

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

January 12, 2010
6:30 p.m.

Banning Civic Center
Council Chambers
99 E. Ramsey St.

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

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

APPOINTMENTS:

1. Appointment to Parks & Recreation Advisory Committee 1
Recommendation: That the City Council review the attached applications and appoint a member to the Parks and Recreation Advisory Committee or direct staff to solicit for additional Applications with an appointment to be made at the first meeting in February.
2. Appointment to the Economic Development Committee. 9
Recommendation: That the City Council review and appoint members to the Economic Development Committee as recommended in this report.

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

III. 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 14
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 Jt. Meeting – 12/08/09 51
2. Approval of Minutes – Special Meeting – 12/15/09 54
3. Approval of Minutes – Special Meeting – 12/21/09 55
4. Report of Investments for November 2009 56
5. Approval of Accounts Payable and Payroll Warrants for Month of October 2009 69
6. Approval of Accounts Payable and Payroll Warrants for Month of November 2009 71
7. Ordinance No. 1415 – 2nd Reading: An Ordinance of the City of Banning, Amending the Code of the City of Banning, California, 1965, Title 13.24 Now Entitled Stormwater Code. 73
8. Ordinance No. 1417 – 2nd Reading: An Ordinance Adding Chapter 1.30 to Title 1 of the Banning Municipal Code Relating to Legislative Subpoenas, and Adding Section 2.68.040 to Title 2, Chapter 2.68, to Authorize the Issuance of Subpoenas in Personnel System Hearings 189
9. Resolution No. 2010-01, Initiating Proceedings to Update Landscape Maintenance District No. 1 for Fiscal Year 2010/2011 194
10. Resolutions Authorizing the Amendment of the Fiscal Year 2008-09 Budget to Include Certain Necessary Adjustments and the Fiscal Year 2009-10 Budget to Include Encumbrance Carryovers and Continuing Appropriations of Certain Unexpended Fiscal Year 2008-09 Appropriations and Associated Revenues 201

a)	Resolution No. 2010-04, Authorizing the Amendment of Fiscal Year 2008-09 Budget to Include Certain Necessary Adjustments and the Fiscal Year 2009-10 Budget to Include Encumbrance Carryovers and Continuing Appropriations of Certain Unexpended Fiscal Year 2008-09 Appropriations and Associated Revenues.	
b)	Resolution No. 2010-01 UA, Authorizing Amendments of the Fiscal Year 2009-10 Water and Wastewater Budgets to Include Encumbrance Carryovers and Continuing Appropriations of Certain Unexpended Fiscal Year 2008-09 Appropriations and Associated Revenues.	
11.	Approve the Police Department's Request to Purchase and Install 39 New Computers at the New Police Station in the Amount of \$40,132.21 . . .	215
12.	Receive and File Report on Franchise Tow Service Ordinance	218
13.	Accept Update on Assembly Bill 920	220
14.	Review and Approve 2008-09 Annual Report of Development Impact Fees	222
<ul style="list-style-type: none"> • Open for Public Comments • Make Motion 		

Adjourn Joint Meeting of the Banning City Council and the Banning Utility Authority and Reconvene Regular City Council Meeting.

IV. ORDINANCES- INTRODUCTION

1.	Transient Occupancy Tax Implementation Ordinance	
	Staff Report	227
	<u>Recommendation:</u> That the City Council adopt Ordinance No. 1418.	

Mayor asks the City Clerk to read the title of Ordinance No. 1418:

“An Ordinance of the City Council of the City of Banning, California, Amending Section 3.16.030 and Adding Section 3.16.140 of Chapter 3.16 of the Banning Municipal Code.”

Motion: I move to waive further reading of Ordinance No. 1418
 (Requires a majority vote of Council)

Motion: I move that Ordinance No. 1418 pass its first reading.

V. PUBLIC HEARINGS

1.	Zone Text Amendment ZTA No. 09-97503 – Second Units	
	Staff Report	233
	<u>Recommendation:</u> That the City Council introduce the first reading of Ordinance No. 1414, Amending Sections 17.08.100 and Section 17.44.010 of the Banning Municipal Code Regarding Second Units.	

Mayor asks the City Clerk to read the title of Ordinance No. 1414:

"An Ordinance of the City Council of the City of Banning, California, Approving Zone Text Amendment No. 09-97503 Amending Sections 17.08.100 and Section 17.44.010, Table 1744.010 of the Municipal Code Pertaining to Second Units."

Motion: I move to waive further reading of Ordinance No. 1414

(Requires a majority vote of Council)

Motion: I move that Ordinance No. 1414 pass its first reading.

VI. REPORTS OF OFFICERS

1. Kirby Warner, Interim City Manager
 - A. Supplemental Policy Statements to Budget Activity for the Eighteen Month Period Ending June 30, 2011. **282**
Recommendation: That the City Council adopt the policy statements outlined in this report.

VII. ITEMS FOR FUTURE AGENDAS

New Items –

Pending Items –

1. Schedule Meetings with Our State and County Elected Officials
2. Set New Date for Joint Meeting with Banning School Board (*Date to be determined*)
3. Sustainability Task Force (*ETA 1/26/10*)
4. Massage Ordinance (*ETA 2/23/10*)

Future Meetings

1. Special Joint Meeting with the Morongo Band of Mission Indians – January 20, 2010 at 11:30 a.m. at the Casino Morongo Resort & Spa

VIII. CLOSED SESSION

1. The City Council will meet in Closed Session pursuant to Government Code Section 54957 with regard to the following personnel issue: Final Selection of City Manager

IX. CONSENT ITEM

1. Authorizing Mayor to Execute the Contract with the New City Manager **284**

X. ADJOURNMENT

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

CITY COUNCIL AGENDA

DATE: January 12, 2010

TO: Mayor and City Council Members

FROM: Marie A. Calderon, City Clerk

SUBJECT: Appointment to the Parks & Recreation Advisory Committee

RECOMMENDATION:

That the City Council review the attached applications and appoint a member to the Parks and Recreation Advisory Committee or direct staff to solicit for additional applicants with an appointment to be made at the first meeting in February.

JUSTIFICATION:

Wendell Bainter submitted his resignation from the Parks & Recreation Advisory Committee because he was recently elected to the Governing Board of the Banning Unified School District and because of his ongoing responsibilities as President of Habitat for Humanity of the San Gorgonio Pass.

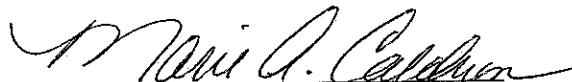
BACKGROUND:

In October 2009 the City Council made an appointment to the Parks & Recreation Advisory Committee from a list of four applicants that submitted applications for this committee. At that meeting Councilmember Machisic said that openings on various committees come rather quickly at times and would it be possible to keep this list of people who are interested for a period of approximately six months and if another opening occurs we could use the same list of names. There was Council concurrence in keeping this list on file for six months.

The City Clerk's Office has contacted the three remaining people on the list to see if they still had interest in serving on this committee and the response was that they were interest.

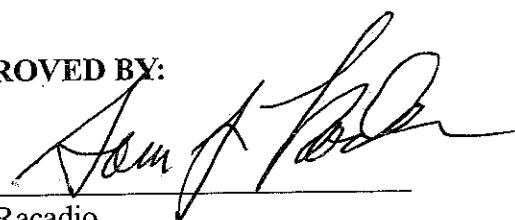
FISCAL DATA: None

RECOMMENDED BY:



Marie A. Calderon
City Clerk

APPROVED BY:



Sam Racadio
Interim City Manager

RECEIVED DEC 1 2009

November 17, 2009

To: Carol Newkirk
From: Wendell Bainter
Re: Resignation from Parks & Recreation Committee

I have recently been elected to the Governing Board of the Banning Unified School District. My ongoing responsibilities as President of Habitat for Humanity of the San Gorgonio Pass Area and this new major responsibility will greatly limit my time and energy. Therefore, it is with great sadness but with much forethought that I have decided that I must resign from the Parks & Recreation Advisory Committee.

It has been an honor and a real pleasure working with the dedicated members of the Committee and Staff for the past several months. It is my hope that the advisory committee will soon be upgraded to commission status with the implementation of the new master plan.

Sincerely,



Wendell Bainter



COMMITTEE/BOARD APPLICATION FORM

Name of Committee or Board on which you would like to serve: PARK & RECREATION ADVISORY COMMITTEE

Name: Dil Thompson

Address: 4133 W. WILSON SP51

Telephone Numbers: Home (951) 849-7515 Office _____

If employed, where you work and position SELF EMPLOYED AND RETIRED

Length of residence in Banning 57 YEARS

Are you a registered voter in Banning? Yes X No _____

Requested below is information that will be used by the City Council as a screening process to determine membership on City committees. Ample space is provided; please do not submit supplemental materials.

Provide a Biographical sketch, including education, work experience, civic involvement and other background relevant to duties of the position you seek:

I ATTENDED SCHOOLS IN BANNING SINCE THE AGE OF 9 yrs OLD. I PLAYED FOOTBALL, BASKETBALL AND BASEBALL AT BANNING HIGH SCHOOL. I GRADUATED IN 1962. I RETIRED FROM GTE IN 1992. I HAVE OWNED A LAWN BUSINESS FOR THE PAST 12 yrs. I COACHED FOOTBALL AT BANNING FOR 11 yrs AND NOW COACH AT SAN JACINTO HIGH SCHOOL. I HAVE COACHED LITTLE LEAGUE BASEBALL FOR ABOUT 12 yrs. AND I HAVE VOLUNTEERED COACHING BASKETBALL AT THE BANNING RECREATION LEAGUES FOR 20 yrs.

What types of major issues does should this committee or board deal with?

I AM NOT TO FAMILIAR WITH ALL THE PROGRAMS THAT EXIST NOW, BUT I THINK THEY ARE GOOD, BUT I ALSO FEEL THEY CAN BE IMPROVED UPON. I THINK WE NEEDED SOME BETTER PROGRAMS THAT WOULD HOLD THEM SEVEN AGES OUT.

Please identify specific problems facing the committee or board on which you would like to serve and explain how you feel they might be resolved:

I REALLY AM NOT FAMILIAR WITH THE CURRENT BOARD OR THEIR PROBLEMS. I JUST WANT TO TRY TO HELP THE KIDS IN BANNING OUT.

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

Please return to: City Clerk's Office/ City of Banning
99 E. Ramsey Street
P. O. Box 998
Banning, CA 92220

RETURN BY: October 15, 2009
by 5:00 p.m.

10-12-09A09:26 RCV'D
City Clerk's Office *mail*

Thank you for your willingness to serve your local government.

Date: 10/16/09

Signed: Phil Thompson



COMMITTEE/BOARD APPLICATION FORM

Name of Committee or Board on

which you would like to serve: PARK & RECREATION ADVISORY COMMITTEE

Name: Timothy D. Smith

Address: 5095 Meadow Way

Telephone Numbers: Home 951-769-6928 Office 760-641-0382

If employed, where you work and position Freelance writer & PR consultant

Length of residence in Banning Four years

Are you a registered voter in Banning? Yes X No _____

Requested below is information that will be used by the City Council as a screening process to determine membership on City committees. Ample space is provided; please do not submit supplemental materials.

Provide a Biographical sketch, including education, work experience, civic involvement and other background relevant to duties of the position you seek:

I have a B.A. in Communications from Cal State Fullerton. In recent years I've worked as a public information officer and as a writer for the local paper. I shot video of the 2009 Stagecoach Days Parade to be shown on local TV in October. I attend City Council and Planning Commission meetings in Banning.

What types of major issues does this committee or board deal with?

I would like to see a sports park built on the West Side of town. Sanchez Park is the only park from Highland Springs to Sunset and it's small.

Please identify specific problems facing the committee or board on which you would like to serve and explain how you feel they might be resolved:

The main problem for the committee is probably funding, like all city programs at this time. Helping the committee to exercise the most efficient use of those funds to benefit our citizens is my goal.

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

Please return to:

City Clerk's Office/ City of Banning
99 E. Ramsey Street
P. O. Box 998
Banning, CA 92220

RETURN BY: October 15, 2009
by 5:00 p.m.

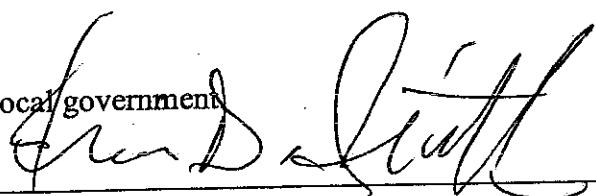
10-15-09A09:57 RCVD

Thank you for your willingness to serve your local government.

Date:

10/15/09

Signed:



Page 2 of 2

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COMMITTEE/BOARD APPLICATION FORM

Name of Committee or Board on
which you would like to serve: PARK & RECREATION ADVISORY COMMITTEE

Name: Robert K. Niles Sr.

Name: Robert N. Koenig Jr.
Address: 418 E. Mandleton Rd. 679 Torrey Pines Rd.

If employed, where you work and position Omni Eng. Die mafan

28 yrs

— 18 —

Length of residence in Banning 35 yrs

Are you a registered voter in Banning? Yes No

Requested below is information that will be used by the City Council as a screening process to determine membership on City committees. Ample space is provided; please do not submit supplemental materials.

Provide a Biographical sketch, including education, work experience, civic involvement and other background relevant to duties of the position you seek:

Kutztown Pa. Graduated High School 1953, U.S. Navy 1953
To 1959 ~~was~~ San Diego City Coll. For 1 1/2 yrs: Came to Berwick
in 1974 to work for Deutch. Ran the Mens Softball
League from 1976 to 1980 in town. My wife and I had
Sister Helpens until her passing. Past Pres. of B.H.S.
Sports Booster Club for 3 yrs.

What types of major issues does this committee or board deal with?

We need more Activities for the kids in town
we need Soccer fields. Better maint. on all Parks

Please identify specific problems facing the committee or board on which you would like to serve and explain how you feel they might be resolved:

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

Please return to: City Clerk's Office/ City of Banning
99 E. Ramsey Street
P. O. Box 998
Banning, CA 92220

RETURN BY: October 15, 2009
by 5:00 p.m.

10-15-09P02:27 RCV'D

Thank you for your willingness to serve your local government.

Date: 10-15-09

Signed: Foothills

CITY COUNCIL AGENDA

DATE: January 12, 2010

TO: Honorable Mayor and City Council

FROM: Sam Racadio, Interim City Manager

SUBJECT: Appointment of Economic Development Committee

RECOMMENDATION:

That the City Council review and appoint members to the Economic Development Committee as recommended in this report.

JUSTIFICATION:

When the City Council authorized re-activation of the Economic Development Committee, pursuant to adoption of Ordinance No. 1411, the City Council directed staff to return with the list of nominees for the City Council to formally appoint members to the Economic Development Committee.

BACKGROUND:

On July 28, 2009, the City Council adopted Ordinance No. 1411 which re-activated the City's Economic Development Committee (EDC). As part of the City Council's action, staff was directed to return to the City Council with a list of the nominations to fill the seats on the EDC for the City Council's final review and approval.

DISCUSSION:

Following adoption of Ordinance No. 1411 on July 28, 2009, and after the thirty-day waiting period, Ordinance No. 1411 became effective on September 22, 2009 (Attachment 1). One week later, staff released solicitations to recruit interested persons to serve on the new EDC as follows:

- Posted Openings on the City's Website
- Advertised Openings on Channel 10 Local Access Television
- Posted Notice at the Front Counter in City Hall
- Distributed solicitation requests at the information table at City Council meetings
- Published *News Brief* in the Press Enterprise
- Published *News Brief* in the Record Gazette (twice)
- Direct correspondence/solicitation with each of the named organizations to nominate an appointee to represent their organization.

Staff presented a slate of Candidates to the Council on November 24, 2009. Council direction at that time was to reopen the recruitment period to January 5, 2010 to solicit additional applicants. Staff utilized the same advertising methods as previously used to solicit additional applicants. Following the close of the extended recruitment on January 5, 2009 three new applications had been received. Expressions of interest from Banning

residents willing serve on the Committee (five seats) and nominations from named organizations (four Seats) remain as follows: (in alphabetical order)

Resident At-Large Members:

1. Krista Baird	Resident
2. Helen Barnes	Resident
3. Mathew Clarke	Resident
4. Susan Coder	Resident
5. Eugene Kadow	Resident
6. David Marshall Kealy	Resident
7. Lois Kinder-Preston	Resident
8. Hal Taylor	Resident

Organizations:

1. Kelly Daly	Banning Unified School District
2. Dennis Anderson	Mt San Jacinto Community College District
3. Bill Landon	Morongo Band of Mission Indians
4. Brandon Contreras	Pass Area EDA

The Application for Appointment or Organization Nomination letter for each of the named individuals above is included in this staff report as **Attachment 2**. Council may choose any five of eight the named resident applicants to fill the five vacant positions. Likewise, the Council may approve any or all of the representatives of the named organization as listed. If the Council so chooses, it may provide additional direction to staff regarding these appointments. If the nominees, as selected by the Council City are approved on January 12, 2010, staff will proceed to convene the first meeting of the new EDC on February 18, 2010 at 6:00 pm at City Hall.

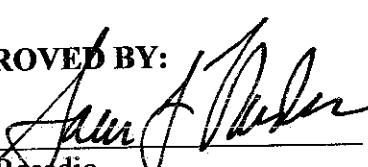
FISCAL DATA:

There are nominal costs associated with providing staff support and oversight to the EDC, 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:

That the City Council review and appoint members to the Economic Development Committee as outlined in this report.

APPROVED BY:


Sam Racadio
Interim City Manager

RECOMMENDED BY:


Zai Abu Bakar
Community Development Director

PREPARED BY:


John Jansons, Redevelopment Manager

Attachments: 1. Ordinance No. 1411, September 22, 2009
2. Nominee Applications and Correspondence

*APPOINTMENT OF
ECONOMIC
DEVELOPMENT
COMMITTEE*

*ORDINANCE
NO. 1411*

ATTACHMENT “1”

//

ORDINANCE NO. 1411

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF BANNING, CALIFORNIA, AMENDING
CHAPTER 2.36 OF THE BANNING MUNICIPAL
CODE REGARDING ESTABLISHMENT OF THE
BANNING ECONOMIC DEVELOPMENT
COMMITTEE

WHEREAS, The Economic Development Committee was originally established in 1965 to advise the City Council and Board of the Redevelopment Agency concerning economic development activities in the City.

WHEREAS, over the last two years the Committee has been inactive and a number of the committee offices are currently vacant.

WHEREAS, the City Council intends to reconstitute the Committee and expand its representation to better advise the Council with respect to economic development.

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

SECTION 1. Title 2, Chapter 2.36 ("Economic Development Committee") of the Banning Municipal Code is hereby amended by amending Chapter 2.36 to read, in its entirety, as follows:

"Sec. 2.36.10. 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; and
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. 2.36.020. Membership – voting members.

A. The economic development committee shall be comprised of nine voting members, five appointed by the City Council and four representing designated organizations.

B. Five (5) 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 shall live within the City of Banning.

C. There shall be four (4) members of the economic development committee known as the "organization members" including (i) one representative from the Banning Unified School District, (ii) one representative from the Mount San Jacinto College District, (iii) one representative from the Morongo Band of Mission Indians, and (iv) one representative from the Pass Area Economic Development Association. These members shall be recommended by their respective organizations and appointed by the city council.

Sec. 2.36.030 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 2.36.060 and subsection (C) of this section, terms of office of voting members of the economic development committee after reestablishment of the 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 members of the economic development committee other than the four organization members under this ordinance shall include three (3) members who shall serve for an initial term of four (4) years and two (2) members who shall serve for an initial term of two years to assure continuity on the committee by the staggering of terms of office. The Council shall designate who serves for which terms.

D. Terms of office of the organization members shall be two years.

Sec. 2.36.040. Officers.

The members of the economic development committee shall elect a Chairperson and Vice Chairperson at the initial meeting of the committee under this ordinance and at the first meeting in February of all subsequent years. Both the Chairperson and Vice Chairperson must be residents of or own a business in Banning.

Sec. 2.36.050. Quorum.

A majority of the 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. 2.36.060. 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. 2.36.070. 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. 2.36.080. 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."

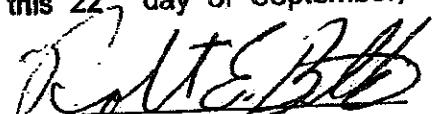
SECTION 3. Ordinance 1371 previously adopted by the City Council on June 12, 2007 concerning the Economic Development Committee is hereby repealed in its entirety, and is superseded by this Ordinance.

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. EFFECTIVE DATE. 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.

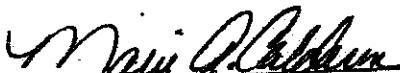
PASSED, APPROVED, AND ADOPTED this 22nd day of September, 2009.



Robert E. Botts

Robert E. Botts, Mayor

ATTEST:



Marie Calderon

Marie Calderon, City Clerk

APPROVED AS TO FORM:



David J. Aleshire

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

*APPOINTMENT OF
ECONOMIC
DEVELOPMENT
COMMITTEE*

*NOMINEE
APPLICATIONS AND
CORRESPONDENCE*

ATTACHMENT “2”

DUE BY: Tuesday January 5, 2010 at 5:00 P.M.



City of Banning
RECEIVED

JAN 05 2009

Community Redevelopment
Agency (CRA)

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

Name Krista Baird

Date 1-5-09

Address 1036 Charles St, Banning CA

Telephone 951-367-9614 Cell Phone 951-367-9614

E-mail Baird_Krista@yahoo.com

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 2-36 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. Attach additional pages if necessary.

18

1) What is your economic development philosophy?

My philosophy is based on smart growth that reflects the wants and needs of all members/residents of Banning including maintaining a green clean community

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

I believe they should first determine the wants of the citizens and share with our elected officials and give insight and seek out opportunities to implement plan developed from community

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

I have been an owner of a small business so I understand the challenges of business including bringing business in. I have been a data base programmer and have great organizational skills.

4) What three things are you most proud of?

I designed the database system that UCLA Medical Center used for collections and billing account management. I volunteer at HELP assisting in feeding the hungry. I ran a successful auto body repair shop.

5) What value can you bring to the committee?

I bring the desire to see Banning grow into the wonderful "hometown" community that it has potential for. I have the skills to help organize a game plan and see it to completion

DUE BY: Tuesday January 5, 2010 at 5:00 P.M.

6) Please write a brief biographical sketch (Include information and experience that relate to Ordinance Section 2-36.020-B. – Membership, outlined above:

I am a concerned citizen that has
as a home owner a vested interest in
the success of Banning as a city. I
have volunteered in projects to raise money
to improve Banning as well as charitable
organizations in Banning.

7) How long have you resided in the City? about 4 1/2 yrs

Date: 1-5-09

Signed: Kuster K Banning

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

Please return to:

City Clerk's Office or
City of Banning Community Redevelopment Agency
99 E. Ramsey Street
Banning, CA 92220

RETURN BY: Tuesday January 5, 2009 5:00 P.M.

Thank you for your willingness to serve your community.

20



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

Name SILEN, BARNES

Date 7/24/09

Address 2102 W LINCOLN

Email animalshelter2@hotmail.com

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?

Economic development should be providing positive growth of businesses which provide tax dollars for the General Fund, & businesses that will provide needs for our citizens.

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

Assisting council with ideas for future growth & business opportunities for our City.

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

19.5 yrs working for City of Banning 4 years economic development committee member. Member of General Plan advisory committee.

What three things are you most proud of?

What value can you bring to the committee?

My years working for the city, working in the field providing me with knowledge of entire geographic of City. All streets, alleys, right of ways. Previous experience as committee member, I gained knowledge & experience of what is expected of this committee.

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

I don't currently have a copy of 2-95D. Although I may have read it in the past. I'm pretty sure I've seen it at one time or another. I do have copies of Ord. # 1224, 1263, 1272, 1334, & 1371

How long have you resided in the City? 33 yrs

Date: 7/24/09

Signed: Hale Barnes

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.

11-2009

23

DUE BY: Tuesday January 5, 2010 at 5:00 P.M.



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Community Redevelopment
Agency (CRA)

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

Name Matthew W. Clarke

Date Jan 5, 2009

Address 1036 Charles Street, Banning

Telephone 951 367 9634 Cell Phone 951 367 9634

E-mail Mattwclarke78@yahoo.com

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 2-36 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. Attach additional pages if necessary.

24

DUE BY: Tuesday January 5, 2010 at 5:00 P.M.

1) What is your economic development philosophy?

My philosophy is based upon smart growth that benefits all citizens of our city

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

I believe that this committee should be providing insight and well grounded recommendations to our elected officials that will result in an economic benefit for the city and its citizens

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

I have been a managing director of a "top 100" Engineering firm, which included being responsible for all aspects of business : Marketing, business development, administration, QA/QC of product etc

4) What three things are you most proud of?

Expanding my previous employers market share by over 30% ; crafting new guidelines and safety policies for Construction in the IE, starting new business operations and creating new jobs

5) What value can you bring to the committee?

I bring experience and knowledge from the private sector that will allow this committee to operate at a higher professional level of competition against cities such as Palm Springs, Redlands, Ontario, and Beaumont

DUE BY: Tuesday January 5, 2010 at 5:00 P.M.

6) Please write a brief biographical sketch (Include information and experience that relate to Ordinance Section 2-36.020-B. – Membership, outlined above:

I am a retired US Marine, that has been successful in the geotechnical consultation industry. I and my wife have a large financial stake as a homeowner in the City since 2005. My management, marketing, and scientific skills have brought advancements in my industry that have resulted in much success.

7) How long have you resided in the City? *Approximately 4.5 years*

Date: Jan 5, 2009

Signed: Matthew Clark

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

Please return to:

City Clerk's Office or
City of Banning Community Redevelopment Agency
99 E. Ramsey Street
Banning, CA 92220

RETURN BY: Tuesday January 5, 2009 5:00 P.M.

Thank you for your willingness to serve your community.

DUE BY: Monday October 26, 2009 at 5:00 P.M.

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OCT 26 2009

9:10AM

Community Redevelopment
Agency (CRA)



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

Name SUSAN C. Coder

Date 10-25-09

work #
951-849-4347

Address 724 W. Williams St.

Telephone 951-849-0863 Cell Phone 951-533-2993

E-mail None

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 2-36 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. Attach additional pages if necessary.

27

1) What is your economic development philosophy?

I would like to see some other types of projects to be done in Banning. Banning has been good to me and I would like to give something back to the city. Maybe a fresh set of eyes would help?

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

We need a nice restaurant down around the new police Dept and new courthouse. Also it would pull people off the freeway.

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

I work with people, at Western Union and in a pawn shop. And if I can find something in books or just looking I am good.

4) What three things are you most proud of?

My 3 children, I have work at 3 or 4 different jobs in Banning, I also graduated from Pharmacy Tech school when I was 42 yrs old with a B.T. I have also worked with dying people in their homes.

5) What value can you bring to the committee?

Being an older person and having some wisdom & common sense. May be a different or fresh look.

DUE BY: Monday October 26, 2009 at 5:00 P.M.

6) Please write a brief biographical sketch (Include information and experience that relate to Ordinance Section 2-36.020-B. – Membership, outlined above:

I am 65 yrs old, work at some job in downtown Banning. Live in Banning 25 yrs. Would maybe bring a different look on things to the panel

7) How long have you resided in the City? 25 years

Date: 10/25/09

Signed: Susan C. Cocker

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

Please return to:

City Clerk's Office or
City of Banning Community Redevelopment Agency
99 E. Ramsey Street
Banning, CA 92220

RETURN BY: Monday October 26th, 2009 5:00 P.M.

Thank you for your willingness to serve your community.

DUE BY: Tuesday January 5, 2010 at 5:00 P.M.



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Agency (CRA)

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

Name Engone V-K Adow

Date JANUARY 4, 2010

Address 2857 Summer Set circle

Telephone 845-3787 Cell Phone 209-6647

E-mail EKadow@msn.com FAX: 844-3787

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 2-36 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. Attach additional pages if necessary.

30

1) What is your economic development philosophy?

To create an atmosphere within the City that will encourage businesses to continue to do business in Banning and also to encourage other businesses, retail, services, manufacturing, etc., to locate in Banning.

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

The Economic Development Committee should be working with other City committees and commissions, including, but not limited to, City Council, Planning, Chamber of Commerce, etc. It should coordinate economic development activities within the city and with business and other entities and government units outside of the city.

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

I have management experience and have degrees in Economics. I have taught at two and four year colleges and universities. I have been an economic consultant to public and private entities. I have served on the Economic Development Committee in the past.

4) What three things are you most proud of?

There aren't three things, but many things over the years that I have been proud to have been part of - Family, military service, programs developed, success of former students and employees.

5) What value can you bring to the committee?

I'm logical, I'm a critical thinker, I'm ethical and I do my homework, i.e., I come to meetings fully prepared.

DUE BY: Tuesday January 5, 2010 at 5:00 P.M.

6) Please write a brief biographical sketch (Include information and experience that relate to Ordinance Section 2-36.020-B. – Membership, outlined above:

B.A., M.A. in Economics - Ph.D. program in Economics and in International Relations at Claremont Graduate School. I have taught upper division and graduate classes in economics, and public administration, business administration, cost/benefit analysis, urban economics and decision theory.
7) How long have you resided in the City? since 1991 - 18 1/2 years

Date: January 4, 2010

Signed: Eugene V. Kador

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

Please return to:

City Clerk's Office or
City of Banning Community Redevelopment Agency
99 E. Ramsey Street
Banning, CA 92220

RETURN BY: Tuesday January 5, 2009 5:00 P.M.

Thank you for your willingness to serve your community.

DUE BY: Monday October 26, 2009 at 5:00 P.M.



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4:50 PM

Community Redevelopment
Agency (CRA)

[Handwritten signature]

COPY to Marie

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

Name DAVID MARSHALL KEALY

Date OCT 26, 2009

Address 1314 LAGUNA SECA CT.

Telephone 951-797-3031 Cell Phone _____

E-mail david@kealy.name

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 2-36 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. Attach additional pages if necessary.

1) What is your economic development philosophy?

PLEASE SEE THE ATTACHED ANSWERS.

Question 1

My economic philosophy is rather simple. Economy is from the Greek words *oikos*, that means "neighborhood" and *nomos*, that means "law" or "order". So economic activity is not just the accumulation of wealth or an increase in productivity or economic growth that stands alone. It is the process about how every member of society lives in the context of cultural and spiritual development. A sound economy is built upon the traits of sound honesty, integrity, morals, and ethics. Our moral fibre comes first and the decisions that follow determine the nature of financial success.

As a fiscal conservative, I embrace a supply side economic approach to maintaining a balance in the supply/demand cycle.

Question 2

The Economic Development Committee should be supportive of the Redevelopment Manager. It should encourage residents and businesses in a number of ways that are not currently being done. If we provide ways for them to be more successful it will help us all by strengthening the economic base of the city.

Question 3

Committees have a responsibility to fulfill their charter. It is sad to see the latest agenda for this committee on the City website dated September 27, 2007. I have served on countless committees over the years and currently serve on the Board of Directors and Secretary of the Sun Lakes Men's Golf Club and have served as an Elder and Deacon at churches where we have attended. I have taught International Business at a graduate school in Ukraine, started a course of radio program development and broadcasting, and have hosted a number of International Conferences. I am committed to see Banning continue its reinvention as a major economic player in the region.

Question 4

First, I am proud of my family. My wife Sharon is an excellent administrative assistant to the Vice President of a global Charity. Our two sons are happily married and are employed running their own businesses. I am committed to being the husband, father and grandfather that will be supportive of this family.

Second, it has been my joy to be a part of many partnerships that have been created all over the world. My relationship with these business leaders as a mentor is rewarding. Third, as the Chairman of an international Scholarship FUND, it is my pleasure to assist young men and women in their education. We help them with tools to be all they can be as they follow their dreams.

Question 5

The city of Banning needs to excel in retaining and creating new jobs that will strengthen our position in the Pass area. This takes a coordinated effort between departments within the city to be successful. I can help that process.

Question 6

Following my college years studying architecture I worked in the health care delivery sector establishing and administering medical diagnostic clinics. Leasing medical equipment and providing training for employees in the health care field were the other divisions of the company.

I hold a Master of International Business Administration degree from Nova University. For the past twenty years I have visited more than 80 countries and have helped establish dozens of self-supporting commercial companies in the broadcasting/communications arena.

During 2009 I have established two internet related companies.

DUE BY: Monday October 26, 2009 at 5:00 P.M.

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

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

4) What three things are you most proud of?

5) What value can you bring to the committee?

6) Please write a brief biographical sketch (Include information and experience that relate to Ordinance Section 2-36.020-B. – Membership, outlined above:

DUE BY: Monday October 26, 2009 at 5:00 P.M.

7) How long have you resided in the City? 2 YEARS

BORN IN SAN BERNARDINO AND LIVED LOCALLY UNTIL
COLLEGE DAYS.

Date: OCTOBER 26, 2009

Signed: Dawn Kealey

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

Please return to:

City Clerk's Office or
City of Banning Community Redevelopment Agency
99 E. Ramsey Street
Banning, CA 92220

RETURN BY: Monday October 26th, 2009 5:00 P.M.

Thank you for your willingness to serve your community.

47-
OCT 26 2009

Community Redevelopment

Agency (CRA)

✓ Copy to Marie 10/26/09



DUE BY: Monday October 26, 2009 at 5:00 P.M.

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

Name LOIS - KINDER - PRESTON

Date 10-23-09

Address 5211 MISSION HILLS

Telephone 951-845-7772 Cell Phone 951-990-0121

E-mail LOKIND@DC.RR.COM

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.

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Please complete the following questions for City Council review and consideration. Attach additional pages if necessary.

38

RP-1

DUE BY: Monday October 26, 2009 at 5:00 P.M.

1) What is your economic development philosophy?

My economic development philosophy for any area in order to provide jobs is to offer a company locating or relocating a workforce that can meet their needs. It must have a good infrastructure, housing, schools, transportation, etc.

2) What do you believe the Economic Development Committee should be doing (Cont.)

and why?

It would be beneficial to interface with other economic entities, whether they are public, private or quasi. It is the statistician's duty to meet with employers to see what they

level, meet with employees to see what they

(Cont.)

3) What talents, skills, and experience do you have that will benefit the work of

the Committee?

From 1978-1984 I was Administrative Assistant to the president of the Orange County Economic Development Corp. in Orange, Ca. I became a researcher, gathered information, aggregated it, and put it in a distribution form, also gave tours to

4) What three things are you most proud of?

(Cont.) Raising a family, getting a college education which enabled me to have a security clearance in aerospace, and healthy personal values.

5) What value can you bring to the committee?

One of my contributions would be to communicate orally and in writing in English with all levels of management. If there are issues on the table

I would conveniently attempt to solve an obtain solutions for the betterment of our

Lois Kinder Preston

DUE BY: Monday October 26, 2009 at 5:00 P.M.

6) Please write a brief biographical sketch (Include information and experience that relate to Ordinance Section 2-36.020-B. – Membership, outlined above:

as a researcher for Orange County Economic Development Corp., I worked with firms (college) and Regional Occupational Programs (ROP) (and employees) to see that they were training what private industry needed, i.e., electronic technicians. I have lived in Banning since February, 2000.

Date: Lois 23 October 2009

Signed: Lois Kinder - Preston

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

Please return to:

City Clerk's Office or
City of Banning Community Redevelopment Agency
99 E. Ramsey Street
Banning, CA 92220

RETURN BY: Monday October 26th, 2009 5:00 P.M.

Thank you for your willingness to serve your community.

*40
pp 3*

1. continued

We have an airport which must not be ignored. We have railroad spurs as well. We are modernizing our schools. A junior college locally is offering our young people classes.

2. continued

need. Attend economic development seminars. I attended a week seminar at Texas A&M. Know what manufacturing/industrial space is going for a square foot.

3. continued

executives of industrial areas, and I spoke before ^{philanthropic} groups exploring tax incentives if they ^{hired from vocational schools.}

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DUE BY: Monday October 26, 2009 at 5:00 P.M.

OCT 26 2009

Community Redevelopment
Agency (CRA)

copy to Marie 10/26/09



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

10-26-09P02:06 RCV'D

Name Hal Taylor

Date 10/26/09

Address 5197 MISSION Aves Dir - Banning, CA

Telephone 951-769-8246 Cell Phone 951-236-7399

E-mail hdtaylor@dcrr.com

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 2-36 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. Attach additional pages if necessary.

42

DUE BY: Monday October 26, 2009 at 5:00 P.M.

1) What is your economic development philosophy?

Help THE CITY GROW & encourage people to visit Banning
HELP THE CITY Develop A POSITIVE IMAGE.
HAVE Cooperation & assistance with CITY RESOURCES &
city Staff. Continue some of the existing efforts -
downtown Re-development - Airport Expansion - City
Beautification - how's to Accomplish with Little funds!

2) What do you believe the Economic Development Committee should be doing

and why?

HAVE BEEN A MEMBER OF EDC UNTIL OUR
~~discontinuance~~ discontinuance of meetings - continue
Working on items listed on Sec. 2.36.10

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

Past Business owner - developed all areas of
management - Started Trade class from
Scratch at Banning Adult School - licensed
Collector - worked with Businesses & Cities & Co on
Projects.

4) What three things are you most proud of?

ABILITY TO work with & communicate with people.
Being a part of The Pass area and trying
to add to our community.

Working with various organizations through my life
time.

5) What value can you bring to the committee?

Almost 40 years to bring city forward

Have good people skills -

Have good reputation in Community.

Can take project through to completion

Work well with others.

43

DUE BY: Monday October 26, 2009 at 5:00 P.M.

6) Please write a brief biographical sketch (Include information and experience that relate to Ordinance Section 2-36.020-B. - Membership, outlined above:

*Have had many years of Marketing Skill -
Management skilled - Business development skills
Had membership for years in Lion Club - Lions Masters -
Board of Directors of several non profit organization -
Various courses in College -*

7) How long have you resided in the City? 6 years

Date: 10/26/09

Signed: Jeff Payne

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

Please return to:

City Clerk's Office or
City of Banning Community Redevelopment Agency
99 E. Ramsey Street
Banning, CA 92220

RETURN BY: Monday October 26th, 2009 5:00 P.M.

Thank you for your willingness to serve your community.

44

DUE BY: Monday October 26, 2009 at 5:00 P.M.

OCT 26 2009

Community Redevelopment
Agency (CRA)

DENNIS ANDERSON
VICE PRESIDENT / INSTRUCTION
MSJC
(ORGANIZATION MEMBER)

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

Name DENNIS ANDERSON (MT. SAN JACINTO COLLEGE)
 Date 10/25/09 1499 N. STATE ST.
 Address 42470 REINHERD P., HEMET, CA. 92544 SAN JACINTO, CA. 92583
 Telephone 487-3420 Cell Phone 232-5247
 E-mail danderson(a)msjc.edu

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.

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Please complete the following questions for City Council review and consideration. Attach additional pages if necessary.

45

DUE BY: Monday October 26, 2009 at 5:00 P.M.

1) What is your economic development philosophy?

THAT ALL PUBLIC + PRIVATE ORGANIZATIONS
PARTNER TO DEVELOP WORKFORCE DEVELOPMENT
OPPORTUNITIES FOR ALL CITIZENS, REGARDLESS
OF AGE. THIS IN TURN WILL DRIVE ECONOMIC
DEVELOPMENT.

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

INNOVATING THROUGH PLANNING SHORT
RANGE - LONG RANGE GOALS + STRATEGIES
SPECIFICALLY CENTERED ON BANNING
SO THAT THE EDC BECOMES THE
"EXPERTS"

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

AS VP OF INSTRUCTION AT MSJC, I OVERSEE
+ ADMINISTER TWO CAREER DEPARTMENTS AND ALL
OF THE CAREER + VOCATIONAL PROGRAMS AT
THE COLLEGE TOTALING OVER \$ 20,000,000.

4) What three things are you most proud of?

① MY POSITION AT MSJC.
② REPUTATION FOR COLLABORATION + REPUTATION
BUILDING.
③ MY GRANDCHILDREN.

5) What value can you bring to the committee?

I HAVE LIVED IN THIS END OF RIVERSIDE
COUNTY SINCE 1956 - I HAVE GREAT
KNOWLEDGE OF THE COUNTY AND THE
EDUCATIONAL AGENCIES INVOLVED IN
ECONOMIC DEVELOPMENT.

DUE BY: Monday October 26, 2009 at 5:00 P.M.

6) Please write a brief biographical sketch (include information and experience that relate to Ordinance Section 2-36.020-B. – Membership, outlined above:

ORGANIZATIONAL MEMBERSHIP - MT. SAN JACINTO COLLEGE

7) How long have you resided in the City? N/A

Date: 10/25/09

Signed: Dennis E. Anderson

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

Please return to:

City Clerk's Office or
City of Banning Community Redevelopment Agency
99 E. Ramsey Street
Banning, CA 92220

RETURN BY: Monday October 26th, 2009 5:00 P.M.

Thank you for your willingness to serve your community.

47

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Community Redevelopment
Agency (CRA)

MORONGO
BAND OF
MISSION
INDIANS



November 3, 2009

Mr. John Janson
City of Banning
99 East Ramsey
Banning, California 92220

Dear Mr. Janson:

On behalf of the Morongo Band of Mission Indians (Morongo), I am pleased to be able to write this letter of recommendation for Bill Landon, Local Government & Community Relations Liaison for the Morongo Band of Mission Indians. I request at this time that Mr. Landon continue to represent the tribe on the Pass EDA committee.

In conclusion I highly recommend without reservation Mr. Bill Landon to represent Morongo. Please contact me at 951.755.5110 should you have any questions.

Sincerely,

Robert Martin
Tribal Chairman

cc: Bill Landon



YUCAIPA

PHENIX

PHOENIX

San Geronimo PTA

PIERCE VILLAGE

PINEWOOD

PIQUETT TOWNSHIP
PINEWOOD TOWNSHIP

PINEY HILLS

PIQUETT

PINEY HILLS

**City of Banning
RECEIVED**

OCT 26 2009

**Community Redevelopment
Agency (CRA)**

October 26, 2009

City of Banning
Attn: John Jansons

Dear, John

Per my earlier communication, PassEDA appoints Banning business owner/resident Brandon Contreras to represent PassEDA on the Banning EDC. If there is any additional information you need, please let me know.

Thank you,


Bill Landon
Executive Director

 cc: Amber Starbuck, Chairwoman

PASS Economic
Development Association
TELEPHONE: 872600.4458
www.passeada.org

POST OFFICE BOX 881
BEAUMONT, CALIFORNIA 92223

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From: Lynne B. Kennedy [mailto:lkennedy@banning.k12.ca.us]
Sent: Wednesday, November 18, 2009 1:31 PM
To: John Jansons
Cc: Gordon Fisher
Subject: Economic Development Committee

Hi John,

When I received your message yesterday regarding an appointment to the Economic Development Committee, I gave this position to Kelly Daly, a member of the Curriculum and Instruction division. Although I would love to have Ron Duncan, I had already made the commitment to Kelly. Can Ron be the alternate? You can contact Kelly at kdaly@banning.k12.ca.us to let her know when the meetings will be held. It was a pleasure meeting you.

Lynne

Lynne B. Kennedy, Ph.D.
Superintendent
Banning Unified School District
161 W. Williams
Banning, CA. 92220
(951) 922-2706

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MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

12/08/09
JOINT MEETING

A special joint meeting of the Banning City Council and Planning Commission was called to order by Mayor Botts on December 8, 2009 at 4:30 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

**PLANNING COMMISSION
MEMBERS PRESENT:** Commissioner Atterbery
Commissioner Barsh
Chairman Hawkins

**PLANNING COMMISSIONERS
ABSENT:** Commissioner Escandel
Commissioner Escandel

OTHERS PRESENT: Sam Racadio, Interim City Manager
David Aleshire, City Attorney
Kirby Warner, Interim Finance Director
Duane Burk, Public Works Director
Zaiton Abu-Bakar, Community Development Dir.
Fred Mason, Electric Utility Director
Dr. John McQuown, City Treasurer
John Jansons, Redevelopment Manager
Steve Dukett, Consultant
Daniele Sevard, Executive Secretary
Marie A. Calderon, City Clerk

PRESENTATIONS

1. Presentation by the State of California on the Mid-County Justice Center

Rebecca Binder addressed the Council and Planning Commission stating that this project has been a real partnership and Duane Burk has been phenomenally helpful and accessible and has made their job easier. She introduced some members of the Court Leadership Steering Committee which included Jude Prevost and Jennifer Farmon who is with the CM at Risk that

the Administrative Offices of the Court has brought on to the team and have been on for at least a month.

Ms. Binder said that through the two years this past November they started a site acquisition phase that lasted for a full year and a half and in the process they looked at 28 different sites in the Beaumont and Banning area and from her point of view this was clearly the very best site and apparently the City of Banning welcomed the court and so here they are. They completed the schematic design phase which is the first phase of a four phase design process and they hope to be completed with that effort within a year but the schedule is still a little bit fluid. She stated that the courthouse will front on Ramsey Street and there will be vehicular access from Martin and Williams. She started the power-point presentation going over the site plan/project site and stated that there will be a basement, ground level floor and one floor above grade. This building will have an arraignment court, traffic court and four small trial courtrooms. The building will take on a "Jeffersonian style" but in a contemporary way. There will be a two-story atrium that could be used for art displays, potential community use, as well as judges and courts evening activities. She said that there will be 270 surface parking spaces and the landscaping will be drought resistant. She went over the various floors and offices and what would be included in those areas.

There were various questions from the Council such as daily parking for employees, visitors, jurors on call days, security measures, and what would happen with existing building and available parking on weekends.

Mayor Botts opened the item for public comments.

Ernie Saldana, 49305 Dale Court, Cabazon addressed the Council and Planning Commission stating that it was mentioned that there was 28 sites considered here in Banning and Beaumont and what he wanted to know was that the jail that is being built close to here ever considered a site considering the fact that inmates would have to be transported to this location amongst the residents here in Banning and did the State, the County and this Board considered that those two projects could have been combined in order to save the taxpayers a whole lot of money because neither one of them have been built yet. It would save the County a whole lot of money and the State and everyone across the board. Also, why is it being called "mid-county" courthouse when in fact if this was mid-county, Los Angeles would be our western border. If we were considering this a mid-county project this should be built somewhere closer to Indio or Coachella.

Ms. Binder said that is a serious question and unfortunately this is completely outside of what she would be able to address or know about. It would be for a different forum. In terms of the name, she thinks the name was selected prior to the site being selected. In other words, the need for another courthouse existed in Riverside County which is a very large geographic area and this happens to be where the former County Courthouse was located across the street and as she understands it there is going to be another facility being designed in Indio.

Don Smith addressed the Council and Planning Commission stating that he loves the idea of a downtown courthouse that will be more usable for the city and won't be having to travel as

often to Riverside for certain issues. He understands that the five upstairs courtrooms that jury boxes and he is wondering whether that is because so they will have flexibility when they are having hearings or whether they have given any thoughts as whether they are going to be able to do probate here and not have to go to Riverside and do family law here and not have to go to Hemet. Because obviously those two courtrooms wouldn't need jury boxes so he is just wondering if that is an indication that we are not going to be able to do family law or is that just a indication to try be flexible as to what the courtrooms can do.

Ms. Binder said that they are not going to do family law. Mr. Smith said that if they could have family law here that would certainly be beneficial to the residents of the Pass Area and would encourage them to re-think that position.

There was some more discussion as to how back this building is from the street and how close it is to Williams Street and also pedestrian access.

Mayor Botts thanked Ms. Binder and the Steering Committee for the presentation and stated that the City is excited about this project and looks forward to working with them to move this project along.

Mayor Botts asked if the Planning Commission members had any questions or comments. There were none.

ADJOURNMENT

Motion Hanna/Machisic that the meeting be adjourned. Motion carried, all in favor.
Meeting adjourned at 5:07 p.m.

Marie A. Calderon, City Clerk

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

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

12/15/09
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Botts on December 15, 2009 at 8:07 a.m. at the Banning Civic Center Large Conference Room, 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: Sam Racadio, Interim City Manager
Hoyl Belt, Human Resources Manager
Marie A. Calderon, City Clerk

CLOSED SESSION

The City Council met in closed session pursuant to Government Code Section 54957 to conduct City Manager interviews.

Meeting returned to regular session at 4:53 p.m. with no reportable action.

ADJOURNMENT

By common consent the meeting adjourned at 4:53 p.m.

Marie A. Calderon, City Clerk

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MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

12/21/09
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Botts on December 15, 2009 at 3:05 p.m. at the Banning Civic Center Large Conference Room, 99 E. Ramsey Street, Banning, California.

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

COUNCIL MEMBERS ABSENT: Councilmember Hanna

OTHERS PRESENT: Sam Racadio, Interim City Manager
Marie A. Calderon, City Clerk

CLOSED SESSION

The City Council met in closed session pursuant to Government Code Section 54957 with regard to City Manager interviews.

Meeting returned to regular session at 3:50 p.m. with no reportable action.

ADJOURNMENT

By common consent the meeting adjourned at 3:50 p.m.

Marie A. Calderon, City Clerk

CITY COUNCIL AGENDA

Date: January 12, 2010

TO: City Council

FROM: Kirby Warner, Interim Finance Director

SUBJECT: Report of Investments for November 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 November 2009. As of November 30, 2009, the City's operating funds totaled \$64,942,485. Included in operating funds is \$3,642,444 of restricted CRA bond proceeds that are on deposit with LAIF and reflected separately on the Treasurer's Report. As of November 30, 2009 approximately 46% of the City's unrestricted cash balances were invested in investments other than LAIF.

Presented are three months of Investment Reports. November is a first issue, while September and October are included to provide multiple months of statements for comparison.

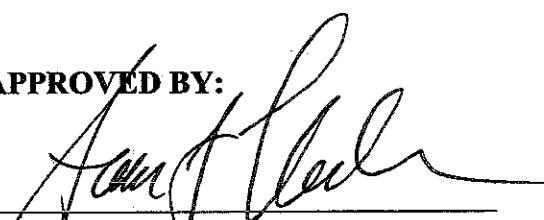
FISCAL DATA: The latest reports from the State indicate that the average interest achieved by the Local Agency Investment Fund (LAIF) decreased to 0.611 % in November. The average rate for all investments in November was 1.121%.

RECOMMENDED BY:



Kirby Warner
Interim Finance Director

APPROVED BY:



Sam Racadio
Interim City Manager

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

	Interest	Amount
	Rate	Amount
Wells Fargo Bank	0.000%	-
Wells Fargo Bank-Investment Account	0.100%	2,997,473
Bank of America-Airport	0.300%	5,444
Bank of America-Parking Citations	0.300%	3,627
Bank of America-CNG Station	0.300%	4,326

Money Market and Bank Account Sub-Total **3,010,870**

Government Pools

Local Agency Investment Fund: Account #1 **0.611% 31,196,602**

Account #2 Operating Amount **1,260,019**

Account #2 CRA Bond Cash Bal **3,642,444**

Local Agency Investment Fund: Account #2 **0.611% 4,902,463**

Government Pool Sub-Total **36,099,065**

Operating Cash Balance **39,112,240**

Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund **0.050% 747,749**

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2 **1.982% 25,082,496**

Operating Funds Total **64,942,485**

Fiscal Agent

BNY Western Trust Company **539,035**

US Bank **63,685,381**

Fiscal Agent Total **64,224,417**

Deferred Compensation

City Employee Trust Accounts **4,415,233**

Deferred Compensation Total **4,415,233**

Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	Amortization	Discount or (Premium)	Market Value
<u>Bank Accounts</u>									
2,997,473	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	2,997,473	n/a	2,997,473	
5,444	Wells Fargo Bank-Investment Acct	n/a	0.10%	daily	varies	5,444	n/a	5,444	
5,444	Bank of America-Airport	n/a	0.30%	daily	varies	3,627	n/a	3,627	
3,627	Bank of America-Parking Citations	n/a	0.30%	daily	varies	4,326	n/a	4,326	
4,326	Bank of America-Parking Citations	n/a	0.30%	daily	varies				
	Sub-total								3,010,870
<u>Government Pools</u>									
31,196,602	L.A.I.F. account #1	n/a	0.611%	daily	varies	31,196,602	n/a	31,196,602	
4,902,463	L.A.I.F. account #2	n/a	0.611%	daily	varies	4,902,463	n/a	4,902,463	
									36,099,065
<u>Investments-US Bank/Piper Jaffray</u>									
3,000,000	Federal Farm Credit Banks	n/a	2.000%	12/30/2010	12/30/2008	3,000,000		0	3,003,240
6,000,000	Federal Farm Credit Banks	n/a	2.120%	9/23/2011	3/24/2008	6,000,000		0	6,029,100
3,000,000	Fedl Natl Mtg Assn	n/a	2.040%	12/30/2011	12/23/2008	3,000,000		0	3,012,180
11,170,000	Federal Farm Credit Banks	n/a	2.000%	1/30/2012	6/12/2009	11,170,000		0	11,229,871
1,500,000	Federal Farm Credit Banks	n/a	1.550%	7/7/2011	7/7/2009	1,500,000		0	1,501,830

Average Rate All = 1.121%

US Bank/Piper Jaffray Average Rate= 1.982% 25,082,496

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 14, 2009. 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 266 days and does not include Bond Reserve Fund Investments.

Investments.

Invest

City of Banning Investment Report

November 30, 2009

Individual Investments with Fiscal Agent

TRUSTEE	Bond	Maturity Date	Investment Description	Current Yield	Bond Maturity Date	Bond Reserve	Minimum Reserve	Interest Reserve	11/30/2009
Bond Issue Description									Market Value
BNY WESTERN TRUST COMPANY									
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
				0.010%	daily				16,473
US BANK									
1991 Wilson St. Assessment District	2012		AIM U.S. Treasury Money Market First Amer Treas Oblig Fd CL D	0.500%	daily	265,580	11.17		265,602
				0.280%	daily				14
2005 Fair Oaks Ranch Estates	2035		First Amer Treas Oblig Fd CL D	0.300%	daily	190,323	48.25		189,444
2003 CRA Tax Allocation Bonds	2028		Forward Delivery Agreement - B of A US Bank Mmkt	4.560%	daily	971,763	0.00	*	991,990
				0.300%	daily				22,747
Surplus Fund			First Amer Treas Oblig Fd CL D First Amer Treas Oblig Fd CL D	0.300%	daily		8.79		146
				0.025%	daily		0.04		
									8
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007									
Redevelop Fund	2037		First Amer Treas Oblig Fd CL D	0.300%	daily				7,201,884
	11/27/2009		Reliance Trust Company GIC # 9AMGGBF37	2.950%					3,336,669
	5/21/2009		Reliance Trust Company GIC # 9AMGGBEU8	0.750%					3,500,000
	11/19/2009		Reliance Trust Company GIC # 9AMGGBEV6	2.950%					
Reserve Fund			First Amer Treas Oblig Fd CL D	0.300%	daily	1,880,751	236,771.22		
Special Fund			First Amer Treas Oblig Fd CL D	0.300%	daily		478.24		1,877,459
Surplus Fund			First Amer Treas Oblig Fd CL D	0.320%	daily		0.05		185
									9
BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES									
Bond Fund			First Amer Treas Oblig Fd CL D	0.300%	daily				26
Principal Account			First Amer Treas Oblig Fd CL D	0.310%	daily		31.99		32
			First Amer Treas Oblig Fd CL D	0.300%	daily		193.22		758,539
BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES									
Bond Fund			First Amer Treas Oblig Fd CL D	0.300%	daily				2,907
Principal Account			First Amer Treas Oblig Fd CL D	0.290%	daily		84.74		85
Reserve Fund			First Amer Treas Oblig Fd CL D	0.300%	daily		589.47		2,311,327
Project Fund			First Amer Treas Oblig Fd CL D	0.300%	daily		4,634.65		18,194,532

City of Banning Investment Report

November 30, 2009

Deferred Compensation			
	Balance		
	<u>11/1/2009</u>	<u>11/30/2009</u>	
ICMA Retirement Corporation	902,518	Various Employee Selected Mutual Funds	varies
CALPERS 457 Program	2,580,509	Various Employee Selected Mutual Funds	varies
NATION WIDE-PEBS CO	793,499	Various Employee Selected Mutual Funds	varies
	<u>4,276,527</u>		

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Summary Schedule of Cash and Investments

Operating FundsPetty CashAmount2,305Bank Accounts

Wells Fargo Bank

InterestRate Amount

0.000% 243,393

Wells Fargo Bank-Investment Account

0.100% 1,561,707

Bank of America-Airport

0.300% 7,085

Bank of America-Parking Citations

0.300% 4,127

Bank of America-CNG Station

0.300% 3,828*Money Market and Bank Account Sub-Total*1,820,139Government Pools

Local Agency Investment Fund: Account #1

0.646% 31,196,602

Account #2 Operating Amount

2,816,181

Account #2 CRA Bond Cash Bal

3,686,282

Local Agency Investment Fund: Account #2

0.646% 6,502,463*Government Pool Sub-Total*37,699,065**Operating Cash Balance****39,521,509**Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund

0.150%

758,991Other Investments

Investments-US Bank/Piper Jaffray - See Page 2

1.982%

25,102,091***Operating Funds Total*****65,382,591****Fiscal Agent**

BNY Western Trust Company

Amount538,762

US Bank

65,262,006***Fiscal Agent Total*****65,800,768****Deferred Compensation**

City Employee Trust Accounts

4,276,527***Deferred Compensation Total*****4,276,527**

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City of Banning Investment Report

October 31, 2009

Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	Discount or (Premium) Amortization	Market Value
<u>Bank Accounts</u>								
243,393	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	243,393	n/a	243,393
1,561,707	Wells Fargo Bank-Investment Acct	n/a	0.10%	daily	varies	1,561,707	n/a	1,561,707
7,085	Bank of America-Airport	n/a	0.30%	daily	varies	7,085	n/a	7,085
4,127	Bank of America-Parking Citations	n/a	0.30%	daily	varies	4,127	n/a	4,127
3,828	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,828	n/a	3,828
	Sub-total							1,820,139
<u>Government Pools</u>								
31,196,602	L.A.I.F. account #1	n/a	0.646%	daily	varies	31,196,602	n/a	31,196,602
6,502,463	L.A.I.F. account #2	n/a	0.646%	daily	varies	6,502,463	n/a	6,502,463
								37,699,065
<u>Investments-US Bank/Piper Jaffray</u>								
3,000,000	Federal Farm Credit Banks	n/a	2.000%	12/30/2010	12/30/2008	3,000,000	0	3,006,630
6,000,000	Federal Farm Credit Banks	n/a	2.120%	9/23/2011	3/24/2008	6,000,000	0	6,037,380
3,000,000	Fedl Natl Mtg Assn	n/a	2.040%	12/30/2011	12/23/2008	3,000,000	0	3,015,000
11,170,000	Federal Farm Credit Banks	n/a	2.000%	1/30/2012	6/12/2009	11,170,000	0	11,233,446
1,500,000	Federal Farm Credit Banks	n/a	1.550%	7/7/2011	7/7/2009	1,500,000	0	1,503,360
306,275	Money Market	n/a	0.000%	daily	varies	306,275	0	306,275
	US Bank/Piper Jaffray Average Rate=							25,102,091
								Average Rate All= 1.148%

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 14, 2009. 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 276 days and does not include Bond Reserve Fund Investments.

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City of Banning Investment Report

October 31, 2009

Individual Investments with Fiscal Agent

TRUSTEE		Bond Maturity Date	Investment Description		Current Yield	Bond Maturity Date	Minimum Reserve	Interest Reserve	Interest Oct-09	Bond Reserve	Market Value	10/31/2009	
Bond Issue Description													
BNY WESTERN TRUST COMPANY													
1997 Admin Building COPs Refunding		2020	Republic Bank Investment Agreement Federated U.S. Treasury Money Mkt		6.270%	11/1/2020	522,375		*		522,562		
					0.000%	daily					16,200		
US BANK													
1991 Wilson St. Assessment District		2012	AIM U.S. Treasury Money Market First Amer Treas Oblig Fd CLD		0.500%	daily	265,580	10.32			265,590		
2005 Fair Oaks Ranch Estates		2035	First Amer Treas Oblig Fd CLD		0.280%	daily		1.86			14		
2003 CRA Tax Allocation Bonds		2028	Forward Delivery Agreement - B of A US Bank MinMkt		0.280%	daily	190,323	47.69			189,396		
					4.560%	daily	971,763	0.00	*		991,881		
					0.300%	daily		5.61			22,741		
					0.300%	daily		0.04			146		
					0.025%	daily					8		
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007													
Redevelop Fund		2037	First Amer Treas Oblig Fd CLD		0.300%	daily		2.92			11,841		
		11/27/2009	Reliance Trust Company GIC # 9AMGGBF37		2.950%						3,336,669		
		5/21/2009	Reliance Trust Company GIC # 9AMGGBEU8		0.750%						3,500,000		
		11/19/2009	Reliance Trust Company GIC # 9AMGGBEV6		2.950%						8,000,000		
Reserve Fund			First Amer Treas Oblig Fd CLD		0.300%	daily	1,880,751	462.70			1,876,981		
Special Fund			First Amer Treas Oblig Fd CLD		0.300%	daily		0.05			185		
Surplus Fund			First Amer Treas Oblig Fd CLD		0.320%	daily					9		
BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES													
Bond Fund			First Amer Treas Oblig Fd CLD		0.300%	daily					0.54		262,443
Principal Account			First Amer Treas Oblig Fd CLD		0.300%	daily					33.68		125,553
			First Amer Treas Oblig Fd CLD		0.300%	daily					571.67		758,346
BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES													
Bond Fund			First Amer Treas Oblig Fd CLD		0.300%	daily							1,155,127
Principal Account			First Amer Treas Oblig Fd CLD		0.300%	daily							332,580
Reserve Fund			First Amer Treas Oblig Fd CLD		0.300%	daily							2,313,531
Project Fund			First Amer Treas Oblig Fd CLD		0.300%	daily							18,189,897

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City of Banning Investment Report

October 31, 2009

TRUSTEE	Bond	Bond Reserve	Minimum	Interest	10/31/2009
Bond Issue Description	Maturity Date	Investment Description	Current Yield	Bond Maturity Date	Market Value
BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES					
Acquisition & Construction	11/17/2011	Reliance Trust Company GIC # 9AMGGBEZ7	3.650%		3,016,509
		First Amer Treas Oblig Fd CL D	0.300%	daily	1,626,101
	11/27/2009	Reliance Tr Co Contract # 9AMGGBEF29	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
					Total 6,671.54
					65,800,768

Deferred Compensation

10/31/2009		
	902,518	
	2,580,509	
	793,499	
		<u>4,276,527</u>

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

	Interest	Amount
	Rate	Amount
Wells Fargo Bank	0.000%	193,138
Wells Fargo Bank-Investment Account	0.100%	442,203
Bank of America-Airport	0.300%	7,769
Bank of America-Parking Citations	0.300%	4,626
Bank of America-CNG Station	0.300%	3,873

*Money Market and Bank Account Sub-Total***651,610****Government Pools**

Local Agency Investment Fund: Account #1	0.750%	31,126,213
Account #2 Operating Amount		7,533,214
Account #2 CRA Bond Cash Bal		3,688,992
Local Agency Investment Fund: Account #2	0.750%	<u>11,222,206</u>

*Government Pool Sub-Total***42,348,419****Operating Cash Balance****43,002,333****Restricted Operating Funds at Riverside Public Utilities**

Highmark U.S. Government Money Market Fund	0.150%	419,593
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Other Investments

Investments-US Bank/Piper Jaffray - See Page 2	1.991%	24,999,548
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*Operating Funds Total***68,421,474****Fiscal Agent**

BNY Western Trust Company	538,762
US Bank	<u>63,839,757</u>

*Fiscal Agent Total***64,378,519****Deferred Compensation**

City Employee Trust Accounts	<u>4,323,757</u>
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*Deferred Compensation Total***4,323,757***65*

City of Banning Investment Report

September 30, 2009

Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	Discount or (Premium) Amortization	Market Value
<i><u>Bank Accounts</u></i>								
193,138	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	193,138	n/a	193,138
442,203	Wells Fargo Bank-Investment Acct	n/a	0.10%	daily	varies	442,203	n/a	442,203
7,769	Bank of America-Airport	n/a	0.30%	daily	varies	7,769	n/a	7,769
4,626	Bank of America-Parking Citations	n/a	0.30%	daily	varies	4,626	n/a	4,626
3,873	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,873	n/a	3,873
	Sub-total							651,610
<i><u>Government Pools</u></i>								
31,126,213	L.A.I.F. account #1	n/a	0.750%	daily	varies	31,126,213	n/a	31,126,213
11,222,206	L.A.I.F. account #2	n/a	0.750%	daily	varies	11,222,206	n/a	11,222,206
								42,348,419
<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	3,016,890
6,000,000	Federal Farm Credit Banks	n/a	2.120%	9/23/2011	3/24/2008	6,000,000	0	6,043,680
3,000,000	Fedl Natl Mtg Assn	n/a	2.040%	12/30/2011	12/23/2008	3,000,000	0	3,010,170
11,170,000	Federal Farm Credit Banks	n/a	2.000%	1/30/2012	6/12/2009	11,170,000	0	11,229,313
1,500,000	Federal Farm Credit Banks	n/a	1.550%	7/7/2011	7/7/2009	1,500,000	0	1,504,920
194,575	Money Market	n/a	0.000%	daily	varies	194,575	0	194,575
	US Bank/Piper Jaffray Average Rate=							24,999,548
								1.991%
								Average Rate All= 1.198%

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 14, 2009. 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 273 days and does not include Bond Reserve Fund Investments.

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City of Banning Investment Report

September 30, 2009

Individual Investments with Fiscal Agent

TRUSTEE	Bond Maturity Date	Investment Description	Current Yield	Bond Maturity Date	Minimum Reserve Requirement	Interest Sep-09	Market Value
BNY WESTERN TRUST COMPANY							
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
US BANK							
1991 Wilson St. Assessment District	2012	AIM U.S. Treasury Money Market	0.470% 0.320%	daily daily	265,580	0.02 1.86	265,580 12
2005 Fair Oaks Ranch Estates	2035	First Amer Treas Oblig Fd CL D	0.300%	daily	190,323	56.05	189,349
2003 CRA Tax Allocation Bonds	2028	Forward Delivery Agreement - B of A	4.560% 0.300% 0.300% 0.025%	daily daily daily daily	971,763	0.00 21.83 11.22	991,663 22,736 145 8
Surplus Fund							
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007							
Redevelop Fund	2037	First Amer Treas Oblig Fd CL D	0.300%	daily	3.02	11,838	
	11/27/2009	Reliance Trust Company GIC # 9AMGGBF37	2.950%			3,336,669	
	5/21/2009	Reliance Trust Company GIC # 9AMGGBEU8	0.750%			3,500,000	
	11/19/2009	Reliance Trust Company GIC # 9AMGGBEV6	2.950%			8,000,000	
Reserve Fund		First Amer Treas Oblig Fd CL D	0.300%	daily	1,880,751	478.00	
Special Fund		First Amer Treas Oblig Fd CL D	0.300%	daily	14.28	185	
Surplus Fund		First Amer Treas Oblig Fd CL D	0.320%	daily			9
BUA - WASTEWATER ENTERPRISE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES							
Bond Fund		First Amer Treas Oblig Fd CL D	0.300%	daily	0.56	2,208	
Principal Account		First Amer Treas Oblig Fd CL D	0.300%	daily	116.60	125,519	
		First Amer Treas Oblig Fd CL D	0.300%	daily	938.41	757,774	
BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES							
Bond Fund		First Amer Treas Oblig Fd CL D	0.420%	daily	2	332,500	
Principal Account		First Amer Treas Oblig Fd CL D	0.300%	daily	0.07	2,312,961	
Reserve Fund		First Amer Treas Oblig Fd CL D	0.300%	daily	589.17	18,185,413	
Project Fund		First Amer Treas Oblig Fd CL D	0.300%	daily	4,445.47		

City of Banning Investment Report

September 30, 2009

Bond Issue Description	Bond Maturity Date	Investment Description	Current Yield	Bond Reserve Bond Maturity Date	Minimum Reserve Requirement	Interest Sep-09	9/30/2009 Market Value
BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES							
Acquisition & Construction	11/17/2011	Reliance Trust Company GIC # 9AMGGBEZ7 First Amer Treas Oblig Fd CL D	3.650% 0.300%	daily		414.11	3,016,509 1,625,700
	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				Total	7,090.67	64,378,519	

Deferred Compensation

Balance	<u>07/01/09 to 6/30/2009 Quarterly Activity</u>			9/30/2009
<u>7/1/2009</u>	<u>Contributions</u>	<u>Withdrawals</u>	<u>Gain/Loss</u>	
1,032,256	varies	11,196	(213,686)	911,025
2,322,303	varies	146,882	(103,615)	2,590,298
793,405	varies	1,500	(16,229)	822,433
4,147,963				4,323,757

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CITY COUNCIL AGENDA

Date: **January 12, 2010**

TO: **City Council**

FROM: **Kirby J. Warner, Interim Finance Director**

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

The reports are:

Expenditure approval lists	
October 1, 2009 - Manual Check	979.94
October 8, 2009	530,207.84
October 8, 2009	26,584.29
October 15, 2009	404,376.22
October 22, 2009	535,569.32
October 22, 2009	21,797.07
October 28, 2009	849,621.12
December 7, 2009	5,896,026.63 (October Month End)

Payroll check registers	
October 1, 2009 Manual Check	13,748.10
October 9, 2009	8,157.87
October 23, 2009	5,918.87

Payroll direct deposits*	
October 9, 2009	329,368.43
October 23, 2009	304,436.38

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 October month end expenditure approval list of 12/07/09.

⁽¹⁾ 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

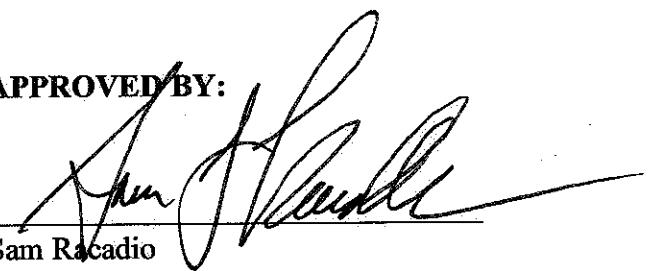
RECOMMENDED BY:



Kirby J. Warner

Interim Finance Director

APPROVED BY:



Sam Racadio

Interim City Manager

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CITY COUNCIL AGENDA

Date: **January 12, 2010**

TO: **City Council**

FROM: **Kirby J. Warner, Interim Finance Director**

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

The reports are:

Expenditure approval lists	
November 5, 2009	200,963.47
November 5, 2009	251,374.66
November 18, 2009	966,415.07
November 19, 2009	39,312.09
November 30, 2009 Manual Check	2,500.00
December 7, 2009	4,566,935.93 (November Month End)
Payroll check registers	
November 6, 2009	7,561.64
November 20, 2009	6,994.00
Payroll direct deposits*	
November 6, 2009	321,454.65
November 20, 2009	334,121.77

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 November month end expenditure approval list of 12/07/2009.

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

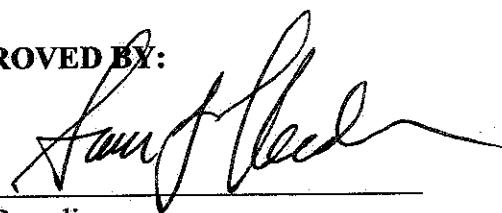
Report Prepared by: Robin Anderson, Accounts Payable

RECOMMENDED BY:



Kirby J. Warner
Interim Finance Director

APPROVED BY:



Sam Racadio
Interim City Manager

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2nd Read.

ORDINANCE NO. 1415

**AN ORDINANCE OF THE CITY OF BANNING
AMENDING THE CODE OF THE CITY OF BANNING,
CALIFORNIA, 1965, TITLE 13, CHAPTER 13.24 NOW
ENTITLED STORMWATER CODE**

WHEREAS, the City of Banning (the "City") duly enacted on June 24, 1997 Ordinance 1212 which is entitled "An Ordinance Of The City Of Banning Adding Chapter 34 To The Banning Ordinance Code Establishing Storm Water Management And Discharge Controls"; and

WHEREAS, the City codified Chapter 34 of Ordinance 1212 in the Banning Municipal Code through Chapter 13.24 of Title 13, which shall be known as the "City of Banning Stormwater Management and Discharge Control Code" or, "Stormwater Code" for short; and

WHEREAS, the City seeks through this Ordinance to amend the Stormwater Code to ensure the future health, safety, and general welfare of the citizens, as well as compliance with existing and future National Pollutant Discharge Elimination System ("NPDES") Permits; and

WHEREAS, NPDES Permit Number CAS617002 (R7-2008-0001) is the existing NPDES Permit applicable to the City, a copy of which is attached hereto as Exhibit "A".

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BANNING DOES
ORDAIN AS FOLLOWS:**

Section 1. Section 13.24.010 (Title) of the Stormwater Code is hereby amended to read in its entirety as follows:

"The ordinance codified in this chapter shall be known as the 'City of Banning Stormwater Management and Discharge Control Code', or the 'Stormwater Code' for short, and may be so cited."

Section 2. Section 13.24.030 (Definitions) of the Stormwater Code is hereby amended to read in its entirety as follows:

"The terms as used in this Chapter shall have the following meanings:

- A. Best Management Practice (BMP). BMP or BMPs mean schedules of activities, prohibitions of practices, general good housekeeping practices, maintenance procedures, educational programs, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to waters of the United States. BMPs shall include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw materials storage. The California Stormwater Best Management Practice Handbooks for Municipal, Industrial/Commercial and Construction Activity provide a detailed discussion of BMPs.

B. Detention Basin refers to a basin type structure which permits large flows of stormwater to enter and remain, but limits and controls the outflow (i.e. discharge) by having a small opening at the lowest point of the structure.

C. Director means the Director of the Public Works Department of the City of Banning.

D. Enforcement Officer includes the City Manager, Public Works Director, City Engineer, Building and Safety Official, Code Enforcement Officer, and their designees.

E. Illicit Connection means any physical connection to a Storm Drain System which has not been permitted by the City of Banning, the Riverside County Flood Control and Water Conservation District, or other appropriate public agency.

F. Illegal Discharge means any discharge to the Storm Drain System that is not composed entirely of Stormwater Runoff except discharges made pursuant to a National Pollutant Discharge Elimination System (NPDES) permit or as otherwise authorized by the Santa Ana or Colorado River Basin Regional Water Quality Control Board.

G. Infiltration Basin refers to designs and/or practices for directing stormwater from a basin type of structure to the groundwater table through permeable soils.

H. Municipal NPDES Permit means an area-wide NPDES permit issued to a government agency or agencies for the discharge of stormwater from a stormwater system, and shall refer to NPDES Permit Number CAS617002 (R7-2008-0001) or its successor.

I. National Pollutant Discharge Elimination System (NPDES) Permit means a stormwater discharge permit issued by the Santa Ana or Colorado River Basin Regional Water Quality Control Board in compliance with the federal Clean Water Act.

J. Non-Stormwater Discharge means any discharge to the Storm Drain System that is not entirely composed of stormwater.

K. Person means any natural person, firm, association, club, organization, corporation, partnership, business trust, company or other entity which is recognized by law as the subject of rights or duties.

L. Pollutant means anything which causes the deterioration of water quality such that it impairs subsequent and/or competing uses of the water. Pollutants may include but are not limited to paints, oil and other automotive fluids, soil, rubbish, trash, garbage, debris, refuse, waste, fecal coliform, fecal streptococcus, enterococcus, heavy metals, hazardous

waste, chemicals, fresh concrete, yard waste from commercial landscaping operations, animal waste, materials that result from the process of constructing a building or structure, nauseous or offensive matter of any kind.

M. Premises means any building, lot, parcel of land, or portion of land whether improved or unimproved.

N. Retention Basin allows for relatively large flows of stormwater to enter in a basin type of structure during large storm events for which discharges are limited by outlet structures to a storm drain, the street, or other parts of the Storm Drain System. This type of basin notably has an outlet or discharge point so that stormwater does not accumulate in the basin for extended periods of time, when feasible, such that the stormwater permeates to a groundwater table.

O. Storm Drain System means any facility by which stormwater may be conveyed to waters of the United States. The Storm Drain System includes, but is not limited to, any roads with drainage systems, streets, curbs, gutters, catch basins, natural and artificial channels, ditches, aqueducts, storm drains, inlets, conduit or other drainage structures.

P. Stormwater Runoff means surface runoff and drainage associated with rainstorm events and snow melt."

Section 3. Section 13.24.070 (Discharge In Violation of Permit), subsection C., of the Stormwater Code is hereby amended to read in its entirety as follows:

"C. A copy of the current Municipal NPDES Permit will be filed in the City Clerk's Office."

Section 4. Section 13.24.080 (Illicit Connections) of the Stormwater Code is hereby amended to be entitled "Illicit Connections and Illegal Discharges" and to read in its entirety as follows:

"A. It is a violation of this Chapter to establish, use, maintain, or continue an Illicit Connection to the City's Storm Drain System, or to commence or continue any Illegal Discharge to the City's Storm Drain System. The prohibition against Illicit Connections is expressly retroactive and applies to past illicit connections when made.

B. Illegal Discharges include, without limitation, the following:

1. Discharges of wash water resulting from the hosing or cleaning of gas stations, auto repair garages, or other types of automotive services facilities;
2. Discharges resulting from the cleaning, repair, or maintenance of any type of equipment or machinery including motor vehicles, cement-related equipment, and port-a-potty service;

3. Discharges of wash water from mobile operations such as oily or greasy discharges from mobile automobile washing or similar mobile services, and/or discharges from steam cleaning, power washing, and carpet cleaning;
4. Discharges of runoff from material storage areas containing chemicals, fuels, grease, oil, or other Hazardous Materials as that term is defined by the federal Department of Transportation; and
5. Discharges of food-related wastes, including without limitation, grease, fish processing, and restaurant kitchen mat and trash bin wash water."

Section 5. Section 13.24.100 (Outdoor storage areas – Commercial and Industrial Facilities) of the Stormwater Code is hereby amended to read in its entirety as follows:

- "A. It is a violation of this chapter for any person to improperly store grease, oil or other hazardous substances in outdoor areas such that any of these substances may leak or otherwise discharge from the container in which the substance is stored. In outdoor areas, no person shall improperly store motor vehicles, machine parts, or other objects in a manner that may leak grease, oil, or other hazardous substances.
- B. To prevent the discharge of hazardous substances from the property, the City shall require the installation of a spill containment system. Spill containment systems may consist of a system of dikes, walls, barriers, berms, or other devices as required.
- C. It is a violation of this Chapter for any person to operate a spill containment system such that it allows incompatible liquids to mix and thereby create a hazardous condition.
- D. Any person or entity that owns or operates a commercial and/or industrial facility(s) shall comply with the provisions of this Chapter. All such facilities shall be subject to inspection as required by this Chapter, California Water Code §§ 13000 *et seq.* (Porter-Cologne Water Quality Control Act), Title 33 U.S.C. §§ 1251 *et seq.* (Clean Water Act), any applicable State or federal regulations promulgated thereto, and any related administrative orders or permits issued in connection therewith."

Section 6. Section 13.24.110 (Construction Sites) of the Stormwater Code is hereby amended to be entitled "Construction Sites and Onsite Storage and Infiltration of Stormwater" and to read in its entirety as follows:

"Any person performing construction work in the City shall comply with the provisions of this Chapter and the Uniform Building Code, latest edition, for erosion and sediment control, as well as City of Banning Ordinance 1388 which is incorporated by reference hereto. In addition, except as waived by or agreed to by the Director or the Director's designee consistent with NPDES permit provisions

and requirements, development of all land within the City must include provisions for the management of Stormwater Runoff from the property which is to be developed, including volumetric or flow based treatment control BMP design criteria, and/or exceptions to these requirements, and methodologies used to ensure proper management of Stormwater Runoff post-construction. This management shall consist of constructing storage and/or infiltration facilities, which includes basins. At a minimum, all development will make provisions to store runoff from rainfall events up to and including the one-hundred-year, three-hour duration event. Post-development peak urban runoff discharge rates shall not exceed pre-development peak urban runoff discharge rates.

The City Engineer shall be provided for review, comment and/or approval the drainage study, hydrologic analysis and design of drainage facilities prepared by a licensed professional engineer."

Section 7. Section 13.24.120 (New Development and Redevelopment) of the Stormwater Code is hereby amended to read in its entirety as follows:

- "A. Existing development shall control Stormwater Runoff so as to prevent any deterioration of water quality that would impair subsequent or competing uses of the water. The Director shall identify the BMPs that may be implemented to prevent such deterioration and shall identify the manner of implementation.
- B. Any new development or redevelopment project shall control the volume and rate of Stormwater Runoff from the project so as to prevent any deterioration of water quality which would impair the subsequent or competing uses of the water. The Director shall establish written retention standards and guidelines and/or implement BMPs designed to control the rate and volume of Stormwater Runoff from new developments and redevelopments as may be appropriate to minimize the discharge and transport of pollutants. The standards, guidelines and BMPs shall include a provision permitting adjustments for specific projects where the Director finds that due to unique circumstances not generally applicable to other properties, such adjustments are required but in such circumstances the Director shall provide a written finding.
 - 1. All new development and redevelopment projects that fall into one of the following categories are subject to the Water Quality Management Plan Design Standards for Best Management Practices as set forth in the NPDES Permit Number CAS617002 (Section F.1.c.), which is incorporated by reference hereto, a copy of which is available in the City Clerk's Office:
 - a. Singly-family hillside residences that create 10,000 square feet, or more, of impervious area where the natural slope is twenty-five percent (25%) or greater, including single-

family hillside residences that create 10,000 square feet of impervious area where the natural slope is ten percent (10%) or greater where erosive soil conditions are known;

- b. 100,000 square foot commercial and industrial developments;
- c. Automotive repair shops (with Standard Industrial Classification ("SIC") codes 5013, 7532, 7533, 7534, 7537, 7438, and 7539);
- d. Retail gasoline outlets disturbing greater than 5,000 square feet;
- e. Restaurants disturbing greater than 5,000 square feet;
- f. Home subdivisions with 10 or more housing units; and
- g. Parking lots 5,000 square feet or more or with 25 or more parking spaces and potentially exposed to non-stormwater discharges.

C. Acceptable methods and standards for controlling Stormwater Runoff volumes, rates, and pollutant load may include but are not limited to the following:

- 1. Increase Permeable Areas. Avoid placing impervious surfaces in highly porous soil areas; incorporate landscaping and open space into the project design; use porous materials for or near driveways and walkways; incorporate detention ponds and infiltration pits into the project's design; avoid placing pavement and other impervious surfaces in low lying areas.
- 2. Direct Runoff to Permeable Areas. Direct Stormwater Runoff away from impermeable areas to swales, berms, green strip filters, gravel beds, and french drains. Install rain gutters and orient them toward permeable areas. Modify the grade of the property to divert flow to permeable areas and minimize the amount of Stormwater Runoff leaving the property. When designing curbs, berms or other structures, avoid designs which isolate permeable or landscaped areas.
- 3. Maximize Stormwater Storage for Reuse. Use retention structures, subsurface areas, cisterns, or other structures to store Stormwater Runoff for reuse or slow release.
- 4. Any new development shall comply with the provisions of this Chapter, City of Banning Ordinance 1388 and the Municipal NPDES Permit, all of which are incorporated by reference hereto.

D. In the event the Municipal NPDES Permit is modified, the Director is authorized to apply the criteria of such successor permit.

- E. In addition to the foregoing provisions, all existing and new development and redevelopment plans shall comply with Stormwater Code Section 13.24.110.
- F. Any violation of this Section is punishable as provided in the Banning Municipal Code including this Chapter. In addition, fines may be imposed on a schedule agreed to between the City and any person or entity seeking to engage in a development or redevelopment project in the City."

Section 8. Section 13.24.125, "Issuance, Suspension and Revocation of Permits or Licenses," of the Stormwater Code is hereby added to read in its entirety as follows:

- "A. No permit or license shall be issued unless it is in accordance with all the provisions of City ordinances as codified in the Banning Municipal Code, including Titles 5, 13 and 15, and any permit or license issued contrary to the provisions of the Banning Municipal Code shall be void and of no effect.
- B. An Enforcement Officer, after compliance with the procedures hereunder, may revoke or suspend a permit or license issued by the City upon a finding that:
 1. The permittee or licensee has violated any of the conditions or requirements of the permit or license, or provisions of the Banning Municipal Code and any ordinances, rules or regulations pertaining to the permit or license; or
 2. The permit or license was issued in error; or
 3. The permit or license was issued on the basis of incorrect information supplied by the permittee or licensee.
- C. Revocation or suspension of a permit or license issued by the City is proper when written notice of the violation(s) has been sent to the permittee or licensee by first class mail and the permittee or licensee has failed or neglected to correct the violation within twenty (20) days from the date the written notice was mailed."

Section 9. Section 13.24.130 (Compliance with General Permits), subsection B., of the Stormwater Code is hereby amended to read in its entirety as follows:

- "B. Proof of compliance with the Municipal NPDES Permit will be required in a form acceptable to the Director prior to issuance of any city grading, building, or occupancy permits. Due to requirements set forth in the NPDES Permit changing from time to time, said compliance with the Municipal NPDES Permit requires compliance with the most recent NPDES Permit on file in the City Clerk's Office."

Section 10. Section 13.24.150 (Authority to Inspect) of the Stormwater Code is hereby amended to read in its entirety as follows:

- "A. Whenever necessary to make an inspection to enforce any of the provisions of this chapter or the Municipal NPDES Permit, or whenever an Enforcement Officer has reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a violation of the provisions of this Chapter, the Enforcement Officer may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the Enforcement Officer by this chapter.
- B. Entry hereunder shall be subject to the following:
 - 1. If such building or premises be occupied, an Enforcement Officer shall first present proper credentials and request entry; and
 - 2. If such building or premises be unoccupied, an Enforcement Officer shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or obtain a warrant to enter.
- C. Any request for entry made hereunder shall state that the property owner or occupant has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant by a duly authorized magistrate. In the event the owner and/or occupant refuses entry after such request has been made, the official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.
- D. Routine or area inspections shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of this Chapter and the Municipal NPDES Permit, including but not limited to random sampling and/or sampling in areas with evidence of stormwater contamination, Illicit Connections, Illegal Discharges, Non-Stormwater Discharge to the Stormwater System, follow up inspections as required by the County of Riverside, the Compliance Assistance Program ("CAP") of the NPDES Permit, or the California State Water Quality Regional Control Board, or similar factors.
- E. The property owner and/or occupant are liable for Inspection Fees as set forth in the City's adopted Fee Schedule through City Resolution 2006-114 duly adopted on September 12, 2006, which may be amended by the City Council from time to time."

Section 11. Section 13.24.180 (Requirement to Test or Monitor) of the Stormwater Code is hereby amended to read in its entirety as follows:

"A. An Enforcement officer may request that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to Stormwater Runoff, Illicit Connections, Illegal Discharges, and/or discharge of Pollutants or Non-stormwater to the Stormwater System, undertake such monitoring activities and/or analyses and furnish such reports as the Enforcement Officer may specify. The burden, including costs, of these activities, analyses and reports shall bear a reasonable relationship to the need for the monitoring, analyses and reports and the benefits to be obtained. The recipient of such request shall undertake and provide the monitoring, analyses and/or reports requested within a reasonable time frame as set forth by the Enforcement Officer or as agreed to between the Enforcement Officer and the person.

B. In the event the owner or operator of a facility subject to a monitoring and/or analyses order fails to conduct required monitoring and/or analyses and furnish the required reports in the form required, an Enforcement Officer may cause such monitoring and/or analyses to be performed within thirty (30) days.

1. The costs, therefore, including the reasonable additional administrative costs incurred by the City, shall be the responsibility of the owner of the property and/or the person or entity in possession of the property.
2. The costs thereof shall be invoiced to the owner of the property and/or the person or entity in possession of the property.
3. If the invoice is not paid within sixty (60) days of the issuance thereof, the costs may be levied as a lien upon and against the property and continue in existence until the same shall be paid consistent with the Banning Municipal Code including Chapter 8.48.
4. If the lien is not satisfied by the owner of the property within three (3) months after the completion by an Enforcement Officer of the required monitoring and/or analyses and reports, the property may be sold in satisfaction thereof in a like manner as other real property is sold under execution."

Section 12. Section 13.24.220 (Violations Deemed a Public Nuisance), subsection A., of the Stormwater Code is hereby amended to read in its entirety as follows:

"A. In addition to the penalties hereinbefore provided, any condition caused or permitted to exist in violation of any of the provisions of this Chapter is a threat to the public health, safety and welfare, and may be declared and deemed a nuisance, and may be summarily abated and/or restored by an Enforcement Officer, and/or civil action to abate, enjoin or otherwise compel the cessation of such nuisance may be taken as authorized by the Banning Municipal Code including Chapter 8.48 or in any other manner provided by law."

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Section 13. Section 13.24.225, "Payment of Abatement Costs, Penalties or Damages," of the Stormwater Code is hereby added to read in its entirety as follows:

"If payment of an award of abatement costs, penalties or damages is not made within ten (10) days of an administrative or judicial determination of such costs, penalties or damages, the Enforcement Officer may file a Notice of Lien as provided for in the Banning Municipal Code, Chapter 8.48, describing the real property affected and the amount of the costs, penalties or damages claimed by the City with the Office of the County Recorder of Riverside County. The Enforcement Officer may transmit the judgment or award of abatement costs, penalties or damages of the City, which shall place the amount thereof on the Assessment Roll as a special assessment to be paid with County taxes, unless paid earlier. A judgment or award of such costs, penalties or damages may also be enforced in any other manner provided by law, including the property being sold under execution if the recorded lien remains unpaid for at least three (3) months."

Section 14. Section 13.24.240 (Civil Actions), subsection B., of the Stormwater Code is hereby amended to read in its entirety as follows:

"B. Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs and attorney's fees of preparing and bringing legal action under this subsection."

Section 15. Section 13.24.270 (Nonexclusivity of Remedies) of the Stormwater Code is hereby amended to read in its entirety as follows:

"Remedies under this Chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal, as provided by federal, State and local law. The remedies provided for herein shall be cumulative and not exclusive."

Section 16. Section 13.24.280 (Appeal) of the Stormwater Code is hereby amended to read in its entirety as follows:

"In addition to the provisions of Chapter 1.20 of the Banning Municipal Code, any person, firm, corporation or organization required by an Enforcement Officer to perform monitoring, analyses, reporting, or corrective activities, or for revocation or suspension of a permit or license, and who is aggrieved by the decision of an Enforcement Officer, may appeal such decision to the Director within fifteen (15) days following the effective date of the Enforcement Officer's decision by writing to the Director. Upon receipt of such request, the Director shall request a report and recommendation from the Enforcement Officer and shall set the matter for hearing at the earliest practical date not to exceed sixty (60) days from the date the request is filed. At said hearing, the Director may hear additional evidence, and may reject, affirm or modify the Enforcement Officer's decision. Such decision shall be written and final unless appealed to the

City Council, which is required pursuant to California Code of Civil Procedure § 1094.6 prior to commencing any civil action commencing."

Section 17. If any part of this Ordinance are held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, and the City hereby declares that it would have passed the remainder of this Ordinance if such invalid portion thereof had been declared invalid or unconstitutional.

Section 18. The City Clerk shall certify to the adoption of this Ordinance and shall cause a copy of the same to be published in a manner prescribed by law. This Ordinance shall take effect and be in force thirty (30) days after the adoption by the City Council for the City of Banning.

PASSED, APPROVED and ADOPTED this 12th day of January, 2010.

Robert E. Botts, Mayor

ATTEST:

Marie A. Calderon, City Clerk

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

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



CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, do hereby certify that the foregoing Ordinance No. 1415 was duly introduced at a regular meeting of the City Council of the City of Banning, California, held on the 8th day of December, 2009 and was duly adopted at a regular meeting of said City Council held on the 12th day of January 2010 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

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EXHIBIT "A"

NPDES Permit Number CAS617002 (R7-2008-0001)

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION

73-720 Fred Waring Drive, Suite 100, Palm Desert, CA 92260
Phone: (760) 346-7491 • Fax (760) 341-6820
<http://www.waterboards.ca.gov/coloradoriver>

ORDER NO. R7-2008-0001
NPDES NO. CAS617002

WASTE DISCHARGE REQUIREMENTS
FOR

DISCHARGES FROM THE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)
WITHIN THE WHITEWATER RIVER WATERSHED
RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT,
OWNER/OPERATOR

COUNTY OF RIVERSIDE, OWNER/OPERATOR
COACHELLA VALLEY WATER DISTRICT, OWNER/OPERATOR
AND INCORPORATED CITIES OF RIVERSIDE COUNTY WITHIN THE
WHITEWATER RIVER BASIN, OWNERS/OPERATORS

Table 1. Administrative Information

This Order was adopted by the Regional Water Quality Control Board on:	May 21, 2008
This Order shall become effective on:	May 21, 2008
This Order shall expire on:	May 21, 2013
The Discharger shall file a Report of Waste Discharge in accordance with title 23, California Code of Regulations, not later than 180 days in advance of the Order expiration date as application for issuance of new <i>Waste Discharge Requirements</i> .	
The date for submitting a complete application for reissuance is November 23, 2012.	

IT IS HEREBY ORDERED that this Order shall supersede Order No. 01-077 except for enforcement purposes, and, in order to meet the provisions contained in division 7 of the California Water Code (*CWC*) (commencing with section 13000) and regulations adopted hereunder, and the provisions of the federal Clean Water Act (*CWA*) (33 U.S.C. § 1251 et seq.) and regulations and guidelines adopted hereunder, the discharger shall comply with the requirements in this Order.

I, Robert Perdue, *Executive Officer*, do hereby certify that this Order, with all attachments, is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Colorado River Basin Region, on May 21, 2008.



ROBERT PERDUE, Executive Officer



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**WASTE DISCHARGE REQUIREMENTS
FOR
DISCHARGES FROM THE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)
WITHIN THE WHITEWATER RIVER WATERSHED
RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT,
OWNER/OPERATOR
COUNTY OF RIVERSIDE, OWNER/OPERATOR
COACHELLA VALLEY WATER DISTRICT, OWNER/OPERATOR
AND INCORPORATED CITIES OF RIVERSIDE COUNTY WITHIN THE
WHITEWATER RIVER WATERSHED, OWNERS/OPERATORS**

A. FINDINGS

The California Regional Water Quality Control Board, Colorado River Basin Region (*Regional Board*) finds that:

1. On March 9, 2006, the County of Riverside (*County*) and the Riverside County Flood Control and Water Conservation District (*RCFC&WCD*), in cooperation with the Coachella Valley Water District (*CVWD*) and incorporated cities, including the Cities of Banning, Cathedral City, Coachella, Desert Hot Springs, Indian Wells, Indio, La Quinta, Palm Desert, Palm Springs and Rancho Mirage (hereinafter collectively referred to as the *Permittees*¹), jointly submitted *National Pollutant Discharge Elimination System (NPDES)* Application No. CAS617002 and a *Report of Waste Discharge (ROWD)* for re-issuance of *MS4 NPDES* permit (*MS4 Permit*).
2. For the purposes of this *MS4 Permit*, the following two *Permittees* are identified as the *Principal Permittees*:

County of Riverside, 4080 Lemon Street, P.O. Box 1090, Riverside, California 92501-1090; and

Riverside County Flood Control and Water Conservation District, 1995 Market Street, Riverside, California 92501

The *CVWD* and the Cities are identified as *Co-Permittees*. Collectively, the *Principal Permittees* and *Co-Permittees* comprise the *Permittees*. Under this organizational framework, the *Principal Permittees* are responsible for coordinating collective *Permittee* activities required by the *MS4 Permit*, including report preparation and submittals to the *Regional Board*.

3. The urbanized area of the *Whitewater River Watershed* under the jurisdiction of the *Permittees* and covered by this *MS4 Permit* is referred to as the *Whitewater River Region*. The *MS4 Permit* area referred to as the *Whitewater River Region*

¹ Permittee(s) and discharger(s) are used interchangeably in this *MS4 Permit*. Also, see Section K. Glossary of Terms for definitions of certain terms used in this *MS4 Permit*. Defined terms are capitalized and shown in italicized, bold lettering throughout the *MS4 Permit*.

is shown in Attachment C – Site Map, incorporated herein and made a part of this **MS4 Permit** by reference.

The Site Map delineates the portion of the **Whitewater River Watershed** subject to urbanization within the term of the **MS4 Permit** and includes the urbanized area of the **Whitewater River Watershed** under the jurisdiction of the **Permittees**.

4. The **Permittees** submitted a revised **Whitewater River Region Storm Water Management Plan (SWMP)**, which is contained in Appendix C of the **ROWD**, dated March 9, 2006, incorporated herein, and made a part of this **MS4 Permit** by reference. Accordingly, the **SWMP** is an enforceable component of this **MS4 Permit**. Similarly, any future **Permittee** modifications of the **SWMP**, if approved by the **Executive Officer**, become enforceable components of this **MS4 Permit** as well.
5. Discharges from the **MS4** facilities throughout the **Whitewater River Region** contribute to a cumulative **Pollutant** load to downstream **Receiving Waters**. Within the **Whitewater River Region**, it is necessary for the **Permittees** to coordinate their **Urban Runoff** management activities to achieve the greatest protection of **Receiving Water** quality. **Permittee** coordination with other **Watershed** stakeholders (e.g., **CalTrans** and the federal Bureau of Indian Affairs) is also necessary. Establishment of a management structure will assist the **Permittees** subject to this **MS4 Permit** to fund and coordinate those aspects of their joint obligations. Also, this management structure will promote cost-effective implementation of the **SWMP** within the **Whitewater River Region**.
6. The **Permittees** entered into an **Implementation Agreement** to carry out the activities, regional compliance programs and responsibilities prescribed in the previously issued **NPDES** Permit, Order No. 01-077. The **Implementation Agreement** sets forth the working framework among the multiple **Permittee** agencies. Specific provisions of that agreement include cost sharing for public education activities and water quality monitoring. The **Implementation Agreement** provides non-binding guidance as to the organizational framework of the **Principal Permittees** and **Co-Permittees** and their respective responsibilities, duties, and obligations imposed by this **MS4 Permit**.
7. The **Permittees** are separate legal entities and, as such, have the authority to develop, administer, implement, and enforce **Urban Runoff** management programs within their respective jurisdictions. In addition, the **Permittees** have maintenance responsibilities for the **MS4** facilities within their jurisdictional boundaries. Therefore, the **Permittees** are responsible for implementing that portion of the **Urban Runoff** management program for any discharges to and from their **MS4** facilities that is commensurate with those jurisdictional limitations. As explained by the U.S. Environmental Protection Agency (**USEPA**) in its preamble discussion of the Phase II Storm Water Final Rule (64 Fed. Reg. 68722, 68765-6 (Dec. 8, 1999)), because municipalities own and operate separate storm sewers, including storm sewers into which third parties may discharge **Pollutants**, **NPDES** permits may require municipalities to control the discharge of **Pollutants** into the storm sewers in the first instance. Therefore, operators of **MS4s** cannot passively

receive and discharge **Pollutants** from third parties. Instead, they must seek to control those discharges to the extent of their legal authority.

8. The **Permittees** may lack legal jurisdiction over discharges into their respective **MS4s** from certain facilities, entities, properties, and other **Point** and **Non-Point Source** discharges otherwise permitted by or under the jurisdiction of the **Regional Board**. The **Regional Board** recognizes that the **Permittees** should not be held responsible for such facilities and/or discharges. Similarly, certain activities that generate **Pollutants** present in **Urban Runoff** are beyond the ability of the **Permittees** to eliminate. Examples may include: operation of internal combustion engines, atmospheric deposition, brake pad wear, tire wear, residues from lawful application of pesticides, nutrient runoff from landscape activities, and leaching of naturally occurring minerals from local geology.
9. Consequently, certain portions of the **Whitewater River Watershed** are excluded from coverage under this **MS4 Permit**, but the **Regional Board** finds that those activities can be and/or are being addressed through other regulatory programs, including programs administered by the **Regional Board** and other federal, state and local regulatory agencies. Excluded areas include:
 - Federal lands and state properties, including, but not limited to, military bases, national forests, hospitals, colleges and universities, and highways;
 - Native American tribal lands;
 - Open space and rural (non-urbanized) areas;
 - Agricultural lands (exempted under the **CWA**); and
 - Utilities and special districts (including school districts, park districts, publicly owned treatment works and water utilities).
10. The **USEPA** Phase I **Storm Water** Final Rule was published in Volume 55 of the Federal Register on November 16, 1990, commencing with page 47990. The Phase I rule sets forth **NPDES** application requirements for: **Storm Water** discharges associated with industrial activity; discharges from a **MS4** serving a population of 250,000 or more (defined as Large **MS4s**); and discharges from **MS4s** serving a population of 100,000 or more but less than 250,000 (defined as Medium **MS4s**). This final rule became effective on December 17, 1990. On March 14, 1991, the **Executive Officer** designated the **Whitewater River Region** as an area required to have a Phase 1 **NPDES MS4 Permit**. The California Department of Finance estimated that as of January 1, 2005, approximately 402,650 persons reside in the incorporated and unincorporated portions of **Riverside County** within the **Whitewater River Watershed**.
11. Discharges of **Storm Water** runoff from lands owned by the California Department of Transportation (**CalTrans**) are currently regulated under a separate **NPDES** permit (Order No. 99-06-DWQ – **NPDES** No. CAS000003) issued by the **State Water Resources Control Board (State Board)**. **CalTrans** is required to comply with specific **Effluent Limitations** prior to discharging from its right-of-way into the **MS4** operated by the **Permittees**.

12. The **County** and the incorporated Cities of Banning, Cathedral City, Coachella, Desert Hot Springs, Indian Wells, Indio, La Quinta, Palm Desert, Palm Springs, and Rancho Mirage are general purpose governments with specified land use authorities and code enforcement powers.
13. Each **Permittee** owns and operates the **MS4** through which the **Permittees** discharge **Urban Runoff** into one or more of the following **Receiving Waters**: Coachella Valley Storm Water Channel (**CVSC**), Whitewater River, San Gorgonio River, and Little and Big Morongo Washes within the jurisdiction of the **Regional Board**.
14. The **Permittees** have implemented programs to control litter, trash, and other anthropogenic-sourced materials from **Urban Runoff**. In addition to the municipal ordinances prohibiting littering, the **Permittees** will continue to implement these programs, and continue organizing and implementing other programs to reduce litter and **Illegal Discharges (IDs)**, such as solid waste collection programs, Household **Hazardous Waste (HHW)** collections, **Hazardous Material** spill response, catch basin **Cleaning**, street sweeping, and recycling programs. These programs should effectively address urban sources to reduce these materials in **Urban Runoff** to the **Maximum Extent Practicable (MEP)**. This **MS4 Permit** includes requirements for the continued implementation of programs for litter, trash, and debris control.

Characteristics of Whitewater River Region

15. The **Whitewater River Region** lies within the Whitewater River Hydrologic Unit and is unique relative to other entities regulated as Phase I **MS4s**. Some of the unique characteristics are:
 - The Whitewater River is the major drainage course in the Whitewater River Hydrologic Unit Planning Area. There is perennial flow in the surrounding mountains, but because of diversions and percolation into the basin, this perennial flow infiltrates in the Whitewater River prior to reaching the urbanized area of the Coachella Valley.
 - The **CVSC** is the constructed downstream extension of the Whitewater River channel, starting near Indio and serves as a drainage way for irrigation return flows, treated community wastewater, and **Urban Runoff**.
 - CVWD operates and maintains the **CVSC** and the regional subsurface drainage collection system for the Coachella Valley. General information from **CVWD** 2006-07 Annual Review and Water Quality Report states approximately 245,896 acre feet of water was provided for irrigation.
 - The **Whitewater River Region** is a Phase I **MS4 Permit Area** in the California desert. Precipitation in the **Whitewater River Region** is typically only 3.6 inches per year in the urbanized areas of the Coachella Valley².
 - In addition to the overall lack of precipitation in the **Whitewater River Region**, there is no defined **Rainy (Wet) Season** within the **Whitewater River**

² Water Quality Control Plan, Colorado River Basin – Region 7, California Regional Water Quality Control Board, State Water Resources Control Board October 2005, p. 1-8.

Watershed; winter storms may occur during late fall and early winter months. However, the **General Industrial Storm Water Permit** defines the **Rainy Season** to be between October 1st and May 31st.

Commonly, winter storms result from moisture-laden air from extra-tropical cyclones. Winter storms tend to be low intensity storms that cover large areas of the **Whitewater River Watershed**. The **Whitewater River Region** is also subject to summer thunderstorms, common from July through September. These summer storm events occur when moist and unstable air is subject to convective lifting. Summer thunderstorms tend to be highly localized and commonly result in high intensity precipitation. Finally, the **Whitewater River Region** is also subject to rare summer storms, which normally occur from July to September. These storms are the result of moisture-laden air originating over the Gulf of Mexico or the South Pacific Ocean. These storms can result in heavy precipitation and last several days.

- Although portions of the **Whitewater River Watershed** are experiencing rapid growth, only 3.5 percent of the **Watershed** is comprised of urban (residential, commercial, and industrial) land uses. Non-urban land uses, including rural residential, agriculture, and open space constitute the majority of the land uses.³ It is projected that the population of the **Whitewater River Watershed** will increase approximately 12.7 percent by 2010.⁴ Assuming that the urbanized area of the **Whitewater River Watershed** increases proportionally to population, 96 percent of the **Watershed** would remain in non-urban land uses in 2010. This information can be found in the **ROWD** in Sections 2.2 and 2.3, which summarizes expected population changes in each **Permittee's** jurisdiction as well as identifies significant developments proposed in the upcoming **MS4 Permit** term.
- Over one-half (57 percent) of the **Whitewater River Watershed** consists of federal, state, and tribal lands⁵ that are not under the jurisdiction of the **Permittees**.
- Non-storm **Urban Runoff** discharges to the **Receiving Waters** in the **Whitewater River Region** are relatively minor based on flow volume due to natural soils conditions and **Permittees** requirements that **New Development** infiltrate **Urban Runoff**.
- The **CVSC** has been identified as impaired for pathogens in that portion from Dillon Road to the Salton Sea and for toxaphene in that portion from Lincoln Street to the Salton Sea. Thus, further monitoring must be conducted to adequately characterize the impacts of **Non-Storm Water Urban Runoff** discharges into the **Receiving Waters**.
- The soils in the **Whitewater River Region** consist primarily of sands that promote rapid infiltration of runoff. During most years, perennial mountain streams tributary to the Whitewater River infiltrate or evapotranspire prior to reaching urbanized areas.

³ County of Riverside Assessor, current as of February 2006.

⁴ Southern California Association of Governments, <http://www.scag.ca.gov/forecast/index.htm>.

⁵ County of Riverside Assessor, current as of February 2006.

A. FINDINGS

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16. The City of Banning, although included as a **Permittee** on this **MS4 Permit**, does not share an interconnected **MS4** with the remainder of the **Permittees**. The **MS4** operated by the City of Banning discharges directly into the San Gorgonio River, a **Receiving Water**. Most **MS4** discharges from the City of Banning infiltrate. During significant runoff events, storm drainage may flow as far as the **CVWD** infiltration basins near the City of Palm Springs, which are several miles upstream of **Urban Runoff** discharges from the **MS4s** operated by the other **Permittees**. However, the City of Banning is included in this **MS4 Permit** to facilitate coordination with the regional programs implemented by the **Permittees** and to reduce the administrative duties on the **Regional Board**.

17. Similar to the City of Banning, the City of Desert Hot Springs also does not share an interconnected **MS4** with the remainder of the **Permittees**. The **MS4** operated by the City of Desert Hot Springs drains to several washes tributary to the Little and Big Morongo Washes, which are **Receiving Waters**. Most discharges from the City of Desert Hot Springs infiltrate. Rarely, and only during significant storm events, would any storm drainage flow into the Whitewater River. However, the City of Desert Hot Springs is included in this **MS4 Permit** to facilitate coordination with the regional programs implemented by the **Permittees** and to reduce the administrative duties on the **Regional Board**.

Salton Sea

18. The Salton Sea restoration legislation requires that the Secretary for Resources of the Salton Sea Ecosystem Restoration Program to undertake a restoration study to determine the preferred alternative for the restoration of the Salton Sea ecosystem and the permanent protection of wildlife dependent on that ecosystem. The Salton Sea ecosystem is defined to include, but not limited to, the Salton Sea, agricultural lands surrounding the Salton Sea, and the tributaries and drains within the Imperial and Coachella valleys that deliver water to the Salton Sea. The **CVSC** is tributary to the Salton Sea.

19. On June 25, 2007, the Secretary for Resources of the Salton Sea Ecosystem Restoration Program certified that the Final Programmatic Environmental Impact Report is in compliance with the California Environmental Quality Act. On January 24, 2008, the Legislative Analyst's Office released a report titled "Restoring the Salton Sea." The report discusses the history and current state of the Salton Sea and the legal and policy reasons for restoring the Salton Sea. The report also makes recommendations on how the California Legislature should proceed with the restoration.

Objectives of MS4 Permit

20. The objectives of this **MS4 Permit** are to:

- a. Renew Board Order No. 01-077 **NPDES** No. CAS617002, which regulates **Urban Runoff** within the **Whitewater River Watershed**;
- b. Regulate the discharge of **Potential Pollutants** in **Urban Runoff** that discharge to surface waters in the **Whitewater River Region**;

- c. Regulate **Non-Storm Water** discharges associated with retrofit, maintenance, and construction activities at **Permittees'** maintenance yards, facilities, or roads; and
- d. Implement regulatory requirements prescribed in the Water Quality Control Plan for the Colorado River Basin Region of California (**Basin Plan**), and requirements of Section 402(p) of the **CWA** and Title 40 Code of Federal Regulations (40 CFR) Part 122

Urban Runoff Characterization

21. **Urban Runoff** contains **Waste**, as defined in the **CWC**, which contains **Pollutants** that could adversely affect the quality of the **Waters of the State**. The discharge of **Pollutants** in **Urban Runoff** from a **MS4** is a "discharge of **Pollutants** from a **Point Source** into **Waters of the United States**" as defined in the **CWA**.
22. **Urban Runoff** includes discharges from residential, commercial, industrial, and construction areas within the **Whitewater River Region**.
23. **Urban Runoff** may contain elevated levels of pathogens (bacteria, protozoa, viruses), **Sediment**, trash, fertilizers (nutrients, compounds of nitrogen and phosphorus), pesticides (DDT, chlordane, diazinon, chlorpyrifos), heavy metals (cadmium, chromium, copper, lead, zinc), and petroleum products (oil, grease, petroleum hydrocarbons, polycyclic aromatic hydrocarbons). **Urban Runoff** can carry these **Pollutants** to **Receiving Waters** within the **Whitewater River Region**. In addition, although infrequently, **Urban Runoff** from the **Whitewater River Region** can carry these **Pollutants** to other **Receiving Waters**, such as the Whitewater River. These **Pollutants** can then impact the **Beneficial Uses** of the **Receiving Waters** and can cause or threaten to cause a condition of **Pollution** or **Nuisance**.
24. Pathogens (from **Sanitary Sewer Overflows (SSO)**, septic system leaks, and spills and leaks from portable toilets, pets, wildlife and human activities) may impact water contact recreation and non-contact water recreation. Floatables (from trash) are an aesthetic **Nuisance** and may provide a substrate for algae and insect vectors. Oil and grease may coat birds and aquatic organisms, adversely affecting respiration and/or thermoregulation. Other petroleum hydrocarbon components may cause **Toxicity** to aquatic organisms and may impact human health. Suspended and settleable solids (from **Sediment**, trash, and industrial activities) may be deleterious to benthic organisms and may cause anaerobic conditions. **Sediments** and other suspended particulates may cause turbidity, clog fish gills, and interfere with respiration in aquatic fauna. **Sediment** and other suspended particles may also screen out light, hindering photosynthesis and normal aquatic plant growth and development.

Mitigation of Urban Runoff

29. **Pollutants** may be reduced in **Urban Runoff** by the appropriate application of **Pollution Prevention, Source Control, and Treatment Control BMPs** to the **MEP**.

30. This **MS4 Permit** provides flexibility for **Permittees** to petition the **Executive Officer** to substitute a **BMP** under this Order with an alternative **BMP**, if they can provide information and documentation on the effectiveness of the alternative, equal to or greater than the prescribed **BMP** in meeting the objectives of this **MS4 Permit**.

31. **Permittees** with land use authority authorize urbanization and land uses that may generate **Pollutants** and runoff, which can contribute to the impairment of **Receiving Waters**. Therefore, they can also exercise their legal authority to require to the **MEP** that the resulting increased **Pollutant** loads and flows do not further degrade **Receiving Waters**.

32. Urban development has three major phases: (1) land use planning for **New Development**, (2) construction; and (3) the current land use or existing development phase. Because the **Permittees** authorize each of these phases, they have commensurate responsibilities to protect **Receiving Water** quality to the **MEP** during each phase.

33. For many years, the Cities of Cathedral City, Indian Wells, Indio, La Quinta, Palm Desert, Palm Springs and Rancho Mirage have required most developments to retain and infiltrate **Urban Runoff** on-site unless located adjacent to an existing **MS4** facility.

34. This **MS4 Permit** requires the **Permittees** to continue to implement the **BMPs** listed in the approved **SWMP** and to continue to effectively prohibit **IDs** and **Illicit Connections (ICs)** to the **MS4**. One of the major elements of the **SWMP** is a **Storm Water/Urban Runoff** Management and Discharge Control Ordinance. Some of the **Permittees** with land use authority have adopted such an ordinance as well as ordinances addressing **Grading** and **Erosion** control (collectively, the "**Storm Water Ordinance**"). The purpose of each **Storm Water Ordinance** is to prohibit **Pollutant** discharges in the **MS4** and to regulate **IC/IDs** and **Non-Storm Water** discharges to the **MS4**.

35. One method to reduce **Potential Pollutants** in **Urban Runoff** is to incorporate **BMPs** to the **MEP** as early in the planning phase of a project as possible. The implementation of **BMPs** is necessary to prevent **Erosion** and sedimentation in storm and non-storm **Urban Runoff** discharges.

36. Construction activities may be a significant cause of **Receiving Water** impairment. Siltation is currently the major cause of river impairment in the United States. **Sediment** runoff rates from construction sites greatly exceed natural **Erosion** rates of undisturbed lands, causing siltation and impairment of **Receiving Waters**. However, siltation has not been identified as a cause of Receiving Water impairment in the Whitewater River Region. In addition to requiring

implementation of the full range of **BMPs**, an effective construction runoff program must include local plan review, permit conditions, field inspections, and enforcement. The **New Development Guidelines (Supplement "A" to the Riverside County Drainage Area Management Plan)** are incorporated into the **Whitewater River Region SWMP**. The purpose of the **New Development Guidelines** is to identify post-construction source **Pollutant** prevention and treatment measures that may be incorporated into development projects.

37. Enforcement of local **Urban Runoff** related ordinances, permits, and plans are an essential component of the **SWMP**. Routine inspections provide an effective means by which **Permittees** can evaluate compliance. Inspections are especially important at high-risk areas for **Pollutant** discharges, such as at industrial and construction sites.
38. Education is the foundation of the **SWMP**. Education of the **Permittee's** planning, inspection, and maintenance department staff is critical. The Public Education Program contained in the **SWMP** incorporates a well-developed approach to education and outreach. The program, entitled "Only Rain Down The Storm Drain **Pollution Prevention** Program", combines resources and efforts from the three **County MS4** permit programs to effectively communicate responsible **Urban Runoff** management. Public participation is necessary to ensure that all stakeholder interests, and a variety of creative solutions, are considered. Public participation is important in the development of a complete **Urban Runoff** management program. The **Permittees** propose to continue to emphasize the public participation component of this program.
39. The **SWMP**, Appendix A of the March 9, 2006 **ROWD**, submitted by the **Permittees**, meets the **MEP** standard, as defined in the **MS4 Permit**, with the exception of those provisions of the **MS4 Permit** that require the **SWMP** to be modified. Those portions of the **SWMP** that are to be modified are sufficiently described to enable the **Executive Officer** to review and approve the modifications on behalf of the **Regional Board**.

Whitewater River Watershed Water Quality

40. The Whitewater River is defined in the **Basin Plan** as the reach from the headwaters in the San Gorgonio Mountains to (and including) the Whitewater recharge basins near the Indian Avenue crossing in the City of Palm Springs. The reach of the Whitewater River from the Whitewater recharge basins near Indian Avenue to the **CVSC** near Indio is defined as a Wash (Intermittent or **Ephemeral Stream**) in the **Basin Plan**. The Whitewater River is not listed as an **Impaired Waterbody** within the **Whitewater River Region**. Due to the small percentage of the **Whitewater River Watershed** and the **Whitewater River Region** in Urban land uses, **Urban Runoff** constitutes a minor percentage of the total flow in the Whitewater River under storm conditions.
41. The **CVSC** is defined as the perennial reach of the Whitewater River, starting approximately from the City of Indio and terminating at the Salton Sea. A portion of the **CVSC** is contained within the **Whitewater River Region** and the upper segment of this channel has intermittent flows to a point just upstream of Dillon

25. It is recognized that **Storm Water** flows from non-urbanized areas such as National Forests, State Parks, Wilderness, and Agriculture, as shown on the Site Map, naturally exhibit high levels of suspended solids due to climate, hydrology, geology, and geography.⁶ Runoff from these non-urbanized areas may flow into the MS4 and affect flow and water quality. Toxic substances (from pesticides, petroleum products, metals, and industrial **Wastes**) can cause acute and/or chronic **Toxicity**, and may bioaccumulate in organisms to levels that may be harmful to human health. Nutrients (from fertilizer use, fire fighting chemicals, decaying plants, confined animal facilities, pets, and wildlife) can cause excessive algal blooms. These blooms may lead to problems with taste, odor, color and increased turbidity, and may depress the dissolved oxygen content leading to fish kills.

26. There is a direct correlation between "urbanization" and "impacts to receiving water quality." In general, the more heavily developed the area, the greater the potential impact to receiving waters from **Urban Runoff**.

27. During urban development two important changes may occur:

- a. Natural pervious ground cover is converted to impervious surfaces such as paved highways, streets, rooftops, and parking lots. Natural soil can both absorb rainwater and remove **Pollutants**. Because pavement and concrete can neither absorb water nor remove **Pollutants**, the absorptive characteristics of the land are greatly reduced; and
- b. Urban development may create new **Pollution** sources as human population density increases and brings with it proportionately higher levels of vehicle emissions, vehicle maintenance **Wastes**, municipal sewage, pesticides, **HHW**, pet wastes, trash, etc., which may either be washed into or directly dumped into the **MS4**.

Because of these two changes the runoff leaving the developed urban area may be significantly greater in volume, velocity, and **Pollutant** load than the predevelopment runoff from the same area. These effects are minimized when effective **Best Management Practices (BMPs)** to manage **Urban Runoff** are implemented and maintained.

28. **Urban Runoff** may contain **Pollutants** that may threaten human health. Individually and in combination, **Pollutants** discharged from **MS4s** may cause or threaten to cause a condition of **Pollution** (i.e., an alteration of water quality by **Waste** to a degree which unreasonably affects the waters for designated **Beneficial Uses** and/or facilities which serve these designated **Beneficial Uses**), **Contamination**, or **Nuisance**. The discharge of **Pollutants** from **MS4s** may cause the concentration of **Pollutants** to prevent attainment of applicable **Receiving Water Quality Objectives (WQO)** and thereby impair or threaten to impair designated **Beneficial Uses**.

⁶ Riverside County Flood Control and Water Conservation District's "Hydrology Manual," dated April 1978; page II-4 of "Santa Ana River, Design Memorandum No. 1, Phase II GDM on the Santa Ana River Mainstem, including Santiago Creek, Volume 2, Prado Dam" dated August 1988 and D.I. Inman & S.A. Jenkins "Climate Change and the Episodicity of Sediment Flux in Small California Rivers," Journal of Geology, Volume 107, pp. 251-270, 1999.

Road in the City of Indio. The **CWA** Section 303(d) List has identified portions of the **CVSC** that are not meeting **Water Quality Standards (WQS)** for pathogens and toxaphene. That portion of the **CVSC** from Dillon Road to the Salton Sea is listed as not meeting **WQS** for pathogens and the portion from Lincoln Street to the Salton Sea is listed as not meeting **WQS** for toxaphene. The 303(d) list notes that the source of the pathogen impairment is not known and a **total maximum daily load (TMDL)** and implementation plan are required to be developed to address this impairment pursuant to **CWA** Section 303(d). Toxaphene will be addressed in a future **TMDL**.

42. Bacteria data provided by the three **NPDES** wastewater treatment facilities and the **MS4 Permittees** discharging into the **CVSC** indicates that **Urban Runoff** and **Storm Water** flows contain fecal coliform levels that would violate current **WQOs** for Water Contact Recreation (**REC 1**) and Non-contact Water Recreation (**REC 2**) beneficial uses for the **CVSC**. Measured fecal coliform levels range up to 900,000 Most Probable Number [MPN] 100 milliliter [ML] (MPN/100 ml) at Avenue 52 Storm Drain in Coachella, September 1999, and 70,000 MPN/100 ml at Monroe Street Storm Drain in Indio, April 1999.
43. A Bacterial Indicator TMDL for CVSC was adopted by the Regional Board on May 16, 2007. The Regional Board also directed staff following adoption of the TMDL to conduct three public workshops with affected stakeholders and other interested persons to discuss the requirements of the TMDL. In the meantime, the TMDL was forwarded to the State Water Board for its review and approval. The first public workshop was held on July 25, 2007, the second was held on November 19, 2007, and the third was held on April 23, 2008.

The TMDL was withdrawn from the State Water Board's consideration of adoption, which had been placed as an agenda item to be heard at the State Water Board's March 18, 2008 public meeting. Pursuant to oral and written comments made in connection with the first two workshops, however, the Regional Board's Executive Officer determined that it would be appropriate to request the State Water Board to withdraw the TMDL from its agenda for a certain period of time. The withdrawal request letter, dated January 18, 2008, and addressed to the State Water Board Executive Director, explained that the withdrawal was needed to address comments and concerns raised by the Coachella Valley agricultural community regarding the appropriateness of being named as a Responsible Party in the TMDL Implementation Plan without sufficient data.

To address this data gap, agricultural dischargers and the Coachella Valley Water District proposed conducting the following tasks over an 18-month period: (1) for the first three months following State Water Board approval of the withdrawal request: the agricultural community would form a Task Force to develop a monitoring plan, which would be submitted to the Regional Board Executive Officer for his review and approval; (2) for the next 12 months: the Task Force would conduct quarterly monitoring; and (3) for the last three months: the Task Force would prepare a report of the sampling results and submit the report to the Regional Board for its consideration of approval.

The State Water Board approved the withdrawal request, which it announced in a public notice dated February 22, 2008. Since then, the agricultural community and the Coachella Valley Water District formed the proposed Task Force to begin developing a Monitoring Plan, which would be submitted to the Regional Board Executive Officer for his review and approval.

The TMDL identified Urban Runoff from the County and the City of Coachella outfalls, Caltrans outfalls, outfalls from Native American Tribal lands, and Non-Point Source discharges, including wildlife and transients into the CVSC, as potential sources of pathogens. Therefore, TMDL pathogen Wasteload Allocations (WLAs) were assigned to the County and the City of Coachella. The pathogen WLA has been defined for *E. coli* as a log mean (Geomean) of the MPN \leq 126/100 ml (based on a minimum of not less than five samples during a 30-day period), or 400 MPN/100 ml for a single sample. Monitoring this MS4 Permit requires the County and the City of Coachella to achieve the pathogen WLAs through compliance with the TMDL Implementation Plan, based on the compliance schedule provided in the TMDL for their Urban Runoff discharges.

The WLAs will be submitted to the State Water Board, OAL, and USEPA only after the agricultural community's Task Force has completed the 12 months of sampling and submitted a report of its findings to the Regional Board's Executive Officer for his review and approval. To the extent that the TMDL needs to be revised based on the data collected, the TMDL will be recirculated for another round of public comment. Following the public comment period, any revisions to the TMDL, which may result from comments received and the sampling data collected, will be scheduled for Regional Board consideration at another public hearing.

44. The 2006 CWA Section 303(d) List of Water Quality Limited Segments for the Colorado River Basin Region lists the Salton Sea for nutrients, salinity and selenium. The potential sources for the **Pollutants** are listed in the 303 (d) List as follows:

- Nutrients - Major Industrial **Point Sources**, Agricultural Return Flows, & Out-of-State Source
- Salinity -Agricultural Return Flows, Out-of-State Source & **Point Sources**
- Selenium - Agricultural Return Flows

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Hydrology and Monitoring

45. An effective monitoring program characterizes ***Urban Runoff*** discharges, identifies problem areas, and determines the impact of ***Urban Runoff*** on ***Receiving Waters***. However, due to the limited annual rainfall and the ephemeral nature of most ***Receiving Waters*** within the ***Whitewater River Region***, collecting sufficient wet and dry weather data to characterize discharges and assess improvement or degradation in water quality due to ***Urban Runoff*** quality control program implementation is challenging at best. Under normal hydrologic conditions in the ***Whitewater River Region***, there are limited flowing ***Receiving Waters*** impacted by ***Urban Runoff***.

46. Although local climate and hydrology make consistent sample collection difficult, it is feasible to safely collect data from ***MS4*** outfalls and certain ***Receiving Waters*** during daylight hours of wet weather events that do not result in flash flood warnings and/or watches. The ***Permittees*** should continue to take efforts to collect data for the ultimate purpose of characterizing ***Urban Runoff*** discharges, effectiveness of implemented ***BMPs***, and determining the impacts of those discharges on ***Receiving Waters***, where applicable and feasible.

47. Due to the general ephemeral nature of the ***Whitewater River Region*** during dry weather conditions, ***IC/IDs*** to ***Receiving Waters*** from ***MS4*** outfalls are easily identified by field inspections. Therefore, this ***MS4 permit*** requires, in part, that the ***Permittees*** dry weather monitoring should focus on field identification and elimination of ***IC/IDs*** by ***Permittee's*** staff.

Colorado River Region Basin Plan

48. The ***Basin Plan***, as amended to date, designates the ***Beneficial Uses*** of ground and surface waters in the Colorado River Basin Region. The ***Whitewater River Region*** lies within the Whitewater River Hydrologic Unit Planning Area.

49. The majority of surface water bodies within the ***Whitewater River Region*** are designated as ***Washes***. These include the Whitewater River, starting from the Whitewater recharge basins located west of the City of Palm Springs and extending to the upstream channel reach located one-quarter mile west of the Monroe Street crossing near the City of Indio. The majority of the urban area drains into this reach of the Whitewater River. The ***Permittee's MS4*** facilities drains into the following ***Washes***:

- Smith Creek
- Montgomery Creek
- West Cathedral Canyon Channel
- East Cathedral Canyon Channel
- West Magnesia Canyon Channel
- East Magnesia Canyon Channel
- Palm Valley Storm Water Channel

- Deep Canyon Storm Water Channel
- Bear Creek
- La Quinta Resort Channel
- La Quinta Evacuation Channel
- Whitewater River from Whitewater recharge basins to the **CVSC**

The designated **Beneficial Uses** for the aforementioned **Washes** are Freshwater Replenishment (**FRSH**), Groundwater Recharge (**GRW**), Non-contact Water Recreation (**REC 2**) and Wildlife Habitat (**WILD**). All of these **Washes** are intermittent.

50. The **Permittees** also own and operate **MS4** facilities that discharge **Urban Runoff** into the following surface water bodies, which have additional designated **Beneficial Uses**:

- a. San Gorgonio River
- b. Whitewater River
- c. Tahquitz Creek
- d. Palm Canyon Creek
- e. Little Morongo Creek
- f. **CVSC**

Beneficial Uses for these specific water bodies are identified and are summarized in the following table. In addition to the **Beneficial Uses** described above, these include Municipal and Domestic Supply (**MUN**), Agriculture Supply (**AGR**), Aquaculture (**AQUA**), Industrial Service Supply (**IND**), Water Contact Recreation (**REC 1**), Warm Freshwater Habitat (**WARM**), Cold Freshwater Habitat (**COLD**), Hydropower Generation (**POW**) and Preservation of Rare, Threatened or Endangered Species (**RARE**). Note that present **Beneficial Uses** are designated by X; potential **Beneficial Uses** are designated by P and intermittent uses by I:

Waterbody	MUN	AGR	AQUA	FRSH	IND	GWR	REC1	REC2	WARM	COLD	WILD	POW	RARE	Location
CVSC ⁷				X			X ⁸	X ⁹	X		X		X ¹⁰	Perennial reach from approx. Dillon Road to Salton Sea
Little Morongo Creek	P	X				X	X	X	X		X			
Palm Canyon Creek	P	X				X	X	X	X		X			
San Gorgonio River	P	X				X	X	X		X	X			
Tahquitz Creek	P					X	X	X		X	X			
Whitewater River ¹¹	X	X				X	X	X	I	X	X	X		From headwaters to Whitewater Recharge Basins
Washes ¹² (Ephemeral Streams)				I ¹³		I		I	I ¹⁴		I			Whitewater River from Whitewater Recharge Basins to perennial reach of CVSC (near Dillon as of 4/2005)

51. The Coachella Valley ground water basin has the following **Beneficial Uses** designated in the **Basin Plan**:

- **MUN**;
- **AGR**; and
- **IND**.

52. Numeric and narrative **WQOs** exist for the **Receiving Waters** in the **Whitewater River Region**. It is not feasible or appropriate at this time to establish **Numeric Effluent Limitations** due to the variability in the quality, quantity, and complexity of **Urban Runoff**. Moreover, the impact of **Urban Runoff** discharges on the quality of **Receiving Waters** has not been fully determined. Therefore, the **Effluent Limitations** contained in this **MS4 Permit** are narrative and include the **SWMP**'s requirement to implement appropriate **BMPs**. The narrative **Effluent Limitations** constitute compliance with the requirements of the **CWA** and can be found in Section B. **DISCHARGE PROHIBITIONS**, Section D. **RECEIVING WATER LIMITATIONS** and Section G. **TOTAL MAXIMUM DAILY LOADS** of this **MS4 Permit**.

⁷ Section of perennial flow from approximately Indio to the Salton Sea.

⁸ Unauthorized use.

⁹ Unauthorized use.

¹⁰ Rare, endangered or threatened wildlife exists or utilizes these waterway(s). If the **RARE Beneficial Use** may be affected by a water quality control decision, responsibility for substantiation of the existence of rare, endangered or threatened species on a case-by-case basis is upon the California Department of Fish and Game on its own initiative and/or at the request of the **Regional Board**; and such substantiation must be provided within a reasonable time frame as approved by the Regional Board.

¹¹ Includes the section of flow from the headwaters in the San Gorgonio Mountains to (and including) the Whitewater recharge basins near Indian Avenue crossing in Palm Springs.

¹² Washes – Intermittent or **Ephemeral Streams**, including the section of ephemeral flow in the Whitewater River and the **CVSC** from Indian Avenue to approximately ½ mile west of Monroe Street crossing.

¹³ Applies only to tributaries to Salton Sea.

¹⁴ Use, if any, to be determined on a case-by-case basis.

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Federal NPDES Storm Water Regulations:

53. Federal regulations for Phase I **MS4 Storm Water** discharges were promulgated by the **USEPA** on November 16, 1990 (40 CFR Parts 122, 123, and 124) and apply to the discharge regulated by this **MS4 Permit**.
54. Pursuant to Section 402 of the **CWA** and Section 13370 of the **CWC**, the **USEPA** approved the California State Program to issue and enforce **NPDES** permits for discharges to surface **Waters of the State**. Section 405 of the Water Quality Act of 1987 added Section 402(p) to the **CWA**, which requires the **USEPA** to develop a phased approach to regulate **Storm Water** discharges under the **NPDES** program.
55. Section 402(p) of the **CWA** requires the issuance of **NPDES** permits for **Storm Water** discharges for which the **USEPA** Regional Administrator or the **Regional Board**, as the case may be, determines that the **Storm Water** discharges contribute to a violation of a **WQS**, or is a significant contributor of **Pollutants** to **Waters of the United States**.
56. Section 402(p) of the **CWA** requires **NPDES** permits for **MS4s** to include a requirement to effectively prohibit **Non-Storm Water** discharges into **MS4s** unless such discharges are either authorized by a separate **NPDES** permit or not prohibited in accordance with Section C. ALLOWABLE NON-STORM WATER DISCHARGES of this **MS4 Permit**. The requirement in the **CWA** to reduce **Pollutants** to the **MEP** provides a minimum level of water quality protection. The State may develop **WQS** more stringent than those required by the **CWA**.
57. Title 40 CFR Part 122.26 requires a proposed management program that covers the duration of this **MS4 Permit**. It must include a comprehensive planning process that involves public participation and, where necessary, intergovernmental coordination to reduce the discharge of **Pollutants** to the **MEP** using management practices, control techniques, and system, design, and engineering methods, and such other provisions that are appropriate. The proposed management program is described in the **Whitewater River Region SWMP**. The proposed management program shall include a description of **Structural** and **Source Control BMPs** to reduce **Pollutants** discharged from **Urban Runoff** into the **MS4** that are to be implemented during the term of this **MS4 Permit**.

Compliance with CEQA and Other Requirements

58. The **Permittees** will be required to comply with amendments to **WQS** or **Waste Discharge Requirements (WDRs)**, which may be imposed by the **USEPA** or the State of California prior to the expiration of this **MS4 Permit**. This **MS4 Permit** may be reopened to include **WLAs** to address **Pollutants** in **Urban Runoff** causing or contributing to the impairments in **Receiving Waters** and/or other requirements developed and adopted by the **Regional Board**. The **MS4 Permit** also includes language requiring the **Permittees** to amend the **SWMP** to address **TMDL Basin Plan** Amendments, including incorporation of **WLA** requirements.

59. **CWC** Section 13243 provides that a Regional Board, in a water quality control plan or in **WDRs**, may specify certain conditions or areas where the discharge of **Waste** or certain types of **Waste** is not permitted.

60. The issuance of an **NPDES** permit for this discharge is exempt from the provisions of the California Environmental Quality Act (**CEQA**), Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code, in accordance with **CWC** Section 13389. In accordance with Section 15301, Chapter 3, Division 6, Title 14 of the California Code of Regulations, the issuance of this **MS4 Permit**, which governs the operation of an existing facility involving negligible or no expansion of use beyond that previously existing, is exempt from **CEQA**.

61. The **Regional Board** has considered state and federal anti-degradation requirements pursuant to 40 CFR 131.12 and **State Board** Resolution No. 68-16. This **MS4 Permit** does not allow degradation of surface **Waters of the State**. Therefore, compliance with the **MS4 Permit** will satisfy these anti-degradation requirements.

62. The **State Board** issued two state-wide general permits to address **Storm Water** discharges from construction activities: the General Permit for Storm Water Discharges Associated with Construction Activities from Small Linear Underground/Overhead Projects (**NPDES** No. CAS000005) and the General Construction Activity Storm Water Permit (**NPDES** No. CAS000002) (collectively the "**General Construction Permit**"). Construction activities that qualify are required by federal regulations to obtain permit coverage under either an individual **NPDES** permit or these statewide **General Construction Permit** by filing a **Notice of Intent (NOI)** with the **State Board**. This **MS4 Permit** provides equivalent coverage of **Permittee** construction projects as the **General Construction Permit**. Therefore, separate coverage under the **General Construction Permit** is not necessary for **Permittee** construction projects within the **Whitewater River Region**. **Permittee** projects outside of the **Whitewater River Region** must obtain the appropriate **General Construction Permit** coverage, where applicable.

63. **State Mandates.** This Order does not constitute an unfunded local government mandate subject to subvention under Article XIII B, Section 6 of the California Constitution for several reasons including, but not limited to, the following. First, this Order implements federally mandated requirements under federal Clean Water Act section 402, subdivision (p)(3)(B). (33 U.S.C. § 1342(p)(3)(B).) This includes federal requirements to effectively prohibit **Non-Storm Water** discharges, to reduce the discharge of pollutants to the maximum extent practicable, and to include such other provisions as the Administrator or the State determines appropriate for the control of such pollutants. Federal cases have held these provisions require the development of permits and permit provisions on a case-by-case basis to satisfy federal requirements. (*Natural Resources Defense Council, Inc., v. U.S. E.P.A.* (9th Cir. 1992) 966 F.2d 1292, 1308, fn. 17.) The authority exercised under this Order is not reserved state authority under the Clean Water Act's savings clause (cf. *Burbank v. State Water Resources Control Bd.* (2005) 35 Cal.4th 613, 627-628 [relying on 33 U.S.C. § 1370, which allows a state to develop requirements which are not "less stringent" than federal requirements]), but instead, is part of a federal mandate to develop pollutant reduction requirements.

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for municipal separate storm sewer systems. To this extent, it is entirely federal authority that forms the legal basis to establish the permit provisions. (See *City of Rancho Cucamonga v. Regional Water Quality Control Bd.—Santa Ana Region* (2006) 135 Cal.App.4th 1377, 1389; *Building Industry Ass'n of San Diego County v. State Water Resources Control Bd.* (2004) 124 Cal.App.4th 866, 882-883.)

Likewise, the provisions of this Order to implement ***total maximum daily loads*** (TMDLs) are federal mandates. The federal Clean Water Act requires TMDLs to be developed for water bodies that do not meet federal water quality standards. (33 U.S.C. § 1313(d).) Once the U.S. Environmental Protection Agency or a state develops a TMDL, federal law requires that permits must contain effluent limitations consistent with the assumptions of any applicable wasteload allocation. (40 C.F.R. § 122.44(d)(1)(vii)(B).)

Second, the **Permittees'** obligations under this Order are similar to, and in many respects less stringent than, the obligations of non-governmental dischargers who are issued NPDES permits for storm water discharges. With a few inapplicable exceptions, the Clean Water Act regulates the discharge of pollutants from point sources (33 U.S.C. § 1342) and the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.) regulates the discharge of waste (Wat. Code, § 13263), both without regard to the source of the pollutant or the waste. As a result, the "costs incurred by local agencies" to protect water quality reflect an overarching regulatory scheme that places similar requirements on governmental and nongovernmental dischargers. (See *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 57-58 [finding comprehensive workers compensation scheme did not create a cost for local agencies that was subject to state subvention].)

The Clean Water Act and the Porter-Cologne Water Quality Control Act largely regulate storm water with an even hand, but to the extent there is any relaxation of this even-handed regulation, it is in favor of the local agencies. Except for municipal separate storm sewer systems, the Clean Water Act requires point source discharges, including discharges of storm water associated with industrial or construction activity, to comply strictly with water quality standards. (33 U.S.C. § 1311(b)(1)(C), *Defenders of Wildlife v. Browner* (1999) 191 F.3d 1159, 1164-1165 [noting that industrial storm water discharges must strictly comply with water quality standards].) As discussed in prior State Water Resources Control Board decisions, this Order does not require strict compliance with water quality standards. (SWRCB Order No. WQ 2001-15, p. 7.) The Order, therefore, regulates the discharge of waste in municipal storm water more leniently than the discharge of waste from non-governmental sources.

Third, the **Permittees** have the authority to levy service charges, fees, or assessments sufficient to pay for compliance with this Order. The fact sheet demonstrates that numerous activities contribute to the pollutant loading in the municipal separate storm sewer system. Local agencies can levy service charges, fees, or assessments on these activities, independent of real property ownership. (See, e.g., *Apartment Ass'n of Los Angeles County, Inc. v. City of Los Angeles* (2001) 24 Cal.4th 830, 842 [upholding inspection fees associated with renting property].) The ability of a local agency to defray the cost of a program without

raising taxes indicates that a program does not entail a cost subject to subvention. (*County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487-488.)

Fourth, the **Permittees** have requested permit coverage in lieu of compliance with the complete prohibition against the discharge of pollutants contained in federal Clean Water Act section 301, subdivision (a) (33 U.S.C. § 1311(a)) and in lieu of numeric restrictions on their discharges. To the extent that local agencies have voluntarily availed themselves of the permit, the program is not a state mandate. (Accord, *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 107-108.) Likewise, the **Permittees** have voluntarily sought a program-based municipal storm water permit in lieu of a numeric limits approach. (See *City of Abilene v. U.S. E.P.A.* (5th Cir. 2003) 325 F.3d 657, 662-663 [noting that municipalities can choose between a management permit or a permit with numeric limits].) The local agencies' voluntary decision to file a report of waste discharge proposing a program-based permit is a voluntary decision not subject to subvention. (See *Environmental Defense Center v. U.S. E.P.A.* (9th Cir. 2003) 344 F.3d 832, 845-848.)

Finally, the local agencies' responsibility for preventing discharges of waste that can create conditions of pollution or nuisance from conveyances that are within their ownership or control under state law predates the enactment of Article XIII B, Section 6 of the California Constitution.

64. The **Regional Board** has notified the **Permittees** and other interested agencies and **Persons** of its intent to re-issue this **MS4 Permit** for discharges of **Urban Runoff** into the **Whitewater River Region**.

The **Regional Board**, in a public hearing, heard and considered all comments pertaining to this **MS4 Permit**. The **Regional Board** reserves the right to reopen this **MS4 Permit** after proper notice and an opportunity to be heard, is given to all concerned parties.

B. DISCHARGE PROHIBITIONS

1. The discharge of **Urban Runoff** from the **Permittees' MS4** to **Waters of the United States** containing **Pollutants**, which have not been reduced to the **MEP**, is prohibited.
2. The **Permittees** shall continue to prohibit **IC/IDs** to the **MS4** through their **Storm Water Ordinances**.
3. The following discharge prohibitions are applicable to any **Person**, as defined by Section 13050(c) of the **CWC**, who is a citizen, domiciliary, or political agency or entity of California and whose activities in California could affect the quality of **Waters of the State** within the boundaries of the Colorado River Basin Region:
 - a. The discharge of **Waste** to **Waters of the State** in a manner causing, or threatening to cause, a condition of **Pollution**, **Contamination**, or **Nuisance**, as defined in **CWC** Section 13050.
 - b. The discharge of **Pollutants** or dredged or fill material to **Waters of the United States**, except as authorized by an **NPDES** permit or a dredged or fill material permit subject to the exemption described in **CWC** Section 13376.
 - c. Any discharge to the **MS4** that is not composed entirely of "**Storm Water**" is prohibited, unless authorized by Section C. ALLOWABLE NON-STORM WATER DISCHARGES.
 - d. The unauthorized discharge of treated or untreated sewage to **Waters of the State** or to the **MS4**.
 - e. The discharge of oil, gasoline, diesel fuel, or any other petroleum derivative or any toxic chemical or **Hazardous Waste** into the **MS4**.
 - f. **Urban Runoff** discharges from the **Permittees' MS4** which cause or contribute to exceedances of **Receiving WQS** (as defined by "**Beneficial Uses**" and **WQOs** in the **Basin Plan** and amendments thereto).

C. ALLOWABLE NON-STORM WATER DISCHARGES

1. Each **Permittee** shall effectively prohibit all types of **Non-Storm Water** discharges into the **MS4** unless such discharges are authorized in accordance with Item No. 2 of this Section.
2. The following discharges may be allowed, unless identified by the **Permittees** or the **Regional Board** as a significant source of **Pollutants** to the **Receiving Waters**:
 - a. Discharges covered by **NPDES** permits or written clearances issued by the **Regional or State Board**;
 - b. Potable water line flushing and other potable water sources;
 - c. Passive footing drains;
 - d. Water from crawl space pumps;
 - e. Discharges from landscape irrigation, lawn/garden watering and other irrigation waters;
 - f. Dechlorinated swimming pool discharges;
 - g. Non-commercial vehicle washing; (e.g. residential car washing (excluding engine degreasing) and car washing fundraisers by non-profit organizations);
 - h. Diverted stream flows;
 - i. Rising ground waters and natural springs;
 - j. Groundwater infiltration as defined in 40 CFR 35.2005 (20) and uncontaminated pumped ground water;
 - k. Flows from riparian habitats and wetlands;
 - l. Street washing activities;
 - m. Emergency water flows (i.e., fire fighting flows and other flows necessary for the protection of life and property) do not require **BMPs** and need not be prohibited. However, appropriate **BMPs** shall be considered where practicable when not interfering with emergency public health and safety issues;
 - n. Waters not otherwise containing **Wastes**, as defined in **CWC** Section 13050 (d); and
 - o. Other types of discharges identified and recommended by the **Permittees** and approved by the **Regional Board**.
3. For purposes of this **MS4 Permit**, a discharge may include **Storm Water** and other types of discharges as indicated in Section C.2.

4. If the **Permittee** or the **Regional Board** identifies an allowable discharge category from Section C.2 that causes or contributes to an exceedance of **WQS** or is a significant contributor of **Pollutants** to **Waters of the United States**, a **Permittee** shall either:

Prohibit the discharge category from entering its **MS4** or ensure that appropriate **BMPs** are implemented to the **MEP** to reduce or eliminate **Pollutants** resulting from the discharge. The **Permittees** shall also provide a report to the **Regional Board** per Section D. **RECEIVING WATER LIMITATIONS**, Item No. 2.

D. RECEIVING WATER LIMITATIONS

1. The **SWMP** and its components shall be updated to achieve compliance with **Receiving Water Limitations** associated with discharges of **Urban Runoff**. It is expected that compliance with **Receiving Water Limitations** will be achieved through an iterative process and the application of **BMPs** to the **MEP**.
2. The **Permittees** shall comply with Discharge Prohibitions, Allowable **Non-Storm Water** Discharges, and **Receiving Water Limitations** through timely implementation of control measures and other actions to reduce **Pollutants** in the discharges in accordance with the **SWMP** and other requirements of this **MS4 Permit**, including any modifications. If exceedance(s) of **WQS** persist, notwithstanding implementation of the **SWMP** and other requirements of this **MS4 Permit**, the **Permittees** shall assure compliance with Discharge Prohibitions, Allowable **Non-Storm Water** Discharges, and **Receiving Water Limitations** by complying with the following procedure:
 - a. Upon a determination by the **Permittees** or **Regional Board** that discharges of **Urban Runoff** from the **MS4** are causing or exceeding or contributing to an exceedance of an applicable **WQS**, the **Permittees** shall promptly notify **Regional Board** staff within two (2) working days by telephone (760.346.7491) or e-mail notice and thereafter submit within 30 days a report to the **Regional Board** that describes **BMPs** that are currently being implemented and additional **BMPs** that will be implemented to prevent or reduce any **Pollutants** that are causing or contributing to the exceedance of **WQSs**. The report shall include an implementation schedule. The **Regional Board** may require modifications to the report;
 - b. Alternatively, if the exceedances of the applicable **WQSs** are due to discharges to the **MS4** from activities or areas not under the jurisdiction of the **Permittees**, the **Permittees** shall promptly notify **Regional Board** staff within two (2) working days by telephone (760.346.7491) or e-mail notice and thereafter shall provide documentation of these discharges and submit a report within 30 days to the **Regional Board**. The **Permittees** shall trace the source of the discharge upstream by contacting the appropriate neighboring **MS4** facility that does have jurisdiction to locate the source of the **Pollution**;
 - c. Submit any modifications to the above reports (either D.2.a. or D.2b., as appropriate) within 30 days when required by the **Regional Board**;
 - d. Within 30 days following approval by the **Regional Board** of the report described above in D. **RECEIVING WATER LIMITATIONS**, 2.a., the **Permittees** shall revise the **SWMP** and monitoring program to incorporate the approved modified **BMPs** that will be implemented, the implementation schedule, and any additional monitoring required; and
 - e. Implement the revised **SWMP** and monitoring program in accordance with the approved implementation schedule.

As long as the **Permittees** have complied with the procedures set forth above and are implementing the revised **SWMP**, the **Permittees** do not have to repeat the same procedure for continuing or recurring exceedances of the same **Receiving Water Limitations**, unless directed in writing by the **Regional Board** or **Executive Officer** to develop and implement additional **BMPs**, including **Source and Treatment Controls BMPs**.

E. SPECIFIC PERMITTEE REQUIREMENTS

1. The **Principal Permittees** shall:
 - a. Coordinate **MS4 Permit** compliance activities;
 - b. Establish uniform data submittal format;
 - c. Prepare the **Annual Report**;
 - d. Forward information received from the **Regional Board** to the **Permittees**;
 - e. Implement **MS4 Permit** activities of common interest;
 - f. Inform **Permittees** on **USEPA** and **Regional Board** regulations pertaining to the **MS4**;
 - g. Convene all **Desert Task Force** meetings that are held at least quarterly and consist of one or more representatives from each **Permittee**. The **Desert Task Force** shall direct the maintenance and update of the **SWMP** and coordinate the implementation of the overall **Urban Runoff** program, as described in the **ROWD**; and
 - h. Maintain and update the **Whitewater River Region** map.
2. Each **Permittee** shall:
 - a. Comply with the requirements of the **MS4 Permit** within its jurisdictional boundaries;
 - b. Annually review the **Whitewater River Region** map to ensure that it encompasses urbanized areas within the jurisdiction of the **Permittee**. If additional urbanized areas (or non-urbanized areas are incorrectly identified as urbanized) within the jurisdiction of the **Permittee** are identified, the **Permittee** shall submit an amendment to the **Whitewater River Region** map to the **Principal Permittees** as part of the **Annual Report**;
 - c. Prepare and provide documents required by the **MS4 Permit** to the **Principal Permittees** in a timely manner;
 - d. Implement the **Whitewater River Region SWMP** consistent with this **MS4 Permit** to:
 - i. Reduce **Potential Pollutants** in **Urban Runoff** from municipal, commercial, industrial, and residential areas to the **MEP**;
 - ii. Reduce **Potential Pollutants** in **Urban Runoff** from land development and construction sites to the **MEP** through the use of **Structural** and/or **Non-Structural BMPs**;
 - iii. Reduce **Potential Pollutants** in **Urban Runoff** from **Permittee's** maintenance activities to the **MEP**;
 - iv. Eliminate **IC/IDs** to the **MEP**;
 - v. Encourage spill prevention and containment as well as provide appropriate spill response plan for **Permittees'** maintenance facilities to the **MEP**;

E. SPECIFIC PERMITTEE REQUIREMENTS

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- vi. Increase public awareness to the **MEP**;
- vii. Continue to provide **MS4 Permit** compliance related workshops for **Permittee's** staff to the **MEP**; and
- viii. Control increases in **Urban Runoff** to the **MEP** within the **Permittees** jurisdictional boundaries so as not to cause **Erosion** or sedimentation problems downstream.

e. Designate at least one representative to the **Desert Task Force** as described in Section E.1.g. The **Principal Permittees** shall be notified immediately, in writing, of changes to the designated representative. The designated representative shall attend the **Desert Task Force** meetings.

3. Each **Permittee** shall establish and maintain adequate legal authority through statute, ordinance, or series of contracts, which authorizes or enables the **Permittee** to implement and enforce, at a minimum, each of the following requirements contained in 40 CFR Section 122.26(d)(2)(i)(A-F):

- a. Control through ordinance, permit, contract, order or similar means, the contribution of **Pollutants** to the **MS4** by **Urban Runoff** associated with industrial activity and the quality of **Urban Runoff** discharged from sites of industrial activity;
- b. Prohibit through ordinance, order or similar means, **IDs** to the **MS4**, including, but not limited to, discharges:
 - i. Of wash water resulting from the hosing or cleaning of gas stations, auto repair garages, or other types of automotive services facilities;
 - ii. Resulting from the cleaning, repair, or maintenance of any type of equipment or machinery including motor vehicles, cement-related equipment, and port-a-potty servicing;
 - iii. Of wash water from mobile operations such as oily or greasy discharges from mobile automobile washing, and/or discharges from steam cleaning, power washing, and carpet cleaning, etc.;
 - iv. Of runoff from material storage areas containing chemicals, fuels, grease, oil, or other **Hazardous Materials**; and
 - v. Of food-related **Wastes** (e.g., grease, fish processing, and restaurant kitchen mat and trash bin wash water, etc.).
- c. Control through ordinance, order or similar means the discharge to the **MS4** of spills, dumping or disposal of materials other than **Urban Runoff**.
- d. Control through interagency agreements among **Permittees** the contribution of **Pollutants** from one portion of the **MS4** to another portion of the **MS4**;
- e. Require compliance with conditions in **Permittee** ordinances, permits, contracts or orders consistent with the Enforcement and Compliance Strategy described in Section 1.7 of the **SWMP**; and
- f. Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance with **MS4 Permit** conditions, including the prohibition on **IDs** to the **MS4**.

E. SPECIFIC **PERMITTEE** REQUIREMENTS

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g. *Urban Runoff* collection, transport, and storage facilities shall be in good working condition at all times to effectuate compliance with this **MS4 Permit**.

Because the **RCFC&WCD** and **CVWD** are not general purpose local government entities and only operate facilities that may convey *Urban Runoff*, these **Permittees** lack the authority to adopt and enforce ordinances to regulate development and other authorities and abilities of general purpose government entities. The **RCFC&WCD** and **CVWD** shall therefore comply with this Provision as well as other aspects of this **MS4 Permit** only to the extent of their statutory authority and, within, the constraints imposed by the California Constitution.

4. Each **Permittee** shall review its ordinances to ensure that they continue to have adequate authority to implement and enforce this **MS4 Permit**. Each **Permittee** shall submit a statement (signed by legal counsel) certifying legal authority to implement and enforce this **MS4 Permit**. If such legal authority does not currently exist for a **Permittee**, that **Permittee** shall provide an implementation schedule identifying the legal changes necessary to adopt a new ordinance or to amend an existing ordinance that would enable the **Permittee** to obtain the requisite legal authority to fully implement and enforce this **MS4 Permit**. The implementation schedule shall be provided to **Regional Board** staff for its approval as part of the Fiscal Year 2008-2009 **Annual Report**. Upon completion of the approved implementation schedule, the **Permittee** shall submit a statement (signed by legal counsel) certifying legal authority to implement and enforce this **MS4 Permit**.

5. **Permittee** Construction Activities:

The **Permittees** are not required to file a Notice of Intent (**NOI**) for coverage under the "General Construction Permit" for **Permittee** construction projects within the **Whitewater River Region**. However, **Permittee** construction activities outside of the **Whitewater River Region** are required to file a **NOI** and must obtain coverage under and comply with the **General Construction Permit**.

For **Permittee**'s activities inside the **Whitewater River Region**, the **Permittees** shall perform the following:

- a. All the **Permittees**' public works construction projects or activities that would otherwise necessitate coverage under the **General Construction Permit** by definition or pose a threat to water quality shall be reported to the **Regional Board**. The dates and location of the construction project, the party responsible for the project, and the telephone number of the responsible party shall be reported. This information shall be submitted and reported to the **Regional Board** prior to the start of construction on **MS4 Permit Notice of Intent (NOI)** form as shown on Attachment "A".
- b. A **Storm Water Pollution Prevention Plan (SWPPP)** shall be developed and implemented for all **Permittees**' public works construction projects in compliance with the appropriate **General Construction Permit**. The **SWPPP** shall be retained on-site during the entire construction period. The **Permittees** shall be responsible for assuring that the **SWPPP** is implemented. The

E. SPECIFIC **PERMITTEE** REQUIREMENTS

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• *SWPPP* shall contain the elements required in the appropriate **General Construction Permit**.

- c. Discharges of **Non-Storm Water** are allowed as indicated in Section C. ALLOWABLE **NON-STORM WATER** DISCHARGES. Such discharges must be described in the **SWPPP**. Wherever feasible, alternatives that do not result in discharge of **Non-Storm Water** shall be implemented.
- d. Monitoring shall be performed for all construction projects in accordance with the Section L. MONITORING AND REPORTING, Item 11 of this **MS4 Permit**.
- e. A Notice of Termination (**NOT**), shown as Attachment "B", shall be submitted to the **Regional Board** within 30 days of the completion of all construction projects.
- f. *The General Construction Permit* defines routine maintenance activities that are exempt from coverage under the **General Construction Permit**. Specific maintenance activities, which include **BMPs** implemented as part of a **Permittee's Municipal Facility/Activities Pollution Prevention Plan** or model municipal maintenance **BMP** fact sheets, can be considered as meeting "routine maintenance activities", as defined in the **General Construction Permit**.

F. BEST MANAGEMENT PRACTICES

1. Each **Permittee** shall implement the programs and **BMPs** to the **MEP** as described in the **SWMP** and this **MS4 Permit**. These programs and **BMPs** include the following:

a. IC/ID, Litter, Debris, and Trash Control Program:

- i. The **Permittees** shall continue to reduce the discharge of **Pollutants**, including trash and debris, from their respective **MS4s** facilities to **Receiving Waters** to the **MEP**;
- ii. Develop model forms (or other mechanisms) for reporting the observations of field personnel of unauthorized dumping or spills so that the information can be used to help locate the source of **Pollutants**. The model forms shall be submitted with the Fiscal Year 2008-2009 **Annual Report**. The **Permittees** shall also maintain a database of **IC/ID** investigations. The database shall track the outcome of the case (spill/connection was terminated and cleaned up, source owner/operator educational visit, warning letter, referral to an enforcement agency, etc.) and the enforcement actions issued/taken (e.g., notice of non-compliance, notice of violation and order to comply, referral to District Attorney for prosecution);
- iii. Continue to provide, collect, and maintain litter receptacles in strategic public areas and during public events; and
- iv. Continue and/or expand an existing field program to detect and prevent dumping or routinely discharging **Pollutants** into **MS4** facilities;
- v. Continue to implement and enforce leash laws and other pet laws (i.e., pet waste clean-up, no pets in public areas) in selected public-use areas;

Field Screening/System Surveillance

- vi. Continue to implement and improve routine inspection and monitoring and reporting programs for their **MS4s** facilities. If routine inspections or dry weather monitoring indicate **IC/IDs**, they shall be investigated and eliminated, or regulated by the **Regional Board**, as soon as possible after detection. Elimination measures may include an escalating series of enforcement action for those **IDs** that do not endanger public health or the environment. **IDs** that endanger public health or the environment (as defined in the Reporting Section F.1.a.x.2 below) shall be eliminated immediately. A summary of these actions shall be submitted annually beginning with the 2008-2009 **Annual Report**;
- vii. Develop an implementation schedule for conducting field inspections of **MS4** facilities;

- viii. Conduct field inspections to ensure identification and elimination of **IC/IDs**;
- ix. **Pollutants** in runoff from landfills and Superfund Amendments and Reauthorization Act (**SARA**) Title III facilities will continue to be monitored in compliance with existing **Regional Board WDRs**. This will also be used to assess compliance with the **Storm Water** requirements. Data compiled and provided to the **Regional Board** in compliance with the **WDRs** will be incorporated into the **MS4 Permit** compliance reports by reference;

Reporting

- x. The **Permittees** shall immediately (within 24 hours of receipt of notice) initiate an investigation of all spills, leaks, and/or **IDs** to the **MS4** upon being put on notice by staff or a third party. Based upon their assessment and as specified below, the **Permittees** with jurisdiction for the spill shall report all discharges that endanger human health or the environment as follows:
 1. By phone to the Office of Emergency Services (the "**OES**") at (800-852-7550) and to the **Regional Board** at (760-346-7491).
 2. At a minimum, any sewage spill above 1,000 gallons or that could impact water contact recreation, any oil spill that could impact wildlife, any **Hazardous Material** spill where residents are evacuated, any spill of reportable quantities of **Hazardous Waste** (as defined in 40CFR 117 and 40 CFR 302), or any other spill or discharge that is reportable to the **OES** (collectively, an "**Emergency Situation**") shall be reported within twenty-four (24) hours of becoming aware of the circumstances. Additional reporting requirements shall be per Section I. REPORTING REQUIREMENTS, Item No. 6.a.
- xi. Other spill incidents, including any unauthorized discharge, that are not incidents reportable to the **OES** shall be reported to the **Executive Officer** as part of the **Annual Report** per Section F.1.a.xvi. This report shall contain a description of the non-compliance, its causes, the duration, and the actual or anticipated time for achieving compliance. The report shall include complete details of the steps that the **Permittee** has taken, or intends to take in order to prevent recurrence;
- xii. A report of the discharge or incident described in Section F.1.a.x shall be submitted to the **Executive Officer** as part of the **Annual Report** per Section F.1.a.xvi. This report shall contain a description of the non-compliance, its causes, the duration, and the actual or anticipated time for achieving compliance. The report shall include complete details of the steps that the **Permittee** has taken, or intends to take in order to prevent recurrence;

- xiii. The **Permittees** may propose an alternative reporting program, including reportable incidents and quantities, jointly with other agencies such as the **County DEH** for approval by the **Executive Officer**;
- xiv. In cases where an incident is reportable to the **OES** and/or **Executive Officer** and that incident has been reported to the **OES** and/or **Executive Officer**, as applicable, by another responsible agency, the **Permittee** with jurisdiction is not required to duplicate the report;

Incident Response, Investigation, and Clean Up

- xv. Continue to support the existing **Hazardous Materials** incident response programs implemented jointly by the **County DEH** and the **County Fire Department HAZMAT Team**;

Evaluation and Assessment

- xvi. The **Permittees** shall annually report on the reporting items described in the **SWMP**; and
- xvii. By June 15, 2009, the **Permittees** shall amend the **SWMP** as necessary to insure that they summarize their **IC/ID** activity programs annually. **IC/ID** performance and compliance evaluation shall include the following:
 - Provide a copy of standardized **IC/ID** reporting form(s).
 - Provide summary reports of the following on **IC/ID** activity information:
 - The number of reports received
 - The number of cases investigated/responded to by **IC/ID** source

b. Commercial/Industrial Program

Source Identification, Inspection and Enforcement

- i. The **Permittees** shall coordinate with **County DEH, Regional Board** staff, and others as necessary to develop a commercial and industrial facility database;
- ii. The **Permittees** shall maintain an implementation schedule for conducting inspections of the targeted list of facilities listed in the database;
- iii. The existing Compliance/Assistance Program (**CAP**) described in Section 3 of the **SWMP** meets the intent of this section. However, individual **Permittees** may propose an alternative inspection program for **Regional Board** approval as part of their **Annual Reports**;
- iv. Each **Permittee** shall continue to enforce its ordinances, including its **Storm Water Ordinance**, at industrial and commercial facilities as

necessary to maintain compliance with this **MS4 Permit. CAP** for Industrial/Commercial surveys that indicate facilities out of compliance with **Permittee's Storm Water Ordinances**, shall be re-inspected by **Permittee's** staff. Sanctions for non-compliance may include: verbal or written warnings, issuance of notices of violation or non-compliance, obtaining an administrative compliance, stop work, or cease and desist order, the imposition of monetary penalties or criminal prosecution (infraction or misdemeanor);

- v. Implement and enforce regulations that require all new industrial facilities subject to the General Industrial Activities **Storm Water Permit (General Industrial Permit)** to show proof of compliance (such as a waste discharge identification (**WDID**) number from submittal of a **NOI**) prior to: 1) issuance of a business license (applicable only to those **Permittees** which require business licenses) or 2) issuance of a certificate of occupancy for **New Development**;
- vi. Upon referral of an industrial facility to **Regional Board** staff for failure to obtain coverage under the **General Industrial Permit**, failure to keep a **SWPPP** at the industrial facility, or an observed act or omission that suggests failure to comply with either, the **Permittee** will take no further action at the industrial facility with regard to securing compliance with the **General Industrial Permit**. It is understood by the **Permittees** and **Regional Board** staff that this will preclude duplication of effort and insures that consistent direction is provided to the facility owner/manager as to what is required to bring the facility into compliance with the **General Industrial Permit**. Each **Permittee** shall take appropriate actions to bring an industrial facility into compliance with its local ordinances, rules, regulations, and **WQMP**, when approved;

Evaluation and Assessment

- vii. The **Permittees** shall annually report on the reporting items described in the **SWMP**;
- viii. By June 15, 2009, the **Permittees** shall amend the **SWMP** as necessary to require reporting of the number of commercial and industrial facilities in their source databases, by type:
 - Restaurants;
 - Automotive services;
 - Industrial; and
 - Mobile cleaning businesses.
- ix. By June 15, 2009, the **Permittees** shall amend the **SWMP** as necessary to require reporting of the number of commercial and industrial facilities visited under the auspices of the **CAP** provided by the **County** or alternative program approved by the **Regional Board**, and/or directly by the **Permittees** during the reporting period.

F. BEST MANAGEMENT PRACTICES

c. New Development/Redevelopment and Construction Activities Program

Permittees shall:

- i. Inform developers, contractors, operators, and agency staff about upcoming educational and training workshops on construction site **Erosion** and **Sediment** control and construction materials management sponsored by industry groups, professional organizations and public agencies.
Make associated public education materials available at the public counter and staff bulletin boards, as appropriate;
- ii. Inform architects, engineers, building department personnel, and local government officials on water quality problems associated with **Urban Runoff** and the requirements for meeting **NPDES** laws and program goals for properly managing the quality of **Urban Runoff**.
Provide information on upcoming training workshops and distribute educational materials as appropriate;
- iii. The **Permittees** shall review and enhance the **SWMP New Development and Redevelopment Project** requirements in a manner appropriate for the unique conditions and needs of the **Whitewater River Region** by June 15, 2009. The revised **SWMP** should be submitted to the **Regional Board** as part of the Fiscal Year 2008-2009 **Annual Report**. These requirements will be incorporated into a revision of the **SWMP** when completed. In the interim, the **Permittees** shall continue to implement the development and approval review procedures outlined in the **SWMP**. The **Permittees** must:
 1. Develop, implement and enforce a program to address **Urban Runoff** from **New Development** and **Redevelopment Projects** that disturb areas equal to or greater than 1 acre, including projects less than 1 acre that are part of a larger common plan of development or sale, that discharge into the **MS4** by ensuring that controls are in place that would prevent or minimize water quality impacts to the **MEP**;
 2. Develop and implement **BMP** strategies, which include a combination of **Structural** and/or **Non-Structural BMPs** appropriate for the **Whitewater River Region**;
 3. Use an ordinance or other regulatory mechanism to address post-construction **Urban Runoff** from **New Development** and **Redevelopment Projects** to the extent allowable under state or local law. The requirements must include the design standards specified in Item No. 1.c.iv, of this Section (below) or a functionally equivalent program that is acceptable to the **Regional Board**; and

4. Ensures adequate long-term operation and maintenance of **BMPs**.
- iv. All discretionary **New Development** and **Redevelopment Projects (Priority Development Projects)** submitted after June 15, 2009, that fall into one of the following Priority Development Project categories are subject to the **WQMP** design standards specified in Item No. 1. c.v. of this Section (below):
 1. Single-family hillside residences that create 10,000 square feet, or more, of impervious area where the natural slope is twenty-five percent (25%) or greater, including single-family hillside residences that create 10,000 square feet of impervious area where the natural slope is ten percent (10%) or greater where erosive soil conditions are known;
 2. 100,000 square foot commercial and industrial developments;
 3. Automotive repair shops (with Standard Industrial Classification ("SIC") codes 5013, 7532, 7533, 7534, 7537, 7438, and 7539);
 4. Retail gasoline outlets disturbing greater than 5,000 square feet;
 5. Restaurants disturbing greater than 5,000 square feet;
 6. Home subdivisions with 10 or more housing units; and
 7. Parking Lots 5,000 square feet or more or with 25 or more parking spaces and potentially exposed to **Urban Runoff**.
- v. **WQMP** Design Standards. Discretionary development specified in Section F.1.c.iv. (above) must implement the following **BMPs**:
 1. Peak-**Urban Runoff** Discharge Rates.

Post development peak **Urban Runoff** discharge rates shall not exceed pre-development rate for developments where the increased peak **Urban Runoff** discharge rate will result in increased potential for downstream **Erosion**. The **Permittees** shall propose a design standard for Peak-**Urban Runoff** Discharge Rate control.
 2. **Site Design BMPs**.

Unless infeasible, the following **Site Design BMPs** are required and must be implemented in the site layout during the subdivision design and approval process, consistent with applicable General Plan and Local Area Plan policies:

 - a. Minimize **Urban Runoff**, Minimize Impervious Footprint, and Conserve Natural Areas, and
 - b. Minimize Directly Connected Impervious Area.
 - c. The Permittees shall develop measurable goals for the implementation of these Site Design BMPs.

F. BEST MANAGEMENT PRACTICES

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3. *Source Control BMPs.*

The **Permittees** shall minimize **Pollutants** in **Urban Runoff** through the implementation of **Source Control BMPs**. **Urban Runoff** from a site has the potential to contribute oil and grease, suspended solids, metal, gasoline, pesticides, and pathogens to the **MS4**. The development must be designed so as to minimize, to the **MEP**, the introduction of **Pollutants** that may result in significant impacts, generated from site runoff of directly connected impervious areas to the **MS4** as approved by the building official. The **Permittees** shall require the following **Source Control BMPs**:

- a. Protect slopes and channels from eroding;
- b. Include storm drain inlet stenciling and signage;
- c. Include properly designed outdoor material storage areas;
- d. Include properly designed trash storage areas; and
- e. Design **Source Control BMPs** correctly so as to remove **Pollutants** to the **MEP**.

4. *Treatment Control BMPs.*

The **WQMP** shall require **Treatment Control BMPs** for all **Priority Development Projects**. All **Treatment Control BMPs** shall be located so as to infiltrate, filter or treat the required runoff volume or flow prior to its discharge to any **Receiving Water**. Multiple **Priority Development Projects** may share **Treatment Control BMPs** as long as construction of any shared **Treatment Control BMP** is completed prior to the use of any development project from which the **Treatment Control BMP** will receive **Urban Runoff**, and prior to discharge to a **Receiving Water**. **Treatment Control BMPs** shall be designed to address **Pollutants of Concern**. **Pollutants of Concern** consist of any **Pollutants** generated by the development, including **Pollutants** that are listed under **CWA Section 303(d)**, **Pollutants** associated with the land use type of the development and legacy **Pollutants** associated with past use of the development site that may be exposed to **Urban Runoff**. **Treatment Control BMPs** shall be collectively sized to comply with the following numeric sizing criteria:

- a. Volumetric **Treatment Control BMP** design criteria.

- i. The 85th percentile 24-hour event determined as the maximized capture **Storm Water** volume for the area, from the formula recommended in **Urban Runoff Quality Management, Water**

Environment Federation Manual of Practice No. 23/ASCE Manual of Practice No. 87, (1998); or

- ii. The volume of annual runoff based on unit basin storage water quality volume, to achieve 80% or more volume treatment by the method recommended in California Stormwater **Best Management Practices** Handbook – Industrial/Commercial (2003); or
- iii. The volume of runoff produced from a historical-record based reference 24-hour rainfall criterion for "treatment" that achieves approximately the same reduction in **Pollutant** loads achieved by the 85th percentile 24-hour runoff event; or
- iv. The method approved in the **County** Water Quality Management Plan for **Urban Runoff**, dated September 17, 2004 (**WQMP**); or
- v. An alternative treatment design criteria, appropriate for the unique arid hydrologic conditions of the **Whitewater River Region** that has been proposed by the **Permittees** and is acceptable to the **Executive Officer**.

b. Flow-Based **BMP** design criteria

- i. The maximum flow rate of runoff produced from a rainfall intensity of 0.2 inch of rainfall per hour, for each hour of a storm event; or
- ii. The maximum flow rate of runoff produced by the 85th percentile hourly rainfall intensity (for each hour of the storm event), as determined from the local historical rainfall record, multiplied by a factor of two; or
- iii. The maximum flow rate of runoff for each hour of a storm event, as determined from the local historical rainfall record that achieves approximately the same reduction in **Pollutant** loads and flows as achieved by mitigation of the 85th percentile hourly rainfall intensity multiplied by a factor of two; or
- iv. An alternative treatment design criteria, appropriate for the unique arid hydrologic conditions of the **Whitewater River Region** proposed by the **Permittees** and accepted by the **Executive Officer**.

5. *Treatment Control* Alternatives and Waivers.

- a. Projects that retain and infiltrate 100% of the rainfall conditions specified in Section F.1.c.v.4 are deemed to comply with the *Treatment Control BMP* requirements of that Section.
- b. The *Permittees* may propose, for *Executive Officer's* approval, a site design *BMP* substitution program for incorporation into the *WQMP*, which would allow the *Permittees* to substitute implementation of high level *Low Impact Development (LID) Site Design BMPs* for implementation of some or all *Treatment Control BMPs*. The site design *BMP* substitution program must develop and utilize specific design criteria for each *LID* site design *BMP* to be utilized by the site design *BMP* substitution program.
- c. A *Permittee* may provide for a *Priority Development Project* to be waived from the requirement of implementing *Treatment Control BMPs*. All waivers, along with documentation justifying the issuance of a waiver, must be submitted to the *Regional Board* staff in writing within thirty (30) calendar days. If the *Executive Officer* determines that waivers are being inappropriately granted, this *MS4 Permit* may be reopened to modify these waiver conditions. Waivers may be granted:
 - i. If infeasibility can be established. A waiver of infeasibility shall only be granted by a *Permittee* when all available *Treatment Control BMPs* have been considered and rejected as technically infeasible and/or the cost of implementing the *Treatment Control BMP* greatly outweighs the *Pollution* control benefit; or
 - ii. For those portions of the *Whitewater River Region* that will not result in a discharge to *Receiving Waters* under the rainfall conditions specified in Section F.1.c.v.4.

6. Limitation of Use of Infiltration *BMPs*.

- a. Infiltration based *Treatment Control BMPs* shall:

- i. Be located at least 500 feet horizontally from water supply wells, unless it can be shown that well construction and site geology will provide adequate protection for the domestic water well in which case the minimum distance will be provided on a case by case basis; and

- ii. Not cause a ***Nuisance***, including odor, vectors or ***Pollution*** as defined by ***CWC*** Section 13050.

d. Private Construction Activities Program

- i. The **Permittees** shall continue to implement and enforce a program to reduce **Pollutants** in any **Urban Runoff** to the **MS4** from construction activities that result in a **Land Disturbance** of greater than or equal to one acre. Reduction of **Urban Runoff** discharges from construction activity disturbing less than one acre must be included in a program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. The program must continue to include implementation of, at a minimum:
 - 1. Ordinances or other regulatory mechanism to require **Erosion** and **Sediment** controls, as well as sanctions, or other effective mechanisms, to ensure compliance, to the extent allowable under State or local law;
 - 2. Requirements for construction site operators to implement appropriate **Erosion** and **Sediment** control **BMPs**;
 - 3. Requirements for construction site operators to control **Waste** such as discarded building materials, concrete truck wash-out, chemicals, litter, and sanitary **Waste** at the construction site that may cause adverse impacts to water quality;
 - 4. Procedures for site plan review which incorporate consideration of potential water quality impacts; and
 - 5. Procedures for site inspection and enforcement control measures. Each **Permittee** shall continue to conduct construction site inspections for compliance with its ordinances, including its stormwater ordinance, regulations, codes and the **WQMP**, when approved. Sanctions for non-compliance may include: verbal and/or written warnings, issuance of notices of violation or non-compliance, obtaining an administrative compliance, stop work or cease and desist order, a civil citation or injunction, the imposition of monetary penalties or criminal prosecution (infraction or misdemeanor). Construction site inspections shall at a minimum address:
 - a. Check for submittal of a **NOI** in compliance with the **General Construction Permit**, if required;
 - b. Confirm a **SWPPP**, if required, is onsite;
 - c. Confirm compliance with the **Permittee's** ordinances; and
 - d. Check for active **Non-Storm Water** discharges or potential **IC/IDs** to the **MS4**.

- ii. Identify priorities for inspecting sites and enforcing control measures for construction projects that disturb areas equal to or greater than 1 acre. In establishing priorities for the inspection of construction sites consistent with this **MS4 Permit**, the **Permittees** shall identify sites of high threat to **Receiving Water** quality. Evaluation of construction sites should be based on such factors as soil **Erosion** potential, project size, proximity and sensitivity of **Receiving Waters**, history of compliance, and other relevant factors. High priority sites may be changed to a normal priority during a construction:
 - 1. Sites that disturb an area greater than fifty (50) acres; and
 - 2. Sites that disturb greater than one (1) acre and directly discharge to an identified 303 (d) listed waterbody.
- iii. If a **Permittee** receives notice by its staff of a possible violation of the **General Construction Permit** or other order or permit issued by the **State** or **Regional Board**, the **Permittee** shall, within two (2) working days, provide oral (Telephone: 760.346.7491) and e-mail notice to **Regional Board** staff of the location within its jurisdiction where the incident occurred and describe the nature of the incident;
- iv. Upon referral of a construction site to **Regional Board** staff for failure to obtain coverage under the applicable **General Construction Permit**, failure to keep a **SWPPP** at the construction site, if applicable, or an observed act or omission that suggests failure to comply with either, the **Permittee** will take no further action at the construction site with regard to securing compliance with the **General Construction Permit**. Each **Permittee** shall continue to take appropriate action to bring a construction site into compliance with its local ordinances, rules, and regulations;
- v. Prior to the issuance of a building, **Grading** or other construction project permits, the **Permittees** shall require proof that the applicant has filed a **NOI** for the **General Construction Permit** if such coverage is required;

Evaluation and Assessment

- vi. By June 15, 2009, the **Permittees** shall amend the **SWMP** to require **Annual Reports** to summarize and evaluate inspection prioritization criteria and inspection schedule as part of the **Annual Report**; and
- vii. By June 15, 2009, the **Permittees** shall amend the **SWMP** to require **Annual Reports** to describe and evaluate process for evaluating **New Development** and **Redevelopment Projects**.

e. Permittee Activities Program

i. Sewage Systems

Permittees shall provide Sanitary Sewer Operators access to their **MS4** facilities for the purposes of allowing control of **SSOs** or for the purpose of limiting the impacts to **Receiving Waters** once a spill has

entered the **MS4**. **Permittees** subject to **State Board** Water Quality Order No. 2006-0003 (**SSOs**) shall obtain coverage under that Order.

ii. **Permittee** Facilities and Operations

Requirements for all **Permittees**' storage or maintenance areas.

1. Continue to maintain and implement **Permittee's** municipal facility/activity **Pollution Prevention** plans for **Permittee** maintenance areas; and
2. Incorporate the **BMPs** outlined in the **SWMP** for new **Permittee's** municipal facility/activity **Pollution Prevention** plans for existing facilities where applicable by June 15, 2009.

iii. Landscape Maintenance

Each **Permittee** will require that pesticides be applied in conformance with existing state and federal regulations.

iv. **Permittee** Streets and Roads

1. Maintain the model fact sheet of **BMPs** for common road maintenance activities. Each **Permittee** will continue to require road maintenance personnel to review periodically and implement the **BMPs**; and
2. Continue to implement appropriate elements of the model fact sheet of **BMPs** for common road maintenance activities into road maintenance contracts. Each **Permittee** will continue to incorporate applicable elements into road maintenance contracts.

v. **MS4** Facilities

1. Continue to implement the existing field program to detect and prevent dumping or **IDs** into **MS4** facilities; and
2. Continue to implement **MS4** maintenance schedules for basins, inlets and open channels.

vi. Evaluation and Assessment

1. The **Permittees** shall address the reporting items described in the **SWMP** in the **Annual Report**;
2. By June 15, 2009, the **SWMP** shall be amended as necessary to require the **Permittees** with jurisdiction over a sanitary sewer to confirm the sewage spill response plans are developed and current;
3. By June 15, 2009, the **SWMP** shall be amended as necessary to require the **Permittees** to summarize the number of municipal facilities that they operate in the **Whitewater River Region MS4 Permit Area** and to verify whether those municipal facilities have facility **Pollution Prevention** plans onsite;

4. By June 15, 2009, the **SWMP** shall be amended as necessary to require the **Permittees** to maintain a list of pesticide application personnel and verify applicator certifications; and
5. By June 15, 2009, the **SWMP** shall be amended as necessary to require the **Permittees** to verify that stencils and/or markers are maintained on inlets to the **MS4**.

f. Public Education and Outreach Program

i. General Public Outreach

1. Continue to educate/inform the general public on the impacts of littering, and other improper disposal on **Receiving Water** quality;
2. Continue to educate/inform the general public on the impacts of dumping **Pollutants** into **MS4** facilities. Educate/inform the general public on **Receiving Water** impacts from leakage or dumping of gasoline, oil and grease, antifreeze and hydraulic fluid from vehicles into the streets; and
3. Continue to educate/inform the general public about **BMPs** for residential car washing.

ii. Landscaping

1. Continue to educate/inform the general public on the proper application and management of pesticides, fertilizers and herbicides, as well as the proper management of irrigation systems to prevent runoff to the **MS4**. Where appropriate, coordinate with the Natural Resources Conservation Service, Resource Conservation Districts and University of California Cooperative Extension;
2. Continue to educate/inform the general public on the **Receiving Water** impacts of dumping **Pollutants** into the **MS4**; and
3. Continue to support the efforts of the **County HHW Program**, which provides a convenient means to properly dispose of oil, antifreeze, pesticides, herbicides, paints, solvents, and other potentially harmful chemicals.

iii. Home Maintenance

1. Continue to educate/inform the general public on the **Receiving Water** impacts of dumping **Pollutants** into the **MS4**; and
2. Continue to support the efforts of the **County HHW Program**, which provides a convenient means to properly dispose of oil, antifreeze, pesticides, herbicides, paints, solvents, and other potentially harmful chemicals.

iv. Illegal Dumping

1. Continue to educate/inform the general public on the **Receiving Water** impacts of littering and other improper disposal; and
2. Continue to educate/inform the general public on the **Receiving Water** impacts of dumping **Pollutants** into the **MS4**;

v. Pet Ownership

1. Continue to educate/inform the general public regarding the need to clean-up and properly dispose of pet **Waste**.

vi. Construction

Continue to inform contractors, operators, and **Permittee's** staff about upcoming educational and training workshops on construction site **Erosion** control and construction materials management sponsored by professional organizations and public agencies. Make associated public education materials available at the public counter and staff bulletin boards, as appropriate.

vii. Industrial/Commercial

Continue to educate/inform landowners, tenants, business owners, and industrial operations regarding the need to implement appropriate **BMPs** to control **Non-Storm Water** discharges and to properly maintain indoor and outdoor material storage areas.

viii. **Permittees'** Employees

The **Permittees** shall develop training programs for the following categories for their employees. The training program should cover a) requirements of this **MS4 Permit** and the **General Industrial and Construction Activities Permits**, b) proper **BMP** implementation, c) identification of **IC/IDs** that may be associated with the area of training, and d) address any additional topics described below:

1. **Permittee's** Maintenance Staff;

- a. **Permittees** shall continue to educate/inform **Permittee's** personnel responsible for **MS4** facility, park, golf course, and highway right-of-way maintenance on the proper use and management of pesticides, fertilizers, and herbicides. Alternative methods for controlling insects and weeds such as biological controls and the use of less toxic chemicals should be encouraged. This training may be accomplished through existing mandatory training programs for pesticide, fertilizer and herbicide management.

2. Industrial/Commercial Inspectors;

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3. **New Development/Redevelopment** Staff; and
4. Construction Inspectors.

ix. Evaluation and Assessment

1. The **Permittees** shall address on the reporting items described in the **SWMP** in the **Annual Report**;
2. By June 15, 2009, the **SWMP** shall be amended as necessary to require the **Permittees** to document usage (call volume, type) of the "Only Rain Down The Storm Drain **Pollution Prevention** Program" hotline;
3. By June 15, 2009, the **SWMP** shall be amended as necessary to require the **Permittees** to document **HHW** Collection Program activities including:
 - a. Event dates and number of days per event;
 - b. Type and amount of material collected; and
 - c. Advertisement impressions by type (newspaper, television, radio, banners, flyers, etc.) for the **Permittees**' internal use.
4. By June 15, 2009, the **SWMP** shall be amended as necessary to require the **Permittees** to track the number of regional public education outreach events conducted, by type (construction, industrial, residential, **New Development**, schools, general public, etc), including topic and approximate attendance where applicable;
5. By June 15, 2009, the **SWMP** shall be amended as necessary to require the **Permittees** to use public surveys and impression counts, where feasible, to assess the effectiveness of the public education and outreach program over the course of the **MS4 Permit** term and to document those results;
6. By June 15, 2009, the **SWMP** shall be amended as necessary to require **Permittees** to report, in summary, the scope and purpose of the regional public education materials available to the various target audiences used during the reporting period. It is expected that brief descriptions of materials would be appropriate; and
7. By June 15, 2009, the **SWMP** shall be amended as necessary to require the **Permittee** employee training to be reported. **Annual Reports** should include topic (municipal maintenance, industrial/commercial inspections, construction inspections, **New Development**), date and number of employees trained.
8. By June 15, 2009, the **SWMP** shall be amended as necessary to require the **Permittee** identify existing code requirements for on-site storage and infiltration of stormwater on new development and redevelopment projects, including the design

storm and/or volumetric requirements, the exceptions to storage/infiltration requirements, and the methodology used to ensure that storage/infiltration areas are retained post-construction.

G. TOTAL MAXIMUM DAILY LOADS

1. The **Permittees** shall modify the **SWMP**, as necessary, to incorporate appropriate **BMPs** to address **WLAs** developed and approved pursuant to the **TMDL CWA** Section 303(d) process for impaired waterbodies. Proposed revisions to the **SWMP** shall be consistent with **TMDL** Implementation Tasks assigned to the **Permittees** and submitted to the **Executive Officer** for review and approval, which may include water quality monitoring and **BMPs** to **MEP**. Revisions to the **SWMP** approved by the **Executive Officer** shall be implemented in accordance with the Implementation Plan for the **TMDL WLAs**.
2. A Bacterial Indicator TMDL for CVSC was adopted by the Regional Board on May 16, 2007. The Regional Board also directed staff following adoption of the TMDL to conduct three public workshops with affected stakeholders and other interested persons to discuss the requirements of the TMDL. In the meantime, the TMDL was forwarded to the State Water Board for its review and approval. The first public workshop was held on July 25, 2007, the second was held on November 19, 2007, and the third was held on April 23, 2008.

The TMDL was withdrawn from the State Water Board's consideration of adoption, which had been placed as an agenda item to be heard at the State Water Board's March 18, 2008 public meeting. Pursuant to oral and written comments made in connection with the first two workshops, however, the Regional Board's Executive Officer determined that it would be appropriate to request the State Water Board to withdraw the TMDL from its agenda for a certain period of time. The withdrawal request letter, dated January 18, 2008, and addressed to the State Water Board Executive Director, explained that the withdrawal was needed to address comments and concerns raised by the Coachella Valley agricultural community regarding the appropriateness of being named as a Responsible Party in the TMDL Implementation Plan without sufficient data.

To address this data gap, agricultural dischargers and the Coachella Valley Water District proposed conducting the following tasks over an 18-month period: (1) for the first three months following State Water Board approval of the withdrawal request: the agricultural community would form a Task Force to develop a monitoring plan, which would be submitted to the Regional Board Executive Officer for his review and approval; (2) for the next 12 months: the Task Force would conduct quarterly monitoring; and (3) for the last three months: the Task Force would prepare a report of the sampling results and submit the report to the Regional Board for its consideration of approval.

The State Water Board approved the withdrawal request, which it announced in a public notice dated February 22, 2008. Since then, the agricultural community and the Coachella Valley Water District formed the proposed Task Force to begin developing a Monitoring Plan, which would be submitted to the Regional Board Executive Officer for his review and approval.

The TMDL identified Urban Runoff from the County and the City of Coachella outfalls, Caltrans outfalls, outfalls from Native American Tribal lands, and Non-Point Source discharges, including wildlife and transients into the CVSC, as potential sources of pathogens. Therefore, TMDL pathogen Wasteload Allocations (WLAs) were assigned to the County and the City of Coachella. The pathogen WLA has been defined for *E. coli* as a log mean (Geomean) of the MPN $\leq 126/100$ ml (based on a minimum of not less than five samples during a 30-day period), or 400 MPN/100 ml for a single sample. Monitoring this MS4 Permit requires the County and the City of Coachella to achieve the pathogen WLAs through compliance with the TMDL Implementation Plan, based on the compliance schedule provided in the TMDL for their Urban Runoff discharges.

The WLAs will be submitted to the State Water Board, OAL, and USEPA only after the agricultural community's Task Force has completed the 12 months of sampling and submitted a report of its findings to the Regional Board's Executive Officer for his review and approval. To the extent that the TMDL needs to be revised based on the data collected, the TMDL will be recirculated for another round of public comment. Following the public comment period, any revisions to the TMDL, which may result from comments received and the sampling data collected, will be scheduled for Regional Board consideration at another public hearing.

H. GENERAL PROVISIONS

1. Duty to Mitigate [40 CFR 122.41(d)]

The **Permittees** shall take all reasonable steps to minimize any discharge or prevent any discharge or sludge use or disposal in violation of this **MS4 Permit**, which has a reasonable likelihood of adversely affecting human health or the environment.

2. Proper Operation and Maintenance [40 CFR 122.41(e)]

The **Permittees** shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the **Permittees** to achieve compliance with the conditions of this **MS4 Permit**. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems, which are installed by the discharger only when the operation is necessary to achieve compliance with the conditions of this **MS4 Permit**.

3. Permit Actions [40 CFR 122.41(f)] [**CWC § 13381**]

This **MS4 Permit** may be modified, revoked and reissued, or terminated for cause including, but not limited to the following:

- a. Violation of any condition contained in the requirements or Permits; or
- b. Obtaining this Permit by misrepresentation or failure to disclose fully all relevant facts; or
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

The filing of a request by the Permittee for a **MS4 Permit** modification, revocation, and reissuance, or termination or a notification of planned changes or anticipated noncompliance does not stay any permit condition of this **MS4 Permit**.

4. Property Rights [40 CFR 122.41(g)] [**CWC § 13263(g)**]

This **MS4 Permit** does not convey any property rights of any sort or any exclusive privilege. No discharge of **Waste** into the **Waters of the State**, whether or not the discharge is made pursuant to **WDRs**, shall create a vested right to continue the discharge. All authorized discharges of **Waste** into **Waters of the State** are privileges not rights.

5. Inspection and Entry [40 CFR 122.41(i)] [**CWC § 13267(c)**]

The **Permittees** shall allow an authorized **Regional Board** representative, or an authorized representative of the **USEPA** (including an authorized contractor acting as a representative of the **Regional Board** or **USEPA**), upon presentation of credentials and other documents as may be required by law, to:

- a. Enter upon the **Permittee's** premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this **MS4 Permit**;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this **MS4 Permit**;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this **MS4 Permit**; and
- d. Sample or monitor at reasonable times, for the purposes of assuring compliance with this **MS4 Permit** or as otherwise authorized by the **CWA** or **CWC**, any substances or parameters at any location.

6. The **Permittees** shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this **MS4 Permit**, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the non-complying discharge.
7. The provisions of this **MS4 Permit** are severable, and if any provision of this **MS4 Permit**, or the application of any provision of this **MS4 Permit** to any circumstances, is held invalid, the application of such provision to other circumstances, and the remainder of this **MS4 Permit**, shall not be affected thereby.
8. The **Permittees** shall comply with any interim **Effluent Limitations** as established by addendum, enforcement action, or revised **WDRs** that have been, or may be, adopted by this **Regional Board**.
9. In cases where **Urban Runoff** quality is impacted by discharges of **Wastes** from lands not owned, operated or maintained by; or under the regulatory jurisdiction of the **Permittee(s)**, the **Permittee(s)** may petition the **Regional Board** to regulate those discharges, to the extent the **Regional Board** has jurisdiction over such discharges. Such a petition shall include:
 - a. A written description of the discharge and any documentation of water quality problems caused by the discharge;
 - b. An 8 1/2 inch x 11 inch location map which delineates the problem area; and
 - c. Documentation that the **Permittee(s)** does not have jurisdiction over the discharge and/or is unable to require compliance.

The **Permittee(s)** may submit such petitions at any time.

I. REPORTING REQUIREMENTS

1. Duty to Reapply [40 CFR 122.41(b)]

This **MS4 Permit** expires on May 21, 2013. If the **Permittees** wish to continue any activity regulated by this **MS4 Permit** after the expiration date of this **MS4 Permit**, the **Permittees** must apply for and obtain a new **MS4 Permit**. The **Permittees** must file a **ROWD** in accordance with Title 23, California Code of Regulations, not later than 180 days in advance of the expiration date of this **MS4 Permit** as application for issuance of a new **MS4 Permit**. The **ROWD** shall, at a minimum, include:

- a. Any revisions to the **SWMP** including, but not limited to, activities the **Permittees** proposed to undertake during the next **MS4 Permit** term, goals and objectives of such activities, an evaluation of the need for additional **Source Control** and/or **Structural BMPs**, proposed pilot studies, etc.;
- b. Any new or revised program elements and compliance schedule(s) necessary to comply with Section D. **RECEIVING WATER LIMITATIONS** and Section G. **TOTAL MAXIMUM DAILY LOADS** of this **MS4 Permit**;
- c. Changes in land use and/or population including map updates; and
- d. Significant changes to the **MS4s**, outfalls, detention or retention basins or dams, and other controls, including map updates of the **MS4s**.

2. Duty to Provide Information [40 CFR 122.41 (h)]

The **Permittees** shall furnish to the **Regional Board**, **State Board**, or **USEPA**, within a reasonable time, any information which the **Regional Board**, **State Board**, or **USEPA** may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this **MS4 Permit**, or to determine compliance with this Permit. The **Permittees** shall also furnish to the **Regional Board**, **State Board**, or **USEPA**, upon request, copies of records required to be kept by this **MS4 Permit**.

3. Anticipated Non-Compliance [40 CFR 122.41 (l)(2)]

The **Permittees** shall give advance notice to the **Regional Board** of any planned changes in the permitted facility or activity that may result in noncompliance with the requirements of this **MS4 Permit**.

4. Transfers [40 CFR 122.41(l)(3)]

This **MS4 Permit** is not transferable to any **Person** except after notice to the **Regional Board**. The **Regional Board** may require modification or revocation and reissuance of this **MS4 Permit** to change the name of the **Permittees** and incorporate such other requirements as may be necessary under the **CWA** or the **CWC** in accordance with the following:

a. Transfers by Modification [40 CFR 122.61(a)]

This **MS4 Permit** may be transferred by the **Permittees** to a new owner or operator only if this **MS4 Permit** has been modified or revoked and

reissued, or a minor modification made to identify the new **Permittee** and incorporate such other requirements as may be necessary under the **CWA** or **CWC**.

- b. The **Regional Board** does not notify the existing **Permittee** and the proposed new **Permittee** of its intent to modify or revoke and reissue this **MS4 Permit**. A modification under this subparagraph may also be a minor modification under 40 CFR Part 122.63. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph 40 CFR Part 122.63 b. (2) of this reporting requirement.

5. Compliance Schedules [40 CFR 122.41(l)(5)]

Written reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this **MS4 Permit** shall be submitted to the **Regional Board** no later than 14 days following each schedule date.

6. Twenty-four Hour Reporting [40 CFR 122.41 (l)(6)]

- a. Each **Permittee** shall report any noncompliance that may endanger human health or the environment. Any information shall be provided orally to the **Regional Board** within 24 hours from the time the **Permittee** becomes aware of the circumstances. A written description of any noncompliance shall be submitted to the **Regional Board** within five business days of such an occurrence and contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

7. The **Permittees** shall report all instances of noncompliance at the time monitoring reports are submitted.

8. Where a **Permittee** becomes aware that it failed to submit any relevant facts in a **ROWD**, or submitted incorrect information in a **ROWD**, or in any report to the **Regional Board**, it shall promptly submit such facts or information.

9. Signatory Requirements [40 CFR 122.41(k)(1) and 40 CFR 122.22]

All applications, reports, or information submitted to the **Regional Board** shall be signed and certified.

All **ROWDs** shall be signed as follows:

- i. For a municipality or other public agency: by either a principal executive officer or ranking elected official.
- b. All reports required by this **MS4 Permit**, and other information requested by the **Regional Board** shall be signed by a **Person** described in Item No. 9. a. of this reporting requirement, or by a duly authorized representative of that **Person**. A **Person** is a duly authorized representative only if:

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- i. The authorization is made in writing by a **Person** described in Item No. 9. a. of this reporting requirement;
- ii. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity (e.g., an individual or position having overall responsibility for environmental matters for the company); and
- iii. The written authorization is submitted to the **Regional Board**.

c. If an authorization under paragraph b. of this reporting requirement is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirement of Item No. 9. b. of this reporting requirement must be submitted to **Regional Board** prior to or together with any reports, information, or applications to be signed by an authorized representative.

d. Any **Person** signing a document under paragraph Item No. 9 a. or b. of this reporting requirement shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the **Person** or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

10. Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this **MS4 Permit** shall be available for public inspection at the offices of the **Regional Board**. As required by the **CWA**, **ROWDs**, this **MS4 Permit**, and monitoring data shall not be considered confidential.

11. The discharger shall submit reports and provide notifications as required by this **MS4 Permit** to the following:

Executive Officer
California Regional Water Quality Control Board Colorado River Basin Region
73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260

Eugene Bromley
U.S. Environmental Protection Agency - Region IX Permits Issuance Section
(W-5-1)
75 Hawthorne Street
San Francisco, CA 94105

Unless otherwise directed, the discharger shall submit one hard copy and one electronic copy of each report required under this **MS4 Permit** to the **Regional Board** and one electronic copy to **USEPA**.

J. NOTIFICATIONS

1. CWC Section 13263(g)

No discharge of **Waste** into the **Waters of the State**, whether or not such discharge is made pursuant to **WDRs**, shall create a vested right to continue such discharge. All discharges of **Waste** into **Waters of the State** are privileges, not rights.

2. The **Regional Board** has, in prior years, issued a limited number of individual **NPDES** permits for **Non-Storm Water** discharges. The **Regional Board** or **State Board** may in the future, upon prior notice to the **Permittee(s)**, issue an **NPDES** permit for any **Non-Storm Water** discharge (or class of **Non-Storm Water** discharges) to the **MS4**. **Permittees** may prohibit any **Non-Storm Water** discharge (or class of **Non-Storm Water** discharges) to the **MS4** that is authorized under such separate **NPDES** permits.

3. Enforcement Provisions [40 CFR 122.41(a)(2)] [CWC Sections 13385 and 13387].

The **CWA** provides that any **Person**, who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any condition or limitation of this **MS4 Permit**, is subject to a civil penalty not to exceed \$25,000 per day for each violation. The **CWA** provides that any **Person**, who negligently violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation of this **MS4 Permit**, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of not more than one year, or both. In the case of a second or subsequent conviction for a negligent violation, a **Person** shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than two years, or both. Any **Person** who knowingly violates such sections, or such conditions or limitations is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than three years, or both. In the case of a second or subsequent conviction for a knowing violation, a **Person** shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than six years, or both. Any **Person** who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any condition or limitation of this **MS4 Permit**, and who knows at that time that he or she thereby places another **Person** in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a **Person** shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the **CWA** shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.

4. Nothing in this **MS4 Permit** shall be construed to preclude the institution of any legal action or relieve the **Permittee** from any responsibilities, liabilities, or penalties to which the **Permittees** are or may be subject to under Section 311 of the **CWA** or established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the **CWA**.

K. GLOSSARY OF TERMS

AGR – Agriculture Supply

Annual Report – Annual Compliance Report required under this **MS4 Permit**.

AQUA – Aquaculture

Basin Plan – Water Quality Control Plan developed by the **Regional Board**.

Beneficial Uses – The uses of water necessary for the survival and well-being of humans, plants, and wildlife. “**Beneficial Uses**” of the **Waters of the State** that may be protected include, but are not limited to, domestic, municipal, agricultural and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves. Existing **Beneficial Uses** are the uses that were actually attained in the surface or ground water on or after November 28, 1975; and potential **Beneficial Uses** are uses that may be attained through the implementation of various control measures. “**Beneficial Uses**” are equivalent to “Designated Uses” under federal law. [CWC Section 13050(f)].

Best Available Technology (BAT) – It is the technology-based standard established by congress in **CWA Section 402(p)(3)(A)** for industrial dischargers of **Storm Water**. Technology based standards established the level of **Pollutant** reductions that dischargers must achieve, typically by treatment or by a combination of treatment and **BMPs**. The best economically achievable technology that will result in reasonable further progress toward the national goal of eliminating the discharge of all **Pollutants**, as determined in accordance with regulations issued by the **USEPA** Administrator. Factors relating to the assessment of **BAT** shall take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, the cost of achieving such effluent reduction, non-water quality environmental impact (including energy requirements), and such other factors as the permitting authority deems appropriate. **BAT** generally emphasizes treatment methods first and **Pollution Prevention** and **Source Control BMPs** secondarily.

Best Management Practices (BMPs) – **BMPs** are defined in 40 CFR 122.2 as schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the **Pollution** of **Waters of the United States**. **BMPs** also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or **Waste** disposal, or drainage from raw material storage. In the case of **MS4** permits, the **Effluent Limitations** required is implementation of **BMPs** to the **MEP**.

CalTrans – California Department of Transportation

CAP – Compliance Assistance Program

CASQA – California Stormwater Quality Association

CEQA – California Environmental Quality Act (Section 21000 et seq. of the California Public Resources Code)

Cleaning – The removal of litter or debris that can impact **Receiving Waters**.

K. GLOSSARY OF TERMS

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CMP – Consolidated Program for Water Quality Monitoring

COLD – Cold and Freshwater Habitat **Beneficial Use**

Contamination – As defined in the Porter-Cologne Water Quality Control Act, **Contamination** is “an impairment of the quality of **Waters of the State** by **Waste** to a degree which creates a hazard to the public health through poisoning or through the spread of disease.” ‘**Contamination**’ includes any equivalent effect resulting from the disposal of **Waste** whether or not **Waters of the United States** are affected.

Co-Permittees – **CVWD** and incorporated cities, including the Cities of Banning, Cathedral City, Coachella, Desert Hot Springs, Indian Wells, Indio, La Quinta, Palm Desert, Palm Springs and Rancho Mirage are identified as the **Co-Permittees** of this **MS4 Permit**.

County – County of Riverside, a legal subdivision of the State of California.

CVSC – Coachella Valley Stormwater Channel

CVWD – Coachella Valley Water District

CWA – Federal Clean Water Act

CWA Section 402(p) – [33 USC 1342(p)] is the federal statute requiring discharges of **Storm Water** from **MS4** and industrial facilities and activities to obtain **NPDES** permits.

CWA Section 303(d) Water Bodies – A “section 303(d) water body” is designated by the **State Board** and **USEPA** as an Impaired Water body where water quality does not meet applicable **WQS** and/or is not expected to meet **WQSs**, even after the application of technology based **Pollution** controls required by the **CWA**. The discharge of **Urban Runoff Pollutants** by the **Permittees** may contribute to violations of applicable **WQSs**.

CWC – California Water Code

DEH – **County** Department of Environmental Health

Desert Task Force – A **Permittee** staff committee to direct the development of the **SWMP** and the implementation of the overall **Urban Runoff** program as described in the **ROWD**.

Designated Waste – A “non-**Hazardous Waste** containing **Pollutants** which, under ambient environmental conditions at the waste management unit, could be released at concentrations in excess of applicable **WQOs**, or which could cause degradation of **Waters of the State**.” [CCR Title 27, Chapter 3, Subchapter 2, Article 2, Section 20210; **CWC** Section 13173]

Effluent Limitations – **Effluent Limitations** are further defined at 40 CFR 122.2 and are designed to ensure that the discharge does not cause **WQOs** to be exceeded in the **Receiving Water** and does not adversely affect **Beneficial Uses**. **Effluent Limitations** are typically numeric (e.g., 10 mg/l), but can also be narrative (e.g., no toxics in toxic amounts). The **Effluent Limitations** contain in this **MS4 Permit** are narrative and include the **SWMP**’s requirement to implement appropriate **BMPs** to the **MEP**.

Emergency Situation – Any sewage spill above 1,000 gallons or that could impact water contact recreation, any oil spill that could impact wildlife, any **Hazardous Material** spill where residents are evacuated, any spill of reportable quantities of **Hazardous Waste** (as

defined in 40 CFR 117 and 40 CFR 302), or any other spill or discharge that is reportable to the **OES**.

Ephemeral Streams – Surface waters without perennial or intermittent flow. Table 2-3 of the **Basin Plan** defines **Beneficial Uses** for **Receiving Waters** within the Western Colorado River Basin. Table 2-3 broadly categorizes all surface waters not specifically named as either **Washes** or "Unlisted Perennial and Intermittent Streams". **Ephemeral Streams** include the section of flow from the headwaters in the San Gorgonio Mountains to (and including) the Whitewater recharge basins near Indian Avenue crossing in Palm Springs.

Erosion – When land is diminished or worn away due to wind, water, or glacial ice. Often the eroded debris (silt or **Sediment**) becomes a **Pollutant** via **Storm Water** runoff. **Erosion** occurs naturally but can be intensified by land clearing activities such as farming, development, road-building, and timber harvesting.

Executive Officer – The **Executive Officer** of the **Regional Board**

FRSH – Freshwater Replenishment Beneficial Use

General Construction Permit – General Permit for **Storm Water** Discharges Associated with Construction Activity; **State Board** Order No. 99-08-DWQ (NPDES No. CAS000002) and the Small Linear Underground/Overhead Utility **General Construction Permit**; **State Board** Order No. 2003-0007-DWQ (NPDES No. CAS000005).

General Industrial Permit – General Permit for **Storm Water** Discharges Associated with Industrial Activities; **State Board** Order No. 97-03-DWQ (NPDES No. CAS000001)

General Storm Water Permits – **General Industrial Permit** and **General Construction Permit**.

Grading – The cutting and/or filling of the land surface to a desired slope or elevation.

GRW – Groundwater Recharge **Beneficial Use**

Hazardous Material – Any substance that poses a threat to human health or the environment due to its **Toxicity**, corrosiveness, ignitability, explosive nature or chemical reactivity. These also include materials named by the **USEPA** to be reported if a designated quantity of the material is spilled into the **Waters of the United States** or emitted into the environment.

Hazardous Waste – **Hazardous Waste** is defined as "any **Waste**, which, under Section 600 of Title 22 of this code, is required to be managed according to Chapter 30 of Division 4.5 of Title 22 of this code." [CCR Title 22, Division 4.5, Chapter 11, Article 1]

HAZMAT – **Hazardous Materials**

HHW – Household **Hazardous Waste**

IC/ID – **Illicit Connection/Illegal Discharge**

Illegal Discharge (ID) - Defined at 40 CFR 122.26(b)(2) as any discharge to a **MS4** that is not composed entirely of **Storm Water** except discharges pursuant to a separate **NPDES** permit and discharges resulting from emergency fire fighting activities. The term excludes discharges that are identified as not prohibited in Section C. ALLOWABLE **NON-STORM WATER** DISCHARGES of this **MS4 Permit**, and discharges authorized by the **Executive Officer**.

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Illicit Connection (IC) – Any connection to the **MS4** that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations. The term **Illicit Connection** includes all **Non-Storm Water** discharges and connections except discharges pursuant to an **NPDES** permit, discharges that are identified in Section C. ALLOWABLE **NON-STORM WATER DISCHARGES** of this **MS4 Permit**, and discharges authorized by the **Executive Officer**.

Impaired Waterbody – Section 303(b) of the **CWA** requires each Regional Water Quality Control Board to routinely monitor and assess the quality of **Waters of the State** within their respective regions. If this assessment indicates that **Beneficial Uses** are not met, then that waterbody must be listed under Section 303(d) of the **CWA** as an **Impaired Waterbody**.

Implementation Agreement – Coordinates implementation of the responsibilities of the **Permittees** under the **MS4 Permit** and provides for funding of “umbrella” activities related to compliance with the **MS4 Permit**.

IND – Industrial water supply **Beneficial Use**.

Inert Waste – **Inert Waste** is defined as one that “does not contain **Hazardous Waste** or soluble **Pollutants** at concentrations in excess of applicable **WQOs**, and does not contain significant quantities of decomposable **Waste**.” [CCR Title 27, Chapter 3, Subchapter 2, Article 2, Section 20230]

Intermittent Beneficial Use – **Beneficial Uses**, which occur only seasonally because of limiting environmental conditions (e.g., provide habitat for trout during colder months of the year) and uses which are dependent on and occur only when sufficient flow exists.

Land Disturbance – The clearing, **Grading**, excavation, stockpiling, or other construction activity that result in the possible mobilization of soils or other **Pollutants** into the **MS4s**. This specifically does not include routine maintenance activity to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. This also does not include emergency construction activities required to protect public health and safety. The **Permittees** should first confirm with **Regional Board** staff if they believe that a particular routine maintenance activity is exempt under this definition from any **General Storm Water Permits** or other Orders (i.e., 401 Water Quality Certifications) issued by the **State or Regional Board**.

Load Allocation (LA) – The portion of a **Receiving Water**’s loading capacity that is attributed either to one of its existing or future **Nonpoint Sources of Pollution** or to natural background sources.

Low Impact Development (LID) – The integration of site ecological and environmental goal and requirements into all phases of urban planning and design from the individual residential lot level to the entire watershed.

MEP (Maximum Extent Practicable) – **MEP** is the technology-based standard established by Congress in **CWA Section 402(p)(3)(B)(iii)** that **MS4** dischargers must meet. Technology-based standards establish the level of **Pollutant** reductions that dischargers must achieve, typically by treatment or by a combination of treatment and **BMPs**. **MEP** generally emphasizes **Pollution Prevention** and **Source Control BMPs** primarily (as the first line of defense) in combination with treatment methods serving as a

backup (additional line of defense). **MEP** considers economics and is generally, but not necessarily, less stringent than **BAT**.

A definition for **MEP** is not provided either in the statute or in the regulations. Instead the definition of **MEP** is dynamic and will be defined by the following process over time: municipalities propose their definition of **MEP** by way of their **SWMP**. Their total collective and individual activities conducted pursuant to the **SWMP** becomes their proposal for **MEP** as it applies both to their overall effort, as well as to specific activities (e.g., **MEP** for street sweeping, or **MEP** for **MS4** facility maintenance). In the absence of a proposal acceptable to the **Regional Board**, the **Regional Board** defines **MEP**.

In a memo dated February 11, 1993, entitled "Definition of **Maximum Extent Practicable**," Elizabeth Jennings, Senior Staff Counsel of the **State Board**, addressed the achievement of the **MEP** standard as follows: "To achieve the **MEP** standard, municipalities must employ whatever **Best Management Practices (BMPs)** are technically feasible (i.e., are likely to be effective) and are not cost prohibitive. The major emphasis is on technical feasibility. Reducing **Pollutants** to the **MEP** means choosing effective **BMPs**, and rejecting applicable **BMPs** only where other effective **BMPs** will serve the same purpose or the **BMPs** would not be technically feasible, or the cost would be prohibitive. In selecting **BMPs** to achieve the **MEP** standard, the following factors may be useful to consider:

- a. *Effectiveness: Will the BMPs address a Pollutant (or Pollutant source) of concern?*
- b. *Regulatory Compliance: Is the BMP in compliance with Storm Water regulations as well as other environmental regulations?*
- c. *Public Acceptance: Does the BMP have public support?*
- d. *Cost: Will the cost of implementing the BMP have a reasonable relationship to the Pollution control benefits to be achieved?*
- e. *Technical Feasibility: Is the BMP technically feasible considering soils, geography, water resources, etc?*

The final determination regarding whether a municipality has reduced **Pollutants** to the **MEP** can only be made by the **Regional Board** or State Board, and not by the municipal discharger. If a municipality reviews a lengthy menu of **BMPs** and chooses to select only a few of the least expensive, it is likely that **MEP** has not been met. On the other hand, if a municipal discharger employs all applicable **BMPs** except those where it can show that they are not technically feasible in the locality, or whose cost would exceed any benefit derived, it would have met the standard. Where a choice may be made between two **BMPs** that should provide generally comparable effectiveness, the discharger may choose the least expensive alternative and exclude the more expensive **BMP**. However, it would not be acceptable either to reject all **BMPs** that would address a pollutant source, or to pick a **BMP** base solely on cost, which would be clearly less effective. In selecting **BMPs** the municipality must make a serious attempt to comply and practical solutions may not be lightly rejected. In any case, the burden would be on the municipal discharger to show compliance with its permit. After selecting a menu of **BMPs**, it is the responsibility of the discharger to ensure that all **BMPs** are implemented."

MS4 Permit – ORDER NO. R7-2008-0001 NPDES No. CAS617002

MUN – Municipal and Domestic Supply **Beneficial Use**

Municipal Separate Storm Sewer System (MS4) – A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) Owned or operated by a State, city town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, **Storm Water**, or other **Wastes**, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or designated and approved management agency under section 208 of the **CWA** that discharges to **Waters of the United States**; (ii) Designated or used for collecting or conveying **Storm Water**; (iii) Which is not a combined sewer; (iv) Which is not part of the Publicly Owned Treatment Works (**POTW**) as defined at 40 CFR 122.2.

National Pollution Discharge Elimination System (NPDES) – Federal permits authorizing the discharge of **Waste** to **Waters of the United States**. All **NPDES** permits issued by the State of California are also **WDRs**.

New Development – New construction on a previously undisturbed parcel. **New Developments** do not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of a facility, nor do they include emergency new developments required to protect public health and safety. Dischargers should confirm with **Regional Board** staff whether or not a particular routine maintenance activity is subject to this **MS4 Permit**.

New Development Guidelines –*Supplement A* to the Riverside County Drainage Area Management Plan for the Santa Ana and Santa Margarita **Watersheds**. The **New Development Guidelines** are incorporated into the **Whitewater River Region SWMP**.

NOI (Notice of Intent) – A **NOI** is an application for coverage under either the **General Storm Water Permits**.

Non-hazardous Solid Waste – All putrescible and non-putrescible solid, semi-solid, and liquid **Wastes**, including garbage, trash, refuse, paper, rubbish, ashes, industrial **Wastes**, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semi-solid **Wastes** and other discarded solid or semi-solid **Waste**; provided that such **Wastes** do not contain **Wastes** which must be managed as **Hazardous Wastes**, or **Wastes** which contain soluble **Pollutants** in concentration which exceed applicable **WQOs** or could cause degradation of **Waters of the State**.” [CCR Title 27, Chapter 3, Subchapter 2, Article 2, Section 20220]

Non-Point Source – Diffuse, widespread sources of **Pollution**. These sources may be large or small, but are generally numerous throughout a **Watershed**. **Non-Point Sources**, include but are not limited to urban, agricultural or industrial area, roads, highways, construction sites, communities served by septic systems, recreational boating activities, timber harvesting, mining, livestock grazing, as well as physical changes to stream channels, and habitat degradation. **Non-point Source Pollution** can occur year round any time rainfall, snowmelt, irrigation, or any other source of water runs over land or through the ground, picks up **Pollutants** from these numerous, diffuse sources and deposits them into rivers, lakes and coastal waters or introduces them into ground water.

Non-Storm Water – Non-Storm Water consists of all discharges to and from a **MS4** that do not originate from precipitation events (i.e., all discharges from a **MS4** other than storm water). **Non-Storm Water** includes **IDs**, non-prohibited discharges, and **NPDES** permitted discharges.

NOT – Notice of Termination of coverage under a **General Stormwater Permit**.

Nuisance – As defined in the Porter-Cologne Water Quality Control Act, "anything which meets all of the following requirements: 1) Is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. 2) Affects at the same time an entire community or neighborhood, or any considerable number of **Persons**, although the extent of the annoyance or damage inflicted upon individuals may be unequal. 3) Occurs during, or as a result of, the treatment or disposal of **Wastes**."

Numeric Effluent Limitations – A method by which **Effluent Limitations** are prescribed for **Pollutants** in **WDRs** using concentration based criteria to implement the federal **NPDES** regulations. When **Numeric Effluent Limitations** are met at the "end-of-pipe", the effluent discharge generally will not cause **WQSS**s to be exceeded in the receiving waters (i.e., **WQS** will also be met).

OES – The Governor's Office of Emergency Services, an agency of the State of California.

"Only Rain Down The Storm Drain" Pollution Prevention Program – County Urban Runoff public education program.

Permit Area – The **Whitewater River Region** as defined in ATTACHMENT C -SITE MAP.

Permittees – **County**, **RCFC&WCD**, **CVWD** and the Cities of Banning, Cathedral City, Coachella, Desert Hot Springs, Indian Wells, Indio, La Quinta, Palm Desert, Palm Springs and Rancho Mirage. A **Permittee** to the **Whitewater River Region** is only responsible for permit conditions relating to the discharge from **MS4** facilities for which it is the operator.

Person - A **Person** is defined as an individual, association, partnership, corporation, municipality, state or federal agency, or an agent or employee thereof. [40 CFR 122.2].

Point Source – Any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operations, landfill leachate collection systems, vessel, or other floating craft from which **Pollutants** are or may be discharged.

Pollutant – Broadly defined as any agent that may cause or contribute to the degradation of water quality such that a condition of **Pollution** or **Contamination** is created or aggravated.

Pollutants of Concern - Any **Pollutants** generated by the development, including **Pollutants** that are listed under CWA Section 303(d), **Pollutants** associated with the land use type of the development and legacy **Pollutants** associated with past use of the development site that may be exposed to **Urban Runoff**.

Pollution – As defined at 40 CFR 122.2, **Pollutant** means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge,

munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean:

- (a) Sewage from vessels; or
- (b) Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if the State determines that the injection or disposal will not result in the degradation of ground or surface water resources; or
- (c) Those discharged substances that are specifically excluded from coverage under **NPDES** permits pursuant to 40 CFR 122.3.

Pollution Prevention - Practices and processes which reduce or eliminate the generation of **Pollutants**, in contrast to source control, **Pollution** control, treatment or disposal.

Pollution Prevention BMPs - In general, activities or programs that aim to educate the public in order to reduce or eliminate the generation of **Pollutants**.

Post-Construction BMPs - Subsets of **BMPs** including **Source Control** and structural treatment that detain, retain, filter, or educate to prevent the release of **Pollutants** to surface waters during the final functional life of development.

Potential Pollutant - In general, any agent that may possess the ability to cause or contribute to the degradation of water quality.

POTW - Publicly owned treatment works

POW - Hydropower Generation **Beneficial Use**

Pre-Development Runoff Conditions - The runoff conditions existing onsite immediately before the planned development activities occur. **Pre-Development Runoff Conditions** are not intended to be interpreted as those conditions that existed before any human-induced land activities occurred. This pertains to redevelopment as well as initial development.

Principal Permittees - **RCFC&WCD** and the **County**

Priority Development Projects - **New Development** and **Redevelopment Projects**

Priority Pollutants - **USEPA Priority Pollutants**. See Attachment D - List of **Priority Pollutants**.

Rainy Season - Not defined for the **Whitewater River Region**. Per the **General Industrial Permit**, defined as October 1st through May 30th.

RCFC&WCD - Riverside County Flood Control and Water Conservation District

RARE - Rare, Threatened or Endangered Species **Beneficial Use**

RCWMD - **County** Waste Management Department

Receiving Water(s) – Waters of the United States within the **Whitewater River Region.**

Receiving Water Limitations - **Receiving Water Limitations** are requirements included in the **MS4 Permit** issued by the **Regional Board** to assure that the regulated discharges do not violate **WQSs** established in the **Basin Plan** at the point of discharge to **Waters of the United States**. **Receiving Water Limitations** are used to implement the requirement of **CWA** section 301(b)(1)(C) that **NPDES** permits must include any more stringent limitations necessary to meet **WQSs**.

Receiving Water Quality Objectives – **WQOs** specified in the **Basin Plan** for **Receiving Waters**.

REC-I – Contact water recreation **Beneficial Use**

REC-II – Non-contact water recreation **Beneficial Use**

Redevelopment Project - A project where major modifications to an existing site or structure requiring a permit issued by a **Permittee** is undertaken. Routine maintenance, interior remodeling, re-roofing, and parking lot maintenance are not included. A **Redevelopment Project** is not to be confused with the projects undertaken by a Redevelopment Agency.

Regional Board – California Regional Water Quality Control Board, Colorado River Basin

Riverside County – Territory within the geographical boundaries of the **County**.

ROWD – Report of Waste Discharge. Application for renewal of **WDRs**.

Sanitary Sewer Overflow (SSO) – Any overflow, spill, release, discharge or diversion of untreated or partially treated wastewater from a sanitary sewer system.

SARA – Superfund Amendments and Reauthorization Act. **SARA** amended the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) on October 17, 1986. **SARA** reflected **USEPA**'s experience in administering the complex Superfund program during its first six years and made several important changes and additions to the program. **SARA**:

- stressed the importance of permanent remedies and innovative treatment technologies in cleaning up **Hazardous Waste** sites;
- required Superfund actions to consider the standards and requirements found in other State and Federal environmental laws and regulations;
- provided new enforcement authorities and settlement tools;
- increased State involvement in every phase of the Superfund program;
- increased the focus on human health problems posed by **Hazardous Waste** sites;
- encouraged greater citizen participation in making decisions on how sites should be cleaned up; and
- increased the size of the trust fund to \$8.5 billion.

SARA also required **USEPA** to revise the Hazard Ranking System (HRS) to ensure that it accurately assessed the relative degree of risk to human health and

the environment posed by uncontrolled **Hazardous Waste** sites that may be placed on the National Priorities List (NPL).

Sediment – Soil, sand, and minerals washed from land into water. **Sediment** can destroy fish-nesting areas, clog animal habitats, and cloud waters so that sunlight does not reach aquatic plants. This **MS4 Permit** regulates only the discharges of **Sediment** from anthropogenic sources and does not regulate naturally occurring sources of **Sediment**.

SIC – Standard Industrial Classification

Site Design BMPs – In general, activities or programs to educate the public or provide low cost non-physical solutions, as well as facility design or practices aimed at reducing **Urban Runoff**, increasing infiltration, reducing pollutant transport mechanisms, minimizing the difference between pre- and post-development **Urban Runoff**.

Source Control BMPs – In general, activities or programs to educate the public or provide low cost non-physical solutions, as well as facility design or practices aimed to limit the contact between **Pollutant** sources and **Storm Water** or authorized **Non-Storm Water**. Examples include: activity schedules, prohibitions of practices, street sweeping, facility maintenance, detection and elimination of **IC/ID**, and other non-structural measures. Facility design examples include providing attached lids to trash containers, or roof or awning over material and trash storage areas to prevent direct contact between water and **Pollutants**. Additional examples are provided in Section 4 of the **New Development Guidelines**, which is incorporated into the Whitewater River **SWMP**.

Southern California Monitoring Coalition (SMC) – A regional group working to improve monitoring program design, parameter test methods, calibrate labs, evaluate the effectiveness of **BMPs**, and/or advance the science and understanding of **Urban Runoff** impacts on **Receiving Waters**.

State Water Resources Control Board – State Board or SWRCB

Storm Water - “**Storm Water**” is as defined **Storm Water** runoff and snow melt runoff consisting only of those discharges that originate from precipitation events. **Storm Water** is that portion of precipitation, which flows across a surface to the **MS4 Receiving Waters**. Examples of this phenomenon include: the water that flows off a building's roof when it rains (runoff from an impervious surface); the water that flows into streams when snow on the ground begins to melt (runoff from a semi-pervious surface); and the water that flows from a vegetated surface when rainfall is in excess of the rate at which it can infiltrate into the underlying soil (runoff from a pervious surface). When all factors are equal, runoff increases as the perviousness of a surface decreases. During precipitation events in urban areas, rainwater picks up and transports **Pollutants** through **MS4s**, and ultimately to **Waters of the United States**.

Storm Water Management Plan (SWMP) – Document describing those activities and programs implemented by the **Permittees** to manage **Urban Runoff** to comply with the requirements of this **MS4 Permit** for the **Whitewater River Region**.

Storm Water Ordinance – The **Storm Water/Urban Runoff** Management and Discharge Control Ordinances and ordinances addressing **Grading** and **Erosion** control adopted by each of the **Co-Permittees**

Structural BMPs – Physical facilities or controls which may include secondary containment, treatment measures, (e.g. first flush diversion, detention/retention basins, and oil/grease separators), run-off controls (e.g., grass swales, infiltration trenches/basins, etc.), and engineering and design modification of existing structures. Additional examples are provided in Section 4 of the *New Development Guidelines*, which is incorporated into the Whitewater River **SWMP**.

Supplement "A" – Supplement "A" to the Riverside County Drainage Area Management Plan for the Santa Ana and Santa Margarita **Watersheds**. See "*New Development Guidelines*".

SWPPP – Storm Water **Pollution Prevention** Plan

TDS – Total dissolved solids.

TMLA – *County* Transportation and Land Management Agency.

Total Maximum Daily Load (TMDL) - The **TMDL** is the maximum amount of a **Pollutant** that can be discharged into a water body from all sources (point and non-point) and still maintain **WQS**. Under **CWA** section 303(d), **TMDLs** must be developed for all water bodies that do not meet **WQSs** after application of technology-based controls.

Toxicity – Adverse responses of organisms to chemicals or physical agents ranging from mortality to physiological responses such as impaired reproduction or growth anomalies.

Treatment Control BMPs – In general, activities or programs to educate the public or provide low cost non-physical solutions, as well as facility design or practices aimed at the removal of **Pollutants** from **Urban Runoff**.

TSS – Total suspended solids.

Urban Runoff - **Urban Runoff** includes those discharges from residential, commercial, industrial, and construction areas within the **Whitewater River Region MS4 Permit Area** and excludes discharges from feedlots, dairies, farms, **POTWs**, and open space. **Urban Runoff** discharges consist of **Storm Water** and **Non-Storm Water** surface runoff from drainage sub-areas with various, often mixed, land uses within all of the hydrologic drainage areas that discharge into the **Waters of the United States**. In addition to **Urban Runoff**, the **MS4s** regulated by the **MS4 Permit** receive flows from agricultural activities, open space, state and federal properties and other non-urban land uses not under the control of the **Permittees**. The quality of the discharges from the **MS4s** varies considerably and is affected by, among other things, past and present land use activities, basin hydrology, geography and geology, season, the frequency and duration of storm events, and the presence of past or present illegal and allowed disposal practices and **IC**. The **Permittees** lack legal jurisdiction over discharges into their respective **MS4s** facilities from agricultural activities, California and federal facilities, utilities and special districts, Native American tribal lands, wastewater management agencies and other point and **Non-Point Source** discharges otherwise permitted by or under the jurisdiction of the **Regional Board**. The **Regional Board** recognizes that the **Permittees** should not be held responsible for such facilities and/or discharges. Similarly, certain activities that generate **Pollutants** present in **Urban Runoff** are beyond the ability of the **Permittees** to eliminate. Examples of these include operation of internal combustion engines, atmospheric deposition, brake pad wear, tire wear, residues from lawful application of pesticides, nutrient runoff from agricultural activities, and leaching of naturally occurring minerals from local geography.

USEPA – United States Environmental Protection Agency

WARM – Warm freshwater habitat **Beneficial Use**

Wash – Intermittent or Ephemeral Stream as specified in the **Basin Plan**.

Waste – As defined in **CWC** 13050(d), “**Waste** includes sewage and any and all other **Waste** substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including **Waste** placed within containers of whatever nature prior to, and for purposes of, disposal.” Article 2 of CCR Title 23, Chapter 15 (Chapter 15) contains a **Waste** classification system, which applies to solid and semi-solid **Waste**, which cannot be discharged directly or indirectly to Water of the State and which therefore must be discharged to land for treatment, storage, or disposal in accordance with Chapter 15. There are four classifications of **Waste** (listed in order of highest to lowest threat to water quality): **Hazardous Waste**, **Designated Waste**, **Non-Hazardous Solid Waste**, and **Inert Waste**.

Waste Discharge Requirements (WDRs) – As defined in Section 13374 of the **CWC**, the term “**Waste Discharge Requirements**” is the equivalent of the term “permits” as used in the Federal Water **Pollution** Control Act, as amended. The **Regional Board** usually reserves reference to the term “permit” to **WDRs** for discharges to surface **Waters of the United States**.

Waste Load Allocation (WLA) – **WLAs** are portions of the **TMDL** assigned to existing and future **Point Sources** and **LAs** are portions of the **TMDL** assigned to existing and future **Nonpoint Sources**, including background loads.

Waters of the United States. – **Waters of the United States** can be broadly defined as navigable surface waters and their tributaries. Groundwater is not included. As defined in 40 CFR 122.2, the **Waters of the United States** are defined as: (a) All waters, which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; (b) All interstate waters, including interstate “wetlands;” (c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, “wetlands,” sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation or destruction of which would affect or could affect interstate or foreign commerce including any such waters: (1) Which are or could be used by interstate or foreign travelers for recreational or other purposes; (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or (3) Which are used or could be used for industrial purposes by industries in interstate commerce; (d) All impoundments of waters otherwise defined as **Waters of the United States** under this definition; (e) Tributaries of waters identified in paragraphs (a) through (d) of this definition; (f) The territorial seas; and (g) “Wetlands” adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition. **Waters of the United States** do not include prior converted cropland. Notwithstanding the determination of an area’s status as prior converted cropland by any other federal agency, for the purposes of the **CWA**, the final authority regarding **CWA** jurisdiction remains with the **USEPA**.

Water Quality Objective (WQO) – Numerical or narrative limits on constituents or characteristics of water designated to protect designated **Beneficial Uses** of the water. [**CWC** 13050 (h)]. California’s **WQOs** are established by the State and Regional Water

Boards in the Water Quality Control Plans. As stated in the Porter-Cologne requirements for discharge (CWC 13263): "**Waste Discharge Requirements** shall implement any relevant water quality control plans that have been adopted, and shall take into consideration the **Beneficial Uses** to be protected, the water objectives reasonably required for that purpose, other **Waste** discharges, the need to prevent **Nuisance**, and the provisions of Section 13241."

Numeric or narrative limits for **Pollutants** or characteristics of water designed to protect the **Beneficial Uses** of the water. In other words, a **WQO** is the maximum concentration of a **Pollutant** that can exist in a **Receiving Water** and still generally ensure that the **Beneficial Uses** of the **Receiving Water** remain protected (i.e., not impaired). Since **WQOs** are designed specifically to protect the **Beneficial Uses**, when the objectives are violated the **Beneficial Uses** are, by definition, no longer protected and become impaired. This is a fundamental concept under the Porter Cologne Act. Equally fundamental is Porter Cologne's definition of **Pollution**. A condition of **Pollution** exists when the water quality needed to support designated **Beneficial Uses** has become unreasonably affected or impaired; in other words, when the **WQOs** have been violated. These underlying definitions (regarding **Beneficial Use** protection) are the reason why all **WDRs** implementing the federal **NPDES** regulations require compliance with **WQOs** (**WQOs** are also called water quality criteria in the **CWA**).

Water Quality Standards (WQS) – The water quality goals of a waterbody (or a portion of the waterbody) designating **Beneficial Uses** (e.g., swimming, fishing, municipal drinking water supply, etc.) to be made of the water and the **WQOs** necessary to protect those uses.

Waters of the State – Any water, surface or underground, including saline waters within the boundaries of the State [CWC Section 13050 (e)]

Watershed - That geographical area which drains to a specified point on a watercourse, usually a confluence of streams or rivers (also known as drainage area, catchment, or river basin).

WDID – Waste discharge identification number.

Whitewater River Region - The urbanized area of the **Whitewater River Watershed** under the jurisdiction of the **Permittees** as identified in ATTACHMENT C – SITE MAP.

Whitewater River Watershed – Watershed tributary to the Whitewater River.

Whitewater River Watershed Benefit Assessment Area (WWBAA) - the **RCFC&WCD**'s funding source for **MS4 Permit** compliance program activities. The WWBAA covers the northwesterly portion of the **Watershed** including **County** and city jurisdictions that lie within the **RCFC&WCD**'s service area. WWBAA revenues fund both area-wide **MS4** program and the **RCFC&WCD**'s individual **MS4 Permit** compliance activities.

WILD – Wildlife habitat **Beneficial Use**

WQMP – Water Quality Management Plan

L. MONITORING AND REPORTING

1. Pursuant to Section 13267 of the **CWC**, the **Permittees** shall comply with Monitoring and Reporting Program No. R7-2008-0001 and with the "General Monitoring and Reporting Provisions."
2. The **Permittee(s)** shall monitor the **Receiving Water** and **MS4** for **Pollutants** during the fiscal year (July 1 to June 30) beginning July 1, 2008. This monitoring will assist in the, characterization of **Urban Runoff**, effectiveness of implemented **BMPs**, and determining the impact of **Urban Runoff** in the **Whitewater River Region**. Specifically, the **Permittee(s)** shall sample in accordance with the specified monitoring schedule and constituents of concern listed in this section of the **MS4 Permit**.
3. The **Permittee(s)** may propose alternative or additional monitoring locations for approval by the **Executive Officer**.
4. The collection, preservation and holding times of all samples shall be in accordance with **USEPA**-approved procedures. Unless otherwise approved by the **Executive Officer**, all analyses shall be conducted by a laboratory certified for such analysis by the California Department of Public Health. All analyses shall be conducted in accordance with the latest edition of "Guidelines Establishing Test Procedures for Analysis of **Pollutants**" (40 CFR 136), promulgated by the **USEPA**.
5. The timing of sample collection will be contingent on the sample holding time and the normal working hours of the contract laboratory.
6. Due to the hazard of flash flooding that exists in waterbodies within the **Whitewater River Region MS4 Permit** area, sample collection shall occur only when there is enough sunlight to safely collect a monitoring sample during a **Receiving Water** wet weather monitoring event. Sampling shall not take place when it is unsafe and/or there is a flash flood warning and/or watch.
7. **Permittee** records of monitoring information shall include:
 - A. The date, exact place, and time of sampling or measurement(s);
 - B. The individual(s) who performed the sampling or measurement(s);
 - C. The date(s) analyses were performed;
 - D. The analytical techniques or method used; and
 - E. The results of such analyses.
8. The **Permittee(s)** shall retain records of all monitoring information, including all calibration and maintenance records, copies of all reports required by this **Regional Board** Order, and records of all data used to complete the application for this **Regional Board** Order, for a period of at least five (5) years from the date of the sample, measurement, report, or application. This period may be extended by request of the **Executive Officer**.

9. The **Permittees** shall conduct monitoring for field parameters, constituents of concern and for **Priority Pollutants** as described in the appropriate sections.

Field Parameters

Field Parameters to be monitored shall include: water temperature, pH, Electrical Conductivity (EC), Turbidity, and Dissolved Oxygen (DO). Additional parameters may be collected if necessary to characterize or document the **IC/ID** (oil and grease, etc.) or for use in follow up enforcement actions against sources of an **IC/ID**. The minimum levels of analysis for the field parameters shall be monitored at the appropriate minimum levels and units for comparison with **Basin Plan** objectives.

Constituents of Concern

The following table consists of constituents of concern commonly associated with **Urban Runoff**. The minimum levels of analysis for the metals shall be as shown on ATTACHMENT E – **STATE BOARD MINIMUM LEVELS**, all other constituents shall be monitored at the appropriate minimum levels and units for comparison with **Basin Plan** objectives.

Table L-1 Constituents of Concern

Total Metals	Pathogen Indicator	Nutrients & Other
Arsenic	E. coli	Nitrate as Nitrogen
Barium		Nitrite as Nitrogen
Cadmium		Ammonia as Nitrogen
Chromium		Total Kjeldahl Nitrogen
Lead		Total Nitrogen (Calculation)
Mercury		Ortho Phosphorous
Selenium		Total Phosphorus
		Total Dissolved Solids (TDS)

Priority Pollutants

Priority Pollutants to be monitored are shown on ATTACHMENT D- LIST OF **PRIORITY POLLUTANTS**. The minimum level of analysis is shown on ATTACHMENT E – **STATE BOARD MINIMUM LEVELS**.

10. The **Permittees** shall conduct the monitoring at the following types of locations:

- Dry Weather Outfall **IC/ID** Monitoring;
- Wet Weather Outfall Monitoring;
- Dry Weather **Receiving Water** Monitoring; and
- Wet Weather **Receiving Water** Monitoring.

A. Dry Weather Outfall IC/ID Monitoring

Dry weather outfall **IC/ID** monitoring shall consist of regularly visiting fixed the dry weather outfall locations as shown in Table L-2 Dry Weather **IC/ID** Outfall Monitoring Locations, quarterly to look for evidence of non-typical flow and water quality conditions for each site.

The **Permittees** shall monitor for field parameters at the dry weather outfall monitoring locations as shown in the Table L-2 Dry Weather **IC/ID** Outfall Monitoring Locations.

When there is evidence of irregular flow or water quality conditions caused by an **IC/ID** activity, the **Permittee(s)** with jurisdiction over the tributary area to the outfall shall be notified of the potential **IC/ID** and be requested to conduct a follow-up **IC/ID** investigation. **IC/ID** investigation results shall be reported in the **Annual Report**.

Table L-2 Dry Weather IC/ID Outfall Monitoring Locations

Monitoring Location Lat/Long	Minimum No. of Events/Year	Type of Sample	Constituents
Ramsey Street Storm Drain 33°48'35.0", -116°51'31.5"	2	Grab or Composite	Field Parameters and E. Coli
Portola Ave Outfall 33°44'16.8", -116°22'24.6"	2	Grab or Composite	Field Parameters and E. Coli
Avenue 52 Outfall 33°40'17.4", -116°08'56.4"	2	Grab or Composite	Field Parameters and E. Coli

B. Wet Weather Outfall Monitoring

Wet Weather Outfall Monitoring shall be conducted for the purposes of evaluating long term trends in **Urban Runoff**. The data collected from these stations shall also be used to assist in assessment of potential urban contributions to chronic water quality conditions identified from the **Receiving Waters** Monitoring Program.

The **Permittees** shall monitor for field parameters and constituents of concern at the wet weather outfall monitoring locations as shown in the Table L-3 Wet Weather Outfall Monitoring Locations.

At least once during the last three years of the monitoring program the **Permittees** shall also monitor the **USEPA Priority Pollutants** list for one storm event to determine if other **Pollutants** that have historically not been detected in excess of **WQSS** are becoming problematic. See ATTACHMENT D- LIST OF **PRIORITY**

POLLUTANTS and ATTACHMENT E – **STATE BOARD MINIMUM LEVELS** for list of **Priority Pollutants** and minimum levels for analysis.

Table L-3 Wet Weather Outfall Monitoring Locations

Monitoring Location Lat., Long.	Minimum No. of Events/Year	Type of Sample	Constituents
Ramsey Street Storm Drain 33°48'35.0", -116°51'31.5"	2	Grab or Composite	Field parameters and constituents of concern; Add Priority Pollutants list to one sample event during 2 nd , 3 rd or 4 th year of MS4 Permit
Portola Avenue Outfall 33°44'16.8", -116°22'24.6"	2	Grab or Composite	Same as above
Avenue 52 Outfall 33°40'17.4", -116°08'56.4"	2	Grab or Composite	Same as above

C. Dry Weather Receiving Water Monitoring

Dry Weather **Receiving Water** Monitoring shall be conducted for the purposes of evaluating the health of the perennial portion of the **CVSC** during dry weather conditions. The data collected shall also be used to assist in assessment of potential **Urban Runoff** contributions to chronic water quality conditions identified from the **Receiving Waters** Monitoring Program.

The **Permittees** shall monitor for field parameters, constituents of concern and **Priority Pollutants** at the dry weather **Receiving Water** monitoring location as shown in the Table L-4 Dry Weather **Receiving Water** Monitoring Location.

Table L-4 Dry Weather Receiving Water Monitoring Location

Monitoring Location Lat., Long.	Minimum No. of Events/Year	Type of Sample	Constituents
CVSC at Avenue 52 Bridge 33°40'20.9", -116°08'57.8"	2	Grab or Composite	Field parameters and constituents of concern; Add Priority Pollutants list to one sample event during 2 nd , 3 rd or 4 th year of this MS4 Permit .

D. Wet Weather Receiving Water Monitoring

The **Permittees** shall monitor the **CVSC** to assess **Receiving Water** conditions during wet weather conditions. When there is hydraulic connectivity throughout the **Whitewater River Region**, as evidenced by regional stormwater flows detected at Golf Center Parkway, the **Permittees** shall also monitor the Upper Whitewater River to assist with determination of natural background concentrations of field parameters and constituents of concern that may also be found in **Urban Runoff**.

The **Permittees** shall monitor for field parameters, constituents of concern and **Priority Pollutants** at the wet weather **Receiving Water** monitoring locations as shown in the Table L-5 Wet Weather **Receiving Water** Monitoring Locations.

Table L-5 Wet Weather Receiving Water Monitoring Locations

Monitoring Location Lat., Long.	Minimum No. of Events/Year	Type of Sample	Constituents
Upper White Water River 33°59'01.5", -116°08'57.8"	2*	Grab or Composite	Field parameters and constituents of concern; Add Priority Pollutants list to one sample event during 2 nd , 3 rd or 4 th year of this MS4 Permit .
CVSC at Avenue 52 Bridge 33°40'20.9", -116°08'57.8"	2	Grab or Composite	Same as above

* - Note: Sample will be collected when there is hydraulic connectivity throughout the **Whitewater River Region**, as evidenced by regional stormwater flows detected at Golf Center Parkway.

Special Studies

The **Permittees**, individually or collectively, shall continue to participate in regional monitoring and scientific studies conducted by the Southern California Monitoring Coalition (**SMC**) and/or the California Stormwater Quality Association (**CASQA**), and/or other regional groups or efforts necessary to improve monitoring program design, parameter test methods, calibrate labs, evaluate the effectiveness of **BMPs**, and/or advance the science and understanding of **Urban Runoff** impacts on **Receiving Waters**.

The **Permittees** may also be required to conduct additional monitoring required by the Implementation Plans of legally approved **TMDLs** within the **Whitewater River Watershed**. See Section G. **TOTAL MAXIMUM DAILY LOADS**.

11. Public Works Construction Monitoring

- A. The **Regional Board** may require the **Permittee(s)** to conduct additional site inspections, submit reports and certifications, or to perform sampling and analysis.
- B. The **Permittee(s)** shall conduct inspections of construction sites prior to anticipated storm events and after actual storm events to identify areas contributing to a discharge of **Storm Water** associated with construction activity. The **Permittee(s)** shall evaluate whether control practices to reduce **Pollutant** loadings identified in the **SWPPP** are adequate and properly implemented or whether additional control practices are needed. A record of the inspections must include the date of the inspection, the individual(s) who performed the inspection, and the observations. Other than reporting incidents of noncompliance with these inspections, the **Permittee(s)** are not required to submit inspection reports.
- C. Any noncompliance or anticipated noncompliance shall be reported to the **Regional Board**. The notifications shall identify the type(s) of noncompliance, describe the actions necessary to achieve compliance, and

L. MONITORING AND REPORTING

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include a time schedule, subject to modifications by the **Regional Board**, indicating when compliance will be achieved. Noncompliance notifications must be submitted within 30 days of identification of noncompliance.

D. Records of all inspections, compliance certifications, and noncompliance reporting must be retained for a period of at least five years. With the exception of noncompliance reporting, the **Permittee(s)** are not required to submit these records.

12. Reporting

A. An **Annual Report** shall be submitted to the **Executive Officer** stating the results of monitoring and other reportable activities. This report shall be submitted to the **Regional Board** by January 15th of each year.

B. The monitoring report shall describe monitoring station locations, frequency of sampling, quality assurance/quality control procedures and sampling and analysis protocols, summarize the data/results, identify methods of evaluating the data, and provide graphical summaries of the data.

C. In addition, monitoring reports shall include an analysis of the findings of each monitoring year. The analysis shall identify acute Water Quality problems that may be indicated by water quality parameters that are measured outside of normal ranges for that parameter based on historic water quality data.

D. Monitoring reports shall also include identification and analysis of any long-term trends in **Storm Water** or **Receiving Water** quality. The **Permittees** shall analyze long term trends for signs of chronic water quality problems. The analysis shall include identification of potential urban sources of chronic problems, effectiveness of existing **BMP** control measures, and recommend necessary next steps. Next steps may include allowing for additional time to statistically confirm a chronic water quality problem, additional data collection necessary to examine urban sources, potential revisions to the **SWMP** to address urban sources found to be contributing to the chronic condition, or other similar measures necessary to confirm and/or address the condition.

E. All monitoring reports shall use a standard report format and shall include the following:

- i. An introduction;
- ii. Summary of Special Studies participated in during the reporting period;
- iii. Comprehensive interpretations and conclusions; and
- iv. Recommendations for necessary future actions.

13. IC/IDs

The **Permittee(s)** shall report the following:

Activity	Reporting
To inspect and document any IC/IDs identified as part of the SWMP	Annually

14. Whitewater River Region Modifications

Per Section E.2.b., the **Permittees** shall report any necessary changes to the boundaries of the **Whitewater River Region**.

15. Legal Certifications

In the Fiscal Year 2008-2009 **Annual Report** the **Permittees** shall provide their legal certifications per Section E.4 of this **MS4 Permit**.

16. MS4 Permit Evaluation and Effectiveness Reporting Requirements

The **Permittee(s)** shall submit all reportable Evaluation and Effectiveness items contained within the **Permittees SWMP** and as required in the various Section F Evaluation and Reporting Requirements of this **MS4 Permit**.

17. Compliance Status

The **Permittee(s)** shall report the overall compliance level for the reporting period in the January 15 **Annual Report** based on the reportable items described in sections B through G of this **MS4 Permit**. This compliance status report shall also include a compliance status report for each **Permittee**.

18. Format

- The **Permittee(s)** shall arrange the data in tabular form so that the specified information is readily discernible. The data shall be summarized in such a manner as to clearly illustrate whether the **Permittee(s)** are in compliance with the **MS4 Permit**.
- Each **Permittee's Annual Reporting** form shall contain a transmittal page signed by a duly authorized representative of the **Permittee**. The transmittal page must contain the following statement:

"I declare under the penalty of law that I have personally examined and am familiar with the information submitted in this document, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

C. A duly authorized representative of the **Permittee(s)** may sign the documents if:

- i. The authorization is made in writing by the director, general manager or equivalent person in charge of overseeing the entire operation.
- ii. The authorization specifies an individual or person having responsibility for the overall operation; and
- iii. The written authorization is submitted to the **Executive Officer**.

D. Submit monitoring reports to:

Executive Officer
California Regional Water Quality Control Board Colorado River Basin
Region
73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260

Eugene Bromley
U.S. Environmental Protection Agency - Region IX Permits Issuance
Section (W-5-1)
75 Hawthorne Street
San Francisco, CA 94105

Unless otherwise directed, the **Permittees** shall submit one hard copy and one electronic copy of each report required under this **MS4 Permit** to the **Regional Board** and one electronic copy to **USEPA**.

M. ADMINISTRATIVE PROVISIONS

1. These requirements do not exempt the **Permittees** from compliance with any other laws, regulations, or ordinances which may be applicable; do not legalize land treatment and disposal facilities; and leave unaffected any further restraints on those facilities which may be contained in other statutes or required by other regulatory agencies.
2. This **MS4 Permit** shall become the **NPDES** permit pursuant to Section 402 of the federal **CWA**, as amended from time to time, upon adoption by the **Regional Board** provided no objections from the **USEPA** Regional Administrator have been received. If the Regional Administrator objects to the issuance, this **MS4 Permit** shall not become effective until such objection is withdrawn.

N. REQUIRED SUBMITTALS, REPORTS AND COMPLIANCE TIME SCHEDULES

1. The following submittals and reports are required in accordance with Section 13267 of the **CWC**.
 - a. This **MS4 Permit** expires on May 21, 2013 and the **Permittees** must file a **ROWD** in accordance with Title 23, California Code of Regulations, not later than 180 days in advance of such date as application for issuance of a new **MS4 Permit**.
 - b. All reports required by this order shall be submitted to the **Executive Officer** in accordance with the following schedule:

REFERENCE	ITEM	COMPLETION TIME AFTER PERMIT ADOPTION/ FREQUENCY	REPORT DUE DATE
E.1.g. E.2.e	Desert Task Force meetings to discuss MS4 Permit implementation and regional and statewide issues.	Minimum quarterly meetings.	Annually on January 15 th .
E.1.h E.2.b.	Review and update the Whitewater River Region MS4 boundary map.	Annually	If amended, annually on January 15 th .
E.4	Review of Ordinances	June 15, 2009	June 29, 2009
F.1.a.ii.	Develop model forms and maintain database relating to IC/ID , Litter, Debris and Trash Control Program	June 15, 2009	June 29, 2009
F.1.a.vi	Field Screening/System Surveillance	Annually	Annually on January 15th.
F.1.a.xvi	Spill incidents, including unauthorized discharges	Annually	Annually on January 15th.
F.1.a.xvi	IC/ID reporting requirements in SWMP.	Annually	Annually on January 15th.
F.1.a.xvii	Amend SWMP to report on IC/ID Activity Program.	June 15, 2009	June 29, 2009
F.1.b.vii	Commercial/Industrial Program reporting requirements in SWMP.	Annually	Annually beginning January 15th 2010.
F.1.b.viii F.1.b.ix	Amend SWMP to report on Commercial/Industrial requirement in SWMP.	June 15, 2009	June 29, 2009

REFERENCE	ITEM	COMPLETION TIME AFTER PERMIT ADOPTION/ FREQUENCY	REPORT DUE DATE
F.1.c.iii	Revise SWMP New Development and Redevelopment requirements.	June 15, 2009	June 29, 2009
F.1.d.vi	Summarize and evaluate construction inspection prioritization criteria and inspection schedule as part of Annual Report .	Annually	Annually, beginning January 15, 2010
F.1.d.vii	Describe and evaluate process for evaluating New Development and Redevelopment Projects .	Annually	Annually, beginning January 15, 2010
F.1.e.ii.2	Incorporate Permittee facilities and operations BMPs outlined in SWMP .	June 15, 2009	June 29, 2009
F.1.e.vi.1	Permittee activities program reporting requirements in SWMP	Annually	Annually on January 15 th .
F.1.e.vi.2	Amend SWMP to require Permittees with jurisdiction over a sanitary sewer to confirm sewage spill response plans are developed and current.	June 15, 2009	June 29, 2009
F.1.e.vi.3	Amend SWMP to summarize number of municipal facilities operated by Permittees and confirm all facilities have Pollution Prevention plans onsite.	June 15, 2009	June 29, 2009
F.1.e.vi.4	Amend SWMP to maintain list of pesticide application personnel and verify applicator certifications.	June 15, 2009	June 29, 2009
F.1.e.vi.5	Amend SWMP to verify stencils/markers are maintained on inlets to the MS4.	June 15, 2009	June 29, 2009
F.1.f. ix.1	Public Education Program reporting requirements in SWMP	Annually	Annually on January 15th.

REFERENCE	ITEM	COMPLETION TIME AFTER PERMIT ADOPTION/ FREQUENCY	REPORT DUE DATE
F.1.f. ix.2	Amend SWMP to document usage of 800 toll free line.	June 15, 2009	June 29, 2009
F.1.f. ix.3	Amend SWMP to document HHW Collection Program activities.	June 15, 2009	June 29, 2009
F.1.f. ix.4	Amend SWMP to track number of regional public education outreach event conducted.	June 15, 2009	June 29, 2009
F.1.f. ix.5	Amend SWMP to document impressions made through regional media outreach programs and to use public surveys to assess effectiveness of public education and outreach program.	June 15, 2009	June 29, 2009
F.1.f. ix.6	Amend SWMP to summarize scope and purpose of regional public education materials available to various audiences.	June 15, 2009	June 29, 2009
F.1.f. ix.7	Amend SWMP to report on Permittee employee training program.	June 15, 2009	June 29, 2009
F.1.f. ix.8	Amend SWMP to identify existing code requirements for on-site storage and infiltration of stormwater on new developments and redevelopment projects and the methodology used to ensure that storage/infiltration areas are retained post-construction.	June 15, 2009	June 29, 2009
G.	SWMP modifications in accordance to TMDL Implementation Tasks	Per TMDL WLAs / Implementation Plan	Per TMDL WLAs / Implementation Plan
L.12 – L.18	Annual Report Requirements	Annually	Annually on January 15 th .

O. FACT SHEET

1. Fact Sheet Format:

This Fact Sheet briefly sets forth the principle facts and the significant factual, legal, methodological, and policy questions that the **Regional Board** considered in preparing Order No. R7-2008-0001. In accordance with the Code of Federal Regulations (CFR), Title 40, parts 124.8 and 124.56, this Fact Sheet includes, but is not limited to, the following information:

- Contact Information;
- Public process and notification procedures;
- A brief description of the type of facility or activity that is being regulated by the Order;
- The type and quantity of **Pollutants** discharged;
- A brief summary of the basis for the requirements in the Order; including references to the applicable statutory or regulatory provisions; and
- A discussion of the requirements in the Order.

2. Project Description and **Permittees** Information:

The following pages contain information concerning an application for renewal of **WDRs** and **NPDES** Permit, Board Order No. R7-2008-0001, **NPDES** No. CAS617002. This **MS4 Permit** prescribes **WDRs** for **Urban Runoff** from the Cities and the unincorporated areas in the **County** within the jurisdiction of the **Regional Board**.

On March 9, 2006, the **County** and the **RCFC&WCD**, in cooperation with the **CVWD** and incorporated cities, including the Cities of Banning, Cathedral City, Coachella, Desert Hot Springs, Indian Wells, Indio, La Quinta, Palm Desert, Palm Springs and Rancho Mirage (hereinafter collectively referred to as the **Permittees**), jointly submitted **NPDES** Application No. CAS617002 and a **ROWD** for re-issuance of a **MS4 Permit**.

For the purposes of this **MS4 Permit**, the following two **Permittees** are identified as the **Principal Permittees**:

County of Riverside, 4080 Lemon Street, P.O. Box 1090, Riverside, California 92501-1090; and

Riverside County Flood Control and Water Conservation District, 1995 Market Street, Riverside, California 92501

The **CVWD** and the Cities are identified as **Co-Permittees**. Collectively, the **Principal Permittees** and **Co-Permittees** comprise the **Permittees**. Under this organizational framework, the **Principal Permittees** are responsible for coordinating collective **Permittee** activities required by the **MS4 Permit**, including report preparation and submittals to the **Regional Board**. Other specific duties

and obligations of the **Principal Permittees** and the **Co-Permittees** imposed by this **MS4 Permit** are specified in further detail in the **Implementation Agreement**, which is described in Finding No. 5 of this Order.

3. Project Area:

This **MS4 Permit** applies to the urbanized areas that lie approximately between the San Gorgonio Pass area to the northwest and the Salton Sea to the southeast referred to as the **Whitewater River Region**. The majority of the **Whitewater River Region** is in the Coachella Valley and is identified in ATTACHMENT C – SITE MAP. The generally northwest-southeast trending Coachella Valley is in the northern portion of a large low area in the Colorado Desert known as the Salton Basin with major drainage to the Salton Sea. The San Jacinto Mountains bound the Coachella Valley on the southwest, and the San Gorgonio Mountains, Indio Hills and Mecca Hills bound the Coachella Valley on the northeast side. Major drainage is through the Whitewater River, and its tributaries, which reach the northern end of the Salton Sea. The headwaters of the Whitewater River originate from Mt. San Gorgonio. The valley surface is characterized as wide, boulderly alluvial fans and sand dunes.

4. Exclusions to the Permitted Area:

The **Permittees** may lack legal jurisdiction over storm water discharges into their respective **MS4s** facilities from certain facilities, entities, properties, and other **Point** and **Non-Point Source** discharges otherwise permitted by or under the jurisdiction of the **Regional Board**. The **Regional Board** recognizes that the **Permittees** should not be held responsible for such facilities and/or discharges. Similarly, certain activities that generate **Pollutants** present in **Urban Runoff** are beyond the ability of the **Permittees** to eliminate. Examples include: operation of internal combustion engines, atmospheric deposition, brake pad wear, tire wear, residues from lawful application of pesticides, nutrient runoff from agricultural activities, and leaching of naturally occurring minerals from local geography. Consequently, certain portions of the **Whitewater River Watershed** are excluded from coverage under this **MS4 Permit**. Excluded areas include:

- Federal lands and state properties, including, but not limited to, military bases, national forests, hospitals, colleges and universities, and highways;
- Native American tribal lands;
- Open space and rural (non-urbanized) areas;
- Agricultural lands (exempted under the **CWA**); and
- Utilities and special districts (including school districts, park districts, publicly owned treatment works and water utilities, etc.).

These areas in the **Whitewater River Region** for which coverage under the **MS4 NPDES Permit** is excluded, are shown in ATTACHMENT C – SITE MAP.

5. CWA Requirements:

The **CWA** (33 U.S.C. § 1251 et seq.) established a national policy designed to help maintain and restore the physical, chemical and biological integrity of the nation's waters. In 1972, the **CWA** established the **NPDES** permit program to regulate the discharge of **Pollutants** from **Point Sources** to **Waters of the United States**. From 1972 to 1987, the main focus of the **NPDES** program was to regulate conventional **Pollutant** sources such as sewage treatment plants and industrial facilities. As a result, on a nationwide basis, **Non-Point Sources**, including agricultural and **Storm Water** runoff, now contribute a larger portion of many kinds of **Pollutants** than the more regulated sewage treatment plants and industrial facilities.

The National **Urban Runoff** Program (NURP) final report to Congress (**USEPA**, 1983) concluded that the goals of the **CWA** could not be achieved without addressing **Storm Water** discharges. The 1987 **CWA** amendments established a framework for regulating **Urban Runoff**. Pursuant to these amendments, the **Regional Board** began regulating municipal **Storm Water** runoff in 1996.

The **CWA** allows the **USEPA** to delegate its **NPDES** permitting authority to states with an approved environmental regulatory program. The State of California is one of the delegated states. The Porter-Cologne Act Water Quality Control Act (**CWC**, Section 13000 et seq.) authorizes the **State Board**, through its Regional Boards, to regulate and control the discharge of **Pollutants** into **Waters of the State** and tributaries thereto. Section 405 of the Water Quality Act (WQA) of 1987 added Section 402(p) to the **CWA**. Pursuant to Section 402(p)(4) of the **CWA**, the **USEPA** promulgated regulations for **Storm Water** permit applications for **Storm Water** discharges associated with industrial activities and **MS4s** serving a population of 100,000 or more. This **MS4 Permit** governing **Urban Runoff** meets both the statutory requirements of Section 402(p)(3)(B) and all requirements applicable to an **NPDES** permit issued under the issuing authority's discretionary authority in accordance with Section 401(a)(1)(B) of the **CWA**.

6. Regulatory Background and **CWA Storm Water** Requirements:

The **CWA** prohibits the discharge of any **Pollutant** to navigable waters from a **Point Source** unless an **NPDES** permit authorizes the discharge. Efforts to improve water quality under the **NPDES** program traditionally and primarily focused on reducing **Pollutants** in discharges of industrial process wastewater and municipal sewage. The 1987 amendments to the **CWA** required **MS4s** and industrial facilities, including construction sites, to obtain **NPDES** permits for **Storm Water** runoff from their facilities. On November 16, 1990, the **USEPA** promulgated the final Phase 1 **Storm Water** regulations. The **Storm Water** regulations are contained in 40 CFR Parts 122, 123, and 124.

On June 22, 1996, the **Regional Board** issued Order No. 96-015 to the **Permittees** (first term permit). On September 5, 2001, the **Regional Board** adopted Order No. 01-077 (second term permit). Order No. 01-077 is administratively extended in accordance with Title 23, Division 3, Chapter 9, Article 3, Section 2235.4 of the California Code of Regulations.

7. Area-Wide **MS4 Permit**:

To regulate and control **Urban Runoff** from the **Whitewater River Region** to the **MS4**, an area-wide approach is essential. The **MS4** is not controlled by a single entity; the **County**, several Cities, Caltrans, in-addition to other entities (i.e. **CVWD**, **RCFC&WCD**), manage the systems. The management and control of the entire **MS4** cannot be effectively carried out without the cooperation and efforts of all these entities. Also, it would not be meaningful to issue a **MS4 Permit** to each of the entities within the **Whitewater River Region** whose land/facilities drain into the **MS4** operated by the **Permittees**. The **Regional Board** has concluded that the best management option for the **Whitewater River Region** is to issue an area-wide **MS4 Permit** to the **RCFC&WCD**, **County**, **CVWD** and the Cities within **Whitewater River Region**. A separate **MS4 Permit** has been issued to **Caltrans**. **Urban Runoff** from other state, federal, utility, or special district facilities and state or federal lands will be permitted separately.

This area-wide **NPDES** permit for the **Whitewater River Region MS4 Permit Area** is being considered for renewal in accordance with Section 402(p) of the **CWA** and all requirements applicable to an **NPDES** permit issued under the issuing authority's discretion authority. The requirements included in this **MS4 Permit** are consistent with the **CWA**, the federal regulations governing urban **Storm Water** discharges, the **Basin Plan**, the **CWC**, and the **State Board's** Plans and Policies.

8. Coordination with Other Regional Agencies:

In developing **BMPs** and monitoring programs, consultation/coordination with other drainage management entities and other Regional Boards is essential. **Regional Board** staff will coordinate the program with other Regional Boards and other flood control entities/cities on an "as needed" basis. The **MS4 permit**/program process is at the same stage of development in both the Santa Ana and San Diego Regional Board areas of the **County**. Common programs, reports, implementation schedules and efforts are desirable and will be utilized to the **MEP**.

9. Existing Facilities and Programs:

Within the **Whitewater River Region**, the California Department of Finance estimates a population of approximately 402,650 persons as of January 1, 2005. **Storm Water** discharges from urbanized areas consist mainly of surface runoff from residential, commercial, and industrial developments. In addition, there are **Storm Water** discharges from agricultural land uses. The constituents of concern and significance in **Storm Water** discharges are: total suspended solids (**TSS**), biochemical oxygen demand (**BOD**), chemical oxygen demand (**COD**), oil and grease (**O&G**), heavy metals, nutrients and organic chemicals such as base/neutral and acid extractables, pesticides and herbicides, and petroleum hydrocarbon components.

To protect the **Beneficial Uses** of **Waters of the State**, **Pollutants** from all sources need to be controlled. Recognizing this, and the fact that **Urban Runoff** contains **Pollutants**, the **Permittees** and the **Regional Board** have all agreed that an area-wide **MS4 Permit** is the most effective way to develop and implement a comprehensive **Storm Water** management program in a timely manner. This **MS4 Permit** contains requirements with time schedules that will allow the **Permittees** to

continue to address water quality problems caused by *Urban Runoff* through their management programs to reduce *Pollutants* in *Urban Runoff* to the *MEP*.

10. *MS4 Permit* Requirements:

In accordance with Section 402(p)(3), as part of a program to reduce the *Pollutants* in *Urban Runoff* to the *MEP*, the *Permittees* have been required to submit existing management plans and programs being implemented or developed in the previous *MS4 Permit* to reduce *Pollutants* in *Urban Runoff*. In addition, the *Permittees* will be required to report, review and/or revise the management programs and control measures in accordance with a time schedule approved by the *Executive Officer* for this *MS4 Permit*.

If existing management programs are not effective in controlling *Pollutant* loading and in achieving the *WQOs* of the *Receiving Waters*, additional programs shall be developed and implemented upon consultation and approval of the *Executive Officer*.

The *MS4 Permit* also requires the development and implementation of management programs and/or *BMPs* during the life of the *MS4 Permit* such that the quality of *Urban Runoff* discharged can be improved and the *WQOs* of the *Receiving Waters* ultimately can be met. It is also expected that through implementation of these programs and/or *BMPs* the *Beneficial Uses* of the *Receiving Waters* will be protected.

11. *Basin Plan* and *Beneficial Uses*:

The *Basin Plan* is the basis for the *Regional Board*'s regulatory programs. The *Basin Plan* was developed and is periodically reviewed and updated in accordance with relevant federal and state law and regulation, including the *CWA* and the *CWC*. As required, the *Basin Plan* designates the *Beneficial Uses* of the *Waters of the State* within the *Whitewater River Region* and specifies *WQOs* intended to protect those uses. (Beneficial uses and *WQOs*, together with an anti-degradation policy, comprise federal *WQSs*). The *Basin Plan* also specifies an implementation plan, which includes certain discharge prohibitions. In general, the *Basin Plan* makes no distinction between wet and dry weather conditions in designating *Beneficial Uses* and setting *WQOs*, i.e., the *Beneficial Uses*, and correspondingly, the *WQOs* are assumed to apply year-round. (Note: In some cases, *Beneficial Uses* for certain surface waters are designated as "I", or intermittent, in recognition of the fact that surface flows (and *Beneficial Uses*) may be present only during wet weather.)

Storm Water flows which are discharged to the *CVSC* in the *Whitewater River Region* are tributary to the Salton Sea. The *Beneficial Uses* of Salton Sea and its tributaries include *MUN*, *AGR*, *IND*, *GWR*, *REC-1*, *REC-2*, *WARM*, *COLD*, *WILD*, and *RARE*. The ultimate goal of this *Urban Runoff* management program is to protect the *Beneficial Uses* of the *Receiving Waters*.

12. *CWA* Section 303(d) List and *TMDLS*:

Pursuant to Section 303(b) of the *CWA*, the 1998 water quality assessment conducted by the *Regional Board* listed a number of water bodies within the

Region under Section 303(d) of the **CWA** as impaired water bodies. These water bodies where the designated **Beneficial Uses** are not met and the **WQOs** are being violated. The sources of the impairments may include **POTW** discharges, and runoff from agricultural, **Caltrans** outfalls, Native American Tribal Lands, open space and **Non-Point Source** discharges including wildlife and transients and urban land uses. The **Impaired Waterbody** within this **MS4 Permit** is listed for pathogens and Toxaphene.

Federal regulations require that a **TMDL** be established for each 303(d) listed waterbody for each of the **Pollutants** causing impairment. The **TMDL** is the total amount of the problem **Pollutant** that can be discharged while **WQSs** in the **Receiving Water** attained, i.e., **WQOs** are met and the **Beneficial Uses** are protected. It is the sum of the individual **WLAs** for **Point Source** inputs, **LAs** for **Non-Point Source** inputs and natural background, with a margin of safety. The **TMDLs** are the basis for limitations established in **WDRs**. The **Permittees** shall revise the SWMP, at the direction of the **Executive Officer**, to incorporate program implementation amendments so as to comply with regional, **Watershed** specific requirements, and/or **WLAs** developed and approved pursuant to the process for the designation and implementation of **TMDLs** for impaired water bodies.

13. Permit Requirements and Provisions:

The legislative history of **Storm Water** statutes (1987 **CWA** Amendments), **USEPA** regulations (40 CFR Parts 122, 123, and 124), and clarifications issued by the **State Board (State Board)** Orders No. WQ 91-03 and WQ 92-04) indicate that a non-traditional **NPDES** permitting strategy was anticipated for regulating **Urban Runoff**. Due to the economic and technical infeasibility of full-scale end-of-pipe treatments and complexity of **Urban Runoff** quality and quantity, **MS4** permits generally include narrative requirements for the implementation of **BMPs** in place of **Numeric Effluent Limits**.

The requirements in this **MS4 Permit** are meant to specify those management practices, control techniques and system design and engineering methods that will result in **MEP** protection of the **Beneficial Uses** of the **Receiving Waters**. The **State Board** (Orders No. WQ 98-01 and WQ 99-05) concluded that **MS4s** must meet the technology-based **MEP** standard and **WQSs** (**WQOs** and **Beneficial Uses**). The U.S. Court of Appeals for the Ninth Circuit subsequently held that strict compliance with **WQSs** in **MS4** permits is at the discretion of the local permitting agency. Any requirements included in the **MS4 Permit** that are more stringent than the federal **Storm Water** regulations are in accordance with the **CWA** Section 402(p)(3)(iii), and the **CWC** Section 13377 and are consistent with the **Regional Board's** interpretation of the requisite **MEP** standard.

The **ROWD** included a discussion of the current status of the **County Urban Runoff** management program and the proposed **Urban Runoff** management programs and policies proposed for the next five years (third permit term). This **MS4 Permit** incorporates these documents and specifies performance commitments for specific elements to the **Permittees Urban Runoff** management program.

The essential components of the ***Urban Runoff*** management program, as established by federal regulations [40CFR122.26(d)] are (i) Adequate Legal Authority, (ii) Fiscal Resources, (iii) ***Storm Water Management Plan (SWMP)*** – (Public Information and Participation Program, Industrial/Commercial Facilities Program; Development Planning Program, Development Construction Program, Public Agency Activities Program, ***IC/ID*** Elimination Program), and (iv) Monitoring and Reporting Program. The major sections in this Order include A. Findings, B. Discharge Prohibitions, C. Allowable ***Non-Storm Water*** Discharges, D. ***Receiving Water Limitations***, E. Specific ***Permittee Requirements***, F. ***Best Management Practices***, G. ***Total Maximum Daily Loads***, H. General Provisions, I. Reporting Requirements, J. Notifications, K. Glossary of Terms, L. Monitoring and Reporting, M. Administrative Provisions, and N. Required Submittals and Compliance Time Schedules. These programs and policies are intended to improve ***Urban Runoff*** quality and protect the ***Beneficial Uses*** of ***Receiving Waters*** of the ***Whitewater River Region***.

14. Rationale for Requirements

- a. Discharge Prohibitions – In accordance with ***CWA Section 402(p)(3)(B)(ii)***, this Order prohibits the discharge of ***Non-Storm Water*** to the ***MS4s***, with few exceptions;
- b. Allowable ***Non-Storm Water*** Discharges – The specified exceptions are consistent with 40 CFR 122.26(d)(2)(iv.)(B)(1). If the ***Permittees*** or the ***Executive Officer*** determines that any of the exempted ***Non-Storm Water*** discharges is a significant source of ***Pollutants***, a separate ***NPDES*** permit will be required;
- c. ***Receiving Water Limitations*** – ***Receiving Water Limitations*** are included to ensure that discharges of ***Urban Runoff*** from ***MS4*** systems do not exceed, cause or contribute to violations of applicable ***WQSs*** in ***Receiving Waters***. The compliance strategy for ***Receiving Water Limitations*** is consistent with the ***USEPA*** and ***State Board*** guidance and recognizes the complexity of ***Urban Runoff*** management.
- d. Specific ***Permittee Requirements*** – This section contains specific language on the responsibilities of the Principal and ***Co-Permittees***.
 1. The ***Principal Permittees*** are required to coordinate the overall ***Urban Runoff*** management program and the ***Co-Permittees*** are responsible for managing the ***Urban Runoff*** Program within their jurisdictions as detailed in the ***ROWD***, the ***Annual Reports*** and Order No. R7-2008-0001.
 2. Each ***Permittee*** is required to address its legal authority and enforcement for this ***MS4 Permit***. Each ***Permittee*** has adopted a number of ordinances, to establish legal authority to control discharges to the ***MS4s*** and to enforce these ordinances as specified in 40 CFR 122.26(d)(2)(I)(B, C, E, and F). The ***Permittees*** are required to enforce these ordinances

and to take enforcement actions against violators (40 CFR 122.26(d)(2)(iv.)(A-D).

e. **Best Management Practices** – The federal Regulations 40 CFR 122.26(d)(2)(iv)(A-D) are clear in placing responsibility on municipalities for control of **Urban Runoff** from third party activities and land uses to their **MS4**. Under the **CWA Section 402(p)**, municipalities are required to reduce the discharge of **Pollutants** from their **MS4s** facilities to the **MEP**. **MEP** is the critical technology-based performance standard that municipalities must attain in order to comply with their **MS4** permits. The **MEP** standard establishes the level of **Pollutant** reductions the municipality must achieve. The **MEP** standard can be achieved by means of implementing **Pollution Prevention** and **Source Control BMPs** (as the first line of defense) in combination with **Treatment Control BMPs** serving as a backup (additional line of defense). Each **Permittee** is required to implement the programs and **BMPs** to the **MEP** as described in the **SWMP** and this **MS4 Permit**. These programs and **BMPs** include as follows:

1. **IC/ID**, Litter, Debris and Trash Control Program - The **Permittees** have established a program to address **IC/IDs** and a mechanism to respond to spills, leaks and other incidents of discharges to the **MS4**. The **Permittees** are required to continue these programs to ensure that the **MS4s** do not become a source of **Pollutants** in **Receiving Waters**.
2. Commercial/Industrial Program – The **Permittees** will continue to identify, inspect commercial and industrial facilities, which are known to contribute substantial **Pollutant** load to **MS4s** to ensure compliance with this **MS4** permit.
3. **New Development/Redevelopment** and Construction Activities Program – The **Permittees** are required to develop and implement strategies to ensure that controls are in place to prevent or minimize water quality impacts to the **MEP** for these activities.
4. Private Construction Activities Program – The **Permittees** shall continue to implement and enforce a program to reduce **Pollutants** in any **Urban Runoff** to the **MS4** from construction activities that result in a **Land Disturbance** of greater than or equal to one acre. This is to enforce the **State Board General Construction Permit**.
5. **Permittee** Activities Program – The **Permittees** are required to continue to eliminate the discharges of **Pollutants** from public agency activities and facilities and re-evaluate their **MS4s** facilities annually to see if additional **BMPs** are needed to ensure protection of the **Receiving Waters**; and
6. Public Education and Outreach Program – The **Permittees** have committed to implement a strategic and comprehensive public

education program to maintain the integrity of the **Receiving Waters** to sustain the **Beneficial Uses**.

- f. **Total Maximum Daily Loads** – See Item No. 12. **CWA** Section 303(d) List and **TMDLs** of this Section.
- g. General Provisions – These general provisions were included as part of the previous **MS4 Permit**.
- h. Reporting Requirements – These reporting requirements were included as part of the previous **MS4 Permit**.
- i. Notifications – These notification requirements were included as part of the previous **MS4 Permit**.
- j. Glossary of Terms – This was added to provide clarity on terms used in this **MS4 Permit**.
- k. Monitoring and Reporting – The key focus of the monitoring and reporting program is to collect data and develop methodologies and assessment tools to more effectively understand **Urban Runoff** impacts to the **Receiving Waters**.
- l. Administrative Provisions – These administrative provisions were included as part of the previous **MS4 Permit**.
- m. Required Submittals and Compliance Time Schedules – These requirements were included as part of the previous permit and reflect new **MS4 Permit** requirements.

15. Anti-degradation Analysis:

The **Regional Board** has considered whether a complete anti-degradation analysis, pursuant to 40 CFR 131.12 and **State Board** Resolution No. 68-16, is required for these **Urban Runoff** discharges. The **Regional Board** finds that the **Pollutant** loading rates to the **Receiving Waters** will be reduced with the implementation of the requirements in this **MS4 Permit**. As a result, the quality of **Storm Water** discharges and **Receiving Waters** will be improved, thereby protecting the **Beneficial Uses of Waters of the United States**. This is consistent with the federal and state anti-degradation requirements and a complete anti-degradation analysis is not necessary.

16. Public Participation:

The **Regional Board** is considering the issuance of **WDRs** that will serve as an **NPDES** Permit for **MS4 Permittees**. As a step in the **WDRs** adoption process, the **Regional Board** staff has developed tentative **WDRs**. The **Regional Board** encourages public participation in the **WDRs** adoption process.

17. Notification of Interested Parties:

The **Regional Board** has notified the Dischargers and interested agencies and **Persons** of its intent to prescribe **WDRs** for the discharge and has provided them with an opportunity to submit their written comments and recommendations. Notification was provided through the following newspapers: Desert Sun and Imperial Valley Press.

18. Public Workshop:

The **Regional Board** recognizes the significance of the **County's "Only Rain Down The Storm Drain" Pollution Prevention** Program and will conduct, participate, and/or assist with at least one workshop every year during the term of this **MS4 Permit** to promote and discuss the progress of the **Urban Runoff** management program. The details of the annual workshop will be published in local newspapers and mailed to interested parties. **Persons** wishing to be included in the mailing list for any of the items related to this **MS4 Permit** may register their name, mailing address and phone number with the **Regional Board** office at the address given below.

19. Written Comments:

The staff determinations are tentative. Interested **Persons** and agencies are invited to submit written comments concerning these tentative **WDRs**. Comments must be submitted either in person or by mail to the **Executive Officer**.

Executive Officer
California Regional Water Quality Control Board
Colorado River Basin Region
73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260

To be fully responded to by staff and considered by the **Regional Board**, written comments should be received at the **Regional Board** office by 5:00 p.m. on April 4, 2008.

20. Information and Copying:

The **ROWD**, related documents, tentative **WDRs**, comments received, and other information are on file and may be inspected at the address above at any time between 8:30 a.m. and 4:45 p.m., Monday through Friday. Copying of documents may be arranged through the **Regional Board** by calling (760) 346-7491.

21. Register of Interested Persons:

Any **Person** interested in being placed on the mailing list for information regarding the **WDRs** and **NPDES MS4 permit** should contact the **Regional Board**, reference this facility, and provide a name, address, and phone number.

22. Public Hearing:

The **Regional Board** will hold a public hearing on the tentative **WDRs** during its regular Board meeting on the following date and time and at the following location:

Date: May 21, 2008
Time: 10:00 a.m.
Location: City Council Chambers
City of Indio
150 Civic Center Mall
Indio, CA 92201

Interested **Persons** are invited to attend. At the public hearing, the **Regional Board** will hear testimony, if any, pertinent to the discharge, **WDRs**, and **MS4 Permit**. Oral testimony will be heard; however, for accuracy of the record, important testimony should be in writing.

Please be aware that dates and venues may change. Our Web address is www.waterboards.ca.gov/coloradoriver where you can access the current agenda for changes in dates and locations.

23. WDRs Petitions:

Any aggrieved person may petition the **State Board** to review the decision of the **Regional Board** regarding the final **WDRs**. The petition must be submitted within 30 days of the **Regional Board's** decision to the following address:

State Water Resources Control Board
Office of Chief Counsel
P.O. Box 100
Sacramento, CA 95812-0100

24. Additional Information

Requests for additional information or questions regarding this Order should be directed to Jay Mirpour at (760) 776-8981.

Persons wishing further information may also write to the following address:

California Regional Water Quality Control Board
Colorado River Basin Region
73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260
or call the **Regional Board** at (760) 346-7491

ATTACHMENT A - NOTICE OF INTENT

NPDES

DESERT TASK FORCE

TO COMPLY WITH THE TERMS OF THE RIVERSIDE COUNTY MUNICIPAL STORMWATER PERMIT
FOR STORMWATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITIES
ORDER NO. R7-2008-0001 (NPDES NO. CAS617002)

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD - COLORADO RIVER BASIN REGION

MARK ONLY ONE ITEM	1. <input type="checkbox"/> New Construction	2. <input type="checkbox"/> Reconstruction	3. <input type="checkbox"/> Change of Information for WDID#
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I. OWNER

Name	Contact Person		
Mailing Address	Title		
City	State	Zip	Phone () -

(a) II. CONTRACTOR INFORMATION

Name	Contact Person		
Local Mailing Address	Title		
City	State	Zip	Phone () -

III. SITE INFORMATION

A. Project Title	Site Address		
City	State	Zip	Phone () -
B. Construction commencement date: (Month / Day / Year)	C. Projected construction completion date: (Month / Day / Year)		

D. Type of Work: <input type="checkbox"/> Utility <input type="checkbox"/> Flood Control <input type="checkbox"/> Transportation <input type="checkbox"/> Other (Specify) Description of Work:	E. Total size of site: _____ Acres
---	---------------------------------------

(b) IV. RECEIVING WATER INFORMATION

A. Does the storm water runoff from the construction site discharge to (Check all that apply): 1. <input type="checkbox"/> Indirectly to waters of the U.S. <input type="checkbox"/> N/A 2. <input type="checkbox"/> Storm Water Conveyance system - Enter owner's name: _____ 3. <input type="checkbox"/> Directly to waters of U.S. (e.g., river, lake, creek, stream, bay, ocean, etc.)

V. IMPLEMENTATION OF NPDES PERMIT REQUIREMENTS

A. STORM WATER POLLUTION PREVENTION PLAN (SWPPP) (mark one) <input type="checkbox"/> A SWPPP has been prepared for this facility and is available for review <input type="checkbox"/> A SWPPP will be prepared and ready for review by (date): / /	B. MONITORING PROGRAM (MP) (mark one) <input type="checkbox"/> A MP has been prepared for this facility and is available for review <input type="checkbox"/> A MP will be prepared and ready for review by (date): / /	<input type="checkbox"/> N/A
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VI. VICINITY MAP (must show site location in relation to nearest waterbodies, named streets, intersections, etc.)

Have you included a vicinity map with this submittal? _____	<input type="checkbox"/> YES	<input type="checkbox"/> NO
The distance between the project site and its nearest waterbody is approximately _____		

VII. CERTIFICATIONS

"I certify under penalty of law that this document and all attachments were prepared under my direction and supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment. In addition, I certify that Section E.5 of Order No. R7-2008-0001, including the development and implementation of a Storm Water Pollution Prevention Plan and a Monitoring Program Plan, will be complied with."

Printed Name: _____	Title: _____
Signature: _____	Date: _____

ATTACHMENT B – NOTICE OF TERMINATION

NPDES

DESERT TASK FORCE

TO COMPLY WITH THE TERMS OF THE RIVERSIDE COUNTY MUNICIPAL STORMWATER PERMIT
 FOR STORMWATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITIES
ORDER NO. R7-2008-0001 (NPDES NO. CAS617002)
 CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD -COLORADO RIVER BASIN REGION

I. OWNER

Name	Contact Person		
Mailing Address	Title		
City	State	Zip	Phone () -

II. SITE INFORMATION

A. Project Title	Site Address		
City	State	Zip	Phone () -
B. Contractor Name	Contact Person		
Local Mailing Address	Title		
City	State	Zip	Phone () -

III. BASIS OF TERMINATION

1. The construction project is complete and the following conditions have been met. (Provide photograph of site to support the basis of termination)

- ✓ All elements of the Storm Water Pollution Prevention Plan have been completed.
- ✓ Construction materials and waste have been disposed of properly.
- ✓ The site is in compliance with all local storm water management requirements.
- ✓ A post-construction storm water operation and management plan is in place.
- ✓ All disturbed areas have been stabilized by the following method. (Attach additional sheet if necessary)

2. Construction activities have been suspended, either ___ temporarily or ___ indefinitely and the following conditions have been met.

- ✓ All elements of the Storm Water Pollution Prevention Plan have been completed.
- ✓ Construction materials and waste have been disposed of properly.
- ✓ All disturbed areas and other areas of potential *Erosion* are stabilized.
- ✓ The site is in compliance with all local storm water management requirements.

Date of suspension ___ / ___ / ___

Expected start up date ___ / ___ / ___

IV. CERTIFICATION

I certify under penalty of law that all storm water discharges associated with construction activity from the identified site that are authorized by Section E.5 of Board Order No. R7-2008-0001 have been eliminated or that I am no longer the owner of the site. I understand that by submitting this Notice of Termination, I am no longer authorized to discharge storm water associated with construction activity under Board Order No. R7-2008-0001, and that discharging pollutants in storm water associated with construction activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by a NPDES permit. I also understand that the submittal of this Notice of Termination does not release an owner of liability for any violation of Board Order No. R7-2008-0001 or the Clean Water Act.

Printed Name: _____

Title: _____

Signature: _____

Date: _____

V. REGIONAL WATER QUALITY CONTROL BOARD USE ONLY

This Notice of Termination has been reviewed and approved.

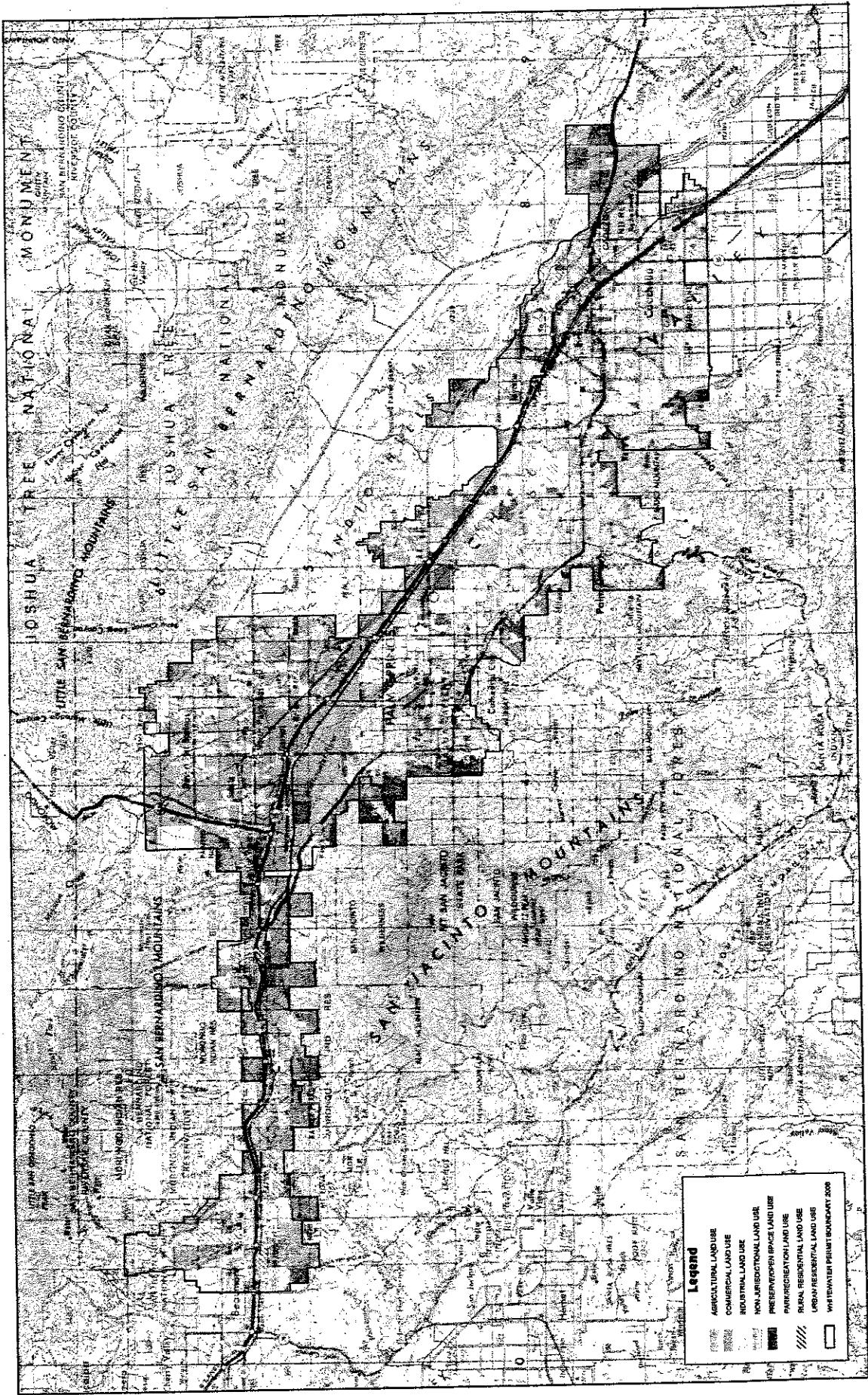
Printed Name: _____

Title: _____

Signature: _____

Date: _____

ATTACHMENT C – SITE MAP



ATTACHMENT D- LIST OF **PRIORITY POLLUTANTS**Table D-1 List of *Priority Pollutants*

CTR Number	Parameter	CAS Number	Suggested Analytical Methods
1	Antimony	7440360	EPA 6020/200.8
2	Arsenic	7440382	EPA 1632
3	Beryllium	7440417	EPA 6020/200.8
4	Cadmium	7440439	EPA 1638/200.8
5a	Chromium (III)	16065831	EPA 6020/200.8
5a	Chromium (VI)	18540299	EPA 7199/1636
6	Copper	7440508	EPA 6020/200.8
7	Lead	7439921	EPA 1638
8	Mercury	7439976	EPA 1669/1631
9	Nickel	7440020	EPA 6020/200.8
10	Selenium	7782492	EPA 6020/200.8
11	Silver	7440224	EPA 6020/200.8
12	Thallium	7440280	EPA 6020/200.8
13	Zinc	7440666	EPA 6020/200.8
14	Cyanide	57125	EPA 9012A
15	Asbestos	1332214	EPA/600/R-93/116(PCM)
16	2,3,7,8-TCDD	1746016	EPA 8290 (HRGC) MS
17	Acrolein	107028	EPA 8260B
18	Acrylonitrile	107131	EPA 8260B
19	Benzene	71432	EPA 8260B
20	Bromoform	75252	EPA 8260B
21	Carbon Tetrachloride	56235	EPA 8260B
22	Chlorobenzene	108907	EPA 8260B
23	Chlorodibromomethane	124481	EPA 8260B
24	Chloroethane	75003	EPA 8260B
25	2-Chloroethylvinyl Ether	110758	EPA 8260B
26	Chloroform	67663	EPA 8260B
27	Dichlorobromomethane	75274	EPA 8260B
28	1,1-Dichloroethane	75343	EPA 8260B
29	1,2-Dichloroethane	107062	EPA 8260B
30	1,1-Dichloroethylene	75354	EPA 8260B
31	1,2-Dichloropropane	78875	EPA 8260B
32	1,3-Dichloropropylene	542756	EPA 8260B
33	Ethylbenzene	100414	EPA 8260B
34	Methyl Bromide	74839	EPA 8260B
35	Methyl Chloride	74873	EPA 8260B
36	Methylene Chloride	75092	EPA 8260B
37	1,1,2,2-Tetrachloroethane	79345	EPA 8260B
38	Tetrachloroethylene	127184	EPA 8260B
39	Toluene	108883	EPA 8260B
40	1,2-Trans-Dichloroethylene	156605	EPA 8260B
41	1,1,1-Trichloroethane	71556	EPA 8260B

CTR Number	Parameter	CAS Number	Suggested Analytical Methods
42	1,1,2-Trichloroethane	79005	EPA 8260B
43	Trichloroethylene	79016	EPA 8260B
44	Vinyl Chloride	75014	EPA 8260B
45	2-Chlorophenol	95578	EPA 8270C
46	2,4-Dichlorophenol	120832	EPA 8270C
47	2,4-Dimethylphenol	105679	EPA 8270C
48	2-Methyl-4,6-Dinitrophenol	534521	EPA 8270C
49	2,4-Dinitrophenol	51285	EPA 8270C
50	2-Nitrophenol	88755	EPA 8270C
51	4-Nitrophenol	100027	EPA 8270C
52	3-Methyl-4-Chlorophenol	59507	EPA 8270C
53	Pentachlorophenol	87865	EPA 8270C
54	Phenol	108952	EPA 8270C
55	2,4,6-Trichlorophenol	88062	EPA 8270C
56	Acenaphthene	83329	EPA 8270C
57	Acenaphthylene	208968	EPA 8270C
58	Anthracene	120127	EPA 8270C
59	Benzidine	92875	EPA 8270C
60	Benzo(a)Anthracene	56553	EPA 8270C
61	Benzo(a)Pyrene	50328	EPA 8270C
62	Benzo(b)Fluoranthene	205992	EPA 8270C
63	Benzo(ghi)Perylene	191242	EPA 8270C
64	Benzo(k)Fluoranthene	207089	EPA 8270C
65	Bis(2-Chloroethoxy)Methane	111911	EPA 8270C
66	Bis(2-Chloroethyl)Ether	111444	EPA 8270C
67	Bis(2-Chloroisopropyl)Ether	108601	EPA 8270C
68	Bis(2-Ethylhexyl)Phthalate	117817	EPA 8270C
69	4-Bromophenyl Phenyl Ether	101553	EPA 8270C
70	Butylbenzyl Phthalate	85687	EPA 8270C
71	2-Chloronaphthalene	91587	EPA 8270C
72	4-Chlorophenyl Phenyl Ether	7005723	EPA 8270C
73	Chrysene	218019	EPA 8270C
74	Dibenz(a,h)Anthracene	53703	EPA 8270C
75	1,2-Dichlorobenzene	95501	EPA 8260B
76	1,3-Dichlorobenzene	541731	EPA 8260B
77	1,4-Dichlorobenzene	106467	EPA 8260B
78	3,3'-Dichlorobenzidine	91941	EPA 8270C
79	Diethyl Phthalate	84662	EPA 8270C
80	Dimethyl Phthalate	131113	EPA 8270C
81	Di-n-Butyl Phthalate	84742	EPA 8270C
82	2,4-Dinitrotoluene	121142	EPA 8270C
83	2,6-Dinitrotoluene	606202	EPA 8270C
84	Di-n-Octyl Phthalate	117840	EPA 8270C
85	1,2-Diphenylhydrazine	122667	EPA 8270C
86	Fluoranthene	206440	EPA 8270C

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CTR Number	Parameter	CAS Number	Suggested Analytical Methods
87	Fluorene	86737	EPA 8270C
88	Hexachlorobenzene	118741	EPA 8260B
89	Hexachlorobutadiene	87863	EPA 8260B
90	Hexachlorocyclopentadiene	77474	EPA 8270C
91	Hexachloroethane	67721	EPA 8260B
92	Indeno(1,2,3-cd)Pyrene	193395	EPA 8270C
93	Isophorone	78591	EPA 8270C
94	Naphthalene	91203	EPA 8260B
95	Nitrobenzene	98953	EPA 8270C
96	N-Nitrosodimethylamine	62759	EPA 8270C
97	N-Nitrosodi-n-Propylamine	621647	EPA 8270C
98	N-Nitrosodiphenylamine	86306	EPA 8270C
99	Phenanthrene	85018	EPA 8270C
100	Pyrene	129000	EPA 8270C
101	1,2,4-Trichlorobenzene	120821	EPA 8260B
102	Aldrin	309002	EPA 8081A
103	alpha-BHC	319846	EPA 8081A
104	beta-BHC	319857	EPA 8081A
105	gamma-BHC	58899	EPA 8081A
106	delta-BHC	319868	EPA 8081A
107	Chlordane	57749	EPA 8081A
108	4,4'-DDT	50293	EPA 8081A
109	4,4'-DDE	72559	EPA 8081A
110	4,4'-DDD	72548	EPA 8081A
111	Dieldrin	60571	EPA 8081A
112	alpha-Endosulfan	959988	EPA 8081A
113	beta-Endosulfan	33213659	EPA 8081A
114	Endosulfan Sulfate	1031078	EPA 8081A
115	Endrin	72208	EPA 8081A
116	Endrin Aldehyde	7421934	EPA 8081A
117	Heptachlor	76448	EPA 8081A
118	Heptachlor Epoxide	1024573	EPA 8081A
119	PCB-1016	12674112	EPA 8082
120	PCB-1221	11104282	EPA 8082
121	PCB-1232	11141165	EPA 8082
122	PCB-1242	53469219	EPA 8082
123	PCB-1248	12672296	EPA 8082
124	PCB-1254	11097691	EPA 8082
125	PCB-1260	11096825	EPA 8082
126	Toxaphene	8001352	EPA 8081A

ATTACHMENT E – STATE BOARD MINIMUM LEVELS**SWRCB Minimum Levels in ppb (µg/L)**

The Minimum Levels (MLs) in this appendix are for use in reporting and compliance determination purposes in accordance with section 2.4 of the State Implementation Policy. These MLs were derived from data for priority pollutants provided by State certified analytical laboratories in 1997 and 1998. These MLs shall be used until new values are adopted by the SWRCB and become effective. The following tables (Tables E-1 through E-4) present MLs for four major chemical groupings: volatile substances, semi-volatile substances, inorganics, and pesticides and PCBs.

Table E-1 Volatile Substances

Table E-1 - VOLATILE SUBSTANCES*	GC	GCMS
1,1 Dichloroethane	0.5	1
1,1 Dichloroethylene	0.5	2
1,1,1 Trichloroethane	0.5	2
1,1,2 Trichloroethane	0.5	2
1,1,2,2 Tetrachloroethane	0.5	1
1,2 Dichlorobenzene (volatile)	0.5	2
1,2 Dichloroethane	0.5	2
1,2 Dichloropropane	0.5	1
1,3 Dichlorobenzene (volatile)	0.5	2
1,3 Dichloropropene (volatile)	0.5	2
1,4 Dichlorobenzene (volatile)	0.5	2
Acrolein	2.0	5
Acrylonitrile	2.0	2
Benzene	0.5	2
Bromoform	0.5	2
Methyl Bromide	1.0	2
Carbon Tetrachloride	0.5	2
Chlorobenzene	0.5	2
Chlorodibromo-methane	0.5	2
Chloroethane	0.5	2
Chloroform	0.5	2
Chloromethane	0.5	2
Dichlorobromo-methane	0.5	2
Dichloromethane	0.5	2
Ethylbenzene	0.5	2
Tetrachloroethylene	0.5	2
Toluene	0.5	2
Trans-1,2 Dichloroethylene	0.5	1
Trichloroethene	0.5	2
Vinyl Chloride	0.5	2

* The normal method-specific factor for these substances is 1; therefore, the lowest standard concentration in the calibration curve is equal to the above ML value for each substance.

Table E-2 Semi-Volatile Substances

Table E-2 - SEMI-VOLATILE SUBSTANCES*	GC	GCMS	LC	COLOR
Benzo (a) Anthracene	10	5		
1,2 Dichlorobenzene (semivolatile)	2	2		
1,2 Diphenylhydrazine		1		
1,2,4 Trichlorobenzene	1	5		
1,3 Dichlorobenzene (semivolatile)	2	1		
1,4 Dichlorobenzene (semivolatile)	2	1		
2 Chlorophenol	2	5		
2,4 Dichlorophenol	1	5		
2,4 Dimethylphenol	1	2		
2,4 Dinitrophenol	5	5		
2,4 Dinitrotoluene	10	5		
2,4,6 Trichlorophenol	10	10		
2,6 Dinitrotoluene		5		
2- Nitrophenol		10		
2-Chloroethyl vinyl ether	1	1		
2-Chloronaphthalene		10		
3,3' Dichlorobenzidine		5		
Benzo (b) Fluoranthene		10	10	
3-Methyl-Chlorophenol	5	1		
4,6 Dinitro-2-methylphenol	10	5		
4- Nitrophenol	5	10		
4-Bromophenyl phenyl ether	10	5		
4-Chlorophenyl phenyl ether		5		
Acenaphthene	1	1	0.5	
Acenaphthylene		10	0.2	
Anthracene		10	2	
Benzidine		5		
Benzo(a) pyrene		10	2	
Benzo(g,h,I)perylene		5	0.1	
Benzo(k)fluoranthene		10	2	
bis 2-(1-Chloroethoxy) methane		5		
bis(2-chloroethyl) ether	10	1		
bis(2-Chloroisopropyl) ether	10	2		
bis(2-Ethylhexyl) phthalate	10	5		
Butyl benzyl phthalate	10	10		
Chrysene		10	5	
di-n-Butyl phthalate		10		
di-n-Octyl phthalate		10		
Dibenzo(a,h)-anthracene		10	0.1	
Diethyl phthalate	10	2		
Dimethyl phthalate	10	2		
Fluoranthene	10	1	0.05	
Fluorene		10	0.1	

Table E-2 - SEMI-VOLATILE SUBSTANCES*	GC	GCMS	LC	COLOR
Hexachloro-cyclopentadiene	5	5		
Hexachlorobenzene	5	1		
Hexachlorobutadiene	5	1		
Hexachloroethane	5	1		
Indeno(1,2,3,cd)-pyrene		10	0.05	
Isophorone	10	1		
N-Nitroso diphenyl amine	10	1		
N-Nitroso-dimethyl amine	10	5		
N-Nitroso -di n-propyl amine	10	5		
Naphthalene	10	1	0.2	
Nitrobenzene	10	1		
Pentachlorophenol	1	5		
Phenanthrene		5	0.05	
Phenol **	1	1		50
Pyrene		10	0.05	

* With the exception of phenol by colorimetric technique, the normal method-specific factor for these substances is 1,000; therefore, the lowest standard concentration in the calibration curve is equal to the above ML value for each substance multiplied by 1,000.

** Phenol by colorimetric technique has a factor of 1.

Table E-3 Inorganics

Table E-3 – INORGANICS*	FAA	GFA A	ICP	ICPMs	SPGFA A	HYDRIDE	CVA A	COLOR	DCP
Antimony	10	5	50	0.5	5	0.5			1,000
Arsenic		2	10	2	2	1		20	1,000
Beryllium	20	0.5	2	0.5	1				1,000
Cadmium	10	0.5	10	0.25	0.5				1,000
Chromium (total)	50	2	10	0.5	1				1,000
Chromium VI	5							10	
Copper	25	5	10	0.5	2				1,000
Cyanide								5	
Lead	20	5	5	0.5	2				10,000
Mercury				0.5			0.2		
Nickel	50	5	20	1	5				1,000
Selenium		5	10	2	5	1			1,000
Silver	10	1	10	0.25	2				1,000
Thallium	10	2	10	1	5				1,000
Zinc	20		20	1	10				1,000

* The normal method-specific factor for these substances is 1; therefore, the lowest standard concentration in the calibration curve is equal to the above ML value for each substance.

Table E-4 Pesticides and PCBs

Table E-4 – PESTICIDES – PCBs*	GC
4,4'-DDD	0.05
4,4'-DDE	0.05
4,4'-DDT	0.01
a-Endosulfan	0.02
alpha-BHC	0.01
Aldrin	0.005
b-Endosulfan	0.01
Beta-BHC	0.005
Chlordane	0.1
Delta-BHC	0.005
Dieldrin	0.01
Endosulfan Sulfate	0.05
Endrin	0.01
Endrin Aldehyde	0.01
Heptachlor	0.01
Heptachlor Epoxide	0.01
Gamma-BHC (Lindane)	0.02
PCB 1016	0.5
PCB 1221	0.5
PCB 1232	0.5
PCB 1242	0.5
PCB 1248	0.5
PCB 1254	0.5
PCB 1260	0.5
Toxaphene	0.5

* The normal method-specific factor for these substances is 100; therefore, the lowest standard concentration in the calibration curve is equal to the above ML value for each substance multiplied by 100.

Techniques:

GC - Gas Chromatography

GCMS - Gas Chromatography/Mass Spectrometry

HRGCMS - High Resolution Gas Chromatography/Mass Spectrometry (i.e., EPA 1613, 1624, or 1625)

LC - High Pressure Liquid Chromatography

FAA - Flame Atomic Absorption

GFAA - Graphite Furnace Atomic Absorption

HYDRIDE - Gaseous Hydride Atomic Absorption

CVAA - Cold Vapor Atomic Absorption

ICP - Inductively Coupled Plasma

ICPMS - Inductively Coupled Plasma/Mass Spectrometry

SPGFAA - Stabilized Platform Graphite Furnace Atomic Absorption (i.e., EPA 200.9)

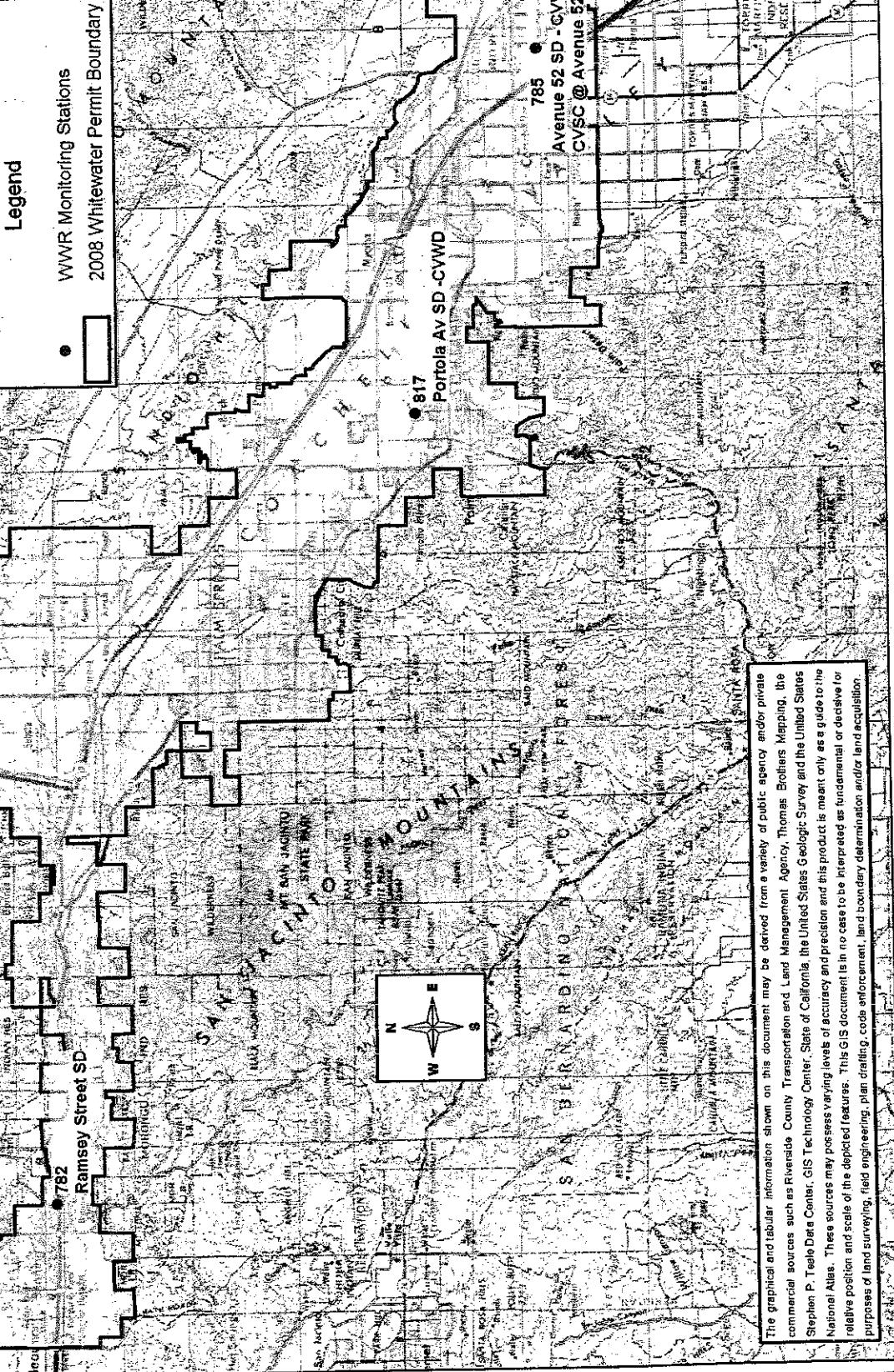
DCP - Direct Current Plasma

COLOR - Colorimetric

MONITORING STATIONS

Legend

WWR Monitoring Stations
2008 Whitewater Permit Boundary



2nd Read.

ORDINANCE NO. 1417

**AN ORDINANCE ADDING CHAPTER 1.30 TO TITLE 1 OF
THE BANNING MUNICIPAL CODE RELATING TO
LEGISLATIVE SUBPOENAS, AND ADDING SECTION
2.68.040 TO TITLE 2, CHAPTER 2.68, TO AUTHORIZE
THE ISSUANCE OF SUBPOENAS IN PERSONNEL
SYSTEM HEARINGS.**

WHEREAS, the United States Supreme Court has stated that "the legislative power of inquiry - with process to enforce it - is an essential and appropriate auxiliary to the legislative function." (*McGrain v. Daugherty* (1972) 273 U.S. 135, 174, quoted in *Connecticut Indemnity company v. Superior Court* (City of Lodi) (2000) 3 Cal.4th 807, 813.) The City of Banning's authority to issue subpoenas is set out in Government Code § 37104, which states:

The legislative body may issue subpoenas requiring attendance of witnesses or production of books or other documents for evidence or testimony in any action or proceeding pending before it.

WHEREAS, the issuance of a legislative subpoena pursuant to Government Code § 7104 is proper only if (i) it is authorized by ordinance or similar enactment, (ii) it serves a valid legislative purpose, and (iii) the witness or material subpoenaed is pertinent to the subject matter of the investigation. (*City of Lodi*, 3 Cal.4th at 813.)

WHEREAS, pursuant to Government Code § 37105, legislative subpoenas must be signed by the Mayor and attested to by the City Clerk. Such subpoenas may be served as subpoenas are served in civil actions.

WHEREAS, if any person duly subpoenaed neglects or refuses to obey a subpoena, or, appearing, refuses to testify or answer any questions that a majority of the City Council decide proper and pertinent, the Mayor must report the fact to the Superior Court. (Cal. Gov't Code § 37106.) The Superior Court may then enforce the subpoena, and contempt proceedings shall be the same as if the contempt had been committed in a civil trial in the Superior Court. (Gov't Code §§ 37107 - 37109.)

WHEREAS, the City desires to include specific methods of issuing legislative and/or administrative subpoenas as they relate to the conduct of administrative hearings before the City Council, any City-appointed commission, board, hearing officer or other administrative decision-maker duly authorized under the Municipal Code, or pursuant to a City resolution or contract.

WHEREAS, the City has recommended passage of such authority to issue legislative subpoenas in accordance with Government Code § 37104.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA:

SECTION 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

SECTION 2. That Title 1 of the City of Banning Municipal Code is hereby amended to add Chapter 1.30 ["Legislative Subpoenas"] to read in its entirety as follows:

"1.30.010 Purposes and Intent

This chapter is adopted for the purpose of establishing a procedure for issuing subpoenas to compel the attendance of witnesses and the production of other evidence at city administrative actions or proceedings that are brought before the city council or any other commission, board, hearing officer or other decision-making body authorized under this municipal code, or pursuant to a city resolution or contract.

1.30.020 General Authority to Issue Subpoenas.

The city council, or its designee, may issue a subpoena pursuant to California Government Code § 37104 et seq. as it may subsequently be amended in order to require attendance of witnesses or production of books or other documents for evidence or testimony in any action or proceeding pending before it, so long as it serves any valid purposes within the jurisdiction of the city council.

1.30.030 Signature and Attestation; Service.

Subpoenas issued pursuant to this chapter shall be signed by the Mayor and attested by the city clerk. They may be served as subpoenas are served in civil actions.

1.30.040 Issuance of Subpoena on Behalf of City Council Designees.

Subpoenas may be issued pursuant to Section 1.30.020 upon the city council's own motion, or at the request of any city officer, board, commission, or hearing officer authorized to prosecute or preside over any city administrative action or proceeding. Administrative actions or proceedings subject to the subpoena powers granted by this chapter include, without limitation, any hearing, judicial or quasi-judicial proceeding authorized or adopted by the city council pursuant to ordinance, resolution or contractual agreement.

1.030.050. Form of Subpoena.

City issued subpoenas will appear substantially as follows:

<u>BEFORE THE</u>		<u>OF THE CITY OF BANNING</u>		
STATE OF CALIFORNIA)		IN	THE	MATTER OF
COUNTY OF RIVERSIDE)		SUBPOENA		
CITY OF BANNING)		[] <u>Duces Tecum</u>		
THE CITY OF BANNING DIRECTS:				
You are ordered to appear before _____, in _____ at City Hall City Council Chambers, 99 E. Ramsey Street, Banning, California 92220 on the _____ day of _____, _____, at _____ o'clock ___m., to testify in a matter now pending before _____ concerning _____. You are:				
<input type="checkbox"/> Ordered to appear in person.				
<input type="checkbox"/> Not required to appear in person if you produce the records described in the accompanying affidavit and provide a copy of such records, accompanied with an affidavit or declaration that complies with Evidence Code §§ 1271, 1560, 1561, 1562, and 1271, to the following address before the date and time specified above: _____.				
<input type="checkbox"/> Ordered to appear in person and produce the records described in the accompanying affidavit. The personal attendance of the custodian or other qualified witness and the production of the original records are required by this subpoena.				
You are entitled to witness fees and mileage actually traveled both ways, as provided by law, if you request them at the time of service. You may request them before your scheduled appearance from the person named in the paragraph below.				
Disobedience of this subpoena or the refusal to testify (except upon constitutional grounds) may be punished as a contempt in the manner and form prescribed by law. If you have any questions about the time or date for you to appear, or if you want to ascertain that your presence is required, contact _____ at _____ before the date and time on which you are to appear.				
WITNESS my hand this _____ day of _____:				
ATTEST:		BANNING CITY COUNCIL		
By: _____ City Clerk		By: _____ Mayor		

1.30.060 Neglect/Refusal to Obey Subpoena; Judicial Remedies.

If any person duly subpoenaed pursuant to this chapter neglects or refuses to obey said subpoena, or, appearing, refuses to testify or answer any questions which a majority of the legislative body decide proper and pertinent, the mayor, or his/her designee, shall report that fact to the judge of the Superior Court of the County of Riverside. Pursuant to Government Code § 37107, the mayor or his/her designee shall request the judge to issue an attachment directed to the Riverside County Sheriff, commanding the sheriff to attach the person, and forthwith bring the person before the judge."

SECTION 3. That Chapter 2.68 of Title 2 of the City of Banning Municipal Code is hereby amended to add Section 2.68.040 to read in its entirety as follows:

"2.68.040 Authority to Issue Subpoenas in Personnel Matters.

All administrative procedures relating to the city's personnel system shall include the power of issuing and enforcing legislative subpoenas for purposes of compelling the attendance of witnesses and/or the production of other evidence as authorized by Municipal Code Chapter 1.30. The power to subpoena witnesses and evidence pursuant to Chapter 1.30 shall apply to all personnel proceedings regardless of whether such proceedings are established by a city ordinance, resolution, contract or collective bargaining agreement adopted by the city council."

SECTION 4. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidance or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

SECTION 5. The City Clerk is directed to cause this Ordinance to be published within fifteen (15) days of its passage in a newspaper of general circulation published and circulated within the City of Banning.

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PASSED, APPROVED, AND ADOPTED this _____ day of _____
_____, 20____.

Robert E. Botts, Mayor

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

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

ATTEST:

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 Ordinance No. 1417 was introduced at a regular meeting of the City Council of the City of Banning, California, held on the 8th day of December, 2009 and was duly adopted at a regular meeting of the City Council held on the _____ day of _____, 2009, by the following roll-call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

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**CITY COUNCIL AGENDA
CONSENT ITEM**

DATE: January 12, 2010

TO: City Council

FROM: Duane Burk, Director of Public Works

SUBJECT: Resolution No. 2010-01, "Initiating Proceedings to Update Landscape Maintenance District No. 1 for Fiscal Year 2010/2011"

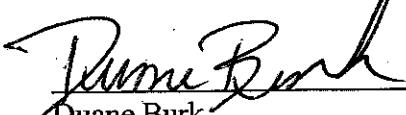
RECOMMENDATION: Adopt Resolution No. 2010-01, "Initiating Proceedings to Update Landscape Maintenance District No. 1 for Fiscal Year 2010/2011."

JUSTIFICATION: The City Council approved the formation of Landscape Maintenance District No. 1 ("the District") by adopting Resolution No. 1990-59 on August 14, 1990. The adoption of Resolution No. 2010-01 will enable the City Engineer to prepare for the assessment for Fiscal Year 2010/2011.

BACKGROUND: In accordance with the "Landscaping and Lighting Act of 1972" ("1972 Act") of the Streets and Highways Code, the City Council adopted a resolution on August 14, 1990 ordering the formation of Landscape Maintenance District No. 1, the boundaries of which are shown in Attachment "A". On May 10, 2005, the City Council approved Resolution No. 2005-36 ordering Annexation No. 1 (consisting of five tracts and three tentative tracts) to Landscape Maintenance District No. 1. The District, by special benefit assessments, provides funding for the servicing and maintenance of certain landscape areas within the City of Banning, all of which are located in the public right-of-way. The "1972 Act" requires that assessments are to be levied according to benefit rather than according to assessed value. Resolution No. 2010-01 will initiate the proceedings to update the District for Fiscal Year 2010/2011. A tentative schedule for updating the District, as required by the "Landscaping and Lighting Act of 1972," is attached hereto as Attachment "B" for your information.

FISCAL DATA: Not applicable. A detailed estimate will be prepared and forwarded with the Engineer's Report.

RECOMMENDED BY:



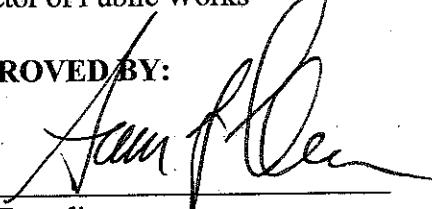
Duane Burk
Director of Public Works

REVIEWED BY:



Kirby Warner
Interim Finance Director

APPROVED BY:



Sam Racadio
Interim City Manager

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RESOLUTION NO. 2010-01

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA,
INITIATING PROCEEDINGS TO UPDATE LANDSCAPE MAINTENANCE DISTRICT
NO. 1 FOR THE FISCAL YEAR 2010/2011, PURSUANT TO THE LANDSCAPING AND
LIGHTING ACT OF 1972**

WHEREAS, the City Council, pursuant to the provisions of the "Landscaping and Lighting Act of 1972," Part 2 of Division 15 of the Streets and Highways Code of California, beginning with Section 22500, desires to initiate proceedings to update the City of Banning's Landscape Maintenance District No. 1, and to levy and collect annual assessments to pay for the operation, maintenance and servicing of landscaping and all appurtenant facilities related thereto.

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

Section I. The City Council desires to update Landscape Maintenance District No. 1 for Fiscal Year 2010/2011, pursuant to the "Landscaping and Lighting Act of 1972" (Section 22500 and following, Streets and Highways Code) for the purpose of the following improvements:

Maintaining and servicing street trees, parkways, median islands, perimeter strips and backup walls, side slopes adjacent to sidewalks and storm drains, open space areas, flood detention or retention basins, and the irrigation of the above improvements.

Section II. The City Council hereby directs the City Engineer to prepare and file with the City Clerk an Engineer's Report in accordance with Article 4 of Chapter 1 of the "Landscaping and Lighting Act of 1972."

Section III. The fee to be assessed will not exceed the reasonable cost of providing the service. The fee charged shall be based on the rate and methodology set forth in Resolution Nos. 1990-59 and 2005-36.

Section IV. The Mayor shall sign this resolution and the City Clerk shall attest and certify to the passage and adoption thereof.

PASSED, ADOPTED AND APPROVED this 12th day of January, 2010.

Robert E. Botts, Mayor

ATTEST:

Marie A. Calderon, City Clerk

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

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

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2010-01 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 12th day of January, 2010.

AYES:

NOES:

ABSENT:

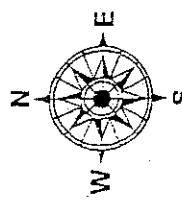
ABSTAIN:

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

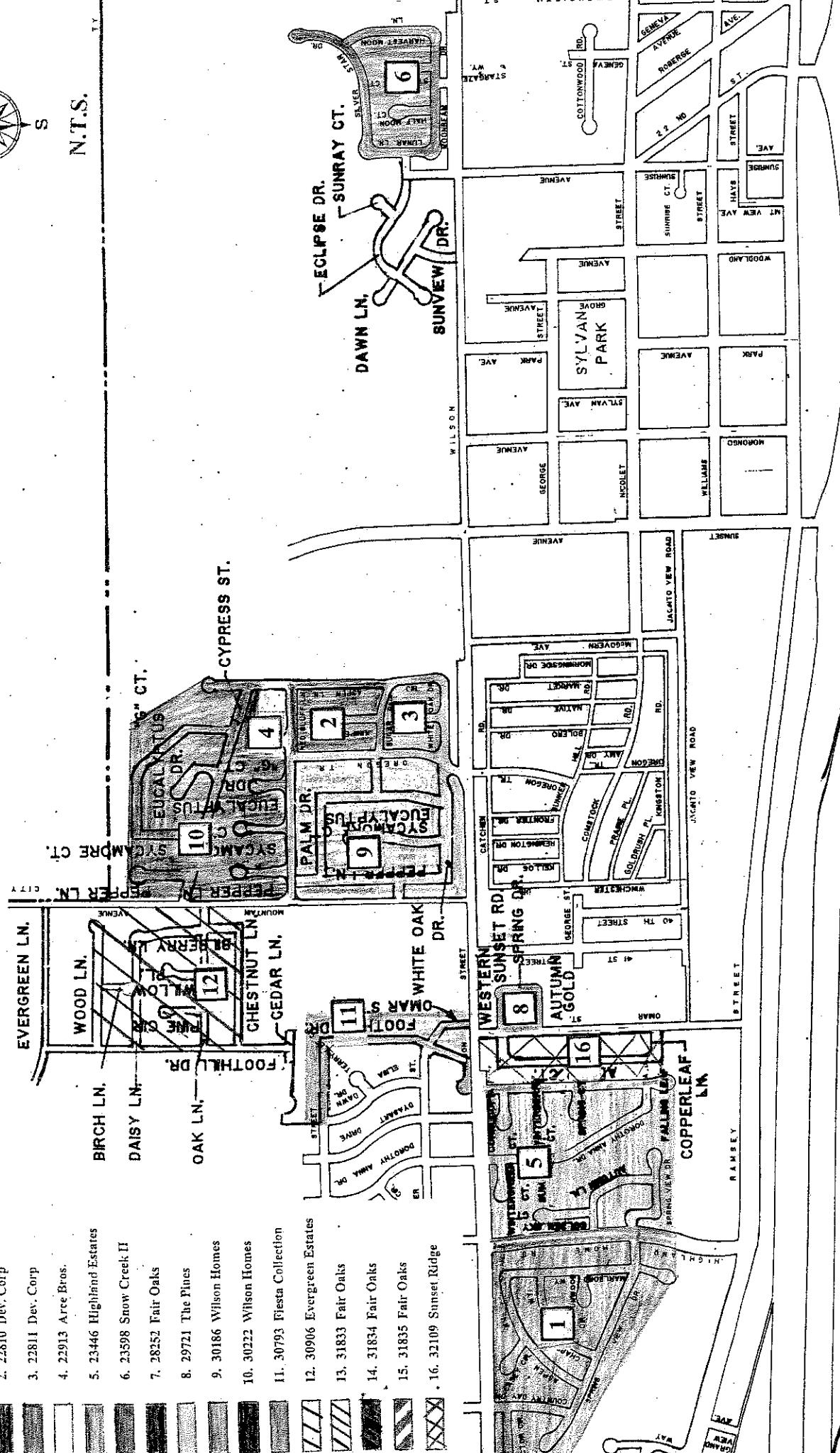
ATTACHMENT "A"

**LANDSCAPE MAINTENANCE DISTRICT NO. 1
FOR FISCAL YEAR 2010/2011**

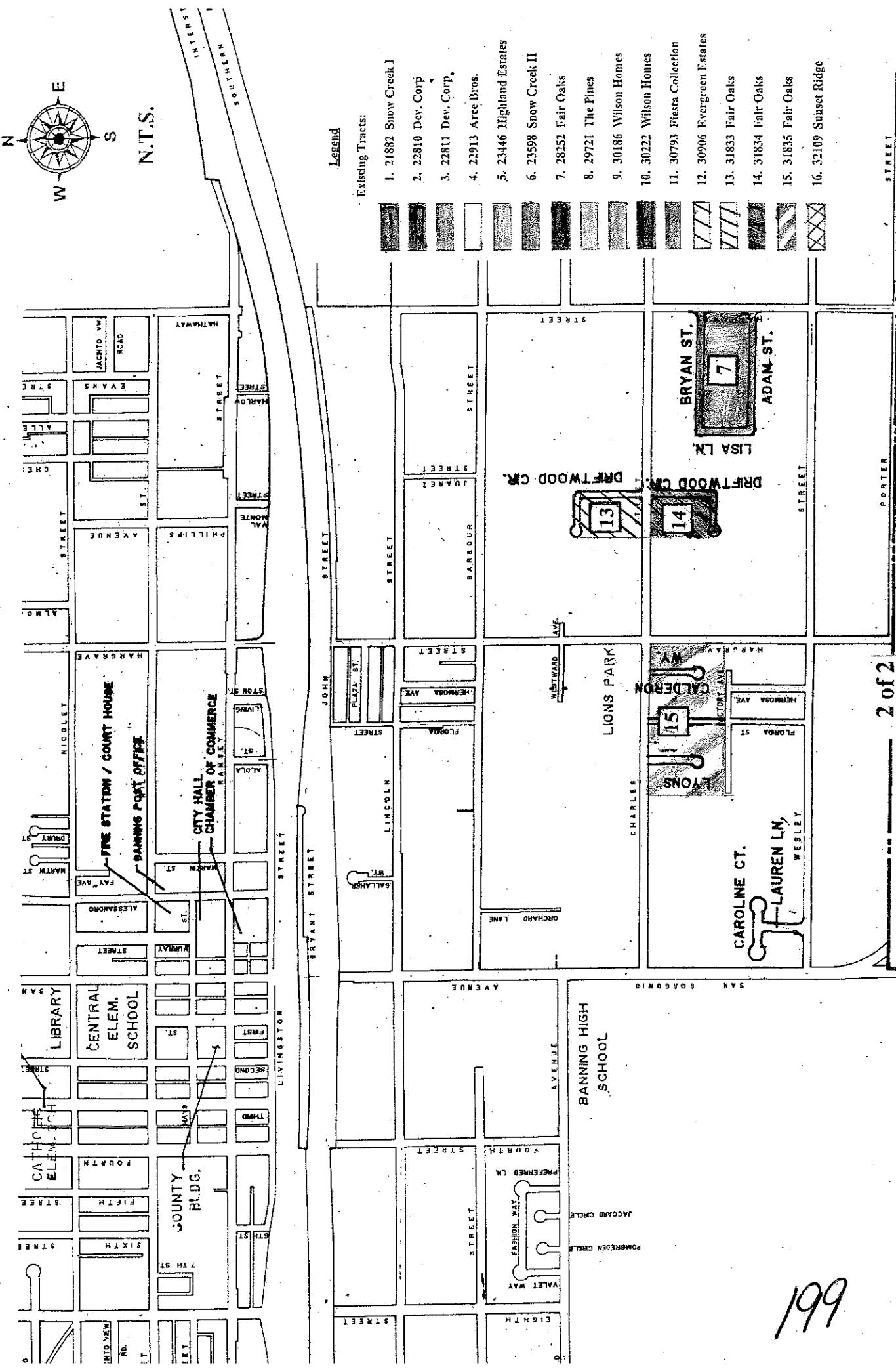
MAP OF LANDSCAPE MAINTENANCE DISTRICT NO. I
JANUARY 2010



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MAP OF LANDSCAPE MAINTENANCE DISTRICT NO. 1
JANUARY 2010



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ATTACHMENT "B"

**TENTATIVE SCHEDULE
UPDATING LANDSCAPE MAINTENANCE DISTRICT NO. 1**

Item	Council Meeting
Resolution Initiating Update	January 12, 2010
Resolution of Intention (Approve Engineer's Report)	April 13, 2010
Public Hearing, Resolution Confirming Assessment	May 25, 2010

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**CITY COUNCIL AGENDA
BANNING UTILITY AUTHORITY AGENDA**

Date: **January 12, 2010**

TO: **City Council
Banning Utility Authority Board**

FROM: **Kirby Warner, Interim Finance Director**

SUBJECT: **Resolutions Authorizing the Amendment of the Fiscal Year 2008-09 Budget to Include Certain Necessary Adjustments and the Fiscal Year 2009-10 Budget to Include Encumbrance Carryovers and Continuing Appropriations of Certain Unexpended Fiscal Year 2008-09 Appropriations and Associated Revenues**

RECOMMENDATION:

1. "The City Council of The City of Banning adopt Resolution 2010-04 Authorizing the Amendment of the Fiscal Year 2008-09 Budget to Include Certain Necessary Adjustments and the Fiscal Year 2009-10 Budget to Include Encumbrance Carryovers and Continuing Appropriations of Certain Unexpended Fiscal Year 2008-09 Appropriations and Associated Revenues"
2. "The Banning Utility Authority of The City of Banning adopt Resolution 2010-01UA Authorizing Amendments of the Fiscal Year 2009-10 Water and Wastewater Budgets to Include Encumbrance Carryovers and Continuing Appropriations of Certain Unexpended Fiscal Year 2008-09 Appropriations"

JUSTIFICATION: At the end of fiscal year 2008-09 several budgeted projects had not been fully completed for a variety of reasons. In addition, in many cases funds had been encumbered (i.e. committed via purchase order toward a specific item or project) but not yet expended. In preparation of the 2009-10 Budget, departments were instructed not to include previously approved appropriations or encumbered items in their upcoming fiscal year requests in to avoid the "double" budgeting of expenditures. However, these items (continuing appropriations and encumbrances) were accounted for in available fund projections and thus will not impact previously presented 2009-10 fund balances. Allowing for the carryover of unexpended funds that are earmarked for specific purposes facilitates meeting our budgetary goals.

BACKGROUND & ANALYSIS: Appropriations which were approved by Council last fiscal year which qualify for a "Continuing Appropriation" status include capital projects, work projects, grant appropriations and other goods and services which have a specific purpose and have not been completed by fiscal year end.

Continuing appropriations and encumbrance carryovers is a standard budgetary method common to many agencies and is authorized by the City's Council approved Budget and Fiscal Administrative Policy. Exhibit A, attachment to Resolution 2010-04 and Resolution 2010-01UA, is a detailed listing of the recommended encumbrance carryovers and continuing appropriations.

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In addition, other housekeeping adjustments are deemed necessary to the fiscal year 2008-09 budget to reflect proper budgeting practices. These adjustments are detailed on Exhibit "B".

FISCAL IMPACT: Previously approved, unspent appropriations as well as other known budgetary adjustments were accounted for in the Fiscal Year 2009-10 available fund balance projections that were approved during the recent budget process. Therefore, funding for Fiscal Year 2008-09 encumbrance carryovers, continuing appropriations and other recommended adjustments will not impact previously presented projections.

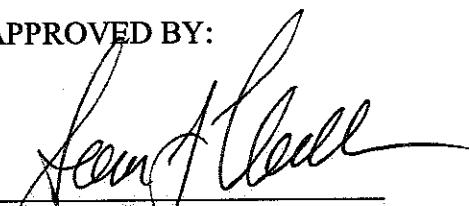
Report prepared by: Michelle M. Green, Accounting Manager

RECOMMENDED BY:



Kirby Warner
Interim Finance Director

APPROVED BY:



Sam Racadio
Interim City Manager

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RESOLUTION NO. 2010-04

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING
AUTHORIZING THE AMENDMENT OF THE FISCAL YEAR 2008-09 BUDGET TO
INCLUDE CERTAIN NECESSARY ADJUSTMENTS AND THE FISCAL YEAR 2009-10
BUDGET TO INCLUDE ENCUMBRANCE CARRYOVERS AND CONTINUING
APPROPRIATIONS OF CERTAIN UNEXPENDED FISCAL YEAR 2008-09
APPROPRIATIONS AND ASSOCIATED REVENUES**

WHEREAS, Council desires to ensure continuity in accomplishing multi-year objectives by continuing unspent approved Fiscal Year 2008-09 budgeted items and/or services into Fiscal Year 2009-10; and

WHEREAS, Departments requesting encumbrance carryovers and continuing appropriations are within their approved budget amounts and the items or services were previously approved in the Fiscal Year 2008-09 Budget; and

WHEREAS, adequate balances are available in all funds to support the recommended changes;

WHEREAS, Council also desires to make certain other necessary adjustments to Fiscal Year 2008-09 budget as presented in Exhibit "B";

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning, California that the budgets for the fiscal year ended June 30, 2010 and June 30, 2009, are amended to include Encumbrance Carryovers, Continuing Appropriations and Associated Revenue Projections as reflected in Exhibit "A", and other adjustments as reflected in Exhibit "B", respectively, and by this reference incorporated herein as though set forth in full.

PASSED, APPROVED AND ADOPTED this 12th day of January 2010.

Robert E. Botts, Mayor

APPROVED AS TO FORM AND
LEGAL CONTENT:

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 the foregoing Resolution No. 2010-04 was duly adopted by the City Council of the City of Banning, California at a regular meeting thereof held on the 12th day of January, 2010, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

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

RESOLUTION NO. 2010-01UA

**A RESOLUTION OF THE BANNING UTILITY AUTHORITY OF THE CITY OF
BANNING AUTHORIZING AMENDMENTS OF THE FISCAL YEAR 2009-10
WATER AND WASTEWATER BUDGETS TO INCLUDE ENCUMBRANCE
CARRYOVERS AND CONTINUING APPROPRIATIONS OF CERTAIN
UNEXPENDED FISCAL YEAR 2008-09 APPROPRIATIONS.**

WHEREAS, the Authority desires to ensure continuity in accomplishing multi-year objectives by continuing unspent approved Fiscal Year 2008-09 budgeted items and/or services into Fiscal Year 2009-10; and

WHEREAS, after including the requested encumbrance carryovers and continuing appropriations water and wastewater appropriations are within their approved budget amounts and the items or services were previously approved in the Fiscal Year 2008-09 Budget; and

WHEREAS, adequate balances are available in all funds to support the recommended changes;

NOW, THEREFORE, BE IT RESOLVED by the Banning Utility Authority that the water and wastewater budgets for the fiscal year ended June 30, 2010, are amended to include Encumbrance Carryovers and Continuing Appropriations as reflected in Exhibit "A", and by this reference incorporated herein as though set forth in full.

PASSED, APPROVED AND ADOPTED this 12th day of January 2010.

Robert E. Botts, Chairman
Banning Utility Authority

APPROVED AS TO FORM AND
LEGAL CONTENT:

David J. Aleshire, Authority Counsel
Aleshire & Wynder, LLP

ATTEST:

Marie A. Calderon, Secretary
Banning Utility Authority

CERTIFICATION

I, MARIE A. CALDERON, Secretary of the Banning Utility Authority do hereby certify that the foregoing Resolution No. 2009-01UA was duly adopted by the Banning Utility Authority at a regular meeting thereof held on the 12th day of January, 2010, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

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

FY 2008-09

Encumbrances and Continuing Appropriations and Projected Revenue Carryovers

FUND ACCOUNT #	ACCOUNT DESCRIPTION	REVENUE CARRYOVER	ALLOCATION CARRYOVER
General Fund			
Revenue			
001-0001-301.10-01	Property Taxes - Teeter	226,200	
001-0001-302.11-06	Cabazon Outlet - pmt for last quarter	93,483	
001-2060-393.87-60	Interfund Loan - Council Chamber remodel	31,012	
001-2200-341.31-45	State Homeland Security Grant	65,729	
001-2200-341.31-46	OTS Traffic Safety Grant	10,088	
001-2200-347.34-25	Byrne Grant	119,011	
001-2700-306.15-08	Weed Abatement - Teeter	12,503	
Allocations			
001-1200-412.33-11	Professional Services - Godbe	34,000	
001-1200-412.33-11	Professional Services - P.O. Tramutola	19,802	
001-1200-412.33-11	Professional Services - CFD formation Consultant	14,700	
001-1200-412.33-11	Professional Services - P.O. Taussig	728	
001-1300-412.36-00	Departmental Supplies - P.O. Office Depot	700	
001-1400-412.33-72	Codification of municipal code changes	3,100	
001-1900-412.33-11	Professional Services - P.O. Orrick, Herrington	20,000	
001-1900-412.33-11	Professional Services - Misc	15,144	
001-1900-412.33-12	Audit Services - Lance, Soll & Lunghard	1,539	
001-1900-412.89-48	Computer hardware - DMS printer	2,500	
001-2060-446.90-15	Council Chamber remodel - Spinitar, misc.	4,513	
001-2060-446.90-56	Broadcasting Equipment - P.O. Spinitar	24,446	
001-2060-446.90-56	Broadcasting Equipment - P.O. Barneston Group	1,554	
001-2060-446.90-56	Broadcasting Equipment	5,800	
001-2200-421.10-30	Overtime - Grant funded	111,459	
001-2200-421.15-10	FICA - Grant funded	8,457	
001-2200-421.90-52	Vehicles - Grant E7GR05	268	
001-2200-421.90-56	Machinery/equip. - Grant	65,729	
001-2200-421.90-56	Machinery/equip. - photo booking system	22,000	
001-2279-421.10-30	Overtime - Grant funded	77,461	
001-2279-421.15-10	FICA - Grant funded	6,354	
001-2279-421.90-48	Computer hardware - Grant funded	22,250	
001-2279-421.90-52	Vehicles - Grant funded	84,420	
001-2279-421.90-52	Automotive Equipment - P.O. Wondries	30,408	
001-2279-421.90-52	Automotive Equipment - P.O. Magnum Breeze	62,743	
001-2279-421.90-52	Automotive Equipment - P.O. Kustom Signals	30,071	
001-2279-421.90-52	Automotive Equipment - P.O. PVP Communicatons	362	
001-2279-421.90-52	Automotive Equipment - P.O. Cop Car Graphics	604	
001-2279-421.90-52	Automotive Equipment - P.O. Federal Signal	8,363	
001-2279-421.90-56	Machinery/equip - Grant funded	17,107	
001-2279-421.90-56	Machinery/equip. - P.O. Iveda Solutions	21,343	
001-2400-422.33-95	Direct Bill Exp - County -P.O. Bmt Ace Home Center	117	
001-2479-422.33-93	Fire Suppression Svcs - Grant funded	104,294	
001-2800-441.33-11	Professional Services - P.O. Civic Solutions	13,813	
001-2800-441.33-11	Professional Services - Housing Element update	16,722	
001-2800-441.33-11	Professional Services - P.O.'s RK Engineers, Terra Nova	11,403	
001-2800-441.33-11	Prof. Services - P.O. Laurin Associates	8,511	
001-2800-441.33-11	Professional Services - P.O. Stantec consulting	3,055	
001-3000-442.33-11	Professional Services - P.O. Wolfe Engineering	2,000	
001-3000-442.33-53	Engineering Services - P.O.'s Union Pacific and Value Management	48,549	
001-3000-442.90-49	Computer Software - P.O. Carte Graph	3,394	
001-3200-412.30-02	Repair/Maint. - Buildings - P.O. American Air Svc	3,265	
001-4010-461.30-12	Pool Maintenance - P.O. True Green Landcare	560	
001-4500-412.90-56	Machinery & Equipment - Scanners	10,000	
Fund #001 Total:		207,331	943,608

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FY 2008-09

Encumbrances and Continuing Appropriations and Projected Revenue Carryovers

FUND ACCOUNT #	ACCOUNT DESCRIPTION	REVENUE CARRYOVER	ALLOCATION CARRYOVER
Gas Tax Street Fund			
Allocations			
100-4900-431-93-37	Storm Drain - Design/construction of Line "H"	100,000	
Fund #100 Total:		100,000	
Measure A Street Fund			
Allocations			
101-4900-431-56-07	Transfer - Sidewalk Fund	21,000	
101-4900-431-93-16	Measure A Street Improvements - P.O. Landmark	5,020	
Fund #101 Total:		26,020	
Article 3 Sidewalk Fund			
Revenue			
104-4900-344-33-01	Article 3 Sidewalk Grant	45,000	
104-4900-381-56-02	Transfer - Measure A Fund	21,000	
Fund #104 Total:		66,000	66,000
Community Development Block Grant Fund			
Revenue			
110-5506-347-34-02	Federal CDB Grants	147,552	
110-5508-347-34-02	Federal CDB Grants	151,271	
Fund #110 Total:		298,823	284,810
Landscape Maintenance			
Revenue			
111-4900-306.15-01	Special Assessment - Teeter	18,986	
Fund #111 Total:		18,986	13,163
Allocations			
111-4900-432.23-29	Landscape Maintenance - P.O. Artistic Maintenance	3,163	
111-4900-432.30-01	Repair/Maint - Grounds/Fields	10,000	
Fund #148 Total:		-	100,692
Allocations			
148-2208-421-90-56	Machinery & Equipment	6,434	
148-2209-421-90-56	Machinery & Equipment	94,258	

FY 2008-09

Encumbrances and Continuing Appropriations and Projected Revenue Carryovers

FUND ACCOUNT #	ACCOUNT DESCRIPTION	REVENUE CARRYOVER	ALLOCATION CARRYOVER
DARE/GREAT Fund			
Revenue			
204-2209-347.34-26	GREAT Grant	3,648	
Allocations			
204-2209-421.23-05	Travel/conference	3,688	
204-2209-421.89-48	Computer Hardware	1,455	
	Fund #204 Total:	3,648	5,143
Area Police Computer Fund			
Allocations			
370-2200-421.30-17	Repair/maint - Software	26,603	
	Fund #370 Total:	-	26,603
Fair Oaks AAD 2004-1			
Revenue			
375-4900-306.15-01	Special Benefit Assessment - Teeter	26,300	
	Fund #375 Total:	26,300	-
Traffic Facilities Fund			
Allocations			
420-4900-431.33-53	Engineering Services	50,000	
420-4900-431.93-27	Design of various traffic signals	175,000	
	Fund #420 Total:	-	225,000
Sunset Grade Separation Fund			
Revenue			
441-6500-366.41-21	TUMF Funding	929,448	
Allocations			
441-6500-431.93-02	Engineering Services - P.O. LD King	902,774	
441-6500-431.93-02	Engineering Services - P.O. Impact Sciences	26,086	
441-6500-431.93-02	Engineering Services	8,056	
	Fund #441 Total:	929,448	936,916
Park Development Fund			
Allocations			
451-3600-461-33-11	Professional Services - P.O. RJM Design Group	82,718	
451-3600-461-90-10	Landscape Design - P.O. RHA Landscape	253	
451-3600-461-90-37	Repllier Park Improvements- P.O. Williams Architects	17,954	
451-3600-461-90-37	Repllier Park Improvements	132,046	
	Fund #451 Total:	-	232,971

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FY 2008-09

Encumbrances and Continuing Appropriations and Projected Revenue Carryovers

FUND ACCOUNT #	ACCOUNT DESCRIPTION	REVENUE CARRYOVER	ALLOCATION CARRYOVER
Capital Improvement Fund			
Allocations			
470-2200-413-90-10	Planning/Engineering- Bal of budget	3,030	
470-2200-413-90-10	Planning/Engineering- P.O. Holt Architects	66,615	
470-2200-413-90-10	Planning/Engineering- P.O. HP Eng	19,145	
470-2200-412-90-12	Building Construction - P.O. Cal K-12	133,573	
470-2200-412-90-12	Building Construction - P.O.'s Oakview, Landmark, Manzanares	4,252,504	
470-2200-412-90-12	Building Construction - Bal of budget	1,360,676	
470-2200-412-90-45	Building Furnishings/fixtures-bal of budget	26,228	
470-2200-412-90-45	Building Furnishings/fixtures - P.O. McMurray Stern Inc	9,635	
470-2200-412-90-45	Building Furnishings/fixtures - P.O. Spacesaver Corp	468,137	
470-2200-412-90-45	Building Furnishings/fixtures - P.O. G/M Business Interiors	494,000	
Fund #470 Total:		6,833,543	
Airport Fund			
Allocations			
600-5100-347-34-06	FAA Improvement Program Grant	62,345	
Fund #600 Total:		62,345	76,160
Transit Fund			
Allocations			
610-5800-306-12-09	Article 4 - Capital	36,700	
610-5800-341-31-25	Capital Grant - STA	1,461,293	
610-5850-341-31-25	Capital Grant - STA	325,286	
610-5800-341-31-45	State Homeland Security Grant	1,182	
610-5850-341-31-45	State Homeland Security Grant	11,820	
Allocations			
610-5800-434-89-46	Office Equipment	5,183	
610-5800-434-89-48	Computer Hardware	4,268	
610-5800-434-89-56	Machinery & Equipment	214,963	
610-5800-434-90-19	Plant Property	60,000	
610-5800-434-90-46	Office Equipment	904,261	
610-5800-434-90-48	Computer Hardware	35,500	
610-5800-434-90-51	Automotive Equipment	275,000	
610-5800-434-90-53	Radio Equipment	25,000	
610-5800-434-90-56	Machinery & Equipment	287,106	
610-5850-434-90-49	Computer Software	25,000	
610-5850-434-90-51	Automotive Equipment		
610-5850-434-90-56	Machinery & Equipment		
Fund #610 Total:		1,836,281	1,836,281

FY 2008-09

Encumbrances and Continuing Appropriations and Projected Revenue Carryovers

FUND ACCOUNT #	ACCOUNT DESCRIPTION	REVENUE CARRYOVER	ALLOCATION CARRYOVER
Water Operations Fund			
Allocations			
660-6300-471-30-06	Repair/Maint Equipment - P.O. Xerox	1,170	
660-6300-471-30-06	Repair/Maint Equipment - P.O. Johnson Machinery	9,402	
660-6300-471-33-11	Professional Services - P.O. RHA Landscaping	209	
660-6300-471-33-11	Professional Services - P.O. Willdan Associates	1,801	
660-6300-471-33-11	Professional Services - P.O. Raftelis Financial	10,000	
660-6300-471-33-11	Professional Services	46,708	
660-6300-471-33-53	Engineering Services - P.O. Jonathan Zane Arch.	921	
660-6300-471-33-53	Engineering Services - P.O. Carollo Engineers	6,640	
660-6300-471-45-16	Tools/Misc Supplies - P.O. Main's Lock Supply	378	
660-6300-471-90-18	Plant Improvements - P.O. Rock Bottom	6,143	
660-6300-471-95-08	Wells/Pumping Equipment - P.O. Gen'l Pump Co.	888	
660-6300-471-95-10	Water Mains - P.O. Medall, Aragon Geotech.	3,320	
660-6300-471-95-10	Water Mains - P.O. Roquet Paving	14,600	
660-6300-471-95-10	Water Mains - Design	257,173	
660-6300-471-90-56	Machinery/Equipment	224,354	
660-6300-471-95-27	SCADDA/Telemetry - P.O. Prime Systems Indust.	10,000	
660-6300-471-95-27	SCADDA/Telemetry	25,000	
Fund #660 Total:		618,707	
Water Capital Facilities Fund			
Allocations			
661-6300-471-33-11	Professional services - P.O. Raftelis Financial	31,813	
661-6300-471-90-78	Planning/Design - P.O. Bmt CV Water	7,172	
661-6300-471-95-08	Wells/Pumping Equipment - P.O. Bmt CV Water	25,058	
661-6300-471-96-28	State Water Line - P.O. Metcalf & Eddy	65,092	
Fund #661 Total:		129,135	
BUA Water Capital Projects Fund			
Revenue			
663-6300-361.41-02	Misc Reimbursements	100,000	
663-6300-347.34-29	EPA Grant	1,388,600	
Allocations			
663-6300-471-95-09	Reservoirs - Design - P.O. Metcalf & Eddy	312,893	
663-6300-471-95-09	Reservoirs - Design - P.O. Pacific Hydrotech	5,196,979	
663-6300-471-95-09	Reservoirs - balance of budget	1,449,184	
663-6300-471-95-10	Water Mains - P.O. MWH Americas	13,774	
663-6300-471-95-10	Water Mains - P.O. Willdan Assoc.	27,265	
663-6300-471-95-10	Water Mains - balance of budget	1,175,320	
Fund #663 Total:		1,488,600	8,175,415
Electric Operations Fund			
Allocations			
670-7000-473-33-11	Professional Services - P.O. Civic Solutions	3,622	
670-7000-473-33-11	Professional Services - Bal of account	170,217	
670-7000-473-36-00	Departmental supplies	5,000	
670-7000-473-45-05	Substation Expense - Bal of account	70,000	
670-7000-473-45-05	Substation Expense - P.O. Stationary Power	21,211	
670-7000-473-45-05	Substation Expense - P.O. Mains Lock Supply	1,767	
670-7000-473-45-11	Meters Exp - Bal of account	5,000	
670-7000-473-45-16	Tools/misc supplies - P.O. Al's Kubota Tractor	506	
670-7000-473-56-93	Transf '03 TAB's Proceeds Fund	42,000	
670-7000-473-87-01	Interfund Loan - Council Chamber remodel	31,012	
670-7000-473-89-48	Computer Hardware	25,000	

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FY 2008-09

Encumbrances and Continuing Appropriations and Projected Revenue Carryovers

FUND ACCOUNT #	ACCOUNT DESCRIPTION	REVENUE CARRYOVER	ALLOCATION CARRYOVER
670-7000-473-90-18	Plant Improvements - P.O. David Evans and Assoc.		2,537
670-7000-473-90-52	Vehicles		141,900
670-7000-473-95-01	Poles/towers/fixtures		113,125
670-7000-473-95-04	Underground conductors - P.O. Armorcast Products		462
670-7000-473-95-04	Underground conductors - Bal of account		450,000
670-7000-473-95-05	Transformers		167,057
670-7000-473-95-06	Substation Equip - P.O. ABB, Inc.		21,320
670-7000-473-95-06	Substation Equip - Bal of account		20,000
670-7000-473-95-17	Meters		5,000
670-7000-473-95-29	Pole Testing and Replacement		182,000
670-7010-473.27-02	Power Resources Costs		3,000
670-7010-473.27-09	Power Schedule/Dispatching		100,000
Fund #670 Total:		-	1,581,736

Electric Improvement Fund

Revenue		
673-7000-381.56-86	Transfers from Bond Project Fund	198,034
Allocations		
673-7000-473-96-18	Substation - P.O. RW Beck	19,120
673-7000-473-96-23	Voltage Conversion	1,130,214
Fund #673 Total:		198,034
		1,149,334

Electric Bond Project Fund

Allocations		
674-7000-473.56-57	Transfers to Electric Improvement Fund	198,034
Fund #674 Total:		198,034

Wastewater Operations Fund

Allocations		
680-8000-454-23-27	NPDES Storm Water Expense	45,000
680-8000-454-33-11	Professional services - P.O. Golden Bell Products	2,907
680-8000-454-33-11	Professional services - P.O. Raftelis Financial	11,922
680-8000-454-33-11	Professional services - P.O. G&G Environmental	5,847
680-8000-454.90-56	Machinery and Equipment-video for sewer	45,000
680-8000-454-95-12	Treatment Plant Improvement-P.O. Pascal & Ludwig	21,955
Fund #680 Total:		132,631

Wastewater Capital Facility Fund

Allocations		
681-8000-454.33-11	Professional Services	50,000
681-8000-454.95-14	Sewer Mains & Coll System	50,000
Fund #681 Total:		100,000

BUA Wastewater Capital Projects Fund

Allocations		
683-8000-454-90-78	Planning/Design - P.O. Parsons	482,811
683-8000-454-90-78	Planning/Design - Bal of account	373,723
683-8000-454-95-12	Treatment Plant Improvement	500,000
Fund #683 Total:		1,356,534

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FY 2008-09

Encumbrances and Continuing Appropriations and Projected Revenue Carryovers

FUND ACCOUNT #	ACCOUNT DESCRIPTION	REVENUE CARRYOVER	ALLOCATION CARRYOVER
Information Services			
Allocations			
703-3700-480-90-48	Computer Hardware - Various	50,000	
	Fund #703 Total:	<u> </u> -	<u> </u> 50,000
Utility Billing			
Allocations			
761-3100-480-30-12	Audit Services - Lance, Soll & Lunghard	3,294	
761-3100-480-30-17	Repair/Maint - Software - P.O. Sungard Public Sector	400	
	Fund #761 Total:	<u> </u> -	<u> </u> 3,694
Grand Total All Funds		<u> </u> 5,135,796	<u> </u> 25,202,130

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FY 2008-09
Recommended Budget Adjustments

FUND	ACCOUNT #	ACCOUNT DESCRIPTION	REVENUE ADJUSTMENT	EXPENDITURE ADJUSTMENT
Riverside County MOU - Police				
Allocations				2,970
003-2289-421.10-10	Regular Payroll		<u> </u>	<u>2,970</u>
		Fund #003 Total:	<u> </u>	<u> </u>
San Gorgonio Task Force				
Allocations				
146-2200-421.36-00	Departmental Supplies		<u> </u>	<u>1,371</u>
		Fund #146 Total:	<u> </u>	<u>1,371</u>
City Admin COP				
Allocations				
300-6800-467.33-11	Professional Services		<u> </u>	<u>500</u>
		Fund #300 Total:	<u> </u>	<u>500</u>
		Grand Total All Funds	<u> </u>	<u>4,841</u>

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CITY COUNCIL AGENDA

Date: January 12, 2010

TO: City Council

FROM: Leonard Purvis, Chief of Police

SUBJECT: Computer purchase for new police station.

RECOMMENDATION: "Review and approve the Police Department's request to purchase 39 new Dell OptiPlex 780 computers for installation at the new police station in the amount of \$40,132.21."

JUSTIFICATION: In February 2010, the Banning Police Department anticipates moving into the new police station at 125 E. Ramsey Street. In preparation for the move, the department evaluated the condition of its computers at the current police facilities. The computer audit identified the following issues:

- Of the department's forty-two computers, twenty-eight are at least three years old and eleven have been in service over four years.
- With the current hardware configurations, none of the computers are able to run Windows 7 and only nineteen are capable of being upgraded to handle Windows 7 with the added installation of upgraded memory and video cards.
- One of the current systems allows for DVD recording, which is becoming essential as advancements in technology grow for evidentiary purposes.

Anticipated benefits of purchasing the requested computers include:

- Installation and set-up of the new computers can be accomplished without diminishing the current capabilities of the police department.
- The new computer systems are Window 7 ready and will meet the technology requirements for the police department over the next three to four years.
- Transition into the new police department will be seamless with the new computers already in place.
- Fifteen of the upgradeable computers will be transitioned to the new police department and provided to members of outside organizations working out of the new police station such as the Youth Accountability Team (Riverside County Probation Department and Riverside County District Attorney's Office) and the San Gorgonio Special Operations Gang Task Force comprised of law enforcement officers from the California Department

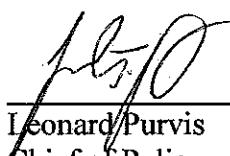
of Justice, Bureau of Narcotics Enforcement (BNE), Riverside County District Attorney's Office, Banning Police Department, Riverside County Sheriff's Department, Riverside County Probation Department, and the California Department of Corrections and Rehabilitation.

- Four of the upgradeable computers will be placed in the booking room of the new police station allowing officers to complete their pre-booking paperwork in an expeditious manner while allowing them to personally monitor their in-custody subjects without leaving the booking area to complete paperwork.
- The remaining computers will be transitioned to the new police department and configured as training terminals in the briefing room and work terminals in the department's Emergency Operations Center.

STRATEGIC PLAN INTEGRATION: Council approval of this recommendation will help facilitate the Police Department's goals of better serving the community with updated technology and equipment in the new police station.

FISCAL DATA: Funding in the amount of \$40,132.21 for the Dell computers will be provided through the Capital Expenditures/Building Construction Account (470-2200-413-9012). Subsequently, no general funds are required for this purchase. The Finance Department is authorized to make necessary budget adjustments related to these funds.

RECOMMENDED BY:


Leonard Purvis
Chief of Police

REVIEWED BY:


Kirby Warner
Interim Finance Director

APPROVED BY:


Sam Racadi
Interim City Manager

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Police Station Funding Recap

Allocated Funding Sources

Development Impact Fees	\$ 538,312
BUA Lease Payment from Bond Proceeds	\$ 14,000,000
Interest earned on the \$14 million through April 2009	<u>\$ 1,900,419</u>
Total allocated funding	<u>\$ 16,438,731</u>

Costs/Contracts Prior to June 24, 2008

Holt Architects	\$ 627,067
Utility Work	\$ 338,491
Relocation expenses	\$ 627,781
Demolition	\$ 42,510
Miscellaneous Expenses	\$ 94,043
Less Verizon reimbursement	<u>\$ (60,530)</u>

Costs incurred prior to construction contracts	<u>\$ 1,669,362</u>
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Council approved construction budget on June 24, 2008

Construction Management Contract (previously approved)	\$ 578,750
Site Survey-HP Engineering	\$ 45,000
Geotechnical-Landmark	\$ 123,000
General Construction-Oakview	\$ 11,089,836
Inspections, etc.	\$ 243,984
Furniture, fixtures and equipment	\$ 998,000 (2)

Contingency used to date (1)

Increase in rent	\$ 43,579
Increase in Holt Architects	\$ 188,640
ComSerCo	\$ 45,514
Misc Expenditures	\$ 6,549

Remaining Contingency	<u>\$ 605,718 (1)</u>
	<u>\$ 13,968,570</u>

Total Approved costs to date	<u>\$ 15,637,932</u>
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Remaining Unallocated Funding	<u>\$ 800,799</u>
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Other anticipated costs (not included above):

Continued rent for 18 months (3)	\$ 166,500
Scotsman Rental @ 640 per month for 18 months	\$ 11,520
Mobile mini Storage unit @75 per month for 18 months	<u>\$ 1,350</u>
	<u>\$ 179,370</u>

Remaining Funding after all costs	<u>\$ 621,429</u>
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(1) To date, \$284,232 project contingency has been spent (increased rent, Holt an HP Eng., etc.) balance \$605,718.

(2) On June 24th \$917,844 was shown in the project budget for this line item
On August 12th Council approved \$998,000

(3) Rent increased from \$5,500 to \$10,000 per month in October 2008

Updated 01/04/10

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CITY COUNCIL AGENDA

Date: **January 12, 2010**

To: **City Council**

FROM: **Mike West, Lieutenant**

SUBJECT: **Franchise Tow Service Ordinance**

RECOMMENDATION: "The City Council receive and place on file this report on the status of the proposed Franchise Tow Service Ordinance and existing tow service contracts."

BACKGROUND: Beginning in 2000, the Banning Police Department recognized the need to recover costs associated with the towing, storage, and impounding of vehicles. The City Council adopted Resolution 2000-30, which authorized the formation of Franchise Tow Service Agreements with two tow companies as "contractors" to provide this service. This was expanded during the term of the first agreement to three tow companies. In 2004, the Franchise Tow Service Contracts were updated through the adoption of Resolution 2004-39.

The three tow companies have continued to operate through extensions of the contracts that were executed on April 27th, 2007. These tow companies are currently operating under their 4th extension which expires on June 1st, 2010.

The statistics below indicate the actual numbers of vehicles towed by the Banning Police Department and City of Banning Code Enforcement:

Fiscal Year 2006/2007	1,308 vehicles
Fiscal Year 2007/2008	1,255 vehicles
Fiscal Year 2008/2009	848 vehicles

The adoption of a Franchise Tow Service Ordinance will provide specific guidelines limiting the number of tow service franchises and the selection criteria and eligibility requirements for tow companies.

The City is only allowed to charge franchise fees necessary to recover costs associated with the actual and reasonable costs associated with the towing program per California Vehicle Code 12110(b). The Banning Police Department will work with the City Finance Department to ensure the proposed franchise fees will be in compliance with existing law.

The City of Banning is currently receiving \$75,000 from the three tow companies that are under contract. Previous costs associated with the towing program were estimated at \$87,264.87. The existing tow service contract and extensions require each tow company to pay \$25,000 annually in bi-annual payments.

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The Banning Police Department, in conjunction with the City Attorney's Office, is in the process of reviewing the proposed Franchise Tow Service Ordinance and the proposed Franchise Tow Service Agreement to determine if the ordinance and agreement will meet the needs of the City while insuring compliance with existing law. We expect to bring the updated ordinance to the City Council for approval in February, 2010.

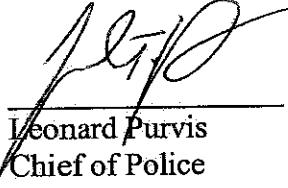
FISCAL DATA: The current estimate of expenses is in the process of being evaluated and will be included as an attachment to the proposed Franchise Tow Service Agreements.

RECOMMEND BY:

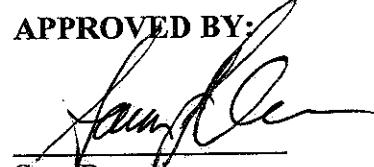


Mike West
Lieutenant

REVIEWED BY:


Leonard Purvis
Chief of Police

APPROVED BY:



Sam Racadio
Interim City Manager

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CITY COUNCIL AGENDA

Date: January 12, 2010
TO: Honorable Mayor and City Council
FROM: Fred Mason, Electric Utility Director
SUBJECT: Update on Assembly Bill 920

RECOMMENDATION: The City Council accept this report which reviews the impacts of Assembly Bill 920 on the City, and what steps must be taken to ensure compliance with the State's regulatory mandates regarding net metering customers.

JUSTIFICATION: Since 1995 there have been a number of legislative bills passed which have provided mandates to electric utilities regarding net metering customers. The City of Banning's Electric Utility ("Utility") has an Interconnection Agreement for Net Energy Metering, which is executed with every net metering customer, and the Utility is taking the necessary measures to ensure all net metering regulatory requirements are met.

BACKGROUND: Assembly Bill 920 ("AB 920") was signed into law on October 11, 2009 and amended §2827 of the Public Utilities Code, which pertains to net metering customers. Because several of the provisions of AB 920 seemed to conflict with other legislation, the Southern California Public Power Authority ("SCPPA"), of which the City of Banning is a member, asked its legal staff to work with the California Municipal Utilities Association's ("CMUA") attorneys to analyze the Bill and clarify some of the conflicting provisions. The following summarizes the AB 920 analysis:

- The provisions in AB 920 apply to all of Banning's Electric Utility customers with solar/photovoltaic installations on their homes or businesses.
- It requires that the Utility must provide a net metering customer who has a net surplus of generation at the end of 12 months with either (a) a per kWh rate based compensation; or (b) a kWh credit to be applied against future bills. NOTE: The Utility already provides option (b) to its net metering customers.
- It requires that the Utility, by January 31, 2010, provide notice to all net metering customers of their right to receive net surplus electricity compensation, and that they must make a formal election of either (a) a per kWh rate based compensation; or (b) a kWh credit to be applied against future bills.
- It requires that the Utility's ratemaking authority, the Banning City Council, establish a rate which is "just and reasonable" to compensate for net surplus electricity from net metering customers. This rate must be established in a public proceeding prior to January 1, 2011.
- It left intact language that states that a net metering customer's system "is intended primarily to offset part or all of the customer's own electrical requirements". This provision prevents customers from intentionally over-sizing their systems.
- Provides that "Upon adoption of the net surplus electricity compensation rate by the ratemaking authority, the net surplus electricity purchased by the electric utility shall count toward the electric utility's renewables portfolio standard annual procurement targets".

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In response to AB 920, the Utility has mailed out letters to each of its net metering customers notifying them of their right to receive net surplus electricity compensation, and their requirement to elect a compensation option. Additionally, Staff will be returning to the City Council in the near future with its recommendation for establishing a rate to compensate for net surplus electricity.

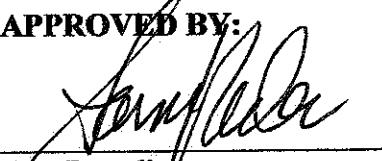
FISCAL DATA: Minimal fiscal impact is anticipated. Because the Utility does not allow net metering customers to oversize their solar/photovoltaic systems, any surplus electricity produced should be minimal.

RECOMMENDED BY:



Fred Mason
Electric Utility Director

APPROVED BY:



Sam Racadio
Interim City Manager

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CITY COUNCIL AGENDA

Date: January 12, 2010

TO: Mayor and City Council

FROM: Kirby J. Warner, Interim Finance Director

SUBJECT: 2008-09 Annual Report of Development Impact Fees

RECOMMENDATION: "That the City Council review and approve the 2008-09 Annual Report of Development Impact Fees as required by the Mitigation Fee Act."

JUSTIFICATION: The Mitigation Fee Act requires an annual report on the receipt, use and retention of development impact fees.

BACKGROUND/ANALYSIS: Pursuant to the Mitigation Fee Act (the Act) the City is required to report on the status of its development impact fee (DIF) balances on an annual basis. The report must contain a summary of receipts, disbursements and retention of these funds. In addition, one of the requirements under that Act is that the City expend the DIF collected within five (5) years. If the City fails to do so the City must make certain findings or refund the monies. With respect to a 5 year accumulation of funds, the required findings are as follows:

- Identify the purpose for which funds will be spent
- Indicate that the fee was appropriately charged
- Identify all monies on hand that will go toward certain incomplete improvements
- Identify the expected dates that the City anticipates having all required funding and making the appropriate identified improvements

The City currently has 4 categories of fees that have a 5 year accumulation of funds. In each case, the attached report contains the required findings.

FISCAL DATA: None. The attached report contains all required findings.

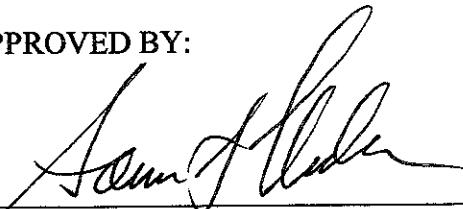
Report prepared by: Michelle M. Green, Accounting Manager

RECOMMENDED BY:



Kirby Warner
Interim Finance Director

APPROVED BY:



Sam Racadio
Interim City Manager



2008-09 ANNUAL REPORT OF DEVELOPMENT IMPACT FEES

Pursuant to Government Code Section 66006, the following report on the receipt, use and retention of development impact fees for fiscal year 2008-09 is hereby presented to the City Council for review and approval.

Police Facilities Development Fund - To account for development impact fees levied for the purpose of acquisition and expansion of police facilities.

Beginning Balance at 07/01/08	\$	7,478
Receipts		8,480
Disbursements		-0-
Ending Balance at 06/30/09	\$	15,958

Receipts include \$8,296 of fees and \$184 of interest income.

The balance is committed to reimburse expenses to build the Police Facility and to purchase police vehicles.

Funds unexpended or uncommitted for five years or more: None

Fire Facilities Development Fund - To account for development impact fees levied for the purpose of acquisition and expansion of fire facilities.

Beginning Balance at 07/01/08	\$	864,055
Receipts		31,948
Disbursements		-0-
Ending Balance at 06/30/09	\$	896,003

Receipts include \$12,750 of fees and \$19,198 of interest income.

Funds unexpended or uncommitted for five years or more: \$513,046

The City's Capital Improvement Plan (CIP) includes relocating a portion of its fire personnel to a building now being occupied by police dispatch. The building would need to be remodeled in certain areas to restore it to a functional fire station. Although the costs associated with any remodel are expected to be significant, there is currently no certain timeframe or current cost estimate for the above. The above fees were appropriately charged and collected for the identified improvement.

Traffic Control Facilities Fund - To account for development impact fees levied for the purpose of constructing and installing new traffic signals.

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Beginning Balance at 07/01/08	\$ 355,719
Receipts	25,149
Disbursements	<u>(8,475)</u>
Ending Balance at 06/30/09	\$ 372,393

Disbursements were for engineering services related to traffic signal design at various locations.

Receipts include \$17,160 of fees and \$7,989 of interest income.

Funds unexpended or uncommitted for five years or more: \$138,889

Due to the economic downturn in 2008 and 2009, the level of new development has not dictated the need for the anticipated number of traffic signals. Once development related activity increases, the above funds will be spent on eligible improvements. The above fees were appropriately charged and collected for the identified improvement.

General Government Facilities Fund - To account for development impact fees levied for the purpose of constructing and making improvements to City facilities that are not part of the City's enterprise fund operations.

Beginning Balance at 07/01/08	\$ 439,712
Receipts	14,346
Disbursements	<u>-0-</u>
Ending Balance at 06/30/09	\$ 454,058

Receipts include \$4,596 of fees and \$9,750 of interest income.

Funds unexpended or uncommitted for five years or more: \$266,116

The funds are committed to improvements to the City's animal control facility. The City has made minor improvements to the facility and is considering other more significant improvements; however a definitive timeline has not been established. Current estimates indicate that improvements required to bring the facility in full compliance with State law are approximately \$600,000. The City is still working to identify the balance of the funding. The above fees were appropriately charged and collected for the identified improvement.

Park Development Fund - To account for development impact fees levied for the purpose of funding the acquisition and development of park facilities.

Beginning Balance at 07/01/08	\$ 432,807
Receipts	15,903

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Disbursements	<u>(199,148)</u>
Ending Balance at 06/30/09	\$ 249,562

Receipts include \$6,376 of fees and \$9,527 of interest income.

Disbursements consisted of costs for professional services related to the parks master plan and landscape improvements at Repllier Park.

Funds unexpended or uncommitted for five years or more: None

In the 2008-09 budget, approximately \$428,920 was budgeted to be spent. Approximately \$199,148 was actually spent and \$232,971 in appropriations are being carried forward to FY 2009-10. The projects include updating the City's parks master plan as well as improvements to Repllier Park. The above fees were appropriately charged and collected for the identified services and improvements.

Water Capital Facilities Fees Fund - To account for development impact fees levied for the purpose of funding the initial cost of new water facilities to meet the water demand of new users.

Beginning Balance at 07/01/08	\$ 746,647*
Receipts	4,282,755
Disbursements	<u>(237,031)</u>
Ending Balance at 06/30/09	\$ 4,792,371

Receipts include \$557,504 of fees, \$60,417 of interest income and \$3,664,834 transferred in from the Water Operations Fund.

Disbursements consisted of payments related to the construction of new wells sites as well as engineering related to replacement of water lines.

Funds unexpended or uncommitted for five years or more: None

Wastewater Capital Facilities Fees Fund - To account for development impact fees levied for the purpose of the initial cost of sewerage capacity to meet the service demand of new users.

Beginning Balance at 07/01/08	\$ 9,765,321
Receipts	721,424
Disbursements	<u>-0-</u>
Ending Balance at 06/30/09	\$ 10,486,745

Receipts include \$149,974 of fees, \$349,609 of tertiary surcharges and \$221,841 of interest income.

Funds unexpended or uncommitted for five years or more: \$5,618,178

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The City is in the design stage of an upgrade to the wastewater treatment plant. This upgrade will significantly increase the capacity of the facility. The estimated cost of the project is excess of \$20 million. The estimated completion date is July 2011. The City has earmarked all of its wastewater capital facilities fees for this project. In addition, the City has earmarked \$5 million in bonds proceeds and is actively pursuing low interest loans and grants through the State programs to assist in the funding. The above fees were appropriately charged and collected for the identified improvement.

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CITY COUNCIL AGENDA ITEM

**TO: HONORABLE MAYOR
AND MEMBERS OF THE CITY COUNCIL**

**FROM: DAVID J. ALESHIRE
CITY ATTORNEY**

SUBJECT: TRANSIENT OCCUPANCY TAX IMPLEMENTATION ORDINANCE

Summary:

On July 28, 2009, the Banning City Council ordered an election for voters to consider whether the City of Banning Transient Occupancy Tax ('TOT') should be increased by amending Chapter 3.16 (Transient Occupancy Tax) of the Banning Municipal Code and directing that the revenues be used for general fund purposes, including for public safety, maintenance of streets and public areas, and other essential services. On November 3, 2009, the voters approved Measure L by approximately 75 percent, which authorized the TOT rate to be increased from six percent (6%) to twelve percent (12%).

At the City Council meeting on December 8th, 2009, the City Council adopted "An Urgency Ordinance of the City Council of the City of Banning, California, Amending Section 3.16.030 and Adding Section 3.16.140 of Chapter 3.16 of the Banning Municipal Code." This Urgency Ordinance (No. 1416) was the implementation tool for Measure L. However, it is always good practice, as an additional measure, to back up the adoption of such an urgency ordinance with a non-urgency ordinance containing identical language so as to ensure proper passage and implementation.

Recommendations:

1. Adopt the following ordinance, entitled:

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF BANNING, CALIFORNIA, AMENDING SECTION
3.16.030 AND ADDING SECTION 3.16.140 OF CHAPTER
3.16 OF THE BANNING MUNICIPAL CODE**

Fiscal Impact:

The Finance Department estimated that the proposed increase in the TOT to twelve percent (12%) would generate between \$275,000 and \$300,000 in General Fund revenue annually for the City. The ten percent (10%) increase will generate less than that; no other fiscal impact is expected on the City.

Nature of Proceeding:

Unlike the Urgency Ordinance (No. 1416) adopted on December 8th, 2009, which required a four-fifths majority vote of the City Council for adoption, this ordinance requires only a simple majority vote.

Background:

As stated in the previous staff report for the Urgency Ordinance (No. 1416), TOT rates vary by city including, for example, Palm Springs-11 ½%, Indian Wells-9.25%, La Quinta-10%, and Anaheim-15%. Measure L was placed before the voters of Banning after the City Council unanimously declared a fiscal emergency in the City based on the general economy and the State of California's own \$26 Billion deficit.

The City Council of Banning has made a number of reductions to the City's budget and services for Fiscal Year 2009-2010 to reduce the General Fund Budget by \$5.043M, including: closing City offices on Fridays; reduced hours at the police station; furloughing employees (equivalent to a 5% pay reduction); layoffs or retirement of 30 employees; and other cost-saving measures. Since 2007-08 total City reserves have fallen from \$7.2M (40% of Budget) to \$2.1M (15% of Budget).

Measure L contained the following elements: (a) permitted a maximum rate of 12% which could only be increased by the voters, (b) permitted the City Council by ordinance to set a lesser rate and otherwise retain full authority to change the manner, mode and method of collecting TOT as set forth in Chapter 3.16, (c) established a sunset provision so that the authority in Measure L to increase the TOT rate would expire on November 3, 2014.

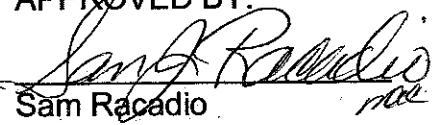
The ordinance states that the new TOT rate should start at ten percent (10%), rather than the maximum twelve percent (12%) permitted by the voters. However, the ordinance states that the City Council plans to reconsider the TOT rate in Fiscal Year 2010-11 and reserves the right to increase it up to the maximum rate of twelve percent (12%), as approved by the voters on November 3, 2009, or to decrease it.

Further, this ordinance reiterates that, pursuant to the Urgency Ordinance (No. 1416), the new TOT rate went into effect on January 1, 2010, in order to give hotel operators and those impacted by the increase in rates an opportunity to make any necessary adjustments.

RECOMMENDED BY:


David J. Aleshire
City Attorney

APPROVED BY:


Sam Racadio
Interim City Manager

Attachments:

- 1) Exhibit A – TOT Ordinance

ORDINANCE NO. 1418

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AMENDING SECTION 3.16.030 AND ADDING SECTION 3.16.140 OF CHAPTER 3.16 OF THE BANNING MUNICIPAL CODE

WHEREAS, on July 28, 2009, the Banning City Council ordered an election for voters to consider whether the City of Banning Transient Occupancy Tax ("TOT") should be increased by amending Chapter 3.16 (Transient Occupancy Tax) of the Banning Municipal Code, and directing that the revenues be used for general fund purposes including for public safety, maintenance of streets and public areas, and other essential services; and

WHEREAS, on November 3, 2009, by a vote of 3,337 yes to 1104 no (75%), the voters of the City of Banning approved Measure L, which authorized the TOT rate to be increased from six percent (6%) to twelve percent (12%), thereby affecting the TOT rate paid by those occupying hotels, inns, tourist homes, motels, or other lodging within the City of Banning; and

WHEREAS, Measure L contained the following elements: (a) permitted a maximum rate of 12% which could only be increased by the voters, (b) permitted the City Council by ordinance to set a lesser rate and otherwise retain full authority to change the manner, mode and method of collecting TOT as set forth in Chapter 3.16, (c) established a sunset provision so that the authority in Measure L to increase the TOT rate would expire on November 3, 2014; and

WHEREAS, on November 24, 2009, the City Council declared the results of the election held on November 3, 2009, in which Measure L was approved by the voters of the City of Banning; and

WHEREAS, the City Council wishes to commence the new TOT rate at ten percent (10%), rather than the maximum twelve percent (12%) permitted by the voters; and

WHEREAS, the City Council plans to reconsider the TOT rate in Fiscal Year 2010-11 and reserves the right to increase it up to the maximum rate of twelve percent (12%), as approved by the voters on November 3, 2009, or decrease it, as need requires; and

WHEREAS, pursuant to Urgency Ordinance No. 1416, which was adopted and went into effect on December 8th, 2009, the City Council desired that the new TOT rate go into effect on January 1, 2010, in order to give hotel operators and those impacted by the increase in rates an opportunity to make any necessary adjustments.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BANNING DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Tax Adopted. The Banning Municipal Code, Chapter 3.16, Section 3.16.030, is hereby amended to read, in its entirety, as follows:

"CHAPTER 3.16: TRANSIENT OCCUPANCY TAX

Section 3.16.030. Imposed--Amount--When payable

A. For the privilege of occupancy in any hotel or motel, each transient is subject to and shall pay a tax in the amount set forth in subsection B hereof, but such rate shall not exceed twelve percent (12%) of the rent charged by the operator, which shall be referred to herein as the "Cap Rate." Such tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city. The transient shall pay the tax to the operator of the hotel or motel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid in each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel or motel. If for any reason the tax due is not paid to the operator of the hotel or motel, the tax administrator may require that such tax shall be paid directly to the tax administrator."

B. Notwithstanding the requirements of subsection A of this section, from January 1, 2010, until amended by ordinance of the City Council, the Transient Occupancy Tax ("TOT Rate") rate shall be ten percent (10%), but in no event may such amendment exceed the Cap Rate set forth in subsection A above.

C. The Cap Rate in subsection A may only be increased by a vote of the people pursuant to Proposition 218. The TOT Rate in Subsection B may be changed by ordinance of the Council so long as it does not exceed the Cap Rate.

D. The authority to increase the TOT rate from six percent (6%) to twelve percent (12%) as provided by Measure L shall expire on November 3, 2014 unless extended by a vote of the people of Banning.

E. The City Council retains full authority to modify or add to Chapter 3.16 to change the manner, mode and method of collecting Transient Occupancy Taxes as set forth in Chapter 3.16, to the extent provided by State law.

SECTION 2. Severability. If any sections, subsections, sentences, phrases, or portions are for any reason, held to be invalid or unconstitutional by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of their Ordinance. The City Council of the City of Banning hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more

sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

SECTION 3. Effective Date. The City Clerk shall certify to the adoption of this Ordinance and shall cause a copy of the same to be published in a manner prescribed by law. This Ordinance shall take effect and be in force thirty (30) days after the adoption by the City Council for the City of Banning.

Robert E. Botts, Mayor

ATTEST:

Marie A. Calderon, City Clerk

APPROVED AS TO FORM
AND LEGAL CONTENT:

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

CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Ordinance No. 1418 was introduced at a regular meeting of the City Council of the City of Banning, California, held on the 12th day of January, 2010, and was duly adopted at a regular meeting of the City Council held on the _____ day of January, 2010, by the following roll-call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

**CITY COUNCIL AGENDA
PUBLIC HEARING**

DATE: **January 12, 2010**

TO: **Honorable Mayor and City Council**

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

SUBJECT: **Zone Text Amendment ZTA No. 09-97503 – Second Units**

RECOMMENDATION:

That the City Council introduce the first reading of Ordinance No. 1414 amending Sections 17.08.100 and Section 17.44.010 of the Banning Municipal Code regarding second units.

BACKGROUND AND ANALYSIS:

AB 1866 was adopted in 2002 providing regulations regarding second dwelling units. The purpose of ZTA No. 09-97503 is to comply with AB 1866. AB 1866 requires the following:

1. The City approves the construction of second units ministerially, which means no public hearing is to be held on the matter and no conditions of approval must be placed on the project. Currently, the Zoning Ordinance requires Design Review, which is a hearing before the Community Development Director, for construction of second units.
2. Second units must be allowed on all residential zoning districts. The second units are currently permitted in selected zoning districts but not all residential zoning districts.
3. Unit size for an attached unit is limited to 30% of the main unit and it must meet the development standards in the zone that it is located. Unit size for a detached unit is 1,200 square feet maximum and must meet the development standards in the zone that it is located. The unit sizes are currently permitted based on lot sizes.

The purpose of this amendment is to ensure that the City's Zoning Ordinance complies with State law. Additionally, a minor code clean-up is included in the amendment to delete duplication of standards and to remove unenforceable provisions of the code regarding second units.

The Planning Commission reviewed the Zone Text Amendment at its meeting on December 1, 2009 and recommended that the City Council adopt an ordinance amending Sections 17.08.100 and Section 17.44.010 of the Banning Municipal Code. Attached is a copy of the Planning Commission Staff report and attachments, which provide copies of the current ordinance and details on the changes to the existing ordinance via redlines and strikeouts.

NOTICE OF PUBLIC HEARING:

The proposed Zone Text Amendment No. 09-97503 was advertised in the Record Gazette newspaper on January 1, 2010. As of the date of this report, staff has not received any verbal or written comments for or against the proposed Zone Text Amendment.

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ENVIRONMENTAL DETERMINATION:

The City Council, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines, the recommendation of the Planning Commission as provided in their Staff Report dated December 1, 2009 and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. California Environmental Quality Act (CEQA). CEQA: The City Council has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act ("CEQA") under Section 15282(h) of the CEQA Guidelines and Section 21080.17 of the Public Resources Code, which provide that CEQA does not apply to the adoption of an ordinance by a city to implement the provisions of Section 65852.2 of the Government Code (AB 1866) regarding second-units. The purpose of the amendment to the Zoning Code is to comply with State law, which is exempt by State Statute.
2. Multiple Species Habitat Conservation Plan (MSHCP). The amendment to the Zoning Code does not relate to any one physical project and is not subject to the MSHCP. Further, projects subject to this resolution will trigger individual project analysis and documentation related to the requirements of MSHCP including mitigation through payment of the MSHCP Mitigation Fee.

REQUIRED FINDINGS FOR ZONE TEXT AMENDMENT NO. 09-97503:

The Zoning Ordinance requires that each Zone Text Amendment meet certain findings in Section 17.116.050 in order to be approved by the City Council. The following findings are provided for City Council consideration:

1. The proposed Zone Text Amendment is consistent with the goals and policies of the General Plan.

Findings of Fact: The Zone Text Amendment is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations will not change, and the text amendments will result in clarifying the goals, policies and programs of the General Plan. The primary General Plan Land Use Goal states "*A balanced, well planned community including businesses which provides a functional pattern of land uses and enhances the quality of life for all Banning residents*"¹. Additionally, the General Plan Residential Goal states, "*A broad range of housing types to fill the needs of the City's current and future residents.*"² The amendment to the existing second-unit standards provides a functional pattern of land uses and enhances the quality of life by providing a broad range of housing for all Banning residents by providing for the review of second unit development applications ministerially so that it is consistent with Government Code Section 65852.2.

¹ General Plan Land Use Element, page III-12

² General Plan Land Use Element, page III-16

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

Findings of Fact: The Zone Text Amendment is consistent with the existing provisions of the Zoning Ordinance. The amendment will modify and update development standards pertaining to State regulations regarding second units.

3. That the City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.

Findings of Fact: The City Council has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act ("CEQA") under Section 15282(h) of the CEQA Guidelines and Section 21080.17 of the Public Resources Code which provide that CEQA does not apply to the adoption of an ordinance by a city to implement the provisions of Section 65852.2 of the Government Code (AB 1866) regarding second-units. The purpose of the amendment to the Zoning Code is to comply with State law, which is exempt by State Statute.

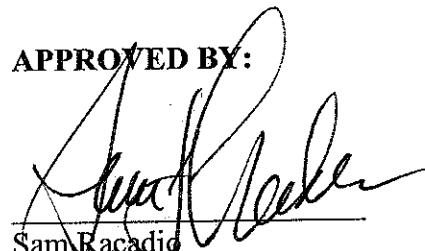
FISCAL DATA:

There is no fiscal impact associated with the adoption of this Ordinance.

CONCLUSION:

That the City Council introduce the first reading of Ordinance No. 1414 amending Sections 17.08.100 and Section 17.44.010 of the Banning Municipal Code regarding second units.

APPROVED BY:



Sam Racadio
Interim City Manager

PREPARED AND RECOMMENDED BY:



Zai Abu Bakar
Community Development Director

Attachments:

1. Ordinance No. 1414 with Attachment "A"
2. Planning Commission Staff Report dated December 1, 2009

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ATTACHMENT 1

Ordinance No. 1414

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ORDINANCE NO. 1414

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA APPROVING ZONE TEXT AMENDMENT NO. 09-97503 AMENDING SECTIONS 17.08.100 AND SECTION 17.44.010, TABLE 17.44.010 OF THE MUNICIPAL CODE PERTAINING TO SECOND UNITS.

WHEREAS, the Municipal Code allows for Zone Text Amendments consistent with the goals and policies of the General Plan; and

WHEREAS, AB 1866 was adopted by the State in 2002 regarding construction of second-units and that these units must be approved ministerially; and

WHEREAS, Zone Text Amendment No. 09-97503 amends the Zoning Ordinance relating to second units so that the Ordinance is consistent with State law; and

WHEREAS, on the 20th of November, 2009, the City gave public notice as required under Zoning Code Section 17.68 by advertising in the Record Gazette newspaper of the holding of a public hearing by the Planning Commission at which the amendment to the Zoning Code would be considered; and

WHEREAS, on December 1, 2009, the Planning Commission held a duly noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Zone Text Amendment and at which time the Planning Commission considered the Zone Text Amendment and recommend to the City Council the adoption of Ordinance No. 1414; and

WHEREAS, on January 1, 2010, the City gave public notice as required under Zoning Code Section 17.68 by advertising in the Record Gazette newspaper of the holding of a public hearing by the City Council at which the amendment to the Banning Municipal Code would be considered; and

WHEREAS, the City Council held a duly noticed public hearing on January 12, 2010, at which interested persons had an opportunity to testify in support of, or opposition to, the Zone Text Amendment; and

NOW THEREFORE BE IT HEREBY ORDAINED, that the City Council of the City of Banning does hereby find, determine, and resolve as follows:

SECTION 1. ENVIRONMENTAL FINDINGS. The City Council, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines, the recommendation of the Planning Commission as provided in the Staff Report dated December 1, 2009, and documents incorporated therein by reference, and any other evidence (within the

meaning of Public Resources Code § 21080(e) and §21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

CEQA: The City Council has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act (“CEQA”) under Section 15282(h) of the CEQA Guidelines and Section 21080.17 of the Public Resources Code which provide that CEQA does not apply to the adoption of an ordinance by a city to implement the provisions of Section 65852.2 of the Government Code (AB 1866) regarding second-units. The purpose of the amendment to the Zoning Code is to comply with State law, which is exempt by State Statute.

SECTION 2. FINDINGS.

1. The proposed Zone Text Amendment is consistent with the goals and policies of the General Plan.

Findings of Fact: The Zone Text Amendment is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations will not change, and the text amendments will result in clarifying the goals, policies and programs of the General Plan. The primary General Plan Land Use Goal states “*A balanced, well planned community including businesses which provides a functional pattern of land uses and enhances the quality of life for all Banning residents*”. Additionally, the General Plan Residential Goal states, “*A broad range of housing types to fill the needs of the City’s current and future residents.*” The amendment to the existing second-unit standards provides a functional pattern of land uses and enhances the quality of life by providing a broad range of housing for all Banning residents by providing for the review of second unit development applications ministerially so that it is consistent with Government Code.

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

Findings of Fact: The Zone Text Amendment is consistent with the existing provisions of the Zoning Ordinance. The amendment will modify and update development standards pertaining to State regulations regarding second units.

3. That the City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.

Findings of Fact: The City Council has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act (“CEQA”) under Section 15282(h) of the CEQA Guidelines and Section 21080.17 of the Public Resources Code which provide that CEQA does not apply to the adoption of an ordinance by a city to implement the provisions of Section 65852.2 of the Government Code (AB 1866) regarding second-units. The purpose of the amendment to the Zoning Code is to comply with State law, which is exempt by State Statute.

SECTION 3. CITY COUNCIL ACTIONS. The City Council hereby approves Zone Text Amendment No. 09-97503 and introduce the first reading of Ordinance amending Sections 17.08.100 and Section 17.44.010 regarding second units as indicated as Exhibit "A".

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. EFFECTIVE DATE. 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 _____ day of _____, 2010.

Robert E. Botts, Mayor

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

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. 1414 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 12th day of January, 2010, and was duly adopted at a regular meeting of said City Council on the _____ day of _____ 2010, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

EXHIBIT "A"

(Attachment to the Ordinance)

17.08.100 Second unit standards.

- A. These standards are adopted pursuant to California Government Code Section 65852.2. The purpose of these standards is to establish procedures and standards for the development of residential second units in a manner that preserves the integrity of single-family residential areas, avoids adverse impacts on such areas and ensures a safe and attractive residential environment. It is not the intent of this chapter to override private, lawful use restrictions as may be set forth in conditions, covenants and restrictions (CC&Rs) or similar instruments.
- B. Residential second units shall be permitted only in the R/A (Ranch Agriculture), R/A/H (Ranch/Agriculture Residential Hillside), RR (Rural Residential), RR/H (Rural Residential Hillside), VLDR (Very Low Density Residential), LDR (Low Density Residential), MDR (Medium Density Residential), and (HDR) High Density Residential zone districts.
- C. For the purpose of these development standards, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Primary Unit shall mean a single-family or multi-family residential unit constructed and intended as the principal building on a lot.

Second Unit. In accordance with Government Code Section 65852.2(i)(4), Second Unit shall mean:

1. An attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. A second unit also includes the following:
 - a. An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.
 - b. A manufactured home, as defined in Section 18007 of the Health and Safety Code.
- D. The following standards shall apply to residential second units:
 1. A residential second unit shall be consistent with the provisions of the applicable zoning district and the goals and policies of the general plan.
 2. No more than one residential second unit shall be permitted on any one lot.
 3. The minimum lot size on which an attached residential second unit may be located shall be 7,000 square feet. The minimum lot size on which a detached residential second unit may be located shall be 10,000 square feet.

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4. The increased floor area of attached second unit shall not exceed 30% of the existing living area.
5. The total area of the floor space for a detached second unit shall not exceed 1,200 square feet.
6. The lot shall contain an existing Primary Unit at the time an application for a residential second unit is submitted, or the application for the second unit may be made in conjunction with the development of the Primary Unit.
7. A residential second unit shall comply with all development standards for the applicable zoning district, including, but not limited to, standards for front, rear and side yard setback requirements for a Primary Unit under the regulations of the applicable zoning district.
8. The owner of the lot shall reside on the lot, either in the Primary Unit or in the residential second unit. Prior to issuance of a building permit approval, the property owner shall enter into a restrictive covenant with the City regarding such owner-occupancy requirement on a form prepared by the City, which shall be recorded against the property, and that a minimum of one off-street parking space shall be provided per bedroom of the residential second unit. Such covenant shall further provide that the residential second unit shall not be sold, or title thereto transferred separate from that of the property. If the owner ceases to reside on the property, use of the residential second unit shall be discontinued and (a) if it is an attached residential second unit, the unit converted into a portion of the Primary Unit, or (b) if it is a detached residential second unit, the unit removed or converted to a legal use. The Director may grant temporary relief from this owner-occupancy requirement.
9. An attached residential second unit shall share at least one common wall with the living area of the Primary Unit. The floor area of the garage shall be included in the calculation of existing living area if the garage is to be converted to living area as part of the same permit to allow the attached residential second unit.
10. The minimum gross floor area of an attached residential second unit shall be four hundred (400) square feet.
11. The total gross floor area of all covered structures, including an attached residential second unit, shall not exceed the lot coverage area as prescribed by the applicable zoning district.
12. No attached residential second unit shall cause the height of the Primary Unit to exceed the height limitation for the applicable zoning district. If the attached second residential second unit is not located above any portion of the existing Primary Unit, the maximum height of such unit shall not exceed the height of the Primary dwelling unit.
13. An attached residential second unit may have a separate entrance; provided, however, in no event shall any external stairwell be placed within the side yard setback.
14. A residential second unit shall not be permitted on a lot where there is a guest house or other dwelling or structure used for habitation in addition to the Primary Unit. If a residential second unit exists or is currently approved on a lot, a guest

house or other dwelling may not be approved unless the residential second unit is removed or converted into a portion of the Primary Unit.

- 15. A residential second unit shall contain separate kitchen and bathroom facilities, and shall be metered separately from the primary dwelling for gas, electricity, communications, water, and sewer services.
- 16. All attached residential second units shall be equipped with approved smoke detectors conforming to the latest Building Code standards as adopted by the State of California, mounted on the ceiling or wall at a point centrally located in an area giving access to rooms used for sleeping purposes.
- 17. In addition to the required parking for the Primary Unit, a minimum of one off-street parking space shall be provided on the same lot that the residential second unit is located on for (a) each bedroom in the residential second unit and (b) for each studio unit. Additional parking shall be provided in accordance with the applicable parking regulations of the base zoning district.
- 18. A residential second unit shall have no more than two (2) bedrooms.
- 19. The design of second unit shall be architecturally compatible with the primary unit on the same parcel with the predominant architecture of the area.

E. Upon approval of a residential second unit on a lot, the lot shall not be further divided unless there is adequate land area to divide the lot consistent with the general plan and zoning designation.

F. All construction, structural alterations or additions made to create a residential second unit shall comply with current building, electrical, fire, plumbing and zoning code regulations.

G. In the event of any conflicts between the standards set forth in this chapter and those set forth in the regulations of the applicable zoning district, the provisions of this chapter shall prevail.

H. The applicant shall pay to the City all applicable fees imposed on such new development, including but not limited to park and recreational facility fees.

I. Decisions of the Director approving or denying an application for a residential second unit shall be subject to an appeal to the Planning Commission in accordance with procedures set forth in Chapter 17.68, Hearings and Appeals. To maintain the non-discretionary review required under Government Code Section 65852.2, the issues on appeal shall be limited to the applications compliance with the regulations in this chapter.

Section 17.44.010, Table 17.44.010 is hereby amended as follows. The remaining Section 17.44.010 shall remain.

Table 17.44.010
Review Authority

	Community Development Director	Planning Commission	City Council
Home Occupation Permits	X		
Interpretations (Zoning Ordinance)	X		
Interpretations (General Plan)			
Temporary Use Permits	X		
Minor Modifications	X		
Minor Exceptions	X		
Variances		X	
Design Review			
Residential:			
1-4 Dwelling Units**	X		
5 or more Units		X	
Commercial:			
Occupancy Permit	X		
Tenant Improvements	X		
All other Improvements		X	
Industrial:			
Occupancy Permit	X		
Tenant Improvements	X		
All other Improvements		X	
Public Facilities & Open Space:			
Occupancy Permit	X		
Tenant Improvements	X		
All other Improvements		X	
Miscellaneous:			
Antennae		X	
Fences and Walls	X		

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Conditional Use Permits		X	
Lot Line or Boundary Adjustment	X		
Reversions to Acreage		X	
Tentative Parcel Maps	X		
Tentative Tract Maps		X*	X
Final Maps		X*	X
Specific Plans		X*	X
General Plan Amendments		X*	X
Zoning Ordinance Amendments		X*	X
Development Agreements		X*	X
Landscape Plans	X		
Surface Mining and Land Reclamation		X*	X
Sign Permits/Program	X		

Note: When an item indicates more than one permitting entity, the determination as to which authority (entity) is used, is based upon the intensity of the proposed use.

* Planning Commission recommends to the City Council for final determination.

** Second dwelling unit is exempt from Design Review

ATTACHMENT 2

Planning Commission Staff Report
Dated December 1, 2009

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CITY OF BANNING

PLANNING COMMISSION REPORT

DATE: December 1, 2009

TO: Mr. Chairman and Members of the Planning Commission

FROM: City of Banning Planning Division

SUBJECT: Zone Text Amendment No. 09-97503: Amendment to Municipal Code Sections 17.08.100 and 17.44.010, pertaining to Second-Units to comply with AB 1866

STAFF RECOMMENDATION

The Planning Division recommends the Planning Commission take the following actions:

1. Adopt a Statutory Exemption in compliance with CEQA Guidelines Section 15282 (h) and Public Resources Code Section 21080.17; and
2. Adopt PC Resolution No. 2009-11 (Attachment "1") approving Zone Text Amendment No. 09-97503 and recommend to the City Council the adoption of an Ordinance amending Sections 17.08.100 and 17.44.010 regarding second units.

APPLICANT INFORMATION

Applicant: City of Banning
99 E. Ramsey Street
Banning, CA 92220

BACKGROUND/ANALYSIS

AB 1866 was adopted in 2002. It requires that cities that have a local second-unit ordinance to ministerially consider second-unit applications as of July 1, 2003. The purpose of this Zone Text Amendment No. 09-97503 is to comply with State law.

Analysis

The current City of Banning Zoning Ordinance was adopted by the City Council on January 31, 2006. The Ordinance includes standards for second-unit applications and Design Review is required. The Ordinance gives the Community Development Director the discretion in approving or denying the Design Review for second units. AB 1866 prohibits any discretionary actions of approving any second unit applications. The applications must be approved ministerially, which means an application for a second unit should not be subject to excessively burdensome conditions of approval. The applications shall not be subject to a public hearing or public comment. AB 1866 prohibits any local legislative, quasi-legislative, or discretionary consideration of second unit applications, except provisions for authority on administrative appeal of a decision. This proposed Zone Text Amendment would amend Section 17.08.100 and Section 17.44.010 to permit second-units without Design Review. A copy of an existing Section 17.08.100 and 17.44.010 and the redlined versions are attached. The draft Ordinance No. 1414 includes the amended Sections 17.08.100 and 17.44.010.

Amendment to Section 17.08.100 addresses the following:

1. Delete references to Design Review and its requirement.

Design Review requirements are addressed in Subsections D, F, G, L, and M of the current ordinance. To comply with AB 1866, these subsections are deleted.

2. Delete redundancy in standards.

Requirement in Subsection 5 of Section E is already addressed in Subsection Section 8; therefore, Subsection 5 is deleted.

Subsection 9 of Section E is a redundant standard, which is already addressed in Subsection 1 of Section E. Therefore, Subsection 9 of Section E is deleted.

3. Delete provisions that are unenforceable.

Subsection 3 of Section E refers to prohibition of second-unit construction when rental rooms are present in the primary unit. This provision is unenforceable and is deleted per this amendment. Additionally, the last two sentences in Subsection 10 of Section E are also unenforceable and contrary to State law allowing second units.

4. Delete references to arbitrary provisions prohibiting the development of second units.

Subsection 4 of Section E is an arbitrary requirement prohibiting the development of second units on certain properties, which is contrary to the requirements of AB 1866.

5. Minor clean-up.

This minor clean-up is to address antiquated references to a permit or code that the City no longer uses. For example, Subsection 10 of Section E refers to Site Plan Review, which the City does not have. Subsection 18 of Section E refers to the Uniform Building Code, which is replaced by the California Building Code.

Amendment to Section 17.44.010 is to provide the following:

1. Add a footnote to Table 17.44.010 that second units are exempt from Design Review.

ENVIRONMENTAL DETERMINATION

The Planning Commission, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines, the recommendation of the Community Development Department as provided in the Staff Report dated December 1, 2009 and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. California Environmental Quality Act (CEQA):

CEQA: The Planning Commission has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act ("CEQA") under Section 15282(h) of the CEQA Guidelines and Section 21080.17 of the Public Resources Code, which provide that CEQA does not apply to the adoption of an ordinance by a city to implement the provisions of Section 65852.2 of the Government Code (AB 1886) regarding second-units. The purpose of the amendment to the Zoning Code is to comply with State law, which is exempt by State Statute.

2. Multiple Species Habitat Conservation Plan (MSHCP):

The amendment to the Zoning Code does not relate to any one physical project and is not subject to the MSHCP. Further, projects subject to this resolution will trigger individual project analysis and documentation related to the requirements of MSHCP including mitigation through payment of the MSHCP Mitigation Fee.

REQUIRED FINDINGS FOR ZONE TEXT AMENDMENT NO. 09-97503:

The Zoning Ordinance requires that each Zone Text Amendment meet certain findings in Section 17.116.050 in order to be approved by the Planning Commission. The following findings are provided for Commission consideration:

1. The proposed Zone Text Amendment is consistent with the goals and policies of the General Plan.

Findings of Fact:

The Zone Text Amendment is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations will not change, and the text amendments will result in clarifying the goals, policies and programs of the General Plan. The primary General Plan Land Use Goal states "*A balanced, well planned community including businesses which provides a functional pattern of land uses and enhances the quality of life for all Banning residents*"¹. Additionally, the General Plan Residential Goal states, "*A broad range of housing types to fill the needs of the City's current and future residents.*"² The amendment to the existing second-unit standards provides a functional pattern of land uses and enhances the quality of life by providing a broad range of housing for all Banning residents by providing for the review of second unit development applications ministerially so that it is consistent with Government Code Section 65852.2.

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

Findings of Fact:

The Zone Text Amendment is consistent with the existing provisions of the Zoning Ordinance. The amendment will modify and update development standards pertaining to State regulations regarding second units.

3. That the Planning Commission has independently reviewed and considered the requirements of the California Environmental Quality Act.

¹ General Plan Land Use Element, page III-12

² General Plan Land Use Element, page III-16

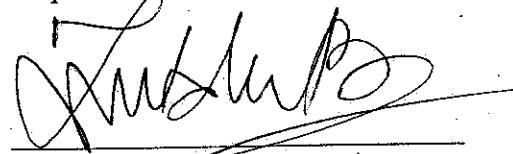
Findings of Fact:

The Planning Commission has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act ("CEQA") under Section 15282(h) of the CEQA Guidelines and Section 21080.17 of the Public Resources Code which provide that CEQA does not apply to the adoption of an ordinance by a city to implement the provisions of Section 65852.2 of the Government Code (AB 1866) regarding second-units. The purpose of the amendment to the Zoning Code is to comply with State law, which is exempt by State Statute.

PUBLIC COMMUNICATION:

The proposed Zone Text Amendment No. 09-97503 was advertised in the Record Gazette newspaper on November 20, 2009. As of the date of this report, staff has not received any verbal or written comments for or against the proposed Zone Text Amendment.

Prepared and Recommended By:



Zai Abu Bakar
Community Development Director

PC Attachments:

1. PC Resolution No. 2009-11
2. Draft Ordinance No. 1414
3. Existing Section 17.08.100
4. Existing Section 17.44.010
5. Redlined Section 17.08.100

PC Resolution 2009-11

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RESOLUTION NO. 2009-11

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF BANNING, CALIFORNIA
RECOMMENDING TO THE CITY COUNCIL APPROVAL
OF ZONE TEXT AMENDMENT NO. 09-97503, TO AMEND
SECTIONS 17.08.100 and 17.44.010 OF THE MUNICIPAL
CODE REGARDING SECOND UNITS.**

WHEREAS, an application for an amendment to modify Sections 17.08.100 and Table 17.44.010 of the Banning Municipal Code is requested as follows:

Applicant:	City of Banning
Authorized Agent:	Community Development Department
Project Location:	City Wide

WHEREAS, the City undertook a comprehensive General Plan and Zoning Ordinance update in 2006; and

WHEREAS, the Municipal Code allows for Zone Text Amendments consistent with the goals and policies of the General Plan; and

WHEREAS, AB 1866 was adopted by the State in 2002 regarding construction of second-units and that these units must be approved ministerially; and

WHEREAS, Zone Text Amendment No. 09-97503 amends the Zoning Ordinance relating to second unit so that the Ordinance is consistent with State law; and

WHEREAS, on the 20th of November, 2009, the City gave public notice as required under Zoning Code Section 17.68 by advertising in the Record Gazette newspaper of the holding of a public hearing at which the amendment to the Zoning Code would be considered; and

WHEREAS, on December 1, 2009, the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Zone Text Amendment and at which time the Planning Commission considered the Zone Text Amendment; and

WHEREAS, at this public hearing on the 1st day of December, 2009 the Planning Commission considered and heard public comments on the Zone Text Amendment; and

WHEREAS, the Planning Commission has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act ("CEQA") under Section 15282(h) of the CEQA Guidelines and Section 21080.17 of the Public Resources Code which provide that the second unit ordinance is exempt from CEQA.

NOW THEREFORE, the Planning Commission of the City of Banning does hereby find, determine, and resolve as follows:

SECTION 1. ENVIRONMENTAL FINDINGS.

The Planning Commission, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines, the recommendation of the Community Development Department as provided in the Staff Report dated December 1, 2009 and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and §21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows: The Planning Commission has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act ("CEQA") under Section 15282(h) of the CEQA Guidelines and Section 21080.17 of the Public Resources Code which provide that CEQA does not apply to the adoption of an ordinance by a city to implement the provisions of Section 65852.2 of the Government Code (AB 1866) regarding second-units. The purpose of the amendment to the Zoning Code is to comply with State law, which is exempt by State Statute.

SECTION 2. FINDINGS.

1. The proposed Zone Text Amendment is consistent with the goals and policies of the General Plan.

Findings of Fact:

The Zone Text Amendment is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations will not change, and the text amendments will result in clarifying the goals, policies and programs of the General Plan. The primary General Plan Land Use Goal states "*A balanced, well planned community including businesses which provides a functional pattern of land uses and enhances the quality of life for all Banning residents*". Additionally, the General Plan Residential Goal states, "*A broad range of housing types to fill the needs of the City's current and future residents.*" The amendment to the existing second-unit standards provides a functional pattern of land uses and enhances the quality of life by providing a broad range of housing for all Banning residents by providing for the review of second unit development applications ministerially so that it is consistent with Government Code Section 65852.2.

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

Findings of Fact:

The Zone Text Amendment is consistent with the existing provisions of the Zoning Ordinance. The amendment will modify and update development standards pertaining to State regulations regarding second units.

3. That the Planning Commission has independently reviewed and considered the requirements of the California Environmental Quality Act.

Findings of Fact:

The Planning Commission has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act ("CEQA") under Section 15282(h) of the CEQA Guidelines and Section 21080.17 of the Public Resources Code which provide that CEQA does not apply to the adoption of an ordinance by a city to implement the provisions of Section 65852.2 of the Government Code (AB 1866) regarding second-units. The purpose of the amendment to the Zoning Code is to comply with State law, which is exempt by State Statute.

SECTION 3. PLANNING COMMISSION ACTIONS

The Planning Commission hereby takes the following actions:

1. Approval of Zone Text Amendment. The Planning Commission hereby recommends approval of Zone Text Amendment No. 09-97503 to the City Council for the following actions:

Adopt Ordinance No. 1414 amending Sections 17.08.100 and Section 17.44.010 of the Municipal Code.

PASSED, APPROVED AND ADOPTED this 1st day of December, 2009.

Buddy Hawkins, Chairman
Banning Planning Commission

APPROVED AS TO FORM AND
LEGAL CONTENT:

Christy Marie Lopez
Aleshire & Wynder, LLP
Assistant City Attorney
City of Banning, California

CERTIFICATION:

I, Virginia Sorenson, Recording Secretary of the Planning Commission of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2009-11, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 1st day of December, 2009, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Virginia Sorenson, Recording Secretary
City of Banning, California

Draft Ordinance No. 1414

ORDINANCE NO. 1414

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF BANNING, CALIFORNIA APPROVING ZONE TEXT
AMENDMENT NO. 09-97503, TO AMEND SECTIONS
17.08.100 AND SECTION 17.44.010, TABLE 17.44.010 OF THE
MUNICIPAL CODE PERTAINING TO SECOND UNITS.**

WHEREAS, the Municipal Code allows for Zone Text Amendments consistent with the goals and policies of the General Plan; and

WHEREAS, AB 1866 was adopted by the State in 2002 regarding construction of second-units and that these units must be approved ministerially; and

WHEREAS, Zone Text Amendment No. 09-97503 amends the Zoning Ordinance relating to second units so that the Ordinance is consistent with State law; and

WHEREAS, on the 20th of November, 2009, the City gave public notice as required under Zoning Code Section 17.68 by advertising in the Record Gazette newspaper of the holding of a public hearing by the Planning Commission at which the amendment to the Zoning Code would be considered; and

WHEREAS, on December 1, 2009, the Planning Commission held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Zone Text Amendment and at which time the Planning Commission considered the Zone Text Amendment; and

WHEREAS, at this public hearing, the Planning Commission has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act ("CEQA") under Section 15282(h) of the CEQA Guidelines and Section 21080.17 of the Public Resources Code which provide that the second unit ordinance is exempt from CEQA; and

WHEREAS, on _____, 2010, the City gave public notice as required under Zoning Code Section 17.68 by advertising in the Record Gazette newspaper of the holding of a public hearing by the City Council at which the amendment to the Zoning Code would be considered; and

WHEREAS, THE City Council held a duly noticed public hearing on _____, 2010, at which interested persons had an opportunity to testify in support of, or opposition to, the Zone Text Amendment; and.

NOW THEREFORE BE IT HEREBY ORDAINED, that the City Council of the City of Banning does hereby find, determine, and resolve as follows:

SECTION 1. ENVIRONMENTAL FINDINGS.

The City Council, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines, the recommendation of the Community Development Department as provided in the Staff Report dated _____, 2009, and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and §21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

CEQA: The City Council has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act ("CEQA") under Section 15282(h) of the CEQA Guidelines and Section 21080.17 of the Public Resources Code which provide that CEQA does not apply to the adoption of an ordinance by a city to implement the provisions of Section 65852.2 of the Government Code (AB 1866) regarding second-units. The purpose of the amendment to the Zoning Code is to comply with State law, which is exempt by State Statute.

SECTION 2. FINDINGS.

1. The proposed Zone Text Amendment is consistent with the goals and policies of the General Plan.

Findings of Fact:

The Zone Text Amendment is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations will not change, and the text amendments will result in clarifying the goals, policies and programs of the General Plan. The primary General Plan Land Use Goal states "*A balanced, well planned community including businesses which provides a functional pattern of land uses and enhances the quality of life for all Banning residents*". Additionally, the General Plan Residential Goal states, "*A broad range of housing types to fill the needs of the City's current and future residents.*" The amendment to the existing second-unit standards provides a functional pattern of land uses and enhances the quality of life by providing a broad range of housing for all Banning residents by providing for the review of second unit development applications ministerially so that it is consistent with Government Code.

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

Findings of Fact:

The Zone Text Amendment is consistent with the existing provisions of the Zoning Ordinance. The amendment will modify and update development standards pertaining to State regulations regarding second units.

3. That the Planning Commission has independently reviewed and considered the requirements of the California Environmental Quality Act.

Findings of Fact:

The Planning Commission has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act ("CEQA") under Section 15282(h) of the CEQA Guidelines and Section 21080.17 of the Public Resources Code which provide that CEQA does not apply to the adoption of an ordinance by a city to implement the provisions of Section 65852.2 of the Government Code (AB 1866) regarding second-units. The purpose of the amendment to the Zoning Code is to comply with State law, which is exempt by State Statute.

SECTION 3. CITY COUNCIL ACTIONS.

The City Council hereby takes the following actions:

1. The City Council hereby approves Zone Text Amendment No. 09-97503 as indicated as Exhibit "A".

SECTION 4. SEVERABILITY.

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

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect thirty (30) days after its 2nd reading in accordance with California law.

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2010.

Robert E. Botts, Mayor
City of Banning

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

David J. Aleshire, City Attorney
Aleshire & Wynder, LLP
City of Banning, California

ATTEST:

Marie A. Calderon, City Clerk
City of Banning

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1414 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the _____, 2010, and was duly adopted at a regular meeting of said City Council on the _____ day of _____ 2010, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

EXHIBIT "A"

(Attachment to the Ordinance)

17.08.100 Second unit standards.

- A. These standards are adopted pursuant to California Government Code Section 65852.2. The purpose of these standards is to establish procedures and standards for the development of residential second units in a manner that preserves the integrity of single-family residential areas, avoids adverse impacts on such areas and ensures a safe and attractive residential environment. It is not the intent of this chapter to override private, lawful use restrictions as may be set forth in conditions, covenants and restrictions (CC&Rs) or similar instruments.
- B. Residential second units shall be permitted only in the R/A (Ranch Agriculture), R/A/H (Ranch/Agriculture Residential Hillside), RR (Rural Residential), RR/H (Rural Residential Hillside), VLDR (Very Low Density Residential), LDR (Low Density Residential), MDR (Medium Density Residential), and (HDR) High Density Residential zone districts.
- C. For the purpose of these development standards, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Primary Unit shall mean a single-family or multi-family residential unit constructed and intended as the principal building on a lot.

Second Unit. In accordance with Government Code Section 65852.2(i)(4), Second Unit shall mean:

1. An attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. A second unit also includes the following:
 - a. An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.
 - b. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

D. The following standards shall apply to residential second units:

1. A residential second unit shall be consistent with the provisions of the applicable zoning district and the goals and policies of the general plan.
2. No more than one residential second unit shall be permitted on any one lot.
3. The minimum lot size on which an attached residential second unit may be located shall be 7,000 square feet. The minimum lot size on which a detached residential second unit may be located shall be 10,000 square feet.

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4. The increased floor area of attached second unit shall not exceed 30% of the existing living area.
5. The total area of the floor space for a detached second unit shall not exceed 1,200 square feet.
6. The lot shall contain an existing Primary Unit at the time an application for a residential second unit is submitted, or the application for the second unit may be made in conjunction with the development of the Primary Unit.
7. A residential second unit shall comply with all development standards for the applicable zoning district, including, but not limited to, standards for front, rear and side yard setback requirements for a Primary Unit under the regulations of the applicable zoning district.
8. The owner of the lot shall reside on the lot, either in the Primary Unit or in the residential second unit. Prior to issuance of a building permit approval, the property owner shall enter into a restrictive covenant with the City regarding such owner-occupancy requirement on a form prepared by the City, which shall be recorded against the property, and that a minimum of one off-street parking space shall be provided per bedroom of the residential second unit. Such covenant shall further provide that the residential second unit shall not be sold, or title thereto transferred separate from that of the property. If the owner ceases to reside on the property, use of the residential second unit shall be discontinued and (a) if it is an attached residential second unit, the unit converted into a portion of the Primary Unit, or (b) if it is a detached residential second unit, the unit removed or converted to a legal use. The Director may grant temporary relief from this owner-occupancy requirement.
9. An attached residential second unit shall share at least one common wall with the living area of the Primary Unit. The floor area of the garage shall be included in the calculation of existing living area if the garage is to be converted to living area as part of the same permit to allow the attached residential second unit.
10. The minimum gross floor area of an attached residential second unit shall be four hundred (400) square feet.
11. The total gross floor area of all covered structures, including an attached residential second unit, shall not exceed the lot coverage area as prescribed by the applicable zoning district.
12. No attached residential second unit shall cause the height of the Primary Unit to exceed the height limitation for the applicable zoning district. If the attached second residential second unit is not located above any portion of the existing Primary Unit, the maximum height of such unit shall not exceed the height of the Primary dwelling unit.
13. An attached residential second unit may have a separate entrance; provided, however, in no event shall any external stairwell be placed within the side yard setback.
14. A residential second unit shall not be permitted on a lot where there is a guest house or other dwelling or structure used for habitation in addition to the Primary Unit. If a residential second unit exists or is currently approved on a lot, a guest house or other dwelling may not be approved unless the residential second unit is removed or converted into a portion of the Primary Unit.

15. A residential second unit shall contain separate kitchen and bathroom facilities, and shall be metered separately from the primary dwelling for gas, electricity, communications, water, and sewer services.
16. All attached residential second units shall be equipped with approved smoke detectors conforming to the latest Building Code standards as adopted by the State of California, mounted on the ceiling or wall at a point centrally located in an area giving access to rooms used for sleeping purposes.
17. In addition to the required parking for the Primary Unit, a minimum of one off-street parking space shall be provided on the same lot that the residential second unit is located on for (a) each bedroom in the residential second unit and (b) for each studio unit. Additional parking shall be provided in accordance with the applicable parking regulations of the base zoning district.
18. A residential second unit shall have no more than two (2) bedrooms.
19. The design of second unit shall be architecturally compatible with the primary unit on the same parcel with the predominant architecture of the area.

E. Upon approval of a residential second unit on a lot, the lot shall not be further divided unless there is adequate land area to divide the lot consistent with the general plan and zoning designation.

F. All construction, structural alterations or additions made to create a residential second unit shall comply with current building, electrical, fire, plumbing and zoning code regulations.

G. In the event of any conflicts between the standards set forth in this chapter and those set forth in the regulations of the applicable zoning district, the provisions of this chapter shall prevail.

H. The applicant shall pay to the City all applicable fees imposed on such new development, including but not limited to park and recreational facility fees.

I. Decisions of the Director approving or denying an application for a residential second unit shall be subject to an appeal to the Planning Commission in accordance with procedures set forth in Chapter 17.68, Hearings and Appeals. To maintain the non-discretionary review required under Government Code Section 65852.2, the issues on appeal shall be limited to the applications compliance with the regulations in this chapter.

Section 17.44.010, Table 17.44.010 is hereby amended as follows. The remaining Section 17.44.010 shall remain.

**Table 17.44.010
Review Authority**

	Community Development Director	Planning Commission	City Council
Home Occupation Permits	X		
Interpretations (Zoning Ordinance)	X		
Interpretations (General Plan)			
Temporary Use Permits	X		
Minor Modifications	X		
Minor Exceptions	X		
Variances		X	
Design Review			
Residential:			
1-4 Dwelling Units**	X		
5 or more Units		X	
Commercial:			
Occupancy Permit	X		
Tenant Improvements	X		
All other Improvements		X	
Industrial:			
Occupancy Permit	X		
Tenant Improvements	X		
All other Improvements		X	
Public Facilities & Open Space:			
Occupancy Permit	X		
Tenant Improvements	X		
All other Improvements		X	
Miscellaneous:			
Antennae		X	
Fences and Walls	X		

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Conditional Use Permits		X	
Lot Line or Boundary Adjustment	X		
Reversions to Acreage		X	
Tentative Parcel Maps	X		
Tentative Tract Maps		X*	X
Final Maps		X*	X
Specific Plans		X*	X
General Plan Amendments		X*	X
Zoning Ordinance Amendments		X*	X
Development Agreements		X*	X
Landscape Plans	X		
Surface Mining and Land Reclamation		X*	X
Sign Permits/Program	X		

Note: When an item indicates more than one permitting entity, the determination as to which authority (entity) is used, is based upon the intensity of the proposed use.

* Planning Commission recommends to the City Council for final determination.

** Second dwelling unit is exempt from Design Review

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Existing Section 17.08.100

used for irrigation where available. Although the City does not have non-potable infrastructure, projects should include provisions for future connections to non-potable water.

B. Drainage and storm sewer facilities should be designed with sufficiently sized and properly located storm sewers, drainage ditches, and catch basins so that runoff from rainwater and irrigation water does not at any time flow onto a public road or right of way.

C. Perimeter walls or fences shall be built in an aesthetically pleasing way, which takes the view into account, while providing safety to the public along public rights of way.

D. Accessory facilities such as club houses, maintenance buildings, and other structures, shall be designed and located to ensure compatibility and harmony with the golf course setting. (Zoning Ord. dated 1/31/06, § 9102.03(2)(E).)

17.08.100 Second unit standards.

A. These standards are adopted pursuant to California Government Code Section 65852.2. The purpose of these standards is to establish procedures and standards for the development of residential second units in a manner that preserves the integrity of single family residential areas, avoids adverse impacts on such areas and ensures a safe and attractive residential environment. It is not the intent of this chapter to override private, lawful use restrictions as may be set forth in conditions, covenants and restrictions (CC&Rs) or similar instruments.

B. Residential second units shall be permitted only in the R/A, R/A/H, RR, RR/H, VLDR and LDR zone districts.

C. For the purpose of these development standards, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Primary Unit shall mean a single-family or multi-family residential unit constructed and intended as the principal building on a lot.

Second Unit. In accordance with Government Code Section 65852.2(i)(4), Second Unit shall mean:

1. An attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. A second unit also includes the following:

a. An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

b. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

D. A residential second unit shall require Design Review in accordance with the provisions of Chapter 17.56, Design Review. An applicant shall submit as many copies of a Design Review application as may be required to the Planning Department. In addition to the information contained within the Site Plan Review application, the following information shall be submitted:

1. A floor plan drawn to scale of the Primary Unit and the proposed residential second unit.

2. Documentation verifying that the Primary Unit is owner-occupied.

3. The proposed method of water supply and sewage disposal for the residential second unit, including "can and will serve" letters from a public sewer or water district or an existing mutual water company, where appropriate.

E. The following standards shall apply to residential second units:

1. A residential second unit shall be consistent with the provisions of the applicable zoning district and the goals and policies of the general plan.

2. No more than one residential second unit shall be permitted on any one lot.

3. A second unit shall not be permitted when rental rooms are present in the Primary Unit where allowed by the applicable zoning district.

4. No residential second unit shall be permitted on a lot if there is a legal residential second unit located on another lot with frontage on the same side of the street and either of the following conditions exist: (a) the lot with a legal residential second unit is within 300 feet of the property line of the lot pro-

posed for the second unit; or (b) there are less than three lots separating the two properties.

5. A residential second unit shall only be permitted on a lot in which the Primary Unit and all other structures thereon conform to all minimum requirements of the applicable zoning district.

6. The minimum lot size on which an attached residential second unit may be located shall be 7,000 square feet. The minimum lot size on which a detached residential second unit may be located shall be 10,000 square feet.

7. The maximum residential second unit size for new units shall not exceed the following standards:

Lot Size (Net Lot Area)	Maximum 2nd Unit Size (Gross Floor Area)
7,000-9,999*	400 sq. ft.
10,000-19,999 sq. ft.	600 sq. ft.
20,000 - 1 acre	800 sq. ft.
over one acre	1,000 sq. ft.

* As set forth above, this standard only applies to attached residential second units, as the minimum lot size for a detached residential second unit is 10,000 square feet.

8. The lot shall contain an existing Primary Unit at the time an application for a residential second unit is submitted, or the application for the second unit may be made in conjunction with the development of the Primary Unit.

9. A residential second unit shall comply with all development standards for the applicable zoning district, including, but not limited to, standards for front, rear and side yards setback requirements for a Primary Unit under the regulations of the applicable zoning district.

10. The owner of the lot shall reside on the lot, either in the Primary Unit or in the residential second unit. Prior to issuance of a Site Plan Review approval, the property owner shall enter into a restrictive covenant with the City regarding such owner-occupancy requirement on a form prepared by the City, which shall be recorded against the property, and that not less than one off-street parking space

shall be provided per bedroom of the residential second unit. Such covenant shall further provide that the residential second unit shall not be sold, or title thereto transferred separate from that of the property. If the owner ceases to reside on the property, use of the residential second unit shall be discontinued and (a) if it is an attached residential second unit, the unit converted into a portion of the Primary Unit, or (b) if it is a detached residential second unit, the unit removed or converted to a legal use. The Director may grant temporary relief from this owner-occupancy requirement.

11. An attached residential second unit shall share at least one common wall with the living area of the Primary Unit. In no event shall the development of an attached residential second unit increase the overall living area of the Primary Unit by more than thirty percent (30%) of the existing living area. The floor area of the garage shall be included in the calculation of existing living area if the garage is to be converted to living area as part of the same permit to allow the attached residential second unit.

12. The minimum gross floor area of an attached residential second unit shall be four hundred (400) square feet.

13. The total gross floor area of all covered structures, including an attached residential second unit, shall not exceed the lot coverage area as prescribed by the applicable zoning district.

14. No attached residential second unit shall cause the height of the Primary Unit to exceed the height limitation for the applicable zoning district. If the attached second residential second unit is not located above any portion of the existing Primary Unit, the maximum height of such unit shall not exceed the height of the Primary dwelling unit.

15. An attached residential second unit may have a separate entrance; provided, however, in no event shall any external stairwell be placed within the side yard setback.

16. A residential second unit shall not be permitted on a lot where there is a guest house or other dwelling or structure used for habitation in addition to the Primary Unit. If a residential second unit exists or is currently approved on a lot, a guest house or

other dwelling may not be approved unless the residential second unit is removed or converted into a portion of the Primary Unit.

17. A residential second unit shall contain separate kitchen and bathroom facilities, and shall be metered separately from the primary dwelling for gas, electricity, communications, water, and sewer services.

18. All attached residential second units shall be equipped with approved smoke detectors conforming to the latest Uniform Building Code standards, mounted on the ceiling or wall at a point centrally located in an area giving access to rooms used for sleeping purposes.

19. In addition to the required parking for the Primary Unit, a minimum of one off-street parking space shall be provided on the same lot that the residential second unit is located on for (a) each bedroom in the residential second unit and (b) for each studio unit. Additional parking shall be provided in accordance with the applicable parking regulations of the base zoning district.

20. A residential second unit shall have no more than two (2) bedrooms.

F. All residential second units shall be subject to Design Review provisions of Chapter 17.56 and the following standards:

1. The second unit shall be clearly subordinate to the Primary Unit on the lot in terms of size, location and appearance.

2. The exterior appearance and character of the second unit shall reflect that of the Primary Unit. The design shall take into consideration the use of the same exterior materials, roof covering, colors, and other architectural features.

3. Any manufactured home proposed as a detached residential second unit shall be identical in terms of siding and roof materials, roof pitch, roof eaves and color to the Primary Unit on the lot.

4. Solar access, view protection, privacy, noise, and visual impacts shall be considered as part of the review for neighborhood compatibility.

G. Under no circumstances, however, shall any conditions be imposed as permitted by the provisions of Chapter 17.56, Design Review which would un-

reasonably restrict the ability of an applicant to create a residential second unit.

H. Upon approval of a residential second unit on a lot, the lot shall not be further divided unless there is adequate land area to divide the lot consistent with the general plan and zoning designation.

I. All construction, structural alterations or additions made to create a residential second unit shall comply with current building, electrical, fire, plumbing and zoning code regulations.

J. In the event of any conflicts between the standards set forth in this chapter and those set forth in the regulations of the applicable zoning district, the provisions of this chapter shall prevail.

K. The applicant shall pay to the City all applicable fees imposed on such new development, including but not limited to park and recreational facility fees.

L. The Director may add other conditions, consistent with general law and applicable State and City standards, as necessary to preserve the health, safety, welfare and character of the residential neighborhood; provided, however, that such conditions shall not unreasonably restrict the ability of an applicant to create a residential second unit.

M. Upon acceptance of a complete application and payment of all required processing fees, the Director shall give written notice of the proposed application to all property owners within a 500-foot radius of the property for which a second unit application is made, as shown on the latest equalized assessment role. Such notice shall be given at least fifteen (15) days prior to the effective date of a decision by the Director.

N. Decisions of the Director approving or denying an application for a residential second unit shall be subject to an appeal to the Planning Commission in accordance with procedures set forth in Chapter 17.68, Hearings and Appeals. To maintain the non-discretionary review required under Government Code Section 65852.2, the issues on appeal shall be limited to the applications compliance with the regulations in this chapter. (Zoning Ord. dated 1/31/06, § 9102.03(2)(F).)

Existing Section 17.44.010

Division IV.

ADMINISTRATION

Chapter 17.44

ADMINISTRATION—
GENERAL PROVISIONS

Sections:

- 17.44.010 Purpose.
- 17.44.020 Multiple permit applications.
- 17.44.030 Pre-application conference.

17.44.010 Purpose.

A. The purpose of this Chapter is to outline procedures for filing applications, and for processing the various land use permits, subdivision maps, variances and other regulatory review and approval responsibilities of the Community Development Department,

the Planning Commission, and of the City Council. This Chapter also provides for the review and processing of development agreements, and amendment to the General Plan and to this Zoning Ordinance.

B. The system of regulatory review and permit approval provides a range of sequenced steps and procedures which are correlated to the type(s) of use proposed, the intensity of the use, the appropriateness of the use (and the impact of such use on neighbors, on natural resources, and on city services), for the municipality as a whole, and for the zoning district in particular.

C. The Review Authority Table below identifies the full range of land use permit options and applicable final review authority. Appeals of the Director's determinations are to the Planning Commission, and appeals of Planning Commission determinations are to the City Council.

Table 17.44.010
Review Authority

	Community Development Director	Planning Commission	City Council
Home Occupation Permits	X		
Interpretations (Zoning Ordinance)	X		
Interpretations (General Plan)			
Temporary Use Permits	X		
Minor Modifications	X		
Minor Exceptions	X		
Variances		X	
Design Review			
Residential:			
1-4 Dwelling Units	X		
5 or more Units		X	
Commercial:			
Occupancy Permit	X		
Tenant Improvements	X		
All other Improvements		X	

	Community Development Director	Planning Commission	City Council
Industrial:			
Occupancy Permit	X		
Tenant Improvements	X		
All other Improvements		X	
Public Facilities & Open Space:			
Occupancy Permit	X		
Tenant Improvements	X		
All other Improvements		X	
Miscellaneous:			
Antennae		X	
Fences and Walls	X		
Conditional Use Permits		X	
Lot Line or Boundary Adjustment	X		
Reversions to Acreage		X	
Tentative Parcel Maps	X		
Tentative Tract Maps		X*	X
Final Maps		X*	X
Specific Plans		X*	X
General Plan Amendments		X*	X
Zoning Ordinance Amendments		X*	X
Development Agreements		X*	X
Landscape Plans	X		
Surface Mining and Land Reclamation		X*	X
Sign Permits/Program	X		

Note: When an item indicates more than one permitting entity, the determination as to which authority (entity) is used, is based upon the intensity of the proposed use.

* Planning Commission recommends to the City Council for final determination.

(Zoning Ord. dated 1/31/06, § 9111.01)

17.08.100 Second unit standards.

A. These standards are adopted pursuant to California Government Code Section 65852.2. The purpose of these standards is to establish procedures and standards for the development of residential second units in a manner that preserves the integrity of single-family residential areas, avoids adverse impacts on such areas and ensures a safe and attractive residential environment. It is not the intent of this chapter to override private, lawful use restrictions as may be set forth in conditions, covenants and restrictions (CC&Rs) or similar instruments.

B. Residential second units shall be permitted only in the R/A (Ranch Agriculture), RAR-H (Ranch / Agriculture Residential Hillside), RR (Rural Residential), RR-H (Rural Residential Hillside), VLDR (Very Low Density Residential), LDR (Low Density Residential), MDR (Medium Density Residential) and High Density Residential (HDR) zone districts.

C. For the purpose of these development standards, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Primary Unit shall mean a single-family or multi-family residential unit constructed and intended as the principal building on a lot.

Second Unit. In accordance with Government Code Section 65852.2(i)(4), Second Unit shall mean:

1. An attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. A second unit also includes the following:
 - a. An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.
 - b. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

D. The following standards shall apply to residential second units:

1. A residential second unit shall be consistent with the provisions of the applicable zoning district and the goals and policies of the general plan.
2. No more than one residential second unit shall be permitted on any one lot.
3. The minimum lot size on which an attached residential second unit may be located shall be 7,000 square feet. The minimum lot size on which a detached residential second unit may be located shall be 10,000 square feet.

7.

The increased floor area of attached second unit shall not exceed 30% of the existing living area.

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Comment [z1]: 65852.2(c) Requires that cities allowing second units in all residential zones without appropriate findings.

Comment [z2]: This section refers to Design Review, which is a discretionary review by the Community Development Director, which is inconsistent with State law which requires approval of second unit ministerially.

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1. A floor plan drawn to scale of the Primary Unit and the proposed residential second unit.¹
2. Documentation verifying that the Primary Unit is owner-occupied.¹
3. The proposed method of water supply and sewage disposal for the residential second unit, including "can and will serve" letters from a public sewer or water district or an existing mutual water company, where appropriate.¹

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Comment [z5]: This provision is a duplication of #8.

Deleted: 3. A second unit shall not be permitted when rental rooms are present in the Primary Unit where allowed by the applicable zoning district.

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4. No residential second unit shall be permitted on a lot if there is a legal residential second unit located on another lot with frontage on the same side of the street and either of the following conditions exist: (a) the lot with a legal¹

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8. The total area of floor space for a detached second unit shall not exceed 1,200 square feet.

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9. The lot shall contain an existing Primary Unit at the time an application for a residential second unit is submitted, or the application for the second unit may be made in conjunction with the development of the Primary Unit.

10. The owner of the lot shall reside on the lot, either in the Primary Unit or in the residential second unit. Prior to issuance of a building permit approval, the property owner shall enter into a restrictive covenant with the City regarding such owner-occupancy requirement on a form prepared by the City, which shall be recorded against the property, and that a minimum of one off-street parking space shall be provided per bedroom of the residential second unit. Such covenant shall further provide that the residential second unit shall not be sold, or title thereto transferred separate from that of the property. 11. An attached residential second unit shall share at least one common wall with the living area of the Primary Unit. The floor area of the garage shall be included in the calculation of existing living area if the garage is to be converted to living area as part of the same permit to allow the attached residential second unit.

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Comment [z8]: The Code addresses minimum or maximum standards and not less than.

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Comment [z11]: The City adopted the California Building Code.

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12. The minimum gross floor area of an attached residential second unit shall be four hundred (400) square feet.

13. The total gross floor area of all covered structures, including an attached residential second unit, shall not exceed the lot coverage area as prescribed by the applicable zoning district.

14. No attached residential second unit shall cause the height of the Primary Unit to exceed the height limitation for the applicable zoning district. If the attached second residential second unit is not located above any portion of the existing Primary Unit, the maximum height of such unit shall not exceed the height of the Primary dwelling unit.

15. An attached residential second unit may have a separate entrance; provided, however, in no event shall any external stairwell be placed within the side yard setback.

16. A residential second unit shall not be permitted on a lot where there is a guest house or other dwelling or structure used for habitation in addition to the Primary Unit. If a residential second unit exists or is currently approved on a lot, a guest house or other dwelling may not be approved unless the residential second unit is removed or converted into a portion of the Primary Unit.

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18. All attached residential second units shall be equipped with approved smoke detectors conforming to the latest Building Code standards as adopted by the State of California, mounted on the ceiling or wall at a point centrally located in an area giving access to rooms used for sleeping purposes.

19. In addition to the required parking for the Primary Unit, a minimum of one off-street parking space shall be provided on the same lot that the residential second unit is located on for (a) each bedroom in the residential second unit and (b) for

each studio unit. Additional parking shall be provided in accordance with the applicable parking regulations of the base zoning district.

20. A residential second unit shall have no more than two (2) bedrooms.

G. The design of the second unit shall be architecturally compatible with the primary unit on the same parcel or with the predominant architecture of the area.

H. Upon approval of a residential second unit on a lot, the lot shall not be further divided unless there is adequate land area to divide the lot consistent with the general plan and zoning designation.

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J. In the event of any conflicts between the standards set forth in this chapter and those set forth in the regulations of the applicable zoning district, the provisions of this chapter shall prevail.

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1. The second unit shall be clearly subordinate to the Primary Unit on the lot in terms of size, location and appearance.
2. The exterior appearance and character of the second unit shall reflect that of the Primary Unit. The design shall take into consideration the use of the same exterior materials, roof covering, colors, and other architectural features.
3. Any manufactured home proposed as a detached residential second unit shall be identical in terms of siding and roof materials, roof pitch, roof eaves and color to the Primary Unit on the lot.

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M. Upon acceptance of a complete application and payment of all required processing fees, the Director shall give [5]

4. No residential second unit shall be permitted on a lot if there is a legal residential second unit located on another lot with frontage on the same side of the street and either of the following conditions exist: (a) the lot with a legal residential second unit is within 300 feet of the property line of the lot proposed for the second unit; or (b) there are less than three lots separating the two properties.

5[z1]. A residential second unit shall only be permitted on a lot in which the Primary Unit and all other structures thereon conform to all minimum requirements of the applicable zoning district.

The maximum residential second unit size for new units shall not exceed the following standards:

Lot Size (Net Lot Area)	Maximum 2nd Unit Size (Gross Floor Area)
7,000-9,999*	400 sq. ft.
10,000-19,999 sq. ft.	600 sq. ft.
20,000 - 1 acre	800 sq. ft.
over one acre	1,000 sq. ft.

* As set forth above, this standard only applies to attached residential second units, as the minimum lot size for a detached residential second unit is 10,000 square feet.

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L. The Director may add other conditions, consistent with general law and applicable State and City standards, as necessary to preserve the health, safety, welfare and character of the residential neighborhood; provided, however, that such conditions shall not unreasonably restrict the ability of an applicant to create a residential second unit.

M. Upon acceptance of a complete application and payment of all required processing fees, the Director shall give written notice of the proposed application to all property owners within a 500-foot radius of the property for which a second unit application is made, as shown on the latest equalized assessment role. Such notice shall be given at least fifteen (15) days prior to the effective date of a decision by the Director.

277

17.08.100 Second unit standards.

A. These standards are adopted pursuant to California Government Code Section 65852.2. The purpose of these standards is to establish procedures and standards for the development of residential second units in a manner that preserves the integrity of single-family residential areas, avoids adverse impacts on such areas and ensures a safe and attractive residential environment. It is not the intent of this chapter to override private, lawful use restrictions as may be set forth in conditions, covenants and restrictions (CC&Rs) or similar instruments.

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B. The following standards shall apply to residential second units:

1. A residential second unit shall be consistent with the provisions of the applicable zoning district and the goals and policies of the general plan.
2. No more than one residential second unit shall be permitted on any one lot.
3. The minimum lot size on which an attached residential second unit may be located shall be 7,000 square feet. The minimum lot size on which a detached residential second unit may be located shall be 10,000 square feet.
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M. Upon acceptance of a complete application and payment of all required processing fees, the Director shall [give] [5]

280

4. No residential second unit shall be permitted on a lot if there is a legal residential second unit located on another lot with frontage on the same side of the street and either of the following conditions exist: (a) the lot with a legal residential second unit is within 300 feet of the property line of the lot proposed for the second unit; or (b) there are less than three lots separating the two properties.

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The maximum residential second unit size for new units shall not exceed the following standards:

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CITY COUNCIL AGENDA

DATE: January 12, 2010

TO: Mayor and Members of the City Council

FROM: Kirby Warner, Interim Finance Director

SUBJECT: Supplemental Policies Statements Pertaining to Budget Activity for the Eighteen Month Period Ending June 30, 2011

RECOMMENDATION: That the City Council adopt the policy statements outlined in this report.

BACKGROUND: Staff presented a General fund update to the City Council at the December 8, 2009 meeting. The update included projections of an ongoing structural deficit that will result in an estimated 18 month shortfall of approximately \$1,800,000. Alternative solutions for dealing with the deficit were presented. The City Council approved Alternative 1 which anticipates using bond funds remaining after completion of the Police building and Brinton Reservoir to be used for one year of debt service payments. This will provide \$1,250,000 to be paid to the General Fund from the Banning Utility Authority as a lease payment. The remaining \$550,000 will then need to be addressed in the FY 10/11 budgeting process.

The City Council also directed staff to present recommended supplemental budget policies that will help to control and define the decision making process during the next eighteen months. Staff has developed five recommended policies for consideration by the City Council. The policies are designed to encourage the balancing of the structural deficit that exists in the General Fund. This will be accomplished without using existing reserves as ongoing expenditures and revenues are monitored and adjusted.

Policy 1 Beginning in Fiscal Year 11/12 the General Fund shall be balanced without using reserves. Appropriations for ongoing expenditures will be less than ongoing revenue sources.

Policy 2 Beginning with the Fiscal Year 10/11 budget process the City will reinstitute development of a two year budget. The budget for FY 10/11 will be adopted by the City Council, FY 11/12 will be a projection, subject to evaluation and adjustment prior to formal adoption in June 2011. The two year process provides the City Council with a longer-term view of impacts created by various actions.

Policy 3 Any changes in current service levels, employee negotiated benefits or other actions resulting in increased costs must be offset by ongoing increased revenues or a corresponding reduction in expenditures. This will assist in the goal of preserving existing reserve balances.

Policy 4 A hiring freeze will be in effect until cancelled by the City Council. All hiring requests shall be submitted for City Council approval. This shall include new positions, filling of vacated positions, departmental reorganizations and other personnel actions with the potential of increasing costs or providing for savings. This policy will allow the City Council to strategically determine how best to allocate personnel and service levels.

Policy 5 Water and Wastewater rate studies are to include revenue scenarios that provide varying amounts of available funds for lease payment obligations from the Banning Utility authority to the General Fund. At a minimum these should include scenarios that provide for payments of an additional \$500,000 per year and \$1,000,000 per year.

The formation of the Banning Utility Authority created an expectation of lease obligation to the General Fund. The 55 year term of the BUA lease was intended to provide sufficient time to pay leases amounts up to the valuation of the Water and Wastewater assets. The combined total for these assets was in excess of \$268,000,000.

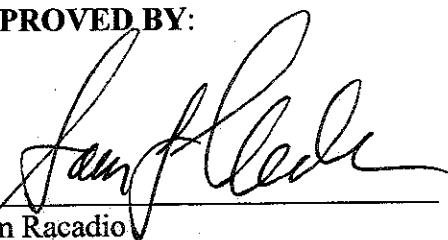
FISCAL DATA: The recommended policies will provide for close monitoring of budget activity in the General Fund during the 18 month period ending June 30, 2011. The goal will be to produce a balanced General Fund without the use of reserves for FY 11/12.

RECOMMENDED BY:



Kirby Warner
Interim Finance Director

APPROVED BY:



Sam Racadio
Interim City Manager

**CITY COUNCIL AGENDA
CONSENT ITEM**

DATE: **January 12, 2010**

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

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

SUBJECT: **City Council Authorize the Mayor to Executive the Contract with the New City Manager.**

RECOMMENDATION: That the City Council authorize the Mayor to execute the contract with the new City Manager.

BACKGROUND:

Shortly after the departure of City Manager, Brian Nakamura, in August of 2009, the City Council instructed the Interim City Manager to conduct a nationwide recruitment for a permanent city manager. The Interim City Manager utilized the assistance of Hoyl Belt, Human Resources Director, and Rita Chapparosa, Recruitment and Benefits Manager, in the effort.

After a nationwide recruitment, more than 50 applications were received. A committee of two current City Managers from Inland Empire cities and a retired City Manager assisted by narrowing the more than 50 applications down to the top 10. The City Council then narrowed the 10 down to the top 7 which they interviewed on December 15, 2009.

The City Council is now ready to enter into an employment contract with one of the candidates.

APPROVED BY:



Sam Racadio
Interim City Manager