

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

July 27, 2010  
5:00 p.m.

Banning Civic Center  
Council Chambers  
99 E. Ramsey St.

*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**

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

**II. REPORT ON CLOSED SESSION**

**III. PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS**

**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.

**PRESENTATION:**

1. "Pass to Class" – Presentation by James Foster, Transportation Manager  
for Morongo Band of Mission Indians (ORAL)

*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.*

#### IV. 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 7**

**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 – 07/13/10. ....	1
2.	Approval of Minutes – Regular Meeting – 07/13/10 .....	3
3.	Resolution No. 2010-55, Approving the electric Utility's Integrated Resource Plan (IRP) as Required by the Western Area Power Administration (WAPA). ....	16
4.	Resolution No. 2010-56, Providing for Certain Nuisance Abatement Charges to be Added to the Tax Rolls of Riverside County, California. ....	65
5.	Resolution No. 2010-57, To Enter Into a Contract for Funding of Engine 20 between Banning, Beaumont and Riverside County. ....	81
6.	Resolution No. 2010-60, Adopting a Statement of Investment Policy .....	92
7.	Approval of the Agreement between the City of Banning and the City of Beaumont to Provide Citywide Animal Control Field Services .....	100

- Open for Public Comments
- Make Motion

#### V. REPORTS OF OFFICERS

1. Police Officer Fees for Security During the 2010 Playhouse Bowl Evenings in the Park Concern Series beginning July 29, 2010 at the Repplier Park Bowl.  
Staff Report .....
- Recommendation: **That the City Council review and provide direction on a Request from the Banning Playhouse Bowl Association for two police officers to be present between the hours of 6:30 – 9:30 p.m. for each of the five concerts during the Playhouse Bowl Evenings in the Park Concert Series.** 106
2. Consideration of Consultant Services Agreements for Professional Planning and Environmental Services.  
Staff Report .....
- Recommendation: **That the City Council adopt Resolution No. 2010-58, Approving Contact Services Agreements with 1) Hogle-Ireland, Inc. to provide project management for the Butterfield Specific Plan (Pardee Homes) and review of the environmental impact report (EIR) for the project; and 2) Establish an on-call list of planning and EIR consultants for future project management of large land planning/development and preparation of EIRs.** 107



3. Resolution No. 2010-61, Making Certain Findings With Respect to the Use of Redevelopment Funds to Finance the Cost of the Downtown Water Main Improvements Project Within the Merged Redevelopment Project Area.

Staff Report . . . . . 156

Recommendation: **That the City Council adopt Resolution No. 2010-61, Making Certain Findings With Respect to the Use of Redevelopment Funds to Finance the Cost of the Downtown Water Main Improvements Project Within the Merged Redevelopment Project Area.**

4. Requests for Donation: San Gorgonio Pass Hispanic Chamber of Commerce, Playhouse Bowl, Stagecoach Days, Banning Chamber of Commerce, Carol's Kitchen

Staff Report . . . . . 165

Recommendation: **Due to the current fiscal condition staff cannot recommend The approval of \$43,000 in donations to the San Gorgonio Pass Hispanic Chamber of Commerce, Playhouse Bowl, Stagecoach Days, Banning Chamber of Commerce, and Carol's Kitchen. Since most of these organizations have received funding in the past, the City Council may choose to fund these organizations as a transitional period in order for the organizations to prepare for the lack of City sponsorship or fiscal conditions change.**

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

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

#### VII. ITEMS FOR FUTURE AGENDAS

New Items –

Pending Items –

1. Schedule Meetings with Our State and County Elected Officials
2. Set New Date for Joint Meeting with Banning School Board
3. Massage Ordinance *(ETA 8/24/10)*
4. Schedule Meeting with Banning Library Board
5. Update on Economic Development Plan

#### VIII. ADJOURNMENT

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

MINUTES  
CITY COUNCIL  
BANNING, CALIFORNIA

07/13/10  
JOINT MEETING

A joint meeting of the Banning City Council and the Community Redevelopment Agency was called to order by Chairman Robinson on July 13, 2010 at 4:02 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS/  
BOARDMEMBERS PRESENT:

Councilmember Franklin  
Councilmember Hanna  
Councilmember Machisic  
Councilmember Robinson  
Mayor Botts

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Andrew Takata, City Manager/Executive Director  
David J. Aleshire, City Attorney  
John Jansons, Redevelopment Manager  
Rita Chapparosa, Sr. Human Resources Analyst  
Marie A. Calderon, City Clerk/Secretary

CLOSED SESSION

City Attorney announced that the City Council will meet in closed session in regards to labor negotiations with the City's bargaining units pursuant to Government Code Section 54956.6 to go over the status of the negotiations. Also will meet pursuant to the provisions of Government Code Section 54956.8 regarding two matters of real property negotiations concerning the Banning Heights Mutual Water Company and 2301 W. Ramsey Street (All Star Dodge property).

Agency Counsel said that the Community Redevelopment Agency will meet in closed session pursuant to the provisions of Government Code Section 54956.8 in regards to real property matters involving: 1) Stagecoach Plaza: 3285 – 3499 W. Ramsey Street (APNs 537-090-057, 537-090-058, 537-090-059, 537-090-067); and 2) North West corner of Phillips Ave. and Ramsey Street: (APN 541-161-010 and APN 541-161-011)

City Attorney/Agency Counsel said that in regards to all the real estate matters staff intends to give the Council and Agency a status report on negotiations.

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

Meeting went into closed session at 4:03 p.m. Councilmember/Chairman Robinson excused himself from the discussion regarding 2301 W. Ramsey Street and left the room and returned after the discussion of that item was over.

Meeting returned to regular session at 5:00 p.m. and recessed. Before the City Council Meeting adjourned at 7:46 p.m. there was no reason to return to closed session.

ADJOURNMENT

By common consent the meeting adjourned at 7:46 p.m.

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Marie A. Calderon, City Clerk/  
Agency Secretary

MINUTES  
CITY COUNCIL  
BANNING, CALIFORNIA

07/13/10  
REGULAR MEETING

A regular meeting of the Banning City Council was called to order by Mayor Botts on July 13, 2010 at 5:05 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  
Duane Burk, Public Works Director  
Zai Abu-Bakar, Community Development Director  
Leonard Purvis, Police Chief  
Heidi Merza, Community Services Director  
Chuck Thurman, Electrical Operations Manager  
Kahono Oei, City Engineer  
John Jansons, Redevelopment Manager  
Marie A. Calderon, City Clerk

The invocation was given by Pastor Tate Crenshaw, Life Point Church. Councilmember Machisic invited the audience to join him in the Pledge of Allegiance to the Flag.

PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS/APPOINTMENTS

PUBLIC COMMENTS – *On Items Not on the Agenda*

Bill Dickson, 5700 W. Wilson addressed the Council on behalf of the Playhouse Bowl thanking the staff for the great job on preparing Repplier Park for them. He went over the concerts starting on July 29<sup>th</sup> through August 26<sup>th</sup>. He also said Stagecoach Days is alive and well and things are moving along very well and hope to see everyone out there.

Mayor Pro Tem Hanna said the dates for the Playhouse Bowl presentations are every Thursday starting July 29 with every Thursday in August. Also, Stagecoach Days will be held September 9, 10, 11 and 12 with Spaghetti Dinner on Sept. 8<sup>th</sup> at the Community Center by the Banning Rotary Club and Habitat for Humanity.

Marion Johnson addressed the Council stating that the San Gorgonio Child Care Consortium will have a barbeque on July 29<sup>th</sup> at the Banning Community Center to raise funds for the San Gorgonio Child Care Center. This will be held on the first night of the Evenings in the Park and the prices for the barbeque are low and they will have ribs, chicken, links and hot dogs for the children. They encourage that you purchase your tickets early so that they have a count of the number of people.

Dorothy McLean addressed Pass Area Supporting Soldiers and went over the list of locations where items can be dropped off up until July 19<sup>th</sup>. She went over the list of items needed and packing of the boxes will take place on July 21<sup>st</sup> at the Beaumont Civic Center from 9 a.m. to Noon and the public is invited to bring items for packing as early as possible and they are also accepting monetary donations. They would also like names and addresses of family members who are serving overseas and include the name of a contact person. For more information you can call 951-885-7085.

Inge Schuler addressed the Council stating that she looked at the packet for the Community Redevelopment Agency and it is not an item that is on the agenda but she noticed that many people who speak at these meetings are just listed and one does not know what the comments are and she knows that Mr. Welch had some interesting comments about the Chamber of Commerce proposal and again on page 4 just the listing of people and it would be nice to be able to reason some of these comments on the website of the City so people know what the general public is also feeling. This is again her main issue of transparency.

Bill Dickson said that tomorrow evening at 5:30 p.m. at Paddy O'Reilly's will be the "Shave Off". This year they will have a Wiskerino Contest and there are 25 to 30 contestants. If you would like to get into this contest be there tomorrow night and you will officially be in the contest.

Peter Carissimo, Mission Viejo said he heard the talk about supporting the troops and the church he belongs to, San Clemente Presbyterian, he does the catering and they go and serve Thanksgiving Dinner to the gentlemen on the base and everybody in the church cooks turkeys and everything for them and it is done three days before Thanksgiving. For the Fourth of July he just catered for them on the patio at the church where they got to see fireworks and things were handed out to them from the local community. In dealing with the troops one on one, one thing that they want is that their MRI's are good but they are the same MRI's over and over again and so if anybody is collecting spices like hot sauces from Del Taco and items of that nature and any kind of other spices those are the things that these guys will fight over in order to make their meals a little different than the typical MRI.

Councilmember Franklin said that they do go to Taco Bell and Del Taco and they give them their spices by the box so they do send a lot of the spices and try to give a variety of things.

#### PRESENTATIONS:

1. Presentation by Senator Bill Emmerson – 37<sup>th</sup> District

Mayor Botts introduced Senator Emmerson and welcomed him to the meeting.

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Senator Emmerson said that it is an honor to represent this area and he is filling out the unexpired term of Mr. Benoit at this point and he told the leadership that he would just take over the vacancies that appear on the committees. He said he serves as Vice Chair of Food and Agriculture and Vice Chair of Human Services and on Education. Also, one of their colleagues passed away today, Senator Dave Cox of Sacramento and he was on the Appropriations Committee so he has been appointed to fill out that vacancy. He said that we are again without a budget and this is problematic and you have his commitment that the gimmicks as far as they go to take City money, he will not be there and he has not supported those efforts in the past until this last year where they securitized the Prop 1A money to protect some of your transportation dollars. He said that they are passed that stage and need to look at the structural budget deficits and it is time for them to do that now and he is committed to doing that. He said that he looks forward to working with Paul Cook and they both look forward to working with the City on projects that will benefit Banning. He said that he has meet with the Mayor and City Manager and they talked about the grade separation for the junior college and he has already done some work on that. His understanding is that we need to make sure we get that project going by 2013 so that we don't lose the federal dollars and he would be happy to work with the City on those issues. At this time he introduced his Field Representative Gina Grace and she will be coming out here on a regular basis and they will be holding some office hours out in this area.

#### CORRESPONDENCE

City Clerk said she had a letter that Mayor Botts asked her to read. Mayor Botts said he had a letter from Inge Schuler that came some time back and it got mixed in with some other letters and Ms. Schuler asked that it be read at the meeting. City Clerk read the letter in regards to invocations (see Exhibit "A").

#### APPOINTMENTS:

1. Designation of Voting Delegates and Alternates for League of California Cities Annual Conference – Sept. 15-17, 2010.

Mayor Pro Tem Hanna recommended that Mayor Botts serve at the delegate. Councilmember Robinson recommended that Mayor Pro Tem Hanna serve as the alternate. **A vote was taken and carried in favor of these recommendations for the Voting Delegates at the League of California Cities Annual Conference.**

#### CONSENT ITEMS

Councilmember Robinson pulled Consent Items No. 8, 9 and 10 for discussion.

1. Approval of Minutes – Joint Meeting – 06/22/10

Recommendation: That the minutes of the joint meeting of June 22, 2010 be approved.

2. Approval of Minutes – Regular Meeting – 06/22/10



Recommendation: That the minutes of the regular meeting of June 22, 2010 be approved.

3. Ordinance No. 1424 – 2<sup>nd</sup> Reading: 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.

Recommendation: That Ordinance No. 1424 pass its second reading and be adopted.

4. Ordinance No. 1425- 2<sup>nd</sup> Reading: 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. (Transient Occupancy Tax).

Recommendation: That Ordinance No. 1425 pass its second reading and be adopted.

5. Approval of Accounts Payable and Payroll Warrants for Month of February 2010.

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

6. Adopt the 2010-2011 Cooperative and Repayment Agreement between the City of Banning and the Banning Redevelopment Agency for the Payment of Administrative Expenses.

Recommendation: That the City Council adopt the 2010-2011 Cooperative and Repayment Agreement between the City of Banning and the Redevelopment Agency.

7. Resolution No. 2010-49, Approving a Loan and Repayment Between the City and the Redevelopment Agency to Facilitate the Funding of Redevelopment Capital Projects.

Recommendation: That the City Council adopt Resolution No. 2010-49, approving a loan and repayment between the City and the Redevelopment Agency to facilitate the funding of Redevelopment Capital Projects.

**Motion Machisic/Hanna to approved Consent Items 1 through 7.** Mayor Botts opened the item for public comments. There were none. **Motion carried, all in favor.**

8. Resolution No. 2010-50, Amending the Implementation Agreement between the City of Banning and Western Riverside Council of Governments (WRCOG) to Implement Assembly Bill 811 to Include Assembly Bill 474, Water Conservation Financing for Water Efficiency Improvements.

Councilmember Robinson wanted to make sure that this was not in conflict with a zoning code that was just passed where we talk about permeable asphalt.

City Manager said that the current code needs to be changed and the current thing that we are doing with WRCOG (Western Riverside Council of Governments) is the correct way to do that and some code changes will come back to the Council on that issue.

**Motion Machisic/Hanna to approved Consent Items 8 to adopt Resolution No. 2010-50.** Mayor Botts opened the item for public comments. There were none. **Motion carried, all in favor.**

9. Resolution No. 2010-51, Authorizing the Submittal of the FY 2010-11 Local Transportation (LTF) Claim and Approving the FY 2010/11-2012/13 Short Range Transit Plan (SRTP).

Councilmember Robinson said he had a confusion between what we budgeted for the next two years and the money this is calling out for from LTF. Also the sum of this is part of Fleet Maintenance or is it not. Also in regards to the plan itself we know that Mt. San Jacinto College is coming as early as September and classes start in spring and he didn't see anything relative to provided bus service for that or any dollar changes in the plan. Also in regards to replacement of shelters we show project funding and is this old funding.

Heidi Meraz addressed this item stating that the SRTP is prepared annually and staff knew there would be a reduction in funds this year and didn't know how much so the numbers that were used were place holders and staff is in the process of analyzing routes and will be working with Beaumont to come to something that is similar on both ends and will be working together on this along with the fair box recovery. Once they have reached that number it will all be brought to the Council for approval but there will be no effect to the General Fund. In regards to replacement of shelters they do have additional money that was awarded and they will be replacing shelters and adding new shelters and this will be brought forward to the Council.

**Motion Hanna/Machisic to approved Consent Item 9 to adopt Resolution No. 2010-51, authorizing the Submittal of the FY 2010-11 Local Transportation (LTF) in the amount of \$1,068,537 and approving the FY 2010/11-2012/13 Short Range Transit Plan (SRTP).** Mayor Botts opened the item for public comments. There were none.

Councilmember Franklin said that she believes that there is going to be at their next meeting hopefully a presentation regarding the "Pass to Class" that will address how we are trying to get students to ride the bus going from Banning to Mt. San Jacinto College.

**Motion carried, all in favor.**

10. Resolution No. 2010-53, Authorizing the City Manager to Enter Into a Contract Services Agreement with Willdan Engineering for Provision of Building and Safety Services.

Councilmember Robinson wanted some clarification from staff. We talked about cutbacks in the budget and all these things that we got to do but this is actually providing a contract service

to cover some areas that we had to eliminate from our budget but as it turns out that we would be open for inspections on Friday also and some other improvements.

Community Development Director explained the new contact with Willdan Engineering stating that customer service will not be interrupted and will be open from 8 a.m. to 5 p.m. and there will be no change to the actual service. There will be an opportunity to do inspections on Friday if needed.

**Motion Machisic/Robinson to approve Consent Item No. 10 to adopt Resolution No. 2010-53.**

Mayor Botts opened the item for public comments.

Inge Schuler resident of Banning expressed her concerns in regards to what the City's savings has been regarding the elimination of positions and how this compares to that and stated that it was also mentioned that they could add personnel as the economy improves but aren't we planning on re-hiring people that actually know the community. Also it shows that the request for proposal was sent to four companies and there was no information in the packet as to these proposals. She also had some concerns about these consultants knowing the community.

City Manager said that the savings will be \$190,000 plus this year and our current payroll and everything is roughly \$390,000 so minus the revenue they would take from us we anticipate \$190,000 in savings. This is a professional services contract so a Request for Qualifications went out and after interviewing three firms this was the selection by the panel. As far as having people local two of those individuals from Willdan either live in Banning or in the area and was also a former City of Banning employee.

**Motion carried, all in favor.**

**PUBLIC HEARINGS**

1. Tentative Parcel Map #36056 and Design Review No. 07-708 (Banning Business Park, APNs 532-110-003, 532-110-008, 532-110-009, and 532-110-010).  
(Staff Report – Zai Abu Bakar, Community Development Director)

Mayor Botts opened the public hearing on this item.

Zai gave a power point presentation on this item going over site and project information. She stated that the uses will be manufacturing, warehousing and ancillary offices which is consistent with the General Plan and zoning. This project is proposed to generate about 430 jobs for the community. This project has received conditional approval from the Riverside County Airport Land Use Commission and the Federal Aviation Administration. The Planning Commission reviewed this project on June 15<sup>th</sup> and recommended approval to the City Council.

There was some questions and discussion in regards to the traffic study, signalization and grade separation, traffic flow, the project being built in phases, the meaning of fair share and how it is determined, what is diesel minimization project plan, and projected jobs.

George Gosen with KOA Corporation, Traffic Engineers, 3190 C Shelby St., Ontario, CA who conducted the traffic study on this project addressed the traffic concerns.

Greg Chila, The O'Donnell Group, Inc. addressed concerns in regards to the building of the project and infrastructure work and the projected jobs. Mr. Chila also made a presentation in regards to their project stating that they have been working on this project for over three years and what drew them here were partly the jobs and it was a good central location. They will be doing a state-of-the-art Class A building. This kind of facility they would like to get some kind of light manufacturing type of use and really that would be the best type of tenant because they pay more rent and for the city those type of uses are higher paying and there are more of them. They have been in business since 1972 and they like to hold their own projects and keep them over time and they build projects that last and put in quality improvements.

Duane Burk, Public Works Director and Peter Lu, Consultant for the City addressed the issue of fair share.

Ian McMillen, Program Supervisor with the South Coast Air Quality Management District addressed the issue of diesel minimization and air quality.

Mayor Botts said that the public hearing is open and asked if there were any public comments.

The following people spoke in favor or against or had some questions or concerns or general comments in regards to this item *(any written comments handed to the City Clerk will be attached as an exhibit to the minutes)*:

Peter Carissimo, Mission Viejo  
Matthew Clarke, 1030 W. Charles Street  
Don Smith, resident of Banning  
Marion Johnson, 541 W. Repplier Rd.  
Inge Schuler, resident of Banning  
Lloyd Fields, owner of 90 acres of property immediately east of O'Donnell property

Duane Burk, Greg Chila and George Gosen addressed some of the concerns brought up in regards to half streets, drainage, seismic issues traffic and roadways.

City Attorney Aleshire said one thing that I think will be helpful we have a number of agreements in here, these fair share agreements also the covenant agreements and the offers to dedicate. Some of the conditions say that those agreements are subject to City Attorney and some are silent on that. So I think we should add a condition or a statement at the beginning that says that all of the agreements are subject to review by legal counsel to make sure that there is adequate security. This fair share issue that you were talking about there are really two concepts there that are tricky and one is what is a fair share in the way the traffic engineer was

talking about projected trips is the way to deal with that but the other thing that is really difficult is the construction cost and what is the number you are dividing up and if we are going to build something in two years we can estimate what that is. What if it doesn't get built for seven years; what is that number and so trying to work out language that allows us to make sure that we can make those projections in terms of what the time value is is a very critical part of these agreements. **So if your approval could be subject to this language that says, "that all fair share agreements, covenant agreements, and agreements subject to recordation will be subject to review and approval by the City Attorney with appropriate enforcement provisions by the City and properly securitized" that is just a global thing then that applies to all those agreements instead of doing condition by condition.**

Krista Baird addressed her concerns in regards to the safety hazard to the residents if there was an emergency to get out of the Fair Oaks area.

Mayor Botts closed the public hearing on this item.

**Motion Machisic/Robinson that the City Council adopt Resolution No. 2010-52, Adopting Initial Study/Mitigated Negative Declaration and Mitigated Monitoring and Reporting Plan, Approving Tentative Parcel Map No. 36056 and Design Review No. 07-708 to Develop a Business Park for Manufacturing and Warehousing Related Uses on a 64-Acre Site in the Business Park (BP) Zone Located at the Easterly Terminus of Hathaway Street and Nicolet Street subject to Conditions of Approval and as amended by the City Attorney. Motion carried, all in favor.**

Meeting recessed at 6:47 p.m. and reconvened at 6:56 p.m.

#### REPORTS OF OFFICERS

1. Banning Economic Development Action – FY 2009-2010  
(Staff Report – John Jansons, Redevelopment Manager)

City Manager said that Mr. Jansons is our outgoing Redevelopment Manager. He has accepted a job with the City of Hemet and he will be missed and congratulate him on his success.

Mr. Jansons gave a power-point recap of economic development activities for the Fiscal Year 2009/2010 going over four key areas: Administrative and Policy, Marketing and Advertising; Projects and Infrastructure.

**Motion that the City Council receive and file this report describing economic development actions and efforts made to support the Banning business community and increase economic vitality in Banning during Fiscal Year 2009-2010.**

Mayor Botts thanked Mr. Jansons for his detailed presentation and he would like for the Council to get a copy of his power-point presentation and asked that it be on the City's website.



There was some Council and staff discussion in regards to Neighborhood Stabilization fund and the sharing of business success stories and the importance of a written plan for economic development.

Krista Baird addressed the Council stating that it has been a real pleasure working with him on the Economic Development Committee and he will be missed.

Mr. Jansons announced that there has been a new buyer for the Banning Villa Hotel and Lawrence Equipment of El Monte has purchased a key industrial reuse site that is approximately 4 acres in size and has 180,000 square feet of building on it and will reactivate it for manufacturing purposes. He said most of the credit goes to Mr. Takata and Zai Abu Bakar for getting them here.

Mayor Botts said that the Council will receive and file the report.

Mayor Pro Tem Hanna said that we talk about having joint meetings with the various commissions and committees and certainly meeting with our Economic Development Committee would be a wonderful idea and this really comes from comments made by Councilmember Franklin in the past about how does it all work. How does economic development work and what are our hopes and dreams for Banning and brainstorming and developing innovative strategies together so she is suggesting that the Council have a facilitated discussion with the Economic Development Committee and the City Council and talk about this. **There was Council consensus to having a workshop.**

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

##### City Council

Councilmember Robinson –

- Council met today with a delegation from Croatia and it is a partnership with Riverside County, the Country of Croatia and the City of Banning along with Morongo.
- Also they have talked about getting things in print of what has happened around the Pass and “Discover the Pass” magazine came out this month and it shows old buildings and some of the renovations that have happened to those buildings. It is a brand new magazine created by two people here in the Pass and it available to everyone free.

Mayor Pro Tem Hanna –

- She said to continue in regards to the magazine this could be one tool in a strategy for tourism which should be part of our economic development strategy.
- Several of them were able to go to the San Geronio Pass Amateur Radio Club’s Annual Field Day. The amateur radio hams throughout Banning and the Pass are really important to us as part of our emergency response plan and these folks are out there day in and day out prepared to communicate throughout the world when we need them and she wanted to show her appreciation for all the work that they do and encourage staff to continue to work with them.

Councilmember Machisic –

- The annual report from Riverside Conservation Authority has come out and he will leave it with the City Clerk.

Councilmember Franklin

- She had the opportunity to go with a senior on the Banning Transit System and its connection to RTA's bus system to see how long it actually takes to ride the bus from our Community Center to Moreno Valley Mall and back and how much it actually cost. If you are not a senior the cost is \$3.00 for the round trip on both systems and if you are senior, the cost is \$1.40. The buses run every 15 minutes after the hour whether you are going or coming. It was good to see that it didn't take very long after you left the Kmart location and it actually took 40 minutes to get to the Moreno Valley Mall and also it only made about five stops and it does stop at the hospital and in Moreno Valley it stopped at the Wal-Mart. Because it was so easy to ride once you got on the bus at Kmart you don't have to worry about transfers or paying more money if you started in Banning. There will be a further presentation next month because we do have a couple of things planned as well as to talk about the "Pass to Go" which is to help our students get to Mt. San Jacinto College.
- There are two "Cool Centers" here in Banning at the Community Center as well as Praise Tabernacle Church and there is also one for pets. Once it reaches 103 degrees is the set designation but the Community Center actually has been open once it gets over 100 degrees and it is not only for seniors but for any family member to be able to come out and get water, snacks, play games and watch television. So there are places for people to go when it gets too hot and they are worried about their utility bills.
- She attended the Workforce Reception at their new site on Spruce Street in Riverside. She mentions this because the Hemet location has pretty much closed down. There is a small location in Moreno Valley but the actual large site for people looking for jobs and trying to get the training or resources is on Spruce Street in Riverside and there is information available from the Human Resources Manager here in City Hall.
- On Friday the local pastors will play against our local police and safety officers and it is a charity basketball game and all of the money will benefit the Back to School Back Pack Program or the G.R.E.A.T. Program that is going on this summer. The cost \$5.00 and be held at the Nicolet Gym starting at 7 p.m.

Councilmember Robinson said in regards to animal services if you are missing your pet you can call the Ramona Humane Society at 951-654-8002. You can also call locally if you have an animal running around and we have an agreement with the City of Beaumont Animal Care Services at 951-769-8500. They will be working seven days a week.

City Committee Reports – There were none.

Report by City Attorney – None at this time.

Report by City Manager

- As you know we have gone through some tough times and the employees that we have let go have left the building. It was sad to see them go but the Council did right by them in regards to giving them a severance package and we are also working with them in going through the unemployment process. We are also offering them any job that comes up first if they are



qualified for it and if they pass and qualify, then they would receive the job at that point in time.

- Weed Abatement has been with Code Enforcement and we are now switching it to the Fire Department.
- Animal Control has gone to Beaumont and it should be much better than it has in the past and we are looking forward to working with the Ramona Humane Society who is now looking at how they can operate our facility and hopefully that will work out in the future.
- The Centennial for the City is three years away and he would hope that we would have a year long celebration and the Council would probably like to put together a committee to begin that process and he will be putting that as agenda item in the future for the Council to consider.
- Monday, July 26<sup>th</sup> at 5:30 p.m. there will be a Water Study
- Reminder we had a small earthquake not too long ago and make sure you are prepared. You can never anticipate when the big one will happen. We have emergency kits here for each one of our employees so be prepared.

### ITEMS FOR FUTURE AGENDAS

#### New Items –

Mayor Botts said that we have not dealt with emergency preparedness other than Councilmember Franklin and her committee.

City Manager said that we do have an emergency preparedness plan and the Fire Dept. is the one that is in charge of that and he will have Jeff Stowells come one night during a Council Meeting and have a report of what that is.

Mayor Pro Tem Hanna said that each Councilmember should have had training and needs to go through periodic training to be prepared as to what their role is.

City Manager said that staff all goes through training because it is required for certain FEMA monies and he will make sure that Chief Stowells gets the Council up to speed. Also, next week staff is projecting that the Beaver Medical turn pockets will begin construction and take about two weeks and then work on Apex will begin.

#### 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

Councilmember Franklin suggested that they remove Item No. 4 regarding the Sister City with Haiti because that has been done. Also she wanted to see if there was concurrence of the Council to have staff come back with a policy regarding having a requirement for how funds are spent anytime we give money to somebody because we don't have such a policy.

City Manager asked if that was in regards to contracts or sponsorship type things. Councilmember Franklin said contracts. **There was Council concurrence.**

Mayor Botts would like to propose a joint meeting between the City Council, Planning, Parks and Recreation Advisory Committee and maybe Economic Development Committee. We have talked about it and we haven't done it.

City Manager said we had it on schedule to have a joint meeting with the Planning Commission and the Parks and Recreation Advisory Committee on the Parks and Recreation Master Plan but unfortunately the consultant is not available. So we will come back and survey the Council for another date to make sure we have that happen.

Mayor Pro Tem Hanna said that Pending Item No. 6 could be removed since we just did that tonight. She asked the City Manager if he would like to consider whether we need a meeting on August 10<sup>th</sup> because he did indicate that we had a light agenda for that meeting and if it is a light agenda, we don't need a meeting.

City Manager said that he will look into it and he has talked to staff so far and there doesn't seem to be anything that would be pressing and if there isn't, we will make that decision at the July 27<sup>th</sup> meeting.

Councilmember Franklin said that she would like to keep Pending Item No. 6 because staff said that they would come back to us with a plan. City Manager said that we can reword it to say "Update on Economic Development Plan."

#### ADJOURNMENT

**Motion Hanna/Machisic to adjourn the meeting. Motion carried, all in favor.**

Meeting adjourned at 7:46 p.m.

---

Marie A. Calderon, City Clerk

**THE ACTION MINUTES REFLECT 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.**

**Bob Botts**

---

**From:** Marie Calderon [mcalderon@ci.banning.ca.us]  
**Sent:** Wednesday, April 21, 2010 10:28 AM  
**To:** Bob Botts; Barbara Hanna; Debbie Franklin; John Machisic; Don Robinson  
**Cc:** Andy Takata  
**Subject:** FW: Thank you to the City Council

Mayor Botts,

Please see the following message from Inge Schuler.

Would you like for me to read this at the next Council meeting under correspondence? Please let me know.

---

**From:** inge schuler [mailto:schuleri@yahoo.com]  
**Sent:** Wednesday, April 21, 2010 10:24 AM  
**To:** Marie Calderon  
**Subject:** Thank you to the City Council

Good morning, Marie:  
could you please forward this e-mailed *Thank You* to the City Council members? I would appreciate it.

Dear Mayor Botts and Council Members:  
I, and I am sure many of the non Christians in the community, very much appreciate your decision at the last council meeting to observe a one minute silent invocation at the beginning of the meeting. I know some residents are offended by some of the lengthy and detailed preachy invocations that have occasionally preceded the meetings, I am just uncomfortable with those and find them a tad out-of-place. Your last meeting's solution was considerate and most elegant, especially in view of the Lancaster zealotry. Thank you very much. Feel free to share this missive at the next council meeting under the heading of correspondence.  
Inge Schuler

4/21/2010

Exhibit "A" – Correspondence

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reg.mtg.-7/13/10

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## CITY COUNCIL AGENDA

**Date:** July 27, 2010

**TO:** City Council

**FROM:** Fred Mason, Electric Utility Director

**SUBJECT:** Resolution No. 2010-55 Approval of the Electric Utility's Integrated Resource Plan as Required by the Western Area Power Administration

**RECOMMENDATION:** The City Council approve the Electric Utility's Integrated Resource Plan (IRP), attached herewith as Exhibit "A", as required by the Western Area Power Administration (WAPA).

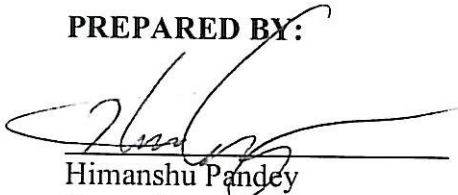
**JUSTIFICATION:** It is a requirement of all participants in WAPA projects to prepare and submit an IRP every five years. The City of Banning is a participant in WAPA's Hoover Upgrading Project.

**BACKGROUND:** In March 1986, the City of Banning, along with eight other SCPPA members, entered into a long-term power contract to receive electricity from the Hoover Upgrading Project. Integrated Resource Planning was mandated by the Energy Policy Act of 1992. The Act requires all WAPA customers to submit IRPs to WAPA every five years.

To implement this requirement, WAPA published a final rule, adopting the Energy Planning and Management Program (EPAMP) which sets out the IRP requirements. Banning's IRP was developed to meet all the requirements of the EPAMP.

**FISCAL DATA:** There is no financial impact associated with submitting Banning's IRP.

**PREPARED BY:**



Himanshu Pandey  
Power Resource and  
Revenue Administrator

**RECOMMENDED BY:**



Fred Mason  
Electric Utility Director

**APPROVED BY:**



Andrew J. Takata  
City Manager

# **Integrated Resource Plan**

**City of Banning, California**

**July 2010**

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- **Governing Body – Banning City Council**

Robert E. "Bob" Botts—Mayor  
Barbara Hanna—Mayor Pro Tem  
Debbie Franklin—Councilmember  
John Machisic —Councilmember  
Don Robinson—Councilmember

Note: The Electric Utility's organizational profile is shown in **Appendix B.**

- **Contact Persons**

Fred Mason  
Electric Utility Director  
176 E. Lincoln Street  
Banning, CA 92220  
(951) 922-3260 – Office  
(951) 849-1550 – Fax

Himanshu Pandey  
Power Resource & Revenue Administrator  
176 E. Lincoln Street  
Banning, CA 92220  
(951) 922-3266 – Office  
(951) 849-1550 – Fax

The policies for service, rates and fees for power provided by the City of Banning to its customers are determined and set by the Banning City Council. Copies of Banning's current rate schedules are attached as **Appendix C.**

## **Banning Goals and Objectives**

- Provide reliable electric power at the lowest practicable cost, consistent with sound business principles.
- Continue to participate with Southern California Public Power Authority (SCPPA) members and other applicable utilities and agencies in California to ensure adequate resources and reliable electric service.
- Meet the goal stated in the Banning Renewable Portfolio Standard of obtaining electricity from eligible renewable resources of 33% of its target portfolio level by December 31, 2020.



## Regulatory Issues

- **Regulations Applicable to Banning**

Integrated Resource Planning was mandated by the Energy Policy Act of 1992. The Act requires all Western Area Power Administration customers to submit Integrated Resource Plans (IRP) to Western every five years. To implement this requirement, Western published a final rule, adopting the Energy Planning and Management Program (EPAMP) which sets out the IRP requirements.

- **Impact of Deregulation**

As a municipal utility, Banning was never required to open its borders to Direct Access as a result of the deregulation of the electric industry in California. However, if Banning is not competitive, it is still susceptible to customers relocating to other cities that may have lower rates.

- **Greenhouse Gas Legislation**

A number of California State Bills may have far reaching impact on Banning's electric utility's operations, depending on the final legislation. Assembly Bill 32 and Senate Bill 1368, which were both passed in 2006, pertain to reducing Greenhouse Gas emissions. The California Energy Commission (CEC) and California Air Resources Board (CARB) are currently working with industry participants to develop implementation procedures for these bills. As of this writing Cap & Trade provisions have not yet been formally introduced to the marketplace and therefore it is unclear what the fiscal & operational impact to Banning will be. Complementary legislation, such as California SB 722, is also being discussed and may affect the utility by formalizing the carbon offset market.

## Load and Resource Information

- **Historical and 5-Year Load Forecast:**

The previous 5 year IRP covering the period from 2005 – 2010 conveyed information regarding the load forecast for the City with an eye towards growth. The former projections have not materialized in 2010 and growth over the next five years remains uncertain as the recession that has affected the global economy over the past three years may continue for an undetermined time into the next forecast period.

Banning's peak load has decreased by over 12% from 2005 to 2009. In 2005 the Banning Electric Utility met a 47.6 MW peak demand. In 2009 Banning Electric met a peak demand of only 41.8 MW.

Banning's energy to load also decreased by over 9% from 2005 to 2009. In 2005 The Banning Utility required 160,942 MWh delivered to its' distribution system to meet customer load. In 2009 the energy deliveries to the City were only 146,287 MWh.

Effectively, the reductions in peak demand and energy required to meet load have resulted in the Utility serving load as if it were 2001 or 2002 again however with enough resources to meet expected load in 2010 and beyond.

Some of the observed reduction in demand and load is a direct consequence of Banning Electric's conservation and energy efficiency programs, however the economic climate is thought to be a greater influence as can be seen in the chart below, Energy Sales By Customer Class, where sales to Commercial & Industrial customers have dramatically declined beginning in 2007.

An economic recovery is expected, however due to the load loss experienced thus far, Banning Electric anticipates that even a robust recovery will only lead to customer load and demand levels returning to levels observed in prior years and not beyond prior forecasts.

Banning has aggressively supported the California's Million Solar Roofs initiative (SB1) and has provided rebates supporting approximately 0.72 MW of grid connected solar photovoltaic systems (1.7% of system peak). The interconnection of these systems to the Utility Distribution System has a direct upward pressure on rates as they directly decrease sales.

### Banning Peak Demand

<u>Year</u>	<u>MW</u>	<u>%</u>
2005	47.6	
2006	45.8	-3.8%
2007	45.9	0.2%
2008	43.4	-5.4%
2009	41.8	-3.7%

### Banning Energy Load (MWh)

	<u>2,004</u>	<u>2,005</u>	<u>2,006</u>	<u>2,007</u>	<u>2,008</u>	<u>2,009</u>
Jan	11,916	12,288	12,377	12,559	12,347	11,041
Feb	11,100	10,881	11,137	10,871	11,084	9,985
Mar	11,744	11,769	12,450	11,785	11,178	10,625
Apr	11,189	11,303	10,958	11,491	11,273	10,410
May	12,416	12,863	12,493	12,392	12,169	12,316
Jun	13,800	13,170	15,561	14,689	15,313	11,423
Jul	17,504	19,403	19,963	19,014	18,289	17,463
Aug	17,554	18,845	17,080	18,915	17,981	16,048
Sep	15,073	13,937	14,929	14,353	15,476	15,002
Oct	12,797	12,378	11,997	12,123	12,570	10,671
Nov	11,824	11,473	11,578	11,449	10,393	10,106
Dec	<u>12,853</u>	<u>12,631</u>	<u>12,632</u>	<u>12,547</u>	<u>11,538</u>	<u>11,197</u>
<b>Total</b>	159,769	160,942 0.7%	163,156 1.4%	162,188 -0.6%	159,611 -1.6%	146,287 -8.3%

# CITY OF BANNING

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## Projected Load Data 2010 - 2014

	Actual Load – 2008				Actual Load - 2009		2010	
	Total Load for Month	Peak MW	Date of Peak	Time	Total Load for Month	Peak MW	Total Load for Month	Peak MW
Jan	12,347	21.715	1/15/2007	19:00	11,041	20.514	10,820	20.104
Feb	11,084	21.398	2/1/2007	19:00	9,985	20.651	9,785	20.238
Mar	11,178	19.382	3/16/2007	13:00	10,625	18.403	10,413	18.035
Apr	11,273	21.427	4/30/2007	14:00	10,410	23.648	10,202	23.175
May	12,169	34.416	5/10/2007	15:00	12,316	30.298	12,070	29.692
Jun	15,313	41.184	6/14/2007	15:00	11,423	33.240	11,195	32.575
Jul	18,289	43.402	7/5/2007	16:00	17,463	41.664	17,114	40.831
Aug	17,981	41.587	8/16/2007	15:00	16,048	41.795	15,727	40.959
Sep	15,476	39.633	9/4/2007	16:00	15,002	38.048	14,702	37.287
Oct	12,570	32.860	10/3/2007	15:00	10,671	31.546	10,458	30.915
Nov	10,393	20.040	11/30/2007	18:00	10,106	19.238	9,904	18.854
Dec	11,538	24.110	12/11/2007	19:00	11,197	23.146	10,973	22.683
TOTAL:	159,611				146,287		143,361	

	2011		2012		2013		2014	
	Total Load for Month	Peak MW	Total Load for Month	Peak MW	Total Load for Month	Peak MW	Total Load for Month	Peak MW
Jan	10,820	20.104	11,037	20.908	11,699	22.162	11,933	22.606
Feb	9,785	20.238	9,981	21.047	10,580	22.310	10,791	22.757
Mar	10,413	18.035	10,621	18.756	11,258	19.882	11,483	20.279
Apr	10,202	23.175	10,406	24.102	11,030	25.548	11,251	26.059
May	12,070	29.692	12,311	30.880	13,050	32.733	13,311	33.387
Jun	11,195	32.575	11,418	33.878	12,104	35.911	12,346	36.629
Jul	17,114	40.831	17,456	42.464	18,503	45.012	18,873	45.912
Aug	15,727	40.959	16,042	42.597	17,004	45.153	17,344	46.056
Sep	14,702	37.287	14,996	38.778	15,896	41.105	16,214	41.927
Oct	10,458	30.915	10,667	32.151	11,307	34.080	11,533	34.762
Nov	9,904	18.854	10,102	19.608	10,708	20.784	10,922	21.200
Dec	10,973	22.683	11,193	23.590	11,864	25.005	12,101	25.506
TOTAL:	143,361		146,228		155,002		158,102	

- **Load Profile Information**

The utility's load is divided amongst the customer classes as follows:

Commercial—41%

- Time-of-Use—10%
- Large Demand—10%
- Small Demand and General—21%

Residential—50%

Other—9%

**Energy Sales by Customer Class (kWh)**

<u>Cal Year</u>	<u>Residential</u>	<u>Commercial</u>	<u>Industrial</u>	<u>Public Use</u>	<u>Total</u>	<u>% Change</u>
2004	65,678,000	61,001,000	14,798,000	1,843,000	143,320,000	
2005	68,234,000	57,555,000	11,097,000	8,625,000	145,511,000	1.50%
2006	72,637,000	55,709,000	13,468,000	9,007,000	150,821,000	3.60%
2007	71,868,000	48,727,000	20,245,000	12,053,000	152,893,000	1.40%
2008	71,096,000	41,628,000	26,361,000	11,202,000	150,287,000	-1.70%
2009	68,090,000	38,986,000	17,542,000	11,790,000	136,408,000	-9.23%

- **Supply Side Resources**

Banning's current base load resources will be sufficient for the utility to meet its monthly power and energy requirements during the winter months through the long-term planning periods. Power purchases to cover peaking demand in the summer, due to Banning's cooling load, will continue to be purchased in the forward market.

**San Juan Unit 3 Power Plant**

- Joint Participant in SCPPA Project
- Capacity and Energy  
20MW; 147,070 MWh annual
- Expires October 31, 2030

**Palo Verde Nuclear Power Plant**

- Joint Participant in SCPPA Project
- Capacity and Energy  
2MW; 16,750 MWh annual
- Expires October 31, 2030

#### Hoover Upgrading Project

- o Joint Participant in SCPPA Project
- o Capacity and Energy
- o 2MW; 1,874 MWh annual
- o Expires October 1, 2017 however
- o Legislation (HR 4349 & S 2891) are being considered by the US House of Representative & US Senate to extend the Hoover Entitlement contracts by an additional 50 years however the current parties will give up 5% of their capacity and energy entitlements. The capacity and energy values above do not reflect the anticipated 5% reduction that will occur in 2017 if the legislation is passed.

- **Demand Side Resources**

Banning has several ongoing Demand Side Management (DSM) activities, including the distribution of conservation information; rebates for the purchase of energy efficient appliances; rebates for the installation of Photovoltaic systems; citywide distribution of CFLs; and recycling of old/inefficient refrigerators and freezers. The utility also performs energy audits for its customers upon request.

- **Renewable Resources**

Banning is committed to improving the environment, and to that end passed a Renewables Portfolio Standard (RPS) in March 2004 which provided a commitment of 20 percent renewables by December 31, 2017. In June 2007 the Banning City Council revised the City's RPS to reflect a commitment of 33 percent renewable energy by December 31, 2020, measured by the amount of energy procured for making retail sales of electricity. This revised RPS document is provided in **Appendix D**.

Banning entered a 25 year Power Purchase Agreement for geothermal energy, as a joint participant with several other SCPPA members. The plant started producing energy in January 2006 at reduced capacity. Banning was receiving one megawatt of energy by November 2006, and amended the PPA in April 2008 to provide additional capacity for a combined total of up to 3.4 megawatts. With the increased capacity starting in April 2008, Banning's renewable energy percentage has been increased to approximately 20 percent.

## Identification and Comparison of Resource Options

The identification of options for additional resources within this Integrated Resource Plan is coordinated through an examination of the costs and benefits for each potential resource. Due to the somewhat limited nature of the City's financial and administrative resources, as well as the variable summer peaking requirements, the examination of additional resources often indicates that the additional cost to the City may be prohibitive. Nevertheless, Banning continues to look for additional opportunities for energy savings from evolving technological advances in energy efficiency.

## Designation of Options

If additional resources are needed, the least cost option is identified using a cost benefit analysis. This information is considered by the Banning City Council and combined with other information to identify the best option for the City. The selection of the best option also includes consideration for reliability of service, economics, rate impacts, environmental effects, regulatory impacts, legal considerations, public considerations, and any other factors which may be identified from time-to-time and deemed pertinent in selecting or implementing an action plan.

## Action Plan

- **Resource Action Plan**

The time period covered by Banning's Action Plan is the five-year period from 2010 through 2014.

Banning has determined that to provide reliable electric power at the lowest practicable cost, consistent with sound business principles, the City will continue using its long-term SCPPA entitlements of San Juan Unit 3, Palo Verde Nuclear Plant, the Hoover Upgrading Project, and the Ormat Geothermal facilities to supply its projected long-term power requirements. Power purchases to cover increased demand in the summer, due to Banning's cooling load, will continue to be purchased in the forward market. In addition, the City will continue looking at a variety of renewable energy projects in order to meet its Renewable Portfolio Standard goal of 33% renewables by 2020.

In the event the loads of the utility are projected to materially increase above those levels represented in the Load and Resource information, other than normal deviations due to weather impacts, the utility will review its forecast, evaluate the need for modifying its IRP, and notify Western accordingly. In accordance with Western's regulations, Banning will revise its load forecast and resource information in detail every five years.



- **Validation and Evaluation**

### **Distribution System Monitoring and Efficiency Improvements**

The utility's activities on the Distribution system include the ongoing Distribution System Analysis to examine ways to improve efficiencies and develop a system expansion plan to effectively serve current and future loads. In addition, a new substation was constructed and came online in March 2009, ahead of schedule. This will not only increase the overall capacity of the system, but will also help balance it out. In addition it will provide the necessary infrastructure to help meet Banning's future load growth in the northwest portion of the City, an area adjacent to neighboring city Beaumont, which has experienced periods of rapid growth in the recent past.

### **Commercial User Load Monitoring and Municipal, Commercial Energy Efficiency**

Banning has continued to work with its large commercial customers to discuss load management and how their loads contribute to the utility's power requirements. The utility has been working with its top ten commercial customers to offer them assistance in developing ways to improve energy efficiencies.

### **Public Information and Education**

Banning continues to provide updated conservation literature to its customers. Residential and Commercial customers with unusually high electricity consumption are contacted to offer additional assistance on ways they can conserve electricity.

The ability of the utility to stabilize its rates and power supply costs relies upon economically feasible conservation of every resource. Some of the other activities pursued by Banning and its customers are:

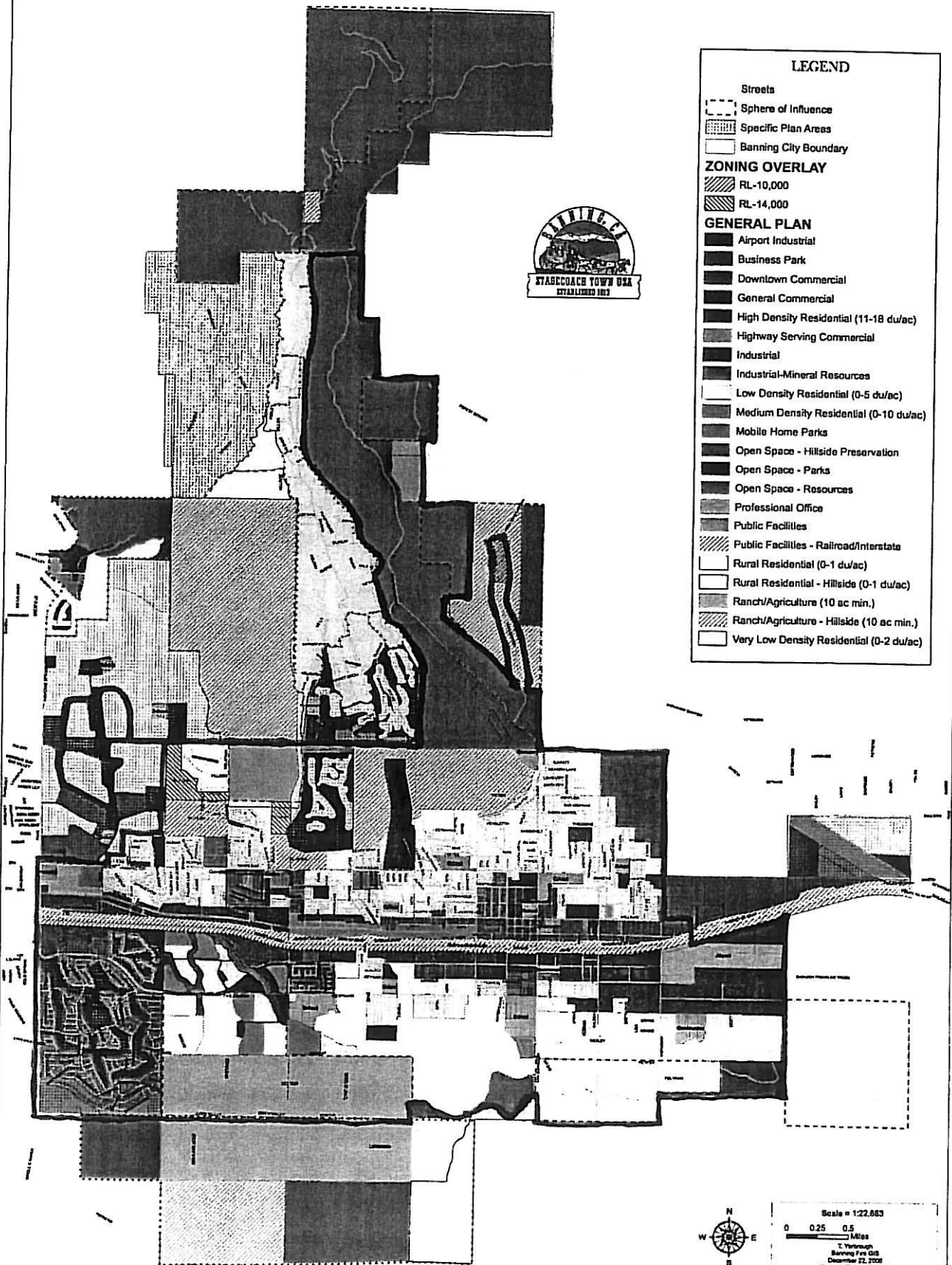
- Home energy audits
- Promotion of high efficiency appliances.

## **Environmental Effects**

The City is required, to the extent practicable, to minimize adverse environmental effects of new resource acquisitions and document these efforts in the IRP. Since the City currently does not foresee the acquisition of any additional resources, other than renewable resources, there are no adverse environmental effects caused by new resource acquisition.

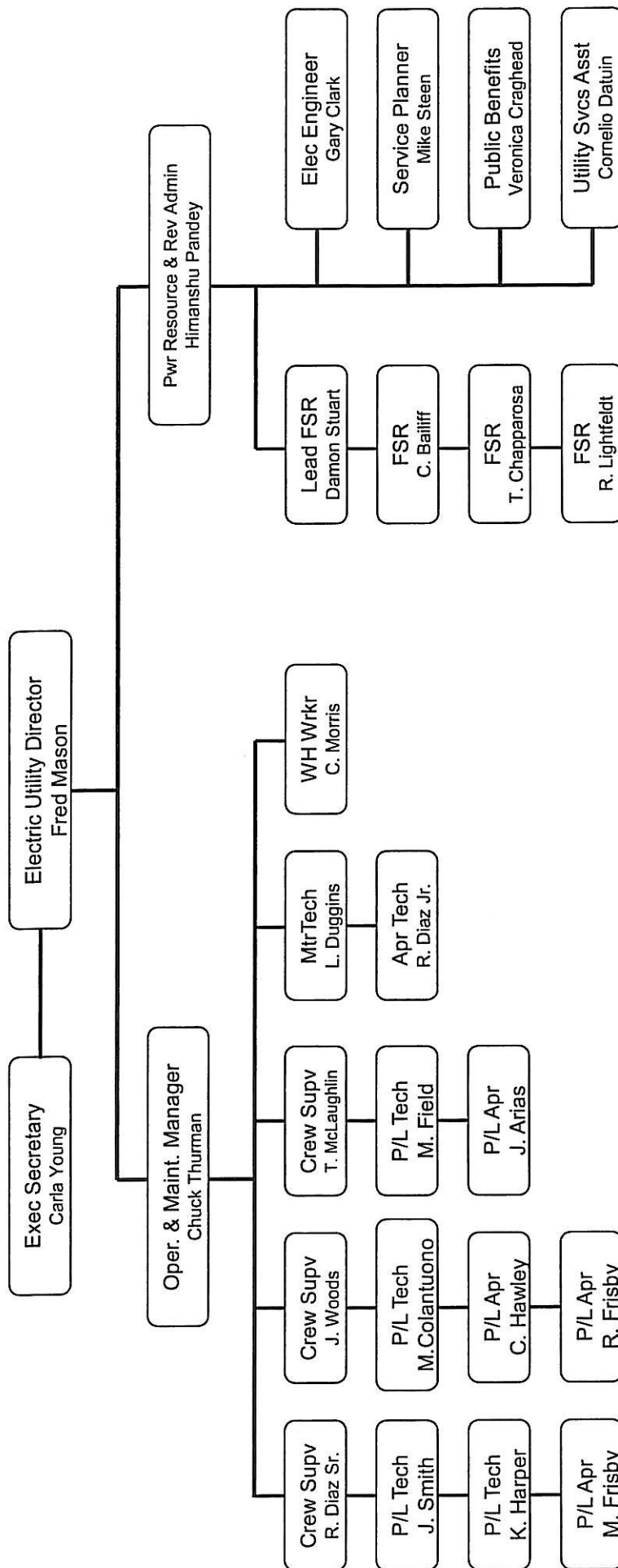
## Appendix A

# CITY OF BANNING GENERAL PLAN WITH ZONING OVERLAY



## Appendix B

# City of Banning – Electric Utility Department



## Appendix C

CITY OF BANNING  
Electric Division

SCHEDULE ED

ECONOMIC DEVELOPMENT RATE ("ED RATE")

**APPLICABILITY**

Commercial or industrial end-use customers that would otherwise receive service under electric rate Schedule C or Schedule TOU, may take advantage of the Economic Development Rate ("ED Rate") as a New Customer or Expanded Load Customer. This ED Rate is applicable to all or part of the services provided to New Customers and Expanded Load Customers, as such terms are defined herein.

1. A New Customer shall be a customer seeking to locate a new business or relocate an existing business (not currently located in the City of Banning) within the City of Banning's service territory, where said business has a minimum monthly electrical demand of at least 200 kW based upon the business' past electrical demand or reasonable projections of such demand, as determined by the Electrical Utility Director.
2. An Expanded Load Customer shall be an existing City of Banning customer that is adding new load to Banning by the greater of 20 percent of the existing customer's Current Peak Demand or 200 kW based upon the business' past electrical demand or reasonable projections of such demand, as determined by the Electrical Utility Director. Current Peak Demand is determined by averaging the annual peak demand of the past three years. If a customer has not had service for at least three years, the maximum peak for the entire service period will be used. The expanded load can be at the customer's current site, or at a new site within the Banning service territory. The ED Rate will only be applied to the expanded load as determined in Section 5 below.

CHARACTER OF SERVICE

The service provided hereunder shall be alternating current with regulated frequency of 60 hertz, three-phase, or a combination single and three-phase served through one meter, at a standard voltage not to exceed 480 volts, or as may be specified by the Electric Division. To be eligible to participate all customers must have a demand meter.

TERRITORY

Within the area served by the City of Banning.

RATES

Except as provided herein, or in the Economic Development Rate Agreement, all charges and provisions of the customer's otherwise applicable rate schedule (Schedule C or Schedule TOU) shall apply. The applicable Energy Charge under the customer's otherwise applicable rate schedule will be reduced as follows:



Year 1 – 25%  
Year 2 – 25%  
Year 3 – 0%  
Year 4 – 0%  
Year 5 – 0%

### SPECIAL CONDITIONS

1. Term: Economic Development Rate Agreements entered into under this Schedule shall be for a single five-year term.
2. Approval: Application of this Rate Schedule shall be subject to the approval of the Electric Utility Director, based on meeting the eligibility criteria outlined herein.
3. Agreement: The customer must sign a standard Banning Economic Development Rate Agreement in order for the rates under this Schedule to be applicable.
4. Minimum Load: Customers qualifying under this Schedule as a New Customer or an Expanded Load Customer must agree to maintain a minimum level of load for five years from the date the service is first rendered under this Schedule and must, reimburse Banning for all rate reductions received under this Schedule, if the customer fails to maintain the required minimum load during such five-year term as set forth in the Economic Development Rate Agreement.
5. Base Period Usage: Base Period Usage shall be established and agreed to in the Economic Development Rate Agreement for Expanded Load Customers. Base Period Usage shall be the average monthly energy use and demand for the customer during the last three years of service to the customer, from the date ending the last payment period before the date of the Agreement. Expanded load qualifying for the rate under this Schedule shall be measured as the difference between the new monthly, meter documented energy use and demand, and the Base Period Usage.
6. State Mandated Public Benefits Charge: All bills rendered under this Schedule shall be subject to the Public Benefits Charge as established by the City Council.
7. Miscellaneous Fees and Charges: Rates charged pursuant to this Schedule shall be subject to any and all fees and charges per the customer's otherwise applicable rate schedule.
8. Expanded Load: Expanded Load Customers applying for this rate must demonstrate to the satisfaction of the Electric Utility Director that the expanded load is new within the Territory of Banning, and not just to the service address.
9. Effective Date: The effective date of the Economic Development Rate Agreement shall commence within 12 months from the date of the Electric Utility Director's approval, or the Agreement becomes null and void. The Agreement becomes effective upon execution by the parties, and the Economic Development Rate commences upon written notice by customer, and coincides with the customer's normal billing cycle.
10. Reapplication: Customers who have received service under the Economic Development Rate are eligible to reapply for the rate as an Expanded Load Customer 12 months after their current Economic Development Rate Agreement has expired, if they meet the criteria therefore.
11. Restrictions: Residential customers and federal, state or local governmental agencies are not eligible to apply for service under this Schedule.

SCHEDULE NMS

NET METERING SURPLUS

APPLICABILITY

Applicable to City of Banning Electric Utility customers who have executed an Interconnection Agreement for Net Energy Metering with the Banning Electric Utility, and have made a formal election to receive compensation for any surplus electricity they generate above their own usage on an annual basis.

CHARACTER OF SERVICE

Alternating current with regulated frequency of 60 hertz single-phase, three-phase, or a combination of single and three-phase served through one meter, at a standard voltage not to exceed 240 volts, or as may be specified by the Electric Division.

TERRITORY

Within the area served by the City of Banning.

RATES

	<u>Per Meter</u> <u>Per Month</u>
Energy Credit	
All excess kWh, per kWh	\$ .0784

SPECIAL CONDITIONS

1. Customer must have a solar photovoltaic ("PV") or wind generating facility at their home or business, and have executed an Interconnection Agreement for Net Energy Metering with the Banning Electric Utility.
2. Customer must have submitted the Net Surplus Electricity Compensation for "Net Metered" Customers Election Form, indicating that they wished to receive compensation based on a per kWh rate.
3. Payments to customers made under this Rate Schedule shall be issued each January after the Utility has completed the Annual True-up, per Section 7 of the Interconnection Agreement for Net Energy Metering.
4. A special true-up shall be performed if a net metering customer closes their Banning Electric Utility account mid-year, and will be performed under the same process outlined in Section 7 of the Interconnection Agreement for Net Energy Metering.

**Electric Utility Fees**  
Effective October 9, 2007

<u>Electric Utility</u>	<u>Current Fees</u>
Electric Service Turn On	\$27 If Scheduled \$43 Same Day
Reconnect - OH or UG service terminated	\$265.00
Reconnect - Service Drop removed	\$265.00
Reconnect - UG Service Cable removed	\$265.00
Temporary OH Service	\$176.00
Temporary UG Service	\$176.00
Electric-Delinquent Reconnect	\$30 If Scheduled \$43 Same Day
Electric Meter Testing	One test free per year. Additional test \$89 if meter is accurate
Standby/After Hours Turn On (Except City Error)	\$206.00
Electric Meter Installation Fee	\$265.00
Electric Delinquent Processing Fee	\$13.50
Customer Requested Service Call Charge (when an add'l trip is req'd due to customer oversight)	\$27.00
Meter Changeout (customer has self restored service and/or damaged a single phase meter)	\$113.00
Remote Metering (one time set up charge)	\$190.00
Theft of Service/Diversion	\$ 250 - 1st offense \$ 500 - each add'l offense
Extension of distribution lines of standard voltages (12kV or less) necessary to furnish temporary or permanent electric service	Time & Material
All Three Phase Electric Service	Time & Material

# **CITY OF BANNING**

## **ELECTRIC UTILITY RATE SCHEDULE**

**October 2009**

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CITY OF BANNING  
Electric Division

GENERAL PROVISIONS

SYSTEM COST ADJUSTMENT FACTOR

The System Cost Adjustment Factor (SCAF) is a charge per kWh that is used to ensure an adequate revenue stream to cover all costs incurred by Banning's electric system, and will be assessed to all customer classes. System costs will include: Power purchases, debt service, transmission, distribution and O&M expense, as well as all overhead costs of the electric system including inter-fund transfers.

The SCAF shall be calculated quarterly for the periods (January-March, April-June, July-September, and October-December) and shall become effective the first day of the 2<sup>nd</sup> quarter following the calculated period (i.e. January-March SCAF would become effective July 1<sup>st</sup>).

The SCAF shall be determined using the following formula and be expressed to the nearest \$0.0001 per kWh:

$$\text{SCAF} = (a+b+c+d-e)/f$$

Where:

a = revenue from retail sales during the period.

b = revenue from bulk sales to other utilities.

c = fees collected from contractors in aid of construction or for other services provided.

d = miscellaneous revenues.

e = total cost of Banning's electric system including power purchases, debt service, transmission, distribution and operating expense, as well as all overhead costs of the electric system including inter-fund transfers.

f = the retail energy sales during the period in kWh.

SCAF will not exceed \$0.02/kWh during any quarter. The uncollected revenue in excess of the \$0.02 cap, if any, will be carried over as an expense in the next quarter. The Electric Utility shall maintain an operating reserve of \$3M. Surplus revenue, if any, collected during any fiscal year, will be set aside in the Capital Improvement fund for system upgrades and future improvements.

PUBLIC BENEFITS CHARGE

All bills rendered under the above rate shall be subject to the Public Benefits Charge as established by the City Council.

## General Provisions (continued)

### SEASONS

The Summer season shall commence at 12:00 a.m. on the first day in June and continue until 12:00 a.m. on the first day in October of each year. The Winter season shall commence at 12:00 a.m. on the first day in October of each year and continue until 12:00 a.m. on the first day in June of the following year. Utility bills generated during each applicable season will reflect any appropriate seasonal rate variances.



CITY OF BANNING  
Electric Division

SCHEDULE A

RESIDENTIAL SERVICE

APPLICABILITY

This schedule is applicable to single family and multiple family accommodations devoted primarily to domestic use, and includes services for lighting, cooking, heating and power consuming appliances.

CHARACTER OF SERVICE

Alternating current with regulated frequency of 60 hertz, delivered at 120 or 240 volts, single phase, as may be specified by the Division.

TERRITORY

Within the area served by the City of Banning

RATES

	<u>Per Meter</u> <u>Per Month</u>
1. Standard Residential Service	
Customer Charge	\$ 3.00
Energy Charge	<u>Per kWh</u>
Baseline Service	
All kWh	\$.1498
Low Income Qualified Baseline Service	
All kWh as described below	\$.0672
Non-baseline Service (Winter)	
All kWh above baseline through 1,000	\$.1995
All kWh above 1,000	\$.3180
Non-baseline Service (Summer)	
All kWh above baseline through 1,500	\$.1995
All kWh above 1,500	\$.3180

## Schedule A – Residential Service (continued)

Non-baseline service includes all kWh in excess of applicable baseline allowance as described below.

### MINIMUM CHARGE

The Customer Charge plus the Energy Charge shall be subject to a minimum charge of \$0.10 per day.

### MINIMUM REQUIREMENTS

All services through one meter.

#### Multiple Family Dwellings

Whenever two or more individual family accommodations (in an apartment house, duplex, court, mobile home park, etc.) receive electric service from the Division through a master meter, the service shall be billed under this Schedule, with the Customer Charge and first 308 kWh per month multiplied by the number of individual accommodations served, plus additional baseline kWh as specified below. Base rate charges shall be reduced by \$0.10 per sub-metered customer per day. In no case shall the base rate billing be less than the Minimum Charge.

#### Energy Surcharge

The charges in the above rate are subject to California State Energy surcharge tax and shall be adjusted accordingly.

### LOW INCOME SENIOR CITIZEN SERVICE

Upon application to the City, each eligible low-income senior citizen residential customer shall pay a customer charge of \$1.00 only. The customer shall notify the City when the conditions of the application are no longer valid.

### LOW INCOME QUALIFIED BASELINE SERVICE

Upon application to the City, each approved low-income residential customer shall be placed on the Low Income Qualified Baseline rate as described below. The customer shall be required to recertify their eligibility on an annual basis. Failure to recertify will result in removal from the Low Income Qualified Baseline rate.

### BASELINE SERVICE

All domestic customers on this schedule are entitled to an allocation of a baseline quantity of electricity that is necessary to supply the minimum energy needs of the average residential user. The total baseline allocation to a customer is the sum of all

## Schedule A – Residential Service (continued)

applicable baseline quantities described in items A through D shown below. However, the Low Income Qualified Baseline rate will only be applied to items A and B. If a Low Income Qualified customer is also eligible for items C and/or D, any baseline allocation in excess of A and B will be charged at the regular Baseline Service rate:

	kWh Per Month
A. For basic standard residential use	308
B. For air conditioning use during June through September.	250
C. For life support devices	500
D. For all-electric residential heat use during November through March	498
E. For all-electric basic residential use (year around)	150
F. For residential water-well pump use (year around)	500

The all-electric residential heat allowance applies only to residences in which the sole source of heat consists of electric resistance heating installed prior to January 2000. Upon application to the City, the account of each eligible customer shall be provided with the all-electric allocation, including heat use and the year around basic residential use to cover water heaters and cooking.

### LIFE SUPPORT DEVICES

Medical Baseline Allocation: Upon application to the City, the account of each eligible residential customer will be provided a year-around Medical Baseline Allocation.

#### A. Eligibility

For an account to be eligible for the standard Medical Baseline Allocation, the residential customer will provide certification as set forth in Paragraph E below to the City that:

- (1) Regular use in the customer's home of one or more medical life support devices is essential to maintain the life of a full-time resident of the household; and/or
- (2) A full-time resident of the household is a paraplegic, hemiplegic, quadriplegic, multiple sclerosis, or scherodemic patient.

#### B. Life-support Devices

The account of each eligible residential customer will be provided a standard Medical Baseline Allocation following certification acceptable to the City that a full-time resident of the household requires the regular use in the customer's home of one or more life-support devices.

Life-support devices means those devices or equipment which utilize mechanical or artificial means to sustain, restore, or supplement a vital function, or mechanical equipment which is relied upon for mobility both within and outside of buildings. Life-support devices or equipment include the following:

## Schedule A – Residential Service (continued)

Aerosol Tent	Electrostatic Nebulizer
Compressor	Electric Nerve Stimulator
Iron Lung	Ultrasonic Nebulizer
Pressure Pump	Motorized Wheel Chair
IPPB Machine	Kidney Dialysis Machine
Suction Machine	Respirator (all types)
Oxygen Generator (Electrically Operated)	

### C. Paraplegic, Hemiplegic, Quadriplegic, Multiple Sclerosis or Scherodemic Patients

The account of each eligible residential customer, who provides certification that a full-time resident of the household is a paraplegic, hemiplegic, quadriplegic, multiple sclerosis or scherodemic patient or suffers from abnormality of centrally controlled body thermostat will be provided a standard Medical Baseline Allocation in consideration of special heating and/or cooling needs.

### D. Hardship Cases

If the customer believes that the life-support device and/or a patient's space conditioning equipment (as set forth in Paragraph B and C above) requires more than 500 kWh per month to operate, the customer may apply for a higher allocation than the standard Medical Baseline Allocation. Upon receipt of such application, the City shall make a determination if any additional monthly baseline quantity is required to operate the device or equipment based on the nameplate rating and operating hours. The monthly amount of the Medical Baseline Allocation shall be increased to the number of kWh so determined.

### E. Certification

The City may require the following Certification:

- (1) The Customer shall have a medical doctor or osteopath licensed to practice medicine in the State of California provide the City with a certification letter, acceptable to the City. The letter shall describe in detail the type of life-support device(s) regularly required by the patient and the utilization requirements, and/or certify that the full-time resident is a paraplegic, hemiplegic, quadriplegic, multiple sclerosis, or scherodemic patient; or
- (2) County, State, or Federal agencies, using an established notification letter to electric utilities, shall provide the City with information relative to a patient who regularly requires the use of a life-support device in a customer's residence.

Within 15 days after acceptance of the above certification, the City will provide a Medical Baseline Allocation to the customer's account. The City may require a new or renewed application and/or certification when needed, in the opinion of the City.

## Schedule A – Residential Service (continued)

### F. Termination of Use

The Customer shall notify the City of termination of use of equipment or devices set forth above.

### WATER WELL PUMPS

This allocation is for Banning Electric Utility customers that are not connected to the City's water distribution system, and have a water well onsite. Customers must request this designation, and an onsite inspection must be completed before the allocation is authorized.

CITY OF BANNING  
Electric Division

SCHEDULE B

SMALL GENERAL SERVICE

APPLICABILITY

Applicable to service for all types of uses, including lighting, power and heating, alone or combined.

CHARACTER OF SERVICE

Alternating current with regulated frequency of 60 hertz single-phase, three-phase, or a combination single and three-phase served through one meter, at a standard voltage not to exceed 240 volts, or as may be specified by the Electric Division. When the energy use for this service exceeds 5,000 kWh per month, the City will install a demand meter. If the maximum demand exceeds 20.0 kW in any three months during the preceding 12 months, the service will be transferred to Schedule C.

TERRITORY

Within the area served by the City of Banning.

RATES

	<u>Per Meter Per Month</u>
Customer Charge	\$ 9.00
Energy Charge (to be added to Customer charge)	
All kWh, per kWh	\$.1758

MINIMUM CHARGE

The Customer Charge plus the Energy Charge shall be subject to a minimum charge of \$0.30 per day.

## Schedule B – Small General Service (continued)

### SPECIAL CONDITIONS

1. Voltage will be supplied at one standard voltage.
2. BILLING DEMAND: Billing demand shall be the kilowatts of measured maximum demand, but no less than 50 percent of the highest demand established in the preceding eleven (11) months. Billing demand shall be determined to the nearest 1/10 kW.
3. MAXIMUM DEMAND MEASUREMENT: in any month shall be the maximum average kilowatt input, indicated or recorded by instruments to be supplied by the Electric Division, during any 15 minute interval in the month. Where demands are intermittent or subject to violent fluctuations, a five minute interval may be used.
4. TEMPORARY DISCONTINUANCE OF SERVICE: Where the use of energy is seasonal or intermittent, no adjustment will be made for a temporary discontinuance of service. Any customer prior to resuming service within twelve months after such service was discontinued will be required to pay all charges which would have been billed if service had not been discontinued.
5. X-RAY INSTALLATIONS: Where the utility installs standard transformer capacity requested by the customer to serve an x-ray installation, the customer charge will be increased by \$1.00 per kva of transformer capacity requested.
6. ENERGY SURCHARGE: The charges in the above rate are subject to California State Energy surcharge tax and shall be adjusted accordingly.



CITY OF BANNING  
Electric Division

SCHEDULE C

GENERAL AND INDUSTRIAL SERVICE

APPLICABILITY

Applicable to service for large general and industrial establishments. This schedule is limited to customers with demands below 500.0 kW. Customers with demands exceeding 500.0 kW must receive service under Schedule TOU.

CHARACTER OF SERVICE

Alternating current with regulated frequency of 60 hertz, three-phase, or a combination single and three-phase served through one meter, at a standard voltage not to exceed 480 volts, or as may be specified by the Electric Division. All customers will have a demand meter. If the Maximum Demand drops below 20.0 kW for 12 consecutive months, the customer will be transferred to Schedule B.

TERRITORY

Within the area served by the City of Banning.

RATES

	Per Meter Per Month <u>Summer</u>	Per Meter Per Month <u>Winter</u>
Customer Charge	\$12.00	\$12.00
Demand Charge (to be added to the Customer Charge)		
All kW of billing demand, per kW	\$15.50	\$ 9.95
Energy Charge (to be added to the Demand Charge)		
All kWh, per kWh	\$.1497	\$.1392

MINIMUM CHARGE

The monthly minimum charge shall be the Demand Charge.

## Schedule C – General and Industrial Service (continued)

### SPECIAL CONDITIONS

1. Voltage will be supplied at one standard voltage.
2. BILLING DEMAND: Billing demand shall be the kilowatts of measured maximum demand, but no less than 50 percent of the highest demand established in the preceding eleven (11) months. Billing demand shall be determined to the nearest 1/10 kW.
3. MAXIMUM DEMAND MEASUREMENT: The measured maximum demand in any month shall be the maximum average kilowatt input, indicated or recorded by instruments to be supplied by the Electric Division, during any 15 minute interval in the month. Where demands are intermittent or subject to violent fluctuations, a five minute interval may be used.
4. TEMPORARY DISCONTINUANCE OF SERVICE: Where the use of energy is seasonal or intermittent, no adjustment will be made for a temporary discontinuance of service. Any customer prior to resuming service within twelve months after such service was discontinued will be required to pay all charges which would have been billed if service had not been discontinued.
5. X-RAY INSTALLATIONS: Where the utility installs standard transformer capacity requested by the customer to serve an x-ray installation, the customer charge will be increased by \$1.00 per kva of transformer capacity requested.
6. POWER FACTOR ADJUSTMENT: When the billing demand has exceeded 200.0 kW for three consecutive months, a kilovar hour meter will be installed as soon as practicable and thereafter until the billing demand has been less than 150 kW for twelve (12) consecutive months. The charges will be adjusted each month for the power factor as follows:  
  
The monthly charges will be decreased by \$0.20 per kW of measured maximum demand and will be increased by \$0.20 per kilovar of reactive demand. In no case will the kilovars used for the adjustment be less than 20 % of the number of kW the kilovars of reactive demand shall be calculated by multiplying the kW of measured maximum demand by the ratio of kilovar hours to the kWh. Demands in kW and kilovars shall be determined to the nearest 1/10 unit. A ratchet device will be installed on the kilovar meter to prevent its reverse operation on leading power factors.
7. ENERGY SURCHARGE The charges in the above rate are subject to California State Energy surcharge tax and shall be adjusted accordingly.

CITY OF BANNING  
Electric Division

SCHEDULE TOU

LARGE GENERAL AND INDUSTRIAL SERVICE

APPLICABILITY

Applicable to service for all types of uses, including lighting, power and heating, alone or in combination. This rate shall be mandatory for customers whose monthly demand exceeds 500.0 kW for any three months during the preceding 12 months. Any customer whose monthly maximum demand has fallen below 450.0 kW for 12 consecutive months may elect to take service on any other applicable schedule. This schedule is an option for customers whose monthly demands are between 200.0 kW and 499.9 kW; however, participation for one year in the rate is required.

CHARACTER OF SERVICE

Alternating current with regulated frequency of 60 hertz, three-phase, or a combination single and three-phase served through one meter, at a standard voltage not to exceed 480 volts, or as may be specified by the Electric Division.

TERRITORY

Within the area served by the City of Banning.

RATES

Charges are calculated for customer billing using the components shown below:

	Per Meter <u>Summer</u>	Per Month <u>Winter</u>
Customer Charge	\$340.00	\$340.00
Demand Charge (to be added to Customer Charge)		
All kW of non-time related component, per kW	\$ 8.50	\$ 9.75
Plus all kW of on-peak billing demand, per kW	\$18.08	N/A
Plus all kW of mid-peak billing demand, per kW	\$ 2.88	\$0.00
Plus all kW of off-peak billing demand, per kW	\$ 0.00	\$0.00

## Schedule TOU – Large General and Industrial Service (continued)

Energy Charge (to be added to the Customer and Demand Charges)

	<u>Summer</u>	<u>Winter</u>
All kWh of on-peak energy, per kWh	\$.1198	N/A
Plus all kWh of mid-peak energy, per kWh	\$.0860	\$.0998
Plus all kWh of off-peak energy, per kWh	\$.0598	\$.0648

### SPECIAL CONDITIONS

1. Time periods are defined as follows:

On-Peak	Noon to 9:00 p.m. summer weekdays except holidays
Mid-Peak	7:00 a.m. to Noon and 9:00 p.m. to 11:00 p.m. summer weekdays except holidays. 7:00 a.m. to 11:00 p.m. winter weekdays except holidays.
Off-Peak	All other hours

Holidays are New Year's Day (January 1), Washington's Birthday (third Monday in February), Memorial Day (last Monday in May), Independence Day (July 4), Labor Day (first Monday in September), Veterans Day (November 11), Thanksgiving Day (fourth Thursday in November), and Christmas (December 25).

2. Voltage will be supplied at one standard voltage.
3. MAXIMUM DEMAND: Maximum demands shall be established for on-peak, mid-peak, and off-peak periods. The maximum demand for each period shall be the measured maximum average kilowatt input, indicated or recorded by instruments to be supplied by the Electric Division, during any 15 minute interval, but (except for new customers or existing customers electing Contract Demand as defined in these Special Conditions) not less than the diversified resistance welder load computed. Where demands are intermittent or subject to violent fluctuations, a five minute interval may be used.
4. BILLING DEMAND: The Demand Charge shall include the following billing components. The Time Related Component shall be for the kilowatts of Maximum Demand recorded during the monthly billing period for each of the On-Peak, Mid-Peak, and Off-Peak time periods. The Non-Time Related Component shall be for the total kilowatts of demand recorded in the demand period with the highest Maximum Demand during the monthly billing period. Separate Demand Charges for the On-Peak, Mid-Peak, and Off-Peak time periods shall be established for each monthly billing period as applicable. The Demand Charge for each time period shall be based on the maximum demand for that time period occurring during the respective monthly billing period. The Maximum Demand shall be determined to the nearest 1/10 kW.

## Schedule TOU – Large General and Industrial Service (continued)

5. CONTRACT DEMAND: A contract demand will be established by the City, based on the applicant's demand requirements for any customer newly requesting service on this schedule and for any customer of record on this schedule who requests an increase or decrease in transformer capacity.

A contract demand arrangement is available upon request for all customers of record on this schedule. The contract demand will be used only for purposes of establishing the minimum demand charge for facilities required to provide service under the rate and will not be otherwise used for billing purposes.

The contract demand is based upon the nominal kilovolt-amperes rating of the City's serving transformer(s) or the standard transformer size determined by the City as required to serve the customer's stated measurable kilowatt demand, whichever is less, and is expressed in kilowatts.

6. MINIMUM DEMAND CHARGE: Where a contract demand is established, the monthly minimum demand charge shall be \$1.00 per kilowatt of contract, but not less than \$500.00.
7. EXCESS TRANSFORMER CAPACITY: Excess Transformer Capacity is the amount of transformer capacity requested by a customer in excess of that which the City would normally install to serve the customer's Maximum Demand. Excess Transformer Capacity shall be billed at \$1.00 per KVA per month.
8. POWER FACTOR ADJUSTMENT: The charges will be adjusted each month for reactive demand. The Charge will be increased by \$0.30 per kilovar of maximum reactive demand imposed on the City. The kilovars of reactive demand shall be calculated by multiplying the kilowatts of measured maximum demand by the ratio of the kilovar-hours to the kilowatt hours. Demand in kilowatts and kilovars shall be determined to the nearest unit. A device will be installed on each kilovar meter to prevent reverse operation of the meter.
9. TEMPORARY DISCONTINUANCE OF SERVICE: Where the use of energy is seasonal or intermittent, no adjustment will be made for a temporary discontinuance of service. Any customer prior to resuming service within twelve months after such service was discontinued will be required to pay all charges which would have been billed if service had not been discontinued.
10. SUPPLEMENTAL VISUAL DEMAND METER: Subject to availability, and upon written application by the customer, the City will, within 180 days, supply and install a City owned supplemental visual demand meter. The customer shall provide the required space and associated wiring beyond the point of interconnection for such installation. Said supplemental visual demand meter shall be in parallel with the standard billing meter delineated in Special Condition 3 above. The reading measured or recorded by the supplemental visual demand

## Schedule TOU – Large General and Industrial Service (continued)

meter are for customer information purposes only and shall not be used for billing purposes in lieu of meter readings established by the standard billing meter. If a meter having visual display capability is installed by the City as the standard billing meter, no additional metering will be installed pursuant to this Special Condition.

One of the following types of supplemental visual demand meters will be provided in accordance with provisions above at no cost to the customer: Dial Watt-meter, Recording Watt-meter, or Paper-Tape Printing Demand Meter.

If the customer desires a supplemental visual demand meter having features not available in any of the above listed meters, such as an electronic microprocessor-based meter, the City will provide such a supplemental visual demand meter subject to monthly charge, if the meter and its associated equipment have been approved for use by the City. Upon receipt from the customer of a written application the City will design the installation and will thereafter supply, install, and maintain the supplemental visual demand meter subject to all conditions stated in the first and last paragraph of this Special Condition. For purposes of computing the monthly charge, any such supplemental visual demand meter and associated equipment shall be treated as Added Facilities. Added investment for computing the monthly charges shall be reduced by the City's estimated total installed cost at the customer location of the Paper-Tape Printing Demand Meter offered otherwise herein at no additional cost.

The City shall have sole access for purposes of maintenance and repair to any supplemental visual demand meter installed pursuant to this Special Condition and shall provide all required maintenance and repair. Periodic routine maintenance shall be provided at no additional cost to the customer. Such routine maintenance includes changing charts, inking pens, making periodic adjustments, lubricating moving parts and making minor repairs. Non-routine maintenance and major repairs or replacement shall be performed on an additional cost basis with the customer reimbursing the City for such cost.

11. CONTRACTS: An initial three-year facilities contract may be required where an applicant requires new or added serving capacity exceeding 2,000 KVA.
12. AUXILIARY/EMERGENCY GENERATION EQUIPMENT: Auxiliary/Emergency Generation Equipment is the customer-owned electrical generation equipment normally used for auxiliary, emergency, or standby electrical generation purpose. Auxiliary/Emergency Generation Equipment may be used by a customer to serve that customer's load only during a Period of Interruption, an only when such loads are isolated from the City's system. Other than for Auxiliary/Emergency generation or service, all service under this rate schedule is applicable only for service supplied by the City.

**Schedule TOU – Large General and Industrial Service (continued)**

13. REMOVAL FROM SCHEDULE: Customers receiving service under this schedule whose monthly Maximum Demand has registered below 450.0 kW for 12 consecutive months may be changed to another schedule.
14. ENERGY SURCHARGE: The charges in the above rate are subject to California State Energy surcharge tax and shall be adjusted accordingly.



CITY OF BANNING  
Electric Division

SCHEDULE SLS

UNMETERED STREET LIGHTING SERVICE

APPLICABILITY

Applicable for unmetered lighting of public streets, highways and thorough-fares, including City owned and City operated public parks and parking lots which are opened to the general public.

TERRITORY

Within the area served by the City of Banning.

RATES

<u>Customer Class</u>	<u>Monthly Charges Per kW of Lamp Load</u>
Residential (Rate A)	\$2.00
Small Commercial (Rate B)	\$2.80
Large General & Industrial (Rate C)	\$4.45
Time-of-Use (Rate TOU)	\$6.00
Lights on abutting property	\$6.00

SPECIAL CONDITIONS:

The above charges shall be placed on the City Utility bills.

CITY OF BANNING  
Electric Division

SCHEDULE OLS

OUTDOOR LIGHTING SERVICE  
(SECURITY)

APPLICABILITY

Applicable to all customers for outdoor area security lighting service furnished from dusk to dawn, supplied from existing overhead facilities. The Division will install, own operate and maintain the complete lighting installation, including customer owned support.

TERRITORY

Within the area served by the City of Banning.

RATES

Per Lamp  
Per Month

(Fixture installed on existing support)

100 Watt Sodium Vapor	( 9,500 Lumen)	\$ 8.47
200 Watt Sodium Vapor	( 16,000 Lumen)	11.97
250 Watt Sodium Vapor	( 25,000 Lumen)	13.17

Per Pole  
Per Month

Pole (Department owned wood pole installation)

20' or 35' Wood Pole	\$ 2.95
----------------------	---------

SPECIAL CONDITIONS

1. Service under this schedule will be supplied at a single-phase voltage from the Electric Department's existing overhead lines.
2. The above lamp rates are applicable to Department-owned outdoor area lighting equipment mounted on existing Department owned poles or on customer owned supports acceptable to the Department.

### Schedule OLS (continued)

3. Lighting equipment will consist of a Department standard overhead outdoor sodium vapor luminaries with photo electric switch, support and one overhead service drop not to exceed 100'.
4. Mounting height of 175 watt lamp will be approximately 25 to 30 feet, and mounting height of 400 watt lamps will be approximately 30 feet.
5. A customer who requests more than one wood pole, or other than wood poles shall install the poles at the customer's expense. The standard sodium vapor luminaire will be provided and installed by the Department.
6. Customers who do not wish to pay monthly pole charge, may pay a non-refundable amount for the installation of standard wood pole or other pole as the customer desires. The pole will remain the property of the customer at termination of service.
7. A contract for a period of one year will be required for initial installation of facilities under this schedule, and will remain in effect from month to month thereafter subject to termination or cancellation under terms stated therein.
8. Lamp maintenance will be done during regular working hours as soon as reasonably possible after the customer has notified the Department of service failure. Monthly bills will not be adjusted because of a lamp outage.
9. Relocation of an outdoor area lighting installation at the customer's request or because of government requirements will be made providing the customer pays the entire cost of such relocation.
10. Billing for an installation will be to only one account. Prorated billings to more than one account for a unit, or a combination of units will not be made. If the customer prefers to pay on an annual basis, payment shall be done and payable in advance.
11. The Department's dusk to dawn, all night service is based on a lighting period of approximately 4,080 hours per year.
12. If the customer discontinues service during the first three years of service, there will be a \$25.00 charge to remove the service and equipment.
13. Poles will be located in areas where they may be serviced by truck.
14. This rate is subject to power cost adjustment at the following rates:
  - 10 kWh per month per 1,000 lumen for mercury vapor units
  - 4 kWh per month per 1,000 lumen for sodium vapor units

CITY OF BANNING  
Electric Division

SCHEDULE MS

MUNICIPAL SERVICE

APPLICABILITY

Applicable to City of Banning municipal service for all types of uses, including lighting, power and heating, alone or combined.

CHARACTER OF SERVICE

Alternating current with regulated frequency of 60 hertz single-phase, three-phase, or a combination of single and three-phase served through one meter, at a standard voltage not to exceed 240 volts, or as may be specified by the Electric Division.

TERRITORY

Within the area served by the City of Banning.

RATES

	<u>Per Meter</u> <u>Per Month</u>
Customer Charge	n/a
Energy Charge (to be added to Customer charge)	
All kWh, per kWh	\$.0923

MINIMUM CHARGE

Municipal services are not assessed a minimum charge.

SPECIAL CONDITIONS

1. Voltage will be supplied at one standard voltage.
2. ENERGY SURCHARGE: The charges in the above rate are subject to California State Energy surcharge tax and shall be adjusted accordingly.

## Public Participation

Banning holds bi-monthly City Council meetings open to the public. Meetings are held on the second and fourth Tuesday of every month. Meeting agendas are published and posted at City Hall the week prior to the meeting.

Attached as **Appendix E** you will find a copy of the City Council Resolution approving this IRP.

## Appendix D



## City of Banning Renewables Portfolio Standard (RPS)

### **Purpose:**

This Renewables Portfolio Standard (RPS) represents the City of Banning's (Banning) commitment to renewable resource procurement consistent with the provisions of SB 1078 (2002), an act to add Sections 387, 390.1 and 399.25 to, and to add Article 16 (commencing with Section 399.11) to Chapter 2.3 of Part 1 of Division 1 of, the Public Utilities Code. SB 1078 provides that each governing body of a local publicly owned electric utility shall be responsible for implementing and enforcing a RPS that recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement.

### **Goal:**

The public policy goal stated in the SB 1078 includes increasing California's reliance on renewable energy resources up to 20% by 2017 to promote stable electricity prices, protect public health, improve environmental quality, stimulate sustainable economic development, create new employment opportunities, and reduce reliance on imported fuels. SB 107, which became law on January 1, 2007, accelerates California's RPS goal to 20% by 2010.

In furtherance of SB 107's expressed goal, Banning will increase its supply of electricity from "eligible" renewable resources until a target portfolio level of 33% is reached by December 31, 2020, measured by the amount of energy procured for making retail sales of electricity. Banning's 2006 renewable resources baseline is equal to 6% of its retail energy needs comprised of resources including large hydro, which provides many of the tangible demonstrable benefits mentioned above. By December 31, 2020, Banning will reach 33% eligible renewable resources contingent upon ongoing bi-annual reviews that address, but are not limited to, changes in Banning's power portfolio, changes in renewable energy technologies, legislative activities, and all other relevant issues.

### **Qualifying Resources:**

Electricity produced from the following technologies constitute "eligible" renewable resources for purposes of this RPS: biomass, solar thermal, photovoltaic, wind, geothermal, fuel cells using renewable fuels, hydroelectric generation (including large hydro), digester gas, municipal solid waste, landfill gas, ocean wave, ocean thermal, tidal current, renewable components of system sales from other parties, green tags and renewable distributed generation on the customer side of the meter. Eligible renewable resources facilities can be located anywhere in the interconnected transmission system located in the west.

### **Reporting Requirements:**

Banning will report annually to its customers (1) expenditures of Public Benefits funds collected for renewable energy resources development along with a description of programs, expenditures and expected or actual results, (2) the resource mix used to serve its retail customers by fuel type, including the contribution of each type of renewable energy resource through an annual Public Benefit Programs Report, and (3) total expenditures for renewable resources funded by Electric revenues due to ongoing support by our customer-owners for renewable power.

Banning will continue to provide data to its customers as required by SB 1305 (1997) to disclose information about energy resources used to generate retail electricity.

### **Timing of Long-Term Resource Additions:**

Renewable resources will be procured to the extent they fulfill unmet needs identified in Banning's long-term resource procurement plan, and Banning will not terminate, abrogate, or otherwise end any existing long-term non-renewable contract in order to meet the renewable target portion of its energy portfolio.



## Appendix E

**RESOLUTION NO. 2010-55**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING  
APPROVING THE ELECTRIC UTILITY'S INTEGRATED RESOURCE PLAN AS  
REQUIRED BY THE WESTERN AREA POWER ADMINISTRATION**

**WHEREAS**, the City of Banning owns and operates its own Municipal Electric Utility;  
and

**WHEREAS**, the City entered into a long-term power contract to receive electricity from  
the Hoover Upgrading Project, which is a Western Area Power Administration (WAPA) facility;  
and

**WHEREAS**, all participants in WAPA projects must develop and submit Integrated  
Resource Plans (IRP) every five years; and

**WHEREAS**, the City has prepared an IRP, attached herewith as Exhibit "A", pursuant to  
the WAPA requirements;

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

1. Adopt Resolution No. 2010-55 approving the Electric Utility's Integrated Resource  
Plan.
2. Authorize the Mayor to execute Resolution No. 2010-55. Said authorization shall  
become void if not executed within 30 days of the effective date of this resolution.

**PASSED, APPROVED, AND ADOPTED** this 27<sup>th</sup> day of July 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, City Attorney  
Aleshire and Wynder, LLP

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ATTEST

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Marie A Calderon, City Clerk  
City of Banning

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## CITY COUNCIL AGENDA

**DATE:** July 27, 2010

**TO:** City Council

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

**SUBJECT:** Nuisance abatement charges to be added to the tax rolls of Riverside County, California.

**RECOMMENDATION:** The City Council adopt Resolution No. 2010-56, a resolution providing for certain nuisance abatement charges to be added to the tax rolls of Riverside County, California.

**JUSTIFICATION:** The City has incurred costs in the process of abating certain nuisances; adoption of the subject Resolution provides for the collection of such costs. Presentation of such Resolution to the City Council is done on an annual basis and can be considered "standard operating procedure" for purposes of cost recovery.

**BACKGROUND:** The City Council adopted Ordinance No. 1326 (Attachment "2"); the Ordinance establishes the procedures for creating assessment liens; authorizing the recordation of liens assessed against certain properties; and requesting the Riverside County Board of Supervisors to levy and collect such charges. According to the terms of this Ordinance, and the procedures required by the Riverside County Auditor's office, it is necessary for the City Council to adopt a Resolution each year requesting the Board of Supervisors to place the liens on the tax rolls. Liens on all of the subject parcels have been previously recorded against the properties in the office of the County Recorder.

**FISCAL DATA:** The total amount of the assessments to be placed on the tax roll is \$65,733.71. The assessments will be placed on the Auditor-Controller's Tax Rolls in August of this year and collected with the ad valorem taxes and any other assessments against the properties.

For purposes of clarification, the City participates in the Teeter Plan, whereby the County will reimburse the City 100% of the \$62,954.07 amount placed on the tax roll for weed abatement. This amount is received in two payments during the following year (2011). With respect to liens associated with nuisance abatement, the City receives its moneys twice per year with the payment of tax bills (\$2,779.64). If for whatever reason the tax bill is not paid for a duration of five years the property possessing the lien is offered at a tax sale at which point, if sold and there are excess proceeds, the City is reimbursed.

RECOMMENDED BY:



Zai Abu Bakar

Community Development Director

APPROVED BY:



Andy Takata

City Manager

REVIEWED BY:



Kirby Warner

Interim Administrative  
Services Director

Attachments:

1. Resolution No. 2010-56
2. Ordinance No. 1326

# **ATTACHMENT 1**

**Resolution No. 2010-56**

**RESOLUTION NO. 2010-56**

**A RESOLUTION OF THE CITY COUNCIL OF THE  
CITY OF BANNING PROVIDING FOR CERTAIN  
NUISANCE ABATEMENT CHARGES TO BE  
ADDED TO THE TAX ROLLS OF RIVERSIDE  
COUNTY, CALIFORNIA.**

**WHEREAS**, pursuant to the authority contained in Chapter 8.48 of the Code of the City of Banning, California, and in California Government Code Sections 38773 and 38773.1, the City of Banning did cause a nuisance to be abated on certain properties in the City of Banning, California, and have had liens levied against them for nuisance abatement charges; and

**WHEREAS**, all proceedings required by Ordinance No. 1326, of the City of Banning, have been duly complied with,

**NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS:**

**SECTION 1:** That the report of the Building and Safety Department, on file with each proceeding along with their report of the cost of abatement be, and the same is hereby approved. That a copy of said account containing a list of all properties by assessment number and the cost of abating the nuisance thereon, is marked "Exhibit A", attached hereto, and made part hereof by reference.

**SECTION 2:** That the parcel numbers shown on "Exhibit A" are hereby certified to be correct according to the latest records of the riverside County Assessor.

**SECTION 3:** That the maintenance of the public nuisance on each of the properties shown by assessment number on "Exhibit A" attached hereto, did constitute a health and safety hazard.

**SECTION 4:** That the amounts shown on said "Exhibit A" shall be a lien on the respective properties shown by assessment number, and said liens were levied without regard to property valuation.

**SECTION 5:** Request is hereby made of Riverside County Board of Supervisors that the amount shown on said "Exhibit A" be added to the current tax rolls for the respective parcels indicated thereof, and collected along with other taxes assessed against said parcels.

**SEE ATTACHED EXHIBIT A**

**PASSED, APPROVED, AND ADOPTED** this 27th day of July, 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, City Attorney  
Aleshire & Wynder, LLP.

**ATTEST:**

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Marie A Calderon, City Clerk  
City of Banning

**CERTIFICATION:**

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2010-56 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 27<sup>th</sup> day of July 2010, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

---

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



**"EXHIBIT A"**

<u>APN</u>	<u>FUND NO.</u>	<u>ASSESSMENT</u>
419-120-025	68-2053	\$494.54
531-240-008	68-2053	\$1,620.54
531-240-009	68-2053	\$1,080.54
531-240-010	68-2053	\$1,040.54
532-120-011	68-2053	\$392.54
532-180-043	68-2053	\$548.54
534-093-014	68-2053	\$2,444.54
534-151-005	68-2053	\$1,196.54
534-151-017	68-2053	\$441.04
534-151-019	68-2053	\$422.54
534-151-023	68-2053	\$414.54
534-152-022	68-2053	\$824.54
534-152-023	68-2053	\$848.54
534-152-025	68-2053	\$848.54
534-172-002	68-2053	\$3,920.54
534-172-004	68-2053	\$1,100.54
534-172-007	68-2053	\$350.54
534-183-001	68-2053	\$397.95
534-183-014	68-2053	\$596.54
534-194-005	68-2053	\$390.54
534-195-004	68-2053	\$368.54
534-200-004	68-2053	\$544.54
534-200-008	68-2053	\$366.54
534-200-047	68-2053	\$ 544.54
534-212-002	68-2053	\$350.54
534-212-014	68-2053	\$422.54
534-222-005	68-2053	\$350.54
534-222-006	68-2053	\$480.54
534-222-007	68-2053	\$350.54
534-224-013	68-2053	\$350.54
534-224-014	68-2053	\$350.54
534-224-015	68-2053	\$350.54
534-224-016	68-2053	\$350.54
534-224-017	68-2053	\$350.54
534-224-018	68-2053	\$350.54
534-224-019	68-2053	\$350.54

**“EXHIBIT A”**

<u>APN</u>	<u>FUND NO.</u>	<u>ASSESSMENT</u>
534-224-020	68-2053	\$350.54
534-253-0007	68-2053	\$2,672.54
535-080-015	68-2053	\$3,656.54
535-110-002	68-2053	\$796.54
535-110-006	68-2053	\$1,016.54
535-241-004	68-2053	\$350.54
537-090-003	68-2053	\$1,710.07
537-090-032	68-2053	\$446.54
537-090-034	68-2053	\$852.29
537-100-004	68-2053	\$596.54
538-190-014	68-2053	\$744.54
538-250-004	68-2053	\$748.54
538-261-001	68-2053	\$644.54
538-312-012	68-2053	\$597.54
540-162-005	68-2053	\$422.29
540-250-002	68-2053	\$548.54
540-261-001	68-2053	\$548.54
540-250-036	68-2053	\$448.54
541-044-008	68-2053	\$800.54
541-051-008	68-2053	\$751.04
541-055-017	68-2053	\$425.54
541-055-018	68-2053	\$350.54
541-070-006	68-2053	\$2,074.85
541-081-010	68-2053	\$350.54
541-081-014	68-2053	\$350.54
541-091-010	68-2053	\$350.54
541-110-010	68-2053	\$350.54
541-170-001	68-2053	\$350.54
541-170-003	68-2053	\$350.54
541-170-004	68-2053	\$350.54
541-170-005	68-2053	\$350.54

**"EXHIBIT A"**

<u>APN</u>	<u>FUND NO.</u>	<u>ASSESSMENT</u>
541-170-007	68-2053	\$350.54
541-191-015	68-2053	\$350.54
541-191-016	68-2053	\$350.54
541-192-004	68-2053	\$350.54
541-200-014	68-2053	\$350.54
541-220-001	68-2053	\$398.54
541-272-002	68-2053	\$366.54
541-300-023	68-2053	\$1,502.54
541-300-025	68-2053	\$1,652.54
541-300-027	68-2053	\$1,439.54
543-070-019	68-2055	\$2,467.04
543-070-023	68-2055	\$350.54
543-133-001	68-2055	\$1,252.54
543-133-013	68-2055	\$350.54
534-133-016	68-2055	\$638.54
543-220-013	68-2055	\$776.54

# **ATTACHMENT 2**

**Ordinance No. 1326**

**ORDINANCE NO. 1326**

**AN ORDINANCE OF THE CITY OF BANNING  
PROVIDING FOR THE RECOVERY OF COSTS AND  
ATTORNEYS' FEES FOR NUISANCE ABATEMENT AS  
CONTAINED IN CHAPTER 11C OF THE BANNING CITY  
CODE**

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

**SECTION 1.** Existing Article IV: Cost of Recovery is repealed in its entirety.

**SECTION 2.** New Article IV: Cost of Recovery is hereby added to Chapter 11C of the Banning City Code as follows:

**Section 11C-47.      Nuisances – General.**

In addition to other penalties provided by law, any condition caused or permitted to exist in violation of any provision of this Code shall be deemed a public nuisance and may be summarily abated as such by the City, and each day such condition continues shall constitute a new and separate offense.

**Section 11C-48.      Nuisance Abatement.**

(a) The abatement of any public nuisance by the City as prescribed in this Code shall be at the sole expense of the persons creating, causing, committing or maintaining such nuisance. The cost of abatement of any public nuisance and related administrative costs shall include, but not be limited to: inspection costs; investigation costs; attorneys' fees and costs; and costs to repair and eliminate all substandard conditions. All such fees and costs shall be a personal obligation against any person held responsible for creating, causing, committing or maintaining a public nuisance.

(b) The prevailing party in any action, administrative proceeding or special procedure to abate a public nuisance pursuant to this section may recover its reasonable attorneys' fees in those individual actions or proceedings wherein the City elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorneys' fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to any prevailing party exceed the amount of reasonable attorneys' fees incurred by the City in the action or proceeding.

(c) The City may collect the cost of abatement of any nuisance and related administrative costs, including but not limited to inspection costs, investigation costs, attorneys' fees and costs, and costs to repair and eliminate all substandard conditions by either: (i) obtaining a court order stating that this reimbursement requirement is a personal obligation of any person held responsible for creating, causing, committing or maintaining a public nuisance, recoverable by the City in the same manner as any civil judgment; (ii) recording a nuisance abatement lien pursuant to this Code against the parcel of land on which the nuisance is maintained, or (iii)

imposing a special assessment pursuant to this Code against the parcel of land on which the nuisance is maintained.

**Section 11C-49.     Nuisance Abatement Lien.**

(a) Prior to the recordation of the lien against the parcel of land on which the nuisance is maintained, the owner of record of the parcel of land shall receive notice. The notice of the recordation of the lien against the parcel of land on which the nuisance is maintained shall be served on the owner of record of the parcel of land on which the nuisance is maintained, based on the last equalized assessment roll, or the supplemental roll, whichever is more current. Such notice shall be served in the same manner as a summons in a civil action in accordance with Sections 415.10 et seq. of the Code of Civil Procedure, The date upon which service is made shall be entered on or affixed to the face of the copy of the notice at the time of service. However, service of such notice without such date shall be valid and effective.

(b) A nuisance abatement lien shall be recorded in the Riverside County Recorder's office and from the date of recording shall have the force, effect, and priority of a judgment lien.

(c) A nuisance abatement lien authorized by this section shall specify the amount of the lien, the name of the agency on whose behalf the lien is imposed, the date of the abatement order, the street address, legal description and assessor's parcel number of the parcel on which the lien is imposed, and the name and address of the recorded owner of the parcel.

(d) In the event that the lien is discharged, released, or satisfied, either through payment or foreclosure, notice of the discharge containing the information specified in subsection (b) of this section of this Code shall be recorded by the City. A nuisance abatement lien and the release of the lien shall be indexed in the grantor-grantee index.

(e) A nuisance abatement lien may be foreclosed by the City as a money judgment. The City may recover from the property owner any costs incurred regarding the processing and recording of the lien and providing notice to the property owner as part of its foreclosure action to enforce the lien or as a condition of removing the lien upon payment.

**Section 11C-49.1.     Special Assessment.**

(a) As an alternative to the recordation of a nuisance abatement lien, the City may make the cost of abatement a special assessment against the parcel of land on which the nuisance is maintained.

(b) Notice shall be given by certified mail, to the property owner, if the property owner's identity can be determined from the county assessor's or county recorder's records. Notice pursuant to this section of this Code shall be given at the time of imposing the assessment and shall specify that the property may be sold after three years by the tax collector for unpaid delinquent assessments. The tax collector's power of sale shall not be affected by the failure of the property owner to receive notice pursuant to this section of this Code.

(c) The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for with ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment. However, if any real property to which the cost of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the cost of abatement shall not result in a lien against the real property but instead shall be transferred to the unsecured roll for collection.

(d) The City shall duly execute a report detailing the amount of the special assessment and shall send same to the tax division of the County Auditor-Controller's office, whereupon it shall be the duty of the Auditor-Controller to add the amounts of the respective assessments to the next regular tax bills levied against the respective lots and parcels of land for municipal purposes; and, thereafter, the amounts shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency as provided for ordinary municipal taxes.

(e) City may conduct a sale of vacant residential developed property for which the payment of that assessment is delinquent, subject to the requirements applicable to the sale of property pursuant to Section 3691 of the Revenue and Taxation Code.

(f) Notices or instruments relating to the abatement proceeding or special assessment shall be entitled to recordation.

#### **Section 11C-49.2. Graffiti Abatement – General Provisions.**

(a) The abatement of any nuisance resulting from the defacement of the property of another by graffiti or any other inscribed material as prescribed in this Code shall be at the sole expense of the person, minor or other person creating, causing or committing the nuisance.

(b) If the person creating, causing or committing the nuisance is a minor, the parent or guardian having custody and control of the minor shall be jointly and severally liable with the minor. The City shall make the expense of abatement of any nuisance, resulting from the defacement by a minor of the property of another by graffiti or any other inscribed material, a lien against the property of a parent or guardian having custody and control of the minor and/or a personal obligation against the parent or guardian having custody and control of the minor.

(c) The prevailing party in any action, administrative proceeding or special procedure to abate a nuisance pursuant to this section may recover its reasonable attorneys' fees in those individual actions or proceedings wherein the City elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorneys' fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to any prevailing party exceed the amount of reasonable attorneys' fees incurred by the City in the action or proceeding.

(d) The City may collect the cost of abatement of any nuisance, resulting from the defacement of the property of another by graffiti or any other inscribed material, and related administrative costs by either: (i) obtaining a court order stating that this reimbursement requirement is a personal obligation of the minor or other person or parent or guardian having custody and control over the minor who committed the defacement, recoverable by the City in the same manner as any civil judgment; (ii) recording a nuisance abatement lien against a parcel of land owned by the minor or other person or parent or guardian having custody and control over the minor who committed the defacement; or (iii) making the cost of abatement of a nuisance resulting from the defacement of the property of another, a special assessment against a parcel of land owned by the minor or other person or parent or guardian having custody and control over the minor who committed the defacement.

**Section 11C-49.3. Graffiti – Nuisance Abatement Lien.**

(a) Prior to the recordation of a graffiti nuisance abatement lien, notice shall be given to the person or parent or guardian having custody and control over the minor who committed the defacement by graffiti or any other inscribed material. Such notice shall be served in the same manner as a summons in a civil action in accordance with Sections 415.10 et seq. of the Code of Civil Procedure. The date upon which service is made shall be entered on or affixed to the face of the copy of the notice at the time of service. However, service of such notice without such date shall be valid and effective.

(b) A graffiti nuisance abatement lien shall be recorded in the Riverside County Recorder's office and from the date of recording shall have the force, effect, and priority of a judgment lien.

(c) A graffiti nuisance abatement lien authorized by this section shall specify the amount of the lien, the name of the agency on whose behalf the lien is imposed, the date of the abatement order, the street address, legal description and assessor's parcel number of the parcel on which the lien is imposed, and the name and address of the recorded owner of the parcel.

(d) If the lien is discharged, released, or satisfied, either through payment or foreclosure, notice of the discharge containing the information specified in subsection (b) of this section of this Code shall be recorded by the City. A graffiti nuisance abatement lien and the release of the lien shall be indexed in the grantor-grantee index.

(e) A graffiti nuisance abatement lien may be satisfied through foreclosure in an action brought by the City. The City may recover from the property owner any costs incurred regarding the processing and recording of the lien and providing notice to the property owner as part of its foreclosure action to enforce the lien or as a condition of releasing the lien upon payment.

**Section 11C-49.4. Graffiti – Special Assessment.**

(a) As an alternative to the recordation of a graffiti nuisance abatement lien, the City may make the cost of the abatement of any nuisance resulting from the defacement by a minor or other person of property of another by graffiti or other inscribed material, and related



administrative costs, a special assessment against a parcel of land owned by the minor or other person or by the parent or guardian having custody and control of the minor.

(b) The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment. However, if any real property to which the cost of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the cost of abatement shall not result in a lien against the real property but instead shall be transferred to the unsecured roll for collection.

(c) Notices or instruments relating to the abatement proceeding or special assessment may be recorded.

(d) Upon entry of a second or subsequent civil or criminal judgment within a two-year period finding a minor or other person or parent or guardian having custody and control of a minor responsible for a condition that may be abated as a nuisance pursuant to subsection (a) of this section of this Code, the court may order such minor or other person or parent or guardian having custody and control of such minor to pay treble the costs of the abatement."

#### **Section 11C-49.5. General Penalty.**

(a) In addition to any other remedy provided by law, the City may recover any fee, cost or charge, including any attorneys' fees incurred in the enforcement of any provision of the Zoning Code, the Housing Code, Building Code, Electrical Code, Plumbing Code, Mechanical Code or the Uniform Code for the Abatement of Dangerous Buildings as provided in this Code. The amount of any such fee, cost, or charge, including any attorneys' fees shall not exceed the actual cost incurred performing the inspections and enforcement activity, including but not limited to permit fees, fines, late charges and interest.

(b) Subsection (a) of this section of this Code, shall not apply to any enforcement, abatement, correction or inspection activity regarding a violation of any provision of sections of the Zoning Code, the Housing Code, Building Code, Electrical Code, Plumbing Code, Mechanical Code or the Uniform Code for the Abatement of Dangerous Buildings as provided in this Code in which the violation was evident on the plans that received the building permit.

(c) Subsection (a) of this section of this Code shall not apply to owneroccupied residential dwelling units.

**SECTION 3.** The City Clerk shall cause this Ordinance to be published in a newspaper of general circulation printed and published in the county and circulated in the City within fifteen (15) days after its passage, in accordance with Section 36933 of the Government Code, shall certify to the adoption and publication of this Ordinance, and shall cause this Ordinance and its certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

**SECTION 4.** Severability. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be unconstitutional, or otherwise invalid such decision shall not affect the validity of the remaining sections of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause and phrase thereof irrespective of the fact that any one or more other sections, subsections, clauses, or phrases be declared invalid.

**INTRODUCED** at the regular meeting of the 9<sup>th</sup> day of August, 2005.

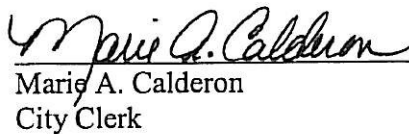
**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Banning at a regular meeting held on this 13<sup>th</sup> day of September, 2005.

  
John Machisic, Mayor

APPROVED AS TO FORM  
AND LEGAL CONTENT:

  
Julie Hayward Biggs  
City Attorney

ATTEST:

  
Marie A. Calderon  
City Clerk

**CERTIFICATION:**


I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1326 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 9<sup>th</sup> day of August, 2005, and was duly adopted at a regular meeting of said City Council on the 13<sup>th</sup> day of September, 2005, by the following vote, to wit:

AYES: Councilmembers Hanna, Palmer, Salas, Welch, Mayor Machisic

NOES: None

ABSENT: None

ABSTAIN: None

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

**CITY COUNCIL AGENDA  
CONSENT ITEM**

**Date:** July 27, 2010

**To:** City Council

**From:** Jeff Stowells, Fire Services Battalion Chief

**Subject:** Resolution 2010-57 to approve a contract for continued funding of Fire Engine 20 between Banning, Beaumont and Riverside County Fire.

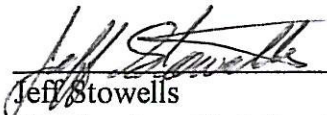
**RECOMMENDATION:** The City Council adopt Resolution No. 2010-57, "A Resolution of the City Council of the City of Banning, approving the contract for continued funding of fire engine 20.

**JUSTIFICATION:** The City of Banning with approval of this contract will keep its current level of service to all citizens within the city of Banning, and also continue to provide service to Beaumont and the County areas within its response area.

**BACKGROUND:** During the budget process for the current FY 09/10 staffing of the two city fire engines was cut by five positions equaling approximately \$715,000.00. The City of Beaumont and Riverside County Fire were concerned that services to their respective areas covered by fire engine 20 would be reduced and both have agreed to contribute funds to help maintain the current level of service (3 person staffing with 1 being a paramedic) for FY 10\11 and 11\12 as they did for FY 09/10.

**FISCAL DATA:** The City of Beaumont and Riverside County Fire have agreed to fund up to \$500,000.00 each for continued staffing. This will fund the cuts the city of Banning had made and continue current service levels with no additional cost to the city for FY 10\11 and 11\12. The cost to the City of Banning will remain at \$506,000 for each FY and the difference will be funded by the City of Beaumont and the County of Riverside based on the EXHIBIT "1A" for each FY.

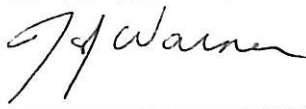
**RECOMMENDED BY:**

  
\_\_\_\_\_  
Jeff Stowells  
Fire Services, Battalion Chief

**APPROVED BY:**

  
\_\_\_\_\_  
Andrew Takata  
City Manager

**REVIEWED BY:**

  
\_\_\_\_\_  
Kirby Warner  
Interim Administrative  
Services Director

**RESOLUTION NO. 2010-57**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING TO ENTER INTO A CONTACT FOR FUNDING OF ENGINE 20 BETWEEN BANNING, BEAUMONT, AND RIVERSIDE COUNTY.**

**WHEREAS**, in Resolution 2010-57, passed by the City Council on the 27<sup>th</sup> of July, 2010, the City allocated \$506,000 toward the funding of Engine 20; and

**WHEREAS**, the total cost of Engine 20 is set forth in the "EXHIBIT 1A" at \$1,209,200; and

**WHEREAS**, the City of Beaumont will fund \$351,600.23 toward the total cost of Engine 20; and

**WHEREAS**, Riverside County will fund \$351,600.23 toward the total cost of Engine 20.

**NOW, THEREFORE, BE IT RESOLVED**, the City Council of Banning hereby authorize the execution of the Engine 20 agreement between the City of Banning, the City of Beaumont, and the County of Riverside, California.

**PASSED, ADOPTED AND APPROVED** this 27<sup>th</sup> day of July, 2010.

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

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

\_\_\_\_\_  
David J. Aleshire, City Attorney  
Aleshire and Wynder, LLP.

**ATTEST:**

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

**CERTIFICATION:**

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2010-57 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 27<sup>th</sup> day of July, 2010.

AYES:

NOES:

ABSTAIN:

ABSENT:

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

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# EXHIBIT "1A"

## TO THE COOPERATIVE AGREEMENT TO PROVIDE FIRE PROTECTION, FIRE PREVENTION, RESCUE AND MEDICAL EMERGENCY SERVICES FOR THE CITY OF BANNING ENGINE 20 STAFFING COSTS SHARED WITH THE CITY OF BANNING, THE CITY OF BEAUMONT, & THE COUNTY OF RIVERSIDE ESTIMATE DATED MAY 26, 2010 FOR FY 10/11

	CAPTAIN'S		CAPTAIN'S MEDICS		ENGINEER'S		ENGINEER MEDICS		FF II'S		FF II MEDICS		TOTALS	
<b>STA #20</b>														
Medic Engine	159,510	1.0			136,439	1.0	153,041	1.0	350,014	3.0	265,934	2.0	1,064,938	8.0
Fixed Relief	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Vacation Relief	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
<b>SUBTOTALS</b>	<b>159,510</b>		<b>0</b>		<b>136,439</b>		<b>153,041</b>		<b>350,014</b>		<b>265,934</b>		<b>1,064,938</b>	
<b>SUBTOTAL STAFF</b>	<b>1</b>		<b>0</b>		<b>1</b>		<b>1</b>		<b>3</b>		<b>2</b>		<b>8</b>	
<b>ESTIMATED SUPPORT SERVICES</b>														
Administrative/Operational							15,521	per assigned Staff **					124,168	8.00
Medic Program							6,698	per assigned Medics					20,094	3.0
<b>SUPPORT SERVICES SUBTOTAL</b>													<b>144,262</b>	
<b>TOTAL STAFF COUNT</b>														<b>8.00</b>
<b>TOTAL ESTIMATED CITY BUDGET</b>													<b>\$1,209,200</b>	

City of Banning Share	\$ 506,000
County of Riverside Share	\$351,600.23
City of Beaumont Share	\$351,600.23

### SUPPORT SERVICES

Administrative & Operational Services  
Finance  
Training  
Data Processing  
Accounting  
Personnel

Procurement  
Emergency Services  
Fire Fighting Equip.  
Office Supplies/Equip.

8.0 Assigned Staff  
8.00 Total Assigned Staff  
0.0 Fire Stations  
0 Number of Calls

Medic Program - Support staff, Training, Certification, Case Review & Reporting  
(PCA 37129)

### FY 10/11 POSITION SALARIES TOP STEP

238,982	DEPUTY CHIEF	19,200	FIRE ENGINE
235,304	DIV CHIEF	15,521	SRVDEL
220,370	BAT CHIEF	12,527	VOL DEL
159,510	CAPT	6,698	MEDIC DEL
176,996	CAPT MEDIC	53,749	BATT DEL
136,439	ENG	13,289	ECC STATION
153,041	ENG/MEDIC	29.28	ECC CALLS
116,671	FF II	29,560	FLEET SUPPORT
132,967	FF II/MEDIC	15,552	COMM/IT STATION
119,475	FIRE SAFETY SUPERVISOR	34.27	COMM/IT CALLS
117,132	FIRE SAFETY SPECIALIST	981	FACILITY STATION
101,351	FIRE SYSTEMS INSPECTOR	302.78	FACILITY FTE
59,637	OFFICE ASSISTANT III		

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**A COOPERATIVE AGREEMENT BETWEEN THE CITY OF BANNING, THE CITY OF  
BEAUMONT, AND THE COUNTY OF RIVERSIDE TO SHARE THE COST OF A FIRE  
ENGINE COMPANY**

THIS AGREEMENT, was made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by and between the County of Riverside, a political subdivision of the State of California, on behalf of the Fire Department, (hereinafter referred to as "COUNTY") and the City of Banning and the City of Beaumont, duly created cities (hereinafter referred to as "CITIES"). And hereinafter may collectively be referred to as the "Parties".

**SECTION I: PURPOSE**

A. The COUNTY has contracted with the City of Banning, individually pursuant to that certain Cooperative Agreement to provide fire protection, disaster preparedness and response, fire prevention, rescue, hazardous materials mitigation, technical rescue response, medical emergency services, and public service assists for the City of Banning, dated January 5, 2010, by and between the City of Banning and the County of Riverside (the "Banning Cooperative Agreement").

B. The COUNTY has contracted with the City of Beaumont, individually pursuant to that certain Cooperative Agreement to provide fire protection, disaster preparedness and response, fire prevention, rescue, hazardous materials mitigation, technical rescue response, medical emergency services, and public service assists for the City of Beaumont, dated September 2, 2008, by and between the City of Beaumont and the County of Riverside (the "Beaumont Cooperative Agreement").

C. The CITIES and COUNTY desire to enter into a cost sharing agreement for one (1) fire engine company which will be of mutual benefit for all involved agencies. The CITIES and COUNTY agree that the current fire engine company provides service to the City of Banning as well as to the City of Beaumont and unincorporated territory of the County.

D. The City of Beaumont and COUNTY desire to contribute among the participating parties for fire engine staffing costs, with the City of Beaumont and the County not to pay more than Five Hundred Thousand Dollars (\$500,000) each for a total not to exceed One Million Dollars (\$1,000,000). The City of Banning shall pay not to exceed Five Hundred Six Thousand Dollars (\$506,000.00).

NOW, THEREFORE, IT IS AGREED as follows:



## SECTION II: COOPERATIVE OPERATIONS

Emergency Responses: The fire engine shall be dispatched, when available, to all emergencies within the jurisdictions of the CITIES and COUNTY.

## SECTION III: COST SHARE

The Parties agree the cost of the fire engine shall be billed to CITIES by the COUNTY with the normal quarterly billing pursuant to the CITIES respective Cooperative Agreements and the cost will be shown as a line item on that bill. The total amount due under this Agreement by each party will be invoiced on a pro-rata share basis on each party's respective quarterly billing. The CITIES will receive an estimated cost of the fire engine staffing based on the top step salaries of the personnel assigned to the fire engine 20, at the first of the fiscal year. The cost pool of the fire engine staffing costs shall consist of the salaries, benefits, administrative costs of Full Time Employees, and Medic Support Services costs of One (1) Fire Captains, One (1) Fire Apparatus Engineers, One (1) Fire Apparatus Paramedic, Two (2) Firefighter Paramedics, and Three (3) Firefighters.

In the event that the City of Banning secures and receives money from additional funding sources which it allocates to the services described herein, City of Banning shall give COUNTY notice within thirty (30) days, or within a reasonable time thereof, of the amount received. COUNTY will seek reimbursement on behalf of the COUNTY and the City of Beaumont by separate invoice.

## SECTION IV: TERM

This agreement shall be in effect as of the last date all the Parties have approved this Agreement and shall remain in effect for fiscal years 10/11 and 11/12 (July 1, 2010 – June 30, 2012) and shall be subject to extension thereafter. All parties will work together to determine the need for an extension of this agreement prior to the 2012/2013 budget process.

The City of Banning agrees to continue to seek alternative funding sources for fire protection services.

## SECTION V. INDEMNIFICATION

The indemnification provisions as provided in the respective Cooperative Agreements referenced above, as they are currently in effect or hereafter entered into, shall apply to this Agreement.

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## SECTION VI. OWNERSHIP OF THE FIRE ENGINE

The City of Banning owns fire engine 20 and will pay the engine maintenance costs through the cost allocation plan.

## SECTION VII: DELIVERY OF NOTICES

All notices permitted or required under this agreement shall be given to the respective parties at the following address, or at such other addresses as the respective parties may provide in writing for this purpose.

COUNTY OF RIVERSIDE  
County Fire Chief  
210 W. San Jacinto Ave.  
San Jacinto, CA 92570

CITY OF BEAUMONT  
City Manager  
550 E. 6<sup>th</sup> Street  
Beaumont, CA 92223

CITY OF BANNING  
City Manager  
99 E. Ramsey  
Banning, CA 92220

Any notice required to be given hereunder to either party shall be given by personal delivery or be depositing such notice in the U.S. mail to the address listed, certified with return receipt requested, and pre-paid postage affixed. Such notice shall be deemed made when personally delivered or when mailed. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of method of service.

## SECTION VIII. GENERAL PROVISIONS

### A. ALTERATION OF TERMS.

No addition to, or alteration of, the terms of this Agreement, whether by written or verbal understanding of the Parties, their officers, agents, or employees, shall be valid unless made in the form of a written amendment to this Agreement, which is formally approved and executed by all Parties.

### B. JURISDICTION AND VENUE.

This Agreement is to be construed under the laws of the State of California. The Parties agree to the jurisdiction of the appropriate courts in the County of Riverside, State of California.

C. WAIVER.

Any waiver by any of the Parties, separately or collectively, of any breach of any one or more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term thereof. Failure on the part of the Parties to require exact, full and complete compliance with any terms of this Agreement shall not be construed as in any manner changing the terms hereof, or estopping any one of the CITIES or COUNTY from enforcement hereof.

D. SEVERABILITY.

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

E. ADMINISTRATION

1. The COUNTY Fire Chief shall administer this Agreement on behalf of the County of Riverside.

2. The CITIES respective City Manager shall administer this Agreement on behalf of its own City.

F. ENTIRE AGREEMENT.

This Agreement is intended by the Parties hereto as a final expression of their understanding, with respect to the subject matter hereof and as a complete and exclusive statement of the terms and conditions thereof and supersedes any and all prior and contemporaneous agreements and understandings, oral or written, in connection therewith.

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[Signature Provisions on following page]

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IN WITNESS WHEREOF, the duly authorized officials of the parties hereto have, in their respective capacities, set their hands as of the date first hereinabove written.

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

**CITY OF BANNING**

By: \_\_\_\_\_  
Andy Takata, City Manager

ATTEST:

APPROVED AS TO FORM:

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

By: \_\_\_\_\_  
Dave Aleshire, City Attorney

(SEAL)

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

**CITY OF BEAUMONT**

By: \_\_\_\_\_  
Alan Kapanicas, City Manager

[ADDITIONAL SIGNATURE PROVISIONS ON NEXT PAGE]

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

**COUNTY OF RIVERSIDE**

By: \_\_\_\_\_  
Marion Ashley, Chairman  
Board of Supervisors

**APPROVED AS TO FORM:**  
Pamela J. Walls,  
County Counsel

**ATTEST:**  
Kecia Harper-Ihem  
Clerk of the Board

By: \_\_\_\_\_  
Synthia M. Gunzel,  
Deputy County Counsel

By: \_\_\_\_\_  
Deputy

(SEAL)

H:\COOP AGREEMENTS-LEASES-MOU'S\CONTRACT CITIES\COST SHARE ENGINE COOPERATIVE AGREEMENT -  
BANNING, BEAUMONT, COUNTY\E-20 Agmt w-Beaumont Banning County Fire Renewal 062910.doc

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# EXHIBIT "1A"

## TO THE COOPERATIVE AGREEMENT TO PROVIDE FIRE PROTECTION, FIRE PREVENTION, RESCUE AND MEDICAL EMERGENCY SERVICES FOR THE CITY OF BANNING ENGINE 20 STAFFING COSTS SHARED WITH THE CITY OF BANNING, THE CITY OF BEAUMONT, & THE COUNTY OF RIVERSIDE ESTIMATE DATED MAY 26, 2010 FOR FY 10/11

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<b>STA #20</b>														
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Fixed Relief	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Vacation Relief	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
<b>SUBTOTALS</b>	<b>159,510</b>		<b>0</b>		<b>136,439</b>		<b>153,041</b>		<b>350,014</b>		<b>265,934</b>		<b>1,064,938</b>	
<b>SUBTOTAL STAFF</b>	<b>1</b>		<b>0</b>		<b>1</b>		<b>1</b>		<b>3</b>		<b>2</b>		<b>8</b>	
<b>ESTIMATED SUPPORT SERVICES</b>														
Administrative/Operational							15,521	per assigned Staff **					124,168	8.00
Medic Program							6,698	per assigned Medics					20,094	3.0
<b>SUPPORT SERVICES SUBTOTAL</b>													<b>144,262</b>	
<b>TOTAL STAFF COUNT</b>														<b>8.00</b>
<b>TOTAL ESTIMATED CITY BUDGET</b>													<b>\$1,209,200</b>	

City of Banning Share	\$ 506,000
County of Riverside Share	\$351,600.23
City of Beaumont Share	\$351,600.23

### SUPPORT SERVICES

Administrative & Operational Services  
Finance  
Training  
Data Processing  
Accounting  
Personnel

Procurement  
Emergency Services  
Fire Fighting Equip.  
Office Supplies/Equip.

8.0 Assigned Staff  
8.00 Total Assigned Staff  
0.0 Fire Stations  
0 Number of Calls

Medic Program - Support staff, Training, Certification, Case Review & Reporting  
(PCA 37129)

### FY 10/11 POSITION SALARIES TOP STEP

238,982 DEPUTY CHIEF  
235,304 DIV CHIEF  
220,370 BAT CHIEF  
159,510 CAPT  
176,996 CAPT MEDIC  
136,439 ENG  
153,041 ENG/MEDIC  
116,671 FF II  
132,967 FF II/MEDIC  
119,475 FIRE SAFETY SUPERVISOR  
117,132 FIRE SAFETY SPECIALIST  
101,351 FIRE SYSTEMS INSPECTOR  
59,637 OFFICE ASSISTANT III

19,200 FIRE ENGINE  
15,521 SRVDEL  
12,527 VOL DEL  
6,698 MEDIC DEL  
53,749 BATT DEL  
13,289 ECC STATION  
29.28 ECC CALLS  
29,560 FLEET SUPPORT  
15,552 COMM/IT STATION  
34.27 COMM/IT CALLS  
981 FACILITY STATION  
302.78 FACILITY FTE

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**CITY COUNCIL AGENDA  
CONSENT ITEM**

**Date:** July 27, 2010

**TO:** City Council

**FROM:** Kirby Warner, Interim Administrative Services Director

**SUBJECT:** Recommendation to Adopt a Resolution of Approving a Statement of Investment Policy

**RECOMMENDATION:** "The City Council adopt Resolution No. 2010-60, a Resolution of the City Council of the City of Banning Adopting a Statement of Investment Policy."

**JUSTIFICATION:** City policy requires an annual review of the investment policy.

**BACKGROUND/ANALYSIS:** Our current policy focuses on safety, liquidity and availability, rather than on yield. Under the policy, a maximum of 40% of the City's investments may be placed in an investment other than the State of California's Local Agency Investment Fund (LAIF). The other investments cannot exceed a 36 month maturity. Per the State Treasurer's Office, pursuant to the California Government Code monies invested with LAIF cannot be borrowed or withheld by the State of California. These monies are protected by statute.

Currently, approximately 40 percent of the City's available operating money is invested in authorized securities (other than LAIF). The balance is invested in LAIF. The LAIF rate has dropped from 1.377% percent to .520% percent from July 1, 2009 to the present. Our current average rate on investments outside of LAIF is .793%. Our current average rate on investments overall (excluding bond funds) is .649%. In 2008-09, the LAIF rate ranged from 2.787% to 1.530% and the City earned approximately \$1,772,000 of interest on its investments. In 2009-10, the total interest earned has dropped to approximately \$ 600,000.

Staff is not recommending any changes to the policy at this time.

**FISCAL DATA:** No immediate fiscal impact is anticipated. The monthly Report of Investments will track any changes in investment income.

RECOMMENDED BY:



Kirby Warner  
Interim Administrative Services Director

APPROVED BY:



Andy Takata  
City Manager



## **RESOLUTION NO. 2010-60**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING ADOPTING A STATEMENT OF INVESTMENT POLICY**

**WHEREAS**, Under the laws of the State of California, it is the responsibility of the City Council to secure and protect the public funds of the City of Banning (hereinafter "City"), and to establish proper safeguards, controls, and procedures to maintain these funds in a lawful, rational and auspicious manner; and

**WHEREAS**, said maintenance shall include the prudent and secure investment of those funds that are not immediately needed to meet cash disbursements, in a manner anticipated to provide additional benefit to the electorate of the City of Banning;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BANNING** as follows:

#### Section 1.

The following shall constitute the Statement of the Investment Policy of the City of Banning:

#### **1. SCOPE**

This Statement of Investment Policy pertains to those funds under the control of the City Council, designated for the ongoing operations of the City and the City's Redevelopment Agency; and concerns the deposit, maintenance, and safekeeping of all such funds, and the investments made with these funds. This Policy does not apply to pension moneys, deferred compensation funds, trustee, and certain other non-operating funds.

#### **2. PURPOSE OF POLICY STATEMENT**

The purpose of this Statement of Investment Policy is to provide the public and those involved in servicing the investment requirements of the City, and any other interested party, a clearer understanding of the Government Codes, regulations and internal guidelines that will be observed in maintaining and investing those funds not immediately needed to meet liabilities.

#### **3. INVESTMENT OBJECTIVES**

The underlying objective of the City Council is to protect the safety of the principal of the portfolio through the judicious purchase of those legal investments permitted to local agencies, as defined in the State of California Government Codes, consistent with current conditions and the other dominant objectives pursuant to managing a local agency portfolio, namely:



- A. **Safety:** The City Council takes as its primary responsibility to maintain the safe return of all principal placed in investments by avoiding decisions that might result in losses through fraud, default, or adverse market conditions. Importance is also accorded to the protection of accrued interest earned on any investment instrument.
- B. **Liquidity:** The City Council accepts as an imperative that a majority (a minimum of 60%) of all investments are in items that are immediately negotiable, as the portfolio is a cash management fund. It shall be assumed that all investments shall remain sufficiently liquid in order to meet unexpected cash calls.
- C. **Availability:** Due to the nature of a public funds portfolio, the City Council finds that it is mandatory that moneys be available to meet the monetary requirements inherent to operating a public entity. Thus funds should be invested in such a manner that money will always be available without risk of trading loss to meet normal cash requirements. A vast majority of the moneys invested by the City Council should never require the realization of immoderate losses should an unforeseen cash demand require the sale of investments prior to maturity. A sufficient portion of all funds shall be invested in securities providing a high degree of availability, that is, in securities easily sold or converted to cash in a timely manner, with little or no loss of interest earnings.
- D. **Yield:** While it is considered desirable to obtain a respectable yield, yield shall not be the driving force in determining which investments are to be selected for purchase. Yield is to be given lesser weight in the investment decision than safety, liquidity, or availability.

The City Council shall undertake to place investments with the objective of obtaining a reasonable rate of return under prevailing market conditions. In pursuit of this goal, maximization of yield shall be of lesser concern than either safety of principal, liquidity of the investment, or availability of the invested funds. The City Council undertakes to be prudently cognizant of those factors within the marketplace that may be indicative of either favorable or hazardous conditions relative to the City's investments. The portfolio is to be managed under the strategy of minimal turnover in investments however, with sufficient activity to minimize losses due to adverse changes in market conditions.

#### 4. PRUDENCE

The City Council recognizes that it is subject to the "Prudent Investor Standard" whenever making a decision regarding the investment of the City's funds. This rule states:

*When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, general economic conditions and the anticipated needs of the agency, that a prudent person acting in like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency (Cal. Gov. Code §53600.3).*

The City Council, and those acting under the auspices of the City Council, is deemed to have a fiduciary trustee relationship with the public for the public funds, and all investment decisions will be made in a manner sustaining this responsibility.

## 5. DELEGATION OF AUTHORITY

While the City Council has final responsibility for all investment decisions, other City personnel are required to aid in the day to day administration of those decisions. Those staff members currently authorized to act on behalf of the City Council are listed below. This list is subject to change. Parties involved in investment transactions with the City Council are deemed to be on notice of the contents of the most current copy of this Policy, and all pertinent authorizing documents, at the time of accepting written or verbal instructions from any staff member. The Councilpersons and deputized personnel listed below are designated to perform such approved investment related tasks as the City Council shall from time to time assign, to arrange any required notifications, and to execute the documents necessary to put into effect the decisions of and for the City Council:

### Title

Mayor

Mayor Pro Tem

City Councilperson

City Councilperson

City Councilperson

Administrative Services Director

City Manager

Other persons, both inside and outside City employment, may act in the role of assistant or advisor to those listed above, to aid in the timely and proper settlement of investment transactions. Such persons may not authorize, approve, or initiate any trading activities. **Only the persons listed above may initiate trading activity and only in a manner consistent with the instructions of the City Council.**

City Council directives to the City Manager and Administrative Services Director are as follows:

- Make investments in accordance with this policy.
- Make phone calls to, or otherwise communicate with, LAIF or brokerage firm for investment purposes and to withdrawal and deposit funds as required to meet the City's cash flow requirements between meetings of the City Council.
- Make transaction withdrawals for cash flow requirements up to a maximum of limit of \$3,000,000 per single transaction without prior approval of the City Council.

## **6. SECURITIES CUSTODY**

As required by the Government Code, the City Council shall establish a third party custody and safekeeping account to which all negotiable instruments shall be delivered upon purchase on a payment versus delivery basis. No negotiable, deliverable, securities or investments will be left in the custody of any brokerage firm or issuing party, including any collateral from Repurchase Agreements.

## **7. AUTHORIZED INVESTMENTS AND LIMITATIONS**

The Government Code of the State of California, primarily within sections 53600 et. seq., sets out the legal authority for inclusion of certain types of investment vehicles in a California local agency's investment portfolio. Consistent with those sections, under no circumstances will the City Council purchase an investment that is not specifically authorized for a local agency under these, or other code sections that may apply, or might later be enacted, pertaining to local agency investments. It shall be a requirement of all investment professionals performing any transaction on behalf of the City that they possess a complete understanding of the acceptability of the subject investment under those code sections.

A "Table of Investments Permitted Local Agencies by the California Government Codes" is attached hereto, marked Attachment "A" and by this reference made a part hereof. Attachment "A" briefly describes the principal types of securities legal within the Government Code sections noted above, and outlines the various limitations included in these sections. From these permitted investments, the Council shall determine those investment types that best meet the needs and abilities of the City.

## **8. AUTHORIZED AND SUITABLE INVESTMENTS**

It is hereby determined by the City Council that, due to the exceptional safety, liquidity and availability provided by the State of California's Local Agency Investment Fund (LAIF), a minimum of 60% of the City's operating moneys shall be placed in the LAIF, with the exception of certain bond proceeds and required deposits that pre-existing contractual obligations restrict to other investment types. Such exceptions shall comply with all appropriate Government Codes, ordinances and other restrictions inherent to the conditions requiring such exceptions.

It is hereby further determined by the City Council that not more than 40% of the City's operating moneys may be placed in the following types of securities:

- Securities issued or guaranteed by the U.S. Treasury or agencies of the United States Government
- Bank Certificates of Deposit
- Shares of savings certificates of savings and loan associations
- Mortgage backed securities

## **9. AUTHORIZED TERM OF INVESTMENTS**

It is hereby determined that the maximum maturity period for any portion of invested operating moneys shall not exceed thirty-six (36) months. This shall not apply to certain bond proceeds or other non-operating moneys of the City.

## **10. AUTHORIZED DEALER LIST – CONFLICT OF INTEREST PROHIBITION**

It is prohibited for a transaction to be entered into with any securities broker, dealer or bank investment department or subsidiary prior to that entity being designated an Authorized Dealer, and placed on the Authorized Dealer List. Authorized Dealers shall be selected on an as needed basis to meet specific needs of the City Council.

No member of the City Council, nor any other official or employee of the City, may accept any gift, honoraria, gratuity or service of value in violation of the regulations set forth by the Fair Political Practices Commission, the Government Code, additional limitations set forth by City ordinance, or internal requirements of the Treasurer and Administrative Services Director. The City Council is prohibited from conducting any business with any broker, dealer, or securities firm that has made a political contribution to the City Treasurer or any member of the City Council, or any candidate for these offices, within the 48 month period immediately following the date of the political contribution, in an amount exceeding the limitation contained in Rule G-37 of the Municipal Securities Rulemaking Board. A copy of Rule G-37 is attached hereto and incorporated herein as Attachment "B."

## **11. REPORTING**

The Administrative Services Director shall maintain investment records legally required or otherwise requested by the City Council and prepare a report for the Council on a monthly basis stating the holdings, status, and earnings of the portfolio. The Statement of Investment Policy will be provided at the start of each fiscal year annually for review and approval of the City Council. Should conditions arise, or legislation become effective that behooves consequential changes within the Policy during the year, the revised policy will again be addressed by the City Council.

### Section 2.

This Statement of Investment Policy shall be reviewed annually and approved by the City Council in an open public meeting. Upon request, it will be provided to banks and brokers and to other effected persons or entities; and to any member of the electorate wishing to review this document. The City reserves the right to provide these documents on a cost recovery basis.

### Section 3.

The Statement of Investment Policy was originally adopted under Resolution 2009-57, which expired by its terms on July 14, 2010.

### Section 4.

The Statement of Investment Policy is hereby adopted.

**PASSED, APPROVED AND ADOPTED** this 27th day of July, 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, City Attorney  
Aleshire & Wynder, LLP

ATTEST:

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Marie A. Calderon, City Clerk  
City of Banning

CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2010-60 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 27<sup>th</sup> day of July, 2010 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

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

**CITY COUNCIL AGENDA  
CONSENT**

**DATE:** July 27, 2010  
**TO:** Honorable Mayor and City Council  
**FROM:** Andy Takata, City Manager  
**SUBJECT:** Agreement to Provide Animal Control Services

**RECOMMENDATION:**

It is recommended that the City Council approve the Agreement between the City of Banning and the City of Beaumont to provide citywide Animal Control Field Services for the period of July 1, 2010 through June 30, 2011.

**JUSTIFICATION:**

There was an urgent need to secure ongoing animal control field services. Staff was directed by the City Council to bring back an agreement for said services.

**BACKGROUND:**

The City of Beaumont has provided Animal Control Field Services for the City of Banning since July 1, 2010. The City of Beaumont is transporting animals as necessary to the Ramona Humane Society.

As the service with the City of Beaumont matures, and if there are any changes necessary to the agreement or issues that arise, staff will bring it back to the City Council at that time for further direction.

**FISCAL DATA:**

There are sufficient funds in the FY 2010-11 budget to cover the anticipated costs of this contract for these services.

**ATTACHMENT**

1. Animal Control Services Agreement

**SUBMITTED BY:**



Andy Takata  
City Manager

**REVIEWED BY:**



Kirby Warner  
Interim Administrative Services Director

**RECOMMENDED BY:**



Andy Takata  
City Manager



# ATTACHMENT 1

# ATTACHMENT 1

## AGREEMENT TO PROVIDE ANIMAL CONTROL FIELD SERVICES

THIS AGREEMENT is made and effective July 1, 2010, by and between the CITY OF \_\_\_\_\_ ("City") and the CITY OF BEAUMONT ("Beaumont").

### RECITALS

A. **Beaumont** has the personnel, experience and equipment to provide animal control field services under the direction of **Beaumont's** Chief of Police.

B. The **City** has asked **Beaumont** to provide it with animal control field services. It is the purpose of this Agreement to set forth the terms and conditions by which **Beaumont** will do so.

### AGREEMENT

NOW, THEREFORE, the **City** and **Beaumont** agree as follows:

1. **Scope of Basic Services.** **Beaumont** shall provide the following Basic Services:

a. A 24-hour Call Center to which **City** residents may call for animal control field services;

b. A trained animal control field service officer on duty 7 days a week, during the hours of 0700 to 1900 hours, which officer shall be equipped with a motor vehicle suitable for the impoundment of small animals, including basic tools required to perform basic animal services;

c. The conduct of periodic animal licensing clinics;

d. The billing of fees and charges to **City** recipients of animal control services; and

e. Recordkeeping services, including animal licenses.

2. **Compensation.** For each animal control service call-out, the **City** shall pay to **Beaumont** the sum of \$30.00 per call-out, plus any actual costs incurred including, but not limited to, the impoundment of large or wild animals, tranquilizers, veterinary services, shelter services and any additional services not included within the Basic Services, billed monthly.

3. **Credit for Fees and Charges.** **Beaumont** shall attempt to collect from **City** recipients of animal control services such fees and charges as are lawfully imposed for the impoundment, boarding, adoption of animals. When collected, **Beaumont** shall remit the collected amount to the **City** monthly.

4. **Term of Agreement.** The term of this Agreement shall be one year, terminating on June 30, 2011, but shall be automatically renewed thereafter in one-year increments without further notice, unless terminated.

5. **Termination.** The City or Beaumont may terminate this Agreement at any time, upon 30-days prior written notice; provided, however, that the City shall pay for all services rendered to it prior to the date of termination, and Beaumont shall reimburse the City for any fees and charges collected from recipients of animal control services rendered prior to the termination date but collected thereafter.

6. **City Liaison.** In order to ensure smooth operation of the services provided hereunder, the City and Beaumont each agree to appoint a representative who shall be responsible for coordinating the implementation of this Agreement.

a. **Beaumont Appointment:** Beaumont appoints the Chief of Police as its representative. The Chief may be contacted as follows:

By Telephone: 951-769-\_\_\_\_\_  
By Fax: 951-769-\_\_\_\_\_  
By E-Mail: \_\_\_\_\_

b. The City appoints the following representative as its liaison:

Name: \_\_\_\_\_  
By Telephone: \_\_\_\_\_  
By Fax: \_\_\_\_\_  
By E-Mail: \_\_\_\_\_

7. **Indemnification.** Beaumont agrees to indemnify and hold the City, its officers, officials, agents and employees free and harmless from any claim or liability whatsoever, including property damage, bodily injury or death, arising out of the Beaumont's performance of this Agreement to the extent that such liability is imposed on the City by the provisions of California Government Code Section 895.2 or other applicable law, and Beaumont shall defend at its expense, including attorneys' fees, the City, its officials, officers, agents and employees in any legal action based upon such claims or liabilities.

8. **Amendments to this Agreement.** From time-to-time, the City and Beaumont may determine that the provision of services hereunder could be improved, made more efficient or expanded. Therefore, the parties agree to meet and confer at the request of either party and to negotiate in good faith such reasonable amendments to this Agreement as the parties deem appropriate.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by the following authorized officials.

CITY OF BEAUMONT

By \_\_\_\_\_  
BRIAN DE FORGE, Mayor

CITY OF \_\_\_\_\_

By \_\_\_\_\_  
Mayor

**CITY COUNCIL AGENDA  
CONSENT ITEM**

**Date:** July 27, 2010

**TO:** City Council

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

**SUBJECT:** Police officer fees for security during the 2010 Playhouse Bowl Evenings in the Park Concert Series beginning July 29, 2010 at the Reppier Park Bowl.

**RECOMMENDATION:** "The City Council review and provide direction on a request from the Banning Playhouse Bowl Association for two police officers to be present between the hours of 6:30 – 9:30 P.M. for each of the five concerts during the Playhouse Bowl Evenings in the Park Concert Series."

**JUSTIFICATION:** Because the police department does not have the authority to waive city fees, this request is being forwarded to the City Council for consideration.

**BACKGROUND & ANALYSIS:** On June 16, 2010, Banning Playhouse Bowl Association President, Lynette Espinoza, requested the presence of two police officers during the 2010 Summer Concert Series for security purposes. The concert series is run by the Playhouse Bowl Association, which is a non-profit organization.

Based on the City's current fee schedule, the cost for one police officer, per hour, is \$65. We recommend staffing each event with two police officers. The cost of two police officers for each of the five concerts would be \$390.00. The total cost for two police officers for the entire concert series would be \$1,950.00.

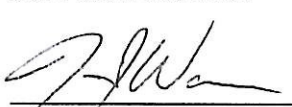
**FISCAL DATA:** If approved by the City Council, the noted police officer fees would be waived and the overtime cost of the two police officers working the concert series would be paid with funds from the police department's general overtime account.

**RECOMMENDED BY:**



Leonard Purvis  
Chief of Police

**REVIEWED BY:**



Kirby Warner  
Interim Administrative  
Services Director

**APPROVED BY:**



Andrew Takata  
City Manager

## CITY COUNCIL MEETING

**DATE:** July 27, 2010  
**TO:** City Council  
**FROM:** Zai Abu Bakar, Community Development Director  
**SUBJECT:** Consideration of Consultant Services Agreements for Professional Planning and Environmental Services

### **RECOMMENDATION:**

That the City Council adopt Resolution No. 2010-58 approving Contract Services Agreements with:

1. Hogle-Ireland, Inc. to provide project management for the Butterfield Specific Plan (Pardee Homes) and review of the environmental impact report (EIR) for the project; and,
2. Establish an on-call list of planning and EIR consultants for future project management of large land planning/development and preparation of EIRs.

### **JUSTIFICATION:**

The Community Development Department (Planning Division) does not have adequate staff to manage large-scale land development projects and the environmental impact reports associated with these projects.

### **BACKGROUND:**

On May 17, 2010 a Request for Proposals (RFP) was released to provide on-call professional consulting services to 1) provide a planning project manager to manage large scale land development and preparation of a specific plan; and, 2) establish an on-call list of professional consultants for the preparation of environmental documents for public and private projects. On June 15, 2010, the City received nine (9) responses to the RFP. Three (3) firms were selected for on-call professional services as follows:

Consultant	Location
Hogle-Ireland, Inc.	Irvine, CA
Romo Planning Group	Covina, CA
Michael Brandman Associates	San Bernardino, CA

It is recommended that Hogle-Ireland, Inc. provide project management services and review of the draft EIR for the Butterfield Specific Plan (Amendment to the approved Deutsch Specific Plan). Pardee Homes is preparing the draft EIR (Environmental Impact Report). Before using a draft prepared by a developer, the lead agency (City of Banning) must subject the draft to the agency's own review and analysis. The draft EIR which is sent out for public review must



reflect the independent judgment of the agency. Therefore, it is important that the consultant selected to review the draft EIR work directly for and under the responsible charge of the City.

It is intended that the approved list of on-call consultants will be utilized for three years. Thereafter, a Request for Proposals (RFP) will again be released.

**FISCAL DATA:**

An appropriation of funds is requested in the amount of \$123,000 for project management and environmental review of the Butterfield Specific Plan. This agreement will not have an impact on the City's General Fund as the applicant (Pardee Homes) is required to pay all costs associated with amending the existing specific plan. The applicant will be required to provide a deposit to reimburse said professional services.

For on-call professional services, future applicants will be required to provide a deposit for the preparation of environmental documents. As the services are needed, staff will bring contracts over \$25,000.00 to the City Council for review and approval; or, to the City Manager for review and approval for contracts less than said amount in accordance with the City's purchasing policies.

**CONCLUSION:**


That the City Council approve the Contract Services Agreement with Hogle-Ireland, Inc. of Irvine, California; and, approve the list of three (3) firms to provide on-call professional consulting services.

**APPROVED BY:**



Andrew J. Takata  
City Manager

**RECOMMENDED BY:**



Zai Abu Bakar  
Community Development Director

**REVIEWED BY:**



Kirby Warner  
Interim Administrative Services Director

**PREPARED BY:**



Brian Guillot  
Assistant Planner

**Attachment:**

1. City Council Resolution No. 2010-58
2. Contract Services Agreement between the City of Banning and Hogle-Ireland, Inc.

# **Attachment 1**

**(Resolution No. 2010-58)**



**RESOLUTION NO. 2010-58**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AUTHORIZING THE CITY MANAGER TO ENTER INTO CONTRACT SERVICES AGREEMENTS WITH SELECTED FIRMS FOR PROFESSIONAL PLANNING AND ENVIRONMENTAL SERVICES.**

**WHEREAS**, adequate city staff is not available to provide professional planning and environmental services; and,

**WHEREAS**, Staff prepared and then on June 9, 2010 released a Request for Proposals (RFP) for on-call professional consulting services; and,

**WHEREAS**, on June 15, 2010 the City received responses from nine (9) consulting firms; and,

**WHEREAS**, City staff evaluated the responses to the RFP and selected three (3) qualified consultants to provide professional planning and environmental services; and

**WHEREAS**, City staff recommends that the City Council award the project management contract to Hogle-Ireland of Irvine, California for project management and review of the EIR for the Pardee Homes project, and approve the list of on-call consultants;

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

**Section I: Action.**

Authorize the City Manager to execute the consultant services agreement with Hogle-Ireland, Inc. in the amount of \$123,000.00 to provide planning project management services for the Butterfield Ranch specific plan amendment and EIR. This authorization will be rescinded if the contract agreement is not executed by both parties within sixty (60) days of the date of this resolution.

**Section II: Action.**

Approve the on-call professional consulting services list as follows and authorize the City Manager to execute consultant services agreements as necessary not to exceed \$25,000.00:

<b>Consultant</b>	<b>Location</b>
Hogle-Ireland, Inc.	Irvine, CA
Romo Planning Group	Covina, CA
Michael Brandman Associates	San Bernardino, CA

**PASSED, ADOPTED AND APPROVED** this 27<sup>th</sup> day of July, 2010.

---

Robert E. Botts, Mayor  
City of Banning, California

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

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

**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 the foregoing Resolution No. 2010-58 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 27<sup>th</sup> day of July, 2010.

AYES:

NOES:

ABSENT:

ABSTAIN:

---

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

///

# **Attachment 2**

(Contract Services Agreement)

# **CONTRACT SERVICES AGREEMENT**

**By and Between**

**THE CITY OF BANNING,  
A MUNICIPAL CORPORATION**

**and**

**HOGLE-IRELAND, INC.**

**of**

**Irvine, CA**

**AGREEMENT FOR CONTRACT SERVICES  
BETWEEN  
THE CITY OF BANNING, CALIFORNIA  
AND  
HOGLE-IRELAND, INC.**

THIS AGREEMENT FOR CONTRACT SERVICES (herein "Agreement") is made and entered into this 27<sup>th</sup> day of July, 2010 by and between the City of Banning, a municipal corporation ("City") and Hogle-Ireland, Inc., ("Consultant" or "Contractor"). City and Contractor are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties". The term Contractor includes professionals performing in a consulting capacity.

**RECITALS**

A. City has sought, by issuance of a Request for Proposals or Invitation for Bids, the performance of the services defined and described particularly in Section 1 of this Agreement.

B. Contractor, following submission of a proposal or bid for the performance of the services defined and described particularly in Section 1 of this Agreement, was selected by the City to perform those services.

C. Pursuant to the City of Banning's Municipal Code, City has authority to enter into this Agreement Services Agreement and the City Manager has authority to execute this Agreement.

D. The Parties desire to formalize the selection of Contractor for performance of those services defined and described particularly in Section 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

**OPERATIVE PROVISIONS**

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

**ARTICLE 1. SERVICES OF CONTRACTOR**

**1.1 Scope of Services.**

In compliance with all terms and conditions of this Agreement, the Contractor shall provide those services specified in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by this reference, which services may be referred to herein as the "services" or "work" hereunder. As a material inducement to the City entering into this Agreement, Contractor represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the services required under this Agreement in a thorough,

competent, and professional manner, and is experienced in performing the work and services contemplated herein. Contractor shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. Contractor covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be of good quality, fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

#### 1.2 Contractor's Proposal.

The Scope of Service shall include the Contractor's scope of work or bid which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such proposal and this Agreement, the terms of this Agreement shall govern.

#### 1.3 Compliance with Law.

Contractor shall keep itself informed concerning, and shall render all services hereunder in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered.

#### 1.4 Licenses, Permits, Fees and Assessments.

Contractor shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Contractor shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Contractor's performance of the services required by this Agreement, and shall indemnify, defend and hold harmless City, its officers, employees or agents of City, against any such fees, assessments, taxes penalties or interest levied, assessed or imposed against City hereunder.

#### 1.5 Familiarity with Work.

By executing this Agreement, Contractor warrants that Contractor (i) has thoroughly investigated and considered the scope of services to be performed, (ii) has carefully considered how the services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, Contractor warrants that Contractor has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services hereunder. Should the Contractor discover any latent or unknown conditions, which will materially affect the performance of the services hereunder, Contractor shall immediately inform the City of such fact and shall not proceed except at City's risk until written instructions are received from the Contract Officer.

#### 1.6 Care of Work.

The Contractor shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the work by City, except such losses or damages as may be caused by City's own negligence.

#### 1.7 Warranty.

Contractor warrants all Work under the Agreement (which for purposes of this Section shall be deemed to include unauthorized work which has not been removed and any non-conforming materials incorporated into the Work) to be of good quality and free from any defective or faulty material and workmanship. Contractor agrees that for a period of one year (or the period of time specified elsewhere in the Agreement or in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials incorporated into the Work, whichever is later) after the date of final acceptance, Contractor shall within ten (10) days after being notified in writing by the City of any defect in the Work or non-conformance of the Work to the Agreement, commence and prosecute with due diligence all Work necessary to fulfill the terms of the warranty at his sole cost and expense. Contractor shall act sooner as requested by the City in response to an emergency. In addition, Contractor shall, at its sole cost and expense, repair and replace any portions of the Work (or work of other contractors) damaged by its defective Work or which becomes damaged in the course of repairing or replacing defective Work. For any Work so corrected, Contractor's obligation hereunder to correct defective Work shall be reinstated for an additional one year period, commencing with the date of acceptance of such corrected Work. Contractor shall perform such tests as the City may require to verify that any corrective actions, including, without limitation, redesign, repairs, and replacements comply with the requirements of the Agreement. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstitution of equipment and materials necessary to gain access, shall be the sole responsibility of the Contractor. All warranties and guarantees of subcontractors, suppliers and manufacturers with respect to any portion of the Work, whether express or implied, are deemed to be obtained by Contractor for the benefit of the City, regardless of whether or not such warranties and guarantees have been transferred or assigned to the City by separate agreement and Contractor agrees to enforce such warranties and guarantees, if necessary, on behalf of the City. In the event that Contractor fails to perform its obligations under this Section, or under any other warranty or guaranty under this Agreement, to the reasonable satisfaction of the City, the City shall have the right to correct and replace any defective or non-conforming Work and any work damaged by such work or the replacement or correction thereof at Contractor's sole expense. Contractor shall be obligated to fully reimburse the City for any expenses incurred hereunder upon demand. This provision may be waived in Exhibit "B" if the services hereunder do not include construction of any improvements or the supplying of equipment or materials.

#### 1.8 Prevailing Wages.

Contractor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 1600, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the

performance of other requirements on "Public Works" and "Maintenance" projects. If the Services are being performed as part of an applicable "Public Works" or "Maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. City shall provide Contractor with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the project site. Contractor shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

#### 1.9 Further Responsibilities of Parties.

Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the service of the other.

#### 1.10 Additional Services.

City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Contractor, incorporating therein any adjustment in (i) the Agreement Sum, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Contractor. Any increase in compensation of up to five percent (5%) of the Agreement Sum or \$25,000, whichever is less; or in the time to perform of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively must be approved by the City. It is expressly understood by Contractor that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services or reasonably contemplated therein. Contractor hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Contractor anticipates and that Contractor shall not be entitled to additional compensation therefore.

#### 1.11 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit "B" and any other provisions of this Agreement, the provisions of Exhibit "B" shall govern.



## ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

### 2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Contractor the amounts specified in the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed one-hundred twenty-three thousand dollars (\$123,000.00) (the "Contract"), unless additional compensation is approved pursuant to Section 1.10.

### 2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion, (ii) payment in accordance with specified tasks or the percentage of completion of the services, (iii) payment for time and materials based upon the Contractor's rates as specified in the Schedule of Compensation, provided that time estimates are provided for the performance of sub tasks, but not exceeding the Contract Sum or (iv) such other methods as may be specified in the Schedule of Compensation.

### 2.3 Reimbursable Expenses.

Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, mailing, and telephone expenses approved by the Contract Officer in advance, or actual subcontractor expenses if an approved subcontractor pursuant to Section 4.5, and only if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Contractor at all project meetings reasonably deemed necessary by the City. Coordination of the performance of the work with City is a critical component of the services. If Contractor is required to attend additional meetings to facilitate such coordination, Contractor shall not be entitled to any additional compensation for attending said meetings.

### 2.4 Invoices.

Each month Contractor shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor contracts. Sub-contractor charges shall also be detailed by such categories.

City shall independently review each invoice submitted by the Contractor to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Contractor which are disputed by City, or as provided in Section 7.3. City will use its best efforts to cause Contractor to be paid within forty-five (45) days of receipt of Contractor's correct and undisputed invoice. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Contractor for correction and resubmission.

2.5 Waiver.

Payment to Contractor for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Contractor.

**ARTICLE 3. PERFORMANCE SCHEDULE**

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance.

Contractor shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D" and incorporated herein by this reference. When requested by the Contractor, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding one hundred eighty (180) days cumulatively.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the Agency, if the Contractor shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Contractor be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Contractor's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Inspection and Final Acceptance.

City may inspect and accept or reject any of Contractor's work under this Agreement, either during performance or when completed. City shall reject or finally accept Contractor's work within forth five (45) days after submitted to City. City shall accept work by a timely written acceptance, otherwise work shall be deemed to have been rejected. City's acceptance shall be conclusive as to such work except with respect to latent defects, fraud and such gross mistakes as amount to fraud. Acceptance of any work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, Section X, pertaining to indemnification and insurance, respectively.

3.5 Term.

Unless earlier terminated in accordance with Article 8 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding one (1) years from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit "D").

**ARTICLE 4. COORDINATION OF WORK**

4.1 Representatives and Personnel of Contractor.

The following principals of Contractor (Principals) are hereby designated as being the principals and representatives of Contractor authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

<u>Pam Steele</u> (Name)	<u>Vice President</u> (Title)
<u>Alexa Washburn</u> (Name)	<u>Principle</u> (Title)
<u>Randy Nichols</u> (Name)	<u>Dir. of Env. Planning</u> (Title)

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principals were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principals shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the services hereunder. All personnel of Contractor, and any authorized agents, shall at all times be under the exclusive direction and control of the Principals. For purposes of this Agreement, the foregoing Principals may not be replaced nor may their responsibilities be substantially reduced by Contractor without the express written approval of City. Additionally, Contractor shall make every reasonable effort to maintain the stability and continuity of Contractor's staff and subcontractors, if any, assigned to perform the services required under this Agreement. Contractor shall notify City of any changes in Contractor's staff and subcontractors, if any, assigned to perform the services required under this Agreement, prior to and during any such performance.

4.2 Status of Contractor.

Contractor shall have no authority to bind City in any manner or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Contractor shall not at any time or in any manner represent that Contractor or any of Contractor's officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Contractor, nor any of Contractor's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Contractor expressly waives any claim Contractor may have to any such rights.

#### 4.3 Contract Officer.

The Contract Officer shall be such person as may be designated by the City Manager of City. It shall be the Contractor's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the Contractor shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

#### 4.4 Independent Contractor.

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Contractor, its agents or employees, perform the services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Contractor's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Contractor shall perform all services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Contractor in its business or otherwise or a joint venturer or a member of any joint enterprise with Contractor.

#### 4.5 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Contractor, its principals and employees were a substantial inducement for the Agency to enter into this Agreement. Therefore, Contractor shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the Agency. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of Agency. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Contractor, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Contractor or any surety of Contractor of any liability hereunder without the express consent of Agency.

## ARTICLE 5. INSURANCE, INDEMNIFICATION AND BONDS

### 5.1 Insurance Coverages.

The Contractor shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance which shall cover all elected and appointed officers, employees and agents of City:

(a) Comprehensive General Liability Insurance (Occurrence Form CG0001 or equivalent). A policy of comprehensive general liability insurance written on a per occurrence basis for bodily injury, personal injury and property damage. The policy of insurance shall be in an amount not less than \$1,000,000.00 per occurrence or if a general aggregate limit is used, either the general aggregate limit shall apply separately to this contract/location, or the general aggregate limit shall be twice the occurrence limit.

(b) Worker's Compensation Insurance. A policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both the Contractor and the City against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Contractor in the course of carrying out the work or services contemplated in this Agreement.

(c) Automotive Insurance (Form CA 0001 (Ed 1/87) including "any auto" and endorsement CA 0025 or equivalent). A policy of comprehensive automobile liability insurance written on a per occurrence for bodily injury and property damage in an amount not less than \$1,000,000. Said policy shall include coverage for owned, non-owned, leased and hired cars.

(d) Professional Liability. Professional liability insurance appropriate to the Contractor's profession. This coverage may be written on a "claims made" basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement. The insurance must be maintained for at least 5 consecutive years following the completion of Contractor's services or the termination of this Agreement. During this additional 5-year period, Contractor shall annually and upon request of the City submit written evidence of this continuous coverage.

(e) Additional Insurance. Policies of such other insurance, as may be required in the Special Requirements.

### 5.2 General Insurance Requirements.

All of the above policies of insurance shall be primary insurance and shall name the City, its elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or its officers, employees or agents shall apply in excess of, and not contribute with Contractor's insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, its officers, employees and agents and their respective insurers. All of said policies of insurance shall provide that said insurance may not be amended or cancelled by the insurer or any party hereto without providing thirty (30) days



prior written notice by certified mail return receipt requested to the City. In the event any of said policies of insurance are cancelled, the Contractor shall, prior to the cancellation date, submit new evidence of insurance in conformance with Section 5.1 to the Contract Officer. No work or services under this Agreement shall commence until the Contractor has provided the City with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of all required insurance policies at any time. Any failure to comply with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to City.

All certificates shall name the City as additional insured (providing the appropriate endorsement) and shall conform to the following "cancellation" notice:

CANCELLATION:

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATED THEREOF, THE ISSUING COMPANY SHALL MAIL THIRTY (30)-DAY ADVANCE WRITTEN NOTICE TO CERTIFICATE HOLDER NAMED HEREIN.

[to be initialed]

\_\_\_\_\_  
Agent Initials

City, its respective elected and appointed officers, directors, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities Contractor performs; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, employees or volunteers. Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims. The Contractor agrees that the requirement to provide insurance shall not be construed as limiting in any way the extent to which the Contractor may be held responsible for the payment of damages to any persons or property resulting from the Contractor's activities or the activities of any person or persons for which the Contractor is otherwise responsible nor shall it limit the Contractor's indemnification liabilities as provided in Section 5.3. .

In the event the Contractor subcontracts any portion of the work in compliance with Section 4.5 of this Agreement, the contract between the Contractor and such subcontractor shall

require the subcontractor to maintain the same policies of insurance that the Contractor is required to maintain pursuant to Section 5.1, and such certificates and endorsements shall be provided to City.

### 5.3 Indemnification.

To the full extent permitted by law, Contractor agrees to indemnify, defend and hold harmless the City, its officers, employees and agents ("Indemnified Parties") against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Contractor, its officers, employees, agents, subcontractors, or invitees, or any individual or entity for which Contractor is legally liable ("indemnors"), or arising from Contractor's reckless or willful misconduct, or arising from Contractor's indemnors' negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith:

(a) Contractor will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;

(b) Contractor will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Contractor hereunder; and Contractor agrees to save and hold the City, its officers, agents, and employees harmless therefrom;

(c) In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Contractor for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Contractor hereunder, Contractor agrees to pay to the City, its officers, agents or employees, any and all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees.

Contractor shall incorporate similar, indemnity agreements with its subcontractors and if it fails to do so Contractor shall be fully responsible to indemnify City hereunder therefore, and failure of City to monitor compliance with these provisions shall not be a waiver hereof. This indemnification includes claims or liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Contractor in the performance of professional services hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of City's sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from City's negligence, except that design professionals' indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness or willful misconduct of the design professional. The indemnity obligation shall be binding on successors and assigns of Contractor and shall survive termination of this Agreement.

#### 5.4 Performance Bond.

Concurrently with execution of this Agreement, and if required in Exhibit "B", Contractor shall deliver to City performance bond in the sum of the amount of this Agreement, in the form provided by the City Clerk, which secures the faithful performance of this Agreement. The bond shall contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his power of attorney. The bond shall be unconditional and remain in force during the entire term of the Agreement and shall be null and void only if the Contractor promptly and faithfully performs all terms and conditions of this Agreement.

#### 5.5 Sufficiency of Insurer or Surety.

Insurance or bonds required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City due to unique circumstances. If this Agreement continues for more than 3 years duration, or in the event the Risk Manager of City ("Risk Manager") determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Contractor agrees that the minimum limits of the insurance policies and the performance bond required by Section 5.4 may be changed accordingly upon receipt of written notice from the Risk Manager; provided that the Contractor shall have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of City within 10 days of receipt of notice from the Risk Manager.

### **ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION**

#### 6.1 Records.

Contractor shall keep, and require subcontractors to keep, such ledgers books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and services performed hereunder (the "books and records"), as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. Any and all such documents shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of 3 years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required. In the event of dissolution of Contractor's business, custody of the books and records may be given to City, and access shall be provided by Contractor's successor in interest.

#### 6.2 Reports.

Contractor shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require. Contractor hereby acknowledges that the City is greatly concerned about the cost



of work and services to be performed pursuant to this Agreement. For this reason, Contractor agrees that if Contractor becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services contemplated herein or, if Contractor is providing design services, the cost of the project being designed, Contractor shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Contractor is providing design services, the estimated increased or decreased cost estimate for the project being designed.

### 6.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "documents and materials") prepared by Contractor, its employees, subcontractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Contractor shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder. Any use, reuse or assignment of such completed documents for other projects and/or use of uncompleted documents without specific written authorization by the Contractor will be at the City's sole risk and without liability to Contractor, and Contractor's guarantee and warranties shall not extend to such use, revise or assignment. Contractor may retain copies of such documents for its own use. Contractor shall have an unrestricted right to use the concepts embodied therein. All subcontractors shall provide for assignment to City of any documents or materials prepared by them, and in the event Contractor fails to secure such assignment, Contractor shall indemnify City for all damages resulting therefrom.

### 6.4 Confidentiality and Release of Information.

(a) All information gained or work product produced by Contractor in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Contractor. Contractor shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

(b) Contractor, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Contractor gives City notice of such court order or subpoena.

(c) If Contractor, or any officer, employee, agent or subcontractor of Contractor, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Contractor for any damages, costs and fees, including attorneys fees, caused by or incurred as a result of Contractor's conduct.

(d) Contractor shall promptly notify City should Contractor, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other

discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under. City retains the right, but has no obligation, to represent Contractor or be present at any deposition, hearing or similar proceeding. Contractor agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Contractor. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

## **ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION**

### **7.1 California Law.**

This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Riverside, State of California, or any other appropriate court in such county, and Contractor covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

### **7.2 Disputes; Default.**

In the event that Contractor is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Contractor for any work performed after the date of default. Instead, the City may give notice to Contractor of the default and the reasons for the default. The notice shall include the timeframe in which Contractor may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Contractor is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Contractor does not cure the default, the City may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the City to give notice of the Contractor's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

### **7.3 Retention of Funds.**

Contractor hereby authorizes City to deduct from any amount payable to Contractor (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Contractor's acts or omissions in performing or failing to perform Contractor's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Contractor, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Contractor to insure, indemnify, and protect City as elsewhere provided herein.

#### 7.4 Waiver.

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Contractor shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

#### 7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

#### 7.6 Legal Action.

In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

#### 7.7 Liquidated Damages.

Since the determination of actual damages for any delay in performance of this Agreement would be extremely difficult or impractical to determine in the event of a breach of this Agreement, the Contractor and its sureties shall be liable for and shall pay to the City the sum of no dollars (\$0.00) as liquidated damages for each working day of delay in the performance of any service required hereunder, as specified in the Schedule of Performance (Exhibit "D"). The City may withhold from any monies payable on account of services performed by the Contractor any accrued liquidated damages.

#### 7.8 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Contract at any time, with or without cause, upon thirty (30) days' written notice to Contractor, except that where termination is due to the fault of the Contractor, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Contractor reserves the right to terminate this Contract at any time, with or without cause, upon sixty (60) days' written notice to Agency, except that where termination is due to the fault of the Agency, the period of notice may be such shorter time as the Contractor may determine. Upon receipt of any notice of termination, Contractor shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Contractor has

initiated termination, the Contractor shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Contractor has initiated termination, the Contractor shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

#### 7.9 Termination for Default of Contractor.

If termination is due to the failure of the Contractor to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Contractor for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

#### 7.10 Attorneys' Fees.

If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

### **ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION**

#### 8.1 Non-liability of Agency Officers and Employees.

No officer or employee of the Agency shall be personally liable to the Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

#### 8.2 Conflict of Interest.

Contractor covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Contractor's performance of services under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the Contract Officer. Contractor agrees to at all times



avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of the Agency shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his financial interest or the financial interest of any corporation, partnership or association in which he is, directly or indirectly, interested, in violation of any State statute or regulation. The Contractor warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

### 8.3 Covenant Against Discrimination.

Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the performance of this Agreement. Contractor shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry.

### 8.4 Unauthorized Aliens.

Contractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Contractor so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Contractor hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

## **ARTICLE 9. MISCELLANEOUS PROVISIONS**

### 9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer, CITY OF BANNING, 99 East Ramsey Street, Banning, CA 92220 and in the case of the Contractor, to the person at the address designated on the execution page of this Agreement. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

### 9.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

9.4 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the parties. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Contractor and by the City Council. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

9.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

9.6 Corporate 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. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

**[SIGNATURES ON 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/CONSULTANT:**

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

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

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

Two signatures are required if a corporation.

**NOTE: CONSULTANT'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"/> <input type="checkbox"/> GENERAL	NUMBER OF PAGES
<input type="checkbox"/> ATTORNEY-IN-FACT	
<input type="checkbox"/> TRUSTEE(S)	_____
<input type="checkbox"/> GUARDIAN/CONSERVATOR	DATE OF DOCUMENT
<input type="checkbox"/> OTHER _____	
_____	
<b>SIGNER IS REPRESENTING:</b>	
(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

☐ INDIVIDUAL  
☐ CORPORATE OFFICER  
\_\_\_\_\_  
TITLE(S)

☐ PARTNER(S) ☐ LIMITED  
☐ ATTORNEY-IN-FACT ☐ GENERAL  
☐ TRUSTEE(S)  
☐ GUARDIAN/CONSERVATOR  
☐ OTHER \_\_\_\_\_  
\_\_\_\_\_

#### DESCRIPTION OF ATTACHED DOCUMENT

\_\_\_\_\_  
TITLE OR TYPE OF DOCUMENT

\_\_\_\_\_  
NUMBER OF PAGES

\_\_\_\_\_  
DATE OF DOCUMENT

#### SIGNER IS REPRESENTING:

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

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

**EXHIBIT "A"**  
**SCOPE OF SERVICES**

# Scope of Services

---



Hogle-Ireland will perform the following services and prepare the following tangible work products:

## Task 1 - Management of Specific Plan and EIR

### 1.1 - Project Management (Ongoing)

#### Project Coordination Meetings - City Staff and Hogle-Ireland

Strategic planning will be necessary between Hogle-Ireland and City Staff to ensure the ongoing understanding of strategies and direction, coordination of teamwork efforts, and adherence to project deadlines. We will attend via conference call and, when necessary, in person, weekly coordination meetings with City staff and the consultant team.

#### Project Coordination Meetings - Hogle-Ireland and Applicant

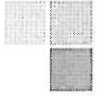
Strategic planning will be necessary between Hogle-Ireland and the applicant to ensure the ongoing coordination of work efforts, and adherence to project deadlines. We will attend regular coordination meetings with the applicant and the consultant team.

#### Collaborative Website Development and Maintenance

Hogle-Ireland will set up a collaborative project website (Basecamp) accessible to key personnel to ensure better communication and the sharing of files and other project-related materials and information.

#### Overall Project Management

The purpose of this task is to allow for the coordination, accounting, scope, schedule, and other administrative tasks related to management of the Specific Plan and EIR. As the overall project manager, Hogle-Ireland will also review all work products. Hogle-Ireland will develop and implement a quality control procedure to the satisfaction of the City. This quality control procedure will include a strategy for review and coordination of data and tasks among the various City departments and consultant team members.



## Work Products

- Meeting agendas, meeting summaries, and meeting action items

## Task 2 - Project Initiation and Assessment

### 2.1 - Project Kick-Off Meeting and Site Tour

This task also serves to clarify specific tasks, define work program products, and identify specific responsibilities. Hogle-Ireland will meet with City staff to establish these project details. City staff will also lead Hogle-Ireland on a tour of the Specific Plan area. The tour and kick-off meeting provides an opportunity for City staff and Hogle-Ireland to meet and identify data sources and resources to be used in the program, to brainstorm ideas, and gain a better understanding of the project area and any issues or constraints. This is also an opportunity to refine our scope of work and schedule objectives.

## Work Products

- Refined project schedule and scope of services

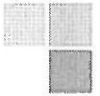
### 2.2 - Document Review

City resource documents will be studied to gain an understanding of policies, regulations, and procedures relevant to the project area. In addition, the project setting, including political, geographic, and obvious environmental issues will be explored. Resource documents to be reviewed include but are not limited to:

- City of Banning General Plan and Program EIR
- City of Banning Zoning Code
- Adjacent Development Plans and Proposals
- Deutsch Specific Plan and EIR (1993)
- Deutsch Specific Plan Development Agreement (1994)
- Butterfield Ranch Specific Plan Amendment (Submitted Aug. 2007)
- Capital Improvement Projects and Master Plans
- Redevelopment Agency Five-Year Implementation Plan
- RDA Plan

Collecting and reviewing this data will allow the team to assimilate completed work, ideas, and efforts into the Specific Plan without duplicating past work, while enhancing our understanding of the project area.





## 2.3 - Summarize Issues, Opportunities and Constraints

Hogle-Ireland will summarize the issues, opportunities, and constraints based on the work performed in Tasks 2.1 and 2.2; specifically being attentive to public services, traffic and infrastructure.

### Work Products

- Memo summarizing issues, opportunities and constraints

## Task 3 - Community Outreach

In our experience, outreach is an extremely important aspect of the planning process. Hogle-Ireland will work closely with City staff and the applicant to identify techniques, events, and materials that will encourage public participation. The outreach program is anticipated to include three (3) public workshops and two (2) public hearings. If the City chooses, the outreach program can be expanded or refined to meet the City's needs.

### 3.1 - Public Workshops

Working in collaboration with City staff and the applicant, Hogle-Ireland will identify key junctures where involvement of all interest groups will have the greatest impact. The public engagement effort must be innovative and creative, providing opportunities for people of diverse interests, income levels, and ethnic backgrounds to participate. It is assumed Hogle-Ireland will coordinate and attend three (3) public workshops at various stages in the planning process. Hogle-Ireland will be responsible for the preparation of any necessary materials and exhibits for these workshops.

### Work Products

- Materials for workshops including staff reports, public notices, PowerPoint presentation, exhibits and visual aids

### 3.2 - Public Hearings and Adoption

It is assumed Hogle-Ireland will attend public hearings of the Planning Commission (1) and City Council (1). Hogle-Ireland will be responsible for the preparation of any necessary materials and exhibits for these meetings.

- Planning Commission (1)
- City Council (1)





## Work Products

- Materials for each meeting including staff reports, resolutions, project conditions of approval, public notices, PowerPoint presentation, exhibits and visual aids

### Task 4 - Specific Plan Review Services

#### 4.1 - Review and Comment on Administrative Draft Specific Plan

Hogle-Ireland will review and comment on the Administrative Draft Specific Plan. This task will include distribution of the document to the various City departments and agencies and coordination and incorporation of their comments.

## Work Products

- Memo summarizing comments on the Administrative Draft Specific Plan

#### 4.2 - Review and Comment on Draft Specific Plan

This task will include coordination and incorporation of consultant, staff and public comments into the Public Review Draft Specific Plan which will ultimately go to the public hearings.

## Work Products

- Memo summarizing comments on the Draft Specific Plan

#### 4.3 - Additional Review and Comment on Draft Specific Plan

If a third review of the Draft Specific Plan is needed, Hogle-Ireland, Inc. will review and provide comments. This task will include distribution of the document to the various City departments and agencies and coordination and incorporation of their comments.

## Work Products

- Memo summarizing comments

#### 4.4 - Review/Edit Final Specific Plan

After review and approval by the Planning Commission and City Council, Hogle-Ireland will ensure any necessary revisions are incorporated into the Final Specific Plan including project conditions of approval recommended by the Planning Commission and adopted by the City Council.





## Work Products

- Memo summarizing revisions to be made to the Final Specific Plan

### Task 5 - EIR Peer Review Services

A list of tasks expected to be involved in the EIR peer review process is presented below, along with the key considerations we will apply in our professional critiques and consultations.

#### 5.1 - Finalize Scope of EIR

- Prepare and Circulate Notice of Preparation of a Draft EIR (NOP)
- Conduct Public Scoping Meeting
- Review responses to NOP and comments made at public scoping meeting and identify specific impact issues that may not have been identified in the NOP as part of the scope of the EIR
- Confirm with EIR consultant that all these issues are understood and are being addressed

#### 5.2 - Preparation of CEQA Notices & Distribution

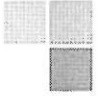
- Notice of Preparation of a Draft EIR
- Notice of Completion/Notice of Availability of the Draft EIR
- Notice of Determination, after project decision is reached and EIR is certified

#### 5.3 - Review and Comment on Technical Studies

- Do they provide sufficient information to support the analysis to be presented in the EIR?
- Determine whether additional expertise is needed to evaluate adequacy of these studies and select independent consultant to conduct such evaluations (additional cost)
- Are their methods consistent with modern practices?
- Did they make appropriate assumptions, where required, to estimate project impacts?
- Do they properly address City of Banning standards, policies, regulations, where applicable?
- Consult with City staff on these issues, as needed

Technical studies are anticipated to include, but are not limited to::





- Air Quality
- Biological Resources
- Cultural Resources
- Environmental Site Assessment (Site Contamination by Hazardous Substances and Wastes)
- Geology/Soils
- Greenhouse Gases/Climate Change
- Hydrology/Storm Drainage/Water Quality Management
- Jurisdictional Water Resources
- Noise Impacts
- Traffic Impact Analysis
- Water Supply Assessment

#### 5.4 - Review and Comment on Screencheck Draft EIRs

- Are all impact topics identified for further assessment in the Initial Study included in the EIR?
- Does the discussion fully account for and accurately/sufficiently describe the project impacts?
- Does the analysis address the proper impact significance criteria, and is the analytical method appropriate to make a sound finding?
- Does the discussion logically support the finding regarding impact significance?
- Help develop Alternatives to be addressed in the EIR
- Consult with City staff on these issues, as needed

#### 5.5 - Prepare Responses to Comments on Draft EIR

- Hogle-Ireland can provide editorial oversight of the responses to comments prepared by the EIR consultant, or we can prepare the responses
- Consult with City staff, as needed.

#### 5.6 - Review/Edit or Prepare Final EIR

- Hogle-Ireland can provide editorial oversight of the EIR Consultant's Final EIR document, or we can prepare the Final EIR document
- Consult with City staff, as needed

### Task 6 - General Plan Amendment, Zone Change and Development Agreement

#### 6.1 - Process General Plan Amendment , Zone Change and Master Tentative Tract Map

Hogle-Ireland will process the necessary General Plan Amendment (GPA) and Zone Change (ZC) associated with the Specific Plan project. It is assumed the GPA and ZC will be processed





along with Specific Plan and all applications (SP, GPA, ZC, TTM, and DA) will be processed as a one project through the public hearing process (see Task 3.2).

### Work Products

- Materials for public hearing including staff reports, resolutions, public notices, PowerPoint presentation, exhibits and visual aids

### 6.2 - Review and Comment on Development Agreement

Hogle-Ireland will review and provide comments on the Development Agreement to ensure consistency with the Specific Plan, General Plan Amendments, Zone Changes and Project Conditions of Approval. Coordination with the City Attorney and various City departments will be necessary.

### Work Products

- Memo summarizing comments on the Development Agreement

## Task 7 - Annexation Services

### 7.1 - Process Annexation

Hogle-Ireland will assist the City with processing the Specific Plan project annexation through LAFCO. We assume the applicant is preparing the Plan of Services and boundary survey. Hogle-Ireland will be responsible for preparation of the LAFCO application, attendance at two (2) LAFCO meetings, preparation of the City Council Resolutions and attendance at two (2) public hearings, coordination with the State of California Department of Finance to achieve certification and coordinating the preparation of the taxation agreement between the County of Riverside and the City.

If needed, Hogle-Ireland can prepare the Plan of Services based on the infrastructure analysis for the Specific Plan. This can be included as a separate cost.

### Work Products

- LAFCO application
- Two (2) LAFCO meetings
- City Council Staff Reports and Resolutions
- Two (2) City Council hearings

# Special Requirements

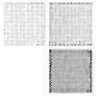
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The following special requirements are requested and may supersede the contract boilerplate:

- Page 5, Section 2.2, Method of Compensation. There are three different methods for compensation. Hogle-Ireland proposes to be compensated on a Time & Materials basis (iii).
- Page 12, Section 5.4, Performance Bond. It doesn't specify in Exhibit B if we need to provide a bond (Hogle-Ireland does not provide bonds). Please clarify.
- Exhibit CII. Retention. "A retention of ten percent (10%) shall be held from each payment as a contract retention to be paid as part of the final payment upon satisfactory completion of services." We would like this section (Exhibit CII) removed.

## Special Requirements



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# Compensation

The proposed budget of \$123,000.00 represents the estimated cost required to complete the scope of services outlined in this proposal. The budget estimate may be further tailored to fit the needs of the City. This can be accomplished during the work program refinement effort in Task 2.1.

Our standard hourly billing rates are included below. Following the hourly rates is an expense estimate for direct expenses typically incurred in the provision of services.

## Hogle-Ireland, Inc. Hourly Rates Effective September 1, 2009

Classification	Standard Hourly Rate
Principal, Alexa Washburn	150.00
Director of Environmental Planning, Randy Nichols	140.00
Associate Project Manager II, Chris Brown	110.00
Associate Project Manager I, Sarah McKearnan	100.00
Graphics/GIS Specialist	120.00
Word Processing/Clerical	65.00

## Direct Expenses

Description	Cost
Black/White Prints	\$0.10/page
Color Prints	\$1.00/page
11"x17" Color Prints	\$2.00/page
CD w/ label and cover	\$0.97
Envelope (9x12)	\$0.10
Postage	at cost



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# Compensation

Butterfield Ranch Specific Plan Project	Principal	Director of Env. Services	Associate PM II	Associate PM I	Graphics/GIS	Word Processing	Subconsultants	Total
	A. Washburn	R. Nichols	C. Brown	S. McKeaman/ K. Carwana	R. Kain			
	\$ 150.00	\$ 140.00	\$ 110.00	\$ 100.00	\$ 120.00	\$ 65.00		
Task 1 - Project Management	70	20						\$13,300.00
Task 2 - Project Initiation & Assessment	20	24	16	8				\$8,920.00
Task 3 - Community Outreach	26			8				\$4,700.00
Task 4 - Specific Plan Review Services	80				8	8		\$13,480.00
Task 5 - EIR Peer Review Services (excluding 5.3 & 5.5)		120	50		8	8		\$23,780.00
Task 5.3 - Review and Comment on Technical Studies*		60	30				\$20,000.00	\$31,700.00
Task 5.5 - Prepare Responses to Comments		40	40					\$10,000.00
Task 6 - GPA, ZC, TTM and DA	22							\$3,300.00
Task 7 - Annexation Services	72			30				\$13,800.00
<b>TOAL ESTIMATED COST</b>	<b>290</b>	<b>264</b>	<b>136</b>	<b>46</b>	<b>16</b>	<b>16</b>		<b>\$122,980.00</b>

\* Includes subconsultants, to be determined, to provide focused professional peer review. Initial budget of \$20,000, to be adjusted after HI completes initial review of technical studies



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# Schedule

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A tentative project schedule for the scope of services outlined in this proposal is provided. Hogle-Ireland anticipates that the project can be completed in approximately seven (7) months; however, this schedule can be adjusted during the project kick off meeting (Task 2.1) to ensure that the City's needs are met.







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# Schedule

Butterfield Ranch Specific Plan Project		Aug 2010	Sept 2010	Oct 2010	Nov 2010	Dec 2010	Jan 2011	Feb 2011
<b>Task 1 - Management of Specific Plan and EIR</b>								
1.1 - Project Coordination Meetings - City and HI								
1.2 - Project Coordination Meetings - HI and Applicant								
1.3 - Collaborative Website								
1.4 - Overall Project Management								
<b>Task 2 - Project Initiation &amp; Assessment</b>								
2.1 - Kick-Off Meeting and Site Tour								
2.2 - Document Review								
2.3 - Issues, Opportunities and Constraints								
<b>Task 3 - Community Outreach</b>								
3.1 - Public Workshops (3)				*	*	*		*
3.2 - Public Hearings and Adoption (3)							*	*
<b>Task 4 - Specific Plan Review Services</b>								
4.1 - Administrative Draft Specific Plan								
4.2 - Draft Specific Plan								
4.3 - Additional Reviews of Draft Specific Plan								
4.4 - Final Specific Plan								
<b>Task 5 - EIR Peer Review Services</b>								
5.1 - Finalize Scope of EIR, Issue NOP, and Scoping Meeting		*						
5.1 - Finalize Scope of EIR, Issue NOP, and Scoping Meeting		*			*			*
5.3 - Review and Comment on Technical Studies								
5.4 - Review and Comment on Screencheck Drafts EIRs								
5.5 - Review/Edit or Prepare Response to Comments								
5.6 - Review/Edit or Prepare Final EIR								
<b>Task 6 - GPA, ZC, TTM and DA</b>								
6.1 - Process GPA, ZC, and TTM								
6.2 - Review and Comment on Development Agreement								
<b>Task 7 - Annexation Services</b>								
7.1 - Process Annexation								

**EXHIBIT "B"**  
**SPECIAL REQUIREMENTS**  
**(Superseding Contract Boilerplate)**

The following special requirements are requested and may supersede the contract boilerplate:

- Page 5, Section 2.2, Method of Compensation. There are three different methods for compensation. Hogle-Ireland shall be compensated on a Time & Materials basis (iii).
- Page 12, Section 5.4, Performance Bond. A Performance bond shall not be required.
- Exhibit CII. Retention. "A retention of ten percent (10%) shall be held from each payment as a contract retention to be paid as part of the final payment upon satisfactory completion of services." A retention shall not be required.

**EXHIBIT "C"****COMPENSATION****I. Contractor shall perform the following tasks:**

Butterfield Ranch Specific Plan Project	Principal	Director of Env. Services	Associate PM II	Associate PM I	Graphics/ GIS	Word Processing	Subconsultants	Total
	A. Washburn	R. Nichols	C. Brown	S. McKearnan/ K. Carwana	R. Kain			
	\$ 150.00	\$ 140.00	\$ 110.00	\$ 100.00	\$ 120.00	\$ 65.00		
Task 1 - Project Management	70	20						\$13,300.00
Task 2 - Project Initiation & Assessment	20	24	16	8				\$8,920.00
Task 3 - Community Outreach	26			8				\$4,700.00
Task 4 - Specific Plan Review Services	80				8	8		\$13,480.00
Task 5 - EIR Peer Review Services (excluding 5.3 & 5.5)		120	50		8	8		\$23,780.00
Task 5.3 - Review and Comment on Technical Studies*		60	30				\$20,000.00	\$31,700.00
Task 5.5 - Prepare Responses to Comments		40	40					\$10,000.00
Task 6 - GPA, ZC, TTM and DA	22							\$3,300.00
Task 7 - Annexation Services	72			30				\$13,800.00
<b>TOAL ESTIMATED COST</b>	<b>290</b>	<b>264</b>	<b>136</b>	<b>46</b>	<b>16</b>	<b>16</b>		<b>\$122,980.00</b>

\* Includes subconsultants, to be determined, to provide focused professional peer review. Initial budget of \$20,000, to be adjusted after HI completes initial review of technical studies

- II. ~~A retention of ten percent (10%) shall be held from each payment as a contract retention to be paid as a part of the final payment upon satisfactory completion of services.~~**
- III. Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task subbudget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.10.**
- VI. The City will compensate Contractor for the Services performed upon submission of a valid invoice. Each invoice is to include:**
- A. Line items for all personnel describing the work performed, the number of hours worked, and the hourly rate.
  - B. Line items for all materials and equipment properly charged to the Services.
  - C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.

- D. Line items for all approved subcontractor labor, supplies, equipment, materials, and travel properly charged to the Services.
- V. The total compensation for the Services shall not exceed \$123,000.00, as provided in Section 2.1 of this Agreement.

*It is critical to City that the scope of work be completed within the budget. Accordingly, monthly Consultant shall submit a written report to the Contract Officer entitled "Budget Tracking Report" which shall state the work completed by the Consultant to that point, what proportion it is to the whole project, the status of project completion compared to the schedule, whether cost over-runs are projected, and any recommendations as to actions needed to keep the project on budget and on schedule.*

- VI. The Contractor's billing rates for all personnel are attached as Exhibit C-1.

**Exhibit C-1**

Classification	Standard Hourly Rate
Principal, Alexa Washburn	150.00
Director of Environmental Planning, Randy Nichols	140.00
Associate Project Manager II, Chris Brown	110.00
Associate Project Manager I, Sarah McKearnan	100.00
Graphics/GIS Specialist	120.00
Word Processing/Clerical	65.00

**Direct Expenses**

Description	Cost
Black/White Prints	\$0.10/page
Color Prints	\$1.00/page
11"x17" Color Prints	\$2.00/page
CD w/ label and cover	\$0.97
Envelope (9x12)	\$0.10
Postage	at cost

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

Butterfield Ranch Specific Plan Project	Aug 2010	Sept 2010	Oct 2010	Nov 2010	Dec 2010	Jan 2011	Feb 2011
<b>Task 1 - Management of Specific Plan and EIR</b>							
1.1 - Project Coordination Meetings - City and HI							
1.2 - Project Coordination Meetings - HI and Applicant							
1.3 - Collaborative Website							
1.4 - Overall Project Management							
<b>Task 2 - Project Initiation &amp; Assessment</b>							
2.1 - Kick-Off Meeting and Site Tour							
2.2 - Document Review							
2.3 - Issues, Opportunities and Constraints							
<b>Task 3 - Community Outreach</b>							
3.1 - Public Workshops (3)			*	*	*		
3.2 - Public Hearings and Adoption (2)						*	**
<b>Task 4 - Specific Plan Review Services</b>							
4.1 - Administrative Draft Specific Plan							
4.2 - Draft Specific Plan							
4.3 - Additional Reviews of Draft Specific Plan							
4.4 - Final Specific Plan							
<b>Task 5 - EIR Peer Review Services</b>							
5.1 - Finalize Scope of EIR, Issue NOP, and Scoping Meeting	*						
5.1 - Finalize Scope of EIR, Issue NOP, and Scoping Meeting	*			*			*
5.3 - Review and Comment on Technical Studies							
5.4 - Review and Comment on Screencheck Drafts EIRs							
5.5 - Review/Edit or Prepare Response to Comments							
5.6 - Review/Edit or Prepare Final EIR							
<b>Task 6 - GPA, ZC, TTM and DA</b>							
6.1 - Process GPA, ZC, and TTM							
6.2 - Review and Comment on Development Agreement							
<b>Task 7 - Annexation Services</b>							
7.1 - Process Annexation							

**CITY COUNCIL AGENDA  
REPORT OF OFFICERS**

**DATE:** July 27, 2010

**TO:** Honorable Mayor and City Council

**FROM:** Andrew J. Takata, City Manager/Executive Director

**SUBJECT:** Resolution No. 2010-61 Making Certain Findings With Respect to the Use of Redevelopment Funds to Finance the Cost of the Downtown Water Main Improvements Project Within the Merged Redevelopment Project Area

**RECOMMENDATION:**

The City Council adopt Resolution No. 2010-61 making certain findings with respect to the use of redevelopment funds to finance the cost of the Downtown Water Main Improvements project within the Merged Redevelopment Project Area.

**JUSTIFICATION:**

Section 33445 of the California Community Redevelopment Law (Health and Safety Code § 33000, *et seq.*; hereinafter, the "CCRL") requires certain findings by and the consent of the legislative body (i.e., the City Council) when redevelopment agencies pay all or part of the value of the land for and the cost of installation and construction of any building, facility, structure or other improvement which is publicly owned located either within or outside a project area. In that vein, the Community Redevelopment Agency has proposed to fund the Downtown Water Main Improvements project. Therefore, adoption of the Resolution will assist the Agency in complying with CCRL § 33445.

**BACKGROUND:**

The Agency is organized and existing pursuant to the CCRL and is responsible for the administration of redevelopment activities within the City of Banning. On June 12, 1978, the City Council adopted Ordinance No. 709, which approved the Redevelopment Plan (the "Plan") for the Downtown Redevelopment Project (the "Downtown Project Area") and has amended the Plan for the Downtown Project Area on several occasions. On June 10, 1986, the City Council adopted Ordinance No. 906, which approved the Plan for the Midway Redevelopment Project (the "Midway Project Area") and has amended the Plan for the Midway Project Area on several occasions. On February 26, 2002, the City Council adopted Ordinance No. 1280, which merged the Downtown Project Area and the Midway Project Area (the "Merged Project Area") and has amended the Plan for the Merged Project Area on several occasions.

CCRL § 33445 (a) permits redevelopment agencies, with the consent of the legislative body (i.e., the City Council), to pay all or a part of the value of the land for and the cost of the installation and construction of any building, facility, structure, or other improvement that is publicly owned



and is located inside or contiguous to the project area, if the legislative body determines all of the following:

1. That the acquisition of land or the installation or construction of the buildings, facilities, structures, or other improvements that are publicly owned are of benefit to the project area by helping to eliminate blight within the project area or providing housing for low-or moderate-income persons;
2. That no other reasonable means of financing the acquisition of the land or installation or construction of the buildings, facilities, structures, or other improvements that are publicly owned, are available to the community; and
3. That the payment of funds for the acquisition of land or the cost of buildings, facilities, structures, or other improvements that are publicly owned is consistent with the implementation plan adopted pursuant to CCRL § 33490.

With respect to the qualifying prerequisites, as described above, § 33445 provides that the determinations by the Agency and the City Council shall be final and conclusive. In addition, with respect to redevelopment plans and amendments to those plans which add territory to a project, adopted after October 1, 1976, CCRL § 33445(b) requires that the acquisition of property and installation or construction of each facility shall be provided for in the redevelopment plan.

**DISCUSSION:**

The Agency is proposing to fund the cost of developing the Downtown Water Main Improvements project, which consists of the following component elements:

- a. Ramsey Street from 4<sup>th</sup> Street to Alessandro Road;
- b. Hays Street from 2<sup>nd</sup> Street to Murray Street;
- c. 2<sup>nd</sup> Street from Livingston Street to Williams Street;
- d. 1<sup>st</sup> Street from Livingston Street to Williams Street; and
- e. San Gorgonio Avenue from Livingston Street to Williams Street

Including a 10% construction contingency and the professional services costs, the Downtown Water Main Improvements project is estimated to cost \$1,157,945.00. The necessary appropriation and award of construction contract are the subjects of a companion report that are to be considered by the Agency Board during their meeting of July 27, 2010.

The Downtown Water Main Improvements project is of a scope that it is unlikely that the private sector acting alone would be able to fund its costs. Beginning in 2008, the nation has been faced with the most significant economic downturn since the Great Depression of the 1930s. The effects have been most acute in real estate development, particularly in Riverside County. Adequate public infrastructure is a prerequisite to any urban development. The conditions of development related to a proposed development plan can be so overwhelmingly expensive as to cause the proposed development plan to become economically infeasible. In that regard, major development projects were approved and in various stages of development within and outside of



the Project Area, amounting to thousands of housing units and/or square feet of commercial and industrial development, have been delayed (e.g., the Pardee project), cancelled or become bankrupt. Infrastructure in Banning is either aged or failing, under capacity for projected development, or non-existent. It is anticipated that when markets recover and development becomes feasible, that development will be attracted to areas with adequate infrastructure where new development will not face disproportionate costs. Further, per CCRL § 33030, inadequate public improvements or inadequate water or sewer utilities are characteristics of a blighted area. In view of these considerations, it behooves the Agency to proceed aggressively with a program of infrastructure development. As a corollary, rectifying infrastructure deficiencies contributes to the possibility that property owners will then be able to eliminate conditions of blight on their properties. Therefore, it is reasonable to conclude that the Agency's efforts to develop the Downtown Water Main Improvements project will significantly contribute to the elimination of blight within the Merged Project Area.

Given that the City's financial resources have been severely diminished as a result of the current national recession, the City does not have sufficient resources to finance the cost of the Downtown Water Main Improvements project. Given these circumstances, there are no other means reasonably available to the City to develop this project at this time.

The Downtown Water Main Improvements project will implement the goals and objectives of Banning's General Plan within the Merged Project Area and will lessen or eliminate blight and improve the affected neighborhoods. These results are more fully described within the attached Resolution.

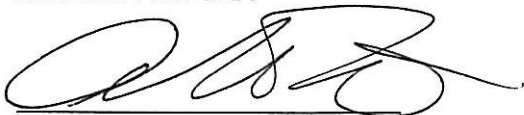
The redevelopment plan and five-year implementation plan for the Merged Project Area include detailed goals and objectives and/or lists of projects and programs, goals and objectives for the accomplishment of public facilities and improvements, economic development, community enhancement and affordable housing projects and programs that are sufficient in scope and detail to be inclusive of the Downtown Water Main Improvements project.

Pursuant to the foregoing, the Agency has met the prerequisites of CCRL § 33445, which enables the City Council to approve the attached Resolution.

**FISCAL DATA:**

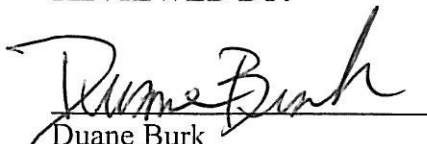
The only purpose of the Resolution is to confirm the Agency's compliance with CCRL § 33445 with respect to its use of redevelopment funds.

**APPROVED BY:**



Andy Takata  
City Manager/Executive Director

**REVIEWED BY:**



Duane Burk  
Director of Public Works

**REVIEWED BY:**

A handwritten signature in blue ink, appearing to read 'Zai Abu Bakar', written over a horizontal line.


Zai Abu Bakar  
Community Development Director

**REVIEWED BY:**

A handwritten signature in blue ink, appearing to read 'Kirby Warner', written over a horizontal line.

Kirby Warner  
Interim Administrative Services Director

**PREPARED BY:**

A handwritten signature in black ink, appearing to read 'Steven H. Dukett', written over a horizontal line.

Steven H. Dukett  
Redevelopment/Financial Advisor  
Urban Futures, Inc.

Attachment:

Resolution 2010-61

## RESOLUTION NO. 2010-61

### RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING MAKING CERTAIN FINDINGS WITH RESPECT TO THE USE OF REDEVELOPMENT FUNDS TO FINANCE THE COST OF THE DOWNTOWN WATER MAIN IMPROVEMENTS PROJECT WITHIN THE MERGED REDEVELOPMENT PROJECT AREA

**WHEREAS**, The Community Redevelopment Agency of the City of Banning (the "Agency") is organized and existing pursuant to the California Community Redevelopment Law (Health and Safety Code § 33000, *et seq.*; hereinafter, the "CCRL") and is responsible for the administration of redevelopment activities within the City of Banning (the "City"); and

**WHEREAS**, On June 12, 1978, the City Council (the "City Council") of the City adopted Ordinance No. 709, which approved the Redevelopment Plan (the "Plan") for the Downtown Redevelopment Project (the "Downtown Project Area") and has amended the Plan for the Downtown Project Area on several occasions; and

**WHEREAS**, On June 10, 1986, the City adopted Ordinance No. 906, which approved the Plan for the Midway Redevelopment Project (the "Midway Project Area") and has amended the Plan for the Midway Project Area on several occasions; and

**WHEREAS**, On February 26, 2002, the City Council adopted Ordinance No. 1280, which merged the Downtown Project Area and the Midway Project Area (the "Merged Project Area") and has amended the Plan for the Merged Project Area on several occasions; and

**WHEREAS**, The Downtown Water Main Improvements project consists of the following component elements:

- a. Ramsey Street from 4<sup>th</sup> Street to Alessandro Road;
- b. Hays Street from 2<sup>nd</sup> Street to Murray Street;
- c. 2<sup>nd</sup> Street from Livingston Street to Williams Street;
- d. 1<sup>st</sup> Street from Livingston Street to Williams Street; and
- e. San Geronio Avenue from Livingston Street to Williams Street

**WHEREAS**, The Downtown Water Main Improvements project will implement the goals and objectives of Banning's General Plan within the Merged Project Area and will lessen or eliminate blight and improve the affected neighborhoods; and

**WHEREAS**, CCRL § 33445 (a) permits redevelopment agencies, with the consent of the legislative body (i.e., the City Council), to pay all or a part of the value of the land for and the cost of the installation and construction of any building, facility, structure, or other improvement that is publicly owned and is located inside or contiguous to the project area, if the legislative body determines all of the following:

a. FINDING: That the acquisition of land or the installation or construction of the buildings, facilities, structures, or other improvements that are publicly owned are of benefit to the project area by helping to eliminate blight within the project area or providing housing for low-or moderate-income persons.

FACT: The Downtown Water Main Improvements project is of a scope that it is unlikely that the private sector acting alone would be able to fund its costs. Beginning in 2008, the nation has been faced with the most significant economic downturn since the Great Depression of the 1930s. The effects have been most acute in real estate development, particularly in Riverside County. Adequate public infrastructure is a prerequisite to any urban development. The conditions of development related to a proposed development plan can be so overwhelmingly expensive as to cause the proposed development plan to become economically infeasible. In that regard, major development projects were approved and in various stages of development within and outside of the Project Area, amounting to thousands of housing units and/or square feet of commercial and industrial development, have been delayed (e.g., the Pardee project), cancelled or become bankrupt. Infrastructure in Banning is either aged or failing, under capacity for projected development, or non-existent. It is anticipated that when markets recover and development becomes feasible, that development will be attracted to areas with adequate infrastructure where new development will not face disproportionate costs. In view of these considerations, it behooves the Agency to proceed aggressively with a program of infrastructure development. As a corollary, rectifying infrastructure deficiencies contributes to the possibility that property owners will then be able to eliminate conditions of blight on their properties. Therefore, it is reasonable to conclude that the Agency's efforts to develop the Downtown Water Main Improvements project will significantly contribute to the elimination of blight within the Merged Project Area.

b. FINDING: That no other reasonable means of financing the acquisition of the land or installation or construction of the buildings, facilities, structures, or other improvements that are publicly owned, are available to the community.

FACT: Given that the City's financial resources have been severely diminished as a result of the current national recession, the City does not have sufficient resources to finance the cost of the Downtown Water Main Improvements project. Given these circumstances, there are no other means reasonably available to the City to develop the Downtown Water Main Improvements project.

c. FINDING: That the payment of funds for the acquisition of land or the cost of buildings, facilities, structures, or other improvements that are publicly owned is consistent with the implementation plan adopted pursuant to CCRL § 33490.

FACT: The five-year implementation plan for the Merged Project Area includes detailed goals and objectives for the accomplishment of public facilities and improvements, economic development, community enhancement and affordable housing projects and programs that are sufficient in scope and detail to be inclusive of the Downtown Water Main Improvements project.

**WHEREAS,** With respect to the qualifying prerequisites, as described in the immediately preceding recital, CCRL § 33445 (b) (1) provides that the determinations by the Agency and the City Council shall be final and conclusive; and

**WHEREAS,** With respect to redevelopment plans and amendments to those plans which add territory to a project, adopted after October 1, 1976, CCRL § 33445(b) requires that the acquisition of property and installation or construction of each facility shall be provided for in the redevelopment plan; and

**WHEREAS,** The redevelopment plan for the Merged Project Area includes detailed lists of projects and programs, goals and objectives for the accomplishment of public facilities and improvements, economic development and community enhancement projects and programs that are sufficient in scope and detail to be inclusive of the Downtown Water Main Improvements project; and

**WHEREAS,** The purpose of this Resolution is to confirm the Agency's compliance with CCRL § 33445 with respect to its use of redevelopment funds; and

**WHEREAS,** All of the prerequisites with respect to the approval of this Resolution have been met.

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

- Section 1.** The foregoing recitals are true and correct and are a substantive part of this Resolution.
- Section 2.** The use of the taxes allocated from the Merged Project Area for the purpose of funding the Downtown Water Main Improvements project, will be of benefit to the Merged Project Area.
- Section 3.** There are no other reasonable means available to the community to finance the cost of the Downtown Water Main Improvements project.
- Section 4.** The Downtown Water Main Improvements project will assist in the elimination of blight in the Merged Project Area and are consistent with the Merged Project Area's redevelopment plan and five-year implementation plan.
- Section 5.** This Resolution shall take effect upon the date of its adoption.

**PASSED, APPROVED AND ADOPTED** this 27<sup>th</sup> day of July 2010.

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Bob Botts, Mayor  
City of Banning

APPROVED AS TO FORM  
AND LEGAL CONTENT

ATTEST

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Aleshire & Wynder, LLP  
City Attorney

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Marie A. Calderon, City Clerk  
City of Banning

**CERTIFICATION:**

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2010-\_\_\_ was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 27<sup>th</sup> day of July 2010, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Marie A. Calderon, City Clerk  
City of Banning

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**CITY COUNCIL AGENDA  
REPORT OF OFFICERS**

**DATE:** July 27, 2010

**TO:** Honorable Mayor and City Council

**FROM:** Andy Takata, City Manager

**SUBJECT:** Requests for Donation: San Gorgonio Pass Hispanic Chamber of Commerce, Playhouse Bowl, Stagecoach Days, Banning Chamber of Commerce, Carol's Kitchen

**RECOMMENDATION:**

Due to the current fiscal condition staff cannot recommend the approval of \$43,000 in donations to the San Gorgonio Pass Hispanic Chamber of Commerce, Playhouse Bowl, Stagecoach Days, Banning Chamber of Commerce, and Carol's Kitchen. Since most of these organizations have received funding in the past, the City Council may choose to fund these organizations as a transitional period in order for the organizations to prepare for the lack of city sponsorship or fiscal conditions change.

**JUSTIFICATION:**

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

**BACKGROUND:**

On March 24, 2009, the City Council adopted the City Council Donation and Sponsorship Policy for Community Events and Programs. This Policy set forth criteria to be used when considering requests for sponsorship or donations. One requirement was that "such requests are within the current budget appropriated for within the City Council's Contingency Account and shall not exceed the amount of \$1,000 for the fiscal year requested."

During the Budget Workshop held on June 21, 2010, the City Council discussed the various community programs and potential sponsorship or donations for those programs. Staff informed the Council that due to the current fiscal crisis, there were no funds available in the Contingency Account to fund any sponsorships or donations during the two year FY 2010-12 budget period.

The Council inquired whether the program sponsorships and donations could be funded through the City's utilities. Staff has reviewed the Electric Utility budget, and has determined that a maximum of \$43,000 in the form of lease payments to the General Fund could be allocated each year for this purpose, for the two year FY 2010-12 budget term. Funds would not be allocated beyond that period without further Council direction.



Currently the City has received sponsorship and donation requests in the following amounts:

San Geronio Pass Hispanic Chamber of Commerce	\$ 2,500.00
Playhouse Bowl	15,000.00
Stagecoach Days	5,000.00
Banning Chamber of Commerce	7,500.00
Carol's Kitchen	<u>13,000.00</u>

Total: \$43,000.00

Each of the requests is included herewith in Attachment 1 for your reference. These requests each exceed the \$1,000 limit established in the City Council Donation and Sponsorship Policy for Community Events and Programs. Staff is requesting direction from Council in addressing this issue.

Consistent with past practice, funds for donations will be released upon receipt of budget and financial documentation from the requesting organizations, as required by the City Council Donation and Sponsorship Policy for Community Events and Programs, and at the discretion of the City Manager, upon review.

**FISCAL DATA:**

If approved, the amount authorized by City Council will be appropriated from the Electric Utility Fund, and transferred from the Special Donations Account for the Electric Utility #670-7000-473.56-05 to the appropriate General Fund account for these expenditures.

**APPROVED/RECOMMENDED BY:**



Andy Takata  
City Manager

# ATTACHMENT 1

**SAN GORGONIO PASS HISPANIC CHAMBER OF COMMERCE  
& TA**

3800 W. Ramsey St  
Banning, CA 92220  
(951) 849-9029  
ID # 27-1932551

June 19, 2010

Andy Takata, City Manager  
City of Banning  
99 E. Ramsey St.  
Banning, CA 92220

Dear Mr. Takata:

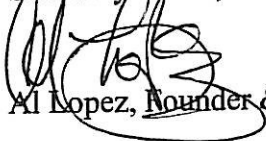
I am writing this letter on behalf of the Board of Directors and the Membership of the San Gorgonio Pass Hispanic Chamber of Commerce & Trade Association. We are currently preparing for our Eighth Annual Christmas Toy Distribution Project entitled "Posadas Navidenas/ Giving Joy on Christmas." The project will take place on Sunday, December 12, 2010 from 12:00 pm to 4:00 pm at the Repplier Park in Banning, California.

This event attracts over 1,000 people and provides free of charge NEW toys and entertainment for each and every child without discrimination, food for children and their families, and an opportunity for families to spend time together and make memories of their own.

The Christmas Toy Distribution Project "Posadas Navidenas/ Giving Joy on Christmas" is a well recognized and supported community partnership program. Nearly 100 volunteers will contribute more than 1000 hours of energy and talent to the needy children and families of this community. We are asking The City of Banning to continue its sponsorship as it has done in the past and to sponsor with \$2,500.00 towards this well recognized & worth while project because "No needy child should go without a toy during this Christmas Season".

I thank you for your continued support and the San Gorgonio Pass Hispanic Chamber of Commerce and Trade Association looks forward to working with you on our Eight Annual Christmas Toy Distribution Project 2010.

Sincerely Yours,



Al Lopez, Founder & Executive Director

Cc City Council

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# *Playhouse Bowl Association, Inc.*

*P.O. Box 355  
Banning, CA 92220  
(951) 922-3240  
Federal ID 33-0196267*

June 29, 2010

Mr. Andy Takata  
City Manager  
City of Banning  
P.O. Box 998  
Banning, Ca 92220

Dear Mr. Takata:

I am writing on behalf of the Playhouse Bowl Association. This year is our 58<sup>th</sup> year of producing the *Evenings in the Park* Summer Concert Series at the Laura May Stewart Playhouse Bowl at Repplier Park. The concert series is without a doubt one of the most eagerly anticipated and highly attended events in the entire Pass Area drawing not only local residents but people from the upper and lower deserts, the Hemet Valley, Riverside, Redlands, San Bernardino and even Orange County.

For many years the City of Banning has been our most ardent supporter and past sponsorships have enabled us to continue to improve and broaden our entertainment each season. As the average cost of each concert now exceeds \$8,500 your support is crucial to the continuation of the high quality of concerts people have come to expect. We know that Banning has been hit hard by the current economic crises in America and that monies spent are carefully scrutinized, but we also believe that when times are hard and people are struggling that being able to come together in beautiful surroundings with fantastic music is healing and brings hope and comfort.

We are a 501(c)3 organization with fourteen local unpaid volunteers and the Community Services Director has always been our city liaison. We work very hard to produce the concerts and keep the tradition alive. Every penny we receive is reinvested in the continuation of the concerts. Donations and sponsorships this year are down from previous years and our dependence on our supporters is greater than ever.

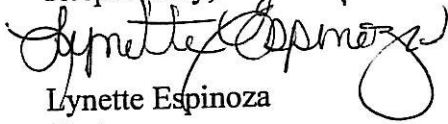
In the early 1990's the summer concerts attracted very large crowds, but as the association weakened along with their fundraising efforts the quality of entertainment fell drastically and the crowds dwindled from thousands to low hundreds. In 2000 a new

group of members took over and revitalized the concert series. Every year we have grown in both entertainment quality and attendance. Over 10,000 people attend our concerts each year and this year we expect well over 13,000.

We trust that city knows how important these concerts are to the citizens of Banning and what a positive image they bring to the city. It is our sincere hope that you will continue your support of the *Evenings in the Park* and that you will donate \$15,000 as you have the last two years.

Should you have any questions that I have not answered or require further information, please contact me at 909-286-6496. Thank you for your consideration and anticipated response.

Respectfully,

A handwritten signature in cursive script, appearing to read "Lynette Espinoza".

Lynette Espinoza  
Chair

# Stagecoach Days Committee

*The goal for our Stagecoach Days Committee is to manage the Stagecoach Days Celebration by working to increase membership of the committee, get all of the work done by volunteers and have it paid for by our sponsorships!*

- Give a brief history of Stagecoach Days and the committee's involved with Stagecoach Days in the past several years.
- What our committee is doing differently:
  1. We are in the process of getting a non-profit 501-3C filed with the State to make the committee officially a non profit.
  2. We opened our own separate bank account last year for donations and expenses.
  3. We mailed over 250 sponsorship letters this year to local businesses. We will also be contacting them by phone.
  4. We have partnered with other organizations in the community like the Kiwanis Club, the Rotary Club, Cultural Alliance and with United Way Day of Caring to provide the community with a very special Stagecoach Days and September 11<sup>th</sup> Day to Remember.
  5. We have 2 fundraisers planned to raise money for Stagecoach Days

6. We have asked to increase the amount of carnival rides for this year.
7. We are inviting all active military, law enforcement and fire personnel to come into the park for free!
8. We are working to make a food court inside next to the entertainment and beverage area; The families will be able to sit at the tables and chairs and watch the entertainment and rest while other family members are going on rides or enjoying other activities in the park.
9. We have kept the cost very low again this year for admission into the park, for vendors and also for the carnival rides. We know this is tough financial times and many of our residents don't have the money to go out of town for entertainment. This will provide the Pass area residents good entertainment, very reasonable priced!

**Repair work needs to be done at Dysart Park not just for Stagecoach Days but for all activities in Dysart Park (estimated cost for supplies is \$8,000.00 to \$10,000.00):**

- Spring Loaded Disconnect, 100 amp. 2 pole 120/240 volt (There is a spring loaded disconnect on the west side of the arena but not on the east side). We had problems in the arena all 4 days last year because of this problem. The city crew was called out for time and a half every day last year because of this problem.
- 40 feet or more of conduit
- 50 amp. 120/240 in the parking area
- Breaker box needs to be repaired or replaced (vandalism)

- Replace the announcers booth stairs and handrail
- Clean and paint announcers booth
- Replace 4 stools for the announcers booth
- Repair fence where needed
- Add fence to empty area's
- Construct an entry area for the park
- Add more directional signage all over the park
- Add water pipe to food court area
- Add water pipe to encampment area
- Repair water lines and sprinkler lines
- Repair water faucet
- Paint office
- Paint vendor booths

We are asking the City to provide the Stagecoach Days Committee with \$5000.00 to help pay for a portion of the Stagecoach Days Celebration and the \$8,000.00 to \$10,000.00 to pay the supply cost to repair the necessary items in the park for Stagecoach Days and also for all the other events in the park. There have been roping events in the park, barrel racing and other community wide events in Dysart Park through out the year.

We sincerely hope the city has the faith in the Stagecoach Days Committee to manage the largest community event in Banning by funding a small portion of the event!





June 15, 2010

Dear Andy Takata,

The Stagecoach Scramble Pro-Am Series is an economic magnet for the cities of Banning, Beaumont and the County of Riverside. The tournament will be played the weekends of July 31-August 1, August 14-15, and August 21-22 on the Legends and Champion courses of **East Valley Golf Club in Beaumont**. The co-host hotel is the **Hampton Inn in Banning**.

Each team consists of 4 players (A, B, C, D flights) and a golf professional. The pros will be competing for cash and the amateurs will be competing for bragging rights along with specially designed trophies and excellent prizes. Players are vying to reach the finals on October 2, 2010.

**East Valley Golf Club** gets to show off two excellent courses to new audiences as well as taking in over \$50,000 in green fees on 3 separate weekends with at least \$7,500 more taken in on the final weekend. It would seem logical that substantial dollars will also be spent in their pro shop.

The tournament was designed to keep players in The Pass Area for the weekends of the tournament. That means we have these guests with high disposable incomes spending money in the City of Banning. Our official tournament website: [stagecoachscramble.com](http://stagecoachscramble.com) will feature accommodation pages to have people: stay at the Hampton Inn, eat at Russo, the Sizzler and more of our Banning restaurants. We have even designed a special promotion to have them fuel their vehicles before they leave Banning!

Through our partnership with the PGA, we will be marketing to 1,800 golf professionals in the Southern Section of the PGA, along with targeted marketing to over 160,000 SCGA (Southern California Golf Association) amateur members.

Our title sponsor is the Morongo Resort & Spa. One of our major (Eagle) sponsors is Perricone Juice, with more coming onboard on a daily basis.

Over 50 local sponsors/businesses have the opportunity to put a redeemable coupon in the merchandise bag being given to each player. Along with the shirts, golf balls, towels and other merchandise, these coupons will be attractively packaged and encourage tournament participants to return and spend money in our communities, not only on the weekend of the Banning Economic Development Corporation, a 501(c) 3 non-profit  
66 E. Ramsey Street, Banning, CA 92220 Tel: 951.849-4695 Web: [stagecoachscramble.com](http://stagecoachscramble.com)  
Email: [banningchamber1@verizon.net](mailto:banningchamber1@verizon.net)

Recycling Profits to Help Build A Better Community™

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events but when they return to the cities of **Banning** and **Beaumont** to redeem the coupons they received in their tournament bags. This presents outstanding opportunities to showcase what many motorists have "passed up" in The Pass.

No program or tournament can flourish without sponsorship. We are asking you for a contribution of \$7,500. You will be identified as a major supporter in all tournament materials in print and on the Internet and receive credit and identification on merchandise as well as having the City of Banning banner proudly flying during all tournament play.

You will be the integral link between enhancing business in the cities of Banning and Beaumont, located in Riverside County. Because of the increase of the number of people we will put in our hotels, restaurants and gas stations, we will be generating sales tax revenues, TOT dollars and introducing an ongoing number of people to find the many things the City of Banning has to offer.

Banning will have the opportunity to place a coupon in the promotion bag including promoting Banning events in the fall of 2010 or 2011.

We are asking both cities and the county to participate in what promises to be an exciting event. We are already experiencing queries from interested parties as to whether we will expand the 2011 event.

Thank you for your participation.

Sincerely,

Jim Smith, Managing Director  
Banning Chamber of Commerce/Banning Economic Development Corporation

Banning Economic Development Corporation, a 501(c) 3 non-profit  
66 E. Ramsey Street, Banning, CA 92220 Tel: 951.849-4695 Web: [stagecoachscramble.com](http://stagecoachscramble.com)  
Email: [banningchamber1@verizon.net](mailto:banningchamber1@verizon.net)

Recycling Profits to Help Build A Better Community™

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#### Board of Directors

#### Officers

Jim McConnell, *President*  
Gene Wood, *Vice President*  
Rich Asman, *Treasurer*  
Father Jeff Wilhelm, *Secretary*

#### Directors

Ed Barba  
Ron Kraus  
Rev. Scott Mason  
Paul St. Martin  
Johnny Russo  
Anne Zacovic

Andy Takata  
City Manager  
Banning, California

July 6, 2010

As a result of recent financial constraints the City of Banning has adopted a budget requesting Carol's Kitchen pay rent to offset the projected deficit. We understand the tough times we are in and have experienced firsthand how the economy has affected yours and our operations. During the past 12 months our clients served is up over 40% yet at the same time our revenues have decreased approximately the same amount.

While we appreciate the support the City of Banning has given over the years in the form of facility use we find ourselves having to contemplate a reduction in services in the City of Banning if we are forced to include rent in our already stretched budget. In spite of the fact that we are in a constant fundraising mode, the current conditions would not allow us to project enough revenue to make a commitment to a rent factor.

On behalf of the Board of Director's and Volunteer's of Carol's Kitchen I would like to personally thank the City for their support and express our gratitude for any concessions you may be able to make to ensure that the vital services we provide will not be interrupted.

Thank you for your courtesy and consideration,

Jim McConnell  
Executive Director, Carol's Kitchen



Carol Ragan  
1967-1996



***carolskitcheninc.org***

*Feeding and clothing the needy since 1998*

P.O. Box 95 Calimesa, CA 92320 • (951) 845-9202

Carol's Kitchen is a non-profit, 501(c)(3) Corporation - Tax I.D. #330819778

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

July 27, 2010  
5:00 p.m.

Banning Civic Center  
Council Chambers  
99 E. Ramsey St.

*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**

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

**II. REPORT ON CLOSED SESSION**

**III. PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS**

**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.

**PRESENTATION:**

1. "Pass to Class" – Presentation by James Foster, Transportation Manager  
for Morongo Band of Mission Indians (ORAL)

*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.*