collection System Supervisor	58	IBEW-U	

4100 ELECTRIC UTILITIES SERIES				
Electric Services & Operations Group	5001	Electric Utility Director	96	Contract
	5015	Electrical Systems Engineer	86	CBAM
	5021	Power Contracts & Revenue Administrator	81	CBAM
	5025	Associate Electrical Engineer	72	CBAM
	5031	Sr. Electric Service Planner	77	IBEW-U
	5030	Electric Service Planner	75	IBEW-U
	5045	AutoCAD/GIS Technician	66	IBEW-U
	5050	Public Benefits Coordinator	53	IBEW-U
	5055	Utility Services Assistant	46	IBEW-U
	5110	Electric Operations & Maintenance Manager	81	CBAM
	5120	Powerline Crew Supervisor	77	IBEW-U
	5130	Powerline Technician	73	IBEW-U
	5140	Powerline Apprentice	65 / 71	IBEW-U
	5150	Electric Services Worker	50	IBEW-U
	1325	Field Service Representative	49	IBEW-U
	5160	Electric Meter Test Technician	73	IBEW-U
	5170	Apprentice Electric Meter Test Technician	65 / 71	IBEW-U



# CITY OF BANNING, CALIFORNIA

Public Works Director

Job Code: 4010

FLSA

Exempt

Non-Exempt

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**JOB DEFINITION:** Under policy direction, directs, oversees, plans, organizes and administers water, wastewater, engineering, streets, parks, fleet and airport division operations.

**ESSENTIAL FUNCTIONS:** *The following duties ARE NOT intended to serve as a comprehensive list of all duties performed by all employees in this classification. Shown are duties intended to provide a representative summary of the major duties and responsibilities. Incumbent(s) may not be required to perform all duties listed and may be required to perform additional, position-specific duties.*

**REPRESENTATIVE DUTIES:** Establishes and maintains direction and regulation over Public Works Divisions including the water, wastewater, engineering, streets, parks, fleet and airport divisions and services in accordance with operational and environmental protection measures and Federal, state and regional regulatory requirements. Provides professional assistance and information to the City Council and City management staff on City operations associated with Public Works. Develops and implements the Capital Improvement Program (CIP). Interprets and enforces Public Works Department policies and procedures.

Develops financial plans including loans and grants to pay for infrastructures. Reviews and/or approves assigned staff plans, specifications and cost estimates for each public works operation. Monitors the acquisition, allocation or use of resources needed for successful service delivery or project completion. Researches, reviews, investigates and reports services, problems or conditions affecting the safe and convenient use of City water systems, streets, parks, vehicles and equipment and airport. Prepares reports of conditions and results of Public Works operations for the City. Oversees budgetary and expenditures for the Public Works Departments and Divisions.

Manages the buying, selling and trading operations within the Public Works Department. Provides short term and long term utilities and public works capital improvement planning for the City. Attends meetings and presentations. Oversees, monitors and directs office operations of assigned staff. Prioritizes and assigns special projects. Interviews prospective employees. Hires and/or recommends hiring. Develops, identifies and implements new employee and on-going staff training. Assigns, tracks and reviews work assignments and progress. Reviews and approves the formal performance evaluation of assigned department staff. Develops and implements disciplinary actions for assigned staff. Prepares reports, memos and correspondence.

Performs other duties as assigned or required.

(continued on reverse side)

# CITY OF BANNING, CALIFORNIA

## Public Works Director

**Job Code: 4010**

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### **KNOWLEDGE and SKILLS:**

- Knowledge of applicable city, county, state and Federal statutes, rules, regulations, ordinances, codes, administrative orders and other operational guidelines and directives.
- Knowledge of the City's and the Department's policies and procedures.
- Knowledge of water, wastewater, street, engineering, parks, fleet and airport management and operations practices and principles.
- Knowledge of management and/or supervision principles.
- Knowledge of finance and budget principles.
- Knowledge of file and report management techniques.
- Knowledge of research methods and procedures.
  
- Skill in reading, understanding, interpreting and applying relevant city, county, state and Federal statutes, rules, regulations, ordinances, codes, administrative orders, policies and procedures and other operational guidelines and directives.
- Skill in assessing and prioritizing multiple tasks, projects and/or demands.
- Skill in working within deadlines to complete projects and assignments.
- Skill in assessing, analyzing, identifying and implementing solutions to complex problems.
- Skill in establishing and maintaining effective working relations with co-workers, staff, vendors, contractors, visitors, the general public and others having business with the City of Banning.
- Skill in operating a personal computer utilizing a variety of software applications.

**MINIMUM QUALIFICATIONS:** A Bachelor's degree in Civil Engineering, Public Administration or related field **AND** ten (10) years of public works, water, wastewater or engineering experience that includes five (5) years of management and/or supervision.

**ADDITIONAL REQUIREMENTS:** Must have at the time of application and must maintain a California driver license. Depending on the needs of the City, the incumbent in this classification may be required to obtain and maintain additional licenses or certifications. May be required to work outside the traditional work schedule.

# CITY OF BANNING, CALIFORNIA



## Electric Utility Director

Job Code: 5001

FLSA

Exempt

Non-Exempt

**JOB DEFINITION:** Under administrative direction, directs, oversees, plans, organizes and administers the activities and programs of the City of Banning Electric Utility.

**ESSENTIAL FUNCTIONS:** *The following duties ARE NOT intended to serve as a comprehensive list of all duties performed by all employees in this classification. Shown are duties intended to provide a representative summary of the major duties and responsibilities. Incumbent(s) may not be required to perform all duties listed and may be required to perform additional, position-specific duties.*

**REPRESENTATIVE DUTIES:** Establishes and directs the supply of reliable electric power at competitive rates to serve the City's current and future requirements. Directs and oversees electric field construction, operation and maintenance of utility service. Develops electric plans for the City to accommodate current and future load requirements. Develops, interprets and enforces electric utility policies and procedures. Analyzes departmental problems, identifies solutions and projects consequences of proposed action.

Manages the buying and selling of electric power; monitors and maintains direction and regulation over Departmental revenue and expenditures, electric rate structures, power resources and delivery, power system planning, transmission, local distribution, handling of emergency power situations, electrical engineering and design of new developments, electrical load management, electrical metering and City streetlights. Proposes budget for operations of Electric Division.

Designs new electrical substations, transmission and local distribution circuits. Converts existing distribution systems to more efficient systems for improvement of and increase in capacity, efficiency and reliability of electric service. Prepares engineering drawings, specifications and cost estimates of purchasing materials and equipment. Approves invoices for payment, electrical designs and methods of providing electric service to residential, commercial and industrial customers. Administers requests for proposals and sealed bids for projects.

Provides short term and long term electric utility capital improvement planning for the City. Supervises and trains employees on work activities. Oversees, monitors and directs office operations of assigned staff. Prioritizes and assigns special projects. Interviews prospective employees. Hires and/or recommends hiring. Develops, identifies and implements new employee and on-going staff training. Assigns, tracks and reviews work assignments and progress. Reviews and approves the formal performance evaluation of assigned department staff. Develops and implements disciplinary actions for assigned staff. Provides leadership, motivation and guidance to subordinate staff.

Communicates and interacts with the public to provide utility customer service and solve delinquency issues. Coordinates work activities to other City Departments and outside agencies. Attends meetings and presentations.

Performs other duties as assigned or required.

(continued on reverse side)

# CITY OF BANNING, CALIFORNIA

## Electric Utility Director

Job Code: 5001

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### **KNOWLEDGE and SKILLS:**

- Knowledge of applicable city, county, state and Federal statutes, rules, regulations, ordinances, codes, administrative orders and other operational guidelines and directives.
- Knowledge of the City's and the Department's policies and procedures.
- Knowledge of management and/or supervision principles.
- Knowledge of proposal and bid specification practices and procedures.
- Knowledge of budgeting principles.
- Knowledge of electrical engineering, transmission and distribution theory and practice.
  
- Skill in reading, understanding, interpreting and applying relevant city, county, state and Federal statutes, rules, regulations, ordinances, codes, administrative orders, policies and procedures and other operational guidelines and directives.
- Skill in assessing and prioritizing multiple tasks, projects and/or demands.
- Skill in working within deadlines to complete projects and assignments.
- Skill in assessing, analyzing, identifying and implementing solutions to complex problems.
- Skill in establishing and maintaining effective working relations with co-workers, staff, vendors, contractors, visitors, the general public and others having business with the City of Banning.
- Skill in operating a personal computer utilizing a variety of software applications.

**MINIMUM QUALIFICATIONS:** A Bachelor's degree in Electrical Engineering, Public Administration or related field **AND** five (5) years of experience in the design and construction of electrical substations, transmission and distribution that includes three (3) years of management and/or supervision, **OR** an equivalent combination of education and experience as determined by the City.

**ADDITIONAL REQUIREMENTS:** Must have at the time of application and must maintain registration a California driver license. May be required to work outside the traditional work schedule.

**CITY COUNCIL AGENDA  
CONSENT ITEM**

**DATE:** August 25, 2009

**TO:** City Council

**FROM:** Bonnie Johnson, Finance Director

**SUBJECT:** Award of purchase to Diamond Hill Auto Group in the amount not to exceed \$51,667 for the Purchase of one (1) Chevrolet Tahoe 2 WD Hybrid for the City of Banning Police Department and Adopt Resolution No. 2009-77 appropriating the funds for the purchase.

**RECOMMENDATION:** The City Council adopt the following: City Council Resolution No. 2009-77, "Appropriating funds for the purchase of One (1) Chevrolet Tahoe 2 WD Hybrid for the City of Banning Police Department award of purchase to Diamond Hill Auto Group in the amount not to exceed \$51,667."

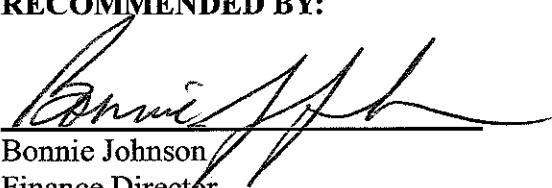
**JUSTIFICATION:** To provide the City of Banning Police Department with an alternative fuel vehicle for the B-PAL program utilizing AQMD funds.

**BACKGROUND:** On August 12, 2009 the Purchasing Division of the Finance Department posted a notice inviting sealed bids for the purchase of one (1) 2009 GVW Rating 7100LB SUV 2 WD Hybrid for the Police Department. The Purchasing Division sent the Notice Inviting Bids to ten (10) vehicle dealerships including all local dealerships in Banning. On August 18, 2009 bids were opened publicly by the Purchasing Manager and City Clerk. Two (2) bids were received and evaluated. The bids were evaluated based on responsiveness to the Request for Bids, delivery time and price. Diamond Hills Auto Group was the apparent low bidder and staff recommends that the City Council award the purchase to Diamond Hills Auto Group for the purchase of one (1) Chevrolet Tahoe 2Wd Hybrid in the amount not to exceed \$51,667.

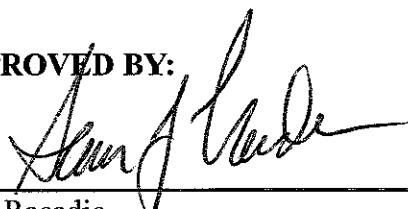
**ALTERNATIVES:** Re-advertise for sealed bids for the purchase of the vehicle. However, the cost may well be higher and the lead time may increase.

**FISCAL DATA:** An additional appropriation of funds to the Air Quality Improvement account number 132-4900-446.90-52 in the amount of \$51,667 is being requested. Estimated available fund balance of the AQMD fund is \$283,890.

**RECOMMENDED BY:**

  
\_\_\_\_\_  
Bonnie Johnson  
Finance Director

**APPROVED BY:**

  
\_\_\_\_\_  
Sam Racadio  
Interim City Manager

**RESOLUTION NO. 2009-77**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING AWARDING THE PURCHASE OF ONE (1) CHEVROLET TAHOE 2 WD HYBRID FOR THE CITY OF BANNING POLICE DEPARTMENT AND APPROPRIATING THE NECESSARY FUNDS FOR THE PURCHASE IN A TOTAL AMOUNT OF \$51,667.00.**

**WHEREAS**, the two year budget cycle for the City of Banning for the Fiscal Year commencing July 1, 2009 and ending June 30, 2010 was approved and adopted on June 23, 2009; and

**WHEREAS**, the approved Budget is in accordance with all applicable ordinances of the City and all applicable statutes of the State; and

**WHEREAS**, The Reallocation of appropriations between departmental activities may be made by the City Manager, however Amendments (increases/decreases) to the Budget shall be by approval and Resolution of the City Council.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Banning, California that the Air Quality Improvement Account Number 132-4900-446.90-52 budget for the fiscal year ending June 30, 2010, is hereby amended to include an appropriation for \$51,667 for the purchase.

**PASSED, APPROVED AND ADOPTED** this 25th day of August, 2009.

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Robert E. Botts, Mayor  
City of Banning

APPROVED AS TO FORM AND  
LEGAL CONTENT:

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Aleshire & Wynder, LLP  
City Attorney

ATTEST:

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Marie A. Calderon, City Clerk  
City of Banning

**CERTIFICATION**

I, MARIE A. CALDERON, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2009-77 was duly adopted by the City Council of the City of Banning, California at a regular meeting thereof held on the 25th day of August, 2009 by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

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

**CITY COUNCIL AGENDA  
CONSENT ITEM**

**Date:** **August 25, 2009**

**TO:** **City Council**

**FROM:** **Bonnie J. Johnson, Finance Director**

**SUBJECT:** **Report of Investments for June 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 June 2009. As of June 30, 2009, the City's operating funds totaled \$78,977,042. Included in operating funds is \$4,080,830 of restricted CRA bond proceeds that are on deposit with LAIF and reflected separately on the Treasurer's Report. As of June 30, 2009 approximately 35% of the City's unrestricted cash balances were invested in investments other than LAIF.

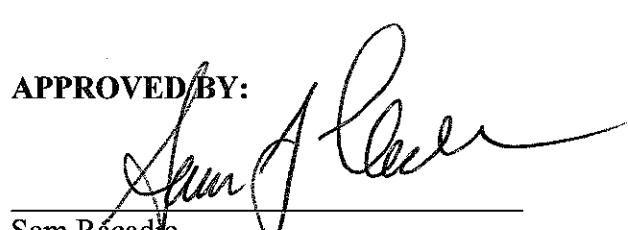
Presented are three months of Investment Reports. June is a first issue, while April and May are included to provide multiple months of statements for comparison.

**FISCAL DATA:** The latest reports from the State indicate that the average interest achieved by the Local Agency Investment Fund (LAIF) decreased to 1.377 % in June. The average rate for all investments in June was 1.524%.

**RECOMMENDED BY:**

  
\_\_\_\_\_  
Bonnie J. Johnson  
Finance Director

**APPROVED BY:**

  
\_\_\_\_\_  
Sam Rácadlo  
Interim City Manager

## **Summary Schedule of Cash and Investments**

<b>Operating Funds</b>		<b>Amount</b>
<u>Petty Cash</u>		2,305
<u>Bank Accounts</u>	Interest	
Wells Fargo Bank	Rate	Amount
	0.000%	125,875
Wells Fargo Bank-Investment Account	0.100%	1,133,375
Bank of America-Airport	0.300%	8,518
Bank of America-Parking Citations	0.300%	4,689
Bank of America-CNG Station	0.300%	4,298
<i>Money Market and Bank Account Sub-Total</i>		1,276,754
<u>Government Pools</u>		
Local Agency Investment Fund: Account #1	1.377%	31,009,664
Account #2 Operating Amount	16,521,544	
Account #2 CRA Bond Cash Bal	4,080,830	
Local Agency Investment Fund: Account #2	1.377%	<u>20,602,374</u>
<i>Government Pool Sub-Total</i>		<u>51,612,038</u>
<b>Operating Cash Balance</b>		<b>52,891,097</b>
<u>Restricted Operating Funds at Riverside Public Utilities</u>		
Highmark U.S. Government Money Market Fund	0.110%	1,270,689
<u>Other Investments</u>		
Investments-US Bank/Piper Jaffray - See Page 2	1.902%	24,815,256
<i>Operating Funds Total</i>		<u>78,977,042</u>
<u>Fiscal Agent</u>		
BNY Western Trust Company	Amount	
	538,762	
US Bank		<u>66,725,985</u>
<i>Fiscal Agent Total</i>		<u>67,264,747</u>
<u>Deferred Compensation</u>		
City Employee Trust Accounts		<u>4,147,963</u>
<i>Deferred Compensation Total</i>		<u>4,147,963</u>

## Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	Discount or (Premium) Amortization	Market Value
<i><u>Bank Accounts</u></i>								
125,875	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	125,875	n/a	125,875
1,133,375	Wells Fargo Bank-Investment Acct	n/a	0.10%	daily	varies	1,133,375	n/a	1,133,375
8,518	Bank of America-Airport	n/a	0.30%	daily	varies	8,518	n/a	8,518
4,689	Bank of America-Parking Citations	n/a	0.30%	daily	varies	4,689	n/a	4,689
4,298	Bank of America-Parking Citations	n/a	0.30%	daily	varies	4,298	n/a	4,298
	Sub-total							1,276,754
<i><u>Government Pools</u></i>								
31,009,664	L.A.I.F. account #1	n/a	1.377%	daily	varies	31,009,664	n/a	31,009,664
20,602,374	L.A.I.F. account #2	n/a	1.377%	daily	varies	20,602,374	n/a	20,602,374
								51,612,038
<i><u>Investments-US Bank/Piper Jaffray</u></i>								
3,000,000	Federal Farm Credit Banks	n/a	2.000%	12/30/2010	12/30/2008	3,000,000	0	3,017,760
6,000,000	Federal Farm Credit Banks	n/a	2.120%	9/23/2011	3/24/2008	6,000,000	0	6,028,980
3,000,000	Fedl Natl Mtg Assn	n/a	2.040%	12/30/2011	12/23/2008	3,000,000	0	2,997,180
11,170,000	Federal Farm Credit Banks	n/a	2.000%	1/30/2012	6/12/2009	11,170,000	0	11,140,511
1,630,825	Money Market	n/a	0.000%	daily	varies	1,630,825	0	1,630,825
	US Bank/Piper Jaffray Average Rate=							24,815,256
								Average Rate All= 1.524%

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 253 days and does not include Bond Reserve Fund Investments.

## City of Banning Investment Report

June 30, 2009

### Individual Investments with Fiscal Agent

		Bond Maturity Date	Investment Description	Current Yield	Bond Maturity Date	Minimum Reserve Requirement	Interest Jun-09	Market Value
<u><b>TRUSTEE</b></u>								
Bond Issue Description								6/30/2009
<b>BNY WESTERN TRUST COMPANY</b>								
1997 Admin Building COPs Refunding	2020	Republic Bank Investment Agreement Federated U.S. Treasury Money Mkt	6.270% 0.000%	11/1/2020 daily	522,375	*	522,562	
<b>US BANK</b>								
1991 Wilson St. Assessment District	2012	AIM U.S. Treasury Money Market	0.081% 0.000%	daily daily	265,580	20.87	265,731	
2005 Fair Oaks Ranch Estates	2035	First Amer Treas Oblig Fd CL D	0.022% 0.022%	daily daily	190,323 971,763	30.29 *	216,850 973,482	
2003 CRA Tax Allocation Bonds	2028	Forward Delivery Agreement - B of A	4.560% 0.022%	daily daily	971,763	0.82	5,839	
Surplus Fund		First Amer Treas Oblig Fd CL D	0.025% 0.022%	daily daily				8
<b>COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007</b>								
Redevelop Fund	2037	First Amer Treas Oblig Fd CL D	0.022% 2.950%	daily daily	72,35	11,687	11,687	
	11/27/2009	Reliance Trust Company GIC # 9AMGGBF37					3,336,669	
	5/21/2009	Reliance Trust Company GIC # 9AMGGBEU8					3,500,000	
	11/19/2009	Reliance Trust Company GIC # 9AMGGBEV6					8,000,000	
Reserve Fund		First Amer Treas Oblig Fd CL D	0.022% 0.021%	daily daily	1,880,751	262.05	1,875,665	
Surplus Fund		First Amer Treas Oblig Fd CL D						9
<b>BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES</b>								
Bond Fund		First Amer Treas Oblig Fd CL D	0.022% 0.022% 0.022%	daily daily daily	0.31 63.90 515.18	2,206 457,388 3,681,264	2,206 457,388 3,681,264	
Principal Account		First Amer Treas Oblig Fd CL D						
<b>BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES</b>								
Bond Fund		First Amer Treas Oblig Fd CL D	0.042% 0.022% 0.022% 2.770%	daily daily daily daily	2 0.04 322.90 2,666.18	285 2,311,202 16,975,638 1,184,059	285 2,311,202 16,975,638 1,184,059	
Principal Account		First Amer Treas Oblig Fd CL D						
Reserve Fund		First Amer Treas Oblig Fd CL D						
Project Fund		First Amer Treas Oblig Fd CL D						
	5/7/2009	Federal Home Loan Banks						

## City of Banning Investment Report

June 30, 2009

TRUSTEE	Bond Issue Description	Bond Maturity Date	Investment Description	Current Yield	Bond Reserve Bond	Minimum Reserve	Interest Requirement	6/30/2009 Market Value
<b>BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES</b>								
			First Amer Treas Oblig Fd CLD	0.0000%	daily	daily		0
			First Amer Treas Oblig Fd CLD	0.0000%				0
Reserve Fund	11/17/2011	Reliance Trust Company GIC # 9AMGGBEZ7	3.650%					3,016,509
Acquisition & Construction	11/27/2009	First Amer Treas Oblig Fd CLD	0.0000%	daily			0.01	1,625,033
	5/21/2009	Reliance Tr Co Contract # 9AMGGBF29	2.950%					8,036,457
	11/19/2009	Reliance Trust Company GIC #9AMGGBEX2	0.750%					3,250,000
		Reliance Trust Company GIC #9AMGGBEY0	2.950%					8,000,000
*Paid Semi-Annually-Deposited into Money Mkt Account				<b>Total</b>	<b>3,954.90</b>	<b>67,264,747</b>		

Deferred Compensation			
			<b>04/01/09 to 6/30/2009 Quarterly Activity</b>
			<b>Contribution Withdrawals Gain/Loss</b>
			<b>6/30/2009</b>
ICMA Retirement Corporation	<u>4/1/2009</u>	varies	54,722 (2,700) 83,625 1,032,256
CALPERS 457 Program		varies	(273,003) 195,923 2,322,303
NATION WIDE-PEBSSCO		varies	2,702 (14,395) 38,335 793,405
			<b>4,147,963</b>

\*Paid Semi-Annually-Deposited into Money Mkt Account

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

	Interest	Amount
	Rate	Amount
Wells Fargo Bank	0.000%	80,405
Wells Fargo Bank-Investment Account	0.100%	842,322
Bank of America-Airport	0.300%	5,031
Bank of America-Parking Citations	0.300%	3,258
Bank of America-CNG Station	0.300%	<u>3,232</u>

*Money Market and Bank Account Sub-Total* 934,249

Government Pools

Local Agency Investment Fund: Account #1 1.530% 31,009,664

Account #2 Operating Amount 16,422,073

Account #2 CRA Bond Cash Bal 4,180,301

Local Agency Investment Fund: Account #2 1.530% 20,602,374

*Government Pool Sub-Total* 51,612,038

**Operating Cash Balance** 52,548,592

Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund 0.110% 1,254,221

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2 2.298% 24,691,773

*Operating Funds Total* 78,494,586

**Fiscal Agent**

BNY Western Trust Company

US Bank

*Fiscal Agent Total* 71,947,050

**Deferred Compensation**

City Employee Trust Accounts

4,130,512

*Deferred Compensation Total* 4,130,512

## City of Banning Investment Report

May 31, 2009

### Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	Discount or Premium)	Market Amortization Value
<i><u>Bank Accounts</u></i>								
80,405	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	80,405	n/a	80,405
842,322	Wells Fargo Bank-Investment Acct	n/a	0.10%	daily	varies	842,322	n/a	842,322
5,031	Bank of America-Airport	n/a	0.30%	daily	varies	5,031	n/a	5,031
3,258	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,258	n/a	3,258
3,232	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,232	n/a	3,232
	Sub-total							934,249
<i><u>Government Pools</u></i>								
31,009,664	L.A.I.F. account #1	n/a	1.530%	daily	varies	31,009,664	n/a	31,009,664
20,602,374	L.A.I.F. account #2	n/a	1.530%	daily	varies	20,602,374	n/a	20,602,374
								51,612,038
<i><u>Investments-US Bank/Piper Jaffray</u></i>								
6,000,000	Fedi Natl Mtg Assn	n/a	3.750%	6/10/2011	9/11/2008	6,000,000	0	6,003,780
2,000,000	Fedi Home Loan Bank	n/a	3.280%	12/9/2010	6/9/2008	2,000,000	0	2,001,260
1,500,000	Fedi Natl Mtg Assn	n/a	1.790%	6/24/2010	12/24/2008	1,500,000	0	1,500,465
3,000,000	Fedi Natl Mtg Assn	n/a	2.000%	12/30/2010	12/30/2008	3,000,000	0	3,020,100
6,000,000	Federal Farm Credit Banks	n/a	2.120%	9/23/2011	3/24/2008	6,000,000	0	6,038,700
3,000,000	Federal Farm Credit Banks	n/a	2.040%	12/30/2011	12/23/2008	3,000,000	0	3,004,680
3,122,788	Money Market	n/a	0.000%	daily	varies	3,122,788	0	3,122,788
	US Bank/Piper Jaffray Average Rate=							24,691,773
								Average Rate All= 1.758%

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 207 days and does not include Bond Reserve Fund Investments.

## City of Banning Investment Report

May 31, 2009

### Individual Investments with Fiscal Agent

TRUSTEE	Bond Issue Description	Bond Maturity Date	Investment Description	Current Yield	Bond Maturity Date	Bond Reserve Requirement	Minimum Reserve	Interest May-09	Market Value
<b>BNY WESTERN TRUST COMPANY</b>									
1997 Admin Building COPs Refunding		2020	Republic Bank Investment Agreement Federated U.S. Treasury Money Mkt	6.270% 0.000%	11/1/2020 daily		522,375	*	522,562
									16,200
<b>US BANK</b>									
1991 Wilson St. Assessment District		2012	AIM U.S. Treasury Money Market	0.150% 0.150%	daily daily		265,580		265,710
			First Amer Treas Oblig Fd CL D						0
2005 Fair Oaks Ranch Estates		2035	First Amer Treas Oblig Fd CL D	0.030% 4.560%	daily daily	190,323 971,763		3.07 *	216,820
2003 CRA Tax Allocation Bonds		2028	Forward Delivery Agreement - B of A						
			First Amer Treas Oblig Fd CL D	0.030% 0.025%	daily daily				
Surplus Fund			First Amer Treas Oblig Fd CL D					0.08	5,839
									8
<b>COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007</b>									
Redevelop Fund		2037	First Amer Treas Oblig Fd CL D	0.030% 2.950%	daily daily			13.30	733,521
			Reliance Trust Company GIC # 9AMGGBF37						3,336,669
			5/21/2009 Reliance Trust Company GIC # 9AMGGBEU8	0.750% 2.950%					3,500,000
			11/19/2009 Reliance Trust Company GIC # 9AMGGBEV6						8,000,000
Reserve Fund			First Amer Treas Oblig Fd CL D	0.030% 0.032%	daily daily				
Surplus Fund			First Amer Treas Oblig Fd CL D						
<b>BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES</b>									
Bond Fund			First Amer Treas Oblig Fd CL D	0.030% 0.030% 0.030%	daily daily daily			0.35 0.35 0.35	2,206 457,324 3,686,906
Principal Account									
<b>BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES</b>									
Bond Fund			First Amer Treas Oblig Fd CL D	0.042% 0.030% 0.030% 0.030%	daily daily daily daily			1.71 32.71 278.35	2 285 2,310,890 19,080,776
Principal Account									
Reserve Fund									
Project Fund									
			5/7/2009 Federal Home Loan Banks	2.760%	daily				

## City of Banning Investment Report

May 31, 2009

TRUSTEE	Bond Maturity Date	Bond Description	Investment Description	Current Yield	Bond Reserve Maturity Date	Minimum Bond Reserve Requirement	Interest May-09	5/31/2009 Market Value
<b>BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES</b>								
Reserve Fund		First Amer Treas Oblig Fd CL D		0.000%	daily			1,840,192
		First Amer Treas Oblig Fd CL D		0.000%	daily			1,601
Acquisition & Construction	11/17/2011	Reliance Trust Company GIC # 9AMGGGBEZ7		3.650%				3,016,509
		First Amer Treas Oblig Fd CL D		0.000%	daily			1,627,814
	11/27/2009	Reliance Tr Co Contract # 9AMGGBF29		2.950%				8,036,457
	5/21/2009	Reliance Trust Company GIC #9AMGGBEX2		0.750%				3,250,000
	11/19/2009	Reliance Trust Company GIC #9AMGGBEY0		2.950%				8,000,000
*Paid Semi-Annually-Deposited into Money Mkt Account				<b>Total</b>	<b>409.52</b>	<b>71,947,050</b>		

### Deferred Compensation

Balance	5/31/2009
<b>5/12/2009</b>	
954,462	Various Employee Selected Mutual Funds
2,224,738	Various Employee Selected Mutual Funds
<b>786,085</b>	Various Employee Selected Mutual Funds
<b><u>3,065,285</u></b>	

ICMA Retirement Corporation  
 CALPERS 457 Program  
 NATION WIDE-PEBSCO

**Summary Schedule of Cash and Investments****Operating Funds**Petty CashAmount2,305Bank Accounts

Wells Fargo Bank

InterestRateAmount

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*974,980Government 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%

1,157,629Other Investments

Investments-US Bank/Piper Jaffray - See Page 2 2.298%

24,693,313***Operating Funds Total*****77,015,265****Fiscal Agent**

BNY Western Trust Company

Amount

644,610

US Bank

70,743,784***Fiscal Agent Total*****71,388,393****Deferred Compensation**

City Employee Trust Accounts

3,965,285***Deferred Compensation Total*****3,965,285**

## City of Banning Investment Report

April 30, 2009

### Operational Portfolio Individual Investments

Bank Accounts	Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	Discount or Premium)	Amortization	Market Value
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
<i>Government Pools</i>										
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		
										50,187,038
<i>Investments-US Bank/Piper Jaffray</i>										
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	
3,122,788 Money Market	n/a	0.000%	daily	varies		3,122,788	0	3,122,788		
US Bank/Piper Jaffray Average Rate=		2.298%								24,693,313
Average Rate All=		1.812%								

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 219 days and does not include Bond Reserve Fund Investments.

City of Banning Investment Report

April 30, 2009

Individual Investments with Fiscal Agent									4/30/2009
TRUSTEE	Bond Issue Description	Bond Maturity Date	Investment Description	Current Yield	Bond Maturity Date	Minimum Reserve Requirement	Interest Apr-09	Market Value	
<b>BNY WESTERN TRUST COMPANY</b>									
1997 Admin Building COPs Refunding		2020	Republic Bank Investment Agreement Federated U.S. Treasury Money Mkt	6.270%	11/1/2020	522,375	*	522,562	
				0.200%	daily	265,580	27.95	265,710	
<b>US BANK</b>									
1991 Wilson St. Assessment District		2012	AIM U.S. Treasury Money Market	0.096%	daily	265,580	27.95	265,710	
			First Amer Treas Oblig Fd CL D	0.150%	daily	0.08	0.08	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	4.560%	daily	971,763	*	980,835	
			First Amer Treas Oblig Fd CL D	0.200%	daily	0.30	0.30	5,839	
			First Amer Treas Oblig Fd CL D		daily			8	
<b>COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007</b>									
Redevelop Fund		2037	First Amer Treas Oblig Fd CL D	0.150%	daily	4,852	4,852	940,256	
			First Amer Treas Oblig Fd CL D	2.950%				3,336,669	
		11/27/2009	Reliance Trust Company GIC # 9AMGGBF37	2.950%				3,500,000	
		5/21/2009	Reliance Trust Company GIC # 9AMGGBEU8	2.400%				8,000,000	
		11/19/2009	Reliance Trust Company GIC # 9AMGGBEV6	2.950%					
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	
<b>BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES</b>									
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			109	
			First Amer Treas Oblig Fd CL D	0.150%	daily	191.01	191.01	3,686,853	
<b>BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES</b>									
Bond Fund			First Amer Treas Oblig Fd CL D	0.150%	daily			1,154,922	
Principal Account			First Amer Treas Oblig Fd CL D	0.150%	daily			285	
Reserve Fund			First Amer Treas Oblig Fd CL D	0.150%	daily	119.38	119.38	2,313,171	
Project Fund			First Amer Treas Oblig Fd CL D	0.150%	daily	971.12	971.12	19,080,497	
		5/7/2009	Federal Home Loan Banks	2.760%	daily	83,625.00	83,625.00	1,190,325	

## City of Banning Investment Report

April 30, 2009

TRUSTEE	Bond Issue Description	Bond Maturity Date	Investment Description	Current Yield	Bond Reserve Bond Maturity Date	Minimum Reserve Requirement	Interest Apr-09	4/30/2009 Market Value
<b>BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES</b>								
	Reserve Fund	11/17/2011	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			Reliance Trust Company GIC #9AMGGGBEZ7	3.650%				3,016,509
		11/27/2009	First Amer Treas Oblig Fd CL D	0.150%	daily		80.93	1,627,813
			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				<b>Total</b>	<b>85,173.21</b>	<b>71,388,393</b>		

Deferred Compensation		
Balance		

<b>4/1/2009</b>			<b>4/30/2009</b>
896,609	Various Employee Selected Mutual Funds	varies	954,462
2,149,428	Various Employee Selected Mutual Funds	varies	2,224,738
766,763	Various Employee Selected Mutual Funds	varies	786,085
<b><u>3,812,800</u></b>			<b><u>3,965,285</u></b>

**CITY COUNCIL AGENDA  
CONSENT ITEM**

**Date:** **August 25, 2009**

**TO:** **City Council**

**FROM:** **Bonnie Johnson, Finance Director**

**SUBJECT:** **Approval of Accounts Payable and Payroll Warrants for Month of July 2009**

**RECOMMENDATION:** "The City Council review and ratify the following reports per the California Government Code."

**FISCAL DATA:** The reports in your agenda packet cover "Expenditure Disbursements" and "Payroll Expenses" for the month of July 2009

The reports are:

Expenditure approval lists

July 1, 2009 Manual Check	540.58
July 2, 2009	217,894.56
July 9, 2009	1,448,500.00
July 16, 2009	92,644.41
July 23, 2009	1,280,744.80
July 30, 2009	868,872.25
July 9, 2009	5,345,509.92 (July Month End)

Payroll check registers

July 3, 2009	12,233.05
July 17, 2009	12,883.10
July 31, 2009	20,729.85

Payroll direct deposits\*

July 3, 2009	332,297.17
July 17, 2009	349,726.59
July 31, 2009	344,634.06

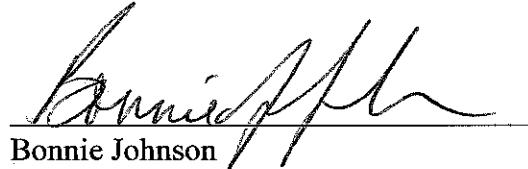
As you review the reports, if you have any questions please contact the Finance Department so that we can gather the information from the source documents and provide a response.

\* Included on the July month end expenditure approval list of 08/10/2009.

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

Report Prepared by: Robin Anderson, Accounts Payable

**RECOMMENDED BY:**

  
\_\_\_\_\_  
Bonnie Johnson  
Finance Director

**APPROVED BY:**

\_\_\_\_\_  
Brian Nakamura  
City Manager

# **PAYROLL**

## **DIRECT DEPOSIT TOTALS**

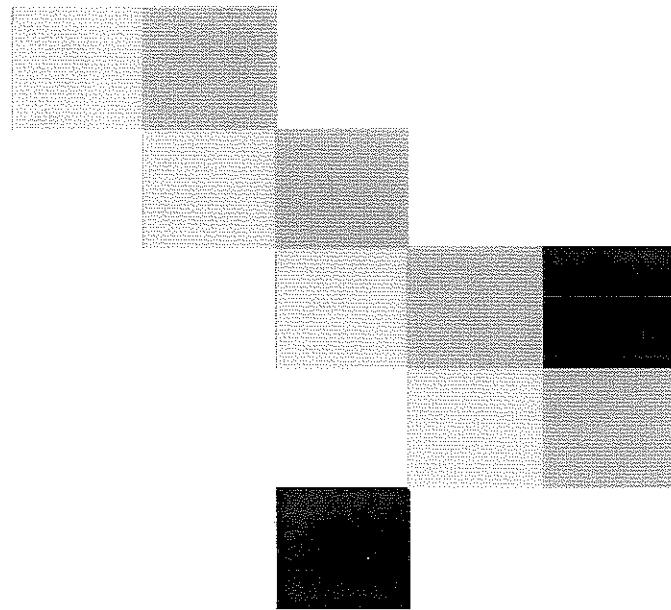
<b>PAY PERIOD ENDING</b>	<b>DIRECT DEPOSIT DATES</b>	<b>DIRECT DEPOSIT AMOUNTS</b>
06/26/2009	07/03/2009	\$332,297.17
07/10/2009	07/17/2009	\$349,726.59
07/24/2009	07/31/2009	\$344,634.06

## **MANUAL CHECKS ISSUED**

<b>CHECK DATE</b>	<b>CHECK #</b>	<b>CHECK AMOUNT</b>
		\$0.00

Report only the amounts that actually paid during the month.

# Banning Electric Utility



## Electric Rate Study & Recommendations

Presented by  
Fred Mason, Electric Utility Director

# Electric Rate Study

- Utilized tools developed by Navigant Consulting during previous rate analysis
- Evaluated Residential, Commercial and Industrial (Time-of-Use) rates
- Ensured no subsidies exist between rate classes
- Compared against Edison rates
- Recommend an effective date of 10/1/2009

# Why is a Rate Increase Needed?

- The Distribution System required capital improvements resulting in a significant increase in Debt Service expense
- Loss of load: Due to the economic crisis and energy conservation mandates -- revenues dropped by 6 percent (\$1.2 Million) in the past year, and more losses are projected
- Regulatory requirements have directly increased annual Power Resource costs by over \$1 Million

# Regulatory Requirements

- Requires 33% renewable resources, regardless of energy requirements
- Requires Resource Adequacy (RA) Capacity be purchased based on the “annual” peak demand resulting in 10 times the required amount being procured for the months of October – April
- Requires that 55% of capacity come from “local” resources – resulting in \$1 Million in unnecessary RA Capacity purchases

# Electric Rate Component %

The electric rate components made up the following percentages of the total cost in FY 07-08:

- Generation/Wholesale Power 56%
- Transmission 10%
- Distribution System O&M 15%
- Administration & Overhead 10.5%
- General Fund Transfer 8.5%

(Increased to 10% in FY09-10)

# Rate Increase Mitigation

- Reduced the Electric budget deficit from \$6.3 Million to \$4.6 Million by cutting all discretionary operating expenses
- Reduced Employee expense by eliminating 15% of the Electric Utility workforce and cutting salaries by 5%
- Budget cuts resulted in a 27% reduction in the required rate increase

# Proposed Rate: Residential

- Proposed rate increase will not affect Low-Income customers
- Medical Lifeline customers will continue to receive the additional baseline allocation
- Recommend increase of \$.04 per kWh to Baseline rate and \$.006 per kWh to 2<sup>nd</sup> Tier
  - no change to Third Tier rate
- The maximum increase to any customer will be \$16.47 per month in the winter and \$27.97 per month in the summer

# Average Residential Bill

## 440 kWh Usage – Winter

(March)      Current      Proposed

Customer Charge	\$ 3.00	\$ 3.00
Energy	\$ 59.36	\$ 72.47
Street Lighting	\$ 2.00	\$ 2.00
Total Bill	\$ 64.36	\$ 77.47 <u>Increase</u> \$ 13.11

## 735 kWh Usage – Summer

(August)      Current      Proposed

Customer Charge	\$ 3.00	\$ 3.00
Energy	\$ 95.52	\$ 118.90
Street Lighting	\$ 2.00	\$ 2.00
Total Bill	\$ 100.52	\$ 123.90 <u>Increase</u> \$ 23.38

# Conservation Tips

- A/C is the #1 energy user in the home, use ceiling fans to offset or enhance A/C use, and be sure to set the thermostat at/or above 78 degrees
- A typical electric space heater can cost more than \$150 per month to use, wear a sweater or add an extra blanket instead
- Inefficient refrigerators can use up to 5 times more electricity than Energy Star rated units, adding over \$30 per month to a customer's bill

# Proposed Rate: Commercial

## **Small General Service** (strip mall stores, small offices and shops, etc.):

- Recommend increase of \$.035 per kWh - based on the average monthly usage of 1,162 kWh, the average customer bill will increase \$40.67 per month

# Proposed Rate: Commercial

**Large Demand Service** (Restaurants,  
grocery stores, school sites, etc.):

- Recommend increase of \$.04 per kWh on the Energy rate and \$.50 per kW on the Demand rate

## Proposed Rate: Industrial Time-of-Use (TOU)

- Rate is for customers that exceed 500 kW demand (there are currently only 6 accounts in this class)
- Recommend average increase of \$.01 per kWh
- Demand rates are unchanged except for the winter Non-time Related rate, which is recommended to increase \$.25 per kW

# Other Municipal Utilities

- Many of the twelve municipal utility SCPPA members have found it necessary to implement similar rate increases

## Future Rate Recommendations

- Staff will continue to monitor the Utility's expenses and revenues and report any rate impacts to the Council as needed
- Staff will perform a formal rate analysis on an annual basis
- Proposed regulatory mandates in the California energy market may result in increased expenses requiring a more significant future rate adjustment

**CITY COUNCIL AGENDA  
RESOLUTION**

**Date:** **August 25, 2009**

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

**FROM:** **Kahono Oei, P.E., City Engineer** 

**SUBJECT:** **Resolution No. 2009-70, “Approving the Airport Improvement Program (AIP) Grant Agreement Offer from the Federal Aviation Administration (FAA) for Project No. 2009-01 ‘Airport Drainage Improvements and Lincoln Street Improvements’”**

**RECOMMENDATION:**

- I. Adopt Resolution No. 2009-70, “Approving the Airport Improvement Program (AIP) Grant Agreement Offer from the Federal Aviation Administration (FAA) for Project No. 2009-01 ‘Airport Drainage Improvements and Lincoln Street Improvements.’”
- II. Authorize the City Manager to execute the Grant Agreement Offer and upcoming Grant Agreement with the Federal Aviation Administration (FAA).
- III. Authorize the Finance Director to appropriate FAA Phase I grant funds in the amount of \$429,693.00 and FAA Phase II grant funds in the amount of \$561,536.00 to the Airport Fund Account No. 600-5100-435-93-42.

**JUSTIFICATION:** Resolution No. 2009-70 is essential in order to obtain and utilize federal funds for Project No. 2009-01, “Airport Drainage Improvements and Lincoln Street Improvements.” The City Manager must sign the Grant Agreement Offer to obtain federal funds. Once the FAA has authorized the Offer, the Grant Agreement must be executed by both parties.

**BACKGROUND:** Due to poor drainage conditions and a lack of storm sewers, drainage improvements are needed at Banning Municipal Airport. In the fall of 2007, Engineering Division staff obtained a grant of \$150,000.00 from the FAA to perform a hydrology study, hydraulic analysis, the design of drainage and street improvements, and Line “H” storm drain design (Hathaway Street, from Lincoln Street to Porter Street). Subsequently, on December 11, 2007, the City Council approved Resolution 2007-145, “Approving the Professional Services Agreement for the ‘Drainage Study and Design of Drainage Improvements at Banning Municipal Airport,’” and awarded the contract to SD Engineering.

In November of 2008, the Public Works Department, Engineering Division, submitted a grant request to the Federal Aviation Administration (FAA) to construct the drainage improvements within the Airport property and its vicinity. The scope of work for the project includes the construction of drainage improvements including a retention basin, trench drains with grates, and swales within the Airport property and street improvements along Lincoln Street and Hathaway

Street such as curb and gutter, sidewalks, aggregate base, asphalt concrete, street lights, and relocation of power poles.

Initially, FAA staff evaluated the proposed project and approved a grant in the amount of \$429,693.00 which was approved by City Council under Resolution No. 2009-17.

The Public Works Department advertised Project No. 2009-01 on July 24, 2009 and July 31, 2009 and on August 11, 2009 publicly opened bids with the lowest bid in the amount of \$993,399.00 belonging to Matich Corporation of San Bernardino, California. As a result of the bid amount and the City Engineer's continued dialogue with the FAA to request additional funding to cover the construction cost of said project, FAA granted the City an additional grant in the amount of \$561,536.00.

The award of the construction contract of this project is concurrently being submitted to the City Council for approval on a separate resolution.

**FISCAL DATA:** As part of the Grant Agreement, the Federal Aviation Administration will reimburse the City up to \$991,229.00 for construction costs and the City is required to fund the remaining construction costs and other miscellaneous expenses.

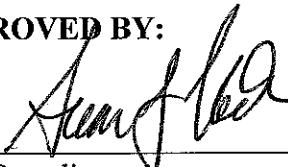
**RECOMMENDED BY:**

  
\_\_\_\_\_  
Duane Burk  
Director of Public Works

**REVIEWED BY:**

  
\_\_\_\_\_  
Bonnie Johnson  
Director of Finance

**APPROVED BY:**

  
\_\_\_\_\_  
Sam Racadio  
City Manager

**RESOLUTION NO. 2009-70**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE AIRPORT IMPROVEMENT PROGRAM (AIP) GRANT AGREEMENT OFFER WITH THE FEDERAL AVIATION ADMINISTRATION (FAA) FOR PROJECT NO. 2009-01, "AIRPORT DRAINAGE IMPROVEMENTS AND LINCOLN STREET IMPROVEMENTS"**

**WHEREAS**, drainage improvements are needed at Banning Municipal Airport due to poor drainage conditions and a lack of storm sewers; and

**WHEREAS**, a drainage study, hydraulic analysis, storm drain design and drainage improvements design at Banning Municipal Airport were performed by SD Engineering with a FAA grant of \$150,000.00 obtained by the Engineering Division staff in the fall of 2007; and

**WHEREAS**, the Engineering Division of the Public Works Department, submitted a grant application for the construction of drainage improvements at Banning Municipal Airport to the Federal Aviation Administration (FAA) in November of 2008; and

**WHEREAS**, the FAA has allocated \$991,229.00 of Airport Improvement Program (AIP) funds for Project No. 2009-01, "Airport Drainage Improvements and Lincoln Street Improvements"; and

**WHEREAS**, the Federal Aviation Administration will reimburse the City up to \$991,229.00 of the projects construction costs, and the FAA will prepare the Grant Agreement upon receipt of the executed Grant Agreement Offer; and

**WHEREAS**, the City of Banning is required to approve and execute the Grant Offer and subsequent Grant Agreement to utilize the federal grant,

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

**Section I.** Adopt Resolution No. 2009-70, "Approving the Airport Improvement Program (AIP) Grant Agreement Offer from the Federal Aviation Administration (FAA) for Project No. 2009-01 'Airport Drainage Improvements and Lincoln Street Improvements.'"

**Section II.** Authorize the City Manager to execute the Grant Agreement Offer and upcoming Grant Agreement with the Federal Aviation Administration (FAA).

**Section III** Authorize the Finance Director to appropriate FAA Phase I grant funds in the amount of \$429,693.00 and FAA Phase II grant funds in the amount of \$561,536.00 to the Airport Reserve Fund Account No. 600-5100-435-93-42.

**PASSED, APPROVED, AND ADOPTED** this 25<sup>th</sup> day of August, 2009.

---

Robert E. Botts, Mayor  
City of Banning

APPROVED AS TO FORM AND  
LEGAL CONTENT:

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

ATTEST:

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Marie A. Calderon, City Clerk  
City of Banning

**CERTIFICATION:**

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2009-70, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 25<sup>th</sup> day of August, 2009.

AYES:

NOES:

ABSTAIN:

ABSENT:

---

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

**CITY COUNCIL AGENDA  
RESOLUTION**

**DATE:** **August 25, 2009**

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

**FROM:** **Kahono Oei, City Engineer** 

**SUBJECT:** **Resolution No. 2009-76, "Awarding the Construction Contract and Approving the Professional Services Agreement for Surveying Services for Project No. 2009-01, "Airport Drainage Improvements and Lincoln Street Improvements," Federal Project No. 3-06-0018-008-2009, Subject to the Final Execution of the Federal Aviation Administration Phase II Grant in the Amount of \$561,536.00.**

**RECOMMENDATION:** Adopt Resolution No. 2009-76:

- I. Awarding the Construction Contract for Project No. 2009-01, "Airport Drainage Improvements and Lincoln Street Improvements," to Matich Corporation of San Bernardino, California, for an amount of "Not to Exceed" \$993,399.00, Subject to the Final Execution of the Federal Aviation Administration Phase II Grant in the Amount of \$561,536.00, and rejecting all other bids.
- II. Authorizing an additional ten-percent (10%) construction contingency in the amount of \$99,340.00 to be used for additional work that arises from unforeseen conditions.
- III. Approving the Professional Services Agreement for Surveying and Construction Staking Services with S.D. Engineering and Associates of San Bernardino, California, for an amount of "Not to Exceed" \$24,500.00 and an additional \$25,500.00 for Inspection and Material Testing Services.
- IV. Authorizing the Director of Finance to appropriate funds from the Measure "A" Funds to Account No. 600-5100-435-93-42, in the amount of \$91,510.00.

**JUSTIFICATION:** Matich Corporation is the lowest responsible bidder to construct the improvements. It is essential to also hire an experienced professional civil engineering firm to provide construction surveying services to ensure compliance with project plans and specifications.

**BACKGROUND:** Due to poor drainage conditions and the lack of a storm drain system, drainage improvements are needed at Banning Municipal Airport. In the fall of 2007, Engineering Division staff obtained a grant of \$150,000.00 from the Federal Aviation Administration (FAA) to perform a hydrology study, hydraulic analysis and the design of drainage and street improvements, and Line "H" storm drain design (Hathaway Street, from Lincoln Street to Porter Street). This work was completed by S.D. Engineering and Associates, the same consultant staff proposes to utilize for construction surveying services.

In November of 2008, the Public Works Department, Engineering Division, submitted a grant request to the FAA to construct the drainage improvements within the Airport property and its vicinity. The

FAA staff then evaluated the proposed project and approved a grant, in the amount of \$429,693.00, and the grant acceptance was executed by the City Manager and City Attorney on February 24, 2009.

After the construction bids were opened, the City Engineer met with FAA staff on August 12, 2009 and he was able to obtain an additional grant in the amount of \$561,536.00, which will bring the total FAA grants for construction to \$991,229.00.

The scope of work for the project includes grinding/cold planing of existing asphalt; street grading, placing new A.C. and base, and A.C. overlay per the City Engineer's recommendations; sidewalk, curb and gutters, driveways, cross gutters, spandrels and handicap ramps in accordance with the City of Banning and CALTRANS Standard Specifications; adjusting manholes and water valve covers to grade; removing and replacing water services, water meter boxes, and mailboxes when required by the Public Works Inspector; striping improvements, installation of street lights, relocation of fire hydrants, and relocation of power poles; construction of trench drains and drainage channels; and cleaning.

The Notice Inviting Bids was advertised on July 24, 2009 and July 31, 2009, as shown attached as Exhibit "A". Five (5) bids were received and publicly opened on August 11, 2009, as shown attached as Exhibit "B", with the following results:

Rank	Name of Firm/Bidder	Bid Amount
1	Matich Corporation, San Bernardino, CA	\$ 993,399.00
2	Cooley Construction, Inc., Hesperia, CA	\$1,109,919.50
3	Silvia Construction, Inc., Rancho Cucamonga, CA	\$1,171,905.00
4	I.C.E. Engineering, Inc., Rowland Heights, CA	\$1,275,909.50
5	LD Anderson, Inc., Bloomington, CA	\$1,344,563.00

The Engineer's estimate for the project is \$1.1 million. If approved, the project is anticipated to start by September of 2009.

S.D. Engineering and Associates, a surveying and civil engineering consultant firm, will provide surveying services, such as construction staking and preparing cut sheets needed to construct the improvements. The consultant prepared the design drawings, and thus is very familiar with the project. It is therefore prudent and cost effective to award the surveying and construction staking services contract to S.D. Engineering and Associates.

**FISCAL DATA:** The total project cost is \$1,142,739.00, which includes a ten-percent (10%) construction contingency and the costs for miscellaneous services. The amount received from FAA grants is \$991,229.00. The remaining balance of \$151,510.00 will be funded from the Measure "A" funds for Fiscal Year 2009/10 and the Airport Fund Account No. 600-5100-435-93-42 which currently holds a balance of \$60,000.00. A detailed funding summary is attached as Exhibit "C".

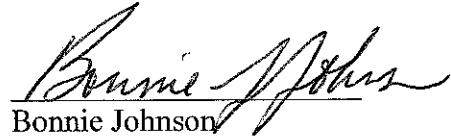
**SIGNATURES ON NEXT PAGE**

**RECOMMENDED BY:**

  
\_\_\_\_\_  
Duane Burk

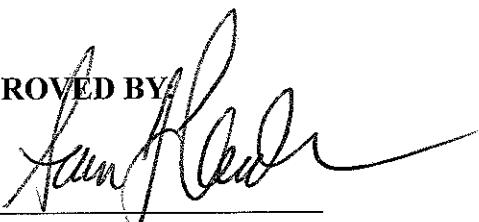
Director of Public Works

**REVIEWED BY:**

  
\_\_\_\_\_  
Bonnie Johnson

Director of Finance

**APPROVED BY:**

  
\_\_\_\_\_  
Sam Racadio

Interim City Manager

**RESOLUTION NO. 2009-76**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AWARDING THE CONSTRUCTION CONTRACT AND APPROVING THE PROFESSIONAL SERVICES AGREEMENT FOR SURVEYING SERVICES FOR PROJECT NO. 2009-01, "AIRPORT DRAINAGE IMPROVEMENTS AND LINCOLN STREET IMPROVEMENTS," FEDERAL PROJECT NO. 3-06-0018-008-2009, SUBJECT TO THE FINAL EXECUTION OF THE FEDERAL AVIATION ADMINISTRATION PHASE II GRANT IN THE AMOUNT OF \$561,536.00.**

**WHEREAS**, drainage improvements are needed at Banning Municipal Airport due to poor drainage conditions and the lack of a storm drain system; and

**WHEREAS**, the Engineering Division of the Public Works Department submitted a grant application for the construction of drainage improvements at Banning Municipal Airport to the Federal Aviation Administration (FAA) in November of 2008; and

**WHEREAS**, on February 24, 2009 the City Council approved resolution No. 2009-17, "Approving the Airport Improvement Program (AIP) Grant Agreement Offer with the FAA for Project No. 2009-01, 'Airport Drainage Improvements and Lincoln Street Improvements'" in the amount of \$429,693.00; and

**WHEREAS**, the project was advertised for bids on July 24, 2009 and July 31, 2009, bids were received and opened on August 11, 2009, with five (5) contractors bidding the project; and

**WHEREAS**, Matich Corporation of San Bernardino, California is the lowest responsive and responsible bidder; and

**WHEREAS**, S.D. Engineering and Associates, a surveying and civil engineering consultant firm, is needed to perform construction staking and surveying, and provide cut sheets during construction; and

**WHEREAS**, on August 12, 2009, after opening the bids for the project, the City Engineer met with FAA representatives and obtained an additional grant in the amount of \$561,536.00, to pay for some of the construction costs for the project; and

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

**Section I.** Award the construction contract for Project No. 2009-01, "Airport Drainage Improvements and Lincoln Street Improvements," Federal Project No. 3-06-0018-008-2009, to Matich Corporation of San Bernardino, California, for an amount of "Not to Exceed" \$993,399.00, Subject to the Final Execution of the Federal Aviation Administration Phase II Grant in the Amount of \$561,536.00, and authorize an additional ten-percent (10%) construction contingency to be used for additional work that arises from unforeseen conditions.

**Section II.** Award the Professional Services Agreement for Surveying and Construction Staking Services for said Project No. 2009-01 to S.D. Engineering and Associates of San Bernardino, California, for an amount of "Not to Exceed" \$24,500.00 and an additional \$25,500.00 for Inspection and Material Testing Services.

**Section III.** Authorize the Director of Finance to make the necessary budget adjustments and appropriations from Measure "A" funds to the Airport Reserve Fund Account No. 600-5100-435-93-42.

**Section IV.** The Mayor is authorized to execute the Construction Contract agreement with Matich Corporation of San Bernardino, California and the Professional Services Agreement for Surveying and Construction Staking Services with S.D. Engineering and Associates of San Bernardino, California for Project No. 2009-01, "Airport Drainage Improvements and Lincoln Street Improvements." This authorization will be rescinded if the contract agreement is not executed by both parties, for each agreement, within sixty (60) days of the date of this resolution.

**PASSED, ADOPTED AND APPROVED** this 25<sup>th</sup> day of August, 2009.

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Robert E. Botts, Mayor  
City of Banning

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

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

**ATTEST:**

---

Marie A. Calderon, City Clerk  
City of Banning

**CERTIFICATION:**

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2009-76, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 25<sup>th</sup> day of August, 2009.

AYES:

NOES:

ABSTAIN:

ABSENT:

---

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

## **EXHIBIT “A”**

**NOTICE INVITING TO BID**

**PROJECT NO. 2009-01**

**“AIRPORT DRAINAGE IMPROVEMENTS AND LINCOLN STREET  
IMPROVEMENTS”**

**RECORD GAZETTE**

**July 24,2009**

## PUBLIC NOTICES

NOTICE INVITING  
TO BIDPROJECT NO 2009-01  
"AIRPORT DRAINAGE  
IMPROVEMENTS AND  
LINCOLN STREET  
IMPROVEMENTS"

**OWNER:** City of Banning  
**PROJECT DESCRIPTION:** The scope of work under this project includes grinding/cold planing of existing asphalt; street grading, placing new A.C. and base, and A.C. overlay per City Engineer's recommendations; sidewalks, curb and gutters, driveways, cross gutters, spandrels and handicap ramps in accordance with the City of Banning and CALTRANS Standard Specifications; adjusting manholes and water valve covers to grade; removing and replacing water services, water meter boxes and mailboxes when required by the Public Works Inspector; striping improvements, installation of street lights, relocation of fire hydrants, relocation of power poles; and cleaning; etc., on various streets. The Contractor must comply with all NPDES requirements to reduce storm water run-off by implementing applicable BMPs, as required by the Public Works Inspector. All work done on the Banning Municipal Airport including grading and the installation of drainage improvements will be done per the City of Banning Standards and the FAA Standards.

**PLANS & SPECS:** Full-size drawing and specifications available at noon August 29, 2009, non-refundable \$65.00.

**NON-MANDATORY PRE-BID CONFERENCE:** August 4, 2009 at 10 a.m. at City Hall, 99 E. Ramsey St., Banning.

**REQUIREMENTS:** Prevailing Wage, Certified Payroll, Bid Bond, Payment and Performance Bond, Insurance, etc., per the approved specifications. The project is funded by a Federal Aviation Administration (FAA) Grant and thus the Contractor is responsible for meeting all FAA requirements.

Pursuant to the provisions of Public Contract Code Section 3300, the City has determined that the Contractor shall possess a valid **Class A** license at the time that the Contract is awarded. Failure to possess the specified license shall render the bid as not responsible and/or non-responsive and shall act as a bar to award the Contract to any bidder not possessing said license at the time of award.

**SEALED BIDS DUE:** August 11, 2009 and Opened Publicly @ 10 a.m. local time, above City Hall address, Attn: City Clerk.

**CITY OF BANNING, CALIFORNIA**  
Dated: July 21, 2009

Marie A. Calderon  
City Clerk  
Publish the Record  
Gazette  
No. 4012

7/24/31, 2009

**NOTICE INVITING TO BID**

**PROJECT NO. 2009-01**

**“AIRPORT DRAINAGE IMPROVEMENTS AND LINCOLN STREET  
IMPROVEMENTS”**

**RECORD GAZETTE  
July 31,2009**

## PUBLIC NOTICES

## NOTICE INVITING

## TO BID

PROJECT NO 2009-01  
"AIRPORT DRAINAGE  
IMPROVEMENTS AND  
LINCOLN STREET  
IMPROVEMENTS"

**OWNER:** City of Banning  
**PROJECT DESCRIPTION:** The scope of work under this project includes grinding/cold planing of existing asphalt; street grading, placing new A.C. and base, and A.C. overlay per City Engineer's recommendations; sidewalks, curb and gutters; driveways, cross gutters, spandrels and handicapped ramps in accordance with the City of Banning and CALTRANS Standard Specifications; adjusting manholes and water valve covers to grade; removing and replacing water services, water meter boxes, and mailboxes when required by the Public Works Inspector; striping improvements, installation of street lights, relocation of fire hydrants, relocation of power poles, and cleaning, etc., on various streets. The Contractor must comply with all NPDES requirements to reduce storm water run-off

by implementing applicable BMPs, as required by the Public Works Inspector. All work done on the Banning Municipal Airport including grading and the installation of drainage improvements will be done per the City of Banning Standards and the FAA Standards.

**PLANS & SPECS:** Full-size drawing and specifications available at noon August 29, 2009, non-refundable \$65.00.

**NON-MANDATORY PRE-BID CONFERENCE:** August 4, 2009 at 10 a.m. at City Hall, 99 E. Ramsey St. Banning.

**REQUIREMENTS:** Prevailing Wage, Certified Payroll, Bid Bond, Payment and Performance Bond, Insurance, etc., per the approved specifications. The project is funded by a Federal Aviation Administration (FAA) Grant and thus the Contractor is responsible for meeting all FAA requirements.

Pursuant to the provisions of Public Contract Code Section 3300, the City has determined that the Contractor shall possess a valid **Class A** license at the time that the Contract is awarded. Failure to possess the specified license shall render the bid as not responsible and/or non-responsive and shall act as a bar to award the Contract to any bidder not possessing said license at the time of award.

**SEALED BIDS DUE:** August 11, 2009 and Opened Publicly @ 10 a.m. local time, above City Hall address, Attn: City Clerk.

**CITY OF BANNING, CALIFORNIA**

Dated: July 21, 2009

Marie A. Calderon  
City Clerk  
Publish the Record  
Gazette  
No. 4012

7/24, 31, 2009

## **EXHIBIT “B”**

### **BID OPENING SUMMARY**

**SUMMARY OF BIDS RECEIVED  
CITY OF BANNING**

PROJECT NO.: PROJECT NO. 2009-01

DESCRIPTION: AIRPORT DRAINAGE IMPROVEMENTS AND LINCOLN STREET  
IMPROVEMENTS

BID OPENING DATE: AUGUST 11, 2009 TIME: 10:00 A.M.

NAME OF BIDDER:	ADDEND. #1	BID BOND			TOTAL BID AMOUNT:
SILVIA CONSTR., INC. Rancho Cucamonga, CA	✓	✓			\$ 1,171,905.00
MATICH CORP. San Bernardino, CA	✓	✓			\$ 993,399.00
COOLEY CONSTR. INC. Hesperia, CA	✓	✓			\$ 1,109,919.50
I.C.E. ENGINEERING, INC. Rowland Heights, CA	✓	✓			\$ 1,410,909.50
L D ANDERSON, INC. Bloomington, CA	✓	✓			\$ 1,344,563.00

VERIFIED BY:

J. A. Villa  
Marie A. Calabro, City Clerk

## **EXHIBIT “C”**

### **FUNDING SUMMARY**

**FUNDING SUMMARY FOR**  
**PROJECT NO. 2009-01 "AIRPORT DRAINAGE**  
**IMPROVEMENT AND LINCOLN STREET IMPROVEMENTS**

<b>Construction Cost:</b>	<b>\$993,399.00</b>
<b>10% Contingency:</b>	<b>\$ 99,340.00</b>
<b>Engineering Surveying:</b>	<b>\$ 24,500.00</b>
<b>Inspection/Material Testing:</b>	<b>\$ 25,500.00</b>
<b>TOTAL PROJECT COST:</b>	<b>\$1,142,739.00</b>

**FUNDING SOURCES**

<b>FAA Grant Agreement Phase I:</b>	<b>\$429,693.00</b>
<b>FAA Grant Agreement Phase II:</b>	<b>\$561,536.00</b>
<b>TOTAL FAA GRANTS:</b>	<b>\$991,229.00</b>
<b>Measure "A" Appropriation:</b>	<b>\$ 91,510.00</b>
<b>Airport Reserve Fund Balance:</b>	<b>\$ 60,000.00</b>
<b>TOTAL FUNDING:</b>	<b>\$1,142,739.00</b>

**CITY COUNCIL AGENDA**  
**CONSENT ITEM**

**Date:** August 25, 2009

**TO:** City Council

**FROM:** Phil Holder, Lieutenant

**SUBJECT:** Resolution No. 2009-73 Authorizing acceptance of funding from the State of California Department of General Services California 9-1-1 Emergency Communication's Office to acquire an upgraded "NEXT GENERATION 9-1-1 System" for the police department's communication center.

**RECOMMENDATION:** "Adopt Resolution No. 2009-73 authorizing acceptance of funding from the State of California Department of General Services California 9-1-1 Emergency Communication's Office in the amount of \$176,145.57 for the purchase of an upgraded "NEXT GENERATION 9-1-1 System" for the police department's communication center."

**JUSTIFICATION:** The US Department of Technology (USDOT) believes a fundamental reexamination of the technological approach to 9-1-1 is essential as our public safety emergency service networks struggle to accommodate the challenges of wireless communications and digital devices. Cellular service and most other commercial and public safety communications systems are transitioning to IP-based networks. These technologies should enable major advances in the ability of all users and public safety responders to send or receive critical information to, from and beyond the emergency services internetwork, such as emergency calls in American Sign Language via video or medically-relevant data transmitted from a vehicle crash. The objective for upgrading now is to be ready for selected requirements in providing the City of Banning with the following Next Generation Emergency 9-1-1 services:

- The ability of PSAPs to receive voice, video, text (IM, SMS) and data
- Improving 9-1-1 access for deaf/hearing-impaired (e.g., Video Relay Services, text messaging)
- Caller's location identification for landline, wireless and Voice over Internet Protocol (VoIP) 9-1-1 calls
- Transmission of telematics data directly to the PSAP (Advanced Automatic Crash Notification) like crash location, speed, vehicular rollover, crash velocity
- 9-1-1 Call routing and call transfer based on caller's location
- Internet Protocol (IP) networking and security

**BACKGROUND:** The 9-1-1 system, based on 30-year old technology, is expensive for local 9-1-1 call centers to maintain and incapable of supporting the text, data, images, and video that are increasingly common in personal communications. Such capabilities will be essential to future transportation safety and security services. These new capabilities are being called NEXT

GENERATION 9-1-1 or NG9-1-1. Currently, our E9-1-1 services are limited in functionality compared to the advancements in the fields of wireless mobile technologies.

The "convergence" trend in telecommunications and information technology provides an opportunity to make integrated voice, data, and graphical communications for public safety practical. Moving to NG9-1-1 allows Public Service Answering Points (PSAPs) the ability to establish the foundation for public emergency services in a wireless mobile society. NG9-1-1 paves the way for fundamental changes in how we move emergency information and enables E9-1-1 calls from most types of communication or networked devices.

Our current E9-1-1 system capabilities have critical implications and limitations for public safety in general, transportation safety, mobility, and security in particular.

The State of California provides a PSAP with allotment funds based on the amount of calls taken over an 18 month period. These funds are available to the PSAP every 5 years. This year is the Banning Police Department's 5 year allotment funding term. The police department was allotted \$240,000.00 for improvements to the department's 9-1-1 system in the communication center. This allotment will allow the Banning Police Department to fund purchases for the NEXT GENERATION 9-1-1 system along with new dispatch 9-1-1 consoles (See Resolution # 2009-74), an updated mapping system, and a new long term 9-1-1 voice recording system. All State allotments are held by the State on the City's behalf. All state approved costs for the system are paid directly to the vendors.

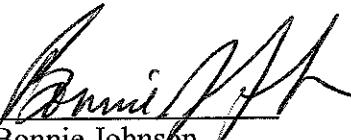
**STRATEGIC PLAN INTEGRATION:** Council approval of this recommendation will help facilitate the Police Department's goal of maintaining proper safety equipment for police personnel.

**FISCAL DATA:** No funds are required from the City of Banning for the purchase of the described systems.

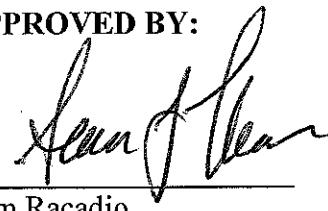
**RECOMMENDED BY:**

  
\_\_\_\_\_  
Leonard Purvis  
Chief of Police

**REVIEWED BY:**

  
\_\_\_\_\_  
Bonnie Johnson  
Finance Director

**APPROVED BY:**

  
\_\_\_\_\_  
Sam Racadio  
Interim City Manager

**RESOLUTION NO. 2009-73**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BANNING AUTHORIZING THE ACCEPTANCE OF STATE FUNDS IN THE AMOUNT OF \$176,145.57 FROM THE STATE OF CALIFORNIA DEPARTMENT OF GENERAL SERVICES FOR THE PURPOSE OF PROCURING A “NEW GENERATION 9-1-1 SYSTEM” AND ASSOCIATED HARDWARE.**

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

**WHEREAS**, the City of Banning Police Department operates a 24 hour a day operation; and

**WHEREAS**, the Police Department is responsible for internal and external communications; and

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

**WHEREAS**, there is a need for a state of the art “NEXT GENERATION 9-1-1” system in the Police Department’s Communication Center; and

**WHEREAS**, the City’s procedures requires the City Council to adopt a resolution authorizing the receipt of the “NEXT GENERATION 9-1-1” funded system.

**NOW, THEREFORE, BE IT RESOLVED**, the City Council of the City of Banning authorizes the appropriation \$176,145.57 into Banning Police Department account 001-2210-421-9023 (Dispatch Equipment) GENERATION 9-1-1” system software, hardware and associated equipment on behalf of the Banning Police Department. The Finance Department is authorized to make necessary budget adjustments related to these accepted funds.

**PASSED, APPROVED, AND ADOPTED** this 25<sup>th</sup> day of August, 2009.

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Bob Botts, Mayor  
City of Banning

APPROVED AS TO FORM  
AND LEGAL CONTENT

ATTEST

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Aleshire & Wynder, LLP  
City Attorney

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Marie A. Calderon, City Clerk  
City of Banning

**CERTIFICATION:**

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2009-73 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 25<sup>th</sup> day of August 2009, by the following to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

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

**CITY COUNCIL AGENDA  
CONSENT ITEM**

**Date:** August 25, 2009

**TO:** City Council

**FROM:** Phil Holder, Lieutenant

**SUBJECT:** Resolution No. 2009-74 Authorizing acceptance of funding from the State of California Department of General Services California 9-1-1 Emergency Communication's Office to purchase new 9-1-1 dispatch consoles for the police department's communication center.

**RECOMMENDATION:** "Adopt Resolution No. 2009-74 authorizing acceptance of funding from the State of California Department of General Services California 9-1-1 Emergency Communication's Office in the amount of \$64,542.62 for the purchase of new 9-1-1 dispatch consoles for the police department's communication center."

**JUSTIFICATION:** The US Department of Technology (USDOT) believes a fundamental reexamination of the technological approach to 9-1-1 is essential as our public safety emergency service networks struggle to accommodate the challenges of wireless communications and digital devices. Cellular service and most other commercial and public safety communications systems are transitioning to IP-based networks. These technologies should enable major advances in the ability of all users and public safety responders to send or receive critical information to, from and beyond the emergency services internetwork, such as emergency calls in American Sign Language via video or medically-relevant data transmitted from a vehicle crash.

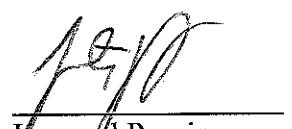
The new 9-1-1 dispatch consoles for the police department's communication center will accommodate the "NEXT GENERATION 9-1-1" system discussed in Resolution 2009-73.

**BACKGROUND:** The State of California provides Public Service Answering Points (PSAP) with allotment funds based on the amount of calls taken over an 18 month period. These funds are available to the PSAP every 5 years. This year is the Banning Police Department's 5 year allotment funding term. The police department was allotted \$240,000.00 for improvements to the department's 9-1-1 system in the communication center. This allotment will allow the Banning Police Department to fund purchases for new 9-1-1 consoles along with a new "NEXT GENERATION 9-1-1" system (See Resolution # 2009-73). All State allotments are held by the State on the City's behalf. All state approved costs for the system are paid directly to the vendors.

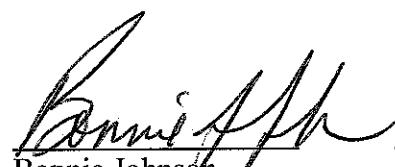
**STRATEGIC PLAN INTEGRATION:** Council approval of this recommendation will help facilitate the Police Department's goal of maintaining proper safety equipment for police personnel.

**FISCAL DATA:** No funds are required from the City of Banning for the purchase of the described systems.

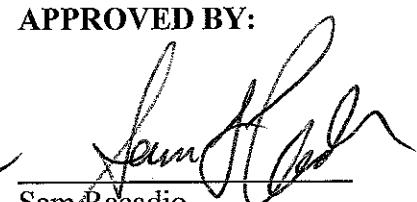
RECOMMENDED BY:

  
Leonard Purvis  
Chief of Police

REVIEWED BY:

  
Bonnie Johnson  
Finance Director

APPROVED BY:

  
Sam Racadio  
Interim City Manager

**RESOLUTION NO. 2009-74**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BANNING AUTHORIZING THE ACCEPTANCE OF STATE FUNDS IN THE AMOUNT OF \$64,542.62 FROM THE STATE OF CALIFORNIA DEPARTMENT OF GENERAL SERVICES FOR THE PURPOSE OF PROCURING NEW 9-1-1 DISPATCH CONSOLES.**

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

**WHEREAS**, the City of Banning Police Department operates a 24 hour a day operation; and

**WHEREAS**, the Police Department is responsible for internal and external communications; and

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

**WHEREAS**, there is a need for new 9-1-1 dispatch consoles to accommodate a new “NEXT GENERATION 9-1-1” system in the Police Department’s Communication Center; and

**WHEREAS**, the City’s procedures requires the City Council to adopt a resolution authorizing the receipt of the new 9-1-1 dispatch consoles through the funded system.

**NOW, THEREFORE, BE IT RESOLVED**, the City Council of the City of Banning authorizes the appropriation \$64,542.62 into Banning Police Department account 001-2210-421-9023 (Dispatch Equipment) and authorizes the receipt of three new 9-1-1 dispatch consoles and associated equipment on behalf of the Banning Police Department. The Finance Department is authorized to make necessary budget adjustments related to these accepted funds.

**PASSED, APPROVED, AND ADOPTED** this 25<sup>th</sup> day of August, 2009.

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Bob Botts, Mayor  
City of Banning

APPROVED AS TO FORM  
AND LEGAL CONTENT

ATTEST

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Aleshire & Wynder, LLP  
City Attorney

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Marie A. Calderon, City Clerk  
City of Banning

**CERTIFICATION:**

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2009-74 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 25<sup>th</sup> day of August 2009, by the following to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

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

**CITY COUNCIL AGENDA  
REPORT OF OFFICERS**

**DATE:** August 25, 2009

**TO:** Honorable Mayor and City Council

**FROM:** Sam Racadio, Interim City Manager

**SUBJECT:** Economic Development Committee

**RECOMMENDATION:**

That the City Council receive and file this report and provide direction regarding the Economic Development Committee.

**JUSTIFICATION:**

Since 1998, The Community Redevelopment Agency has managed an Economic Development Committee to provide public input about economic development activities, policies and projects and to provide advice to the City Council on similar issues. The current Economic Development Committee was amended by Ordinance No. 1371 on May 29, 2007, and has not met since June of 2008. CRA Chairman Robinson now wishes to reactivate the Economic Development Committee.

**BACKGROUND:**

Ordinance No. 1371 was originally adopted on April 14, 1998, and established an Economic Development Committee (EDC).

The EDC was originally formed as a nine member committee, including two City Council members and seven members from the community at large, representing a cross section of the community including the Chamber of Commerce, manufacturing, retail, service, education, and the general community. Monthly meetings were established in the Ordinance.

Prior to amending the Committee on May 29, 2007, the EDC had grown to 12 members, four of whom represented specific groups including: the Banning Chamber of Commerce, the Morongo Band of Mission Indians, the Banning Unified School District, the Cabazon community; members of the City Council, and six at-large members who represent a cross-section of the community. The Committee met monthly, with additional meetings called by the Chair as the business of the EDC required.

On May 29, 2007, Ordinance No. 1371 was adopted to amend Chapter 2, Article VIII of the Banning Municipal Code regarding establishment of the Banning Economic Development Advisory Committee (EDC) which revised the composition and updated the duties of the Committee. (Attachment 1).

The revised EDC currently consists of nine members in total, with seven voting members: the Redevelopment Agency Chairperson, six from the community at large, one non-voting representative of the Morongo/Cabazon area and one non-voting member from the Banning School District. The EDC officially meets monthly (last Thursday of the month) and all voting members are required to be residents of the City of Banning. These revisions were endorsed by the, then current EDC, in March of 2007 prior to adoption by the City Council in May of 2007.

Following the adoption of the amended Ordinance No. 1371, which recomposed the EDC, the EDC began to meet monthly during the remainder of 2007 and into 2008. The current EDC held its last meeting in June of 2008.

Earlier this year, Chairman Robinson requested that staff bring the matter forward to the Council/Board for their direction to reactivate the committee.

#### **DISCUSSION:**

Due to several member resignations and other administrative reasons, the EDC has not convened or met since June of 2008. In November of 2008, upon the re-staffing of the Redevelopment Agency, staff identified the need to bring forward the matter to address the status of the committee. Since January of 2009, staff has conducted research to better understand the formation of the Committee, its charge, and what happened to cause it to become inactive.

Staff has researched City reports and documents, interviewed committee members, and City/Agency staff with knowledge of the Committee, and brainstormed options to reactivate the committee.

#### **A. Current Status:**

Following the establishment of the revised Committee in May of 2007, the Committee began to meet monthly. Below in **Table 1** is a list of the Committee members, the organization they represent, appointment date and current status of their appointment.

#### **1. Membership**

Table 1:

	<b>Representative</b>	<b>Organization</b>	<b>Appointment</b>	<b>Status</b>
1	John Klimkiewicz Chairman	Resident	7-10-07	Resigned Aug. 2008
2	Gail Paparian, Vice Chair	Resident	7-10-07	Resigned July 2008
3	Bob Rochelle	Resident	7-10-07	Resigned Aug 2009
4	Helen Barnes	Resident	7-10-07	TBD
5	Bob Betts	CRA Chair	7-10-07	Ended in Nov. / Dec. 2008 w/ Transition from CRA Chair to Mayor
6	Hal Taylor	Resident	7-10-07	TBD
7	Carl Workman	Resident	7-10-07	Resigned Aug 2009
8	Bill Landon	Morongo Tribal	7-10-07	TBD

		Representative		Now with Pass Area EDA
9	*Ron Franklin	Banning Unified School District Representative	7-10-07	* Mr. Franklin left the District in March 2008. BUSD has not nominated new representative.

## 2. Past Meetings

The Committee met as per the schedule shown below from November 2007 through June 2008:

- June 18, 2008.
- May 15, 2008
- April 17, 2008
- March 20, 2008
- February 21, 2008
- January 17, 2008
- December 20, 2007
- November 15, 2007

## B. Reactivation of the Committee

Staff seeks direction from the City Council and has identified several options available to the Council to reactivate the Committee.

- 1) Council to discuss EDC status and direct staff to advertise for new interested residents to apply for positions on the EDC to nominate new members to fill vacant seats, or
- 2) Consider changes to the EDC and direct staff accordingly.

Should the Council select option Number One, staff would solicit new members to the Committee and then return to the Council for appointment of new members to the Committee to fill the current vacancies. If this is the Council direction, it is anticipated that new nominees could be brought to the Council for their consideration in 45-60 days.

Should the Council select option Number Two, any change to the current composition or charge of the EDC desired by the Council will require amendment of Ordinance No. 1371 by the City Council. If that is the direction of the Council, staff will return at a future meeting with an amended draft Ordinance No. 1371 containing the direction of the Council.

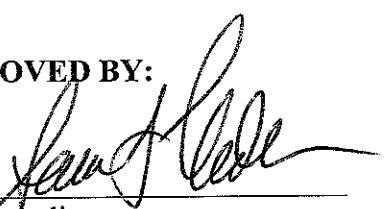
## FISCAL DATA:

There are nominal costs associated with providing staff support and oversight to the Committee, producing Agenda packets/review materials and hosting meetings, etc. These costs are estimated to be less than \$10,000 per year, inclusive of advertising, and can be funded through the Community Redevelopment Agency.

**CONCLUSION:**

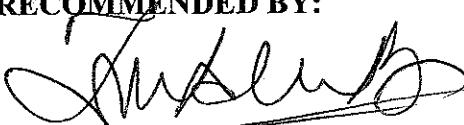
It is respectfully recommended that the City Council provide direction to Staff to address the current status of the Economic Development Committee.

**APPROVED BY:**



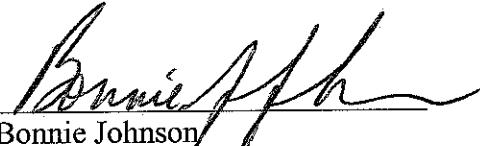
Sam Racadio  
Interim City Manager

**RECOMMENDED BY:**



Zai Abu Bakar  
Community Development Director

**REVIEWED BY:**



Bonnie Johnson  
Finance Director

**PREPARED BY:**



John Jansons  
Redevelopment Manager

Attachments:

1. Ordinance 1371 – May 29, 2007
2. EDC Notice
3. EDC Application

ORDINANCE NO. 1371

AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF BANNING, CALIFORNIA, AMENDING  
CHAPTER 2 ARTICLE VIII OF THE BANNING  
MUNICIPAL CODE REGARDING  
ESTABLISHMENT OF THE BANNING ECONOMIC  
DEVELOPMENT COMMITTEE

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

**SECTION 1.** Chapter 2, Article VIII ("Economic Development Committee") of the Banning Municipal Code is hereby amended and Sections 2-94, 2-95, 2-96 and 2-97 are hereby repealed and replaced by the provisions of this ordinance, so that the Chapter reads in its entirety as follows:

**"Sec. 2-94. Committee Established.**

An economic development committee is established in the city. The purpose of this committee is to establish a coordinating entity between the City, its staff and other commissions and committees, and the private sector for the purpose of recruiting and retention of business development and tourism. The committee is charged with the following responsibilities and duties:

- A. Participate in the implementation of the city's economic strategic/implementation plan as approved by the city council.
- B. Review and advise the city council on proposed economic development projects within the city.
- C. Advise the city council on economic development trends and/or programs that may impact the city fiscally or economically.
- D. Assist the city council and staff in economic development matters including:
  - (1) recruitment of new retail, commercial and industrial businesses to the city;
  - (2) development of programs and activities to assist in the expansion of existing retail, commercial and industrial companies;

- (3) development of programs and activities directed toward the retention of existing retail, commercial and industrial businesses;
- (4) review and research of economic development issues to provide recommendations to the city council relating to such things as tax revenue generating activities including educational outreach to the community;
- (5) support of the Banning Cultural Alliance's Downtown Revitalization Committee and the related five year strategic plan;
- (6) provision of advice and counseling with regard to business recruitment and development;
- (7) coordination of tourism between the city and private sector organizations including assistance in developing a tourism plan to be recommended to the city council for adoption;
- (8) serving, when called upon by the city council, as members of a business recruitment team as well as a "red team" for business retention.

**Sec. 2-95. Membership – voting members.**

A. The economic development committee shall be comprised of seven voting members and two non voting members for a total of nine members.

B. The Chairperson of the Redevelopment Agency shall serve on the committee as a voting member.

C. Six members of the economic development committee shall be appointed by the city council from the community at-large and shall have a demonstrated interest and experience in business and economic development issues and all members of the committee shall live within the City of Banning.

D. There shall be two non-voting members of the economic development committee including one representative from the Banning Unified School District and one representative from the Morongo Band of Mission Indians. These non-voting members shall be recommended by their respective organizations and appointed by the city council.

**Sec. 2-96 Terms of office.**

A. Upon the effective date of this ordinance, the terms of office of any member of an existing economic development committee shall terminate and the terms of office set forth in this ordinance shall apply to those appointed to serve under the provisions set forth herein.

B. Except as provided in Section 2-99 and subsection (C) of this section, terms of office of voting members of the economic development committee after establishment of the first economic development committee as provided in this ordinance, shall be four (4) years or until a successor is appointed as provided herein.

C. The initial appointment of the voting members of the economic development committee under this ordinance shall include two (2) members who shall serve for an initial term of two (2) years and three (3) members who shall serve for an initial term of four years to assure continuity on the committee by the staggering of terms of office.

D. Terms of office non-voting members shall be two years.

**Sec. 2-97. Officers.**

All voting members of the economic development committee shall elect a Chairperson and Vice Chairperson from among the at-large voting members at the initial meeting of the committee under this ordinance and at the first meeting in February of all subsequent years.

**Sec. 2-98. Quorum.**

A majority of the voting members shall constitute a quorum and a majority of a quorum or of the full committee if the full committee is present shall be required for action.

**Sec. 2-99. Absences and removal.**

A. All members of the economic development committee shall serve at the pleasure of the city council and may be removed from office by a four-fifths (4/5ths) vote of the city council at any time with or without cause.

B. Three (3) unexcused absences in any fiscal year shall constitute an automatic resignation of the absent member. Absences may be excused at the discretion of the Chair.

**Sec. 2-100. Staff support for committee.**

The Executive Director of the Redevelopment Agency shall serve as the official secretary of the economic development committee and shall provide staff support as needed to the committee.

**Sec. 2-101. Meetings and Bylaws.**

A. The economic development committee shall meet once monthly on the third Thursday at 6:00 p.m. in the City Council Chambers.

B. The economic development committee shall adopt such rules, regulations and bylaws for the conduct of its business as it deems appropriate consistent with the provisions of the Ralph M. Brown Act (Government Code Sections 54950 et seq.) and other applicable law."

**SECTION 2. SEVERABILITY.** If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 3. EFFECTIVE DATE.** This Ordinance shall take effect thirty (30) days after its enactment in accord with California law.

**SECTION 4. PUBLICATION.** The City Clerk is directed to cause this Ordinance to be published within 15 days of its passage in a newspaper of general circulation published and circulated within the City of Banning.

**PASSED, APPROVED, AND ADOPTED** this 12<sup>th</sup> day of June, 2007.



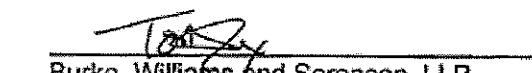
Brenda Salas, Mayor

ATTEST:



Marie Calderon, City Clerk

APPROVED AS TO FORM:



Burke, Williams and Sorensen, LLP  
City Attorney  
D.P.

CERTIFICATION:

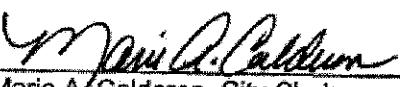
I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Ordinance No. 1371 was introduced at a regular meeting of the City Council of the City of Banning, California, held on the 29<sup>TH</sup> day of May, 2007 and was duly adopted at a regular meeting of the City Council held on the 12<sup>th</sup> day of June, 2007, by the following roll-call vote, to wit:

AYES: Councilmembers Botts, Franklin, Hanna, Machisic, Mayor Salas

NOES: None

ABSENT: None

ABSTAIN: None

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

**ATTACHMENT 2**

**DRAFT**

DATE, 2009

TO: Record Gazette  
Press Enterprise

FROM: City Clerk

SUBJECT: Announcement

It would be most appreciated if you could announce the following information in your newspaper:

The Banning City Council is now accepting applications for the Economic Development Committee. This committee has been reorganized to be more proactive in promoting economic development opportunities within the city. Six at-large members will be appointed by the City Council, three for a two-year term and three for a four-year term. All terms thereafter will be four-year terms. Ordinance No. 1371, Section 2-95 D. Membership, "declares that members shall have demonstrated interest and experience in business and economic development issues and all members of the committee shall live within the city of Banning." This is a volunteer position. The Committee meets once a month on the third Thursday at 6:00 p.m. You can pick up an application at the Information Desk or at the City Clerk's Office at the Banning City Hall, 99 E. Ramsey Street. You can also call 951-922-3102 and request an application and we can mail it to you. Deadline to submit your application is DATE, 2009.



**CITY OF BANNING  
APPLICATION FOR APPOINTMENT  
ECONOMIC DEVELOPMENT COMMITTEE**

Name \_\_\_\_\_

Date \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_ Cell Phone \_\_\_\_\_

Email \_\_\_\_\_

The Economic Development Committee is established to provide a coordinating entity between the City, its staff and other commissions and committees, and the private sector for the purpose of recruiting and retaining business development and tourism. It is being reorganized to be more proactive in promoting economic development opportunities within the City. Six at-large community members will be appointed by the City Council, three for a two-year term and three for a four-year term. All terms thereafter will be four-year terms.

Section 2-95 D. Membership - The Ordinance declares that "members shall have a demonstrated interest and experience in business and economic development issues and all members of the committee shall live within the City of Banning."

Please complete the following questions for City Council review and consideration:

What is your economic development philosophy?

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What do you believe the Economic Development Committee should be doing and why?

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What talents, skills, and experience do you have that will benefit the work of the Committee?

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What three things are you most proud of?

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What value can you bring to the committee?

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Please write a brief biographical sketch (Include information and experience that relate to Ordinance Section 2-95 D. – Membership, outlined above:

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How long have you resided in the City? \_\_\_\_\_

Date: \_\_\_\_\_

Signed: \_\_\_\_\_

Your name will be considered by the City Council upon receipt of your application.

Please return to: City Clerk's Office/ City of Banning

**RETURN BY:** **DATE, 2009**  
99 E. Ramsey Street  
P. O. Box 998  
Banning, CA 92220

*Thank you for your willingness to serve your local government.*

**City Council Agenda  
Consent Calendar**

**DATE:** **August 25, 2009**

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

**FROM:** **Hoyl E. Belt, Human Resources Director**

**SUBJECT:** **Employment Agreement for Interim City Manager**

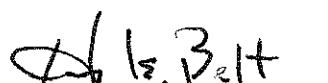
**Recommendation:** Approve the contract for Interim City Manager Sam Racadio.

**Justification:** The City of Banning has employed the employment agreement of Mr. Sam Racadio to serve as Interim City Manager until such time as the City is able to recruit a full time City Manager. It is estimated that Mr. Racadio's services will be needed for approximately six months.

**Background:** The former City Manager's resignation has created the need for a seasoned professional to take over the day to day operations of the City and provide guidance to City staff. The City Council, upon hearing of the resignation of the former City Manager, sought applicants for Interim City Manager and held interviews. After which, Mr. Racadio was selected. At the direction of the Council, the former City Manager, Mr. Nakamura, signed a one month contract with Mr. Racadio, which allowed his employment until the City Council could meet at its next regularly scheduled meeting. The attached employment agreement has been prepared by the City Attorney and Mr. Racadio has agreed to the terms.

**Fiscal Data:** The employment agreement calls for the hourly rate of \$175.00 per hour. It is estimated that the contract will be utilized for approximately 960 hours (\$168,000).

**Recommended By:**



Hoyl E. Belt  
Human Resources Director

**Reviewed By:**



Bonnie J. Johnson  
Finance Director

**Approved By:**



Sam Racadio  
Interim City Manager

# INTERIM CITY MANAGER EMPLOYMENT AGREEMENT

BETWEEN

CITY OF BANNING AND SAM RACADIO

This INTERIM CITY MANAGER EMPLOYMENT AGREEMENT (the "Agreement") is effective the 25th day of August, 2009, by and between the CITY OF BANNING, a general law city and municipal corporation (hereinafter the "City") and SAM RACADIO, an individual (hereinafter the "Interim City Manager") (collectively, the "Parties").

## RECITALS

WHEREAS, it is the desire of the City Council of the City of Banning (hereinafter the "City Council") to employ an individual to serve in the position of Interim City Manager for the City of Banning, California, to temporarily fill the position of the City's City Manager, which position is prescribed by state law and the City's Municipal Code, while the City conducts its recruitment for a permanent City Manager; and

WHEREAS, it is the desire of the City Council to (1) secure and retain the services of Interim City Manager, (2) to assure that the Interim City Manager will oversee the recruitment of a permanent City Manager (for which position he shall not be a candidate), (3) to have Interim City Manager perform all of the regular functions of the City Manager pursuant to the codes and regulations of City, (4) to provide inducement to Interim City Manager to maintain such employment, and (5) to provide a mechanism for terminating Interim City Manager's services; and

WHEREAS, Interim City Manager desires to accept employment as such from the City.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, including the Recitals which are made a part hereof, City and Interim City Manager hereby agree as follows:

## AGREEMENT

### **1.0 EMPLOYMENT & DUTIES**

1.1 Duties. City hereby employs SAM RACADIO as Interim City Manager to perform the functions and duties specified in applicable sections of the City's Municipal Code and the Government Code of the State of California, including, but not limited to Banning Municipal Code § 2.08.080 and Gov't Code § 34856 *et. seq.*, and to perform such other legally permissible and proper duties and functions as the City Council shall, from time-to-time, direct or assign.

1.2 Work Schedule. Interim City Manager shall devote the time necessary to adequately perform his duties as Interim City Manager. Interim City Manager shall be paid on an hourly basis. The Parties expect that an average of 32 hrs per week (8 hours per day for 4

days per week) will be required, as well as additional time outside of normal business hours as necessary. Interim City Manager shall attend meetings outside of normal business hours, as normally attended by the City Manager, including but not limited to, City Council and Redevelopment Agency regular and special meetings and workshops. Interim City Manager shall be compensated on an hourly basis for attendance at such meetings and for any other time required to perform Interim City Manager's duties under this Agreement, whether during or outside of normal business hours.

1.3 Responsibility to Administer Organization. The Interim City Manager is the Chief Administrative Officer of City and shall at all times exercise due diligence to assure that the persons and organization which he oversees operates in full compliance with state and federal law, with City ordinances, rules and regulations, (herein "Applicable Law") and with Council policies, and good municipal practice, and shall advise the City Council of any obstacles thereto, and keep the City Council appropriately informed concerning municipal operations.

1.4 Work Program. The City Council and Interim City Manager shall coordinate to develop a specific work program for the term of this Agreement and any extension thereof. The work program shall indicate the most important objectives to be achieved by City Council and Interim City Manager during the term of this Agreement, and may provide a timeline with the anticipated schedule for achieving such objectives. The Parties acknowledge that various goal-setting meetings have taken place, but that the purpose of the work program contemplated by this Section 1.4 is to ensure that the most important objectives of the City Council are identified and will be addressed.

1.5 City Council to Deal Only With Interim City Manager. Pursuant to Banning Municipal Code § 2.08.110, the City Council and its members shall deal with the administrative services of the City only through the Interim City Manager, except for the purpose of inquiry; and neither the City Council nor any member thereof shall give orders to any subordinate of the Interim City Manager.

## **2.0 TERM**

2.1 Term. This Agreement shall have a term of six (6) months, unless extended in writing prior to the expiration of the term by the City Council.

2.2 Employment Status. Interim City Manager is an "at-will" employee serving at the pleasure of City Council and subject to summary dismissal without any right of notice or hearing, including any so-called Skelly hearing, and without any of the "Removal" rights conferred upon permanent City Managers by Banning Municipal Code § 2.08.100 or any other rule or regulation of City, other than this Agreement. City may terminate the employment of Interim City Manager at any time, with or without cause, upon compliance with Section 2.3 of this Agreement. Interim City Manager shall not be subject to the City's Personnel System or Personnel Rules adopted by Banning Municipal Code Chapter 2.68, nor shall any of City's personnel policies, procedures, ordinances, resolutions, memorandum of understanding, or collective bargaining agreements apply to the Interim City Manager.

2.3 Termination by City or Interim City Manager. Notwithstanding Section 2.1, the City Council may terminate this Agreement at any time with or without cause, upon delivery of at least one (1) day's advance written notice to Interim City Manager prior to the effective date of termination. Interim City Manager may terminate this Agreement at any time with or without cause, provided he provides City Council with at least one (1) day's advance written notice prior to the effective date of termination. Interim City Manager expressly agrees that he shall not be entitled to any severance pay as the result of the termination of this Agreement for any reason whatsoever.

2.4 PERS Approval If Necessary. If Interim City Manager's services under this Agreement and any extension hereof exceed a total of nine hundred sixty (960) hours in one fiscal year, the Parties understand that such additional service may be subject to approval by PERS per Gov't Code § 21221(h). In such instance, the Parties shall cooperate to take any necessary action to secure such approval from PERS.

### **3.0 COMPENSATION**

3.1 Compensation. For the services rendered pursuant to this Agreement, Interim City Manager shall be compensated one hundred seventy-five and zero cents per hour (\$175.00 per hour) which shall be payable at the same time as other employees of City are paid. Interim City Manager is responsible for payment of all State and Federal taxes. Such amount shall be Interim City Manager's sole compensation for his services under this Agreement. Interim City Manager is not entitled to overtime or any other additional compensation greater than the hourly rate above for attendance at meetings outside of normal business hours, including, but not necessarily limited to, City Council regular or special meetings and workshops. The parties understand and hereby agree that Interim City Manager shall not be entitled to the benefits provided by the City to its employees, including but not limited to, paid vacation, holidays, medical insurance, dental insurance, life insurance, deferred compensation, disability insurance, PERS benefits, unemployment insurance or retirement. The Interim City Manager shall be subject to the Public Agency Retirement Services ("PARS") as are all other part-time, seasonal, and temporary employees. A federal law, the Omnibus Budget Reconciliation Act of 1990 (OBRA 90) requires that governmental employees who are not members of their employer's existing retirement system be covered by Social Security or an alternate plan. The PARS plan is in lieu of Social Security or CalPERS.

3.2 FLSA Exempt Status. Interim City Manager agrees that his position is that of an exempt employee for the purposes of the Fair Labor Standards Act. Interim City Manager's compensation is not based on hours worked and Interim City Manager shall not be entitled to any compensation for overtime.

3.3 Effectuating Salary Adjustment. City and Interim City Manager agree that the affirmative vote of three (3) members of the City Council shall be required to effectuate any adjustment in the compensation paid to Interim City Manager.

#### **4.0 TRAVEL & EXPENSES REIMBURSEMENT**

4.1 Reimbursable Expenses. Interim City Manager shall not be entitled to reimbursement for any costs or expenses incurred in the performance of Interim City Manager's duties under this Agreement, with the exception of the following:

(a) costs and expenses of business-related lunches or other business-related meals including for example, but not limited to, business-related meals with Councilmembers, members of City staff, the City Attorney, or other city managers;

(b) vehicle mileage expenses for use of the Interim City Manager's private vehicle while performing the services under this Agreement, not including commuting mileage, which shall be reimbursed by City at the rate other City employees are reimbursed for mileage expenses.

#### **5.0 BONDING**

The City shall bear the full cost of any fidelity or other bonds required of the Interim City Manager in the performance of his services under this Agreement by the City Council or as required under any law, ordinance or policy.

#### **6.0 AMENDMENT OF AGREEMENT**

City agrees not to change or amend the terms of this Agreement without three (3) affirmative votes of the City Council to do so. City and Interim City Manager agree that any amendment of this Agreement shall not be binding unless and until reduced to a writing and signed by the parties hereto.

#### **7.0 INDEMNIFICATION**

City shall defend, hold harmless and indemnify Interim City Manager against any tort, professional liability, claim or demand, or other legal action arising out of an alleged act or omission occurring in the performance of Interim City Manager's services under this Agreement. This section shall not apply to any intentional tort or crime committed by Interim City Manager, to any action outside the course and scope of the services provided by Interim City Manager under this Agreement, or any intentional or malicious conduct or gross negligence of Interim City Manager.

#### **8.0 GENERAL PROVISIONS**

8.1 Other Terms and Conditions of Employment. The City Council, in consultation with the Interim City Manager, shall fix any such other terms and conditions of employment as it may determine from time to time, relating to the performance of Interim City Manager, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the Banning Municipal Code, or any other law.

8.2 Entire Agreement. This Agreement represents the entire agreement between the parties and supersedes any and all other agreement, either oral or in writing,

between the parties with respect to the employment of Interim City Manager by City and contains all of the covenants and agreements between the parties with respect to that employment. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by either party, or anyone acting on behalf of either party, which are not embodied herein, and that no other agreement, statement or promises not contained in this Agreement shall be valid or binding upon either party.

8.3 Notices. Any notice required or permitted by this Agreement shall be in writing and shall be personally served or shall be sufficiently given when served upon the other party as sent by United States Postal Service, postage prepaid and addressed as follows:

To City:

Mayor  
City of Banning  
99 E. Ramsey Street  
Banning, California 92220

To Interim City Manager:

Sam Racadio  
29297 Jasmine Pl  
Highland, California 92346

Notices shall be deemed given as of the date of personal service or upon the date of deposit in the course of transmission with the United States Postal Service.

8.4 Assignment. Interim City Manager shall not assign any rights or obligations under this Agreement. The City may, upon prior written notice to Interim City Manager, assign its rights and obligations hereunder.

8.5 Effect of Waiver. The failure of either party to insist on strict compliance with any of the terms, covenants, or conditions of this Agreement by the other party shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

8.6 Severability. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

8.7 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California, which are in full force and effect as of the date of execution.

8.8 Independent Legal Advice. City and Interim City Manager represent and warrant to each other that each has been afforded the opportunity to receive legal advice from independent and separate legal counsel with respect to the legal effect of this Agreement and, City and Interim City Manager further represent and warrant that each has carefully reviewed this entire Agreement and that each and every term thereof is understood and that the terms of this Agreement are contractual and not a mere recital. This Agreement shall not be construed against the party or its representatives who drafted it or who drafted any portion thereof.

8.9 Conflicts Prohibited. Interim City Manager represents and warrants to the City that he presently has no interest and will not engage in any business or transaction or maintain or acquire a financial or other interest which conflicts, or reasonably might be expected to conflict, with the proper discharge of Interim City Manager's duties under this Agreement. Interim City Manager shall rigorously comply with the all provisions of the Political Reform Act (Gov't Code § 87100 et seq.) and all other conflict and ethical laws.

IN WITNESS WHEREOF, the City of Banning has caused this Agreement to be signed and executed on its behalf by its Mayor, and duly attested by its officers thereunto duly authorized, and the Interim City Manager has signed and executed this Agreement.

CITY OF BANNING

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Mayor

Dated: \_\_\_\_\_

ATTEST:

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City Clerk

APPROVED AS TO FORM

---

David J. Aleshire, City Attorney

INTERIM CITY MANAGER

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SAM RACADIO

Dated: \_\_\_\_\_

STATE OF CALIFORNIA )  
                         ) ss.  
COUNTY OF RIVERSIDE )

On \_\_\_\_\_, 2009, before me, \_\_\_\_\_ Notary Public, personally appeared SAM RACADIO, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_, NOTARY PUBLIC

CAPACITY CLAIMED BY SIGNER:

Individual  
 Corporate  
 Title of Officer:  
 Partner ( Limited or  General)  
 Other \_\_\_\_\_

ENTITY SIGNER IS REPRESENTING: **Self**

**This certificate must be attached to the document described below:**

Title or Type: INTERIM CITY MANAGER EMPLOYMENT AGREEMENT BETWEEN CITY OF BANNING AND SAM RACADIO

Number of Pages: \_\_\_\_\_ Date of Document: \_\_\_\_\_