

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

June 22, 2010  
5:00 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. 2010-38 matters taken up by the Council before 9:00 p.m. may be concluded, but no new matters shall be taken up after 9:00 p.m. except upon a unanimous vote of the council members present and voting, but such extension shall only be valid for one hour and each hour thereafter shall require a renewed action for the meeting to continue.*

**I. CALL TO ORDER**

- Roll Call – Council Members Franklin, Hanna, Machisic, Robinson, Mayor Botts

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

**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.

**PRESENTATIONS:**

1. Proclamation – Town of Port-Margot and the City of Banning  
to be Common Townships ..... 1

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

### III. 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 4**

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

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

1. Approval of Minutes – Joint Meeting – 06/08/10. . . . . 2
2. Approval of Minutes – Regular Meeting – 06/08/10 . . . . . 4
3. Resolution No. 2010-42, Approving the Amendment to the Reimbursement Agreement for Transportation Uniform Mitigation Fee (TUMF) Program Funds with the Western Riverside Council of Governments (WRCOG) for Project No. 2006-05, Sunset Avenue Grade Separation and Authorize Mayor to execute the Amendment. . . . . 16
4. Resolution No. 2010-44, Rescinding Resolution No. 2009-93 to Amend the Classification and Compensation Plan for the City of Banning due to the reorganization of the Finance Department and Human Resources/ Risk Management Department effective July 1, 2010 . . . . . 21

- Open for Public Comments
- Make Motion

### IV. PUBLIC HEARINGS

1. Resolution No. 2010-43, Approving the Consumer Price Index (CPI) Increase for the Service Charges for the Collection, Transportation and Disposal of Solid Waste.  
Staff Report . . . . . 33

**Recommendation: That the City Council adopt Resolution No. 2010-43, Approving the Consumer Price Index (CPI) Increase for the Service Charges for the Collection, Transportation and Disposal of Solid Waste, as set forth in the City of Banning’s Franchise Agreement with Waste Management of the Inland Empire.**

2. Zone Text Amendment No. 10-975021 and Ordinance No. 1424 (An Ordinance of the City Council of the City of Banning Amending Chapter 17.36 of the Banning Zoning Code Relating to Political and Election Signs and Related Sign Restrictions).  
Staff Report . . . . . 44

**Recommendation: That the City Council adopt Ordinance No. 1424 and introduce its first reading amending Chapter 17.36 of the Banning Zoning Code (BZC) relating to political and election signs and related sign restrictions.**

**Mayor asks the City Clerk to read the title of Ordinance No. 1424:**

*“An Ordinance of the City Council of the City of Banning, Amending Section 17.36 Relating to Political and Election Signs and Related Sign Restrictions.*

**Motion: I move to waive further reading of Ordinance No. 1424**

(Requires a majority vote of Council)

**Motion: I move that Ordinance No. 1424 pass its first reading.**

**V. REPORTS OF OFFICERS**

1. Authorize Increase of the Transient Occupancy Tax Rate from 10% to 12%.

Staff Report ..... 79

Recommendation: That the City Council adopt Ordinance No. 1425 implementing a Transient Occupancy Tax (TOT) rate increase from ten percent (10%) to twelve percent (12%) to be effective September 1, 2010.

**Mayor asks the City Clerk to read the title of Ordinance No. 1425:**

*"An Ordinance of the City Council of the City of Banning, California, Amending Section 3.16.030 of Chapter 3.16 of the Banning Municipal Code."*

**Motion: I move to waive further reading of Ordinance No. 1425**

(Requires a majority vote of Council)

**Motion: I move that Ordinance No. 1425 pass its first reading.**

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

**VI. REPORTS OF OFFICERS**

1. Utility Authority Resolution No. 2010-05 UA, Receive and File the 2010 Water and Wastewater Rate Study; Approve Proposition 218 Notifications; and Amend the Existing Agreement with Raftelis Financial Consultants, Inc.

Staff Report ..... 84

Recommendations:

- I. Receive and file the City of Banning Water and Wastewater Rate Study Report dated June 9, 2010 prepared by Raftelis Financial Consultants, Inc.
- II. Authorize the distribution of public notifications regarding water and wastewater rate increases as required by Proposition 218.
- III. Amend the Agreement with Raftelis Financial Consultants, Inc. in the amount of \$25,000 to include additional services and compensation.
- IV. Authorize the Director of Finance to appropriate \$25,000.00 from the Water Fund Balance to Account No. 66-6300-471.33-11 (Professional Services)

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

**VII. ANNOUNCEMENTS/REPORTS** *(Upcoming Events/Other Items if any)*

- City Council
- City Committee Reports
- Report by City Attorney
- Report by City Manager

**VIII. 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 (6/10)
3. Massage Ordinance (ETA 6/8/10)
4. Consider Sister City Relationship with Township in Haiti
5. Schedule Meeting with Banning Library Board
6. Update on Economic Development Efforts

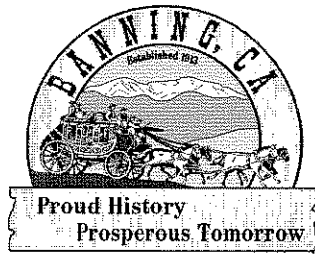
**IX. ADJOURNMENT**

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



## **PROCLAMATION**

*WHEREAS, Port-Margot is a populated town located in the north of the Island of Haiti and is home to approximately 40,000 people; and*

*WHEREAS, Port-Margot is a rural coastal community located approximately 100 miles from Port-au-Prince; and*

*WHEREAS, the town's primary occupation was farming and once was the most fertile region in northern Haiti but also has a court, 66 elementary schools, 6 high schools, five health centers and numerous churches; and*

*WHEREAS, the devastation that struck on January 12, 2010 rocked the community but produced no major structural damage however every resident lost a family member or friend in the Port-au-Prince region; and*

*WHEREAS, the reconstruction of the country must be total so that dependence on the capital is reduced and the recession and high unemployment that Port-Margot has experienced can be turned around; and*

*WHEREAS, for these reasons the citizens of Banning find in the citizens of Port-Margot kindred spirits and wish to get to know one another and dream together how each of our communities might be improved.*

*NOW THEREFORE, I, Robert E. Botts, Mayor of the City of Banning, California, U.S.A., do hereby proclaim the "Town of Port-Margot and the City of Banning to be Common Townships." And wish them much strength, fortitude and perseverance and lend them our moral support as they begin the arduous task of rebuilding their community*

*IN WITNESS WHEREOF, I have set my hand and caused the seal of the City of Banning, California to be affixed this 22<sup>nd</sup> day of June, 2010.*

**ATTEST:**

\_\_\_\_\_  
Marie A. Calderon, City Clerk

\_\_\_\_\_  
Robert E. Botts, Mayor

**Common Township with Port-Margot, Haiti**

MINUTES  
CITY COUNCIL  
BANNING, CALIFORNIA

06/08/10  
JOINT MEETING

A joint meeting of the Banning City Council and the Community Redevelopment Agency was called to order by Mayor Botts on June 8, 2010 at 4:00 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

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

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Andrew Takata, City Manager  
David J. Aleshire, City Attorney  
Colin Tanner, City Attorney  
Kirby Warner, Interim Finance Director  
Hoyl Belt, Human Resources Director  
John Jansons, Redevelopment Manager  
Marie A. Calderon, City Clerk

CLOSED SESSION

City Manager stated that there are three closed session items:

- 1) Conference with Labor Negotiators pursuant to Government Code Section 54957.6. City is represented by City Manager, City Attorney and Human Resources Director. Negotiations are with International Brotherhood of Electrical Workers (IBEW) – Utility Unit, International Brotherhood of Electrical Workers (IBEW) – General Unit, Banning Police Officers Association (BPOA), and City of Banning Association of Managers (CBAM).
- 2) Threat of litigation pursuant to Government Code Section 54956.9(b) (1) and there are two items.
- 3) Property Negotiations pursuant to the provisions of Government Code Section 54956.8 to confer with its real property negotiator, Andrew Takata, Executive Director, in regards to the properties located at 65 W. Ramsey Street, APN: 540-168-018.

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

Meeting went into closed session at 4:03 p.m. and returned to regular session at 5:12 p.m. with the City Attorney stating that the Council and Agency Members met in closed session and the items listed were labor negotiations with the various bargaining units and staff received direction for further negotiations and no other action was taken. There were also two closed session items to consider potential litigation matters and staff gave a status report on each of those items and no action was taken. The matter in regards to the Redevelopment Agency involved a matter of property negotiations at 65 W. Ramsey Street and a status report was given on real estate negotiations and no reportable action was taken.

#### ADJOURNMENT

By common consent the meeting adjourned at 5:13 p.m.

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Marie A. Calderon, City Clerk

MINUTES  
CITY COUNCIL  
BANNING, CALIFORNIA

06/08/10  
REGULAR MEETING

A regular meeting of the Banning City Council and a Joint Meeting of the Banning City Council and the Banning Utility Authority and a Joint Meeting of the Banning City Council and the Banning Financing Authority was called to order by Mayor Botts on June 8, 2010 at 5:15 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

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

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Andrew Takata, City Manager  
David J. Aleshire, City Attorney  
Kirby Warner, Interim Finance Director  
Duane Burk, Public Works Director  
Zai Abu-Bakar, Community Development Director  
Leonard Purvis, Police Chief  
Fred Mason, Electric Utility Director  
Heidi Merza, Community Services Director  
Hoyl Belt, Human Resources Director  
Phil Holder, Police Lieutenant  
Dr. John McQuown, City Treasurer  
Marie A. Calderon, City Clerk

PRESENTATIONS:

1. Outstanding Community Service Award Presentation to the Church of Latter Day Saints for Participation in the Annual Banning Community Cleanup Event – presented by Julie Goodson, Western Riverside Council of Governments (WRCOG)

Julie Goodson with Western Riverside Council of Governments said that they work closely with the City of Banning's Public Works Department where they put on a Community Clean Up Event and they actually had the Church of Jesus Christ of Latter Days Saints come out and help do some work at the airport and also at a park in Banning. On behalf of the City of Banning and WRCOG she presented this Award of Special Recognition to Bishop Ron Johnson of the Church of Jesus Christ of Latter Days Saints.



Mayor Botts said that he cannot tell you how much the Council appreciates what the Church does and it has become almost an annual major event that the Church contributes to the City and the City appreciates that so very much and also appreciates WRCOG for helping in coordinating this event.

Meeting recessed at 5:19 p.m. and reconvened at 5:45 p.m.

#### PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS/APPOINTMENTS

##### PUBLIC COMMENTS – *On Items Not on the Agenda*

Charlene Sakurai, 4985 Bermuda Dunes addressed the Council regarding Cool Summer Nights coming up very soon on Friday, June 18<sup>th</sup> from 5:30 to 9 p.m. It will go every Friday until August 27<sup>th</sup>. It will be a very nice evening every week with a Farmer's Market, entertainment and on the kick-off night there will be a Car Show. All the shops and restaurants will be open and there will be a lot of activity downtown. If you would like to have a booth at Cool Summer Nights the easiest way to go about it is to go online to [banningculturalalliance.org](http://banningculturalalliance.org) and the applications are there. If you have questions about the application, you can call the Alliance at 922-4911. She said that the flyers are both in English and Spanish and will be available at most public places including the library in both Banning and Beaumont, the Chamber and city hall.

Inge Schuler resident of Banning said she has three items that she wanted to address. She said that she didn't want Ellen Carr to be the only one who comes up here on a regular basis to talk about the animal shelter. She was at the veterinarian's office on Friday and there was a lady coming in that had to go to work and somebody had dropped a dog at her gate and she picked up the dog and couldn't get anyone at the animal shelter so she left it at the veterinarian's office and they tried to find a home for it or find a place for that dog so it could be reunited with its owner. A comment she heard at the veterinarian's office was that every morning when they come to work there is at least one animal tied to the door or to the post so they have to take care of it somehow. We need to have a system to where we can get rid of these floating animals where we can bring them to a shelter where they can be taken care of. This is an untenable situation. The veterinarians can certainly not accommodate all of those dogs and he is sure that the places that have boarding kennels cannot do that either. We need to do something about it. The second item she would like to address is the ordinance dealing with the tattoo parlors, fortune tellers, etc. She has a real problem with the tattoo parlors. She knows some very respectable people who have some absolutely hideous tattoos. Now if you don't like that, that is a taste item. If you start criminalizing bad taste, you better start someplace else than with the tattoo parlors. There is a lot of that going around so maybe you ought to reconsider it. In a few years all of those people are going to pay lots of money to have those things removed so there are jobs galore. So if you want business, they are not doing any harm. You can legislate that, regulate it and do something to deal with the issue. Regarding fortune tellers you may have forgotten that Nancy Reagan had a psychic and many of the foreign policy items were determined by a psychic. Here you want to get rid of fortune tellers; they don't do any harm. The crystal ball industry will be delighted to furnish them with crystal balls, palm reading stuff, tarot cards or whatever; more businesses on the line.

Mayor Botts said that we will have a report on the animal shelter and staff is working very hard on that subject. The Council has not taken any action on any of the items mentioned. There is just a moratorium giving staff time to look at those.

Don Smith said he knows why the animals are showing up at the veterinarian's office. You all got my email about his wonderful experience with Riverside County Animal Control and he has kind of made up with them and had chats about how they could provide better services as a response to his email. He said that he was told specifically by the person answering the phone in Thousand Palms that since they couldn't come and get the animals that he should just drop it off at the Vet's office and make the Vet responsible. Since they are in private business he didn't really find that reasonable and he actually paid a shelter to take them. But that is probably why they are showing up at the Vet's office. In regards to Cooler Summer Nights they are planning events for all age groups. There will be entertainment and shopping for adults, food for everyone, there will be a booth with an art craft for kids to do each week, there will be a science, technology, engineering and math booth, and the Youth Arts Council will have their normal craft or game out there also. There will be things out there for all age groups starting on June 18<sup>th</sup>.

Bill Dickson, 5700 W. Wilson reminded everyone that the Playhouse Bowl will be coming up and they are adding an extra show this season. Jerome Robinson will be playing the last Thursday in July. The first Thursday in August will be an Elvis impersonator, the next one will be a Michael Jackson impersonator, the next one will be Mike Costley and the last one will be a group of western stars. Start making plans to attend. It is one of the finest free entertainments that the City puts on so please mark you calendars.

John McQuown, 4176 Hillside Drive addressed the Council stating that he has heard some reports here in regards to the animal shelter. He said that Thursday he and Councilmembers Robinson and Machisic and City Manager went over to the humane society in San Jacinto and to say the least they were very, very impressed. The first thing that you always notice when you go to a veterinary clinic or humane society is how clean it is and the smell and things of that nature and they were extremely impressed. We are on the road and he thinks that we have some things to do but things are looking real good right now. They were in touch with Jeff Shepard, Executive Director over there and they had a meeting and he is to get them a list of what things need to be done at our animal shelter. Things should be pretty good there and should be able to get things accomplished. He has volunteers already lined up and hopefully within the next one to three months they should get that up and running. He is pleased to bring that information to the community to really make our shelter work. He said that Jeff Shepard wanted him to invite everyone to their fundraiser luau this Saturday from 5:30 to 11 p.m. at the humane society. This is very, very encouraging news and he is extremely optimistic and this is the most optimistic that he has been in a long, long, long time and he realizes what people are going through. He said that when he was practicing they had dogs and cats left all the time at their place so this is not something new but he is sure because we don't have a shelter here that it has become more of a problem.

Victor Dominguez, community member of the Pass Area addressed the Council stating that on a positive note if you haven't seen a particular website he would invite them to see it the

banninginformer.com. It has some pretty interesting articles and some public records on there that you can read for yourself. If you don't want to read the articles, you can definitely download the public information records that are on there that have taken a lot of time and talent to get on there so you can see the documents for yourself. He is going to be the Marketing Coordinator for the banninginformer.com and he looks forward to participating in Cool Summer Nights and the functions that the community has to offer. As a member of this community he wanted to put out there that the banninginformer.com has some very interesting ideas and articles and we can definitely keep you informed in a positive way on how the City is operating and how our Council people are operating and you can see for yourself what a wonderful job Mayor Botts is doing and what a fantastic job Don is doing. With that being said he looks forward to all the events offered by the Alliance and the Banning Chamber of Commerce and as we participate in these events and set up booths and you will see his smiling face out there talking to the residents and people of the community and doing what they do best which is to be civically inclined to educate our citizens on how our government is working and he can't think of anything more positive than that.

CORRESPONDENCE: There were none.

#### PRESENTATIONS

2. Presentation of Law Enforcement Appreciation Committee (LEAC) Awards to  
Officer Jeremy Bobo, Sgt. Alejandro Diaz, and Detective Robert Merritt  
- Police Chief Leonard Purvis

Mayor Botts said that all of the City Council had an opportunity to attend the Law Enforcement Appreciation Committee (LEAC) Dinner. There were about 400 to 500 in attendance and this is put on by LEAC where they honor and recognize outstanding law enforcement throughout the county and cities, California Highway Patrol and Boarder Patrol and we had three officers that were honored and the Council was honored to be there. Mayor Botts asked Chief Purvis to come forward and comment on what the three officers from Banning did to receive this award.

Chief Purvis asked Officer Bobo and Detective Merritt to come forward at this time so that he could let everyone know what they did and why they received this very prestigious award. Unfortunately Sgt. Diaz could not be here tonight because there is a family member who is undergoing surgery and he talked to him earlier today and he expressed his condolences because he couldn't be here this evening. He said that one thing that stood out to him and he was very proud of was that our entire City Council was in attendance. There was no other City Council fully represented at that event and he was very proud of that and some of his colleagues pointed that out to him. At this time Chief Purvis gave a synopsis of the events for which the Award of Investigative Excellence was awarded to Sgt. Alex Diaz, Detective Jeremy Bobo and Detective Robert Merritt. They took basically a cold case from 2006 and pieced together what occurred and put together a strong case and actually got a criminal filing.

Chief Purvis said that Lt. Holder is here and he just graduated from a very prestigious school and he had him come up at this time. On May 14, 2010, Lt. Phil Holder graduated from the California Post Command College Program with 16 of his fellow California Law Enforcement

Executive peers. The Program is recognized as one of the premier executive level law enforcement courses taught in the nation. Command College is an 18-month program designed to prepare today's law enforcement leaders for the challenges of the future. Course materials and assignments focused on the most effective methods, skills, and strategies needed to confront tomorrow's law enforcement issues. This was a very in depth 18-month program and a very difficult course. Chief Purvis said that he was proud of Lt. Holder's accomplishment and he did a great job.

Councilmember Robinson said that at the dinner they attended the other night Phil Holder is the head of that for this next year.

Chief Purvis said that Lt. Holder basically represents all of the law enforcement agencies on the western side of Riverside County. All the way from Whitewater west so he has risen in the chair ranks so this year he is actually the Chair of the Law Enforcement Appreciation Committee Ceremony for next year. That is a tough role and we are out there. The Banning Police Department has been recognized and we are working with other agencies cooperatively and he is proud that Lt. Holder is representing us and we are getting the Banning Police Department name out there.

At this time Mayor Botts recessed the Regular City Council Meeting and called to order a Joint Meeting of the Banning City Council and the Banning Utility Authority.

#### CONSENT ITEMS

Councilmember Franklin pulled Consent items 2 and 5 for discussion.

1. Approval of Minutes – Regular Meeting – 05/25/10.

Recommendation: That the minutes of the regular meeting of May 25, 2010 be approved.

3. Resolution No. 2010-39, Calling a General Municipal Election on November 2, 2010.

Recommendation: That the City Council adopt Resolution No. 2010-39.

4. Resolution No. 2010-40, Adopting Regulations for Candidates for Elective Office, Pertaining to the Electorate and the Costs Thereof for the general Municipal Election to be Held in the City on Tuesday, November 2, 2010.

Recommendation: That the City Council adopt Resolution No. 2010-40.

**Motion Hanna/Machisic to approve Consent items 1, 3 and 4.** Mayor Botts opened the item for public comments. There were none. **Motion carried, all in favor.**

2. Resolution No. 2010-36, Approving a Short-Term Loan to the San Geronio Child Care consortium with would be funded on July 1, 2010 and expire September 30, 2010, in the amount of \$25,000.

Councilmember Franklin said that she is going to abstain because of her close ties to the San Gorgonio Child Care Center.

**Motion Hanna/Robinson to adopt Resolution No. 2010-36, Approving a short-term loan to the San Gorgonio Child Care Consortium which would be funded on July 1, 2010 and expire September 30, 2010, in the amount of \$25,000.**

Mayor Botts opened the item for public comments. There were none. **Motion carried with Councilmember Franklin abstaining.**

5. Resolution No. 2010-04UA, Approving the Award of a Professional Services Agreement to Albert A. Webb Associates of Riverside, CA in an Amount "Not to Exceed" \$152,900.00 for the Modification of the Recycled Waterline Design.

Councilmember Franklin said that she had several questions: 1) what is the starting point for the pipeline and she knows that we are talking about the design but when she looked at the map it looks like it starts from Sunset and goes over to 22<sup>nd</sup> Street and wanted to know if there was anything going further east than 22<sup>nd</sup> Street. If there is nothing already done in regards to where it is going to start are we looking at possibly moving it over to westward so that it picks up not only doing recycled water for the Sun Lakes Golf Course but also for Mt. San Jacinto College and the high school; 2) why would we start kind of in the mid-point instead of starting at the treatment plant because a good plan would be to start at the origination and then move out; 3) the time line to complete the pipeline; 4) how will the rest of the pipeline and plant be paid for because in the report given before there were several sources for funding which included redevelopment dollars but she noticed it was not in this report so she wanted to know how are we planning to take up that additional \$5 million and then how are we also going to pay for the rest of the pipeline; and 5) where we were regarding the application for stimulus to hopefully kind of pay for some of this.

Mr. Burk said that these were all very good questions however, the Council has approved this already with Albert A. Webb and the only thing that they didn't do was the technically with the paper work and it should have been the Banning Utility Authority. They are not doing anything new but her questions are all in line with this and he would be glad to answer every one of them. Tonight he is asking the Utility Authority to authorize what the City Council already authorized and we are moving forward as we speak.

Mr. Burk said that the original design (it is actually part of the staff report) for the water recycle line started in 1991 and the design for it was funded through the City through development fees from the Sun Lakes development and it shows this alignment which Mr. Burk displayed on the screen. He said the alignment is Lincoln Street and goes over to Well R-1 which is the very east boundary. This well was drilled in 1990 with 1989 Bond money at the time. Mr. Burk went over the diagram on the screen pointing out the well, the current wastewater treatment plant, the proposed pipeline and where the demand is for that recycled water. He said in twenty years there has been technology upgrades as it relates to the question about starting at the source point which is the current wastewater treatment plant and new technology would be to build a scalping or satellite plant to treat the sewer water and that would be much closer to Sun

Lakes and he explained that process also. He said that they could start at the current plant however that would incorporate the entire six miles of pipeline to the demand and would include booster pumps and a lot more infrastructure which can all be part of the original backbone in the design as they move forward with the project. Mr. Burk also went over the phasing of this project and how long it would take to complete the project. He said in regards to funding the City was engaging State Revolving Fund money and when he met with Parsons, the engineer of record, we do have an application for State Revolving Funds for \$22 million dollars and that will come back to the Council as they move forward with the project. Mr. Burk said that originally when he brought this forward to the Council he didn't talk about the scalping or satellite plant and he went over the costs involved to build this scalping plant. He would like to look at this new technology and study it a little more and bring this idea forward to the Council which would take a load off our central plant and he gave further explanation on this scalping plant and what it would do.

Councilmember Robinson said recently we received a letter that we have pushed the Sunset Grade Separation up and it now has a different priority than it did two months ago so part of this is tied in with Sunset Grade Separation and then a detour route for part of the Sunset Grade Separation and is that correct.

Mr. Burk said that was correct and the idea behind the Sunset Grade Separation and this pipeline is that they would like to get it put in and then pave the detour route while the other road is closed. This will not be a permanent road however it would be passable and a great alternative to head east and west.

Mayor Pro Tem Hanna said as you indicated we have already approved this under the City Council but now needed approval from the Utility Authority but everything else you have said has been something new and it is a great deal of information that she is interested in learning more about but what is different now in terms of the actual action we are taking. Are we paying for just the design of this phase in this westerly part and is that the same as we approved before or is it a full redesign.

Mr. Burk said all he is asking tonight is to assemble the Banning Utility Authority as a formality for the paperwork. All they are doing is taking the 47 sheets of mylars that were designed in 1991 by CM Engineering that shows this route all the way to the plant and those plans were given to Albert A. Webb asking them to take the technology that is here from Parsons and put in instead of a 16 inch pipeline, a 24 inch pipeline. The location of the line is different.

Mayor Pro Tem Hanna asked if he had any reason to believe that the expanded pipe will actually be appropriate for this redesign system. Mr. Burk said that he thinks that the size of the pipeline as it relates to the recycled master plan study that was done by Carollo is exactly what the engineers calculated a hydraulic model to move water from the east to the west. In 1991 the only demand you had was one golf course but the good news is that technology has changed a lot and intercepting it at the location he pointed out would be a lot more fluid. The good news is that if you could get recycled water from Yucaipa Valley Water District or Cherry

Valley Water District to the pipeline it would be able to move the water all the way to the school and other areas without pumping because of gravity.

Councilmember Franklin said the reason she objected to it the first time around was because you had put in there that part of the funding had to do with redevelopment bonds and that is not in this one and what is your plan now to actually fund it because you have only shown about \$5 million of the \$10 million and now you are saying this is up to \$15 million.

Mr. Burk said that when he originally came forward he was trying to show you that the design and build of this would cost you around \$10 million. You could build that pipeline for \$10 million dollars in today's market; just the pipeline. You wouldn't have the recycled side of it and you could probably equip the well and put the water in it and build a booster station but you have a lot of energy involved there. In regards to the Community Redevelopment Agency Bond money there was a change of thought in putting some pipelines in the downtown and those have been designed and are out to bid right now and that project fits better for the redevelopment area. This funding has already been allocated through State Revolving Fund money and in its rates so you have the money and we just need to do the paperwork for the State Revolving Fund loan. Through the Banning Utility Authority we allocated \$5 million dollars for the wastewater plant expansion and some of that money was used for the design of this plant and there was a balance of about \$2.5 million left of that bond allocation money and you could use that money for this recycled line and there is also \$3 million dollars that came from the Water Fund and through a fee collected from this development here so you do have a balance of money already in place which is part of the staff report to build just the pipeline and or this plant.

Councilmember Franklin said she just wanted to be clear that no CRA bond money would be used on this. Mr. Burk said no.

Councilmember Franklin said also regarding the stimulus dollars because she knows that one piece of that is that the projects are supposed to be shovel ready within two years so this is one of those projects that if you are talking about starting within a year, we should be apply for.

Mr. Burk said in regards to the central plant this design is 100% complete and the only thing left to do with the design of this is that we have to have a third party independent review or what they call value engineering of this plant. He has talked to Parsons about maybe moving forward with this and applying for this stimulus money and will reach out as far as they can.

Councilmember Machisic asked how much elevation difference is there between the end of that pipeline on the west side and the original plant. What is the elevation drop?

Mr. Burk said that there is a 500 foot difference in elevation between Well R-1 and Sun Lakes and there would be additional costs for equipment and pumping of this water.

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

*(At this time the wrong motions were read and voted upon and a revote was taken. Please refer to the vote taken under the Reports of Officers section of the minutes in regards to Resolution No. 2010-41 and Resolution No. 2010-01FA and Consent Item No. 5.)*

Mayor Botts adjourned the Joint Meeting of the Banning City Council and the Banning Utility Authority and called to order a Joint Meeting of the Banning City Council and the Banning Financing Authority.

#### REPORTS OF OFFICERS

1. Resolution No. 2010-41 and Resolution No. 2010-01FA, Authorizing Amendments to the Indenture and the Installment Sale Agreement, Each Dated as of June 1, 2007, Executed in Connection With the Issuance of the City of Banning Financing Authority Revenue Bonds (Electric System Project) Series 2007 and Authorizing and Directing Certain Actions With Respect Thereto.  
(Staff Report - Fred Mason, Electric Utility Director)

Mr. Mason gave a brief presentation and stated that basically what this is going to do is going to allow the City to take \$10 million dollars of the \$40 million that were initially issued back in 2007 and go into the market and purchase back \$10 million dollars in bonds and that will relieve the Utility and the City of approximately \$500,000 dollars a year in debt service payments. So that will have a positive impact on the Utility's budget and its operations and will be very beneficial. There is no negative impact to the current customers. What this may do is defer future electric rate increases. That reduction in \$500,000 dollars a year may make it not necessary to implement a rate increase as early as we might have to given future increased expenses. Also the Utility conducted a ten year system study and with the current growth projections the amended capital project list will cover all anticipated growth over the next ten years. So given the reduction in our load, given the slow down in development and the improvements that have been done and will be done with the remaining funds we will be covered for at least ten years and potentially more. There are no penalties for buying back the bonds however there is what is called premiums where you may have to pay a premium to purchase the bonds. However, our Bond Counsel has said that given the current bond market there is a chance that those will be minimal and maybe be actually nonexistent.

There was some discussion in regards to buying back bonds and the costs involved.

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

Mayor Botts said in a timeline for the \$10 million do we go out in the next month and try to buy \$10 million or 5 months or 6 months a year and who is going to make the decision and do you sell it all at once or you sell in portions.

Finance Director said the original underwriters of the bonds who know where these bonds were placed and there was a lot of institutional buyers and so forth they know of some of these and have contacted some of them and there seems to be some interest. Whether we will get the entire \$10 million we don't know. On their initial quick ask they thought that they could find about \$7 million but we may never get the full \$10 million. It would just depend if these



people want to sell the bonds back to us at this point and if there is a premium, at what premium and those kinds of things and if it is cost effective. So we really don't have a timeline but once we have the authorization, as long as the market is right and as long as we eventually sell them without paying an arm and leg frankly, we are saving interest costs which you would otherwise be paying and the rate payers would be paying so it actually makes sense whenever we can get these sold back out to make that happen so we save the interest expense. There was some further explanation of buying back these bonds and staff will be watching this and reporting back to the Council.

*(Note: There was a vote taken previously on these motions under a different item and the City Attorney asked that a revote be taken at this time by the Council.)*

**Motion Hanna/Robinson that the City Council adopt Resolution 2010-41 Authorizing Amendments to the Indenture and the Installment Sale Agreement, each dated as of June 1, 2007, executed in connection with the issuance of the City of Banning Financing Authority Revenue Bonds (Electric System Project) Series 2007 and authorizing and directing certain actions with respect thereto, attached herewith as Exhibit "A." Motion carried, all in favor.**

**Motion Hanna/Robinson that the Authority Board adopt Resolution 2010-01FA Authorizing Amendments to the Indenture and the Installment Sale Agreement, Each Dated as of June 1, 2007, Executed in Connection With the Issuance of the City of Banning Financing Authority Revenue Bonds (Electric System Project) Series 2007 and Authorizing and Directing Certain Actions With Respect Thereto, attached herewith as Exhibit "A." Motion carried, all in favor.**

Consent Item No. 5 – motion:

**Motion Hanna/Robinson that the City Council Award the Professional Services Agreement to Albert A. Webb Associates of Riverside, California in an amount "not to exceed" \$152,900.00 for the Modification of the Recycled Waterline Design; and Authorize the Director of Finance to make necessary adjustments and appropriations in the amount of \$168,190.00 including a 10% contingency from the Banning Utility Authority Wastewater Project Fund to Account No. 683-8000-454.90-78 (Capital Expenditures/Planning/Design). Motion carried by roll call vote, all in favor.**

Mayor Botts adjourned the Joint Meeting of the Banning City Council and the Banning Financing Authority.

ANNOUNCEMENTS/REPORTS (Upcoming Events/Other Items if any)

City Council Reports

Councilmember Franklin –

- They had their Transportation Now (T-Now) meeting last week and at that meeting it was announced that we should have our new buses for our regular transit here by the end of July.

Councilmember Machisic –

- The Regional Conservation Authority (RCA) has adopted an economic stabilization policy. As you know they are not taking in as much money as they had in the past and they are going to maintain a cash level of \$9 million dollars and the reason they picked that amount is that is that is the cost of operating for approximately 18 months. As a result one of the things in purchasing property is that if somebody is a willing seller, they will buy the property but not make payments until sometime in the future.
- WRCOG (Western Riverside Council of Governments) Dave Willmon indicated that the city bankruptcy proposed law is moving ahead and the League of California Cities is obviously opposing it and he would like the City to write a letter in opposition. Also, there is a TOT (transient occupancy tax) bill moving through the legislature that would handicap the amount of money that we could collect from TOT. So we would like to have a letter written in the Council's name opposing this particular issue. Also based on research and economic conditions they had a study and projected through SCAG (Southern California Association of Governments) how much our population would grow, how much employment, how many homes, and so on and they did a 2012 Growth Forecast which is an update of the 2008 Forecast and as you know the horizon year is still 2035 and to bring some numbers up to date for instance, Banning's number in 2035 has been cut about 2000 so they are projecting about 61,900 persons living here. The Housing Element is down approximately 14,000 at 16,500 in 2035. He has the complete report and if you would like a copy, you can get it from the City Clerk.

**Mayor Botts asked if there was consensus of the Council for the next meeting to develop an opposition letter for the TOT and the bankruptcy. There was Council consensus.**

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

Report by City Manager

- Due to the credit of Dr. Ray Wolf of Caltrans in regards to the Grade Separation he has made it happen that we have been put on the fast track for this project. There will be a kick-off meeting later this month.
- The Banning Business Park also known as the O'Donnell Park will be coming to you at the next council meeting – July 13<sup>th</sup>.
- The Community Center heating and cooling upgrades will be completed by the end of next week. We want that to be a cool center during these hot summer months.
- Jamie Jones from David Turch and Associates stated in a letter that currently there is a moratorium on earmarks for the Republican House members but not for the Democrat House members and the House Democrats will continue through their respective projects. The projects that we have requested funding for and supported by Jerry Lewis, our Congressman, are the Repplier Park Cultural Improvements for \$1 million, the Sunset Avenue Grade Separation Project at \$3 million, Recycled Waterline Construction Phase at \$1 million and our Multi-Agency Interoperable Capability (basically for police communication) is \$700,000. In addition to that we also submitted for the Safetee-Lu which is the surface transportation authorization bill for \$10 million. He will be talking to Mr. Jones on Thursday just to discuss some of the things that are going on and how he gets us information and making sure that we are kept in the loop as far as what is going on in Washington.

- He said this is just food for thought and put it at the back of minds and he is not talking about creating a committee yet but in three more years it will be the 100 Year Anniversary for the City of Banning. And for those kinds of things you need to start planning a couple of years in advance and staff is going to start thinking about those and probably ask for a subcommittee to help work out those types of celebrations throughout the year.
- In regards to the animal control and animal shelter issue he wanted to thank Dr. John McQuown for this time. They did go to the Ramona Humane Society with Councilmembers Robinson and Machisic and the reason for that was to actually see the shelter. We had contacted them about the possibility of running our shelter as an Animal Shelter and also to see what it would take to bring it up to the quality that they feel that they could actually do a good job there as well as what the price would be. In the meantime they have also mentioned that they would take the animals in for \$39.04 for each animal at their humane society which is a little bit different price than \$146.00 per animal that the San Jacinto site was going to charge to take in the animals. In the meantime, they have been also working with Beaumont in which they are looking at roughly \$30.00 per animal as opposed to \$156,000 per year. Currently we have about 1,500 animals and if you do the math for that even if we had 3,000 animals it would be roughly \$90,000 for animal control as opposed to \$156,000 and that would be 7-day a week service as opposed to 5-day a week service. In addition to that we would also have a 2 to 3 days shelter in the Beaumont area prior to taking it to the humane society while we are trying to get our shelter in shape. He will keep the Council informed as to what is going on. He thanked all those involved in helping on this priority project.
- On Monday, June 21<sup>st</sup> staff is requesting a special budget session to start at 6:00 p.m. Staff felt that having a special meeting depending on the number of comments we may have it was felt that it would be better to have two separate meetings. He thanked Councilmember Hanna for the reminder.

#### ITEMS FOR FUTURE AGENDAS

New Items – There were none.

Pending Items –

1. Schedule Meetings with Our State and County Elected Officials
2. Set New Date for Joint Meeting with Banning School Board (6/10)
3. Massage Ordinance (ETA 6/8/10)
4. Consider Sister City Relationship with Township in Haiti
5. Schedule Meeting with Banning Library Board
6. Update on Economic Development Efforts

#### ADJOURNMENT

By common consent the meeting adjourned at 6:59 p.m.

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Marie A. Calderon, City Clerk

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

## **CITY COUNCIL AGENDA**

**DATE:** June 22, 2010

**TO:** City Council

**FROM:** Duane Burk, Director of Public Works

**SUBJECT:** Resolution No. 2010-42, "Approving the Amendment to the Reimbursement Agreement for Transportation Uniform Mitigation Fee (TUMF) Program Funds with the Western Riverside Council of Governments (WRCOG) for Project No. 2006-05, 'Sunset Avenue Grade Separation'"

### **RECOMMENDATION:**

- I. Adopt Resolution No. 2010-42, "Approving the Amendment to the Reimbursement Agreement for Transportation Uniform Mitigation Fee (TUMF) Program Funds with the Western Riverside Council of Governments (WRCOG) for Project No. 2006-05, 'Sunset Avenue Grade Separation.'"
- II. Authorize the Mayor to execute the Amendment to the Reimbursement Agreement with WRCOG designating Riverside County as the lead agency.

**JUSTIFICATION:** In order to continue to utilize TUMF program funds for the Sunset Avenue Grade Separation project it is necessary to amend the original agreement with WRCOG and designate Riverside County as the lead agency for the project.

**BACKGROUND:** The City has initiated the design of the Sunset Avenue grade separation to pass underneath the existing Union Pacific Railroad (UPRR) tracks. In doing so, it will provide the City with a third access route between the north and south sides of the City which will enhance access for emergency vehicles and residents. Completion of the project will also improve reliability, throughput, and trade access around an area of rapid commercial and residential development.

On February 12, 2008 Resolution No. 2008-17, "Approving the Reimbursement Agreement for Transportation Uniform Mitigation Fee (TUMF) Program Funds with Western Riverside Council of Governments (WRCOG) for Project No 2006-05, 'Sunset Avenue Grade Separation'" was adopted by City Council.

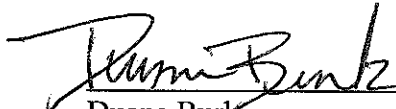
The TUMF program is funded by new development fees paid in Western Riverside County, with the purpose of funding infrastructure improvements for regional projects as well as local projects within the City. WRCOG identifies and designates certain infrastructure improvement projects throughout Western Riverside County as projects of regional importance, and approves projects within the City that utilize TUMF funds. WRCOG has programmed \$4.2 million in TUMF funding for the Sunset Avenue Grade Separation project.

On March 23, 2010 City Council adopted Resolution No. 2010-18, "Approving the Cooperative Agreement with Riverside County for Sunset Avenue Grade Separation Improvements". This Agreement formally designated the County as the lead agency permitting the County to provide administrative, technical, managerial and support services necessary to develop and implement the approval of said project through the State of California, Department of Transportation (Caltrans).

As a result of the Agreement with the County, it is necessary to amend the Reimbursement Agreement with WRCOG designating Riverside County as the lead Agency.

**FISCAL DATA:** The original TUMF allocation for this project is \$4.2. Approximately \$600,731.72 has been spent for preliminary engineering. The new Agreement with the County in the amount of \$3,200,000.00 will be covered by the remaining TUMF Fund balance.

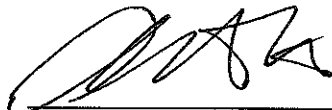
**RECOMMENDED BY:**

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

**APPROVED BY:**

  
\_\_\_\_\_  
Kirby Warner  
Interim Finance Director

**APPROVED BY:**

  
\_\_\_\_\_  
Andy Takata  
City Manager

**RESOLUTION NO. 2010-42**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE AMENDMENT TO REIMBURSEMENT AGREEMENT FOR TRANSPORTATION UNIFORM MITIGATION FEE (TUMF) PROGRAM FUNDS WITH THE WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS (WRCOG) FOR PROJECT NO. 2006-05, "SUNSET AVENUE GRADE SEPARATION"**

**WHEREAS**, the City has initiated the design of the Sunset Avenue grade separation to pass underneath the existing Union Pacific Railroad (UPRR) tracks which will provide the City with a third access route between the north and south sides of the City which will enhance access for emergency vehicles and residents; and

**WHEREAS**, completion of the project will also improve reliability, throughput, and trade access around an area of rapid commercial and residential development; and

**WHEREAS**, on February 12, 2008 City Council approved Resolution No. 2008-17, "Approving the Reimbursement Agreement for Transportation Uniform Mitigation Fee (TUMF) Program Funds with Western Riverside Council of Governments (WRCOG) for Project No 2006-05, 'Sunset Avenue Grade Separation'"; and

**WHEREAS**, the TUMF program is funded by new development fees paid in Western Riverside County, with the purpose of funding infrastructure improvements for regional projects as well as local projects within the City; and

**WHEREAS**, WRCOG identifies and designates certain infrastructure improvement projects throughout Western Riverside County as projects of regional importance, and approves projects within the City that utilize TUMF funds; and

**WHEREAS**, WRCOG has programmed \$4.2 million in TUMF funding for the Sunset Avenue Grade Separation project; and

**WHEREAS**, on March 23, 2010 City Council approved Resolution No. 2010-18, "Approving the Cooperative Agreement with Riverside County for Sunset Avenue Grade Separation Improvements" formally designating the County as the lead agency permitting the County to provide administrative, technical, managerial and support services necessary to develop and implement the approval of said project through the State of California, Department of Transportation (Caltrans); and

**WHEREAS**, it is necessary to amend the Reimbursement Agreement with WRCOG designating Riverside County as the lead Agency in order to continue to utilize funding from this agency; and

**WHEREAS**, the original TUMF allocation for this project is \$4.2 million and approximately \$600,731.72 has been spent for preliminary engineering; the new Agreement with the County in the amount of \$3,200,000.00 will be covered by the remaining TUMF Fund balance.

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

**Section I.** The Amendment to the Reimbursement Agreement for Transportation Uniform Mitigation Fee (TUMF) Program Funds with Western Riverside Council of Governments (WRCOG) for Project No. 2006-05, "Sunset Avenue Grade Separation" is approved.

**Section II.** Authorization is hereby granted for the Mayor to execute said Agreement. Said authorization shall be rescinded if the parties do not execute the Agreement within one hundred twenty (120) days of the date of this resolution.

**PASSED, APPROVED, AND ADOPTED** this 22<sup>nd</sup> day of June, 2010.

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Robert E. Botts, Mayor  
City of Banning

**ATTEST**

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Marie A. Calderon, City Clerk  
City of Banning

**APPROVED AS TO FORM  
AND LEGAL CONTENT**

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

**CERTIFICATION:**

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2010-42 was adopted by the City Council of the City of Banning at the Regular Meeting thereof held on the 22nd day of June, 2010, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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



## CITY COUNCIL AGENDA

**DATE:** June 22, 2010

**TO:** Mayor and City Council

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

**SUBJECT:** Classification Plan Amendment

**RECOMMENDATION:** Adopt Resolution No. 2010-44, rescinding Resolution No. 2009-93 to amend the classification and compensation plan for the City of Banning due to the reorganization of the Finance Department and Human Resources/Risk Management Department effective July 1, 2010.

Staff recommends that the City Council approve the change of the classification of Finance Director to Administrative Services Director/Deputy City Manager with a Salary Range of 97. This position will oversee the Finance Department, Information Technology, Purchasing, Utility Billing, Human Resources and Risk Management Departments. Reclassify the Accounting Manager to Deputy Finance Director to Range 82 and the Senior Human Resources Analyst to Deputy Human Resources Director, Range 78 to assist in managing the operations of the Departments. In addition, staff recommends Council approve the attached job descriptions on these reclassifications.

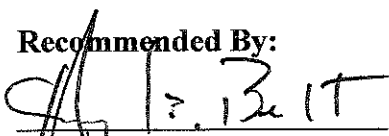
**JUSTIFICATION:** The City approved the City of Banning Classification and Compensation Plan on January 25, 2005. The plan has since been amended with most recently on November 10, 2009. Maintenance of this plan is a dynamic process in which Human Resources works with operating departments to develop classifications which reflect the current needs of the department in their departments in their efforts to deliver quality services to residents. City Personnel Rules require that the City Council approve all changes to the City's Classification Plan. Council approval of this recommendation will meet the City's goal to provide top quality and reliable service to both internal and external Customers.

**BACKGROUND:**

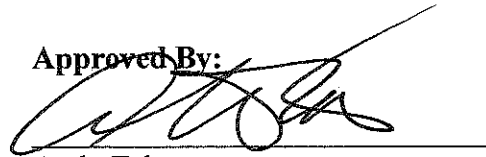
The changes would reflect the termination of the Human Resources Director position and reclassifying the Sr. Human Resources Analyst to Deputy Human Resources Director to assist the Administrative Services Director with the daily operations of the Human Resources/Risk Management Department. The Accounting Manager will be changed to Deputy Finance Director. This position will assist in overseeing the Finance Divisions under the Administrative Services Director Finance Director.

**FISCAL DATA:** There are no fiscal impacts due to these reclassifications and approval of the FY 2010-2012 Budget.

**Recommended By:**

  
Hoyl Belt  
Human Resources Director

**Approved By:**

  
Andy Takata  
City Manager

**RESOLUTION 2010-44**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING  
RESCINDING RESOLUTION NO. 2009-93 TO AMEND THE CLASSIFICATION  
& COMPENSATION PLAN FOR THE CITY OF BANNING**

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

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

**SECTION 1:**

That the City Council adopt the classifications of Administrative Services Director/Deputy City Manager, Deputy Human Resources Director and Deputy Finance Director with the recommended salary ranges set forth on the attached classification plan - Schedule "A" effective July 1, 2010.

PASSED, APPROVED, AND ADOPTED this 22nd day of June, 2010.

\_\_\_\_\_  
Robert E. Botts, Mayor  
City of Banning, California

ATTEST:

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

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. 2007-71 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 22nd day of June, 2010, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

CITY OF BANNING  
 CLASSIFICATION & COMPENSATION PLAN  
 REVISED JUNE 22, 2010  
 RESOLUTION NO. 2010-44  
 (AMENDING RESOLUTION NO. 2009-93)

MATRIX BY CLASS SERIES/JOB CODE

Class Series/Occupational Job Group	Job Code	Classification/Position	Salary Range	Bargaining Unit
<b>1000 – CITY ADMINISTRATION SERIES</b>				
<b>City Administration Group</b>	1010	City Manager	109	Council Contract
	1020	City Clerk/Executive Assistant	55	Elected
<b>Financial Services Group</b>	1105	Administrative Services Director/Deputy City Manager	97	Contract
	1130	Financial Services Specialist	45	IBEW-G
	1115	Deputy Finance Director	82	Mgmt/Conf
	1140	Accountant	52	General
<b>Human Resources Group</b>	1215	Deputy Human Resources Director	78	Mgmt/Conf
	1230	Human Resources Technician	52	Conf/Gen
<b>Utility Billing Group</b>	1340	Senior Utility Billing Rep	46	IBEW-G
	1350	Utility Billing Representative	41	IBEW-G
<b>Information/Cable Systems Group</b>	1410	Information Technology Coordinator	57	IBEW-G
	1416	Police Information Technology Technician	57	IBEW-G
	1415	Information Technology/Media Technician	55	IBEW-G
	1510	Cable Services Specialist	42	IBEW-G
<b>Office Support Group</b>	1610	Executive Secretary	51	IBEW-G
	1620	Office Specialist	42	IBEW-G
	1630	Receptionist	29	IBEW-G

**2000 – POLICE SERIES**

<b>Police Group</b>	<b>2010</b>	<b>Police Chief</b>	<b>96</b>	<b>Contract</b>
	<b>2025</b>	<b>Police Lieutenant</b>	<b>82</b>	<b>Police Mgmt</b>
	<b>2030A</b>	<b>Police Staff/Master Sergeant</b>	<b>75</b>	<b>POA</b>
	<b>2030</b>	<b>Police Sergeant</b>	<b>68</b>	<b>POA</b>
	<b>2050</b>	<b>Police Officer</b>	<b>64</b>	<b>POA</b>
	<b>2060</b>	<b>Police Recruit/Trainee</b>	<b>N/A</b>	<b>At-Will</b>
<b>Police Support Group</b>	<b>2143</b>	<b>Lead Public Safety Dispatcher</b>	<b>54</b>	<b>IBEW-G</b>
	<b>2110</b>	<b>Public Safety Dispatcher</b>	<b>50</b>	<b>IBEW-G</b>
	<b>2140</b>	<b>Lead Police Records Specialist</b>	<b>43</b>	<b>IBEW-G</b>
	<b>2141</b>	<b>Police Records Assistant</b>	<b>31</b>	<b>IBEW-G</b>

**3000-COMMUNITY DEVELOPMENT SERIES**

<b>Community Development Group</b>	<b>3010</b>	<b>Community Development Director</b>	<b>88</b>	<b>Contract</b>
	<b>3026</b>	<b>Development Project Coordinator</b>	<b>56</b>	<b>IBEW-G</b>
	<b>3015</b>	<b>Assistant Planner</b>	<b>59</b>	<b>CBAM</b>
<b>Economic/Redevelopment Group</b>	<b>3116</b>	<b>Redevelopment Manager</b>	<b>81</b>	<b>CBAM</b>
	<b>3103</b>	<b>Economic/Redevelopment Project Coordinator</b>	<b>56</b>	<b>IBEW-G</b>
<b>Development Services Group</b>	<b>3210</b>	<b>Development Services Manager (Building Official)</b>	<b>80</b>	<b>CBAM</b>
	<b>3215</b>	<b>Senior Building Inspector</b>	<b>65</b>	<b>IBEW-G</b>
	<b>3230</b>	<b>Code Compliance Officer</b>	<b>56</b>	<b>IBEW-G</b>
	<b>3240</b>	<b>Building Permit Specialist</b>	<b>53</b>	<b>IBEW-G</b>

**3300-COMMUNITY SERVICES GROUP**

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

**4000-PUBLIC WORKS SERIES**

<b>Public Works Management Group</b>	<b>4010</b>	<b>Public Works Director</b>	<b>96</b>	<b>Contract</b>
<b>Streets/Parks Group</b>	<b>4210</b>	<b>Public Works Superintendent</b>	<b>77</b>	<b>CBAM</b>
	<b>4230</b>	<b>Work Release Crew Leader</b>	<b>45</b>	<b>IBEW-G</b>
	<b>4240</b>	<b>Senior Maintenance Worker</b>	<b>48</b>	<b>IBEW-G</b>
	<b>4250</b>	<b>Maintenance Worker</b>	<b>43</b>	<b>IBEW-G</b>
	<b>4260</b>	<b>Motor Sweeper Operator</b>	<b>48</b>	<b>IBEW-G</b>

Engineering Group	4300	City Engineer	83	CBAM
	4350	Senior Civil Engineer	78	CBAM
	4320	Associate Civil Engineer	72	CBAM
	4325	Assistant Civil Engineer	64	CBAM
	4330	Public Works Inspector	60	IBEW-G
	4340	Engineering Services Assistant	46	IBEW-G
General Maintenance and Support Group	4420	Fleet Maintenance Mechanic	51	IBEW-G
	4430	Building Maintenance Specialist	47	IBEW-G
	4450	Warehouse Services Specialist	50	IBEW-G
Water/Wastewater Group	4115	Water/Wastewater Superintendent	77	CBAM
	4130	Water Crew Supervisor	58	IBEW-U
	4140	Water Services Worker	50	IBEW-U
	4155	Wastewater Collection System Supervisor	58	IBEW-U
	4145	Wastewater Collection System Technician	50	IBEW-U
	4132	Water Valve Flushing Crew Lead	54	IBEW-U
	4133	Water Construction Crew Lead	54	IBEW-U
	4131	Water Meter Crew Lead	54	IBEW-U

## 4100 ELECTRIC UTILITIES SERIES

Electric Services & Operations Group	5001	Electric Utility Director	96	Contract
	5021	Power Contracts & Revenue Administrator	81	CBAM
	5025	Associate Electrical Engineer	72	CBAM
	5030	Electric Service Planner	75	IBEW-U
	5050	Public Benefits Coordinator	53	IBEW-U
	5055	Utility Services Assistant	46	IBEW-U
	5110	Electric Operations & Maintenance Manager	81	CBAM
	5120	Powerline Crew Supervisor	77	IBEW-U
	5130	Powerline Technician	73	IBEW-U
	5140	Powerline Apprentice	65/71	IBEW-U
	1340	Lead Field Service Representative	53	IBEW-U
	1325	Field Service Representative	49	IBEW-U
	5160	Electric Meter Test Technician	73	IBEW-U
	5170	Apprentice Electric Meter Test Technician	65 / 71	IBEW-U

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# CITY OF BANNING, CALIFORNIA



## Administrative Services Director/Deputy City Manager

Job Code: 1105

FLSA ☒ Exempt ☐ Non-Exempt

**JOB DEFINITION:** Under policy direction, directs, oversees, plans, organizes and administers all financial operations including purchasing, payroll, accounts payable, business licensing, financial reporting, grant and contract reporting and compliance, assessment district administration, debt management, revenue monitoring, budget development, capital project financial monitoring and investments, City's information system and utility billing operations, and Human Resources/Risk Management.

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

**REPRESENTATIVE DUTIES:** Establishes and maintains direction and regulation over municipal revenues and expenditures in City departments in accordance with municipal accounting, auditing, reporting and managing practices. Provides professional assistance and information to the City Council and City management staff on the evaluation of the City's financial position, investments, cash flow, debt, purchasing, accounting, budgeting and financial forecasting/strategic planning. Researches potential new investments, recommends investment opportunities and reviews cash flows for investment purposes. Administers goals and resolves operational problems.

Oversee overall recruitment, retention, and training efforts; direct administrative policy development, employee classification and compensation, job evaluation, pay for performance plans, employee relations and personnel related legal compliance.

Manage and oversee risk management functions for the city including OSHA complaint safety program, prevention and training plan, liability and workers compensation administration.

Attends meetings and presentations. Develops and prepares City budget and reports. Monitors business transactions/operations for compliance with laws, regulations, contracts and grant agreements relating to accounting and financial reporting. Researches trends and history for future financial projections. Recommends strategic planning methods. Develops, interprets and enforces financial policies and procedures.

Oversees, monitors and directs office operations of assigned staff. Prioritizes and assigns special projects. Interviews prospective employees. Hires and/or recommends hiring. Develops, identifies and implements new employee and on-going staff training. Assigns, tracks and reviews work assignments and progress. Reviews and approves the formal performance evaluation of assigned department staff. Develops and implements disciplinary actions for assigned staff.

Administers the City's information system and utility financial operation consisting of electric, water, refuse and utility billing and meter services. Communicates and interacts with the public to provide utility customer service and solve budget delinquency issues.

Serve as Acting City Manager as assigned.

Performs other duties as assigned or required.

# CITY OF BANNING, CALIFORNIA

## Administrative Services Director/Assistant City Manager

Job Code: 1105

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### KNOWLEDGE and SKILLS:

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

**MINIMUM QUALIFICATIONS:** A Bachelor's degree in Finance, Accounting, Business Administration or related field **AND** ten (10) years of accounting and/or finance experience that includes five (5) years of management and/or supervision.

**ADDITIONAL REQUIREMENTS:** May be required to work outside the traditional work schedule.





## CITY OF BANNING, CALIFORNIA

### Deputy Finance Director

Job Code: 1115

FLSA      ☒ Exempt      ☐ Non-Exempt

**JOB DEFINITION:** Under general supervision, assists the Administrative Services Director in planning, organizing, and supervising the activities of each functional area of the Finance, Utility Billing and Information Services Divisions.

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

**REPRESENTATIVE DUTIES:** Plans, organizes, controls, manages and evaluates the work of the Finance (payroll, accounts payable, business licenses, purchasing), Utility Billing and Information Services Divisions. Assists in the development of goals, objectives, policies and priorities. Implements departmental plans and work programs; coordinates and integrates department functions to achieve efficiency and effectiveness, plans and evaluates the performance of assigned staff.

Assist the Director with the budgeting, financial reporting and auditing duties, including the preparation and issuance of financial reports and financial statements and the management, coordination and participation in the development of the City's budget. Reviews and interprets financial policies and procedures. Coordinates and reviews City, RDA, transit and other audits. Prepare RFP's and contracts for the Finance Department. Monitors and reviews general ledger accounts, budget items, debt service, donation accounts, short term loans, property taxes, RDA revenues and pass thrus, and grant tracking. Reconciles bank accounts and monitors banking activities. Researches and resolves departmental problems, discrepancies and/or reconciliation processes.

Assist with procedural changes in fixed asset accounting, including additions, deletions and depreciation. Assists with office coverage including preparing letters and correspondence, proofreading, reports, replying to information requests, answering phones and maintaining and repairing office equipment. Attends committee and professional group meetings.

Performs other duties as assigned or required.

# CITY OF BANNING, CALIFORNIA

## Deputy Finance Director

Job Code: 1115

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### KNOWLEDGE and SKILLS:

- Knowledge of applicable city, county, state and Federal statutes, rules, regulations, ordinances, codes, administrative orders and other operational guidelines and directives.
- Knowledge of the City's and the Department's policies and procedures.
- Knowledge of accounting, banking and financial record keeping and reporting principles and procedures.
- Knowledge of budget monitoring and reporting techniques.
  
- Skill in reading, understanding, interpreting and applying relevant city, county, state and Federal statutes, rules, regulations, ordinances, codes, administrative orders, policies and procedures and other operational guidelines and directives.
- Skill in assessing and prioritizing multiple tasks, projects and/or demands.
- Skill in working within deadlines to complete projects and assignments.
- Skill in preparing a variety of financial statements, reports and analyses.
- Skill in establishing and maintaining effective working relations with co-workers, staff, vendors, contractors, visitors, the general public and others having business with the City of Banning.
- Skill in supervising, training and evaluating subordinate personnel.
- Skill in operating a personal computer utilizing a variety of software applications.

**MINIMUM QUALIFICATIONS:** A Bachelor's degree in Accounting, Business Administration or related field **AND** three (3) years of accounting, public finance or banking experience, including a minimum of one year of supervisory experience.

**ADDITIONAL REQUIREMENTS:** May be required to work outside the traditional work schedule.



## CITY OF BANNING, CALIFORNIA

### Deputy Human Resources Director

Job Code: 1215

FLSA      ☒ Exempt      ☐ Non-Exempt

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**JOB DEFINITION:** Under direct supervision, assists the Administrative Services Director in planning, managing the Human Resources and Risk Management.

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

**REPRESENTATIVE DUTIES:** Administers Memorandums of Understanding (MOU's) and interacts with employee representatives and staff to interpret and explain provisions of the MOU terms within the context of Human Resources law. Represents the City in labor relations, negotiates labor contracts and ensures negotiated settlements are reduced to writing and incorporated into agreements. Researches procedures, methods and legislation relative to public employer-employee negotiations. Develops recommendations for appropriate procedure and emphasis on negotiations. Counsels and advises managers and supervisors on issues governed by the collective bargaining agreements.

Assists in overseeing the operations of the Human Resources Department including recruitment/retention, drug testing, employee orientation and benefit administration. Reviews and evaluates the procedures and methods used in Human Resources relative to effective utilization of resources and compliance with state and Federal regulations. Develops, updates and administers personnel rules and administrative policies. Trains, supervises and evaluates performance of subordinate staff. Researches and resolves grievances and suggests disciplinary actions.

Assists departments in personnel administration through interpretation, explanation and consultation of Human Resources management provision of laws, rules, policies and procedures. Conducts investigations related to policy violations and handles a variety of confidential issues. Performs critical personnel analysis and recommends solutions to complex issues and problems.

Assists in overseeing the Risk Management for the City, reviews and evaluates claims filed against the City to determine liability and potential settlement. Processes claims against responsible parties to obtain restitution and recovery. Manages workers' compensation, outside legal issues and litigation costs for claims. Develops and monitors budget for payment of liability and workers' compensation claims retained within the self-insured retention, including payments to vendors. Establishes general liability and workers' compensation premium deposit rates and dividends based on recommendations and board policy.

Purchases commercial insurance products for property, special events and employment practices.

Performs other duties as assigned or required.

# CITY OF BANNING, CALIFORNIA

## Deputy Human Resources Director

Job Code: 1215

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### KNOWLEDGE and SKILLS:

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

**MINIMUM QUALIFICATIONS:** A Bachelor's degree in Business Administration, Public Administration, Organizational Psychology or related field **AND** seven (7) years of human resources and risk management experience that includes three (3) years of management and/or supervision.

**ADDITIONAL REQUIREMENTS:** May be required to work outside the traditional work schedule.

**CITY COUNCIL AGENDA  
PUBLIC HEARING**

**DATE:** June 22, 2010

**TO:** City Council

**FROM:** Duane Burk, Director of Public Works

**SUBJECT:** Resolution No. 2010-43, "Approving the Consumer Price Index (CPI ) Increase for the Service Charges for the Collection, Transportation and Disposal of Solid Waste"

**RECOMMENDATION:** The City Council adopt Resolution No. 2010-43, "Approving the Consumer Price Index (CPI) Increase for the Service Charges for the Collection, Transportation and Disposal of Solid Waste," as set forth in the City of Banning's Franchise Agreement with Waste Management of the Inland Empire.

**JUSTIFICATION:** It is essential to adjust the rate of service charges annually for the collection, transportation and disposal of solid waste as per the provisions of the Franchise Agreement.

**BACKGROUND:** The City entered into a Franchise Agreement for refuse collection and disposal with Waste Management of the Inland Empire in 1993. Subsequently, the contract was amended in May of 2002, extending the contract to June 30, 2011.

Per Section 18 of the Franchise Agreement, the refuse collection rate can be adjusted annually based on the Consumer Price Index (CPI) for the Los Angeles-Anaheim area, the increase/decrease of the collected tonnage of waste, the increase/decrease of the Tipping Fee charged by the landfill operator, or extraordinary changes in costs related to collection.

This year, the Tipping Fee charge will remain at \$34.37 per ton. The change in the CPI for the effective twenty-four month period was 1.25% and the request of adjustment is 1.18%, which is 95% of 1.25%, as allowed by the Franchise Agreement. Due to the increase, and per section 18 of the Franchise Agreement, the rate needs to be adjusted accordingly. If approved, the new rate will be effective on July 1, 2010. The Notice of Public Hearing was advertised on June 7, 2010, as shown as Attachment "A".

**FISCAL DATA:** The current rate for the refuse collection is \$17.26 per month, per household, and if approved, the rate will increase to \$17.60. The commercial rate will be adjusted accordingly, as shown in the attached Exhibit "A".

**RECOMMENDED BY:**



Duane Burk  
Director of Public Works

**REVIEWED BY:**



Kirby Warner  
Finance Director

**APPROVED BY:**



Andy Takata  
City Manager

**RESOLUTION NO. 2010-43**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE CONSUMER PRICE INDEX (CPI) INCREASE FOR SERVICE CHARGES FOR THE COLLECTION, TRANSPORTATION AND DISPOSAL OF SOLID WASTE.**

**WHEREAS**, the City of Banning entered into a Franchise Agreement with Waste Management of the Inland Empire in July of 1993; and

**WHEREAS**, on May 28, 2002, during the regularly held City Council Meeting, the Franchise Agreement was extended until June 30, 2011; and

**WHEREAS**, per Section 18 of the Franchise Agreement, the refuse collection rate can be adjusted annually based on the Consumer Price Index (CPI) for the Los Angeles-Anaheim area, the increase/decrease of the collected tonnage of waste, the increase/decrease of the Tipping Fee charged by the landfill operator, or extraordinary changes in costs related to collection; and

**WHEREAS**, it is essential that the City Council adopt Resolution No. 2010-43, so that the City can implement the new solid waste rates.

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

The City Council of the City of Banning hereby approves the Consumer Price Index (CPI) Increase for the Collection, Transportation and Disposal of Solid Waste Effective July 1, 2010, as shown attached herein as Exhibit "A".

**PASSED, APPROVED and ADOPTED** this 22<sup>nd</sup> day of June, 2010.

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Robert E. Botts, Mayor  
City of Banning

**ATTEST:**

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Marie A. Calderon,  
City Clerk of the City of Banning  
Resolution No. 2010-43

APPROVED AS TO FORM AND  
LEGAL CONTENT:

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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. 2010-43, was adopted by the City Council of the City of Banning at a Regular Meeting thereof held on the 22<sup>nd</sup> day of June, 2010, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Marie A. Calderon  
City Clerk of the City of Banning



# ATTACHMENT "A"

PRESS ENTERPRISE

JUNE 07, 2010



## NOTICE OF PUBLIC HEARING

PURSUANT TO LAW, notice is hereby given of a Public Hearing before the City Council of the City of Banning, to be heard June 22, 2010 at 6:30 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey St., Banning, California, to consider Adopting Resolution No. 2010-43, "Approving the Consumer Price Index (CPI) Increase for the Service Charges for the Collection, Transportation, and Disposal of Solid Waste".

ALL INTERESTED PARTIES are invited to attend said hearing and present oral or written testimony on the matter or to send written comments to the City Clerk, P.O. Box 998, Banning, CA 92220. Data relevant to these fees is available for public review at the office of the City Clerk or at the Engineering Division of the Public Works Department, at 99 E. Ramsey St., for the period of 10 days prior to the Public Hearing.

BY ORDER OF THE CITY CLERK of the City of Banning, California.

Dated: June 3, 2010

Publish: Press Enterprise  
June 7, 2010

Marie A. Calderon  
City Clerk

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**Exhibit "A"**

**CITY OF BANNING**

**RATE SCHEDULE SUMMARY**

**EFFECTIVE JULY 1, 2010**

Type of Service	Existing Rate	Proposed Rate
Residential Household	\$17.26	\$17.60
Commercial Can Service	\$18.62	\$18.77
Commercial Bin Service		
One Pick-up per Week:		
-2 cubic yard	\$77.83	\$78.98
- 3 cubic yard	\$102.00	\$103.55
-4 cubic yard	\$136.48	\$138.55

**City of Banning  
Rate Components  
As of July 1, 2010**

**Service Components**

<b>RESIDENTIAL</b>	
Single Family Service Rates:	\$ 13.05

<b>COMMERCIAL CAN SERVICE</b>	
Refuse Service With Recycling program A:	\$ 13.12

<b>COMMERCIAL BIN SERVICE</b>								
SIZE	QTY		ONE	TWO	THREE	FOUR	FIVE	SIX
2 Yard	One	\$	63.10	\$ 126.20	\$ 183.32	\$ 241.94	\$ 299.07	\$ 356.19
3 Yard	One	\$	79.73	\$ 159.46	\$ 231.70	\$ 303.95	\$ 376.19	\$ 448.45
4 Yard	One	\$	106.79	\$ 213.57	\$ 309.92	\$ 407.75	\$ 504.09	\$ 600.44
6 Yard	One	\$	147.49	\$ 294.99	\$ 429.05	\$ 561.62	\$ 695.69	\$ 828.24
2 Yard	Two	\$	126.20	\$ 252.41	\$ 366.65	\$ 483.88	\$ 598.14	\$ 712.38
3 Yard	Two	\$	159.46	\$ 318.92	\$ 463.40	\$ 607.90	\$ 752.38	\$ 896.91
4 Yard	Two	\$	213.57	\$ 427.15	\$ 619.84	\$ 815.49	\$ 1,008.18	\$ 1,200.87
6 Yard	Two	\$	294.99	\$ 589.98	\$ 858.10	\$ 1,123.23	\$ 1,391.38	\$ 1,656.49
2 Yard	Three	\$	189.31	\$ 378.61	\$ 549.97	\$ 725.81	\$ 897.21	\$ 1,068.57
3 Yard	Three	\$	239.19	\$ 478.39	\$ 695.10	\$ 911.85	\$ 1,128.56	\$ 1,345.36
4 Yard	Three	\$	320.36	\$ 640.72	\$ 929.76	\$ 1,223.24	\$ 1,512.27	\$ 1,801.31
6 Yard	Three	\$	442.48	\$ 884.97	\$ 1,287.15	\$ 1,684.85	\$ 2,087.08	\$ 2,484.73
2 Yard	Four	\$	252.41	\$ 504.82	\$ 733.29	\$ 967.75	\$ 1,196.28	\$ 1,424.76
3 Yard	Four	\$	318.92	\$ 637.85	\$ 926.80	\$ 1,215.80	\$ 1,504.75	\$ 1,793.82
4 Yard	Four	\$	427.15	\$ 854.30	\$ 1,239.68	\$ 1,630.98	\$ 2,016.36	\$ 2,401.75
6 Yard	Four	\$	589.98	\$ 1,179.96	\$ 1,716.20	\$ 2,246.47	\$ 2,782.77	\$ 3,312.97
2 Yard	Five	\$	315.51	\$ 631.02	\$ 916.62	\$ 1,209.69	\$ 1,495.35	\$ 1,780.95
3 Yard	Five	\$	398.65	\$ 797.31	\$ 1,158.49	\$ 1,519.75	\$ 1,880.94	\$ 2,242.27
4 Yard	Five	\$	533.94	\$ 1,067.87	\$ 1,549.60	\$ 2,038.73	\$ 2,520.46	\$ 3,002.18
6 Yard	Five	\$	737.47	\$ 1,474.95	\$ 2,145.26	\$ 2,808.08	\$ 3,478.46	\$ 4,141.21
2 Yard	Six	\$	378.61	\$ 757.23	\$ 1,099.94	\$ 1,451.63	\$ 1,794.43	\$ 2,137.14
3 Yard	Six	\$	478.39	\$ 956.77	\$ 1,390.19	\$ 1,823.70	\$ 2,257.13	\$ 2,690.72
4 Yard	Six	\$	640.72	\$ 1,281.45	\$ 1,859.52	\$ 2,446.48	\$ 3,024.55	\$ 3,602.62
6 Yard	Six	\$	884.97	\$ 1,769.94	\$ 2,574.31	\$ 3,369.70	\$ 4,174.15	\$ 4,969.46

**City of Banning  
Rate Components  
As of July 1, 2010**

**Disposal Components**

RESIDENTIAL TRASH	Pounds per household per week		32.39
	Pounds-to-tons factor	divide by	2,000
	Monthly factor	x	4.33
	Riverside County landfill rate	x	\$ 34.37
	Franchise Fee factor	divide by	0.79
	Monthly Disposal Component for one Residential Household		\$ 3.05

RESIDENTIAL GREENWASTE	Pounds per household per week		16.37
	Pounds-to-tons factor	divide by	2,000
	Monthly factor	x	4.33
	Riverside County landfill rate	x	\$ 33.40
	Franchise Fee factor	divide by	0.79
	Monthly Disposal Component for one Residential Household		\$ 1.50

COMMERCIAL CAN	Pounds per customer per week		60.00
	Pounds-to-tons factor	divide by	2,000
	Monthly factor	x	4.33
	Riverside County landfill rate	x	\$ 34.37
	Franchise Fee factor	divide by	0.79
	Monthly Disposal Component for one Commercial Can Customer		\$ 5.65

COMMERCIAL REFUSE	Pounds per yard		84.30
	Pounds-to-tons factor	divide by	2,000
	Monthly factor	x	4.33
	Riverside County landfill rate	x	\$ 34.37
	Franchise Fee factor	divide by	0.79
	Monthly Disposal Component for One Cubic Yard		\$ 7.94

SIZE	QTY		ONE	TWO	THREE	FOUR	FIVE	SIX
2 Yard	1	\$	15.88	\$ 31.76	\$ 47.64	\$ 63.52	\$ 79.40	\$ 95.28
3 Yard	1	\$	23.82	\$ 47.64	\$ 71.46	\$ 95.28	\$ 119.11	\$ 142.93
4 Yard	1	\$	31.76	\$ 63.52	\$ 95.28	\$ 127.05	\$ 158.81	\$ 190.57
6 Yard	1	\$	47.64	\$ 95.28	\$ 142.93	\$ 190.57	\$ 238.21	\$ 285.85
2 Yard	2	\$	31.76	\$ 63.52	\$ 95.28	\$ 127.05	\$ 158.81	\$ 190.57
3 Yard	2	\$	47.64	\$ 95.28	\$ 142.93	\$ 190.57	\$ 238.21	\$ 285.85
4 Yard	2	\$	63.52	\$ 127.05	\$ 190.57	\$ 254.09	\$ 317.62	\$ 381.14
6 Yard	2	\$	95.28	\$ 190.57	\$ 285.85	\$ 381.14	\$ 476.42	\$ 571.71

SIZE	QTY		ONE	TWO	THREE	FOUR	FIVE	SIX
2 Yard	3	\$	47.64	\$ 95.28	\$ 142.93	\$ 190.57	\$ 238.21	\$ 285.85
3 Yard	3	\$	71.46	\$ 142.93	\$ 214.39	\$ 285.85	\$ 357.32	\$ 428.78
4 Yard	3	\$	95.28	\$ 190.57	\$ 285.85	\$ 381.14	\$ 476.42	\$ 571.71
6 Yard	3	\$	142.93	\$ 285.85	\$ 428.78	\$ 571.71	\$ 714.64	\$ 857.56
2 Yard	4	\$	63.52	\$ 127.05	\$ 190.57	\$ 254.09	\$ 317.62	\$ 381.14
3 Yard	4	\$	95.28	\$ 190.57	\$ 285.85	\$ 381.14	\$ 476.42	\$ 571.71
4 Yard	4	\$	127.05	\$ 254.09	\$ 381.14	\$ 508.19	\$ 635.23	\$ 762.28
6 Yard	4	\$	190.57	\$ 381.14	\$ 571.71	\$ 762.28	\$ 952.85	\$ 1,143.42
2 Yard	5	\$	79.40	\$ 158.81	\$ 238.21	\$ 317.62	\$ 397.02	\$ 476.42
3 Yard	5	\$	119.11	\$ 238.21	\$ 357.32	\$ 476.42	\$ 595.53	\$ 714.64
4 Yard	5	\$	158.81	\$ 317.62	\$ 476.42	\$ 635.23	\$ 794.04	\$ 952.85
6 Yard	5	\$	238.21	\$ 476.42	\$ 714.64	\$ 952.85	\$ 1,191.06	\$ 1,429.27
2 Yard	6	\$	95.28	\$ 190.57	\$ 285.85	\$ 381.14	\$ 476.42	\$ 571.71
3 Yard	6	\$	142.93	\$ 285.85	\$ 428.78	\$ 571.71	\$ 714.64	\$ 857.56
4 Yard	6	\$	190.57	\$ 381.14	\$ 571.71	\$ 762.28	\$ 952.85	\$ 1,143.42
6 Yard	6	\$	285.85	\$ 571.71	\$ 857.56	\$ 1,143.42	\$ 1,429.27	\$ 1,715.13

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**City of Banning  
Rate Components  
As of July 1, 2010**

**Total Rates**

<b>RESIDENTIAL</b>		
Single Family Refuse Rate	\$	17.60

Additional Containers:	Trash - 96 gallon	\$	7.29
	Trash - 64 gallon	\$	5.83
	Trash - 35 gallon	\$	4.38
	Recycling	\$	1.87
	Green Waste	\$	4.46
Exchanges due to size change or customer misuse (as examples)			
In excess of one time per year	\$	21.91	

<b>COMMERCIAL CAN SERVICE</b>		
Refuse Service With Recycling Program A:	\$	18.77

<b>TEMPORARY COMMERCIAL SERVICE</b>		
Temporary Bin (up to 7 Days)	\$	113.66
Temporary Bin (30 Days)	\$	185.44

<b>COMMERCIAL BIN SERVICE</b>									
SIZE	QTY		ONE	TWO	THREE	FOUR	FIVE	SIX	
2 Yard	1	\$	78.98	\$ 157.97	\$ 230.97	\$ 305.46	\$ 378.47	\$ 451.47	
3 Yard	1	\$	103.55	\$ 207.10	\$ 303.16	\$ 399.24	\$ 495.29	\$ 591.38	
4 Yard	1	\$	138.55	\$ 277.10	\$ 405.20	\$ 534.79	\$ 662.90	\$ 791.01	
6 Yard	1	\$	195.14	\$ 390.27	\$ 571.98	\$ 752.19	\$ 933.90	\$ 1,114.10	
2 Yard	2	\$	157.97	\$ 315.93	\$ 461.93	\$ 610.92	\$ 756.95	\$ 902.95	
3 Yard	2	\$	207.10	\$ 414.21	\$ 606.33	\$ 798.47	\$ 990.59	\$ 1,182.76	
4 Yard	2	\$	277.10	\$ 554.20	\$ 810.41	\$ 1,069.58	\$ 1,325.80	\$ 1,582.01	
6 Yard	2	\$	390.27	\$ 780.55	\$ 1,143.96	\$ 1,504.37	\$ 1,867.81	\$ 2,228.20	
2 Yard	3	\$	236.95	\$ 473.90	\$ 692.90	\$ 916.38	\$ 1,135.42	\$ 1,354.42	
3 Yard	3	\$	310.66	\$ 621.31	\$ 909.49	\$ 1,197.71	\$ 1,485.88	\$ 1,774.14	
4 Yard	3	\$	415.65	\$ 831.29	\$ 1,215.61	\$ 1,604.38	\$ 1,988.70	\$ 2,373.02	
6 Yard	3	\$	585.41	\$ 1,170.82	\$ 1,715.94	\$ 2,256.56	\$ 2,801.71	\$ 3,342.29	
2 Yard	4	\$	315.93	\$ 631.86	\$ 923.86	\$ 1,221.84	\$ 1,513.90	\$ 1,805.90	
3 Yard	4	\$	414.21	\$ 828.42	\$ 1,212.65	\$ 1,596.94	\$ 1,981.17	\$ 2,365.52	
4 Yard	4	\$	554.20	\$ 1,108.39	\$ 1,620.82	\$ 2,139.17	\$ 2,651.60	\$ 3,164.02	
6 Yard	4	\$	780.55	\$ 1,561.10	\$ 2,287.91	\$ 3,008.74	\$ 3,735.62	\$ 4,456.39	
2 Yard	5	\$	394.91	\$ 789.83	\$ 1,154.83	\$ 1,527.30	\$ 1,892.37	\$ 2,257.37	
3 Yard	5	\$	517.76	\$ 1,035.52	\$ 1,515.81	\$ 1,996.18	\$ 2,476.47	\$ 2,956.91	
4 Yard	5	\$	692.74	\$ 1,385.49	\$ 2,026.02	\$ 2,673.96	\$ 3,314.50	\$ 3,955.03	
6 Yard	5	\$	975.69	\$ 1,951.37	\$ 2,859.89	\$ 3,760.93	\$ 4,669.52	\$ 5,570.49	
2 Yard	6	\$	473.90	\$ 947.80	\$ 1,385.79	\$ 1,832.77	\$ 2,270.85	\$ 2,708.85	
3 Yard	6	\$	621.31	\$ 1,242.63	\$ 1,818.98	\$ 2,395.41	\$ 2,971.76	\$ 3,548.29	
4 Yard	6	\$	831.29	\$ 1,662.59	\$ 2,431.23	\$ 3,208.75	\$ 3,977.40	\$ 4,746.04	
6 Yard	6	\$	1,170.82	\$ 2,341.65	\$ 3,431.87	\$ 4,513.12	\$ 5,603.43	\$ 6,684.59	

**City of Banning  
Rate Components  
As of July 1, 2010**

<b>COMMERCIAL RECYCLING SERVICE</b>					
<b>SIZE</b>	<b>Pick-ups per week</b>				
	<b>QTY</b>		<b>ONE</b>	<b>TWO</b>	
2.0 Cubic Yard	One	\$	73.06	\$	146.13
3.0 Cubic Yard	One	\$	93.53	\$	187.05
4.0 Cubic Yard	One	\$	124.23	\$	248.46
6.0 Cubic Yard	One	\$	160.76	\$	321.52

<b>ROLLOFF SERVICES</b>					
40 Cubic Yard Container		\$	188.11		+ landfill fees
10 Cubic Yard Container		\$	188.11		+ landfill fees
Monthly Minimum Pull		\$	188.11		
40 Cubic Yard Compactor		\$	242.84		+landfill
40 Cubic Yard Temporary Container		\$	342.67		includes 4 tons
Relocation/Trip/Delivery Fee		\$	68.66		

<b>OTHER SERVICES</b>					
Bin exchange		\$	45.53		
Lost or Stolen Bin:		\$	276.25		
Burned Bin:		\$	154.70		
Extra bin dump while on site		\$	54.22		
Overage Fee		\$	42.17		
Locking Lids: (per month times service frequency)		\$	13.26		
Replacement Lock		\$	27.63		
Replacement Key		\$	5.53		
Residential Set Up Fee		\$	9.58		
Commercial Set Up Fee		\$	15.96		
Industrial Set Up Fee		\$	15.96		
Additional Bulky Waste - E Waste		\$	16.65		per item
HOC fee		\$	25.30		

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**City of Banning  
Rate Components  
As of July 1, 2010**

COMPACTOR SERVICE RATES													
(COMPACTION RATIO = 3:1)													
SIZE	QTY		ONE		TWO		THREE		FOUR		FIVE		SIX
2 Yard	One	\$	110.74	\$	221.49	\$	326.25	\$	432.51	\$	537.28	\$	642.04
3 Yard	One	\$	151.19	\$	302.39	\$	446.09	\$	589.81	\$	733.51	\$	877.24
4 Yard	One	\$	202.07	\$	404.14	\$	595.77	\$	788.89	\$	980.52	\$	1,172.15
6 Yard	One	\$	290.42	\$	580.84	\$	857.83	\$	1,133.33	\$	1,410.33	\$	1,685.81
2 Yard	Two	\$	221.49	\$	442.98	\$	652.50	\$	865.01	\$	1,074.57	\$	1,284.09
3 Yard	Two	\$	302.39	\$	604.78	\$	892.18	\$	1,179.61	\$	1,467.01	\$	1,754.47
4 Yard	Two	\$	404.14	\$	808.29	\$	1,191.55	\$	1,577.77	\$	1,961.03	\$	2,344.29
6 Yard	Two	\$	580.84	\$	1,161.69	\$	1,715.67	\$	2,266.65	\$	2,820.66	\$	3,371.61
2 Yard	Three	\$	332.23	\$	664.47	\$	978.75	\$	1,297.52	\$	1,611.85	\$	1,926.13
3 Yard	Three	\$	453.58	\$	907.17	\$	1,338.27	\$	1,769.42	\$	2,200.52	\$	2,631.71
4 Yard	Three	\$	606.22	\$	1,212.43	\$	1,787.32	\$	2,366.66	\$	2,941.55	\$	3,516.44
6 Yard	Three	\$	871.27	\$	1,742.53	\$	2,573.50	\$	3,399.98	\$	4,230.99	\$	5,057.42
2 Yard	Four	\$	442.98	\$	885.96	\$	1,305.00	\$	1,730.03	\$	2,149.13	\$	2,568.18
3 Yard	Four	\$	604.78	\$	1,209.56	\$	1,784.36	\$	2,359.22	\$	2,934.02	\$	3,508.94
4 Yard	Four	\$	808.29	\$	1,616.58	\$	2,383.10	\$	3,155.54	\$	3,922.06	\$	4,688.58
6 Yard	Four	\$	1,161.69	\$	2,323.38	\$	3,431.33	\$	4,533.30	\$	5,641.31	\$	6,743.23
2 Yard	Five	\$	553.72	\$	1,107.45	\$	1,631.25	\$	2,162.54	\$	2,686.42	\$	3,210.22
3 Yard	Five	\$	755.97	\$	1,511.95	\$	2,230.45	\$	2,949.03	\$	3,667.53	\$	4,386.18
4 Yard	Five	\$	1,010.36	\$	2,020.72	\$	2,978.87	\$	3,944.43	\$	4,902.58	\$	5,860.73
6 Yard	Five	\$	1,452.11	\$	2,904.22	\$	4,289.16	\$	5,666.63	\$	7,051.64	\$	8,429.03
2 Yard	Six	\$	664.47	\$	1,328.94	\$	1,957.50	\$	2,595.04	\$	3,223.70	\$	3,852.27
3 Yard	Six	\$	907.17	\$	1,814.33	\$	2,676.54	\$	3,538.83	\$	4,401.03	\$	5,263.41
4 Yard	Six	\$	1,212.43	\$	2,424.86	\$	3,574.64	\$	4,733.31	\$	5,883.09	\$	7,032.87
6 Yard	Six	\$	1,742.53	\$	3,485.07	\$	5,147.00	\$	6,799.95	\$	8,461.97	\$	10,114.84

**CITY COUNCIL AGENDA  
PUBLIC HEARING**

**DATE:** June 22, 2010

**TO:** Honorable Mayor and City Council

**FROM:** Zai Abu Bakar, Community Development Director

**SUBJECT:** Zone Text Amendment No. 10-97501 and Ordinance No. 1424  
(An Ordinance of the City Council of the City of Banning  
Amending Chapter 17.36 of the Banning Zoning Code relating to  
Political and Election Signs and Related Sign Restrictions)

**RECOMMENDATION:**

That the City Council adopt Ordinance No. 1424 and introduce its first reading amending Chapter 17.36 of the Banning Zoning Code (BZC) relating to political and election signs and related sign restrictions.

**BACKGROUND:**

The Planning Commission reviewed the proposed Ordinance at its meeting on June 1, 2010 and recommended that the City Council adopt Ordinance No. 1424. Attached is the un-signed copy of the Planning Commission Resolution of Approval to the City Council.

**JUSTIFICATION:**

In October of 2004 the City received inquiries from the Riverside County Grand Jury regarding sections of the BZC as it applies to political signs. At that time, the Code was reviewed by the current City Attorney and it was determined that amendments to the code were necessary in order to comply with current law. In January of 2006 the BZC was amended in whole and some of the City Attorney changes were addressed, however, the code still needs to be amended to comply with governing case law. A copy of the current code Chapter 17.36 of the BZC concerning signs is included as Attachment 3.

It should be noted, the courts have held that stricter regulation of non-commercial speech (e.g. political or campaign speech) as specific and distinct from regulations for commercial speech runs afoul of the Equal Protections Clause as applied to the States through the 1<sup>st</sup> Amendment. (*Metromedia Inc. v. San Diego* (1981) 453 U.S. 490.) Further, even if the code were to survive the Equal Protection challenge, it could still be found unconstitutional in violation of the First Amendment (as discussed below).

In addition to those changes that are necessary to comply with current law, the placement of political signs in the right-of-way has historically been a problem in the City. As a result, the proposed ordinance includes amendments to clarify that signs are prohibited in the right-of-way, language has been added to deem the campaign the owner of an election sign in an attempt to alleviate notice difficulties and, the proposed ordinance includes an amendment that provides for summary abatement when necessary. Finally, the existing code is silent on political signs, regulating only election signs. The proposed ordinance adds definitions to define political signs, distinct from election signs.

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It might be added that the restrictions recommended below are based on in-put from staff concerning comment sign issues. Should the Council not favor some of these restrictions, we certainly could support eliminating them and there is less likelihood of legal challenge. For example, a sign ordinance without abatement clauses may face fewer legal challenges, but obviously might not accomplish other important goals.

## **ANALYSIS**

### **1. "Political Sign" and "Election Sign" Definitions Added.**

Many sign ordinances have a generic category for "political" signs and then establish regulations related to elections but not suitable to other political messages. Political speech is entitled to the widest protection possible (as opposed to commercial signage), and should not be subject to time and abatement requirements that are only justified for elections. Thus we have distinguished between political and election signs.

Under the existing code, the term "political signs" is defined as a "temporary sign directly associated with a forthcoming national, state, county or local election for." The existing definition is in fact the definition of an election sign (e.g. "Vote for Dave"), therefore, the proposed ordinance adds to the definition section of the code, "election signs" using essentially the same language currently used for political signs.

A new definition of "political signs" is proposed in the ordinance to capture all signs that may be commonly considered "political signs" (e.g. "Peace in the Middle East"). Accordingly, in the proposed ordinance the definition of "political signs" has been added to include all signs that have an "ideological, political or similar noncommercial message."

### **2. Pre-election Time Limits Removed.**

Many cities have attempted to regulate the posting of campaign signs by limiting the time of display. BZC section 17.36.050 does just that by providing that political signs "shall not be displayed more than 30 days prior to the applicable election."

Pre-election durational limitations have been repeatedly struck down. (*Maguire v. American Canyon* (N.D. Cal., Mar. 1, 2007) 2007 U.S. Dist. Lexis 14748, the court struck down a city code that limited the posting of campaign signs to 90 days before an election. See also, *Antioch v. Candidates' Outdoor Graphic Serv.* (N.D. Cal. 1982) 557 F. Supp 52. See also *Orazio v. Town of Hempstead*, (E.D.N.Y. 1977) 426 F. Supp. 1144.)

Accordingly, the BZC should be amended to remove the pre-election durational time limit to comply with governing constitutional limitations. The proposed ordinance attached accomplishes this goal. As stated below, we would retain the requirement that post election the signs be removed, to eliminate visual cluster, since the sign no longer serves a purpose.

### **3. Bond Requirement Removed.**

Regulations which impose special permits or deposits have often been held to be a prior restraint on speech and are almost always invalidated. Banning's existing sign code requires a \$200 deposit for election signs. The courts have held that deposits, bonds or special political sign permit fees are invalid. (*Verrilli v. City of Concord* (9th Cir. Cal. 1977) 548 F.2d 262, 264, the

court held a city municipal code which required that any person posting signs deposit a \$100.00 cash bond with the city to insure removal of the signs in violation of the First Amendment. See also, *Baldwin v. Redwood City* (1976) 540 F.2d 1360.) Accordingly, in the proposed ordinance the BZC requirement for a \$200 cash bond has been removed.

#### **4. Abatement and Sign Ownership.**

Currently, the existing code provides that illegal signs “shall be removed by the property owner within 10 days after notice from the Director.” (BMC § 17.36.090.) The code enforcement department has indicated that signs are often posted in the public right-of-way in violation of the existing code and determining the owner of the sign can sometimes be difficult; as such, making it difficult to notify the sign owner of the violation for purposes of abatement. Accordingly, staff has asked that the code be amended to allow for summary abatement of said signs (that is, removal of illegally placed signs without notice).

The case law requires that notice be provided prior to removal of signs. (*Verrilli v. City of Concord* (9th Cir. 1977) 548 F.2d 262, 264). Nonetheless, at least one court has acknowledged the difficulty cities face with notifying the owner of a sign and suggests that under certain circumstances a city may permissibly and summarily remove illegal political signs. (*Baldwin v. Redwood City* (9th Cir. 1976) 540 F.2d 1360, 1374.)

To address this issue, the proposed ordinance makes two amendments. First, the proposed ordinance adds language to provide that the campaign is deemed the owner of an election sign unless the campaign can establish otherwise, in which case the private property owner is deemed the owner. This language not only helps clarify the appropriate party to notify prior to removal, it establishes ownership for the purposes of abatement under governing law.

Second, the proposed ordinance provides that summary abatement of all signs, including political and election signs, are permitted provided City staff has made a reasonable attempt to learn who the owner of the sign is and has been unsuccessful or if for any reason there remains a question about ownership. This section also provides that if the sign is removed, the same shall be stored for 30 days in the event the owner seeks to recover the sign. Arguably, this is reasonable and valid under the law.

#### **5. Public Right-of-Way.**

The current code provides that election signs are only permitted on private property. The proposed ordinance clarifies the code to specifically prohibit election and political signs on public property or in the public right-of-way.

Further, the existing sign code prohibits signs in the right-of-way with the exception of certain signs. The code provides that all signs on public property are prohibited, except for “traffic regulatory, informational signs, signs required a governmental agency and model home tour signs...” Additionally, the code permits kiosk signs on public property for off-site residential subdivisions. The current code is problematic in that it permits certain commercial signage on public property (e.g. model home tour signs and residential subdivision kiosks) while prohibiting non-commercial signage (e.g. election signs) likely in violation of the equal protection clause. Accordingly, the proposed ordinance amends the sign code to prohibit almost all signs from public property.

The case law has held that a total ban on signs on public property is permissible. (See *City of Los Angeles v. Taxpayers for Vincent*, (1984) 466 U.S. 789. See also *Sussli v. City of San Mateo* (1980) 120 Cal.App.3d 1.) In line with current law, the proposed ordinance prohibits all signs on public property except for traffic regulatory signs and signs required by government agencies.

To the extent there is any question about the two limited exceptions to a City ban, it should be noted that they are not only necessary for the proper circulation of the City, it is consistent with the City's desire to have the right-of-way free of visual blight and the need to promote vehicular and pedestrian safety. (See e.g. *Gerritsen v. Los Angeles* (9<sup>th</sup> Cir. 1993) 994 F.2d 570.) Additionally, neither of the permitted sign types are deemed commercial speech and therefore the proposed code can avoid an equal protection challenge.

### **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 the Staff Report dated June 22, 2010 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 State CEQA Guidelines, at Section 15378, define a project as the "whole of an action which has the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment..." The proposed amendments to the Zoning Code do not result in a direct or indirect physical change in the environment and therefore do not meet the definition of a "project" under CEQA.

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. 10-97501:**

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 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. 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, Land Use Element, Residential Goal 1 states, "*Preserve and enhance the City's neighborhoods.*" By implementing appropriate regulations for election and political

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signs, the Zone Text Amendment will help protect the residents and its neighborhoods from illegal signage, reduce visual blight and enhance vehicular and pedestrian safety. Further, the Amendment will protect the City from future legal challenge by bringing the code into compliance with governing law.

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. Additionally, the Banning Municipal Code has been reviewed to ensure that there is no internally inconsistency created by the proposed amendments.

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 the proposed amendment does not meet the definition of a "project" under CEQA. The State CEQA Guidelines, at Section 15378, define a project as the "whole of an action which has the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment..." The proposed amendments to the Zoning Code do not result in a direct or indirect physical change in the environment.

**FISCAL DATA:**

There is no fiscal impact related to the preparation and discussion of this report.

**PUBLIC HEARING NOTICE AND COMMUNICATION:**

The public hearing notice regarding Zone Text Amendment No. 10-97501 was published in Record Gazette on June 11, 2010. As of the writing of this report, staff has not received any comments from the public.

**CONCLUSION:**

That the City Council adopt the revised Ordinance No. 1424 and introduce its first reading.

**APPROVED BY:**



Andy Takata  
City Manager

**PREPARED BY:**



Zai Abu Bakar  
Community Development Director

**Attachments:**

1. Ordinance No. 1424
2. Chapter 17.36 of the Banning Zoning Code
3. Un-singed copy of the Planning Commission Resolution of Approval of Ordinance No. 1424 to the City Council
4. Public Hearing Notice

# **ATTACHMENT 1**

**Ordinance No. 1424**

## **ORDINANCE NO. 1424**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING AMENDING CHAPTER 17.36 RELATING TO POLITICAL AND ELECTION SIGNS AND RELATED SIGN RESTRICTIONS**

**WHEREAS**, the City of Banning Municipal Code regulating political signs requires some amendments to bring the code in compliance with governing law and the City's intent; and

**WHEREAS**, the City seeks to appropriately define and regulate political signs and election signs; and

**WHEREAS**, the City seeks to amend its sign regulations to clarify the size restrictions of political and election signs; and

**WHEREAS**, the City seeks to amend the existing code to remove the pre-election time limits related to display of political signs and the bond required prior to posting, to comply with governing law; and

**WHEREAS**, the City seeks amend its sign code to further limit those signs that are permitted in the public rights-of-way to prevent visual clutter, minimize traffic hazards, and prevent interference with the intended use of public property; and

**WHEREAS**, the City seeks to amend the code to provide that the City can summarily remove illegally placed political signs, if and only if, the owner of the sign cannot be determined after reasonable effort.

**WHEREAS**, on May 21, 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 at which the Zone Text Amendment No. 10-97501 would be considered; and

**WHEREAS**, on the June 1, 2010 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 recommended approval for the Ordinance to the City Council ; and

**WHEREAS**, on June 11, 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 at which the Zone Text Amendment No. 10-97501 would be considered; and

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

#### **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 the Staff Report dated June 22, 2010 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:

## **SECTION 1. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):**

1. CEQA: The State CEQA Guidelines, at Section 15378, define a project as the “whole of an action which has the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment...” The proposed amendments to the Zoning Code do not result in a direct or indirect physical change in the environment and therefore do not meet the definition of a “project” under CEQA.
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.

## **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. 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, Land Use Element, Residential Goal 1 states, “*Preserve and enhance the City’s neighborhoods.*” By implementing appropriate regulations for election and political signs, the Zone Text Amendment will help protect the residents and its neighborhoods from illegal signage, reduce visual blight and enhance vehicular and pedestrian safety. Further, the Amendment will protect the City from future legal challenge by bringing the code into compliance with governing law.

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. Additionally, the Banning Municipal Code has been reviewed to ensure that there is no internally inconsistency created by the proposed amendments.

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 the proposed amendment does not meet the definition of a "project" under CEQA. The State CEQA Guidelines, at Section 15378, define a project as the "whole of an action which has the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment..." The proposed amendments to the Zoning Code do not result in a direct or indirect physical change in the environment.

### **SECTION 3. CITY COUNCIL ACTIONS**

1. The Banning Municipal Code, at Section 17.36.030 is hereby amended to delete the existing definition of "political sign" and add the following definitions of "election sign" and "political sign" as follows:

#### **"17.36.030 Definitions.**

...

**Election Sign.** A temporary sign related to or directly associated with a national, state, county or local election or referendum.

...

**Political Sign.** A sign other than an election sign directly associated with an ideological, political or similar noncommercial message on a sign.

..."

2. The Banning Municipal Code, at Section 17.36.050(G), is hereby amended in its entirety to read in as follows:

#### **"17.36.050 Exempt signs.**

..."

G. **Election Signs.** Election signs must comply with the following requirements.

1. Election signs shall be limited in size to the maximum allowed in the zones where located. Any freeway oriented freestanding sign shall be required to secure all applicable permits and comply with these sign regulations including section 17.36.110.
2. No election signs shall be permitted on public property or in the public right-of-way.
3. There are no pre-election restrictions limiting when elections signs may be erected, but the owner of the sign must remove the sign within seven days after the applicable election has ended.
4. For all election signs, the campaign shall be deemed the owner of the sign unless it can establish that it is not the owner of the sign. In the event the campaign establishes it is not the owner of the sign, the owner of the property on which the sign is placed, shall be deemed the owner of the sign.
5. In the event that any such sign violates the provisions of this Chapter, or if it is not removed with the period provided hereunder,



it shall be subject to abatement pursuant to the procedures prescribed in section 17.36.090.

6. Except as provided in this subsection, no permit shall be required for election signs.

...”

3. The Banning Municipal Code, is hereby amended to add Section 17.36.050.T to read in its entirety as follows:

“17.36.050 Exempt Signs.

T. **Political Signs.** Political signs must comply with the following requirements.

1. Political signs shall be limited in size to the maximum allowed in the zones where located. Any freeway oriented freestanding sign shall be required to secure all applicable permits and comply with these sign regulations including section 17.36.110.
2. No political signs shall be permitted on public property or in the public right-of-way.
3. In the event that any such sign violates the provisions of this Chapter, it shall be subject to abatement pursuant to the procedures prescribed in section 17.36.090.
4. Except as provided in this subsection, no permit shall be required for political signs.”

4. The Banning Municipal Code, at Section 17.36.060.L, is hereby amended in its entirety to read in as follows:

“17.36.060 Prohibited Signs.

...  
L. Signs on public property or the public rights-of-way, except for traffic regulation and signs permitted by a governmental agency.

...”

5. The Banning Municipal Code, at Section 17.36.080.C, is hereby amended in its entirety to read in as follows:

“17.36.080. Off-site residential subdivision directional signs.

...

C. All kiosk signs shall be placed on private property with written consent of the property owner.

...”

6. The Banning Municipal Code, at Section 17.36.090, is hereby amended in its entirety to read in as follows:

“17.36.090 Abatement of Abandoned or Illegal Temporary Signs.

- A. Every temporary sign not owned by the property owner of the property on which it is erected shall be marked to indicate on the sign the identity of the sign owner, provided that for any commercial sign where not otherwise indicated it shall be presumed that the business being advertised is the owner.
- B. Any abandoned or illegal temporary sign is hereby declared to be a danger to the health, safety, and welfare of the citizens of Banning. Any sign which is (i) in deteriorating condition and not maintained in the condition in which it was originally installed, (ii) violates conditions of the sign permit, or (iii) is partially or wholly obscured by the growth of dry vegetation or weeds or by the presence of debris or litter also presents a danger to the health, safety, and welfare of the Banning community. Such signs may be abated as provided in this Chapter.
- C. Any such signs as set forth above are hereby deemed to be a public nuisance. Any such sign, including any and all structural supports, shall be removed by the property owner within 10 days after notice from the Director, which notice shall provide an opportunity to be heard before the Director on the abandonment and nuisance decision and an appeal may be taken pursuant to Chapter 17.68. Any sign not removed within 10 days after such notice, may be abated by the Director if no appeal has been taken from the Director's decision, or, if the appeal has been denied or modified. If after a reasonable effort to determine the owner of the sign, the owner cannot be found, then the City may summarily remove the sign and the same shall be stored for a period of 30 days, during which time they may be recovered by the owner.
- D. Costs of an abatement conducted pursuant to this Chapter shall be assessed against the owner of the sign, and to the extent permissible under law, against the owner of the property, using the procedures established in the Banning Municipal Code.”

7. The Banning Municipal Code, at Section 17.36.110.A.2.c, is hereby deleted.

SECTION 4. The Mayor shall sign this ordinance and the City Clerk shall attest thereto and shall within fifteen days of its adoption cause it or a summary of it, to be published in the Record Gazette, a newspaper published and circulated in the City. Thereupon this ordinance shall take effect 30 days after adoption and be in force and effect according to law.

SECTION 5. 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.

PASSED, APPROVED, and ADOPTED this 22<sup>nd</sup> day of June, 2010.

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Robert E. Botts, Mayor  
City of Banning

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

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David J. Aleshire  
Aleshire & Wynder, LLP  
City of Banning, California

**ATTEST:**

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Marie A. Calderon  
City Clerk

**CERTIFICATION:**

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1424 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the \_\_\_\_\_ day of June, 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

# **ATTACHMENT 2**

## **Chapter 17.36 of the Banning Zoning Code**

## Chapter 17.36

### SIGN REGULATIONS

#### Sections:

- 17.36.010 Purpose.
- 17.36.020 Applicability.
- 17.36.030 Definitions.
- 17.36.040 Sign permit required.
- 17.36.050 Exempt signs.
- 17.36.060 Prohibited signs.
- 17.36.070 Temporary signs.
- 17.36.080 Off-site residential subdivision directional signs.
- 17.36.090 Abandoned signs.
- 17.36.100 Sign construction and maintenance.
- 17.36.110 Sign regulations.
- 17.36.120 Sign design guidelines.
- 17.36.130 Nonconforming signs.
- 17.36.140 Removal of illegal and nonconforming signs.
- 17.36.150 Establishing compliance.
- 17.36.160 Inventory and abatement—Variances—Penalties.
- 17.36.170 Murals.

#### 17.36.010 Purpose.

The purpose of this chapter is to establish sign regulations that are intended to:

A. Limit and control the location, size, type and number of signs allowed in the City of Banning.

B. To provide for a more orderly display of advertising devices, while implementing community design standards with respect to character, quality of materials, color, illumination and maintenance, which are consistent with the City's General Plan.

C. To bring these advertising devices into harmony with the buildings, with the neighborhood, with the natural environment, and with other signs in the area.

D. To preserve and improve the appearance of the City as a place in which to live and work, and as an attraction to nonresidents who come to visit or trade.

E. To encourage sound signage practices as an aid to business and for the information of the public, while preventing excessive and confusing sign displays.

F. To reduce hazards to motorists, bicyclists and pedestrians.

G. And to promote the public health, safety, viewsheds, aesthetic values, and general welfare of the community by regulating and controlling all matters relating to signs. (Zoning Ord. dated 1/31/06, § 9109.01.)

#### 17.36.020 Applicability.

A. This chapter shall apply to all signage proposed within the community. No signs shall be erected or maintained in any land use district established by this Zoning Ordinance, except those signs specifically enumerated in this chapter. The number and area of signs as outlined in this chapter are intended to be maximum standards.

B. In addition to the standards set forth herein, consideration shall be given to a sign's relationship to the need that it serves, and the overall appearance of the subject property as well as the surrounding community. Compatible design, simplicity, and sign effectiveness are to be used in establishing guidelines for sign approval. (Zoning Ord. dated 1/31/06, § 9109.02.)

#### 17.36.030 Definitions.

**Abandoned Sign.** Any display remaining in place or not maintained for a period of 120 days or more which no longer advertises or identifies an on-going business, product, or service available on the business premises where the display is located.

**Address Sign.** The numeric reference of a structure or use to a street, included as part of a wall or monument sign.

**A-Frame Sign.** A free standing sign usually hinged at the top, or attached in a similar manner, and widening at the bottom to form a shape similar to the letter "A". Such signs are usually designed to be auxiliary portable commercial signage, hence they are not considered permanent signs.

**Anchor Tenant.** A shopping center key tenant, usually the largest or one of the largest tenants located within the shopping center, which serves to attract customers to the center through its size, product line, name, and reputation.

**Animated Sign.** A sign with action or motion, flashing or color changes, requiring electrical energy, electronic or manufactured sources of supply, but not including wind actuated elements such as flags or banners. Said definition shall not include displays such as time and temperature, revolving, changeable copy or public information centers.

**Announcement or bulletin board signs.** Signs permanent in character designed to accept changeable copy, handbills, posters and matters of a similar nature.

**Area of sign.** The area of a sign shall be the entire area including any type of perimeter or border which may enclose the outer limits of any writing, representation, emblem, figure or character excluding architectural features or design. The area of the sign having no such perimeter or border shall be computed by enclosing the entire area within parallelograms, triangles or circles of the smallest size sufficient to cover the entire area of the sign and computing the area of these parallelograms, triangles or circles. The area computed shall be the maximum portion or portions which may be viewed from any one direction.

**Awning, Canopy, or Marquee Sign.** A nonelectric sign that is printed on, painted on, or attached to an awning, canopy, or marquee and is only permitted on the vertical surface or flap.

**Banner.** A temporary display such as used to announce open houses, grand openings or special announcements. Often made of cloth, bunting, plastic, paper, or similar material.

**Bench Sign.** Copy painted on any portion of a bus stop or other bench.

**Billboard or Off-Site Sign.** A sign structure advertising an establishment, merchandise, service, or entertainment, which is not sold, produced, manufactured, or furnished at the property on which the sign is located.

**Building Face and/or Frontage.** The length of the single front building elevation in which the pri-

mary entrance to the business is located. If more than one business is located in a single building, then such length shall be limited to that portion which is occupied by each individual business.

**Canopy sign.** Shall mean a sign attached to either the underside of the canopy, or marquee, or directly to the canopy itself.

**Changeable Copy Sign.** A sign designed to allow the changing of copy through manual, mechanical, or electrical means.

**Civic Event Sign.** A temporary sign, other than a commercial sign, posted to advertise a civic event sponsored by a public agency, school, church, civic-fraternal organization, or similar noncommercial organization.

**Commercial Seasonal Sign.** An "open" or "closed" window sign, posted on a seasonal basis.

**Contractor's Sign/ Construction Sign.** A temporary sign erected on the parcel on which construction is taking place, limited to the duration of the construction, indicating the names of the architects, engineers, landscape architects, contractors, or similar artisans, and the owner, financial supporters, sponsors, and similar individuals or firms having a major role or interest with respect to the structure or project.

**Directional Sign.** Signs limited to on-premises directional messages, principally for pedestrian or vehicular traffic, such as "one way", "entrance", or "exit".

**Directory Sign.** A sign for listing the tenants or occupants and their suite numbers of a building or center.

**Double-faced Sign.** A single structure designed with the intent of providing copy on both sides.

**Eaveline.** The bottom of the roof eave or parapet.

**Flags and pennants.** Shall mean devices generally made of flexible materials, usually cloth, paper or plastic, and displayed on strings. They may or may not contain copy. This definition shall not include the flag of the United States or of any state.

**Flags of the State and Nation.** A flag of the United States or the State of California.

**Flashing Sign.** A sign that contains an intermittent or sequential flashing light source.

**Freestanding Sign.** A sign which is supported by one or more uprights, braces, poles, or other similar structural components that is not attached to a building or buildings. Flagpoles are not included in this definition.

**Freeway.** A highway in respect to which the owners of abutting land have no right or easement of access or in respect to which such owners have only limited or restricted right or easement of access, and which is declared to be such in compliance with the Streets and Highways Code of the State of California.

**Future Tenant Identification Sign.** A temporary sign which identifies a future use of a site or building.

**Grand Opening.** A promotional activity not exceeding 30 calendar days used by newly established businesses, within 2 months after occupancy, to inform the public of their location and service available to the community. Grand Opening does not mean an annual or occasional promotion of retail sales or activity by a business.

**Ground Sign.** A display attached to the ground, within an architecturally planned wall or structure, and not over eight (8) feet in height.

**Height of Sign.** The greatest vertical distance measured from the existing grade at the mid-point of the sign support(s) that intersect the ground to the highest element of the sign.

**Holiday Decoration Sign.** Temporary signs, in the nature of decorations, clearly incidental to and customarily associated with holidays.

**Identification Sign.** A sign attached to the building and displaying only the name, type of business, and/or logo in combination, identifying a particular business establishment.

**Illegal Sign.** Any of the following: a sign erected without first complying with all ordinances and regulations in effect at the time of its construction and erection or use; a sign that was legally erected, but whose use has ceased, or the structure upon which the display is placed has been abandoned by its owner, not maintained, or not used to identify or advertise an ongoing business for a period of not less than 120 days; a sign that was legally erected which later became nonconforming as a result of the adop-

tion of an ordinance, the amortization period for the display provided by the ordinance rendering the display nonconforming has expired, and conformance has not been accomplished; a sign which is a danger to the public or is unsafe; a sign which is a traffic hazard not created by relocation of streets or highways or by acts of the City or County. Abandoned signs and prohibited signs are also illegal.

**Illuminated Sign.** A sign with an artificial light source, either internal or external, for the purpose of lighting the sign.

**Institutional Sign.** A sign identifying the premises of a church, school, hospital rest home, or similar institutional facility.

**Kiosk.** An off-premise sign of no more than four square feet in size, used for directing people to the sales office or models of a residential subdivision project.

**Logo.** An established identifying symbol or mark associated with a business or business entity.

**Lot or Street frontage.** The linear front footage of a parcel of property abutting a dedicated public street.

**Logo Sign.** An established trademark or symbol identifying the use of a building.

**Monument Sign.** An independent structure supported from grade to the bottom of the sign with the appearance of having a solid base.

**Murals.** Painted wall signs which have a majority of the sign area comprised of noncommercial content, which generally have artistic, historic or cultural themes, and which are designed and painted (or supervised) by an artist who possesses demonstrated knowledge and expertise in the design, materials, and execution of murals or other art. Commercial content of murals shall be subject to all applicable sign limitations of the underlying zone district.

**Non-Commercial Sign.** A sign which does not promote, identify or sell a business or product.

**Nonconforming Sign.** A legally established sign which fails to conform to the regulations of this chapter. Otherwise conforming signs whose height exceeds the provisions of this chapter only because a special topographical circumstance results in a material impairment of the visibility of the display or the

owner's ability to adequately and effectively continue to communicate with the public through the use of the display if the sign were limited to the height allowed in this chapter shall not be considered non-conforming.

**Occupancy Frontage.** Each individual tenant space within a building or group of buildings which faces upon a dedicated street or public parking area between such space and street.

**Off-Site Sign.** Any sign which advertises or informs in any manner businesses, services, goods, persons, or events at some location other than that upon which the sign is located. Off-premise sign, billboard, and outdoor advertising structure are equivalent terms.

**Open House Sign.** A temporary on-site sign posted to indicate a salesperson is available to represent the property subject to sale, lease, or rent.

**Painted Sign.** Signs painted on the exterior surface of a building or structure; however, if such signs have raised borders, letters, characters, decorations or lighting appliances, they shall be considered wall signs.

**Parcel or lot of real property.** A parcel or lot of real property under separate ownership from any other parcel or lot and having street or highway frontage.

**Political Sign.** A temporary sign directly associated with a forthcoming national, state, county or local election or referendum.

**Portable Sign.** A sign that is not permanently attached to the ground or a building.

**Projecting Sign.** Any sign which is suspended from or supported by a building or wall, and which projects eighteen (18) inches or more outward therefrom.

**Promotional Sign.** A sign erected on a temporary basis to promote the sale of new products, new management, new hours of operation, a new service, or to promote a special sale.

**Public Information Center.** Any display which is characterized by changeable copy, letters or symbols.

**Real Estate Sign.** An on-site sign pertaining to the sale or lease of the premises.

**Revolving Sign.** Any sign that revolves, either by wind actuation or by electrical means.

**Roof Sign.** A sign erected, constructed, or placed upon or over a roof of a building, including a mansard roof and which is wholly or partly supported by such buildings.

**Shopping Center.** A group of four (4) or more businesses which function as an integral unit on a single parcel or group of parcels and utilize common off-street parking and access and is identified as a shopping center.

**Sign.** Any structure, housing, device, figure, statuary, painting, display, message placard, or other contrivance, or any part thereof, which is designed, constructed, created, engineered, intended, or used to advertise, or to provide data or information in the nature of advertising, for any of the following purpose: to designate, identify, or indicate the name of the business of the owner or occupant of the premises upon which the advertising display is located; or, to advertise the business conducted, services available or rendered, or the goods produced, sold, or available for sale, upon the property where the advertising display is erected. This definition shall include all parts, portions, units and materials composing same, together with illumination, frame, background, structure, support and anchorage therefor.

**Sign Area.** The entire face of a sign, including the surface and any framing, projections, or molding, but not including the support structure. Individual channel-type letters mounted on a building shall be measured by the area enclosed by four straight lines outlining each word or grouping of words.

**Sign Program.** A coordinated program of one or more signs for an individual building or building complexes with multiple tenants.

**Temporary Sign.** A sign intended to be displayed for a limited period of time.

**Time and temperature sign.** A sign giving the time and or temperature.

**Trademark.** A word or name which, with a distinctive type or letter style, is associated with a business or business entity in the conduct of business.



**Tract development sign.** A sign indicating the location of a housing tract.

**Tract directional sign.** An off-premises sign indicating direction to a tract development.

**Vehicle Sign.** A sign which is attached to or painted on a vehicle which is parked on or adjacent to any property, the principal purpose of which is to attract attention to a product sold or an activity or business located on such property.

**Wall Sign.** A sign painted on or fastened to a wall and which does not project more than 12 inches from the building or structure.

**Window Sign.** Any sign that is applied or attached to a window or located in such a manner that it can be seen from the exterior of the structure, on a permanent or temporary basis. (Zoning Ord. dated 1/31/06, § 9109.03; Ord. No. 1382, § 3 (part).)

#### 17.36.040 Sign permit required.

##### A. General.

1. No sign, or temporary sign, unless exempted by this chapter, shall be constructed, displayed or altered without a sign permit or sign program approved by the City. The Community Development Department shall review all signs unless otherwise stated.

2. Sign permits shall be reviewed and either approved or denied by the Director within 30 days of submittal of a complete application. The determination of a complete application shall be in conformance with the California Permit Streamlining Act.

3. Determination on sign permit applications are to be guided by the standards and criteria set forth in this article. An application will be approved whenever the proposed sign conforms to all design, size, height and other standards for signs subject to a permit requirement, as such requirements are set forth in this chapter.

4. The Director's determination shall be provided in writing, and shall include an explanation of the reasons for approval or denial. Appeal of the Director's decision shall be in conformance with Chapter 17.68, Hearings and Appeals.

B. Sign Program. A permit for a sign program shall be required for all new commercial, office, and

industrial centers consisting of three or more tenant spaces. The program shall be filed with the project application to construct the center, and shall be processed concurrently with the project application. The purpose of the program shall be to integrate signs with building and landscaping design to form a unified architectural statement. This may be achieved by:

1. The use of the same background color, and allowing signs to be of up to 3 different colors per multi-tenant center.

2. The use of the same type of cabinet supports, or method of mounting for signs, and the same type of construction material for components, such as sign copy, cabinets, returns, and supports.

3. The use of the same form of illumination of the signs, with internally lit signs generally being preferred by the City due to the lack of overspill from such lighting.

4. Uniform sign placement specifications, letter height, and logo height for both anchor tenants and minor tenants.

5. Logos may be permitted and are not subject to the color restrictions specified in the program. However, no logo should exceed 25% of the allowable sign area. (Zoning Ord. dated 1/31/06, § 9109.04.)

#### 17.36.050 Exempt signs.

The following signs shall be exempt from the provisions of this chapter:

A. Window signs not exceeding one square foot and limited to business identification, hours of operation, address, and/or emergency information. (Neon signs of any size require a permit, if allowed.)

B. Signs within a structure and not visible from the outside.

C. Memorial signs and plaques installed by a civic organization recognized by the Council, when cut in masonry or bronze tablets.

D. Official and legal notices issued by a court or governmental agency.

E. Official flags of the United States, the State of California, County of Riverside, or the City of Banning.

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F. Identification signs on construction sites. Such signs shall be limited to one directory or pictorial display sign identifying all contractors and other parties (including lender, realtor, subcontractors, etc.). Each sign shall not exceed 20 square feet in area and 6 feet in height. Each sign shall be removed prior to issuance of a Certificate of Occupancy.

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G. Political signs. Applicants for political signs must comply with the following requirements.

1. Political signs shall be located on private property only, and shall be limited in size to the maximum allowed in the zones where located. Such signs shall not be attached to trees, fence posts or public utility poles.

2. In the event that any such sign is detrimental to the environment, or to the public peace, health, safety, aesthetics, or morals, it shall be subject to abatement pursuant to the procedures prescribed in this ordinance concerning signs no longer advertising bona fide businesses, etcetera.

3. No permit shall be required for political signs, however, the applicant shall post a two hundred dollar cash bond with the City to guarantee removal of the political signs within seven days after the election to which the signs relate.

4. Political signs shall not be displayed more than 30 days prior to the applicable election.

H. Real estate signs for residential sales shall be one sign not exceeding four square feet in area and five feet in height, provided it is unlit and is removed within 7 days after the close of escrow or the rental or lease has been accomplished. Open House signs, for the purpose of selling a single house or condominium and not exceeding four square feet in area and five feet in height, are permitted for directing prospective buyers to property offered for sale.

I. Real estate signs for the initial sale, rental, or lease of commercial and industrial premises: One sign not to exceed 20 square feet in area to advertise the sale, lease, or rent of the premises. No such sign shall exceed eight feet in overall height and shall be removed upon sale, lease or rental of the premises or 12 months, whichever comes first. Thereafter, one sign per premise not to exceed 12 square feet in size and five feet in height is permitted for the sale, lease or rent of the premise.

J. Future tenant identification signs: One wall or freestanding sign may be placed on vacant or developing property to advertise the future use of an approved project on the property and where information may be obtained. Such sign shall be limited to one sign, a maximum of 20 square feet in area and

eight feet in overall height. Any such signs shall be single faced and shall be removed prior to the granting of occupancy permit by the City.

K. Incidental signs for automobile repair stores, gasoline service stations, automobile dealers with service repairs, motels and hotels, showing notices of services provided or required by law, trade affiliations, credit cards accepted, and the like, attached to the structure or building; provided that all of the following conditions exist:

1. The signs number no more than three.
2. No such sign projects beyond any property line.
3. No such sign shall exceed an area per face of three square feet.

4. Signs may be double-faced.

L. Copy applied to fuel pumps or dispensers such as fuel identification, station logo, and other signs required by law.

M. Agricultural signs, either wall or freestanding types, non-illuminated, and not exceeding four square feet for lots two acres or less and 10 square feet for lots greater than two acres, identifying only the agricultural products grown on the premises. The number of such signs shall be one per street frontage or a maximum of two, with wall signs to be located below the roofline and freestanding signs to be no higher than six feet.

N. Sign programs which have been approved prior to the adoption of this Zoning Ordinance.

O. Municipal and traffic control signs: Directional signs to aid vehicle or pedestrian traffic provided that such signs are located on-site, have a maximum area which does not exceed three square feet, have a maximum overall height of four feet above grade, and are mounted on a monument or decorative pole. Such signs may be located in a required setback provided that a minimum distance of five feet from any property line is maintained. Directional signs to the railway, the airport or the highway are among the types of signs which fall in this category.

P. Temporary window signs may be permitted on the inside of windows facing out which do not cover more than 25% of the individual window sur-

face for a period not to exceed 30 days use during any 60 day period. Temporary painted signs may be on the outside of the window.

Q. Historic site and historic landmark, and neighborhood signs, when designed in conformance with standards of the California Historic Commission or a similar entity.

R. Professionally made restroom, telephone and walkway signs of under one square foot.

S. Emblems or signs of a political, civic, philanthropic, educational or religious organizations, if those signs are on the premises occupied by such organizations, and do not exceed 24 square feet in area, or number more than one emblem or sign in total. (Zoning Ord. dated 1/31/06, § 9109.05.)

#### 17.36.060 Prohibited signs.

The following signs are inconsistent with the sign standards set forth in this chapter, and are therefore prohibited:

- A. Abandoned signs.
- B. Animated, moving, flashing, blinking, reflecting, revolving, or any other similar sign, except electronic message boards.
- C. Banners, flags, and pennants, except with Temporary Use Permit.
- D. Billboards.
- E. Chalkboards or blackboards.
- F. Changeable copy signs and electronic message boards, except as allowed by a Conditional Use Permit for movie theaters, arenas, stadiums, or auto malls in the commercial land use districts.
- G. New freestanding signs, except for new freeway oriented freestanding signs permitted pursuant to Section 17.36.110(B)(6).
- H. Off site signs, except as permitted elsewhere in this ordinance.
- I. Permanent sale signs.
- J. Portable signs or A-frame signs.
- K. Roof signs.
- L. Signs on public property, except for traffic regulatory, informational signs, signs required by a governmental agency, and model home tour signs, and except as permitted in the Off Site sign section of this zoning ordinance.

M. Signs painted on fences or roofs.

N. Balloons and other inflated devices or signs designed to attract attention, except with Temporary Use Permit.

O. Signs that are affixed to vehicles, excluding permanent signs on commercial vehicles which are driven on a daily or weekly basis.

P. Signs which simulate in color or design a traffic sign or signal, or which make use of words, symbols or characters in such a manner to interfere with, mislead, or confuse pedestrian or vehicular traffic.

Q. Signs which singly or in combination with other signs block more than 5% of the view from any window or door of any structure or dwelling used primarily as a residence.

R. Signs which singly or in combination with other signs, for any portion of the day, block natural sunlight from falling upon any window or door of any structure or dwelling used primarily as a residence.

S. Signs which singly or in combination with other signs block more than 10% of the view from any window or door of any structure used or occupied by people for more than an hour of a typical day, in all zoning districts of the City. (Zoning Ord. dated 1/31/06, § 9109.06; Ord. No. 1377, § 1.)

#### 17.36.070 Temporary signs.

Special event signs and civic event signs may be approved by the Director for a limited period of time as a means of publicizing special events such as grand openings, carnivals, parades, charitable events and holiday sales. Such special event signs shall be limited to the following provisions:

- A. No special event sign shall be erected without a temporary use permit.
- B. Special event signs shall be limited to 30 days per event from the date of erection or date of permit, whichever occurs first.
- C. Special event signs shall not include promotional sales signs, and they must be taken down within a week after the conclusion of the special event.

D. Special event signs may include balloons, inflated devices, search lights, beacons, pennants, and streamers.

E. Such temporary signs may not be granted to the same business or location more than twice during any one year. (Zoning Ord. dated 1/31/06, § 9109.07.)

**17.36.080 Off-site residential subdivision directional signs.**

The following shall regulate and establish a standardized program of off-site residential subdivision directional kiosk signs for the City. For the purposes of this subsection, a residential subdivision is defined as a housing project within a recorded tract where five or more structures or dwelling units are concurrently undergoing construction.

A. No kiosk sign structure shall be located less than 300 feet from an existing or previously approved kiosk site, except in the case of signs on different corners of an intersection.

B. The placement of each kiosk sign structure shall be reviewed and approved by the Director.

C. All kiosk signs shall be placed on private property with written consent of the property owner or on City right-of-way pursuant to a City encroachment permit.

D. A kiosk sign location plan shall be prepared, showing the site of each kiosk directional sign, and shall be approved by the Director prior to the issuance of a sign permit.

E. There shall be no additions, tag signs, streamers, devices, display boards, or appurtenances, added to the kiosk signs as originally approved, no other non-permitted directional signs, such as posters or trailer signs, may be used.

F. All non-conforming subdivision kiosk directional signs associated with the subdivision in question must be removed prior to the placement of directional kiosk sign(s).

G. Kiosk signs, or attached project directional signage, shall be removed when the subdivision is sold out. The applicant (or his/her legal successors) will be responsible for removal of panels and struc-

tures no longer needed. (Zoning Ord. dated 1/31/06, § 9109.08.)

**17.36.090 Abandoned signs.**

A. Any abandoned or illegal sign is hereby declared to be a danger to the health, safety, and welfare of the citizens of Banning. Any sign which is partially or wholly obscured by the growth of dry vegetation or weeds or by the presence of debris or litter also presents a danger to the health, safety, and welfare of the Banning community.

B. Any such signs as set forth above are hereby deemed to be a public nuisance. Any such sign, including any and all structural supports, shall be removed by the property owner within 10 days after notice from the Director, which notice shall provide an opportunity to be heard before the Director on the abandonment and nuisance decision. The appeal shall be granted or the decision modified if facts or circumstances disprove the existence of a public nuisance. Any sign not removed within 10 days after such notice, may be summarily abated by the Director if no appeal has been taken from the Director's decision, or, if the appeal has been denied or modified. Costs of such abatement shall be assessed against the property, using the procedures established in the Banning Municipal Code. (Zoning Ord. dated 1/31/06, § 9109.09.)

**17.36.100 Sign construction and maintenance.**

A. Every sign, and all parts, portions, and materials shall be manufactured, assembled, and erected in compliance with all applicable State, Federal, and City regulations and the Uniform Building Code.

B. Every sign, including those specifically exempt from this Zoning Ordinance, in respect to permits and permit fees, and all parts, portions, and materials shall be maintained and kept in good repair. The display surface of all signs shall be kept clean, neatly painted, and free from rust and corrosion. Any cracked, broken surfaces, malfunctioning lights, missing sign copy or other unmaintained or damaged portion of a sign shall be repaired or replaced within 30 calendar days following notification by the City.

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Noncompliance with such a request shall constitute a nuisance and penalties may be assessed in accordance with the provisions of these zoning ordinances. (Zoning Ord. dated 1/31/06, § 9109.10.)

### 17.36.110 Sign regulations.

Signs permitted in each of the City's land use districts are identified below. In addition to the following regulations, all signs must be in compliance with all other provisions of this chapter pertaining to signs.

Signs may have commercial or non-commercial messages. A non-commercial message may be substituted for the copy of any commercial sign allowed by this chapter.

#### A. Signs in Residential Zones.

1. Up to one flagpole, displaying the flag of the US or the State of California, up to 35 feet in height, unless a permit is obtained from the City to have a flagpole in a private park or public park for up to 65 feet in height.

2. For single family homes, the following are allowed:

a. Up to one sign not to exceed one square foot in area, identifying the address;

b. Up to one unlit sign not to exceed four square feet in area, pertaining to the rental, sale or lease of the property on which the sign is located. Such signs must be temporary, and may contain no flashing, blinking or reflective objects.

c. A temporary non-commercial sign.

3. For apartment complexes and multifamily developments, the following are allowed:

a. Sign(s) containing the name and/or address of the development, providing that the combined area of such signs is not exceeded as established below:

i. Up to one wall sign

ii. Up to one freestanding sign per street frontage (which shall be in a landscaped area at least 15 feet from the curb face, and not closer than five feet to the property line. Freestanding signs shall have a maximum height of eight feet inclusive of supporting structures.

iii. The maximum combined area of the signs set forth above shall not exceed 20 square feet, for com-

plexes with 125 feet of frontage or less, and shall not exceed 30 square feet for complexes with over 125 square feet of frontage.

4. For properties in the residential zones where farming takes place, lots may have one sign per street frontage (up to a maximum of two signs) advertising only the agricultural products grown on the premises. These signs may not be illuminated, and may be either free standing or wall signs. For lots of two acres or less, each sign may be a maximum of four square feet. For lots over two acres, each sign may be a maximum of ten square feet.

5. No neon signs are permitted in residential areas.

#### B. Signs in Commercial and Industrial Zones.

1. No sign attached to a structure shall be placed above the roof line.

2. Wall signs. Each business shall be permitted wall signs per occupancy footage. The area devoted to such signs shall not exceed one square foot of sign area per one foot of building frontage, and shall not exceed 50 square feet of sign area.

3. Monument signs. Each parcel or property shall be permitted one monument sign subject to all of the following conditions being met:

a. One square foot of sign area for one foot of building frontage is permitted. Such sign shall not exceed 50 square feet.

b. The buildings must be set back at least 25 feet from the property line.

c. The monument sign shall be located in a landscaped planter area not less than 50 square feet, with one dimension being at least four feet.

d. The monument sign may be no more than 8 feet high.

e. Shopping centers may have one monument sign not to exceed one square foot of display face per one foot of building frontage, not to exceed 100 square feet, for center identification. Said sign may include reader panels, and or a bulletin or a changeable copy pane.

4. Painted signs. Each business shall be permitted painted signs subject to the following conditions:

a. Said signs shall be in combination with or in lieu of wall signs.

b. The area of said painted sign shall be deducted from the total allowable wall sign.

5. Accessory signs. Signs denoting credit cards, hours of operation, etc, shall be allowed but shall not exceed three square feet in total area.

6. Freeway Oriented Freestanding Sign. A freeway oriented freestanding sign ("freeway sign") is a sign located and designed in such a manner as to be viewed by the public traveling to, from or through the City of Banning on Interstate 10. To prevent visual clutter and preserve the aesthetics of the City, there shall be no more than seven freeway signs in the City. Freeway signs shall be located along the Interstate 10 right-of-way in accordance with the Freeway Oriented Freestanding Sign District Map, as illustrated in the map attached as Exhibit A to the ordinance codified in this section. Freeway signs shall be subject to the following regulations:

a. The freeway sign shall be designed in accordance with the City's Freeway-Oriented Freestanding Sign Design Criteria, as illustrated in the map attached as Exhibit A to the ordinance codified in this section.

b. The freeway sign shall accommodate advertising displays for multiple businesses, and shared use of the freeway sign, including any video displays, shall be required.

c. The freeway sign shall not block any portion of another freeway sign from the view of any vehicle driver or passenger traveling on Interstate 10. The applicant shall be responsible for providing the Director with evidence to assure satisfactory compliance with this requirement.

d. The freeway sign shall be located in a planter area not less than 50 square feet with one dimension being at least four feet.

e. The freeway sign shall not exceed an overall height of 55 feet as measured from the Interstate 10 surface road grade.

f. The freeway sign's display faces shall not exceed 180 square feet per display face, and no variance to this maximum dimension may be granted.

g. Video displays, if used, shall be turned off between the hours of 10:00 P.M. and 6:00 A.M.

h. Sound shall not be permitted.

i. Freeway Oriented Freestanding Sign District Map (see Exhibit A attached to the ordinance codified in this section.)

j. Freeway Oriented Freestanding Sign Design Criteria shall be established by City Council resolution.

7. One flag pole, displaying one or more flags of the state and nation, not to exceed 35 feet in height.

8. No new freestanding signs shall be permitted after adoption of this Ordinance. Any existing freestanding sign shall be considered legal and conforming, but shall not be altered or replaced. (Zoning Ord. dated 1/31/06, § 9109.11; Ord. No. 1377, § 2.)

#### **17.36.120 Sign design guidelines.**

A. General. The following design guidelines shall be consulted prior to developing signs for any project. Unless there is a compelling reason, these design guidelines shall be followed. If a guideline is waived, the Mayor and City Council shall be notified. An appeal, which does not require a fee, may be filed by the Mayor or any Council person within 15 days of the waiver approval.

1. Use a brief message: The fewer the words, the more effective the sign. A sign with a brief, succinct message is simpler and faster to read, looks cleaner and is more attractive.

2. Avoid hard-to-read, overly intricate typefaces: These typefaces are difficult to read and reduce the sign's ability to communicate.

3. Avoid faddish and bizarre typefaces: Such typefaces may look good today, but soon go out of style. The image conveyed may quickly become that of a dated and unfashionable business.

4. Sign colors and materials: should be selected to contribute to legibility and design integrity. Even the most carefully thought out sign may be unattractive and a poor communicator because of poor color selection. Day-glo colors must be avoided.

5. Use significant contrast between the background and letter or symbol colors: If there is little contrast between the brightness or hue of the message of a sign and its background, it will be difficult to read.



6. Avoid too many different colors on a sign: Too many colors overwhelm the basic function of communication. The colors compete with content for the viewer's attention. Limited use of the accent colors can increase legibility, while large areas of competing colors tend to confuse and disturb.

7. Place signs to indicate the location of access to a business: Signs should be placed at or near the entrance to a building or site to indicate the most direct access to the business.

8. Place signs consistent with the proportions of scale of building elements within the facade: Within a building facade, the sign may be placed in different areas. A particular sign may fit well on a plain wall area, but would overpower the finer scale and proportion of the lower storefront. A sign which is appropriate near the building entry may look tiny and out of place above the ground level.

9. Place wall signs to establish rhythm across the facade, scale and proportion where such elements are weak. In many buildings that have a monolithic or plain facade, signs can establish or continue appropriate design rhythm, scale, and proportion.

10. Avoid signs with strange shapes: Signs that are unnecessarily narrow or oddly shaped can restrict the legibility of the message. If an unusual shape is not symbolic, it is probably confusing.

11. Carefully consider the proportion of letter area to overall sign background area: If letters take up too much sign, they may be harder to read. Large letters are not necessarily more legible than smaller ones. A general rule is that letters should not appear to occupy more than 75% of the sign panel area.

12. Make signs smaller if they are oriented to pedestrians: The pedestrian-oriented sign is usually read from a distance of 15 to 20 feet; the vehicle-oriented sign is viewed from a much greater distance. The closer a sign's viewing distance, the smaller that sign need be.

#### B. Wall or Fascia Signs.

1. Building wall and fascia signs should be compatible with the predominant visual elements of the building. Commercial centers, offices, and other similar facilities are required to be part of a sign pro-

gram in accordance with the provisions of this chapter.

2. Where there is more than one sign, all signs should be complementary to each other in the following ways:

a. Type of construction materials (cabinet, sign copy, supports, etc.)

b. Letter size and style of copy

c. Method used for supporting sign (wall or ground base).

d. Configuration of sign area

e. Shape to total sign and related components

3. The use of graphics consistent with the nature of the product to be advertised is encouraged, i.e., hammer or saw symbol for a hardware store, mortar and pestle for a drug store.

4. Direct and indirect lighting methods are allowed provided that they are not harsh or unnecessarily bright. The use of can-type box signs with translucent backlit panels are less desirable. Panels should be opaque if a can-type sign is used and only the lettering should appear to be lighted. The overspill of light should be negligible.

5. The use of backlit individually cut letter signs is strongly encouraged.

6. The use of permanent sale or come-on signs is prohibited.

7. The identification of each building or store's address in 6 inch high numbers over the main entry doorway or within 10 feet of the main entry is encouraged.

#### C. Monument Signs.

1. Monument signs are intended to provide street addresses, and identification for the commercial center development as a whole and for up to three major tenants.

2. All tenant signs should be limited in size to the width of the architectural features of the sign and shall be uniform in size and color.

3. A minimum of 10% of the sign area of monument signs for center developments should be devoted to identification of the center or building by address or name.

4. Monument signs should be placed perpendicular to approaching vehicular traffic.

5. Each monument sign should be located within a planted landscaped area which is of a shape and design that will provide a compatible setting and ground definition to the sign, incorporating the following ratio of landscape area to total sign area:

- a. Monument: 4 square feet of landscaped area for each square foot of sign area (1 side only).
- b. Directory: 2 square feet of landscaped area for each square foot of sign area. (Zoning Ord. dated 1/31/06, § 9109.12.)

#### **17.36.130 Nonconforming signs.**

A. A legally established sign which fails to conform to this chapter shall be allowed continued use, except that the sign shall not be:

- 1. Structurally altered so as to extend its useful life.
- 2. Expanded, moved, or relocated.
- 3. Re-established after a change in use.
- 4. Re-established after a business has been abandoned for 120 days or more.
- 5. Re-established after damage or destruction of more than 50%.

B. Sign copy and sign faces may be changed on nonconforming signs when there is no change in use of the site or when only a portion of a multiple tenant sign is being changed.

C. Any non-conforming sign shall be required to be brought into conformance or abated. (Zoning Ord. dated 1/31/06, § 9109.13.)

#### **17.36.140 Removal of illegal and nonconforming signs.**

A. The Director shall remove or cause the removal of any fixed, permanent sign constructed, placed or maintained in violation of this chapter, after 30 days following the date of mailing of registered or certified written notice to the owner of the sign, if known, at the last known address or to the owner of the property as shown on the latest assessment roll, or to the occupant of the property at the property address.

B. The notice shall describe the sign and specify the violation involved, and indicate that the sign will be removed if the violation is not corrected within 30

days. If the owner disagrees with the opinion of the Director, the owner may, within the said 30 day period request a hearing before the Planning Commission to determine the existence of a violation.

C. If salvageable in the opinion of the Director, signs removed by the Director pursuant to this chapter shall be stored for a period of 60 days, during which time they may be recovered by the owner upon payment to the City for costs of removal and storage. If not recovered prior to expiration of the 60 day period, the sign and supporting structures shall be declared abandoned and title thereto shall vest to the City, and the cost of removal shall be billed to the owner or lien placed on the property upon which said sign was erected. (Zoning Ord. dated 1/31/06, § 9109.14.)

#### **17.36.150 Establishing compliance.**

A. Any sign that does not conform to the requirements of this chapter, either by variance previously granted or by conformance to the existing sign regulations at the time the initial permit for the sign was issued, shall either be removed or brought up to code requirements within 10 years from the date it became noncompliant with this chapter. Notwithstanding the foregoing, the City shall not require a nonconforming sign to be removed pursuant to this chapter without paying compensation to the sign owner, if compensation is required by the Outdoor Advertising Act (Business and Professions Code section 5200 et seq.), or Division 3, Chapter 2.5 ("On-Premises Advertising Displays") of the Business and Professions Code, or compensation is otherwise required by Federal or State law.

B. In accordance with California Business and Professions Code Section 5499, no legal nonconforming sign will be required to be removed on the sole basis of its height or size if special topographic circumstances would result in a material impairment of visibility of the sign or the owner's or user's ability to adequately and effectively continue to communicate to the public through the use of the sign. The owner or user may maintain the sign at the premises and at a location necessary for continued public visibility at the height or size at which the sign was pre-

viously lawfully erected pursuant to all applicable codes, regulations and permits. Any such sign will be deemed to be in conformance with this chapter. (Zoning Ord. dated 1/31/06, § 9109.15; Ord. No. 1377, § 3.)

**17.36.160 Inventory and abatement—  
Variances—Penalties.**

A. Inventory and Abatement. Within 6 months from the date of adoption of this Zoning Ordinance, the City shall commence a program to inventory and identify illegal or abandoned signs within its jurisdiction. Within 60 days after this 6 month period, the City may commence abatement of identified illegal or abandoned signs. If a previously legal sign is merely nonconforming, however, the terms of Section 17.36.150 of this Zoning Ordinance titled "Establishing Compliance," shall apply.

B. Variances. Variances from these sign ordinances are strongly discouraged. However, where results inconsistent with the general purposes of this ordinance would occur from its strict literal interpretation and enforcement, the Planning Commission may grant a variance therefrom upon such terms and conditions as it deems necessary.

C. Penalties. Each violation of this ordinance or any regulation, order or ruling promulgated or made hereunder, shall be punishable by a fine of not more than \$200 per day, with each calendar day in violation, constituting a separate offense. (Zoning Ord. dated 1/31/06, § 9109.16.)

**17.36.170 Murals.**

Murals shall be allowed by permit reviewed by the beautification and mural council of the Banning Chamber of Commerce and permitted by the city's community development department. Applications shall be on a form devised by the community development department. A permit for a mural will be granted when the following conditions have been satisfied:

- A. Completed application;
- B. Sign permit fee paid;
- C. Approved by the beautification and mural council of the Banning Chamber of Commerce;

D. The mural shall not cause a pedestrian or vehicular safety hazard;

E. The mural shall be applied to the wall of a building; and

F. The mural shall be maintained.  
(Ord. No. 1382, § 3 (part).)

# **ATTACHMENT 3**

**Unsigned Copy of the Planning Commission Resolution  
Recommending Approval of Ordinance No. 1424 to the  
City Council**

**RESOLUTION NO. 2010-06**

**A RESOLUTION OF THE PLANNING COMMISSION OF  
THE CITY OF BANNING, CALIFORNIA  
RECOMMENDING TO THE CITY COUNCIL APPROVAL  
OF ZONE TEXT AMENDMENT NO. 10-97501, AMENDING  
CHAPTER 17.36 OF THE MUNICIPAL CODE RELATING  
TO POLITICAL AND ELECTION SIGNS AND RELATED  
SIGN RESTRICTIONS.**

**WHEREAS**, the City of Banning Municipal Code regulating political and election signs requires some amendments to bring the Code into compliance with governing law and the City's intent; and

**WHEREAS**, the City seeks to appropriately define and regulate political signs and election signs; and

**WHEREAS**, the City seeks to amend its sign regulations to clarify the size restrictions of political and election signs; and

**WHEREAS**, the City seeks to amend the existing code to remove the pre-election time limits related to display of political signs and the bond required prior to posting, to comply with governing law; and

**WHEREAS**, the City seeks amend its sign code to further limit those signs that are permitted in the public rights-of-way to prevent visual clutter, minimize traffic hazards, and prevent interference with the intended use of public property.; and

**WHEREAS**, the City seeks to amend the code to provide that the City can summarily remove illegally placed political signs, if and only if, the owner of the sign cannot be determined after reasonable effort.

**WHEREAS**, on May 21, 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 at which the Zone Text Amendment would be considered; and

**WHEREAS**, on the June 1, 2010 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 June 1, 2010, 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”) per Section 15378. The State CEQA Guidelines, at Section 15378, define a project as the “whole of an action which has the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment...” The proposed amendments to the Zoning Code do not result in a direct or indirect physical change in the environment and therefore do not meet the definition of a “project” under CEQA.

**NOW THEREFORE**, the Planning Commission of the City of Banning does hereby find, determine, and resolve as follows:

### **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 June 1, 2010 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:

### **SECTION 1. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):**

1. CEQA: The State CEQA Guidelines, at Section 15378, define a project as the “whole of an action which has the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment...” The proposed amendments to the Zoning Code do not result in a direct or indirect physical change in the environment and therefore do not meet the definition of a “project” under CEQA.
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.

### **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. 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, Land Use Element, Residential Goal 1 states, “*Preserve and enhance the City’s neighborhoods.*” By implementing appropriate regulations for election and political signs, the Zone Text Amendment will help protect the residents and its neighborhoods from illegal signage, reduce visual blight and enhance vehicular and pedestrian safety. Further, the Amendment will protect the City from future legal challenge by bringing the code into compliance with governing law.

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. Additionally, the Banning Municipal Code has been reviewed to ensure that there is no internally inconsistency created by the proposed amendments.

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 the proposed amendment does not meet the definition of a “project” under CEQA. The State CEQA Guidelines, at Section 15378, define a project as the “whole of an action which has the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment...” The proposed amendments to the Zoning Code do not result in a direct or indirect physical change in the environment.

### SECTION 3. PLANNING COMMISSION ACTIONS

The Planning Commission hereby takes the following actions:

1. Recommend Approval of Zone Text Amendment. The Planning Commission hereby recommends approval of Zone Text Amendment No. 10-97501 to the City Council for the following actions:

Amend Chapter 17.36 of the Banning Municipal Code as indicated in the attached draft Ordinance.

**PASSED, APPROVED AND ADOPTED** this 1st day of June 2010.

\_\_\_\_\_  
William Escandel, Vice-Chairman  
Banning Planning Commission

PC RESOLUTION NO. 2010-06

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APPROVED AS TO FORM AND  
LEGAL CONTENT:

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Lona Laymon  
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. 2010-06, was duly adopted by the Planning Commission of the City of Banning, California, at a regular meeting thereof held on the 1st day of June 2010, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Virginia Sorenson, Recording Secretary  
City of Banning, California



# **ATTACHMENT 4**

## **Public Hearing Notice**

## **NOTICE OF PUBLIC HEARING**

**PURSUANT TO LAW, NOTICE IS HEREBY GIVEN** of a Public Hearing before the City Council of the City of Banning, to be held at a regular City Council Meeting on Tuesday, June 22, 2010, at 5:00 p.m. in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, California, to consider the following:

Zone Text Amendment No. 10-97501 / Ordinance No. 1424:  
Amendment to Chapter 17.36 of the Banning Municipal Code regarding political sign regulations.

Information regarding the foregoing can be obtained by contacting the City's Planning Department at (951) 922-3125, or by visiting the City Hall located at 99 East Ramsey Street, Banning.

All parties interested in speaking either in support of or in opposition to any item are invited to attend said hearing, or to send their written comments to the City Clerk of the City of Banning at P.O. Box 998, Banning, California 92220.

If you challenge any decision regarding the above proposal in court, you may be limited to raising only those issues you or someone else raised in written correspondence delivered to the City Clerk at, or prior to, the time the City Council makes its decision on the proposal; or, you or someone else raised at the public hearing or in written correspondence delivered to the hearing body at, or prior to, the hearing (California Government Code, Section 65009).

**BY ORDER OF THE CITY CLERK OF THE CITY OF BANNING,  
CALIFORNIA.**

Marie A. Calderon  
City of Banning

Date: June 8, 2010  
Publish: June 11, 2010

**COUNCIL AGENDA  
REPORT OF OFFICERS**

**DATE:** June 22, 2010

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

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

**SUBJECT:** Authorize Increase of the Transient Occupancy Tax Rate from 10% to 12%


**RECOMMENDATION:** That the City Council adopt Ordinance No. 1425 implementing a Transient Occupancy Tax (TOT) rate increase from ten percent (10%) to twelve percent (12%) to be effective September 1, 2010.

**BACKGROUND:** On November 3, 2009 the voters approved Measure L by approximately 75 percent, which authorized the TOT rate to be increased from the percent (6%) rate in effect at that time to twelve percent (12%). In December, 2009 the Council adopted Ordinance 1416 which increased the approved tax rate increase to ten percent (10%). The City Council indicated a desire to consider any additional increases to the maximum as allowed by Measure L in conjunction with the ongoing issues of the General Fund's budget deficit discussions.


At a budget workshop conducted on May 11, 2010 staff presented a proposed plan to close an estimated \$1.8 million deficit for fiscal year 2010-2011. The plan includes significant reductions in staff and other expenditures in an amount of approximately \$1.6 million. In addition, staff recommended increasing the TOT to the voter approved maximum of twelve percent (12%) to help fully eliminate the deficit. Staff is recommending the increase be effective on September 1, 2010 to allow hotel and motel operators sufficient time to implement the new rate without affecting any existing reservations to the extent possible.

**FISCAL DATA:** The rate increase from ten percent (10%) to twelve percent (12%) will generate additional funds included in the proposed FY 2010/11 and FY11/12 budgets to help close the General Fund structural deficit. Revenue estimates for the coming fiscal year have been increased by \$190,000 to reflect the impacts of the increased rates adopted in December, 2009 and proposed for September 1, 2010.

**RECOMMENDED BY:**

  
\_\_\_\_\_  
Kirby Warner  
Interim Finance Director

**APPROVED BY:**

  
\_\_\_\_\_  
Andy Takata  
City Manager

## ORDINANCE NO. 1425

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AMENDING SECTION 3.16.030 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: (i) permitted a maximum rate of 12% which could only be increased by the voters, (ii) 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, (iii) 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 wished 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 planned to reconsider the TOT rate in Fiscal Year 2010-11 and reserved 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 required;

WHEREAS, pursuant to Urgency Ordinance No. 1416, which was adopted and went into effect on December 8<sup>th</sup>, 2009, and Ordinance No. 1418, the City Council established that the new TOT rate would 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; and

WHEREAS, the City continues to face a serious budget deficit and City staff has presented a proposed plan to close the estimated \$1.8 million deficit for fiscal year 2010-2011, which includes significant reductions in staff and other expenditures in an amount of approximately \$1.6 million. The plan also includes an increase in the TOT from ten (10%) percent to the voter approved maximum of twelve (12%) percent, which will assist in closing the financial gap; and

WHEREAS, the City Council desires that the increase not be effective until September 1, 2010 to allow hotel and motel operators sufficient time to implement the new rate with as little impact to existing reservations as possible and 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 September 1, 2010, until amended by ordinance of the City Council, the Transient Occupancy Tax ("TOT Rate") rate shall be increased from ten percent (10%) to twelve percent (12%), or the full amount of 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 alter the TOT rate, as long as it does not exceed the Cap Rate, 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. 1425 was introduced at a regular meeting of the City Council of the City of Banning, California, held on the 22<sup>nd</sup> day of June, 2010, and was duly adopted at a regular meeting of the City Council held on the \_\_\_\_\_ day of July, 2010, by the following roll-call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

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

## **CITY COUNCIL/BANNING UTILITY AUTHORITY JOINT MEETING**

**DATE:** June 22, 2010

**TO:** Banning Utility Authority

**FROM:** Duane Burk, Director of Public Works

**SUBJECT:** Utility Authority Resolution No. 2010-05 UA, "Receive and File the 2010 Water and Wastewater Rate Study; Approve Proposition 218 Notifications; and Amend the Existing Agreement with Raftelis Financial Consultants, Inc."

**RECOMMENDATION:** The Utility Authority adopt Resolution No. 2010-05 UA:

- I. Receive and file the City of Banning Water and Wastewater Rate Study Report dated June 9, 2010 prepared by Raftelis Financial Consultants, Inc.
- II. Authorize the distribution of public notifications regarding water and wastewater rate increases as required by Proposition 218.
- III. Amend the Agreement with Raftelis Financial Consultants, Inc. in the amount of \$25,000.00 to include additional services and compensation.
- IV. Authorize the Director of Finance to appropriate \$25,000.00 from the Water Fund Balance to Account No. 661-6300-471.33-11 (Professional Services).

**JUSTIFICATION:** In order to proceed with the proposed rate increases it is necessary for Council to receive and file the City of Banning Water and Wastewater Rate Study Report and direct staff to prepare and distribute the Proposition 218 notifications. Also, it is necessary to amend the existing Professional Services Agreement with Raftelis Financial Consultants, Inc. to include additional services and compensation necessary to implement the proposed rate increases.

**BACKGROUND:** On April 14, 2009 the City Council approved an Agreement in the amount of \$42,000.00 to Raftelis Financial Consultants, Inc. for financial planning and development of water rates. This resulted in the preparation of the City of Banning Water and Wastewater Rate Study report dated June of 2010.

On May 25, 2010 the City of Banning held a workshop to discuss the abovementioned study which includes recommendations to increase water and wastewater rates. At this time, staff respectfully requests for Council to receive and file said report; attached hereto as Exhibit "A".

Staff also requests the approval to proceed with the preparation and distribution of Proposition 218 notifications. Voter approved in 1996, Proposition 218 requires the City to give notification to all property owners of rate increases on certain utilities. This notification is a mailing that



includes the proposed rates, information on the public hearing and instructions for those who wish to protest the rate increases.

If the above actions are approved, it will be necessary to amend the original Agreement with Raftelis Financial Consultants, Inc. to include additional compensation in the amount of \$25,000.00 for services related to the preparation and distribution of Proposition 218 notifications, as well as, to facilitate the public hearing and related tasks.

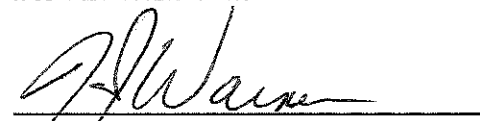
The public hearing is scheduled for August 24, 2010 at which time the City Council will be asked to approve the staff recommended rates.

**FISCAL DATA:** An appropriation in the amount of \$25,000.00 from the Water Fund Balance to Account No. 661-6300-471.33-11 (Professional Services) is necessary in order to cover the additional services.

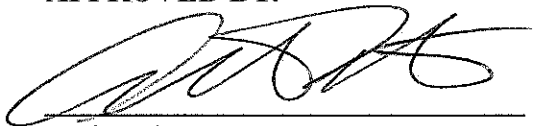
**RECOMMENDED BY:**

  
Duane Burk  
Director of Public Works

**REVIEWED BY:**

  
Kirby Warner  
Interim Finance Director

**APPROVED BY:**

  
Andy Takata  
City Manager

**RESOLUTION NO. 2010-05 UA**

**RESOLUTION OF THE BANNING UTILITY AUTHORITY OF THE CITY OF BANNING, CALIFORNIA, TO RECEIVE AND FILE THE 2010 WATER AND WASTEWATER RATE STUDY; APPROVE PROPOSITION 218 NOTIFICATIONS; AND AMEND THE EXISTING AGREEMENT WITH RAFTELIS FINANCIAL CONSULTANTS, INC.**

**WHEREAS**, On April 14, 2009 the City Council approved an Agreement in the amount of \$42,000.00 to Raftelis Financial Consultants, Inc for financial planning and development of water rates which resulted in the preparation of the City of Banning Water and Wastewater Rate Study Report dated June of 2010; and

**WHEREAS**, on May 25, 2010 the City of Banning held a workshop to discuss the Water and Wastewater Rate Study Report which includes recommendations to increase water and wastewater rates; and

**WHEREAS**, staff respectfully requests for Council to receive and file the Water and Wastewater Rate Study Report attached hereto as Exhibit "A"; and

**WHEREAS**, staff also requests the approval to proceed with the preparation and distribution of Proposition 218 notifications which is a voter approved proposition that requires the City to give notification to all property owners of rate increases on certain utilities; and

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

**Section I.** The Banning Utility Authority receives and files the City of Banning Water and Wastewater Study Report dated June 9, 2010 prepared by Raftelis Financial Consultants, Inc.

**Section II.** The Banning Utility Authority approves the preparation and distribution of the public notifications regarding water and wastewater rate increases as required by Proposition 218.

**Section III.** The Banning Utility Authority approves the amendment to the Agreement with Raftelis Financial Consultants, Inc. in the amount of \$25,000.00 to include additional services and compensation.

**Section IV.** The Director of Finance is authorized to make necessary appropriations in the amount of \$25,000.00 from the Water Fund Balance to Account No. 661-6300-471.33-11 (Professional Services).

**PASSED, ADOPTED AND APPROVED** this 22nd day of June, 2010.

---

Robert E. Botts, Chairman  
Banning Utility Authority

**ATTEST:**

---

Marie A. Calderon, Secretary

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

---

David J. Aleshire, Authority Counsel  
Aleshire & Wynder, LLP

**CERTIFICATION:**

I, Marie Calderon, Secretary to the Utility Authority of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2010-05 UA was adopted by the Banning Utility Authority of the City of Banning at its joint meeting thereof held on the 22nd day of June, 2010.

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Marie A. Calderon, Secretary  
Banning Utility Authority

**AMENDMENT NO. 1**  
**TO AGREEMENT FOR CONTRACTUAL SERVICES**  
**BETWEEN THE CITY OF BANNING**  
**AND RAFTELIS FINANCIAL CONSULTANTS, INC.**

**THIS FIRST AMENDMENT TO THE AGREEMENT FOR CONTRACTUAL SERVICES** ("Amendment") by and between the **CITY OF BANNING** ("City") and Raftelis Financial Consultants, Inc., Inc., a California corporation ("Contractor") is effective as of the 2010.

**RECITALS**

A. City and Contractor entered into that certain Agreement for Contractual Services dated the 14<sup>th</sup> day of April, 2009 ("Agreement"), whereby Contractor agreed to provide the review of the development of the Water rates through a Financial Planning of the City's Water System Study.

B. City and Contractor now desire to amend the Agreement in this Amendment No. 1 to include additional compensation for additional services in an amount not to exceed \$25,000.00 to the original Contract Amount and revise the Scope of Services. The original Scope of Work and tasks are modified and revised to include the following: Additional Services to support the review of the rates of the City's Water System Study.

**TERMS**

1. **Contract Changes.** The Agreement is amended in this First Amendment as provided herein:

- (a) Scope of Services (Exhibit A):
- (b) Compensation (Exhibit B):
- (c) Schedule (Exhibit D)

These exhibits do not amend the existing exhibits but pertain to the additional services performed hereunder.

2. **Continuing Effect of Agreement.** Except as amended by this Amendment, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by this Amendment to the Contractual Services Agreement.



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

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

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

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

5. **Authority.** The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

**[SIGNATURES ON THE FOLLOWING PAGE]**

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the date and year first-above written.

**CITY:**

CITY OF BANNING, a municipal corporation

\_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

**APPROVED AS TO FORM:**

ALESHIRE & WYNDER, LLP

\_\_\_\_\_  
David Aleshire, City Attorney

**CONTRACTOR:**

\_\_\_\_\_  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Two signatures are required if a corporation**

**NOTE: CONTRACTOR'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO DEVELOPER'S BUSINESS ENTITY.**

## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF \_\_\_\_\_

On \_\_\_\_\_, \_\_\_\_\_ before me, \_\_\_\_\_, personally appeared \_\_\_\_\_, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: \_\_\_\_\_

### OPTIONAL

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

CAPACITY CLAIMED BY SIGNER		DESCRIPTION OF ATTACHED DOCUMENT
<input type="checkbox"/> INDIVIDUAL		_____
<input type="checkbox"/> CORPORATE OFFICER		TITLE OR TYPE OF DOCUMENT
_____	TITLE(S)	
<input type="checkbox"/> PARTNER(S)	<input type="checkbox"/> LIMITED	_____
	<input type="checkbox"/> GENERAL	NUMBER OF PAGES
<input type="checkbox"/> ATTORNEY-IN-FACT		_____
<input type="checkbox"/> TRUSTEE(S)		DATE OF DOCUMENT
<input type="checkbox"/> GUARDIAN/CONSERVATOR		
<input type="checkbox"/> OTHER _____		

#### SIGNER IS REPRESENTING:

(NAME OF PERSON(S) OR ENTITY(IES))

\_\_\_\_\_  
SIGNER(S) OTHER THAN NAMED ABOVE

## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF \_\_\_\_\_

On \_\_\_\_\_, \_\_\_\_\_ before me, \_\_\_\_\_, personally appeared \_\_\_\_\_, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: \_\_\_\_\_

### OPTIONAL

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

CAPACITY CLAIMED BY SIGNER		DESCRIPTION OF ATTACHED DOCUMENT
<input type="checkbox"/>	INDIVIDUAL	_____
<input type="checkbox"/>	CORPORATE OFFICER	TITLE OR TYPE OF DOCUMENT
	_____	
	TITLE(S)	
<input type="checkbox"/>	PARTNER(S)	<input type="checkbox"/> LIMITED
		<input type="checkbox"/> GENERAL
<input type="checkbox"/>	ATTORNEY-IN-FACT	_____
<input type="checkbox"/>	TRUSTEE(S)	NUMBER OF PAGES
<input type="checkbox"/>	GUARDIAN/CONSERVATOR	_____
<input type="checkbox"/>	OTHER _____	DATE OF DOCUMENT
	_____	
<b>SIGNER IS REPRESENTING:</b>		
(NAME OF PERSON(S) OR ENTITY(IES))		SIGNER(S) OTHER THAN NAMED ABOVE
_____		
_____		



## EXHIBIT "A"

### SCOPE OF SERVICES

**Contractor will provide the review of the Water rates through a Financial Planning of the City's Water System Study. The Scope of Services for this Amendment No. 1 are outlined as follows:**

#### Task

##### A. Subtask 1 – Project Management & Meeting

1.1 Coordinate project activities between RFC staff and City staff. Provide direction to staff as required to meet project objectives and deadlines. Ensure adequate levels of staff and resources throughout the course of the project. Review all study-related work and provide overall quality assurance.

1.2 Perform general administrative duties, including client correspondence, billing, and project documentation.

##### Subtask 2 – Review and Development of Rates

The water revenue requirements from each customer class will be recovered through the proposed rate structure. The tiers may be revised in consultation with City Staff. The following subtasks will be performed:

2.1 RFC will develop a conservation-oriented rate structure which will be equitable to customers and ensure the City's revenue stability. RFC will meet with City Staff to discuss different rate alternatives and scenarios.

2.2 RFC will compare the proposed water rates developed for the City with neighboring agencies of comparable service characteristics.

##### Subtask 3 – Final Report, Presentation and Prop 218

RFC, with assistance of City staff, will prepare a final report encompassing all study findings, input, and recommendations at the conclusion of the project and present findings to City staff and at public meetings. Specific subtasks include:

- 3.1 Incorporate the City's comments of the draft report into the final report and submit electronic and hard copies to the City.
- 3.2 Present the final report and recommendations to the City.
- 3.3 RFC will assist the City in preparing the Proposition 218 and make a presentation to the City Council at a public hearing.

**II. As part of the Services, Contractor will prepare and deliver the following tangible work products to the City:**

- A. Draft Report of Review of the Water Rates
- B. Final Report of Review of the Water Rates
- C. Electronic copies of Final Report of Review of the Water Rates

**III. In addition to the requirements of Section 6.2, during performance of the Services, Contractor will keep the City apprised of the status of performance by delivering the following status reports:**

- A. Study findings
- B. Communication through Weekly or Bi-Weekly Teleconferences.

**IV. All work product is subject to review and acceptance by the City, and must be revised by the Contractor without additional charge to the City until found satisfactory and accepted by City.**

- A. Draft Report of Review of the Water Rates
- B. Final Report of the Water Rates
- C. Electronic copies of Final Report of Review of the Water Rates

**V. Contractor will utilize the following personnel to accomplish the Services:**

- A. Sudhir Pardiwala, Vice President
- B. Hannah Phan, Senior Consultant

**EXHIBIT "B"**  
**COMPENSATION**

RFC agrees to complete the above mentioned additional tasks to the Financial Planning of the City's Water System for an additional amount of not-to-exceed \$25,000.00 to be added to the original contract amount of \$42,000.00 for a grand total of \$67,000.00.

Task No.	Task Description	Amount
A.	Subtask 1	\$ 8,920.00
	Subtask 2	\$ 7,780.00
	Subtask 3	\$ 8,300.00
	<b>TOTAL AMENDMENT</b>	<b>\$25,000.00</b>

"Payment will be made on a percentage for each portion of the task upon the satisfactory completion of the task."

**EXHIBIT "D"**  
**SCHEDULE OF PERFORMANCE**

**Contractor shall perform all services timely in accordance with the following schedule:**

	<u><b>Days to Perform</b></u>	<u><b>Deadline Date</b></u>
<b>A. TASK A</b>		
Subtask 1	<u><b>45 Days</b></u>	<u><b>August 31, 2010</b></u>
Subtask 2	<u><b>60 Days</b></u>	<u><b>May 31, 2010</b></u>
Subtask 3	<u><b>70 Days</b></u>	<u><b>August 31, 2010</b></u>

## **Exhibit “A”**

### **WATER AND WASTEWATER RATE STUDY REPORT**



RAFTELIS FINANCIAL  
CONSULTANTS, INC.

201 S. Lake Ave, Suite 301 Phone 626•583•1894 www.raftelis.com  
Pasadena • CA • 91101 Fax 626•583•1411

June 9, 2010

Mr. Duane Burk  
Public Works Director  
City of Banning  
176 E. Lincoln Street  
Banning, CA 92220

**Subject: City of Banning Water and Wastewater Rate Study Report**

Dear Mr. Burk,

Raftelis Financial Consultants, Inc. (RFC) is pleased to present the principal findings and recommendations of the water and wastewater rate study in this report. We are confident that the implementation of the recommendations will be beneficial to the City's customers and promote financial stability of the enterprises.

The objective of this report is to provide the City with a financial plan to secure the financial stability of the water and wastewater enterprises through appropriate planning measures. The plan is designed to meet the City's revenue requirements, as well as be easy to administer, adjust, and conform to the governing policies of the City.

Both the water and wastewater enterprises need future revenue adjustments due to the following factors:

- Rates have not been updated since August of 2006.
- The City customer base has reduced because of the economy, necessitating increases to cover the fixed costs.
- The City needs to incur significant capital costs over the next several years.
- The City needs to meet debt coverage requirements due to bond covenants.

All these factors influence the revenue increases recommended in this report.

It was a pleasure working with you and we wish to express our thanks to staff members for the support and cooperation extended throughout the study. If you have any questions, please feel free to call me at (626) 583-1894.

Sincerely,  
RAFTELIS FINANCIAL CONSULTANTS, INC.

Sudhir Pardiwala  
Vice President

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## I. EXECUTIVE SUMMARY

The City of Banning (City) engaged Raftelis Financial Consultants (RFC) to conduct a water and wastewater rate study in order to ensure financial sufficiency of the enterprise funds as well as determine equitable rates that appropriately recover the operating and capital costs of providing water and wastewater service to the City's customers.

Ensuring the economic viability of the City's water and wastewater enterprises is an important objective. Financial planning is a critical element of this endeavor. Through sound planning practices, the City can continue to provide quality service and further the City's vision for a safe, pleasant, and prosperous community.

The objective of this study is to develop a financial plan that recovers the operating and capital costs of the water and wastewater enterprises through appropriate planning measures. The plan is designed to meet the City's revenue requirements, and calculate rates proportional to the cost of providing service.

### A. Water Enterprise

#### 1. Existing Rates

The City last completed a water rate study in 2003. Its current water rate structure includes three-tiered commodity rates that apply to all customer classes and a monthly service charge based on meter sizes. All billings are done on a monthly basis. Table I-1 outlines the current rates as specified in the City's ordinance number 1296.

**Table I-1: Current Water Rate Structure**

#### Customer Base Charge (\$ / month)

Meter Size	Effective Date			
	7-Aug-03	7-Aug-04	7-Aug-05	7-Aug-06
5/8 inch	\$ 13.20	\$ 14.52	\$ 15.97	\$ 16.77
3/4 inch	\$ 13.20	\$ 14.52	\$ 15.97	\$ 16.77
1 inch	\$ 20.18	\$ 22.20	\$ 24.42	\$ 25.64
1 1/2 inch	\$ 36.89	\$ 40.58	\$ 44.64	\$ 46.87
2 inch	\$ 57.07	\$ 62.78	\$ 69.06	\$ 72.51
3 inch	\$ 104.40	\$ 114.84	\$ 126.32	\$ 132.64
4 inch	\$ 171.91	\$ 189.10	\$ 208.01	\$ 218.41
6 inch	\$ 340.34	\$ 374.37	\$ 411.81	\$ 432.40
8 inch	\$ 542.18	\$ 596.40	\$ 656.04	\$ 688.84

#### Commodity Charge (\$ / hcf)

*hcf = 100 cubic ft = 748 gallons*

Rate Plans (Tiers)		Effective Date			
From	To	7-Aug-03	7-Aug-04	7-Aug-05	7-Aug-06
0	9	\$ 0.90	\$ 0.99	\$ 1.09	\$ 1.15
10	29	\$ 1.06	\$ 1.16	\$ 1.28	\$ 1.34
30 +		\$ 1.19	\$ 1.31	\$ 1.44	\$ 1.51



## 2. Revenue Requirements

A review of a utility's revenue requirements is a key first step in the rate design process. The review involves an analysis of annual operating revenues under existing rates, operating and maintenance (O&M) expenses, capital expenditures, including debt service, reserves, and transfers between funds. This section of the report provides a discussion of the projected revenues, operating and capital expenditures, debt coverage requirements, reserve funding policies, and the revenues/rate adjustments required to ensure financial sufficiency of the water enterprise.

RFC projected the revenue requirements for the City's water enterprise for the next five fiscal years (FY) to determine the necessary revenue adjustments required to ensure that the City sufficiently recovers its costs. The City's FY 2010 budget was used as the base year for O&M costs. Various escalation rates were used to project other expenses over the life of the forecast study (FY 2011 to FY 2015). Most O&M expenses are subject to an annual 3 percent inflation increase, based on historical consumer pricing index (CPI); while a few expenses are estimated to have different escalation factors as follow:

- Personnel expenses are escalated at 5 percent to accommodate for annual living cost adjustments and increasing benefit costs.
- Utility costs are escalated at 2 percent per year over the life of the study.

The CIP provided by the City reflects planned capital projects through FY 2015, totaling approximately \$11.14 million. The plan is provided in current dollars, not adjusted for inflation. Based on the construction cost index (CCI) from 2005 to 2008 in 20 cities, an escalation factor of one percent in FY 2010, 2 percent in FY 2011, 3 percent in FY 2012, and 4 percent each year thereafter was used over the planning period. Figures I-1 and I-2 reflect the O&M and the inflated CIP expenses in the next five years. The City expects to fund all CIP expenses through rate revenues.

**Figure I-1: O&M Expenses**

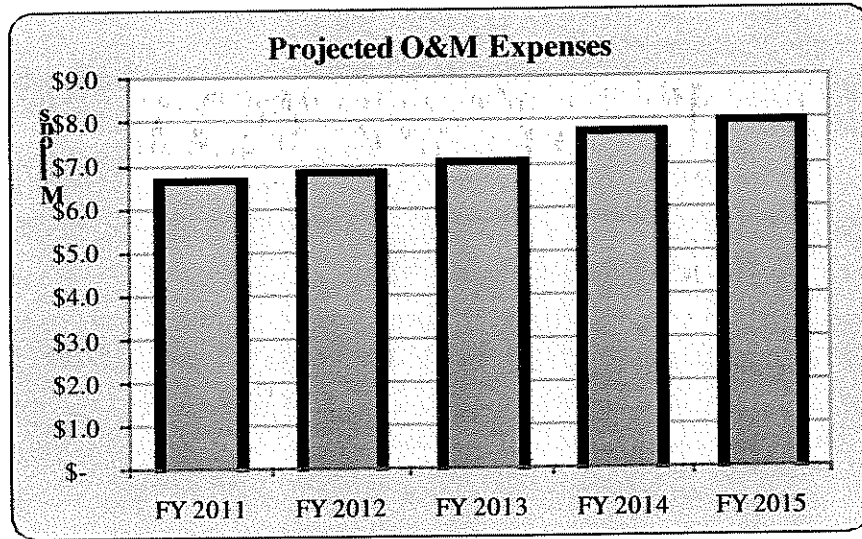
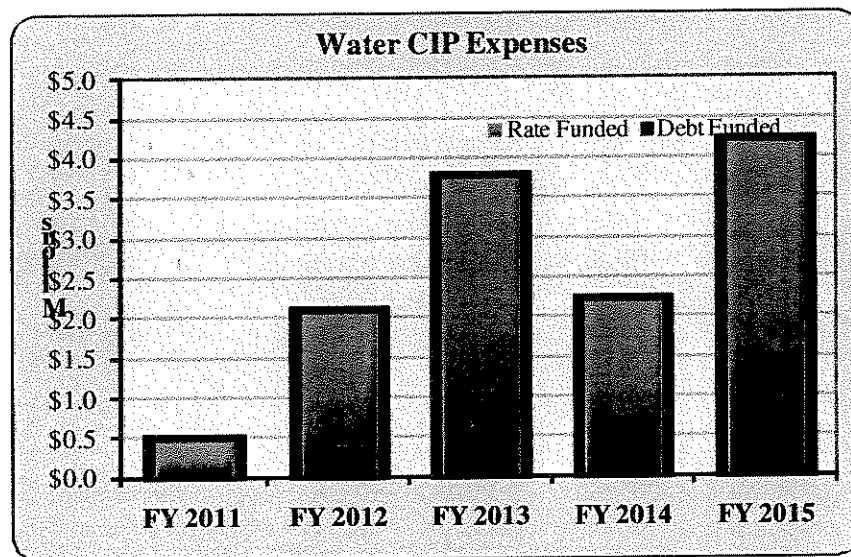


Figure I-2: Inflated CIP Expenses



### 3. Proposed Revenue Adjustments

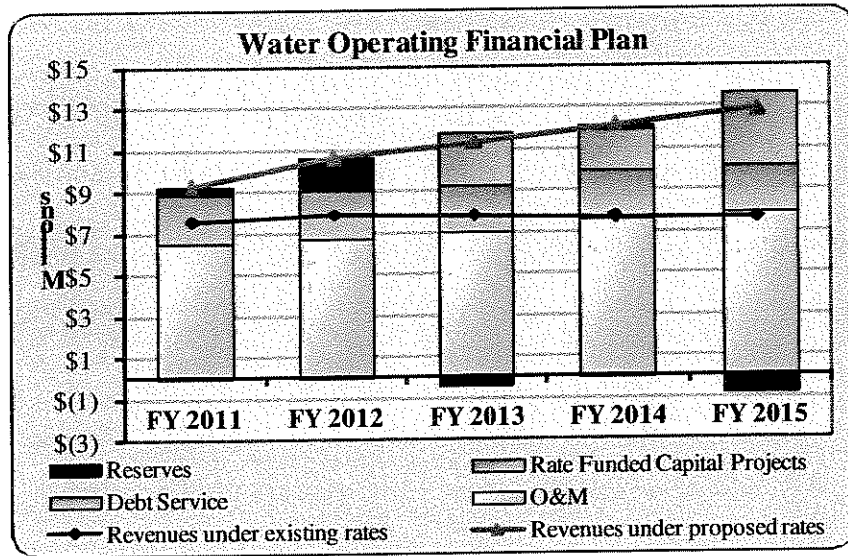
Proposed financing of the water system will be accomplished through rate increases. Under existing rates, the City projects considerable deficits in net annual cash balances throughout the planning period and thereafter.

The first rate adjustment will be implemented in September 2010. Subsequent rate increases are anticipated to take place on September 1<sup>st</sup> of each year. The revenue adjustments required to meet all expenses are as follows. The effective increase for each customer will vary depending on meter size and monthly usage.

September 2010	30 percent
September 2011	7 percent
September 2012	7 percent
September 2013	7 percent
September 2014	7 percent

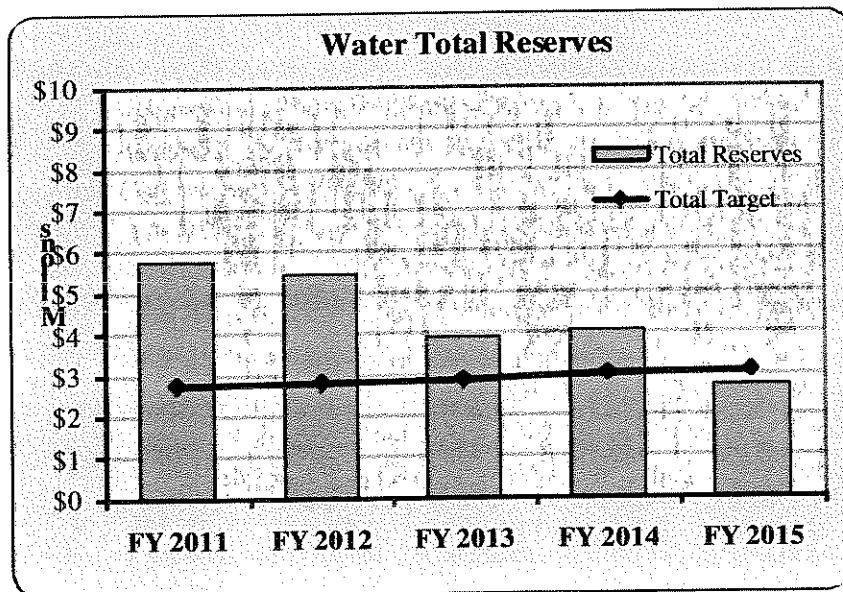
The City must ensure revenues are sufficient to meet all debt coverage requirements on existing and proposed debt. Failure to meet the coverage ratios could potentially damage the City's credit ratings, resulting in higher interest rates if the City returns to the debt market in the future. In 2005, the Banning Utility Authority issued \$35,635,000 in Water Enterprise Revenue Bonds. The proceeds of these bonds were utilized to refund and defease the 1986 Water Utility Fund Certificates of Participation and the 1989 Water Utility Fund Certificates of Participation and to provide additional funds to pay for certain capital project improvements. Figure I-3 shows the proposed revenue increases and the revenue requirements for the water enterprise.

Figure I-3: Water Operating Financial Plan



Prudent business practice requires that the City maintains an operating reserve funded from rate revenues. These reserves may be used to meet ongoing operating expenses as well as unexpected increases in costs. RFC recommends that the City maintains 25 percent or 90 days of O&M expenses in its operating reserves to meet working capital requirements and unexpected increases in costs during the forecast years. In addition, the City should maintain a capital reserve with a target of 50 percent of average annual capital expenses over the planning period. Figure I-4 shows the projected reserves balance for FY 2011 to FY 2015.

Figure I-4: Water Reserves Balance



#### 4. Proposed Rates

After careful review of the City's revenue requirements and cost of service, RFC recommends that the City retains the use of a rate structure that includes both a fixed monthly service charge and a variable quantity, or commodity, rate. The following table shows the proposed rates for the planning period. The effective rate increase for an average SFR customer is approximately 27 percent, assuming a ¾-inch meter and monthly usage of 20 hcf.

**Table I-2: Proposed Water Rates**

Monthly Water Charges							
Service Charge Meter Size	Existing FY 2010	Service Charge Meter Size	Proposed FY 2011	Proposed FY 2012	Proposed FY 2013	Proposed FY 2014	Proposed FY 2015
5/8 inch	\$ 16.77	5/8 inch	\$ 17.73	\$ 19.15	\$ 20.68	\$ 22.33	\$ 23.89
3/4 inch	\$ 16.77	3/4 inch	\$ 17.73	\$ 19.15	\$ 20.68	\$ 22.33	\$ 23.89
1 inch	\$ 25.64	1 inch	\$ 26.85	\$ 29.00	\$ 31.32	\$ 33.83	\$ 36.20
1 1/2 inch	\$ 46.87	1 1/2 inch	\$ 49.64	\$ 53.61	\$ 57.90	\$ 62.53	\$ 66.91
2 inch	\$ 72.51	2 inch	\$ 76.98	\$ 83.14	\$ 89.79	\$ 96.97	\$ 103.76
3 inch	\$ 132.64	3 inch	\$ 140.80	\$ 152.06	\$ 164.22	\$ 177.36	\$ 189.78
4 inch	\$ 218.41	4 inch	\$ 232.00	\$ 250.56	\$ 270.60	\$ 292.25	\$ 312.71
6 inch	\$ 432.40	6 inch	\$ 459.81	\$ 496.59	\$ 536.32	\$ 579.23	\$ 619.78
8 inch	\$ 688.84	8 inch	\$ 733.29	\$ 791.95	\$ 855.31	\$ 923.73	\$ 988.39
Commodity Charge							
0-9 HCF	\$ 1.15	0 - 12 HCF	\$ 1.56	\$ 1.68	\$ 1.81	\$ 1.95	\$ 2.09
10-29 HCF	\$ 1.34	13 - 25 HCF	\$ 1.98	\$ 2.14	\$ 2.31	\$ 2.49	\$ 2.66
30+ HCF	\$ 1.51	26 + HCF	\$ 2.24	\$ 2.42	\$ 2.61	\$ 2.82	\$ 3.02

#### B. Wastewater Enterprise

##### 1. Existing Rates

The City currently employs a monthly sewer usage charge of \$12.86 per equivalent dwelling unit (EDU) which has not been updated since 2003. In addition to the service fee, a monthly surcharge of \$2.00 per EDU is accessed for the treatment plant upgrade. Table 1-3 depicts the schedule of service fees and EDUs by customer class.

Table I-3: Current Wastewater Rates

		Existing Rates	Surcharge
		EDU	Per Month
<u>Residential</u>			Per Month
a.1) Each individual single-family, condominium, apartment, or mobilehome		1.00	12.86
a.2) Each recreational vehicle space connected to sewer		0.75	9.65
a.3) Each recreational vehicle space using private sanitary facilities		0.50	6.43
<u>Commercial</u>			
b.1) Hotels and Motels	Living unit w/o kitchen	0.50	6.43
	Living unit with kitchen	1.00	12.86
b.2) Churches, theaters and auditoriums (per each 100 seats)		1.00	12.86
b.3) Restaurants (per each 7 seats)		1.00	12.86
b.4) Automobile svc stations	4 Gasoline pumps or less	2.00	25.72
	More than 4 gasoline pumps	3.00	38.58
b.5) Laundries (self-service) Per washer		0.75	9.65
b.6) Retail stores and offices	First unit in building	1.00	12.86
	Per additional unit in building	0.60	7.72
<u>Institutional</u>			
c) Schools	Elementary - for each 60 pupils or fraction thereof	1.00	12.86
	Junior High - for each 50 pupils or fraction thereof	1.00	12.86
	High - for each 30 pupils or fraction thereof	1.00	12.86

## 2. Revenue Requirements

For any utility to maintain its service obligations, the utility must recover its revenue requirements on an ongoing basis. These expenditures include the cost of operating and maintaining wastewater collection, treatment, and discharge facilities. Additional expenses include the costs of providing technical services, such as laboratory functions, and administrative costs, such as billing and accounting. O&M expenditures are the normal cost obligations of the wastewater system and are met from operating revenues as they are incurred. The City's forecasted annual O&M expenditures are based on the budgeted expenditure projections for FY 2010. Expenses for future years are projected using an inflation factor of 3 percent per year.

The City anticipates a moderate growth trend for Wastewater Operation Fund O&M expenses over the projection period of FY 2011 to FY 2015. These expenditures include salary and wages, fringe benefits, contractual wastewater plant services, miscellaneous services, inter-fund services payments and transfers, and capital expenditures or outlay.

Figure I-5 summarizes the data pertaining to O&M expenditures.

Figure I-5: O&amp;M Expenses

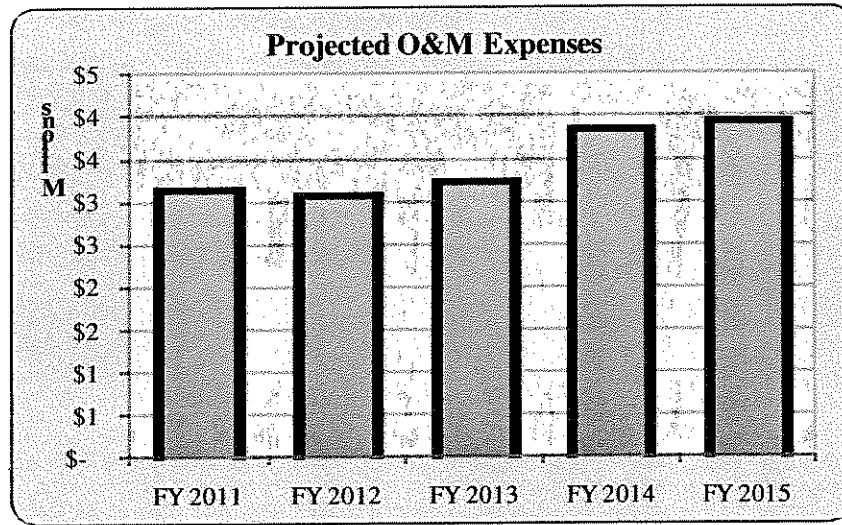
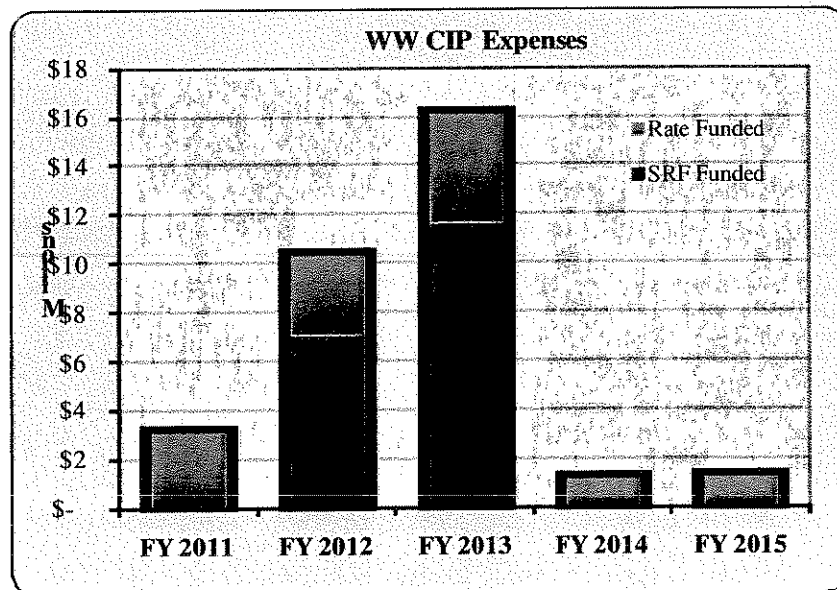


Figure I-6 summarizes the CIP projections over the forecast period. The figures have been escalated by an inflation factor of one percent in FY 2010, 2 percent in FY 2011, 3 percent in FY 2012, and 4 percent per year thereafter.

Figure I-6: Inflated CIP Expenses



### 3. Proposed Revenue Adjustments

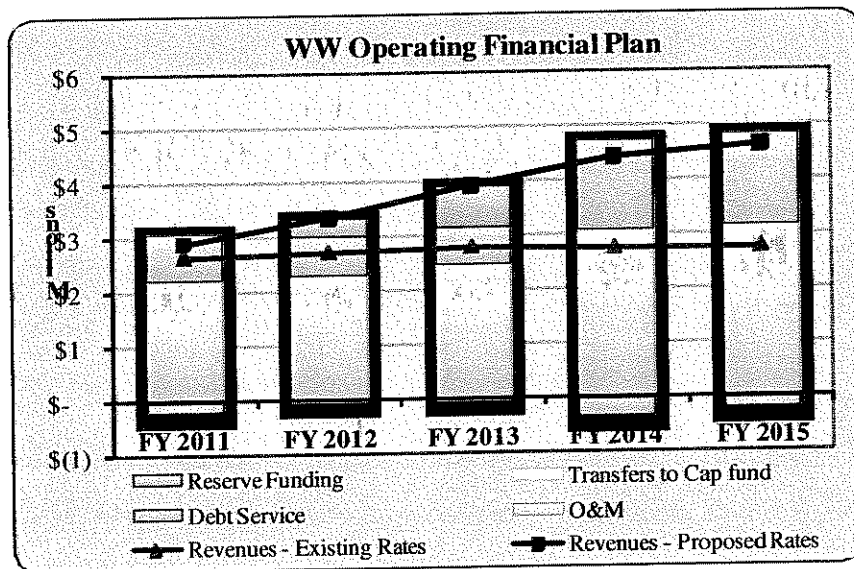
Under existing rates, the City projects considerable deficits in net annual cash balances throughout the planning period and thereafter.

The first rate adjustment will be implemented in September 2010. Subsequent rate increases are anticipated to take place on September 1<sup>st</sup> of each year. The adjustments based on the monthly service charge (excluding surcharge for tertiary system upgrade) to customers are as follows:

September 2010	12 percent
September 2011	15 percent
September 2012	15 percent
September 2013	15 percent
September 2014	3 percent

The cash flow summary presented in Figure I-7 provides a basis for evaluating the timing and level of revenue increases required to meet the projected revenue requirements for the study period. The debt service for the State Revolving Fund (SRF) and the 2005 Wastewater Revenue Bond (BUA Wastewater Debt Service) are also included as revenue requirements.

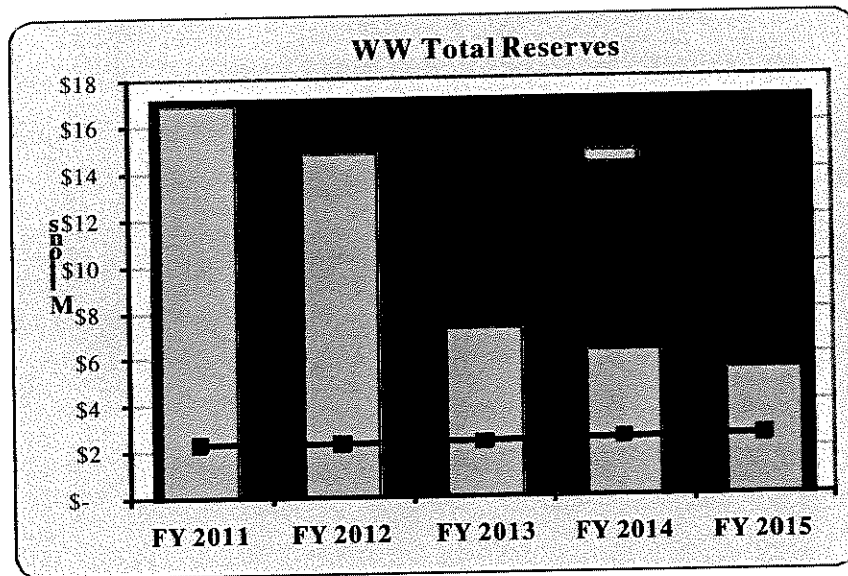
Figure I-7: Wastewater Operating Cash Flow



Prudent business practice requires that the City maintains an operating reserve funded from rate revenues. These reserves may be used to meet ongoing operating expenses as well as unexpected increases in costs. RFC recommends that the City maintains 25 percent or 90 days of O&M expenses in its operating reserves to meet working capital requirements and unexpected increases in costs during the forecast years. In addition, the City should maintain a capital reserve with a target of 50 percent of average annual capital expenses over the planning period. Figure I-8 shows the projected reserves balance for FY 2011 to FY 2015.



Figure I-8: Wastewater Reserves Balance



#### 4. Proposed Rates

Table I-4 summarizes the proposed rates. Rates per EDU increase to \$14.40 from \$12.86 in FY 2011. This excludes the \$2 surcharge for the wastewater treatment plant, which will continue to be collected to recover costs related to the treatment plant upgrade. Thus, the effective rate increase for a residential customer is 10.4 percent.

Table I-4: Proposed Wastewater Rates

	Existing Rate	Proposed FY 2011	Proposed FY 2012	Proposed FY 2013	Proposed FY 2014	Proposed FY 2015
Residential*	\$ 12.86	\$ 14.40	\$ 16.56	\$ 19.04	\$ 21.90	\$ 22.56
Commercial (\$/EDU)	\$ 12.86	\$ 14.40	\$ 16.56	\$ 19.04	\$ 21.90	\$ 22.56
Tertiary Surcharge (\$/EDU)	\$ 2.00	\$ 2.00	\$ 2.00	\$ 2.00	\$ 2.00	\$ 2.00
\$ Change		\$ 1.54	\$ 2.16	\$ 2.48	\$ 2.86	\$ 0.66
Percent change		10.4%	13.2%	13.4%	13.6%	2.8%

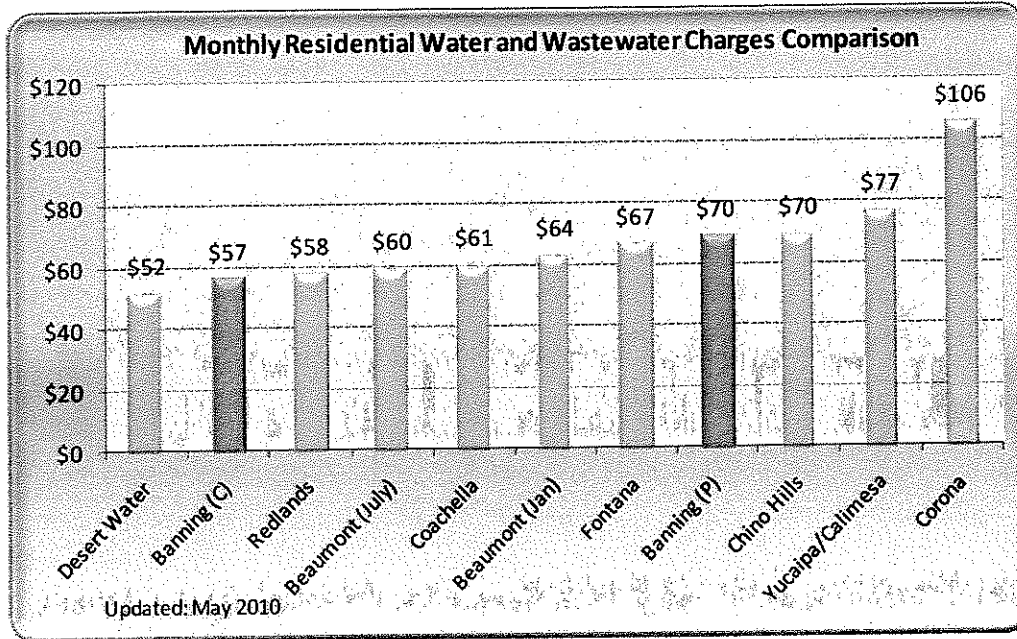
\* assume 1 EDU per bill; excludes \$2 surcharge.

#### C. Rate Survey

As shown in Figure I-9, the City's current monthly water and wastewater charges place it in the middle in a comparison with surrounding agencies. With the proposed increases, the City's charges remain comparable with the neighboring utilities. In order to provide a meaningful comparison, all bills are calculated on a monthly basis for a single family residence (SFR) customer using a 3/4" meter and an assumed monthly usage of 20 hundred

cubic feet (hcf), which is the approximate average usage for SFR customers in the City. The combined effective bill increase for an average SFR customer is approximately 22.5 percent.

Figure I-9: Rate Survey



## II. WATER ENTERPRISE

The City of Banning (City) provides water service to approximately 10,865 customer accounts. The City meets its water demand from three sources of supply: groundwater, imported water from State Water Project (SWP), and recycled water for irrigation demand.

The City overlies the San Gorgonio Pass and Banning Canyon Groundwater Basins. The groundwater basins are naturally recharged through the percolation of runoff, direct precipitation, surface inflow, and artificial recharge. Within the City, the San Gorgonio Pass Basin is subdivided into a series of storage units: the Banning Bench, Banning, Beaumont and Cabazon storage units. The Banning Canyon Groundwater Basin consists of three storage units: the Upper, Middle and Lower Banning Canyon storage units. The City currently operates and maintains 22 potable groundwater production wells. Half of these wells are located in Banning Canyon and the remaining wells are in Banning storage units and Beaumont storage unit. Table II-1 below summarizes the City's wells and their current capacity by storage units<sup>1</sup>.

**Table II-1: Well Capacities by Storage Unit**

Wells by Storage Unit	Well Design Capacity		Dry Year Capacity	
	gpm	acre-ft/yr	gpm	acre-ft/yr
Upper Banning Canyon	3,800	6,130	1,600	2,580
Middle Banning Canyon	7,000	11,290	1,600	2,580
Banning Bench	3,500	5,650	1,600	2,580
East Banning	1,000	1,610	1,000	1,610
West Banning	4,450	7,180	4,450	7,180
Beaumont	8,700	14,030	8,700	14,030
<b>Total Capacity</b>	<b>28,450</b>	<b>45,890</b>	<b>18,950</b>	<b>30,560</b>

Recycled water supplies are expected to meet projected irrigation demand. The recycled water production actually exceeds demand for the irrigation of golf courses, parks, medians and greenbelts. The City also plans to make recycled water available for irrigating landscape of new homes.

In addition to groundwater and recycled water, the City is eligible to receive imported water from the San Gorgonio Pass Water Agency (SGPWA). The SGPWA's entitlement of SWP water is not guaranteed every year depending on climatic variability, availability of diversion, storage and conveyance facilities, environmental concerns, and demand for SWP water. The City is entitled to 6,574 acre-ft/year of SWP water from SGPWA and an additional 5,780 acre-ft/year from California Department of Water Resources (DWR) or

<sup>1</sup> 2005 Urban Water Management Plan page 2-6, Table 2-2

other entities in Central and/or Northern California. The variable reliability of SWP water is accounted for in determining the City's projected water supplies in 2010 and 2015 presented in Table II-2 below.

**Table II-2: Projected Water Supplies (acre-ft/year)<sup>2</sup>**

Water Supply Source	Projected 2010	Projected 2015
Banning Bench Storage Unit	5,000	5,000
Beaumont Storage Unit <sup>2</sup>	5,900	400
Cabazon Storage Unit	2,050	2,050
East Banning Storage Unit	1,050	1,050
West Banning Storage Unit	350	350
Recycled Water Use	1,504	1,832
Return Flows from Irrigation	1,309	1,564
SWP Table A Entitlement	2,129	4,667
SWP Additional Table A	1,871	4,104
<b>Total</b>	<b>21,163</b>	<b>21,017</b>

#### A. Existing Water Rates

The City's current water rate structure includes three-tiered commodity rates that apply to all customer classes and a monthly service charge based on meter sizes. All billings are done on a monthly basis. Table II-3 outlines the current rates as specified in the City's ordinance number 1296.

**Table II-3: Current Water Rate Structure**

<sup>2</sup> Extracted from 2005 Urban Water Management Plan page 2-3, Table 2-1 with correction for Beaumont Storage Unit supply in 2010 equal to 5,900 acre-ft/yr provided by George Thatcher in October 2008

## Customer Base Charge (\$ / month)

Meter Size	Effective Date			
	7-Aug-03	7-Aug-04	7-Aug-05	7-Aug-06
5/8 inch	\$ 13.20	\$ 14.52	\$ 15.97	\$ 16.77
3/4 inch	\$ 13.20	\$ 14.52	\$ 15.97	\$ 16.77
1 inch	\$ 20.18	\$ 22.20	\$ 24.42	\$ 25.64
1 1/2 inch	\$ 36.89	\$ 40.58	\$ 44.64	\$ 46.87
2 inch	\$ 57.07	\$ 62.78	\$ 69.06	\$ 72.51
3 inch	\$ 104.40	\$ 114.84	\$ 126.32	\$ 132.64
4 inch	\$ 171.91	\$ 189.10	\$ 208.01	\$ 218.41
6 inch	\$ 340.34	\$ 374.37	\$ 411.81	\$ 432.40
8 inch	\$ 542.18	\$ 596.40	\$ 656.04	\$ 688.84

## Commodity Charge (\$ / hcf)

hcf = 100 cubic ft = 748 gallons

Rate Plans (Tiers)		Effective Date			
From	To	7-Aug-03	7-Aug-04	7-Aug-05	7-Aug-06
0	9	\$ 0.90	\$ 0.99	\$ 1.09	\$ 1.15
10	29	\$ 1.06	\$ 1.16	\$ 1.28	\$ 1.34
30 +		\$ 1.19	\$ 1.31	\$ 1.44	\$ 1.51

## B. Growth

Due to the current economic condition, the City has lost approximately 500 customer accounts in the past fiscal year. The City is projecting that the number of accounts will return to pre-2009 level over the next two years as the economy recovers. From FY 2012 to 2015, the City estimated that the growth rate would be approximately 0.1 to 0.2 percent, or about 14 to 17 accounts annually. It should be noted that if the economic recovery is slower than projected and therefore usage is lower than projected, the City would need higher revenue adjustments than projected in this report.

The following table, Table II-4, shows the number of customer accounts by meter size from FY 2010 to 2015.

Table II-4: Customer Accounts by Meter Size

Line no	Meter Size	Budgeted 2010	Projected 2011	Projected 2012	Projected 2013	Projected 2014	Projected 2015
1	<i>Rounded up to nearest integer</i>						
2	5/8 inch	32	35	37	37	37	37
3	3/4 inch	8,670	9,417	9,934	9,947	9,963	9,982
4	1 inch	445	483	510	511	512	513
5	1 1/2 inch	89	97	102	102	102	102
6	2 inch	155	168	177	177	177	177
7	3 inch	28	30	32	32	32	32
8	4 inch	41	45	47	47	47	47
9	6 inch	22	24	25	25	25	25
10	8 inch	25	27	28	28	28	28
11	TOTAL	9,507	10,326	10,892	10,906	10,923	10,943

Table II-5 shows the projected water usage in hcf in each tier. The usage increases with the economic recovery but is projected to reduce because of conservation in the later years.

**Table II-5: Usage by Tier (hcf)**

Line no				Budgeted 2010	Projected 2011	Projected 2012	Projected 2013	Projected 2014	Projected 2015
1	<b>Tiers</b>			<i>Rounded up to nearest integer</i>					
2	0	9	25.0%	803,512	829,136	857,138	841,088	825,586	810,612
3	10	29	26.1%	838,631	865,375	894,601	877,849	861,669	846,041
4	30	+	48.9%	1,569,515	1,619,567	1,674,264	1,642,912	1,612,630	1,583,381
5	<b>TOTAL USAGE</b>			<b>3,211,658</b>	<b>3,314,078</b>	<b>3,426,003</b>	<b>3,361,849</b>	<b>3,299,885</b>	<b>3,240,034</b>

Table II-6 shows the projected revenues under the existing water rates, given the above growth rates, projected customer accounts, and projected water usage over the next 5 years.

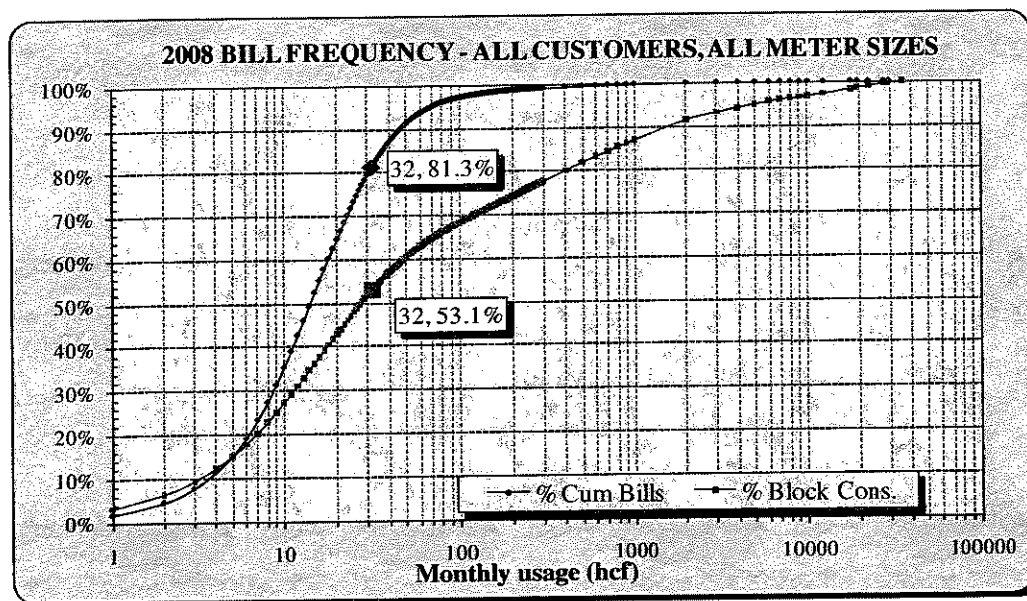
Table II-6: Revenues under Existing Rates

Line no		Budgeted 2010	Projected 2011	Projected 2012	Projected 2013	Projected 2014	Projected 2015
1	Service Revenues	\$ 2,545,864	\$ 2,764,874	\$ 2,910,148	\$ 2,913,072	\$ 2,916,600	\$ 2,920,731
2	Commodity Revenues						
3	Tier 1 - 0 to 9	\$ 924,039	\$ 953,506	\$ 985,709	\$ 967,251	\$ 949,424	\$ 932,204
4	Tier 2 - 10 to 29	\$ 1,123,766	\$ 1,159,603	\$ 1,198,765	\$ 1,176,318	\$ 1,154,636	\$ 1,133,695
5	Tier 3 - 30 and over	\$ 2,369,968	\$ 2,445,546	\$ 2,528,139	\$ 2,480,797	\$ 2,435,071	\$ 2,390,905
6	Total Water Revenue from Rates	\$ 6,963,636	\$ 7,323,529	\$ 7,622,761	\$ 7,537,438	\$ 7,455,731	\$ 7,377,535

### C. Usage Characteristics

The City provided RFC with various billing data that allowed RFC to perform several analyses in order to determine customer usage characteristics. Figure II-1 shows the pattern for the water consumption for City's customers in all meter sizes.

Figure II-1: Bill Frequency Chart

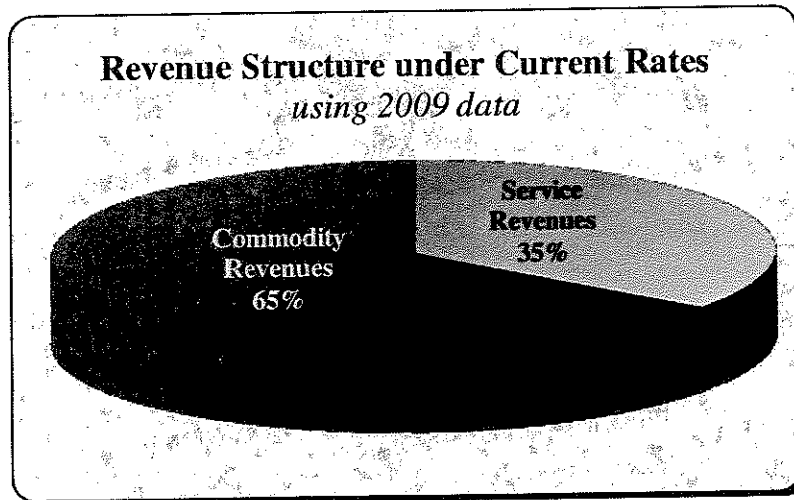


The bill frequency tabulation plots cumulative usage and cumulative number of bills at each increment of monthly use (hcf of water). The average monthly usage in 2008 is 32 hcf, which represents 53.1 percent of cumulative usage from 81.3 percent of cumulative bills. This bill tabulation helps to better understand how water is used and how customers are impacted under current rates in determining the tier cut-offs.

Figure II-2 below shows the City's revenue structure under current water rates in FY 2009. The figure indicates that 35 percent of total water sales come from ready-to-serve monthly service charges. The Best Management Practice 11 (BMP 11) published by California Urban

Water Conservation Council recommends water suppliers collect no more than 30 percent of all revenues from fixed charges to promote conservation.

**Figure II-2: Revenue Structure under Current Rates**



#### **D. Revenue Requirements**

The adequacy of the existing rate structure can be measured by comparing revenue requirement projections against revenue projections under existing rates. If revenue projections under existing rates do not meet forecasted requirements, rates need to be adjusted. The City provided a number of forward looking assumptions in order to facilitate projections and assess the practicality of rate adjustments. Projections beyond five years generally are less reliable. This is a reasonable timeframe to assist management, policymakers, investors, and bond rating agencies, as well as the public or other agents that need to evaluate the financial position or revenue requirements of the water utility.

For any utility to maintain its service obligations, the utility must recover its revenue requirements on an ongoing basis. These expenditures include the cost of operating and maintaining water collection, treatment, and discharge facilities. Additional expenses include the costs of providing technical services, such as laboratory functions, and administrative costs, such as billing and accounting. Operation and maintenance (O&M) expenditures are the normal cost obligations of the water system and are met from operating revenues as they are incurred.

The City's FY 2010 budget was used as the base year for O&M costs. Various escalation rates were used to project other expenses over the life of the forecast study (FY 2011 to FY 2015). Most O&M expenses are subject to an annual 3 percent inflation increase, based on historical consumer pricing index (CPI); while a few expenses are estimated to have different escalation factors as follow:



- Personnel expenses are escalated at 5 percent to accommodate for annual living cost adjustments and increasing benefit costs.
- Utility costs are escalated at 2 percent per year over the life of the study.

Table II-7 below shows the projected O&M expenses for the water utility.

**Table II-7: O&M Expenses**

Line no	Descriptions	Projected 2010	Projected 2011	Projected 2012	Projected 2013	Projected 2014	Projected 2015
1	<b>O&amp;M</b>						
2	Employee Services	\$ 1,420,387	\$ 1,491,406	\$ 1,565,977	\$ 1,644,276	\$ 1,726,489	\$ 1,812,814
3	Services & Supplies	\$ 2,801,158	\$ 2,873,921	\$ 2,948,641	\$ 3,025,373	\$ 3,541,418	\$ 3,635,459
4	Repair/Maint	\$ 16,000	\$ 16,480	\$ 16,974	\$ 17,484	\$ 18,008	\$ 18,548
5	Interfund Svc-Bill/Coll	\$ 144,685	\$ 149,026	\$ 153,496	\$ 158,101	\$ 162,844	\$ 167,730
6	Interfund Svc-Mtr Read SV	\$ 248,470	\$ 255,924	\$ 263,602	\$ 271,510	\$ 279,655	\$ 288,045
7	Interfund Svc-SG&A	\$ 426,460	\$ 440,151	\$ 454,297	\$ 468,915	\$ 484,021	\$ 499,633
8	Lease Payments	\$ 470,000	\$ 470,000	\$ 470,000	\$ 470,000	\$ 470,000	\$ 470,000
9	Transfer-Gas Tax Street FD	\$ 18,000	\$ 18,540	\$ 19,096	\$ 19,669	\$ 20,259	\$ 20,867
10	Transfer-SPL Donation Fund	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
11	Routine Capital Outlay	\$ 814,000	\$ 838,420	\$ 863,573	\$ 889,480	\$ 916,164	\$ 943,649
12	<b>Total O&amp;M</b>	<b>\$ 6,359,160</b>	<b>\$ 6,553,868</b>	<b>\$ 6,755,656</b>	<b>\$ 6,964,807</b>	<b>\$ 7,618,859</b>	<b>\$ 7,856,744</b>

Capital expenditures are generally classified into broad categories, including routine replacement of existing facilities, normal extensions and improvements, and major capital replacements and improvements. Sound capital expenditure forecasts are critical to developing adequate revenue requirement projections. The City has developed a comprehensive water Capital Improvement Plan (CIP) to address the future needs of the water system. The major project in the CIP is the water treatment plant (WTP) expansion, which is expected to be completed in 2013. The CIP is to be funded through a combination of system revenues and debt financing.

The CIP provided by the City reflects planned capital projects through FY 2015, totaling approximately \$11.14 million. The plan is provided in current dollars, not adjusted for inflation. Based on the construction cost index (CCI) from 2005 to 2008 in 20 cities, an escalation factor of one percent in FY 2010, 2 percent in FY 2011, 3 percent in FY 2012, and 4 percent each year thereafter was used over the planning period. Table II-8 shows the inflated CIP for the next 5 years.

**Table II-8: Inflated CIP Expenses**

Line no	Descriptions	Projected 2010	Budgeted 2011	Projected 2012	Projected 2013	Projected 2014	Projected 2015
1	Restoration of White Water Diversion Pipeline Flume	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,580,800
2	Replace 20" Transmission Line in Banning Water Canyon	\$ -	\$ 133,926	\$ 954,995	\$ 2,173,994	\$ -	\$ -
3	Construction of Additional Water Wells	\$ -	\$ -	\$ 1,061,106	\$ 1,544,970	\$ 1,606,769	\$ -
4	Annual Waterline Replacement Program	\$ 242,400	\$ 309,060	\$ 42,444	\$ -	\$ 573,846	\$ 596,800
5	Projected Future CIP	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
6	<b>TOTAL CIP (Inflated)</b>	<b>\$ 242,400</b>	<b>\$ 442,986</b>	<b>\$ 2,058,546</b>	<b>\$ 3,718,964</b>	<b>\$ 2,180,615</b>	<b>\$ 4,177,600</b>

### E. Proposed Revenue Adjustments

Under existing rates, the City projects considerable deficits in net annual cash balances throughout the planning period and thereafter. Thus, to continue providing water service to its customers, the City needs to increase its water rates to ensure cost recovery.

The first rate adjustment will be implemented in September 2010. Subsequent rate increases are anticipated to take place on September 1<sup>st</sup> of each year. The revenue adjustments required to meet all expenses are as follows. The effective increase for each customer will vary depending on meter size and monthly usage.

September 2010	30 percent
September 2011	7 percent
September 2012	7 percent
September 2013	7 percent
September 2014	7percent

The City must ensure revenues are sufficient to meet all debt coverage requirements on existing and proposed debt. Failure to meet the coverage ratios could potentially damage the City's credit ratings, resulting in higher interest rates if the City returns to the debt market in the future. In 2005, the Banning Utility Authority issued \$35,635,000 in Water Enterprise Revenue Bonds. The proceeds of these bonds were utilized to refund and defease the 1986 Water Utility Fund Certificates of Participation and the 1989 Water Utility Fund Certificates of Participation and to provide additional funds to pay for certain capital project improvements. The cash flow summary presented in Table II-9 provides a basis for evaluating the timing and level of revenue increases required to meet the projected revenue requirements for the study period.

Table II-9: Water Operating Cash Flow

Line no	Descriptions	Budgeted 2010	Projected 2011	Projected 2012	Projected 2013	Projected 2014	Projected 2015
1	<b>REVENUES</b>						
2	Revenues From Existing Rates	\$ 6,963,636	\$ 7,323,529	\$ 7,622,761	\$ 7,537,438	\$ 7,455,731	\$ 7,377,535
3	Revenues from Adjustments						
4	FY      %      Months Effective						
5	2010      0%      0	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
6	2011      30%      10		\$ 1,830,882	\$ 2,286,828	\$ 2,261,231	\$ 2,236,719	\$ 2,213,260
7	2012      7%      10			\$ 578,059	\$ 685,907	\$ 678,472	\$ 671,356
8	2013      7%      10				\$ 611,600	\$ 725,965	\$ 718,351
9	2014      7%      10					\$ 647,318	\$ 768,635
10	2015      7%      10						\$ 685,366
11	Total Revenues from Adjustment	\$ -	\$ 1,830,882	\$ 2,864,888	\$ 3,558,739	\$ 4,288,474	\$ 5,056,968
12	Total Revenues from Rates	\$ 6,963,636	\$ 9,154,411	\$ 10,487,649	\$ 11,096,177	\$ 11,744,205	\$ 12,434,503
13	<b>Non-Operating Revenues</b>						
14	Interest Income	\$ 69,276	\$ 58,314	\$ 57,434	\$ 97,036	\$ 102,216	\$ 100,359
15	Meter Installations	\$ 1,000	\$ -	\$ 7,236	\$ 3,752	\$ 4,556	\$ 5,360
16	Miscellaneous Revenues						
17	Turn on Charges	\$ 40,000	\$ 41,200	\$ 42,436	\$ 43,709	\$ 45,020	\$ 46,371
18	Delinquent Reconnect Fee	\$ 50,000	\$ 51,500	\$ 53,045	\$ 54,636	\$ 56,275	\$ 57,964
19	Backflow Charges	\$ 20,000	\$ 20,600	\$ 21,218	\$ 21,855	\$ 22,510	\$ 23,185
20	Miscellaneous Revenues	\$ 7,000	\$ 7,210	\$ 7,426	\$ 7,649	\$ 7,879	\$ 8,115
21	Mis Rev-Repairs / Replacement	\$ 3,000	\$ 3,090	\$ 3,183	\$ 3,278	\$ 3,377	\$ 3,478
22	Sale of Surplus Property	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
23	Restitution / Subrogation	\$ 182,902	\$ -	\$ -	\$ -	\$ -	\$ -
24	Total Non-Operating Revenues	\$ 373,178	\$ 181,914	\$ 191,978	\$ 231,915	\$ 241,833	\$ 244,832
25	<b>TOTAL REVENUES</b>	\$ 7,336,814	\$ 9,336,325	\$ 10,679,626	\$ 11,328,092	\$ 11,986,038	\$ 12,679,335
26	<b>REVENUE REQUIREMENTS</b>						
27	O&M expenses	\$ 6,359,160	\$ 6,553,868	\$ 6,755,656	\$ 6,964,807	\$ 7,618,859	\$ 7,856,744
28	Debt Service						
29	Old Debt	\$ 2,298,201	\$ 2,296,842	\$ 2,298,944	\$ 2,294,949	\$ 2,299,857	\$ 2,296,456
30	Proposed Loan	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
31	<b>TOTAL REV REQUIREMENT</b>	\$ 8,657,361	\$ 8,850,709	\$ 9,054,600	\$ 9,259,756	\$ 9,918,716	\$ 10,153,200
	<b>Transfers to Reserves</b>						
32	Transfer From/(To) WCFF	\$ -	\$ -	\$ -	\$ (2,500,000)	\$ (2,000,000)	\$ (3,500,000)
33	Transfer From/(To) BUA Capital	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	<b>TOTAL TRANSFERS</b>	\$ -	\$ -	\$ -	\$ (2,500,000)	\$ (2,000,000)	\$ (3,500,000)
34	Net Annual Cash Flows	\$ (1,320,547)	\$ 485,616	\$ 1,625,026	\$ (431,664)	\$ 67,322	\$ (973,865)
35	Coverage Ratio	43%	121%	171%	190%	190%	210%
36	Required Coverage - 115%	115%	115%	115%	115%	115%	115%

Prudent business practice requires that the City maintains an operating reserve funded from rate revenues. These reserves may be used to meet ongoing operating expenses as well as unexpected increases in costs. RFC recommends that the City maintains 25 percent or 90 days of O&M expenses in its operating reserves to meet working capital requirements and unexpected increases in costs during the forecast years. In addition, the City should maintain a capital reserve with a target of 50 percent of average annual capital expenses over the planning period.

Table II-10: Water Reserves Balance

Line No.		Projected 2010	Projected 2011	Projected 2012	Projected 2013	Projected 2014	Projected 2015
<b>Operating Reserves</b>							
1	Beginning Balance	\$ 2,462,965	\$ 1,142,418	\$ 1,628,034	\$ 3,253,060	\$ 2,821,396	\$ 2,888,718
2	Net Annual Cash Flows	\$ (1,320,547)	\$ 485,616	\$ 1,625,026	\$ (431,664)	\$ 67,322	\$ (973,865)
3							
4	<b>Ending Balance</b>	<b>\$ 1,142,418</b>	<b>\$ 1,628,034</b>	<b>\$ 3,253,060</b>	<b>\$ 2,821,396</b>	<b>\$ 2,888,718</b>	<b>\$ 1,914,853</b>
5	Target Balance @ 25% of O&M	\$ 1,589,790	\$ 1,638,467	\$ 1,688,914	\$ 1,741,202	\$ 1,904,715	\$ 1,964,186
<b>Water Capital Facility Fund (WCFF)</b>							
6	Beginning Balance	\$ 4,792,371	\$ 4,553,971	\$ 4,148,348	\$ 2,289,066	\$ 1,175,350	\$ 1,121,679
7	Water Capital Facilities Fees	\$ -	\$ -	\$ 195,264	\$ 101,248	\$ 122,944	\$ 144,640
8	Water Frontage Fee	\$ 4,000	\$ 4,000	\$ 4,000	\$ 4,000	\$ 4,000	\$ 4,000
9	Capital Outlay - for WCF	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10	CIP Projects	\$ (242,400)	\$ (442,986)	\$ (2,058,546)	\$ (3,718,964)	\$ (2,180,615)	\$ (4,177,600)
11	Loan Proceeds from proposed loan	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
12	Transfer from/(to) Oper Fund	\$ -	\$ -	\$ -	\$ 2,500,000	\$ 2,000,000	\$ 3,500,000
13	Transfer from/(to) BUA Fund	\$ -	\$ 33,363	\$ -	\$ -	\$ -	\$ -
14	<b>Ending Balance</b>	<b>\$ 4,553,971</b>	<b>\$ 4,148,348</b>	<b>\$ 2,289,066</b>	<b>\$ 1,175,350</b>	<b>\$ 1,121,679</b>	<b>\$ 592,719</b>
<b>BUA Water Capital Projects Fund</b>							
15	Beginning Balance	\$ 6,720,178	\$ 33,363	\$ -	\$ -	\$ -	\$ -
16	Misc. Reimbursements	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
17	Capital Outlay - for WCP	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
18	Transfer from/(to) Oper Fund	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
19	Transfer from/(to) Capital Facility Fund	\$ -	\$ (33,363)	\$ -	\$ -	\$ -	\$ -
20	Brinton Reservoir	\$ (6,686,815)	\$ -	\$ -	\$ -	\$ -	\$ -
21	<b>Ending Balance</b>	<b>\$ 33,363</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
22	<b>Total Capital Reserves</b>	<b>\$ 4,587,334</b>	<b>\$ 4,148,348</b>	<b>\$ 2,289,066</b>	<b>\$ 1,175,350</b>	<b>\$ 1,121,679</b>	<b>\$ 592,719</b>
23	Target Balance @ 50% of avg. CIP	\$ 1,103,341	\$ 1,103,341	\$ 1,103,341	\$ 1,103,341	\$ 1,103,341	\$ 1,103,341
<b>BUA Water Debt Service Fund</b>							
24	Beginning Balance	\$ 100,700	\$ 100,700	\$ 100,700	\$ 100,700	\$ 100,700	\$ 100,700
25	Reserve from Proposed Bond	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
26	Transfer In	\$ 2,298,201	\$ 2,296,842	\$ 2,298,944	\$ 2,294,949	\$ 2,299,857	\$ 2,296,456
27	Debt Service	\$ (2,298,201)	\$ (2,296,842)	\$ (2,298,944)	\$ (2,294,949)	\$ (2,299,857)	\$ (2,296,456)
28							
29	<b>Ending Balance</b>	<b>\$ 100,700</b>	<b>\$ 100,700</b>	<b>\$ 100,700</b>	<b>\$ 100,700</b>	<b>\$ 100,700</b>	<b>\$ 100,700</b>

## F. Cost of Service Analysis

The cost of service analysis is based upon the premise of generating revenues sufficient to meet the estimated annual revenue requirements and allocating the revenue requirements to the customers in proportion to the service they receive. Revenue requirements include operating costs and rate funded capital costs, annual debt service, and reserve requirements. Deductions from revenue requirements include miscellaneous operating revenues, interest revenues, reserve funding, and raw water revenue. Adjustments for fund balances and mid-year rate increases ensure that rates are not set higher than needed to recover the necessary revenue requirements. Table II-11 below shows the costs to be recovered from the City for

FY 2011. This cost is then used as the basis to develop unit rates and to allocate costs to the various user classes in proportion to the water services rendered.

**Table II-11: Cost to be recovered from water rates**

Line No.	FY 2011		
	Operating	Capital	Total
<b>Operating Expenses</b>			
1 O&M	\$ 6,553,868		\$ 6,553,868
2 Existing Debt service		\$ 2,296,842	\$ 2,296,842
3 Proposed Debt		\$ -	\$ -
4 Transfers to Reserves		\$ -	\$ -
5 Subtotal	\$ 6,553,868	\$ 2,296,842	\$ 8,850,709
<b>Less: Miscellaneous Revenue</b>			
6 Misc. Revenues	\$ 123,600		\$ 123,600
7 Interest Revenue	\$ 58,314		\$ 58,314
8 Transfer from Reserves	\$ -		\$ -
9 Subtotal	\$ 181,914	\$ -	\$ 181,914
<b>Less: Adjustments</b>			
10 Adjustment for Annual Cash Balance	\$ (485,616)		\$ (485,616)
11 Adjustment to Annualize Rate Increase	\$ (366,176)		\$ (366,176)
12 Subtotal	\$ (851,793)	\$ -	\$ (851,793)
13 <b>Total Cost to be Recovered</b>	<b>\$ 7,223,746</b>	<b>\$ 2,296,842</b>	<b>\$ 9,520,588</b>

The total costs of the water enterprise are functionalized as supply, treatment, transmission and distribution, storage, customer service, etc. These costs are then allocated to water system parameters in accordance with the Base-Extra Capacity method endorsed by the American Water Works Association (AWWA), a nationally recognized industry group. For this analysis, the functionalized water utility costs are allocated to three parameters, or cost centers, including base costs, extra capacity costs and customer service related costs.

Base costs are those operating and capital costs of the water system associated with serving customers under average conditions. Extra capacity costs represent those operating costs incurred to meet customer peak demands for water in excess of average day usage, plus those capital costs for extra plant and system capacity beyond that required to supply water at the average rate of use. Total extra capacity costs are subdivided into costs associated with maximum day and maximum hour demands. RFC used peaking factors provided by the City's engineers to allocate among base, maximum day, and maximum hour as shown in Table II-12.

Table II-12: Peaking Factors

Base-Extra Capacity Method Components	Factors	Base	Max Day	Max Hour	Total
Base	1	100.00%			100.00%
Max Day	1.7	58.82%	41.18%		100.00%
Max Hour	3.0	33.33%	23.33%	43.33%	100.00%

In order to allocate costs of service to the different user classes, unit costs of service need to be developed for each cost parameter. The unit costs of service are developed by dividing the total annual costs allocated to each parameter by the total annual units of the respective cost parameter.

Different units are used for the different cost parameters. The volume related costs parameters are based on volumetric units of one hundred cubic feet, or "hcf" or "ccf" (about 748 gallons). The extra capacity parameters of Max Day and Max Hour are based on a rate of usage so they are calculated in hcf per day. Customer related cost parameters are based on equivalent meters for the meter charges calculation or bills for the monthly service charge calculation. Table II-13 shows the units of service and the development of the FY 2011 unit costs for each of the cost parameters. The modified cost of service is used to ensure that rates are reasonable and consistent with City objectives.

Table II-13: Cost Allocation and Unit Cost Calculation

	Base	Max Day	Max Hour	Meter Charges	Billing & Customer Service	Fire Hydrant	General	Total
allocation %	43.2%	14.3%	5.3%	5.9%	4.5%	0.6%	26.1%	
Net Operating Expenses	\$3,056,777	\$1,008,956	\$377,700	\$420,176	\$318,992	\$44,003	\$1,850,672	\$ 7,077,275
Debt Service	\$1,189,761	\$651,215	\$72,887	\$88,203	\$73,815	\$40,314	\$180,646	\$ 2,296,842
Cost of Service	\$4,246,538	\$1,660,171	\$450,586	\$508,379	\$392,807	\$84,317	\$2,031,318	\$ 9,374,117
Allocation c Allocation of General Cost	\$1,188,412	\$464,606	\$126,099	\$142,272	\$109,929			
Allocation c Allocation of Fire Service				\$84,317				
Total Modified Cost of Service	\$5,163,203	\$1,106,144	\$300,218	\$2,301,816	\$502,736			\$ 9,374,117
Unit of Measure	hcf	hcf / day	hcf / day	Equiv. meters	Monthly bills			
Total Units of Services	3,314,078	6,356	3,632	14,028	10,326			
Unit cost of service \$	1.56	\$ 0.48	\$ 0.23	\$ 13.67	\$ 4.06			
Average unit cost of service \$	1.98							

## G. Proposed Rates

After careful review of the City's revenue requirements and cost of service, RFC recommends that the City retains the current rate structure that includes both a fixed monthly service charge and a variable quantity, or commodity, rate.

**Service Charge:** We suggest that the City continues to utilize a monthly service charge varying by meter size. The service charge that makes up the fixed revenue portion of the

City's total rate revenue is currently 35 percent. Under the proposed rates, the fixed revenue will decrease to 30 percent of the total revenue. The variable revenue will increase to 70 percent in FY 2011 from the original 65 percent. The California Urban Water Conservation Council (CUWCC) recommends that fixed revenue be no more than 30 percent of total rate revenue in order to promote conservation. Fixed revenues provide the City with a stable source of income and can act as insurance against widely varying water usage.

**Quantity Rate:** We recommend that the City continues to maintain a quantity rate. To encourage conservation, it is recommended that the increasing block rate structure remain as three tiers. The recommended monthly usage levels in each tier will be:

First Tier: 0 – 12 hcf (31 percent of use and 43 percent of the bills fall within this block).  
 Second Tier: 12 – 25 hcf (17 percent of use and 31 percent of the bills fall within this block).  
 Third Tier: Over 25 hcf (52 percent of use and 27 percent of the bills fall within this block).

The recommended rate structure is shown in Table II-14. The effective rate increase for an average SFR customer is approximately 27 percent, assuming a ¾-inch meter and monthly usage of 20 hcf.

**Table II-14: Proposed Water Rates**

Monthly Water Charges							
Service Charge Meter Size	Existing FY 2010	Service Charge Meter Size	Proposed FY 2011	Proposed FY 2012	Proposed FY 2013	Proposed FY 2014	Proposed FY 2015
5/8 inch	\$ 16.77	5/8 inch	\$ 17.73	\$ 19.15	\$ 20.68	\$ 22.33	\$ 23.89
3/4 inch	\$ 16.77	3/4 inch	\$ 17.73	\$ 19.15	\$ 20.68	\$ 22.33	\$ 23.89
1 inch	\$ 25.64	1 inch	\$ 26.85	\$ 29.00	\$ 31.32	\$ 33.83	\$ 36.20
1 1/2 inch	\$ 46.87	1 1/2 inch	\$ 49.64	\$ 53.61	\$ 57.90	\$ 62.53	\$ 66.91
2 inch	\$ 72.51	2 inch	\$ 76.98	\$ 83.14	\$ 89.79	\$ 96.97	\$ 103.76
3 inch	\$ 132.64	3 inch	\$ 140.80	\$ 152.06	\$ 164.22	\$ 177.36	\$ 189.78
4 inch	\$ 218.41	4 inch	\$ 232.00	\$ 250.56	\$ 270.60	\$ 292.25	\$ 312.71
6 inch	\$ 432.40	6 inch	\$ 459.81	\$ 496.59	\$ 536.32	\$ 579.23	\$ 619.78
8 inch	\$ 688.84	8 inch	\$ 733.29	\$ 791.95	\$ 855.31	\$ 923.73	\$ 988.39
Commodity Charge							
0-9 HCF	\$ 1.15	0 - 12 HCF	\$ 1.56	\$ 1.68	\$ 1.81	\$ 1.95	\$ 2.09
10-29 HCF	\$ 1.34	13 - 25 HCF	\$ 1.98	\$ 2.14	\$ 2.31	\$ 2.49	\$ 2.66
30+ HCF	\$ 1.51	26 + HCF	\$ 2.24	\$ 2.42	\$ 2.61	\$ 2.82	\$ 3.02

## H. Customer Impacts

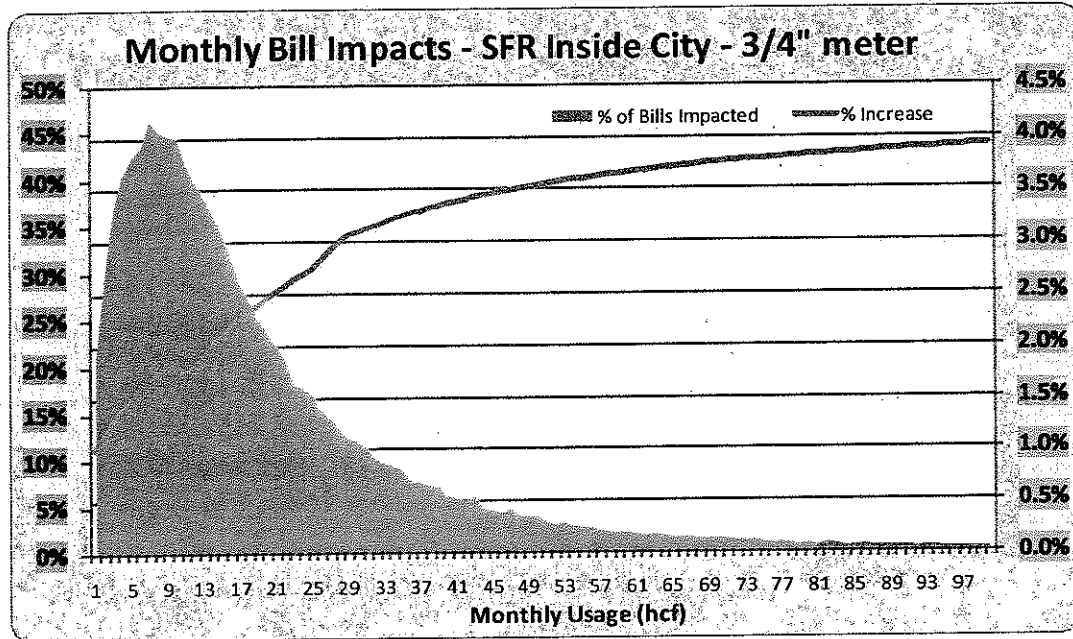
Before implementing any rate structure recommendations, it is important to understand how the proposed rate structure would impact water customers. RFC worked closely with City Staff to ensure that the new rate structure would recover the necessary revenue requirements while at the same time maintaining manageable customer impacts.

RFC has developed the following figure (Figure II-3), which demonstrates the impacts of the proposed rates for FY 2011 on customers across all levels. The figure shows a graphical



presentation of the level of rate increases experienced by residential customers with  $\frac{3}{4}$ -inch meter. The red line represents the percentage change in monthly bills and the blue area represents the percentage of bills at each level of usage for residential customers with  $\frac{3}{4}$ -inch meter.

Figure II-3: Customer Impacts



### III. WASTEWATER ENTERPRISE

The City provides wastewater service through approximately 11,000 service connections, including residential, commercial, and a correctional facility. Wastewater collected through the collection system is treated at the wastewater treatment plant. In order to augment the City's current water supply, the City is planning to build a 1.5 million gallons per day (MGD) tertiary treatment plant to produce recycled water, which can be used for irrigation purposes. The treatment plant expansion is expected to be financed by a low-interest State Revolving Fund (SRF) loan.

#### A. Existing Rates

The City currently employs a monthly sewer usage charge of \$12.86 per equivalent dwelling unit (EDU) which has not been updated since 2003. In addition to the service fee, a monthly surcharge of \$2.00 per EDU is charged for the treatment plant upgrade. Table III-1 depicts the schedule of service fees and EDU apportionment by customer class.

The most significant source of operating revenue is user fees. Under the existing rate structure, user fees comprise nearly 87 percent of total operating revenue in FY 2009. Although included in monthly billings, revenues generated from the surcharge are transferred to a separate fund, which is reserved for the construction of a tertiary treatment plant.

Wastewater customers discharge different levels of wastewater flow according to their various requirements. The City estimates average usage patterns and categorizes them by customer classes, including residential and commercial. The City has determined that the average level of wastewater discharge for a single-family residence is 225 gallons per day (GPD). This usage pattern equates to one EDU. For the purposes of pricing, the EDU rate is an important feature of the City's pricing structure. It may be conceptualized as a common factor or customer equivalent, which equates the relative service requirements of each customer class to that of a single-family residence. For instance, a recreational vehicle typically discharges a relatively small amount of wastewater flow into the system for treatment. The quantity is on average a fraction of the discharge that single-family unit exhibits. As a matter of cost recovery, the utility is obliged to recover proportionately less from recreational vehicles than from single-family units. The recreation vehicle is charged an equivalent  $\frac{1}{4}$  EDU. Accordingly, Table III-1 shows that recreational vehicles contribute \$9.65 per month under existing rates, whereas single-family units contribute \$12.86 per month.

Commercial and institutional customers that are not depicted in Table III-1, as well as all industrial units, are evaluated by the City on a case by case basis. The determination of EDUs is based upon the estimated quality and quantity of discharge into the wastewater system. Moreover, if the discharge by a commercial, institutional or industrial establishment

exceeds the constituent levels of an equivalent dwelling unit, the City may impose a surcharge to cover costs of processing the additional constituents, and/or require pretreatment before granting a wastewater discharge permit.

**Table III-1: Existing Wastewater Rates**

		<u>EDU</u>	<u>Existing Rates</u> <u>Per Month</u>	<u>Surcharge</u> <u>Per Month</u>
<u>Residential</u>				
a.1)	Each individual single-family, condominium, apartment, or mobilehome	1.00	12.86	2.00
a.2)	Each recreational vehicle space connected to sewer	0.75	9.65	1.50
a.3)	Each recreational vehicle space using private sanitary facilities	0.50	6.43	1.00
<u>Commercial</u>				
b.1)	Hotels and Motels      Living unit w/o kitchen	0.50	6.43	1.00
	Living unit with kitchen	1.00	12.86	2.00
b.2)	Churches, theaters and auditoriums (per each 100 seats)	1.00	12.86	2.00
b.3)	Restaurants (per each 7 seats)	1.00	12.86	2.00
b.4)	Automobile svc stations 4 Gasoline pumps or less	2.00	25.72	4.00
	More than 4 gasoline pumps	3.00	38.58	6.00
b.5)	Laundries (self-service) Per washer	0.75	9.65	1.50
b.6)	Retail stores and offices First unit in building	1.00	12.86	2.00
	Per additional unit in building	0.60	7.72	1.20
<u>Institutional</u>				
c)	Schools      Elementary - for each 60 pupils or fraction thereof	1.00	12.86	2.00
	Junior High - for each 50 pupils or fraction thereof	1.00	12.86	2.00
	High - for each 30 pupils or fraction thereof	1.00	12.86	2.00

## B. Growth

From a planning and rate making standpoint, one of the most important areas of consideration is customer related data and statistics. The City receives a significant portion of its operating revenue through monthly service charges. It also receives a significant amount of revenue for capital improvement through the tertiary treatment plant surcharge. These revenues are forecasted by applying customer growth projections to the existing customer base and applying the City's existing rate structure for the services provided. Inaccurate information can critically impede these projections.

The City's growth forecast is projected over the next five years. Due to the current economic condition, the City has lost approximately 780 Equivalent Dwelling Units (EDUs) in the past fiscal year. The City is projecting that the number of EDUs will return to pre-2009 level over the next two years. Subsequently, the City is projecting some growth, approximately 14 to 20 EDUs each year from FY 2013 through FY 2015. The Wastewater Rate Model developed for this study provides flexibility to adjust the growth rates as needed. Moreover, the regional correctional facility is expected to expand and the EDUs would grow by 800 in

FY 2011, which has been incorporated into the model to reflect the additional revenue in capital facilities fee. Table III-2 summarizes growth projections by customer class.

Table III-2: Growth Projections by Customer Class

Line No.	Customer Class	Budgeted 2010	Projected 2011	Projected 2012	Projected 2013	Projected 2014	Projected 2015
1	Residential	10,084	10,351	10,665	10,679	10,696	10,717
2	Commercial	3,763	3,863	3,975	3,975	3,975	3,975
3	Regional Correction Facility	975	1,775	1,775	1,775	1,775	1,775
4	<b>Total</b>	<b>14,822</b>	<b>15,989</b>	<b>16,415</b>	<b>16,429</b>	<b>16,446</b>	<b>16,466</b>

The City wastewater enterprise has two main types of revenue: operating and non-operating. Operating revenues include the sale of wastewater service to general customers, as well as the sale of other services.

Revenue under existing rates is anticipated to increase at the same rate as EDU growth projections. Although the usage charge and surcharge are both projected over the planning period, the surcharge is not directly related to the sale of wastewater service and is not considered operating revenue. Proceeds generated from the surcharge are transferred to a separate fund and reserved for the construction of the tertiary treatment plant.

Table III-3 summarizes the City's forecast of revenue through existing rates summarized by customer class. The table depicts revenues generated from both user charges and the tertiary treatment plant surcharge.

Table III-3: Revenue under Existing Rates

Line No.		Budgeted 2010	Projected 2011	Projected 2012	Projected 2013	Projected 2014	Projected 2015
	<b>Usage Charge</b>						
1	Residential	\$ 1,556,165	\$ 1,597,403	\$ 1,645,865	\$ 1,648,004	\$ 1,650,641	\$ 1,653,777
2	Commercial	\$ 580,727	\$ 596,116	\$ 613,403	\$ 613,403	\$ 613,403	\$ 613,403
3	Regional Correction Facility	\$ 150,462	\$ 273,918	\$ 273,918	\$ 273,918	\$ 273,918	\$ 273,918
4	<b>Subtotal</b>	<b>\$ 2,287,353</b>	<b>\$ 2,467,437</b>	<b>\$ 2,533,186</b>	<b>\$ 2,535,325</b>	<b>\$ 2,537,962</b>	<b>\$ 2,541,098</b>
		\$ 2,297,445					
	<b>Surcharge</b>						
5	Residential	\$ 242,016	\$ 248,430	\$ 255,966	\$ 256,299	\$ 256,709	\$ 257,197
6	Commercial	\$ 90,315	\$ 92,709	\$ 95,397	\$ 95,397	\$ 95,397	\$ 95,397
7	Regional Correction Facility	\$ 23,400	\$ 42,600	\$ 42,600	\$ 42,600	\$ 42,600	\$ 42,600
8	<b>Subtotal</b>	<b>\$ 355,731</b>	<b>\$ 383,738</b>	<b>\$ 393,964</b>	<b>\$ 394,296</b>	<b>\$ 394,706</b>	<b>\$ 395,194</b>
9	<b>TOTAL EXISTING RATE REVENUES</b>	<b>\$ 2,643,085</b>	<b>\$ 2,851,175</b>	<b>\$ 2,927,149</b>	<b>\$ 2,929,622</b>	<b>\$ 2,932,669</b>	<b>\$ 2,936,293</b>

### C. Revenue Requirements

The adequacy of the existing rate structure can be measured by comparing revenue requirement projections against revenue projections under existing rates. If revenue projections under existing rates do not meet forecasted requirements, rates need to be adjusted. The City provided a number of forward looking assumptions in order to facilitate projections and assess the practicality of rate adjustments. Projections beyond five years

generally are less reliable. This is a reasonable timeframe to assist management, policymakers, investors, and bond rating agencies, as well as the public or other agents that need to evaluate the financial position or revenue requirements of the wastewater utility.

For any utility to maintain its service obligations, the utility must recover its revenue requirements on an ongoing basis. These expenditures include the cost of operating and maintaining wastewater collection, treatment, and discharge facilities. Additional expenses include the costs of providing technical services, such as laboratory functions, and administrative costs, such as billing and accounting. O&M expenditures are the normal cost obligations of the wastewater system and are met from operating revenues as they are incurred.

The City's FY 2010 budget was used as the base year for O&M costs. Standard escalation rates were used to project other expenses over the life of the forecast study (FY 2011 to FY 2015). O&M expenses are subject to an annual 3 percent inflation increase, based on historical CPI.

Table III-4 below shows the projected O&M expenses for the wastewater utility.

**Table III-4: O&M Expenses**

Line No.	Descriptions	Budgeted 2010	Projected 2011	Projected 2012	Projected 2013	Projected 2014	Projected 2015
1	Salary & Wages	\$ 337,742	\$ 347,874	\$ 358,310	\$ 449,060	\$ 542,532	\$ 558,808
2	Fringe Benefits	\$ 161,872	\$ 166,728	\$ 171,730	\$ 202,945	\$ 235,097	\$ 242,150
3	Contractual Services	\$ 690,850	\$ 711,576	\$ 732,923	\$ 754,910	\$ 977,558	\$ 1,006,884
4	Miscellaneous Services	\$ 420,798	\$ 432,231	\$ 444,007	\$ 456,136	\$ 694,823	\$ 714,477
5	Interfund Services Payments	\$ 455,727	\$ 463,969	\$ 472,458	\$ 481,202	\$ 490,208	\$ 499,484
6	Interfund Services Transfers	\$ 811,825	\$ 834,177	\$ 697,136	\$ 697,111	\$ 696,759	\$ 700,973
7	Capital Expenditures/Outlay	\$ 135,000	\$ 139,050	\$ 143,222	\$ 147,518	\$ 151,944	\$ 156,502
8	<b>TOTAL O&amp;M EXPENSES</b>	<b>\$ 3,013,814</b>	<b>\$ 3,095,604</b>	<b>\$ 3,019,786</b>	<b>\$ 3,188,882</b>	<b>\$ 3,788,920</b>	<b>\$ 3,879,278</b>

Capital expenditures are generally classified into broad categories, including routine replacement of existing facilities, normal extensions and improvements, and major capital replacements and improvements. Sound capital expenditure forecasts are critical to developing adequate revenue requirement projections. The City has developed a comprehensive wastewater Capital Improvement Plan (CIP) to address the future needs of the wastewater system. The major project in the CIP is the wastewater treatment plant (WWTP) expansion, which is expected to be completed in 2013. The CIP is to be funded through a combination of system revenues and debt financing. The WWTP will be funded through a low interest SRF loan. It is estimated that the interest on the SRF loan will be 2.6 percent for 20 years.

Table III-5 summarizes the CIP projections over the forecast period. The figures have been escalated by an inflation factor of one percent in FY 2010, 2 percent in FY 2011, 3 percent in FY2012, and 4 percent per year thereafter.

Table III-5: Inflated CIP Expenses

Line No.	Project	Budgeted 2010	Projected 2011	Projected 2012	Projected 2013	Projected 2014	Projected 2015
1	FP-21 WWTP Expansion - 1.5mgd	\$ -	\$ -	\$ 7,109,410	\$ 11,642,455	\$ -	\$ -
2	Irrigation Water System	\$ -	\$ 3,090,600	\$ 3,183,318	\$ 4,414,201	\$ -	\$ -
3	Future CIP	\$ -	\$ -	\$ -	\$ -	\$ 1,147,692	\$ 1,193,600
4	<b>Total CIP (inflated)</b>	<b>\$ -</b>	<b>\$ 3,090,600</b>	<b>\$10,292,728</b>	<b>\$16,056,656</b>	<b>\$ 1,147,692</b>	<b>\$ 1,193,600</b>

#### D. Proposed Revenue Adjustments

Under existing rates, the City projects considerable deficits in net annual cash balances throughout the planning period and thereafter.

The first rate adjustment will be implemented in September 2010. Subsequent rate increases are anticipated to take place on September 1<sup>st</sup> of each year. The adjustments based on the monthly service charge (excluding surcharge for tertiary system upgrade) to customers are as follows:

September 2010	12 percent
September 2011	15 percent
September 2012	15 percent
September 2013	15 percent
September 2014	3 percent

The cash flow summary presented in Table III-6 provides a basis for evaluating the timing and level of revenue increases required to meet the projected revenue requirements for the study period. The debt service for the SRF loan and the 2005 Wastewater Revenue Bond (BUA Wastewater Debt Service) are also included as revenue requirements.

**Table III-6: Wastewater Operating Cash Flow**

Line No.		<u>Projected</u> <u>2010</u>	<u>Projected</u> <u>2011</u>	<u>Projected</u> <u>2012</u>	<u>Projected</u> <u>2013</u>	<u>Projected</u> <u>2014</u>	<u>Projected</u> <u>2015</u>
	<b>Revenues from Rates</b>						
1	User fees	\$ 2,287,353	\$ 2,467,437	\$ 2,533,186	\$ 2,535,325	\$ 2,537,962	\$ 2,541,098
	<b>Additional Revenues Needed:</b>						
	FY      Percent      Months Effective						
3	2010      0%      0	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
4	2011      12%      10		\$ 246,744	\$ 303,982	\$ 304,239	\$ 304,555	\$ 304,932
5	2012      15%      10			\$ 354,646	\$ 425,935	\$ 426,378	\$ 426,905
6	2013      15%      10				\$ 408,187	\$ 490,334	\$ 490,940
7	2014      15%      10					\$ 469,904	\$ 564,581
8	2015      3%      10						\$ 108,211
9	<b>Total Revenue from Rates</b>	<b>\$ 2,287,353</b>	<b>\$ 2,714,181</b>	<b>\$ 3,191,814</b>	<b>\$ 3,673,687</b>	<b>\$ 4,229,133</b>	<b>\$ 4,436,668</b>
	<b>Other Revenues</b>						
10	Interest Income	\$ 192,720	\$ 186,851	\$ 166,696	\$ 237,040	\$ 190,523	\$ 199,826
11	Miscellaneous Income	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
12	<b>Total Operating Revenue</b>	<b>\$ 2,480,073</b>	<b>\$ 2,901,031</b>	<b>\$ 3,358,510</b>	<b>\$ 3,910,727</b>	<b>\$ 4,419,657</b>	<b>\$ 4,636,493</b>
	<b>Revenue Requirements</b>						
13	O&M Expenses Less Transfer & Capital Outlay	\$ 2,066,989	\$ 2,122,378	\$ 2,179,428	\$ 2,344,253	\$ 2,940,217	\$ 3,021,803
14	Annual Capital Outlay	\$ 135,000	\$ 139,050	\$ 143,222	\$ 147,518	\$ 151,944	\$ 156,502
15	Transfer to SRF Fund	\$ 289,000	\$ 304,289	\$ 304,289	\$ 304,289	\$ 304,289	\$ 304,289
16	BUA Wastewater Debt Service	\$ 522,825	\$ 529,888	\$ 392,848	\$ 392,822	\$ 392,470	\$ 396,685
17	Additional State Revolving Fund Debt Service	\$ -	\$ -	\$ -	\$ -	\$ 955,252	\$ 955,252
18	<b>Total Revenue Requirements</b>	<b>\$ 3,013,814</b>	<b>\$ 3,095,604</b>	<b>\$ 3,019,786</b>	<b>\$ 3,188,882</b>	<b>\$ 4,744,171</b>	<b>\$ 4,834,529</b>
19	<b>Net Annual Cash Balance</b>	<b>\$ (533,741)</b>	<b>\$ (194,573)</b>	<b>\$ 338,724</b>	<b>\$ 721,845</b>	<b>\$ (324,515)</b>	<b>\$ (198,036)</b>
20	Transfers from/(to) Capital Facility Fund	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
21	<b>Net Annual Cash Balance (After Transfer)</b>	<b>\$ (533,741)</b>	<b>\$ (194,573)</b>	<b>\$ 338,724</b>	<b>\$ 721,845</b>	<b>\$ (324,515)</b>	<b>\$ (198,036)</b>
22	Debt Service Coverage (w/o Connection Fee)	95%	138%	227%	285%	115%	123%
23	<b>Required Coverage (w/o Connection Fee)</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
24	Debt Service Coverage (w/ Connection Fee)	206%	295%	235%	290%	118%	126%
25	<b>Required Coverage (w/ Connection Fee)</b>	<b>115%</b>	<b>115%</b>	<b>115%</b>	<b>115%</b>	<b>115%</b>	<b>115%</b>

Prudent business practice requires that the City maintains an operating reserve funded from rate revenues. These reserves may be used to meet ongoing operating expenses as well as unexpected increases in costs. RFC recommends that the City maintains 25 percent or 90 days of O&M expenses in its operating reserves to meet working capital requirements and unexpected increases in costs during the forecast years. In addition, the City should maintain a capital reserve with a target of 50 percent of average annual capital expenses over the planning period. Table III-7 shows the projected balance in each of the reserves.



Table III-7: Wastewater Reserves Balance

Line No.		Projected 2010	Projected 2011	Projected 2012	Projected 2013	Projected 2014	Projected 2015
<b>Operations Fund</b>							
1	Beginning Balance	\$ 2,406,754	\$ 1,873,013	\$ 1,678,440	\$ 2,017,164	\$ 2,739,009	\$ 2,414,494
2	Net Annual Cash Balance	\$ (533,741)	\$ (194,573)	\$ 338,724	\$ 721,845	\$ (324,515)	\$ (198,036)
3	<b>Ending Balance</b>	<b>\$ 1,873,013</b>	<b>\$ 1,678,440</b>	<b>\$ 2,017,164</b>	<b>\$ 2,739,009</b>	<b>\$ 2,414,494</b>	<b>\$ 2,216,458</b>
4	Target Reserve - 25% of O&M	\$ 550,497	\$ 565,357	\$ 580,662	\$ 622,943	\$ 773,040	\$ 794,576
<b>Capital Facility Fees Fund</b>							
5	Beginning Balance	\$ 10,386,744	\$ 11,644,244	\$ 13,027,982	\$ 8,250,798	\$ 4,442,200	\$ 3,761,817
6	Capital Revenues	\$ 900,000	\$ 1,300,000	\$ 62,330	\$ 63,627	\$ 72,603	\$ 81,619
7	Surcharge Revenue	\$ 357,500	\$ 383,738	\$ 393,964	\$ 394,296	\$ 394,706	\$ 395,194
8	Transfers from/(to) Irrigation Fund			\$ (5,500,000)			
9	Transfer from/(to) Operations	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10	2012 SRF Funding			\$ 7,375,933	\$ 7,375,933		
11	Expenses	\$ -	\$ (300,000)	\$ -	\$ -	\$ -	\$ -
12	Loan to Water Enterprise						
13	Repayment of Loan						
14	CIP Projects	\$ -	\$ -	\$ (7,109,410)	\$ (11,642,455)	\$ (1,147,692)	\$ (1,193,600)
15	<b>Ending Balance</b>	<b>\$ 11,644,244</b>	<b>\$ 13,027,982</b>	<b>\$ 8,250,798</b>	<b>\$ 4,442,200</b>	<b>\$ 3,761,817</b>	<b>\$ 3,045,031</b>
<b>BUA WW Capital Project Fund</b>							
16	Beginning Balance	\$ 2,319,302	\$ 2,319,302	\$ -	\$ -	\$ -	\$ -
17	Expenses	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
18	Transfers from/(to) Irrigation Fund		\$ (2,319,302)				
19	<b>Ending Balance</b>	<b>\$ 2,319,302</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Irrigation Fund</b>							
20	Beginning Balance	\$ 2,955,409	\$ 2,955,409	\$ 2,184,111	\$ 4,500,793	\$ 86,592	\$ 86,592
21	Transfers from BUA	\$ -	\$ 2,319,302	\$ -	\$ -	\$ -	\$ -
22	Transfers from Capital Facility Fees Fund	\$ -	\$ -	\$ 5,500,000	\$ -	\$ -	\$ -
23	Irrigation Water System	\$ -	\$ (3,090,600)	\$ (3,183,318)	\$ (4,414,201)	\$ -	\$ -
24	<b>Ending Balance</b>	<b>\$ 2,955,409</b>	<b>\$ 2,184,111</b>	<b>\$ 4,500,793</b>	<b>\$ 86,592</b>	<b>\$ 86,592</b>	<b>\$ 86,592</b>
20	Capital Reserve	\$ 16,918,955	\$ 15,212,093	\$ 12,751,591	\$ 4,528,792	\$ 3,848,409	\$ 3,131,623
25	Target Reserve - 50% of CIP	\$ 1,736,111	\$ 1,736,111	\$ 1,736,111	\$ 1,736,111	\$ 1,736,111	\$ 1,736,111
<b>State Revolving Fund Loan (SRF)</b>							
26	Beginning Balance	\$ 766,659	\$ 766,659	\$ 766,659	\$ 766,659	\$ 766,659	\$ 766,659
27	Transfers from Operations	\$ 289,000	\$ 304,289	\$ 304,289	\$ 304,289	\$ 1,259,540	\$ 1,259,540
28	Expenses	\$ (289,000)	\$ (304,289)	\$ (304,289)	\$ (304,289)	\$ (1,259,540)	\$ (1,259,540)
29	<b>Ending Balance</b>	<b>\$ 766,659</b>	<b>\$ 766,659</b>	<b>\$ 766,659</b>	<b>\$ 766,659</b>	<b>\$ 766,659</b>	<b>\$ 766,659</b>
<b>BUA WW Debt Service Fund</b>							
30	Beginning Balance	\$ 90,007	\$ 90,007	\$ 90,007	\$ 90,007	\$ 90,007	\$ 90,007
31	Transfers from Operations	\$ 522,825	\$ 529,888	\$ 392,848	\$ 392,822	\$ 392,470	\$ 396,685
32	Expenses	\$ (522,825)	\$ (529,888)	\$ (392,848)	\$ (392,822)	\$ (392,470)	\$ (396,685)
33	<b>Ending Balance</b>	<b>\$ 90,007</b>	<b>\$ 90,007</b>	<b>\$ 90,007</b>	<b>\$ 90,007</b>	<b>\$ 90,007</b>	<b>\$ 90,007</b>

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### E. Proposed Rates and Customer Impacts

To calculate the wastewater rates, the total O&M and capital costs were divided by the total number of EDUs. Table III-8 summarizes the proposed rates. Rates per EDU increase to \$14.40 from \$12.86 in FY 2011. This excludes the \$2 surcharge for the wastewater treatment plant, which will continue to be collected to recover costs related to the treatment plant upgrade. The last line shows the effective percentage increase in customer's bills.

**Table III-8: Proposed Wastewater Rates**

	Existing Rate	Proposed FY 2011	Proposed FY 2012	Proposed FY 2013	Proposed FY 2014	Proposed FY 2015
Residential*	\$ 12.86	\$ 14.40	\$ 16.56	\$ 19.04	\$ 21.90	\$ 22.56
Commercial (\$/EDU)	\$ 12.86	\$ 14.40	\$ 16.56	\$ 19.04	\$ 21.90	\$ 22.56
Tertiary Surcharge (\$/EDU)	\$ 2.00	\$ 2.00	\$ 2.00	\$ 2.00	\$ 2.00	\$ 2.00
\$ Change		\$ 1.54	\$ 2.16	\$ 2.48	\$ 2.86	\$ 0.66
Percent change		10.4%	13.2%	13.4%	13.6%	2.8%

\* assume 1 EDU per bill; excludes \$2 surcharge.

#### IV. RATE SURVEY

Comparing water and wastewater rates with other representative communities can provide insights into a utility's pricing policies related to water and wastewater service. Care should be taken, however, in drawing conclusions from such a comparison. High rates may not mean the utilities are operated and managed poorly. Many factors affect the level of costs and the pricing structure employed to recover those costs. Some of the most prevalent factors include geographic location, demand, customer constituency, level of treatment, level of grant funding, age of system, level of general fund subsidization, and rate-setting methodology. Moreover, many agencies are currently conducting their own water and/or wastewater rate studies. Thus, their current rates may not accurately reflect their current costs of providing service.

RFC conducted a survey of neighboring and comparable agencies based on each agency's effective rates as of May 2010. As shown in Figure IV-1, the City's existing monthly water and wastewater charges place it in the low end in a comparison with surrounding agencies. With the proposed increases, the City's charges remain comparable with the neighboring utilities. In order to provide a meaningful comparison, all bills are calculated on a monthly basis for a single family residence (SFR) customer using a  $\frac{3}{4}$ -inch meter and an assumed monthly usage of 20 hundred cubic feet (hcf), which is the approximate average usage for SFR customers in the City. The combined effective bill increase for an average SFR customer is approximately 22.5 percent.

Figure IV-1: Rate Survey

