

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

September 28, 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/APPOINTMENTS**

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

*A three-minute limitation shall apply to each member of the public who wishes to address the Mayor and Council on a matter not on the agenda. A thirty-minute time limit is placed on this section. No member of the public shall be permitted to “share” his/her three minutes with any other member of the public. (Usually, any items received under this heading are referred to staff or future study, research, completion and/or future Council Action.) (See last page. PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD.*

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

**PRESENTATIONS:**

1. Presentation from Riverside County Registrar of Voters (ORAL)
2. Proclamation – “Tenth Annual Binational Health Week” Oct. 4-15, 2010. . 1
3. Proclamation – “Recognizing Public Power Week” Oct. 3-9, 2010 . . . . . 3

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

APPOINTMENTS:

1.	Designation of Voting Delegate(s) to the National League of Cities Conference – Nov. 30 – Dec. 4, 2010 . . . . .	4
2.	Appointment of Ad Hoc Committee to Review FY 2011/12 Community Development Block Grant (CDBG) Program Applications . . .	7

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

**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 12**

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

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

1.	Approval of Minutes – Joint Meeting – 09/14/10 . . . . .	8
2.	Approval of Minutes – Regular Meeting – 09/14/10. . . . .	10
3.	Approval of Accounts Payable and Payroll Warrants for the Month of July 2010 . . . . .	34
4.	Report of Investment for June 2010 . . . . .	37
5.	Report of Investment for July 2010 . . . . .	47
6.	Accept the Right-of-Way Dedication for APN 532-110-005 . . . . .	57
7.	Approve Final Tract Map No. 32370 (consists of 20 subdivision lots located on the west side of the intersection of Mountain Ave. and Red Bluff Lane) . . . . .	62
8.	Resolution No. 2010-45, Employer-Employee Relations Resolution which Supersedes Resolution No. 2007-71 . . . . .	64
9.	Resolution No. 2010-67, Approving the Appropriation of Funds from the fund balance in the amount of \$1,488,517 for the City of Banning's Public Benefit Programs. . . . .	82
10.	Resolution No. 2010-68, Authorizing Investment of Monies in the Local Agency Investment Fund . . . . .	85
11.	Resolution No. 2010-69, Awarding the Construction Contract for Federal Aviation Administration Airport Improvement Project No. 3-06-0018 AIP 10 (C), Airport Rotating beacon, Wind Cone, Segmented Circle & AWOS to Cindy Bales Engineering, Inc. from Big Bear City, Calif. for an amount "Not to Exceed" \$32,246.50 . . . . .	88
12.	Resolution No. 2010-08 UA, Awarding a Professional Services Agreement for the Whitewater Flume Restoration to Tomas R. Payne & Associates of Arcata, Calif. for an amount "Not to Exceed" \$37,900.00. .	92

- Open for Public Comments
- Make Motion

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

**V. PUBLIC HEARINGS**

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

1. Banning Pass Transit Service Route Reduction ..... 96  
Staff Report .....  
Recommendation: **That the City Council approve the proposed route reduction of the Banning Pass Transit System to be effective October 15, 2010.**

**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. Schedule Meeting with Banning Library Board
3. Update on Economic Development Plan
4. Update on Golf Carts

Future Meetings –

1. October 28, 2010 at 5:00 p.m. – Jt. Meeting with the Banning School Board

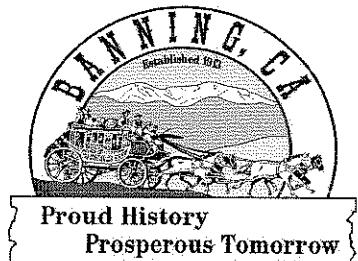
**VIII. ADJOURNMENT**

*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].



## PROCLAMATION

**WHEREAS**, According to the 2006 United States Census, this country is home to more than 44.5 million people of Latino origin; and

**WHEREAS**, Improving the health of mobile populations requires multiple approaches in service design, delivery, funding priorities, and most fundamentally, requires strong binational commitment; and

**WHEREAS**, In October 2001 to 2007 and 2008 the Health Initiative of the Americas, and partnering organizations convened the first eight Binational Health Weeks, an unprecedented effort overseen by multi-agency taskforces, which conducted health promotion and education activities for the underserved Latino population in the United States and over one million people benefited from the health care activities; and

**WHEREAS**, Binational Health Week reflects coordinated efforts to improve the quality of life of underserved populations by expanding their access to health care, increasing their health insurance coverage, and reducing their unmet health needs; and

**WHEREAS**, the City of Banning acknowledges the many organizations and volunteers collaborating in the organization of health fairs and educations health workshops; and

**WHEREAS**, Binational Health Week provided an opportunity to highlight critical health issues in the city of Banning and throughout the United States and will serve as the basis for future bilateral efforts; and

**WHEREAS**, the City of Banning is committed to recognizing and honoring those observances that are dedicated to the best ideals of public services, and Binational Health Week is one such worthy observance.

**NOW, THEREFORE, BE IT RESOLVED**, that, I, Robert Botts, Mayor of the City of Banning along with the City Council do hereby proclaim the week of October 4-15, 2010 as "**THE TENTH ANNUAL BINATIONAL HEALTH WEEK**" in honor of those efforts to improve public health.

**IN WITNESS WHEREOF**, I have set my hand and caused the seal of the City of Banning, California to be affixed this 28<sup>th</sup> day of September, 2010.

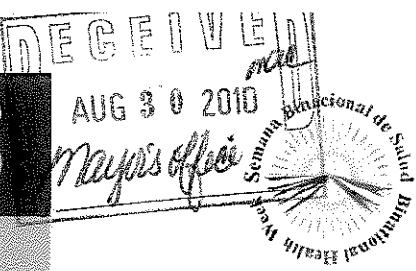
**ATTEST:**

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Marie A Calderon, City Clerk

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Robert E. Botts, Mayor



"2010, Año de la Patria. Bicentenario del Inicio de la Independencia y Centenario del Inicio de la Revolución"

The Hon. Bob Botts  
Mayor  
City of Banning

San Bernardino, California, 20 Aug. 2010

Dear Mayor Botts,

On behalf of the Consulate of Mexico in San Bernardino I wish to commend the City of Banning on its commitment to improving access to health care for the underserved population in our region.

The Binational Health Week (BHW) has become one of the largest mobilization efforts in the Americas to improve the health and well-being of underserved populations of Latin American origin living in the United States and Canada. It encompasses an annual weeklong series of health promotion and health education activities that include workshops, insurance referrals, and medical screenings. BHW events emerge from networks forged among agencies and organizations working on mobile population health issues and, in turn, foster ongoing collaboration.

This year, BHW will take place **October 4-15, 2010** in 40 states in the U.S. and 3 provinces in Canada, with the participation of the consular networks of Mexico, Guatemala, El Salvador, Colombia, Honduras, Ecuador, and Peru. During Binational Health Week, a national campaign will take place to promote awareness among the underserved Latino community on the topics: Prevention of Addictions and Gang Involvement among Adolescents, Oral Health, Obesity and Diabetes, Disabilities and Autism Awareness, and Access to Health Care.

The Ninth Annual BHW took place October 3-15, 2009. An estimated 765,901 people participated in 5,082 activities throughout the United States and Canada. In addition, 10,875 agencies and 17,044 volunteers participated in the organization of the activities, with the leadership of 140 consulates working together with 174 planning committees.

This expansion was due in large part to partnerships between main partners including the Secretariats of Health and of Foreign Affairs of Mexico, the Ministries of Foreign Affairs of El Salvador, Guatemala, Nicaragua, Honduras, and Colombia, the Institute for Mexicans Abroad, the Mexican Social Security Institute, California's Department of Public Health, The California Endowment, the California HealthCare Foundation, the United States-Mexico Border Health Commission, and the Health Initiative of the Americas, a program of the University of California in Berkeley, School of Public Health. BHW is intended as a first step in a larger program of cooperation amongst the United States and Latin American countries to improve the health and well-being of underserved populations.

The planning for the Tenth Annual Binational Health Week has already commenced in the Inland Empire.

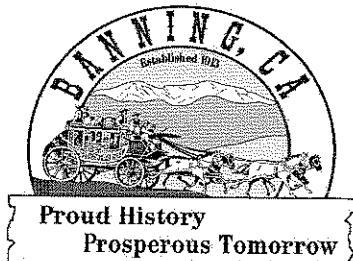
The Consulate of Mexico in San Bernardino hereby kindly asks the City of Banning to endorse this effort through a **Resolution or Proclamation** that would officially endorse BHW and would call on the residents of your jurisdiction to participate in BHW activities. I have attached a draft resolution for you to review and revise as needed.

Please feel free to contact me with any questions at the phone numbers below or at [consulmexsbd@sre.gob.mx](mailto:consulmexsbd@sre.gob.mx).

Sincerely,

Carolina Zaragoza Flores  
Consul of Mexico

2



## PROCLAMATION

**WHEREAS**, we, the citizens of The City of Banning, place high value on local control over community services and therefore have chosen to operate a community-owned, locally controlled, not-for-profit electric utility and, as consumers and owners of our electric utility, have a direct say in utility operations and policies; and

**WHEREAS**, The City of Banning Electric Utility provides our homes, businesses, and local government agencies with reliable, efficient, and cost-effective electricity, employing sound business practices designed to ensure the best possible service at not-for-profit rates; and

**WHEREAS**, The City of Banning Electric Utility is a valuable community asset that contributes substantially to the well-being of local citizens through energy efficiency, customer service, environmental protection, economic development, and safety awareness, and continues to make our community a better place in which to live and work; and

**WHEREAS**, The City of Banning Electric Utility will continue to work to bring safe, reliable electricity to community homes and businesses just as it has since 1922, the year when the municipal utility was created to serve all the citizens of The City of Banning.

**NOW, THEREFORE, BE IT RESOLVED**, that, I, Robert Botts, Mayor of the City of Banning along with the City Council do hereby proclaim and designate the week of October 3-9, 2010 as "THE 24<sup>th</sup> ANNUAL PUBLIC POWER WEEK" in order to honor the City of Banning Electric Utility for its contributions to the community and to make its consumer-owners, policy makers, and employees more aware of its contributions to their well-being and how it makes their lives powerful; and

**BE IT FURTHER RESOLVED** that our community joins hands with more than 2,000 other public power systems in the United States in this celebration of public power and recognition that public power is good for consumers, business, the community, and the nation.

**IN WITNESS WHEREOF**, I have set my hand and caused the seal of the City of Banning, California to be affixed this 28<sup>th</sup> day of September, 2010.

**ATTEST:**

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Marie A. Calderon, City Clerk

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Robert E. Botts, Mayor

To strengthen  
and promote  
cities as centers  
of opportunity,  
leadership, and  
governance.



National League of Cities

1301 Pennsylvania Ave., N.W.  
Washington, D.C. 20004-1763  
202-626-3000  
Fax: 202-626-3043  
[www.nlc.org](http://www.nlc.org)

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Executive Director  
Donald J. Borut

August 20, 2010

Ms. Marie A. Calderon  
City Clerk  
City of Banning  
PO Box 998  
Banning, CA 92220

Dear Ms. Calderon:

The National League of Cities (NLC) Annual Business Meeting will be held on Saturday, December 4, 2010, at the conclusion of the Congress of Cities and Exposition in Denver, CO. As a direct member city, your city is entitled to vote at this meeting. Based on the population as of the 2000 Census, each member city casts between one and twenty votes. The number of votes for each population range can be found on the table on the reverse of the credentials form.

To be eligible to cast a city's vote, a voting delegate and alternate must be officially designated by the city using the enclosed credentials form. This form will be forwarded to NLC Credentials Committee. NLC bylaws expressly prohibit voting by proxy. City elected officials should be made aware of this request so that decisions can be made as to who will be the voting delegate and alternate(s).

At the Congress of Cities, the voting delegate must pick up the city's voting card at the Credentials Booth before the Annual Business Meeting and must be present at the Annual Business Meeting to cast the city's vote. The Credentials Booth will be open during scheduled times throughout the Congress of Cities.

**Please return the completed form to NLC by fax 202-626-3109 on or before October 30, 2010.** If you have any questions, please contact Tata Sidibe, [sidibe@nlc.org](mailto:sidibe@nlc.org) or 202-626-3188 or Mae Davis, [mdavis@nlc.org](mailto:mdavis@nlc.org), 202-626-3150.

Thank you,

Donald J. Borut  
Executive Director



**NATIONAL LEAGUE OF CITIES**  
**2010 CONGRESS OF CITIES**  
**DENVER, COLORADO**

**Number of Votes – Annual Business Meeting**

**Direct Member Cities**

Article IV, Section 2 of the National League of Cities bylaws specifies the number of votes that each NLC direct member city is entitled to cast at the Annual Business Meeting at the Congress of Cities. Member cities are required by the bylaws to cast unanimous votes.

CITY POPULATION (per 2000 Census)	NUMBER OF VOTES
Under 50,000	1 vote
50,000 – 99,999	2 votes
100,000 – 199,999	4 votes
200,000 – 299,999	6 votes
300,000 – 399,999	8 votes
400,000 – 499,999	10 votes
500,000 – 599,999	12 votes
600,000 – 699,999	14 votes
700,000 – 799,999	16 votes
800,000 – 899,999	18 votes
900,000 and above	20 votes



## CREDENTIALS FORM

NATIONAL LEAGUE OF CITIES • 2010 CONGRESS OF CITIES • DENVER, COLORADO

At the Annual Business Meeting on Saturday, December 4, 2010, each direct member city of NLC is entitled to cast from one to 20 votes based upon the city's population per the 2000 census, through its designated voting delegate. Please indicate below your city and state, voting delegate and alternate(s), and sign and date the form. The form should be faxed to NLC at 202-626-3109, by the October 30, 2010, deadline.

The official voting delegate and alternate(s) for the city/town of:

**City of Banning CA 23562 (1)**

(type or print the name of your city/town and state)

### VOTING DELEGATE:

1. NAME \_\_\_\_\_  
TITLE \_\_\_\_\_

Votes: \_\_\_\_\_  
(signature)

1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_

### ALTERNATE VOTING DELEGATE(S):

2. NAME \_\_\_\_\_  
TITLE \_\_\_\_\_

3. NAME \_\_\_\_\_  
TITLE \_\_\_\_\_

PLEASE SIGN AND FAX THIS FORM TO NLC BY OCTOBER 30, 2010  
ATTENTION: TATA SIDIBE, MEMBERSHIP RELATIONS ASSISTANT  
FAX: 202-626-3109

Signature (city representative): \_\_\_\_\_

# CITY OF BANNING

## MEMORANDUM



**DATE:** September 16, 2010

**TO:** City Council

**CC:** Marie Calderon, City Clerk

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

**RE:** AD-HOC Committee Request

*DB*

The Engineering Division requests the City Council to appoint a committee at the September 28, 2010 meeting, consisting of at least two members from the City Council, to review and recommend FY 2011/12 Community Development Block Grant (CDBG) program applications. Below is a schedule of important dates that are necessary in order to ensure that the City meets Riverside County Economic Development Agency's application deadline.

**September 28, 2010** – Council to appoint a committee.

**October 13, 2010** – Community Development Block Applications due to the City.

**October 18, 2010 – October 27, 2010** – Committee to meet within the provided dates.

**October 28, 2010** – Staff report due to the City Clerk

**November 9, 2010** – Resolution to be taken to Council requesting approval of projects.

**December 2, 2010** – City approved applications, minutes and resolution due to the EDA.

Our Mission as a City is to provide citizens a safe, pleasant and prosperous community in which to live, work and play. We will achieve this in a cost effective, citizen friendly and open manner.

MINUTES  
CITY COUNCIL  
BANNING, CALIFORNIA

09/14/10  
JOINT MEETING

A joint meeting of the Banning City Council and the Community Redevelopment Agency was called to order by Mayor Botts on September 14, 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 (*arriv. 4:03 p.m.*)  
Councilmember Machisic  
Councilmember Robinson  
Mayor Botts

**COUNCIL MEMBERS ABSENT:**

None

**OTHERS PRESENT:**

Andrew Takata, City Manager/Executive Director  
David J. Aleshire, City Attorney  
Duane Burk, Public Works Director  
Zai Abu Bakar, Community Development Director  
Steve Dukett, Consultant  
Marie A. Calderon, City Clerk/Secretary

**CLOSED SESSION**

City Attorney announced that the City Council will meet in closed session pursuant to Government Code section 54956.9 (a) regarding pending litigation involving Maddux and Stewart - Case No. RIC 10008847; and the City Council will meet in closed session regarding threat of litigation pursuant to the provisions of Government Code Section 54956.9 (b) (1).

Agency Counsel said that the Redevelopment Agency Board will meet in closed session pursuant to Government Code Section 54956.8 regarding real property negotiations involving 1) 2301 W. Ramsey Street (APN 538-162-016 – former All Star Dodge property); 2) 280 E. Ramsey Street (APN 541-183-004); and 3) 1585 and 1601 W. Ramsey Street (APNs 540-130-024 and 538-150-001 – former Ramsey Ford properties) and a status report will be given on these properties.

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 at 4:55 p.m.

The meeting recessed at 5:07 p.m. and reconvened at 5:15 p.m.

ADJOURNMENT

By common consent the meeting adjourned at 5:18 p.m.

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Marie A. Calderon, City Clerk/  
Agency Secretary

MINUTES  
CITY COUNCIL  
BANNING, CALIFORNIA

09/14/10  
REGULAR MEETING

A regular meeting of the Banning City Council and a Joint Meeting of the Banning City Council and Banning Utility Authority was called to order by Mayor Botts on September 14, 2010 at 5:15 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

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

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Andrew Takata, City Manager  
David J. Aleshire, City Attorney  
Kirby Warner, Interim Administrative Services Director  
Duane Burk, Public Works Director  
Zai Abu-Bakar, Community Development Director  
Leonard Purvis, Police Chief  
Fred Mason, Electric Utility Director  
Heidi Meraz, Community Services Director  
Marie A. Calderon, City Clerk

Mayor Botts gave the invocation. Councilmember Machisic invited the audience to join him in the Pledge of Allegiance to the Flag.

REPORT ON CLOSED SESSION

City Attorney announced that the City Council met in closed on a litigation matter involving Maddux and a status report was given and no reportable action was taken. There was a second litigation matter involving a matter of threat of litigation and a status report was given and no reportable action was taken. For the Redevelopment Agency there were various real property matters involving 1) the All Star Dodge property; 2) 280 E. Ramsey Street (APN 541-183-004); and 3) 1585 and 1601 W. Ramsey Street (APNs 540-130-024 and 538-150-001 – former Ramsey Ford properties) property and status reports were given in regards to these three matters and no reportable action was taken on these three matters.

PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS

PUBLIC COMMENTS

Anthony Fazio, 1428 Adams addressed the Council stating that the coffee shop was sold and was that money given back to the City. He understands that Barbara Hanna's church had owned that and did that go to the church or back to the City.

Mayor Botts explained that in this session the Council listens and if there are some answers they will ask staff to develop those answers. This not a place where we have discourse and argument and he would be happy to have staff work on that.

Charlene Sakurai, 4985 Bermuda Dunes addressed the Council stating wonderful Stagecoach Days Parade. She thinks the committee did a fabulous job and having the Marines here was really very special. And all of the support that the City gave was really over and above and it showed. She thinks that everyone that attended and participated in any way feels the same way she does and she is very grateful for all that hard work.

Dennis addressed the Council stating that he has lived here for forty years and he noticed that you are reopening a Christian school on Wilson and Mountain. He said the reason they closed that school was because of lead poisoning. There is a nuclear waste dump buried over there and that is why the kids were getting sick so somebody needs to do some research on this and not open that school so that our kids do not get sick because there are a lot of new people in the area that do not know that. He said he knows that it has never been dug up and he knows that it is still there. He knows people in that area died from leukemia, cancer and other serious diseases and it is still going on. Somebody needs to make sure that children are protected and something needs to look into that school. He would appreciate it if the Council would put this on their agenda to have it taken care of.

Mayor Botts said he would look into it to the extent that we can. Obviously we probably don't have not have jurisdiction but we do have jurisdiction for health and safety issues for everyone in Banning.

Joanne Teland, 38000 W. Wilson addressed the Council stating that she read in the newspaper that they are going to start work on the college and number one, the bond issue hasn't passed and number two, if anyone has driven on Sunset on the south side of the freeway it is a little bit kind of hairy if there is an earthquake and people are over there. It is her understanding that the underpass/overpass was supposed to be finished by the end of this year. How can you possibly think about putting a college over there with no ingress or egress?

Mayor Botts said nowhere has there ever been a discussion that the underpass (grade separation) would be done by the end of the year. Those of you that follow this regularly we have been collecting money and need about \$26 million in order to build that. It is moving forward and Caltrans has it under review and design and the Riverside County Transportation Commission have put money into this and are taking the lead on it and the project is moving forward. The college is a separate issue and they are putting a campus there unrelated to the bond issue. There are two streets, Lincoln and Westward, to get out of that area.

Mike Santa Cruz addressed the Council stating that during the parade a lady almost fell right on the corner of San Gorgonio and Ramsey going west on San Gorgonio. There is a hole and he has been reporting it to the City and he has been told that the City is taking care of it but nothing has been done.

Steve Higbee, 1617 N. San Gorgonio said that he would like to clarify a little bit about Monte Vista School. He said his children went to school there up until early 2000. The school was closed not because of lead poisoning but because of cottage cheese asbestos. And the additional reason for closing the school was lack of support from the church that owned the property. It was a successful school up until that time but has nothing to do with lead poisoning.

CORRESPONDENCE: None

CONSENT ITEMS

Councilmember Franklin pulled Consent Item No. 7.

1. Approval of Minutes – Joint Meeting – 08/24/10

Recommendation: That the minutes of the Joint Meeting of August 24, 2010 be approved.

2. Approval of Minutes - Regular Meeting – 08/24/10

Recommendation: That the minutes of the regular meeting of August 24, 2010 be approved.

3. Ordinance No. 1426 – 2<sup>nd</sup> Reading: An Ordinance of the City Council of the City of Banning, California, Adopting Initial Study/Negative Declaration and Amending Section 5.08.080(K) and Table 17.12.020 of Section 17.12.020 and Adding a New Chapter 5.74 to the Municipal Code Regarding State Certified Massage Establishments, Massage Practitioners/Therapists (Zone Text Amending No. 09-97505).

Recommendation: That Ordinance No. 1426 pass its second reading and be adopted.

4. Ordinance No. 1427 – 2<sup>nd</sup> Reading: An Ordinance of the City Council of the City of Banning, California, Amending the Banning Municipal Code to Change the Regular Meeting Date of the Banning Planning Commission.

Recommendation: That Ordinance No. 1427 pass its second reading and be adopted.

5. Notice of Completion for Project No. 2010-01, Phase 3 Improvements to the City of Banning's Community Center Gym.

Recommendation: That the City Council accept Project No. 2010-01, Phase 3 Improvements to the City of Banning's Community Center Gym as complete and direct the City Clerk to record the Notice of Completion.

6. Award Mandatory Water Testing Analytical Services Agreement at Various Locations within the City of Banning to E. S. Babcock & Sons, Inc. in an Amount not-to-exceed \$50,000 per fiscal year.

Recommendation: Authorize the City Manager on an annual basis to enter into an agreement, within the approved funding levels set forth in the Water Department's annual adopted budget, for Water Testing Analytical Services on an as needed basis. Such Agreements in excess of \$25,000, for mandatory analytical services only, will not require any further action by the City Council. Award an agreement for Water Testing Laboratory Services to E.S. Babcock & Sons, Inc. in an amount not-to-exceed \$50,000 per fiscal year.

**Motion Hanna/Robinson that Consent Items 1 through 6 be approved.** Mayor Botts opened the item for public comments. There were none. **Motion carried, all in favor.**

7. Resolution No. 2010-66, Accepting Community Development Block Grant Program Funds (CDBG) for Fiscal Year 2010-2011.

Councilmember Franklin said that she would be abstaining from voting because of her relationship with the San Gorgonio Child Care Consortium and even though legally she doesn't have an issue, ethically she won't be voting on that item.

Mayor Botts said that he would also be abstaining because he is on the Boys and Girls Club Board and the City Attorney has advised him that he does not have a conflict of interest.

**Motion Machisic/Robinson to approve Consent Item No. 7 adopting Resolution No. 2010.** Mayor Botts opened the item for public comments. There were none. **Motion carried with Councilmember Franklin and Mayor Botts abstaining.**

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

Mayor Botts called to order a joint meeting of the Banning City Council and the Banning Utility Authority

**PUBLIC HEARINGS**

1. Urgency Ordinance No. 1428, Increase of the Water Rates for the Water Utility (Staff Report – Kirby Warner, Interim Administrative Services Director)

Mr. Warner said that the purpose this evening's meeting is to have a staff report on the proposed rates and recap some of the things that have taken place since July 26<sup>th</sup> and before and in that staff will go through the specific actions that we have taken during that time as well as up to tonight. At this point Mr. Warner started his power-point presentation (see attachment "A") explaining each of the points he had listed.

Councilmember Franklin said for clarification you said we are paying our debt right now; it's mainly the reserves and have we ever been behind on paying the actual debt.

Mr. Warner said we have actually made the payments however when you are in a deficit position it means that you are using the reserves and not current revenues to do it and you did that in 2010 and it is budgeted to do it again in 2011. Yes, we have made the payments and we are not in default from that standpoint; it is the default of an agreement provision that we are.

Councilmember Robinson asked what our options are if we do not agree to this rate increase that has been presented to us and our timing on that option. We are told that this has to happen soon but we have presented models to staff and you have received models from the audience and what are our options to go back and look at those models if we do not pass what you are presenting tonight.

Mr. Warner said that we know the action tonight on these ordinances takes a 4/5<sup>th</sup>s vote and that is because it says in our own ordinance that you have to pass by 2/3rds and in this case it is four out of five. We have projected them as an urgency ordinance because strictly as timing because the longer you wait the amount of increase has to go up in order to get it in a shorter period of time. If that does not happen and obviously there has been a lot of protest and a lot of back and forth and we have looked at all of those, we have tried to maintain and keep obviously some of those other proposals that we can look at and then it is up to Council to determine how that is going to work and whether or not there is one that comes up. Mr. Warner said that if it is not done as an urgent matter and goes through the normal process, you will run short and it may not make a difference because any of these other alternatives that we have been looking at that has been asked to be run does not meet the requirements of getting into compliance with the bond covenant this first year. So it may not have as big an impact because you are going to have to report that and that and whatever the consequences or possible ones would be but you will have to make that decision.

Councilmember Robinson said so that this doesn't have to be extended to another meeting if we come up with a proper scenario tonight, that this could be handled this evening if the Council all agreed; 4/5ths vote.

Mr. Warner said to remember that the key here is that it has to stay within whatever we have noticed for Prop 218. So the rates that we have already noticed out there whatever scenario that we come up with those rates cannot go higher. They can come lower but they can't go higher. A couple of the scenarios where it has been pushed out causing the rates to go higher in the third or fourth year and if you choose to do one of those, you have to start the entire process over.

Mayor Pro Tem Hanna asked Mr. Warner to address the issue of the 30% being the total revenue and how the impacts of various scenarios change what is inside the various rates.

Mr. Warner said he has cautioned that every time we have made these presentations not to get too hung up on the 30% number or the 7% number. Those numbers are the amount of percentage of increase revenue that we have to raise in order to meet the requirements; it gets

you a dollar amount. Once you had the dollar amount you then have to take that dollar amount down and it has to fit within the rate structure. So everybody's actual increase will be different. People who use a lot less water will have much less than a 30% increase. Frankly, the high end users and we talked about this, Sun Lakes because they are in the third tier; anybody that gets into the third tier their percentage is higher than 30%. We talked about this at the Sun Lakes meeting and that third tier is slated to go up 47% so if you are in the third tier that is how much that goes up. When we start talking about scenarios later on and if it is something less than 30% for instance and say it is 18% the amount that that third tier goes up is still about 40% so those do not equate one to one in the math. One determines how much revenue you have to raise and then you have to go through your actual usage and where you fall within the tiers to determine what your actual percentage of your bill increases.

Mayor Pro Tem Hanna said for clarification when you talk about Sun Lakes you were talking about the Homeowners Association and not the individual. Mr. Warner said it would be the large users and he used them as an example because they are a third tier user but there are several.

Mayor Botts said in regards to the average water user what is that dollar increase for the average water users in the City. Mr. Warner said he would look that up.

Mr. Gary Hironimus of Banning said that the average use is \$38.09 by the end of this increase.

Mayor Botts opened the public hearing on this item for comments from the public.

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*):

Gary Hironimus, Banning  
Valerie Hardy, 47363 Twin Pines Road  
Ernest Wright, 19176 Wohl Street, Poppet Flats Area  
Margaret Hanson, 661 W. Hoffer Street  
Bernadine Edmondson, 66 Lori Way  
Lynn Price, 791 Indian Wells  
Dennis, resident of Banning  
Hannelore Clemens, Poppet Flats Area  
Betty McMillion, 5549 W. Pinehurst Drive  
Eddie Sheldrake, resides near Mt. Edna  
George Moyer, Sun Lakes Country Club  
Joann Teland, 3800 W. Wilson  
Dennis Pleimann, Banning  
Vickie Bridges, 986 N. Fourth Street  
Dr. Camille Smith, 5323 Pinehurst Drive  
Tony Fazio, 1428 Adams Street  
Don Smith, resident of Banning (See Exhibit "B" for the record)  
Ruth Ellis, Meadowlark Lane

Jerry Westholder, 1151 Elisa Dawn Dr.  
Richard Royce, 923 Lunar Lane  
Diane Houston, Banning  
Lyndon Taylor, Banning  
Tom Carmade, 16700 Hwy 243  
Jim Boyle, Charles Street  
Anthony Fazio, 1428 Adams Street  
Gary Hironimus, Banning  
Günter Snyder, 4949 Springfield Dr.  
Don Marsh, 45955 Coyote Street, Poppel Flats  
George Moyer, Sun Lakes  
Vickie Bridges, 986 N. Fourth Street

Mayor Botts closed the public hearing at this time.

Mr. Burk and Mr. Warner responded to some of the basic questions that were asked. He said he would like the City Attorney speak to the notices and some of the Prop 218 issues.

City Manager Takata said that he would like the City Attorney to talk about the bond covenants and the importance of making bond covenants and how basically we are out of compliance if we don't make bond covenants. He doesn't think that people understand that being in default of the bonds themselves is different than not being in default on bond covenants. He also said that he would like to set the record straight in that he does live in the city.

City Attorney, David Aleshire said that Mr. Warner covered a number of points and he thinks that it is very unfortunate there is obviously in the testimony tonight some very good points that were made and there are certainly policy issues that have been decided over a period of time such as how to finance the police station. He understands the different viewpoints on that but there were also a number of points that were made that are misinformed and erroneous and he thinks that it is unfortunate that there are people here tonight that would listen to comments made by others; not really knowing the background and walk out of here tonight feeling that this City Council is criminal, doesn't follow legal advice, has been told things are illegal but goes ahead anyway, a notice that doesn't comply with Prop 218 and just ignores it and is told by the Grand Jury that they are acting inappropriately and the very next day ignores the whole thing. All of these statements were made tonight and they are all false and he thinks that there are obviously a number of people that said this was the first City Council meeting they have ever been to. They don't have any background on these issues other than what they hear tonight and they would potentially walk out of the meeting with these incredibly evil opinions about the City. He thinks it is important to address a number of these points in a very accurate manner. City Attorney Aleshire went over the notice, the police station issue, the bond covenants, and the Grand Jury report.

Mayor Botts asked where do we stand if this full increase was implemented where does that put us in relationship to say Beaumont Cherry Valley other communities.

Mr. Warner said we do have a rate survey that was completed in the report from the consultant. Again, they are looking at one type of usage and as an example for water and wastewater put together because we are talking here about both in terms of increases. When you look at it Desert Water for instance would be low of \$52.00 a month on average, Corona at \$106.00 per month on the high end on those that were surveyed. Banning ends up at about \$70, Fontana \$67 and Beaumont \$64. It seems to put us in a grouping of three, four or five cities there that are in the same area. Keep in mind that when you look from city to city there are several things that you have to remember that are not comparable like where they get their water and some have to buy state water and it is very expensive and it gets carried on in your rates. In terms of here locally, Yucaipa, Calimesa is actually higher at \$77 per month and Beaumont would be just under us at \$64 dollars per month.

Mayor Pro Tem Hanna said that she is concerned about the issue of technical default in regard to the expansion of the wastewater treatment plant. As she understands it the State is requiring that our wastewater treatment plant be upgraded as well as expanded and that our assumption is that there will be probably be a state loan or some other mechanism to assist in the funding of that expansion. With this black mark, if in fact we are in technical default, prevent us from getting that state loan for that expansion.

Mr. Burk said that he called the grant people for the American Recovery Reinvestment Act and he also called State Revolving Fund for freshwater and for wastewater and you are absolutely correct. The expansion for the wastewater plant is a regulatory issue and the reason why the rate is pushed out to three to four years is because the Council designed with the current bond money the expansion of the plant but by the time you build it it will be two to three years out. With the anticipation that you would use State Revolving Fund money how the State Revolving Fund works is that you will have to be audited for your previous years on how you will guarantee the money back to them. If there is a black mark, he cannot tell you what that is going to be however, he doesn't think it would be looked upon favorably and there would be some jeopardy there as it relates to maybe higher interest rates or maybe not getting it. He wanted to remind everybody that grants are very competitive and grants are also matching monies meaning that if we do the State Revolving Fund money and we do get a grant and that grant later would be towards the State Revolving lowering that threshold. Our rates are saying that we would get the total amount but this Council has been very active in the past for us to get grants and we will continue to pursue those. However, he can't guarantee those in this rate study. In regards to the bonds someone mentioned the Brinton Reservoir. He said that the Brinton Reservoir, the cross town feeder, was paid for with the bonds which were identified in the bonds. He said that he wanted to be clear that this was for the current customers. He said that we talked about the Brinton Reservoir in 1988 and in 1997 we bought the Mountain Water Company and in 2002 we ran out of water. What he means by that is that capital was deferred and if we would have built the reservoir in 1989 he thinks it would have cost a lot less than it did in 2010.

Councilmember Franklin said one of the things that was brought up and she wanted to know if it was appropriate or not regarding the fact that the letter was only sent out in English. Do we have any kind of requirement to have it go out in any other language?

City Attorney said not with respect to Prop 218 notices. It is a policy if you wanted to send it out in a different language you could but we haven't adopted that policy.

Mayor Pro Tem Hanna said that she knows that you have run many scenarios and you mentioned how each of us have suggested different ideas and could you address one of the scenarios that would allow us to actually make the bond payments and we would still be in technical default but rather than the incredibly high increase the first year it would take it over two years.

Mr. Warner said that was one of the ones that staff first looked at in response to actually some of the push back in terms of the rate increase and it is one that Dave Aleshire has been involved with also. He made that suggestion what if we made it so that we got into compliance in the second year. We already know that we have been out of compliance and we have reported that already so part of the black mark quite frankly is already there. The only thing now you are doing is to negate it by having a plan in place. We said what if you lower it and go to the second year. Mr. Warner displayed the one that basically in this current fiscal year would take us to 87% coverage instead of 115% and in the second year we actually meet coverage and we make the set aside for capital and so forth and in this case the revenue adjustments again instead of 30% in the first year it is 18%. The second year instead of 7% it is 17.5% and then the 7 percents continue on. So what you have done there is to spread the 30% over two years and get into compliance by the end of the second year. Again, what the bond insurer would do with that, if they are busy and they think that they are going to get paid and they are getting paid, maybe nothing. But this is one of scenarios. We have run others similar to this where we have tried to spread it out. We have run ones that said what if you didn't do any capital so there are a variety of scenarios. This particular one was the one that we probably looked at in terms of a viable alternative if you are willing to not meet coverage this year and give a plan that we are not going to meet coverage this first year and it will take two years to do it. Mr. Warner went over some of the other scenarios.

Meeting recessed at 7: 54 p.m. and reconvened at 8:10 p.m.

Councilmember Franklin said that all of the models we looked at are five years and is there anything that says we could not look at a six year or seven year model with maybe a policy at the same time saying that we would have to review it every year.

Mr. Warner said that it is his understanding that Prop 218 only allows for a five year plan.

City Attorney said that there is a statutory provision that was passed two years ago now because what was happening is that people put in Prop 218 hearings and then put CPI escalators and then that escalator would just compound it forever so the legislature cut it off and you have to come back and have a hearing at least every five years. You cannot create something that would be six years out because it would exceed the five year limit.

There was City Council comments and proposals in regards to the rates and there was staff response to those proposals. There were also suggestions that we need to look at the expenditures and capital projects.

**Mayor Pro Tem Hanna moved that the staff analysis of the 18% the first year and 17.5% with the subsequent 7%, 7% and 7% be what we consider for the water.**

**Motion died for a lack of a second.**

Councilmember Robinson said what is the procedure we use to move forward on this.

City Attorney said first of all only if somebody makes a motion for the staff proposal would you vote on that. If a Councilmember wants to make a motion for some alternative to the staff proposal, a motion would be made just like Councilmember Hanna made it and if there is a second, you vote on that. And to pass because of our ordinance you basically need four votes. If it was a 3/2 vote, the motion fails and then another motion can be considered.

Councilmember Machisic said he would be in support of the Mayor's suggestion about taking it back to the staff but also he would like them to look at what he proposed about looking at items in the budget. The big items; the bond, the buying of the water, capital outlay, those are the kinds of things that really affect that percentage dramatically. To have the staff come back with the Mayor's suggestion with also proposals where we could reduce it or spread it out as far as the number of years.

Mayor Botts said his proposal was to vote on this tonight on the 15%, 15%, 7%, and 7% and if staff is saying we could drop off a year and we could do that under Prop 218 that was his proposal that we move forward with that. His intent with this proposal as it is written is that all the projects would stay in the pipeline whether we approve anything tonight there are projects that are ongoing. The thrust of his argument less rate increase and as we find the money in grants and low interest loans again setting the bonds aside as we move forward if we have the money to build them, we build them and if we don't, we don't.

Councilmember Machisic said his only response to that is that the people who came out here tonight want to have some kind of definitive answer for a certain period of time and want to know what the rates are going to be for the next year or two years or five years or whatever is decided. That is his only concern. Saying that when we get the money we will build something that would require more funds from the ratepayers and he thinks just looking at the audience today they are really uncomfortable with it and he would like to be able to reassure them that this is what you are going to face for the next two years or five years or whatever.

Mayor Botts said what he is proposing is that we vote tonight and set the rates at 15%, 15%, 7% and 7% and it is significantly less. His only point was that if you don't have the money, you don't build some of those projects. Obviously the first call for this money is going to be the debt coverage and pay back the bonds. His only variable is that we set the rates and everyone walks away knowing and then as we move forward with a tertiary treated plants he is told that staff said that if we build it on the west side instead of the east side we could reduce the cost by \$10 million dollars.

Councilmember Franklin said she wanted to make sure she was clear in that Councilmember Machisic's recommendation was to have staff go back and take another look especially looking at the expenditure side.

Councilmember Machisic said if the rate is going to be something less than what is recommend and he assumes that is what we are working towards, he would like to see where they said we could reduce costs here, there, or up the street. It is like your house if somebody says you are going to get \$100 dollars and now you get \$90 dollars the first thing you do is go back to see what you have been spending your \$100 on in a very common language. So that is his only point that he would like to go back and so that the staff has a finite amount of money for this project, that project, the bonds or whatever it is without coming back and saying we are short on money this year so we are going to cut this.

Mr. Warner said in the spirit of trying to move this forward there is a couple of points that you have to realize. If we take it back and start over again, we are going to miss the time frame and the money issue becomes bigger. However, he thinks that you can do both if you are willing to live with the fact that you know you are going to have a lot less money available because of these reduced levels of rates and you are willing to live with the fact that it is not going to get coverage until the second year which is what we are saying at this point under that proposal. You can do that and then send it back at that point as part of the budget to now say and let's go back also and make the cuts and evaluate those areas and bring the budget more under control so you do both things. By doing that you would make the coverage in the first year better and you would also potentially make money available being that is being even brought in under this scenario for potential capital projects.

Councilmember Machisic said that based on that argument and the argument that the people out here in the audience want an answer he would support that idea. He said he is not in total agreement but one of things is that the Council needs to be together and support something and be sensitive to what the people out there can afford to pay. Again, he is particularly interested in low income people. We have a project in our electricity that we take care of them to some extent and he doesn't know whether we could do something like that but he certainly would hope that the staff could come up with some kind of recommendation. He said he would support the Mayor's position.

Mayor Botts asked if there was a way to have some kind of assistance for low income. He knows that technically and legally under the electric we can do that. Is there a way we could look at that?

City Manager said that the City Attorney wants to review the Prop 218 on that. He said that he has been in agencies where you cannot do that because of the Prop 218 but the City Attorney will review that and if there is something, he will bring it back to the Council for discussion.

Mayor Pro Tem Hanna said that in electric the way we provide the public benefit is that every ratepayer pays cents on every dollar that goes to the public benefit account. It is State mandated that every ratepayer pay a certain number of cents on the dollar and that goes into a public benefit account. If you reduce these funds, it is technically a little tough if you give

some kind of benefit to low income people in some way that means that people who earn more have to pay more because the money has to come from somewhere. Also, she said she is very, very concerned about cutting the capital projects. Where do you cut? Don mentioned the water canyon. We own the Banning Water Canyon. The flume that is there that transports the water to the Banning Bench and then to us is adjudicated which means that we have rights to it. Edison has controlled the flume and now they want nothing more to do with it and it has to be renovated and then it will be turned over to us and to the Bench. We are committed to paying 10% of that cost and that is \$1.2 million dollars and we have to change the permit to be the responsible party for it and that will cost \$2 million. We cannot not do this and Don mentioned that it was 30% and well there are some years where it is 50% of this water is from this water canyon and we cannot not do this. She said she is a quandary and how do you say we will just see what we can afford to do when each and every one of these capital projects is absolutely essential for the health of our existing community.

Councilmember Franklin said that we are talking about two other proposals and she is getting the impression that nobody is inclined to go with the 30%. She would like to see, if it is the consensus of the Council, to open the public hearing again and give the people an opportunity to respond when we are talking about two other different choices. Let them give us there input while they are here tonight.

Mayor Botts reopened the public hearing at this time for comments from the public.

The following people spoke in favor or against or had some questions or concerns or general comments in regards to the proposals:

Dorothy McLean, Banning  
Vickie Bridges, Banning  
Don Smith, Banning

**Motion Franklin/Hanna to continue the meeting past 9:00 p.m. for another hour. Motion carried, all in favor.**

Brandon Contreras, business owner  
Lynn Price, Banning  
George Moyer  
Joanne Teland  
Ruth Ellis, Banning  
Mike Riley, 45854 Mt. Edna Rd.  
Lyndon Taylor, Banning  
Dennis Pleimann, Banning

Mayor Botts closed the public hearing and brought it back to the Council.

Mayor Botts said to move this forward at least so we can get it in a formalized discussion he would entertain a motion for the 4 year plan with 15%, 15%, 7% and 7% and the other

provisions that staff has the reserve at 15% until we can afford to have it higher and is there a motion and a second for that.

**Councilmember Robinson made a motion to that affect for the 15%, 15%, 7% and 7% over a four year period with staff understanding that we want to look at the capital projects and capital reserves for possible reductions in those areas.**

**Motion died for a lack of second.**

Councilmember Machisic said he expressed some concerns about creating a number and then going back and figuring out what you are going to cut and going to go back to his original comments he thinks you need to do your consideration of cuts through the staff, which cuts are possible before we establish a rate. Even some of the speakers have brought this up time and time again and he thinks that is important because he doesn't want to go off and make a decision tonight and then be sorry for it two weeks from tonight. **He proposed that we refer it back to the staff for possible reductions in expenditures and as he mentioned earlier in my comments about what he considered major projects such as State water and so on, let them come back with a recommendation for us and he thinks we need to do this expeditiously because the point that Kirby made is that every week you stop and don't do something the cost increases but he would rather postpone it a little bit and be sure what I am doing is what I feel is right. That would be his position and he would be happy to put that in the form of a motion.**

**Councilmember Franklin said if that is a motion she is seconding the motion.**

Mayor Botts said he would like to speak against that or ask staff to tell us what the cost of that is if we don't act tonight and then we start all over again with 218 and 218 mailings and that kind of thing.

Mr. Warner said you don't have to start over the 218 process in that case. You can delay it. All it does is mean that you will collect less revenue for this first year at these rates which means that your coverage ratio instead of being 79% will be say 60% or whatever and since you are not meeting the coverage ratio anyway it is probably not a big issue because the other rates will be in place and again it is the one major area the timing was important was to meet the coverage ratio and since that is not going to happen it is not as important.

Mayor Botts asked if there was any further discussion. Seeing none, he asked the Council to vote.

**Motion carried 5/0.**

Mayor Botts moved to Item No. 2, Wastewater Treatment.

Mr. Warner said that you had included that in your proposal Mayor for different wastewater rates. Just so you know we did run that proposal also the only problem with that particular one is that in years four and five you actually future plan not to meet the rate coverage at that point.

Mayor Botts said he would assume that the maker of the motion wants to do the same thing with wastewater so he would entertain a motion to continue it also.

**Councilmember Franklin so moved. Seconded by Councilmember Machisic. Motion carried 5/0.**

Mayor Botts thanked everyone for coming and appreciated everyone's comments.

City Attorney asked if the item was continued for 30 days. City Manager said yes. **Councilmember Franklin confirmed that it was continued for 30 days.**

Mayor Botts adjourned the meeting

**ADJOURNMENT**

Mayor Botts adjourned the meeting at 9:23 p.m.

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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.**

# City of Banning

## Water and Wastewater Rates

### September 14, 2010

#### Actions to Date

- Council approved beginning of the Prop 218 process on July 26, 2010
- Required mailings were sent out
- Held 3 town hall meetings
- Ran numerous alternative scenarios at request of Council and public
- Considered consequences of alternatives in relationship to risks involved with default on bond coverage and reduced levels of capital improvements and reserves

1

#### Conclusion

- Questions

7

#### Purpose of Meeting

- Staff report on proposed rates
- Review actions taken to date
- Provide results of Prop 218 protest process
- Conduct public hearing
- Take action on recommended rates

2

#### Public Hearing

##### Questions and Answers

5

#### Proposed Rates

Created to achieve sufficient revenue to:

- meet bond service coverage ratios in 2010/11 as required by bonds
- maintain operations and maintenance
- accomplish capital improvements
- maintain defined minimum reserve levels

3

#### Action on Rates

- Requires a 2/3 vote per ordinance (4/5)

6

Exhibit "A"

15

reg.mtg.-9/14/10

24

Rec 9-14-10  
City Council Mtg

Dear Banning City Council members:

Since I doubt I could speed read this in 5 minutes at your next meeting, I have decided to send this to you in advance.

This email follows my earlier communication regarding the proposed sewer rate increases set for hearing on 9/14/10. I have now had the opportunity to review the entire RFC Water and Wastewater Rate Study Report which was included in the 7/26/10 Special Meeting Agenda and the December 8, 2005 Banning Utility Authority Bond Document, and have heard the reports given by Interim Finance Director Kirby Warner and Public Works Director Duane Burk at the public information meetings. I have also reviewed your consultant's response to my earlier communication regarding the waste water section of the RFC report, listened to the opinions of the people with whom I have had the opportunity to discuss this topic and considered the arguments of the people who have stated their opposition to the increase.

For the reasons I shared with you in my earlier communication, and will restate at the end of this communication, I believe the wastewater increase can be decreased to a more reasonable amount and still achieve the City's goal of completing the tertiary phase of the wastewater plant, completing the backbone of the purple pipe line from east to west, maintaining a 25% operational reserve, and making the payments on the \$7.1 million 2005 bonds, the existing SRF loan and the anticipated SRF loan for the construction of the tertiary treatment plant. While the requested sewer increases are small when compared to the water rate increases, a dollar saved on one bill is just as good as a dollar saved on the other and no one wants to pay more than they actually should have to pay for the services delivered.

I believe the goal for the water division should be that the rate be as low as possible to achieve functional operation of water services over the next five years including operations, needed maintenance and improvements and required debt payments. Please note that I do not have the 115% technical bond requirement as a goal at this time.

I believe I can safely say that the proposed increase is not popular and the vast majority of the town would rather not have the rates increase. What suddenly happened that 30% more is needed all at once? Unfortunately, even after the town meetings, 2 of which were very lightly attended, the vast majority still does not understand the reasons but know on a gut level that it doesn't seem fair or reasonable.

I believe I can also safely say that water use will decline as a result of this increase and the City will not get the revenues outlined by the consultant in the report since it did not include in its estimates the water conservation which will occur by people trying to keep their water bills at a level they can afford.

Without assigning any blame, which I find seldomly leads to an actual solution, I think a brief discussion on how we got here may be valuable, if for no other reason than to make sure we don't do it again. By we, I include me and every other citizen of Banning, each

of whom had the opportunity to address this issue when it was being decided, but failed to do our due diligence.

In 2005, someone came up with the idea that the City should form a Utility Authority and that the City, who owned all the water assets (wells, pipes, storage tanks, valves, pressure regulators, meters, customer accounts, etc.) and the sewer assets (pipes, processing plant, lift stations, customer accounts, etc.) could then lease those assets to the Utility Authority who would then deliver the services to the public. There was no real change in services or who in reality provided the services; this lease of assets was a legal fiction. In essence, the Utility Authority would be the tenant making rent payments and the City would be the landlord collecting rent. Excuse this simple analogy but it seems to be the easiest one to use in layman terms to explain the relationship. However, instead of monthly payments the Authority would make one up front payment of all the rent payments.

The Utility Authority then issued \$35,635,000 in water bonds and \$7,100,000 in wastewater bonds. The wastewater bonds were all pledged towards the sewer expansion and none of the wastewater bond funds were spent for any other purpose. However, \$17,000,000 of the water bonds was used to make the rent payment. The city then spent \$14,000,000 of lease payment on the new police station.

This means that 39% of the 2005 water bond funds were used on the police station. Since the annual payment on the water bonds is about \$2.3 million dollars a year, \$900,000 of that amount per year is in reality a payment on the police station construction costs. Since the recommended first year increase of 30% brings in additional revenue of \$1.8 million, one half of that amount directly resulted from the money spent on the police station from the rent payment. Without the new police station the amount needed would have been \$900,000 which would have required a 15% increase rather than the 30% increase now suggested.

I have gone through this exercise not to argue that we only need a 15% increase or to demonstrate how brilliant I can be with the knowledge of what one knows with hindsight, but to point out that we should learn from this and make sure to never repeat it.

I understand that the person who came up with this clever and legal plan to find the funds to build a new police station probably had the best of intentions. I understand that the Council was showed charts and projections of how the growth of the economy in Banning would pay for these bonds without the need for a rate increase. Unfortunately, as often happens when a plan seems amazingly great, it was in fact too good to be true.

Without the police station the needed increase of 15% would have been about the rate of inflation growth over the 5 years since the last increase.

Knowing what caused the need for the other half of the increase, or blaming someone for it, is not really a solution for what we must do now that we are where we are. It may feel good to support the time travel theory of blaming something that happened in the past as a solution but since I'm not nearly smart enough to invent a time machine I decided I

would have to look elsewhere for a solution that minimized the cost to me but made sure that when I turn my faucet 5 years from now I actually get to drink some water.

A suggestion has been offered that the City reissue the bonds to spread out the repayment over a longer period of time at a lower interest rate. The problem with that is that we are only 5 years into a 30 year bond payment schedule, have only paid back 3.4 million of the bonds, the City had a AAA insured bond rating, and the interest rate on the existing bonds goes from 4% for the shorter term bonds to 5% for the longer term bonds. Based on the City and Utility Authority's current financial condition, current interest rates, and the amount needed to pay off the old bonds plus refinance a new bond issue, it does not seem likely that any such reissuance would reduce the annual payments required. We should continue to monitor this possibility as time progresses, but it is not a short term fix to the problem.

I heard a suggestion that the City should sell the police station for the 14 million dollars, but based on my knowledge of the current market and lack of potential buyers, this did not seem a workable solution. Unless someone has special knowledge of the desire of Homeland Security or the FBI for an office in Banning, I think we would be waiting a long time for a buyer. The police station is now ours and we have to find a way to pay for our mistaken assumptions.

Another version of that option is to sell other non-essential City property and use the proceeds to redeem bonds which would lower the annual payments. Maybe it would be wise for the council to ask for a report on a future agenda listing all the assets of the city with staff recommendations for which unessential assets could be sold. Since I have no knowledge of what could be sold, let alone what it could be sold for, I can not comment on how many bonds could potentially be redeemed or whether that amount would have any meaningful reduction in the annual payments on the 2005 bonds.

Some people have suggested that the city should postpone the recommended capital improvements so as to reduce the amount of the increase. For the reasons that follow, this alternative seems short-sighted and could actually lead to higher rates in the future due to damage caused by poor maintenance practices.

When I joined the Council in 1992, I inherited a water system that barely functioned due to the lack of any reasonable level of past maintenance. According to Duane, 30% of our water was lost in leaks. When there was a leak, the water maintenance crew would go to the nearest valve to turn off that section of the system for repairs but as many times as not the valve would break because it had not been maintained and regularly turned. There were sections of town with undersized mains, insufficient fire flow and we did not have nearly enough storage. The one thing we had then that you don't have now, due to our lower population, was lots of water, which we watched run down the streets. Duane recently reminded me that we had so many leaks that we had a water crew of 20. Roads were constantly being dug up to do repairs and the roads were bumpy with patches. The city's decision at that time to use Measure A funds for annual street maintenance had a

direct relationship to the horrible condition of the streets which was partially caused by the water repairs.

With the assistance of my fellow councilman, we started annual maintenance programs in many departments. I think this policy decision was more obvious than brilliant and still am amazed that we needed to develop a maintenance program. I assume your monthly reports still tell you how many valves were turned each month and how many leaks were repaired. Now you know why. The Council wanted to see if the program was actually working and based on the last report I saw, valves are still being turned and leaks are practically non-existent when compared to the 30% number we used to experience.

Our system may be working better because over the last 20 years the City has prioritized the replacement of the worst lines, but it is still fragile and has miles of deteriorating and undersized lines that still need to be replaced. I strongly urge the Council to under no circumstance discontinue this annual program. We cannot afford the water losses and the public does not need for their lines to constantly lose service due to unscheduled repairs. Kirby recently said that our water maintenance program is still too small. He may be right. In my opinion this is not a capital project, but normal operational maintenance that any viable company would require.

The next "capital project" on this list is the replacement of the 20" water canyon main. This was on our maintenance list 20 years ago and I was surprised to hear that it had not been completed yet. It is part of the replacement program and only has its own line in the budget due to the fact that it is bigger and costs more than the average lines we have been replacing. As you all know a majority of our water comes from the water canyon. Without this line, Banning would have difficulty supplying our houses and would probably have to buy water from Beaumont or use our Beaumont basin reserves while the line was out of operation. An emergency repair would cost more than a planned one. This project is essential to the reliable delivery of water to your customers.

After considering the circumstances as I see them, I come up with 4 bad options for water rates this year:

1. 30% increase
2. Don't do maintenance and have a 24% increase ( I don't recommend)
3. Don't raise rates and default on the bond payments ( I don't recommend)
4. Technically default on the bond, but make the bond payments and increase rates in first year by 22%

Option 1. You have a report outlining option 1 to increase rates by 30% in the first year. The report states that with normal operations, if the new lower staffing level can be considered normal, to be able to pay the bonds, including those portions which were spent on the police station, and maintain the 115% coverage, we need a 30% increase in the first year.

Option 2. The only capital project in year 1 is the water line replacement program. Even if all the remaining capital projects were postponed indefinitely, Kirby and the

consultants have both stated that the first year 30% increase is needed for just operations and bond payments. Even if Banning gets 100% grants for the other projects, which I will comment on below, it would not reduce the first year 30% needed for the bond payments. If you canceled the maintenance programs, which I do not support doing, eliminating the \$400,000 budgeted for 2011 for maintenance would decrease the increase needed to 24%. Based on history, I believe the deferred maintenance would wind up costing more money in the long run which would be paid in the form of rate increases to the customer.

Option 3. The bond payments are \$2.3 million annually. If we don't raise rates we will not have the ability to continue making the payments. With no increase, the water operations fund reserves will be completely depleted with this year's required payment on the bonds. They will be no funds to pay the bonds in 2011.

If we don't pay the \$2.3 annual payment and default, it would be safe to assume that at some point in time the bondholders would seek a legal recourse. They could attempt to legally require the city to raise rates. While I would find such a lawsuit intellectually fascinating due to the complexities of interpreting the contract obligations conflicts with a Prop 218 vote, I am pretty sure that the City would a large fortune in legal fees if they attempted to defend the action.. While I would not be so bold as predict an outcome, I am sure it would not be that the bondholders never get paid. Another remedy could be the forced sale of the water utility by the city to some other entity. I'm pretty sure that such an entity would set rates at a level needed to pay for expenses including the acquisition costs plus a profit. I have no reason to believe that it would be less than the City proposed rate. Off the top of my head, without researching all the alternatives for the bondholders, I could also see a claim for the appointment of a Trustee to run the system until the bonds have been paid. Once involved in the legal system, I think costs will go up rather than down.

Another result of a default would be its effect on future bond issues. While it seems clear based on current revenues that one is not eminent, our bond rating could affect the City's ability to receive the SRF loan for the sewer expansion and/or the interest rate on same.

Option 4. We have been told that part of the reason we need the increase is a bond requirement to have 115% coverage of adjusted revenues to adjusted expenses. If the City only had 100% coverage would the bond holders seek legal remedies? How would I know? Can the consultants give us one example of when bondholders sued over this issue when they were still receiving their regular payments? As an investor I don't think I would spend legal fees when I was being paid on a timely basis with the expectation that I would continue to be paid. Unless the consultants have proof to the contrary, I'm not convinced this is a valid concern. Though I do admit, I have insufficient facts to base a firm conclusion at this time.

If we ignored the 115% provision what does that do to rates? In the first year we increase reserves in the water operations fund by \$485,000 in order to meet the 115% requirement. If we didn't increase reserves (and yes I know that water reserves are lower than they

should be and will at some time need to be increased) we would need an increase of 22% to break even. A 22% increase would pay the bills but would not increase the reserves. It's a bad idea actually, but I think it might be better than the 30% plan based on the social costs that the larger increase would have on the public.

This option would have a deficit problem in the third year 2013 when the proposal calls for the operations fund to transfer \$2.5 million dollars to the Capital fund to pay for the last portion of the Banning water canyon main line and the 2<sup>nd</sup> of 3 proposed new wells. Without this transfer the capital fund would be short \$1.4 million and would have no funds for the 2<sup>nd</sup> well. After repairing the water canyon main, the capital funds would be depleted. The City would either need to increase rates in that year or not dig the 2<sup>nd</sup> well which leads you to the next discussion of the capital projects as opposed to the needed maintenance projects which we have already discussed.

One option, which I will call the Franklin approach, is to start looking for grants since we won't be able to do the two other wells without a grant unless we budget for them. It is a viable option so long as we agree and understand that as a result of the adjudication of the Beaumont basin we will need to start buying more water or using our water bank reserves if the new wells are not in place. Once again a bad move but we are faced in my opinion with choosing the least bad option at this time so all options must be considered.

We also need to admit that any plan may not actually work for 5 years as anticipated and a sooner review and proposition 218 hearing could be required if circumstances do not meet the estimates.

This then leads us to the big problem. Where are the \$3.5 million dollars needed in 2015 for the flume and the funds for the 2 wells coming from if we don't raise rates as proposed? Should we put that off and hope for a grant? Can we get a state loan for it and deal with the effect of that payment at that time?

I have many more questions than answers and many bad solutions. Doing the smaller rate increase and using the 3 years to see what the economy does and whether we receive a grant is risky and could just lead to another increase in 3 years. Option 4 is a possibility but comes with its own benefits with certain future risks.

### **Wastewater**

The wastewater enterprise portion of the consultant's recommendations is contained in pages 29-42 of the report.

I studied the wastewater report first because it seems to be ignored in the face of the larger water increase. In addition, the political argument of how the bond funds were spent has no bearing on the wastewater account since all the wastewater bond funds have been applied to the sewer expansion.

For the reasons stated below, I feel the increases are not justified in the amounts requested.

I have heard it incorrectly stated that the wastewater increases are so small as to be insignificant. To those on a fixed income small increases will result in having to go without something else. Taking into account the annual trash increases, the large increase to electric rates last year, and the proposed water increase, the wastewater increase needs to be no larger than actually required to operate the facility.

Not that many years ago Banning had significantly lower residential electric rates than Edison, now we have higher rates. We had lower than average Sewer and Water rates. We negotiated the lowest trash rate in the county resulting in other cities demanding a renegotiation of their rates. The citizens of Banning through these rates received a great benefit in owing our own utilities. Having lower rates or at least competitive rates is essential to any economic development activities. For all these reasons I believe the Council needs to take action to limit the rate increases to the amounts actually required to provide the services needed in the foreseeable future.

As shown on page 35 table III-6 lines 3-8 of the report, the 5 annual increases are estimated to increase wastewater revenues by \$5,630,475

Page 32 Table III-2 of the study shows the growth projections. The rate study assumes a very conservative estimate of growth of 1% per year in residential use and 0% in commercial from 2012-2015. These assumptions result in the lack of revenue growth shown on page 32 table III-3. This assumption that there will be no growth for 5 years seems overly conservative. Obviously changing this assumption would decrease the amount of the increase needed in rates, but we do not even need to make that change to show how the rate increase request is too high.

Page 33, table III-4 line 1 shows increases of 65% in Salary and Wages from 2010-2015. If you recomputed that line from 2013 at a 3% growth rate, which is more than reasonable, it would result in a 2013 figure of \$369,059, 2014 \$380,131 and 2015 \$391,533 or a savings on estimated expenses of \$409,315 which is equivalent to 7.2% of the estimated amount raised by the proposed increases. I am told that the nice new plant will actually require the increase in salaries. I find this difficult to understand but since I have never run a tertiary treatment plant I will have to accept that argument at this time.

Page 36, Table III-7 line 4 shows reserves increasing over the 5 years from 1.87 million to 2.21 million while showing a 25% reserve requirement in 2015 of \$794,000 (which would actually be lower if the wages line is lowered as suggested above). The extra \$1.4 million being held above reserve requirements represents 25% of the \$5.6 million in increased revenues sought in this study.

I would also like to point out that on page 36 table III-7 lines 8 and 22, the study shows \$5.5 million being transferred from the wastewater capital account to the Irrigation Fund. I could argue that the purple line is a water project and not a sewer project and that those

5.5 million dollars would be used to lower the amount of the SFR debt for the sewer expansion thus eliminating by itself almost all of the requested increase. But I won't since it seems pointless which enterprise fund pays for this expense since the cost either way will be born by the users in the form of a rate increase and the city needs this water source to help cover the upcoming reduction in water being drawn from the Beaumont Basin.

As you all know, the customers of the wastewater enterprise has been paying a \$2.00 per month surcharge to finance the Tertiary project. This report assumes that the city receives \$14.76 million in SFR funds in 2012 and 2013, the plant is built, and the city begins SFR payments on said new loan beginning in 2014. However, the \$2 surcharge continues to be put into the Cap Facility Fund (See page 36 Table III-7 line 7) rather than going to the State Revolving Fund Loan account (See line 26-29,) The 2014 amount of \$394,706 and 2015 of \$305,194 should go to that debt and reduce the amount coming from the Operations fund. This \$798,910 represents 14% of the \$5.6 million dollar requested increases.

I believe this council should direct staff to make the following changes to the report.

1. Use 1.4 million in extra reserves in the Operations Fund over the next five years
2. Have the 2% surcharge applied to the SRF debt beginning in 2014 for a savings of \$798,910 in the Operations Fund.

These three actions would allow you to then decrease the requested increases;

2011 8 % instead of 12% OR \$13.89/\$15.89 instead of \$14.40/\$16.40

2012 8 % instead of 15% OR \$15.00/\$17.00 instead of \$16.56/\$18.56

2013 8 % instead of 15% OR \$16.20/\$18.20 instead of \$19.04/\$21.04

2014 8 % instead of 15% OR \$17.50/\$19.50 instead of \$21.90/\$23.90

2015 8 % instead of 3% OR \$18.90/\$20.90 instead of \$22.56/\$24.56

Figures behind the "/" are the actual monthly amount when you include the mandatory \$2.00 surcharge.

For informational purposes Beaumont's sewer rate is \$21.25 per month.

I have one hopeful thought I'd like to discuss regarding the wastewater increases.

The two large Capital projects in this report are the enlargement of the sewer plant to include tertiary treatment and the purple line.

Both of these projects have plans that should soon qualify them as shovel ready.

Both of them are green projects.

I know we are seeking some type of grant to help pay for them. The state loan at low interest is great as a backup plan but free money in the form of a grant would be better.

If we obtain a grant it will reduce the amount the City would have to borrow from the state and reduce the expenses to the operations fund in annual repayments. This would enable to the Council to lower the increases in future years.

Thank you for giving me the time to present this argument as I do not think I could do it in the 5 minutes that will be allotted to me during the meeting.

If you have any questions or comments I would be happy to talk to you at your convenience.

Don Smith

ps Vote Yes on Measure U

## CITY COUNCIL AGENDA

**Date:** September 28, 2010  
**TO:** City Council  
**FROM:** Kirby J. Warner, Interim Administrative Services Director  
**SUBJECT:** Approval of Accounts Payable and Payroll Warrants for Month of July 2010

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

**FISCAL DATA:** The reports in your agenda packet cover "Expenditure Disbursements" and "Payroll Expenses" for the month of July 2010.

The reports are:

Expenditure approval lists	
July 1, 2010	346,422.03
July 8, 2010	192,776.91
July 15, 2010	1,443,695.25
July 20, 2010	509,110.84
July 22, 2010	285,569.28
July 22, 2010	-9,648.03
July 22, 2010	-55.00
July 22, 2010	2,220.98 <sup>1</sup>

September 21, 2010	4,683,266.27 (July Month End)
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Payroll check registers	
July 2, 2010	10,208.83
July 14, 2010	Manual Checks
July 15, 2010	77,230.71
July 15, 2010	Manual Check
July 16, 2010	27,058.97
July 30, 2010	14,500.46
July 30, 2010	11,490.24

Payroll direct deposits*	
July 1, 2010	305,745.96
July 15, 2010	327,617.03
July 28, 2010	318,966.54

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

\* Included on the July month end expenditure approval list of 9/14/2010.

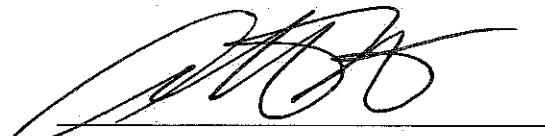
<sup>(1)</sup> Due to Positive Pay reporting, manual checks must be recorded in the accounting system separately from the weekly check register.

Report Prepared by: Jenna Harrell, Accounts Payable

**RECOMMENDED BY:**

Kirby J. Warner  
Kirby J. Warner  
Interim Administrative Services Director

**APPROVED BY:**

  
Andy Takata  
City Manager

**Fund/Department Legend:**

**General Fund – 001**

**Departments**

0001 – General  
1000 – City Council  
1200 – City Manager  
1300 – Human Resources  
1400 – City Clerk  
1500 – Elections  
1800 – City Attorney  
1900 – Fiscal Services  
1910 – Purchasing & A/P  
2060 – TV Government Access  
2200 – Police  
2210 – Dispatch  
2300 – Animal Control

2400 – Fire  
2700 – Building Safety  
2800 – Planning  
3000 – Engineering  
3200 – Building Maintenance  
3600 – Parks  
4000 – Recreation  
4010 – Aquatics  
4050 – Senior Center  
4060 – Sr. Center Advisory Board  
4500 – Central Services  
4800 – Debt Service  
5400 – Community Enhancement

**All Other Funds**

003 - Riverside County MOU  
100 – Gas Tax Street Fund  
101 – Measure A Street Fund  
103 – SB 300 Street Fund  
104 – Article 3 Sidewalk Fund  
110 – CDBG Fund  
111 – Landscape Maintenance  
132 – Air Quality Improvement Fund  
140 – Asset Forfeiture-Police Fund  
144 – Local Law Enforcement Block Grant  
146 – San Gorgonio Gang Task Force  
148 – Supplemental Law Enforcement  
149 – Public Safety Sales Tax Fund  
150 - State Park Bond Fund  
200 – Special Donation Fund  
201 – Sr. Center Activities Fund  
202 – Animal Control Reserve Fund  
203 – Police Volunteer Fund  
204 – D.A.R.E. Donation Fund  
300 – City Administration COP Debt Service  
360 – Sun Lakes CFD #86-1  
365 – Wilson Street #91-1 Assessment Debt  
370 – Area Police Computer Fund  
375 – Fair Oaks #2004-01 Assessment Debt  
376 – Cameo Homes  
400 – Police Facilities Development  
410 – Fire Facility Development  
420 – Traffic Control Facility Fund  
421 – Ramsey/Highland Home Road Signal  
430 – General Facilities Fund  
441 – Sunset Grade Separation Fund  
444 - Wilson Median Fund  
451 – Park Development Fund

470 – Capital Improvement Fund  
475 – Fair Oaks #2004-01 Assessment District  
600 – Airport Fund  
610 – Transit Fund  
660 – Water Fund  
661 – Water Capital Facilities  
662 – Irrigation Water Fund  
663 – BUA Water Capital Project Fund  
669 – BUA - Water Debt Service  
670 – Electric Fund  
672 – Rate Stability Fund  
673 – Electric Improvement Fund  
674 - '07 Elec Revenue Bond Project Fund  
675 – Public Benefit Fund  
678 - '07 Elec Revenue Bond Debt Service Fund  
680 – Wastewater Fund  
681 – Wastewater Capital Facility Fund  
683 – BUA Wastewater Capital Project Fund  
685 – State Revolving Loan Fund  
689 – BUA Wastewater Debt Service Fund  
690 – Refuse Fund  
700 – Insurance Fund  
702 – Fleet Maintenance  
703 – Information Systems Services  
761 – Utility Billing Administration  
810 – CRA – Low/Mod Fund  
830 – CRA – Debt Service Fund  
850 – CRA - Administration Fund  
854 – CRA Low/Mod Bond Fund  
855 - 2007 TABS Bond Proceeds  
856 – 2003 TABS Bond Proceeds  
857 – 2003 TABS Bond Proceeds Low/Mod  
860 – CRA - Project Fund

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## CITY COUNCIL AGENDA

**Date:** Sept 28, 2010

**TO:** City Council

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

**SUBJECT:** Report of Investments for June 2010

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

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

**BACKGROUND:** This report includes investments on hand at the end of June 2010. As of June 30, 2010, the City's operating funds totaled \$71,914,360. Included in operating funds is \$3,197,174 of restricted CRA bond proceeds that are on deposit with LAIF and reflected separately on the Treasurer's Report. As of June 30, 2010 approximately 41% of the City's unrestricted cash balances were invested in investments other than LAIF.

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

**FISCAL DATA:** The latest reports from the State indicate that the average interest achieved by the Local Agency Investment Fund (LAIF) decreased to 0.528 % in June. The average rate for all investments in June was 0.882%.

**RECOMMENDED BY:**

Kirby Warner by my  
Kirby Warner  
Interim Administrative Services Director

**APPROVED BY:**

  
Andy Takata  
City Manager

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

Wells Fargo Bank

Wells Fargo Bank-Investment Account

Bank of America-Airport

Bank of America-Parking Citations

Bank of America-CNG Station

Amount

2,305

InterestRate      Amount

0.000% 92,467

0.100% 2,358,644

0.300% 3,463

0.300% 3,249

0.300% 3,109*Money Market and Bank Account Sub-Total*

2,460,932

Government Pools

Local Agency Investment Fund: Account #1 0.528% 31,287,069

Account #2 Operating Amount 8,775,054

Account #2 CRA Bond Cash Bal 3,197,174

Local Agency Investment Fund: Account #2 0.528% 11,972,227*Government Pool Sub-Total*43,259,296**Operating Cash Balance****45,722,533**Restricted Operating Funds at Riverside Public UtilitiesHighmark U.S. Government Money Market Fund 0.050% **894,109**Other InvestmentsInvestments-US Bank/Piper Jaffray - See Page 2 1.566% **25,297,718****Operating Funds Total****71,914,360****Fiscal Agent**BNY Western Trust Company  
US BankAmount  
539,035  
49,977,144***Fiscal Agent Total*****50,516,179**

## Operational Portfolio Individual Investments

Average Rate All = 0.882%

Average Rate All= 0.882%

City of Banning Investment Report

June 30, 2010

## Individual Investments with Fiscal Agent

TRUSTEE	Bond Issue Description	Investment Description	Current Yield	Bond Reserve	Minimum Reserve	Interest Jun-10	6/30/2010 Market Value
BNY WESTERN TRUST COMPANY							
1997 Admin Building COPs Refunding	2020	Republic Bank Investment Agreement Federated U.S. Treasury Money Mkt	6.270% 0.010%	11/1/2020 daily	522,375	*	522,562 16,473
US BANK							
1991 Wilson St. Assessment District	2012	AIM U.S. Treasury Money Market US Bank Mmkt 4-Ct	0.200% 0.000%	daily daily	265,580	4.65	265,603 0
2005 Fair Oaks Ranch Estates	2035	US Bank Mmkt 4-Ct	0.200%	daily	188,943	36.84	216,958
2003 CRA Tax Allocation Bonds	2028	U.S. Treasury Bill US Bank Mmkt 4-Ct US Bank Mmkt 4-Ct US Bank Mmkt 4-Ct	0.160% 0.200% 0.200% 0.025%	7/29/2010 daily daily daily	971,763	0.00 3.58 0.01	991,871 21,083 55 8
Surplus Fund							
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007							
Redevelop Fund	2037	US Bank Mmkt 4-Ct US Bank Mmkt 4-Ct US Bank Mmkt 4-Ct US Bank Mmkt 4-Ct	0.200% 0.200% 0.200% 0.210%	daily daily daily daily	1,880,751	1,678.61 318.87 0.02	11,907,286 1,877,543 131 9
Reserve Fund							
Special Fund							
Surplus Fund							
BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES							
Bond Fund		US Bank Mmkt 4-Ct US Bank Mmkt 4-Ct US Bank Mmkt 4-Ct	0.200% 0.200% 0.200%	daily daily daily		2.92 21.06 625.09	25 132,521 3,680,661
Principal Account							
BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES							
Bond Fund		US Bank Mmkt 4-Ct US Bank Mmkt 4-Ct US Bank Mmkt 4-Ct US Bank Mmkt 4-Ct	0.200% 0.200% 0.200% 0.200%	daily daily daily daily		12.66 54.43 393.14 1,320.41	108 342,554 2,314,907 4,188,983
Principal Account							
Reserve Fund							
Project Fund							
BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES							
Reserve Fund		US Bank Mmkt 4-Ct Reliance Trust Company # 9AMGGBEZ7	0.200% 3.650%	daily 11/17/2011	2,961,500	170.98	171
Acquisition & Construction		US Bank Mmkt 4-Ct US Bank Mmkt 4-Ct Reliance Trust Co C D #7AMCD5063 Reliance Trust Co C D #7AMCD49F7	0.190% 0.200% 0.400% 0.500%	daily daily 11/26/2010 11/18/2010		21.05 526.91	3,016,509 41 4,983,660 8,036,457 8,000,000
Total						5,191.23	50,516,179

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

	Interest	Amount
	Rate	Amount
Wells Fargo Bank	0.000%	83,277
Wells Fargo Bank-Investment Account	0.100%	1,688,982
Bank of America-Airport	0.300%	3,188
Bank of America-Parking Citations	0.300%	3,069
Bank of America-CNG Station	0.300%	3,007

*Money Market and Bank Account Sub-Total* 1,781,524

Government Pools

Local Agency Investment Fund: Account #1 0.560% 31,287,069

Account #2 Operating Amount 9,309,076

Account #2 CRA Bond Cash Bal 3,263,151

Local Agency Investment Fund: Account #2 0.560% 12,572,227

*Government Pool Sub-Total* 43,859,296

**Operating Cash Balance** 45,643,125

Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund 0.050% 773,921

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2 1.566% 25,306,898

*Operating Funds Total* 71,723,944

**Fiscal Agent**

	Amount
BNY Western Trust Company	<u>539,035</u>
US Bank	<u>51,829,136</u>

*Fiscal Agent Total* 52,368,172

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# City of Banning Investment Report

## Operational Portfolio Individual Investments

May 31, 2010

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	(Premium) Amortization	Discount or Market Value
<b><u>Bank Accounts</u></b>								
83,277	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	83,277	n/a	83,277
1,688,982	Wells Fargo Bank-Investment Acct	n/a	0.10%	daily	varies	1,688,982	n/a	1,688,982
3,188	Bank of America-Airport	n/a	0.30%	daily	varies	3,188	n/a	3,188
3,069	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,069	n/a	3,069
3,007	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,007	n/a	3,007
	Sub-total							1,781,524
<b><u>Government Pools</u></b>								
31,287,069	L.A.I.F. account #1	n/a	0.560%	daily	varies	31,287,069	n/a	31,287,069
12,572,227	L.A.I.F. account #2	n/a	0.560%	daily	varies	12,572,227	n/a	12,572,227
								43,859,296
<b><u>Investments-US Bank/Piper Jaffray</u></b>								
3,000,000	Federal Home Loan Banks	n/a	1.350%	1/20/2012	1/7/2010	3,000,000	0	3,003,750
2,000,000	FNMA MTN	n/a	1.250%	4/5/2012	4/5/2010	2,000,000		2,002,500
3,000,000	FNMA MTN	n/a	1.550%	10/5/2012	4/5/2010	3,000,000		3,008,430
3,000,000	FNMA MTN	n/a	1.858%	4/8/2013	4/8/2010	3,000,000		3,011,250
2,000,000	Federal Home Loan Banks	n/a	1.625%	1/7/2013	4/7/2010	2,000,000		2,007,500
3,000,000	FHLMC MTN	n/a	1.875%	5/10/2013	5/10/2010	3,000,000		3,017,820
4,000,000	Federal Farm Credits Bks	n/a	1.470%	10/26/2012	5/4/2010	4,000,000		4,006,240
4,000,000	Federal Home Loan Banks	n/a	2.000%	5/17/2013	5/17/2010	4,000,000		4,011,240
1,238,168	Money Market	n/a	0.000%	daily	varies	1,238,168	0	1,238,168
	US Bank/Piper Jaffray Average Rate=							25,306,898
	<b>Average Rate All=</b>							<b>0.907%</b>

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on July 14, 2009. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 310 days and does not include Bond Reserve Fund Investments.

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City of Banning Investment Report

May 31, 2010

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

2,305

Bank Accounts

	Interest	
	Rate	Amount
Wells Fargo Bank	0.000%	123,346
Wells Fargo Bank-Investment Account	0.100%	2,007,364
Bank of America-Airport	0.300%	5,842
Bank of America-Parking Citations	0.300%	3,464
Bank of America-CNG Station	0.300%	3,706

*Money Market and Bank Account Sub-Total*

2,143,722

Government Pools

Local Agency Investment Fund: Account #1	0.588%	31,287,069
Account #2 Operating Amount		5,205,996
Account #2 CRA Bond Cash Bal		3,266,231

## Local Agency Investment Fund: Account #2

0.588% 8,472,227*Government Pool Sub-Total*39,759,296**Operating Cash Balance****41,905,323**Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund	0.050%	1,067,171
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Other Investments

Investments-US Bank/Piper Jaffray - See Page 2	0.793%	25,244,815
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*Operating Funds Total*68,217,309**Fiscal Agent**

	Amount
BNY Western Trust Company	637,597
US Bank	<u>57,513,439</u>

*Fiscal Agent Total*58,151,036*44*

City of Banning Investment Report

April 30, 2010

## Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	Amortization	Market Value	Discount or Premium
<u><b>Bank Accounts</b></u>									
123,346	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	123,346	n/a	123,346	
2,007,364	Wells Fargo Bank-Investment Acct	n/a	0.10%	daily	varies	2,007,364	n/a	2,007,364	
5,842	Bank of America-Airport	n/a	0.30%	daily	varies	5,842	n/a	5,842	
3,464	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,464	n/a	3,464	
3,706	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,706	n/a	3,706	
	Sub-total								2,143,722
<u><b>Government Pools</b></u>									
31,287,069	L.A.I.F. account #1	n/a	0.588%	daily	varies	31,287,069	n/a	31,287,069	
8,472,227	L.A.I.F. account #2	n/a	0.588%	daily	varies	8,472,227	n/a	8,472,227	
									39,759,296
<u><b>Investments-US Bank/Piper Jaffray</b></u>									
3,000,000	Federal Home Loan Banks	n/a	1.350%	1/20/2012	1/7/2010	3,000,000	0	3,005,640	
2,000,000	FNMA MTN	n/a	1.250%	4/5/2012	4/5/2010	2,000,000		1,997,500	
3,000,000	FNMA MTN	n/a	1.550%	10/5/2012	4/5/2010	3,000,000		3,000,000	
3,000,000	FNMA MTN	n/a	1.858%	4/8/2013	4/8/2010	3,000,000		3,002,820	
2,000,000	Federal Home Loan Banks	n/a	1.625%	1/7/2013	4/7/2010	2,000,000		1,999,380	
		n/a	0.000%	daily	varies			12,239,475	0
								12,239,475	0

Average Rate All = 0.649%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on July 14, 2009. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 168 days and does not include Bond Reserve Fund Investments.

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City of Banning Investment Report

April 30, 2010

## Individual Investments with Fiscal Agent

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## CITY COUNCIL AGENDA

**Date:** Sept 28, 2010

**TO:** City Council

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

**SUBJECT:** Report of Investments for July 2010

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

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

**BACKGROUND:** This report includes investments on hand at the end of July 2010. As of July 31, 2010, the City's operating funds totaled \$70,212,385. Included in operating funds is \$3,197,109 of restricted CRA bond proceeds that are on deposit with LAIF and reflected separately on the Treasurer's Report. As of July 31, 2010 approximately 42% of the City's unrestricted cash balances were invested in investments other than LAIF.

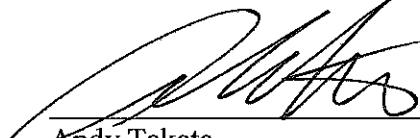
Presented are three months of Investment Reports. July is a first issue, while May and June are included to provide multiple months of statements for comparison.

**FISCAL DATA:** The latest reports from the State indicate that the average interest achieved by the Local Agency Investment Fund (LAIF) increased to 0.531 % in July. The average rate for all investments in July was 0.815%.

**RECOMMENDED BY:**

  
Kirby Warner  
Interim Administrative Services Director

**APPROVED BY:**

  
Andy Takata  
City Manager

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

2,305

Bank Accounts

	Interest	
	Rate	Amount
Wells Fargo Bank	0.000%	411,399
Wells Fargo Bank-Investment Account	0.100%	2,137,724
Bank of America-Airport	0.300%	7,952
Bank of America-Parking Citations	0.300%	3,800
Bank of America-CNG Station	0.300%	4,088

*Money Market and Bank Account Sub-Total*

2,564,962

Government Pools

Local Agency Investment Fund: Account #1

0.531% 31,287,069

Account #2 Operating Amount 6,787,494

Account #2 CRA Bond Cash Bal 3,197,109

Local Agency Investment Fund: Account #2 0.531% 9,984,602*Government Pool Sub-Total*41,271,671**Operating Cash Balance****43,838,939**Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund 0.050%

1,045,233

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2 1.353%

25,328,213

**Operating Funds Total**70,212,385**Fiscal Agent**

BNY Western Trust Company

US Bank

Amount

539,035

46,989,262**Fiscal Agent Total**47,528,298

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City of Banning Investment Report

## Operational Portfolio Individual Investments

July 31, 2010

Average Rate All = 0.815%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on July 27, 2010. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 304 days and does not include Bond Reserve Fund Investments.

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# City of Banning Investment Report

July 31, 2010

## Individual Investments with Fiscal Agent

TRUSTEE	Bond Issue Description	Bond Maturity Date	Investment Description	Current Yield	Bond Maturity Date	Minimum Reserve Requirement	Interest Jul-10	Market Value	7/31/2010
<b>BNY WESTERN TRUST COMPANY</b>									
1997 Admin Building COP's Refunding	2020	Republic Bank Investment Agreement Federated U.S. Treasury Money Mkt		6.270%	11/1/2020	522,375	*	522,562	
US BANK				0.010%	daily			16,473	
1991 Wilson St. Assessment District	2012	AIM U.S. Treasury Money Market		0.200%	daily	265,580	4.50	265,607	
2005 Fair Oaks Ranch Estates	2035	US Bank Mmkt 4-Ct		0.000%	daily			0	
2003 CRA Tax Allocation Bonds	2028	U S Treasury Bill		0.200%	7/29/2010	188,943	35.66	216,993	
		US Bank Mmkt 4-Ct		0.160%		971,763	21,021.68		
		US Bank Mmkt 4-Ct		0.200%	daily		3.58	1,013,086	
		US Bank Mmkt 4-Ct		0.200%	daily		0.01	668,137	
		Surplus Fund		0.025%	daily			8	
<b>COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007</b>									
Redevelop Fund	2037	US Bank Mmkt 4-Ct		0.200%	daily	1,880,751	1,957.35	11,909,243	
Reserve Fund		US Bank Mmkt 4-Ct		0.200%	daily		308.64	1,877,852	
Special Fund		US Bank Mmkt 4-Ct		0.200%	daily		0.02	979,253	
Surplus Fund		US Bank Mmkt 4-Ct		0.210%	daily			9	
<b>BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES</b>									
Bond Fund		US Bank Mmkt 4-Ct		0.200%	daily		0.00	25	
Principal Account		US Bank Mmkt 4-Ct		0.200%	daily		21.78	132,543	
		US Bank Mmkt 4-Ct		0.200%	daily		605.04	3,681,266	
<b>BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES</b>									
Bond Fund		US Bank Mmkt 4-Ct		0.200%	daily		0.02	108	
Principal Account		US Bank Mmkt 4-Ct		0.200%	daily		56.31	342,611	
Reserve Fund		US Bank Mmkt 4-Ct		0.200%	daily		380.53	2,315,288	
Project Fund		US Bank Mmkt 4-Ct		0.200%	daily		688.59	4,189,672	
<b>BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES</b>									
Reserve Fund		US Bank Mmkt 4-Ct		0.200%	daily		0.03	171	
Acquisition & Construction		Reliance Trust Company # 9AMGGBEZ7		3.650%	11/17/2011	2,961,500	0.01	3,016,550	
		US Bank Mmkt 4-Ct		0.190%	daily		0.00	41	
		US Bank Mmkt 4-Ct		0.200%	daily		0.00	8,380,799	
		Reliance Trust Co C D #7AMCD5063		0.400%	11/26/2010	819.23		0	
		Reliance Trust Co C D #7AMCD49F7		0.500%	11/18/2010			8,000,000	
		Total						25,902.98	47,528,298
		*Paid Semi-Annually-Deposited into Money Mkt Account							

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

Wells Fargo Bank

Wells Fargo Bank-Investment Account

Bank of America-Airport

Bank of America-Parking Citations

Bank of America-CNG Station

Amount

2,305

Interest

Rate	Amount
0.000%	92,467
0.100%	2,358,644
0.300%	3,463
0.300%	3,249
0.300%	<u>3,109</u>

*Money Market and Bank Account Sub-Total* 2,460,932Government PoolsLocal Agency Investment Fund: Account #1 0.528% 31,287,069Account #2 Operating Amount 8,775,054Account #2 CRA Bond Cash Bal 3,197,174Local Agency Investment Fund: Account #2 0.528% 11,972,227*Government Pool Sub-Total* 43,259,296**Operating Cash Balance** 45,722,533Restricted Operating Funds at Riverside Public UtilitiesHighmark U.S. Government Money Market Fund 0.050% 894,109Other InvestmentsInvestments-US Bank/Piper Jaffray - See Page 2 1.566% 25,297,718***Operating Funds Total*** ***71,914,360*****Fiscal Agent**

BNY Western Trust Company

US Bank

Amount

539,035

49,977,144***Fiscal Agent Total*** ***50,516,179***

# City of Banning Investment Report

## Operational Portfolio Individual Investments

U.S. Bank/Piper Jaffray Average Rate =

1.566%

25.297.71.8

Average Rate All= 0.882%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on July 14, 2009. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 310 days and does not include Bond Reserve Fund Investments.

City of Banning Investment Report

June 30, 2010

## Individual Investments with Fiscal Agent

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

2,305

Bank Accounts

	Interest	
	Rate	Amount
Wells Fargo Bank	0.000%	83,277
Wells Fargo Bank-Investment Account	0.100%	1,688,982
Bank of America-Airport	0.300%	3,188
Bank of America-Parking Citations	0.300%	3,069
Bank of America-CNG Station	0.300%	3,007

*Money Market and Bank Account Sub-Total*

1,781,524

Government Pools

Local Agency Investment Fund: Account #1	0.560%	31,287,069
Account #2 Operating Amount		9,309,076
Account #2 CRA Bond Cash Bal		3,263,151

## Local Agency Investment Fund: Account #2

0.560% 12,572,227*Government Pool Sub-Total*43,859,296**Operating Cash Balance****45,643,125**Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund	0.050%	773,921
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Other Investments

Investments-US Bank/Piper Jaffray - See Page 2	1.566%	25,306,898
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*Operating Funds Total*71,723,944**Fiscal Agent**

	Amount
BNY Western Trust Company	539,035
US Bank	<u>51,829,136</u>

*Fiscal Agent Total*52,368,172

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# City of Banning Investment Report

## Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	(Premium) Amortization	Market Value	Discount or Premium
<b><u>Bank Accounts</u></b>									
83,277	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	83,277	n/a	83,277	
1,688,982	Wells Fargo Bank-Investment Acct	n/a	0.10%	daily	varies	1,688,982	n/a	1,688,982	
3,188	Bank of America-Airport	n/a	0.30%	daily	varies	3,188	n/a	3,188	
3,069	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,069	n/a	3,069	
3,007	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,007	n/a	3,007	
	Sub-total								1,781,524
<b><u>Government Pools</u></b>									
31,287,069	L.A.I.F. account #1	n/a	0.560%	daily	varies	31,287,069	n/a	31,287,069	
12,572,227	L.A.I.F. account #2	n/a	0.560%	daily	varies	12,572,227	n/a	12,572,227	
									43,859,296
<b><u>Investments-US Bank/Piper Jaffray</u></b>									
3,000,000	Federal Home Loan Banks	n/a	1.350%	1/20/2012	1/7/2010	3,000,000	0	3,003,750	
2,000,000	FNMA MTN	n/a	1.250%	4/5/2012	4/5/2010	2,000,000		2,002,500	
3,000,000	FNMA MTN	n/a	1.550%	10/5/2012	4/5/2010	3,000,000		3,008,430	
3,000,000	FNMA MTN	n/a	1.858%	4/8/2013	4/8/2010	3,000,000		3,011,250	
2,000,000	Federal Home Loan Banks	n/a	1.625%	1/7/2013	4/7/2010	2,000,000		2,007,500	
3,000,000	FHLMC MTN	n/a	1.875%	5/10/2013	5/10/2010	3,000,000		3,017,820	
4,000,000	Federal Farm Credits Bks	n/a	1.470%	10/26/2012	5/4/2010	4,000,000		4,006,240	
4,000,000	Federal Home Loan Banks	n/a	2.000%	5/17/2013	5/17/2010	4,000,000		4,011,240	
		n/a	0.000%	daily	varies			1,238,168	
		n/a	0.000%	daily	varies			1,238,168	0

U.S. Dept. of Defense Score: Average 80.8

25 306 800  
1 5550/

Average Rate All = 0.9907%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on July 14, 2009. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 310 days and does not include Bond Reserve Fund Investments.

# City of Banning Investment Report

May 31, 2010

## Individual Investments with Fiscal Agent

TRUSTEE	Bond Issue Description	Bond Maturity Date	Investment Description	Current Yield	Bond Maturity Date	Minimum Reserve Requirement	Interest May-10	5/31/2010 Market Value
BNY WESTERN TRUST COMPANY	1997 Admin Building COPs Refunding	2020	Republic Bank Investment Agreement Federated U.S. Treasury Money Mkt	6.270% 0.010%	11/1/2020 daily	522,375	*	522,562 16,473
US BANK								
1991 Wilson St. Assessment District	2012	AIM U.S. Treasury Money Market	0.200% 0.000%	daily daily	265,580	4.50	265,598	
2005 Fair Oaks Ranch Estates	2035	US Bank Mnkt 4-Ct	0.200% 0.160%	daily 7/29/2010	188,943 971,763	35.65 0.00	216,921	0
2003 CRA Tax Allocation Bonds	2028	U.S Treasury Bill US Bank Mnkt 4-Ct US Bank Mnkt 4-Ct US Bank Mnkt 4-Ct	0.200% 0.200% 0.025%	daily daily daily	3.46 0.01	991,762 21,079 55		
Surplus Fund								8
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007	2037	US Bank Mnkt 4-Ct Reliance TR Co Cdars CD #0140029695-7AMCD1FD1	0.270% 0.270%	daily 5/20/2010	1,426.47 26,438.18	11,905,607		
Redevelop Fund		US Bank Mnkt 4-Ct US Bank Mnkt 4-Ct US Bank Mnkt 4-Ct US Bank Mnkt 4-Ct	0.200% 0.200% 0.210%	daily daily daily	1,880,751	0.02	1,877,224 131	
Reserve Fund								9
Special Fund								
Surplus Fund								
BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES								
Bond Fund		US Bank Mnkt 4-Ct US Bank Mnkt 4-Ct US Bank Mnkt 4-Ct	0.180% 0.200% 0.200%	daily daily daily	21.88 0.01 604.82	22 132,500 3,680,036		
Principal Account								
Surplus Fund								
BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES								
Bond Fund		US Bank Mnkt 4-Ct US Bank Mnkt 4-Ct US Bank Mnkt 4-Ct US Bank Mnkt 4-Ct	0.200% 0.200% 0.200% 0.200%	daily daily daily daily	95.05 0.01 380.39 1,649.81	95 342,500 2,314,514 4,187,663		
Principal Account								
Reserve Fund								
Project Fund								
BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES								
Reserve Fund		US Bank Mnkt 4-Ct Reliance Trust Company # 9AMGGBEZ7	0.200% 3.650%	daily 11/17/2011	2,961,500	0.03	1,733,406 3,016,509	
Acquisition & Construction		US Bank Mnkt 4-Ct US Bank Mnkt 4-Ct Reliance Trust Co C D #7AMCD5063 Reliance TR CO Cdars #0140029703- 7AMCD1FE9 Reliance Trust Co C D #7AMCD49F7	0.200% 0.200% 0.400% 0.750% 0.500%	daily daily 11/26/2010 5/20/2010 11/18/2010	20.36 342.87 24,399.56	123,909 4,983,133 8,036,457 8,000,000		
Total					55,423.08	52,368,172		

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

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## CITY COUNCIL MEETING

**DATE:** September 28, 2010

**TO:** City Council

**FROM:** Kahono Oei, City Engineer

**SUBJECT:** Accept the Right-of-Way dedication for APN 532-110-005

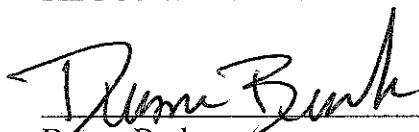
**RECOMMENDATION:** Accept the Right-of-Way dedication for APN 532-110-005, as described in Exhibit "A" and Exhibit "B", and direct the City Clerk to accept and record said dedication.

**JUSTIFICATION:** It is essential to obtain the right-of-way in order to construct the street improvements and meet the proposed right-of-way width requirement set forth by City Standards.

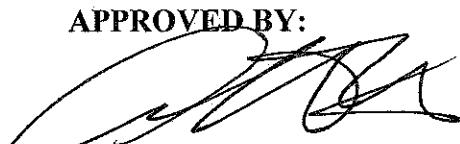
**BACKGROUND:** On July 13, 2010 City Council approved Tentative Parcel Map No. 36056 and Design Review No. 07-708 also known as the Banning Business Park. As part of the project's Conditions of Approval the developer is required to construct certain public improvements which include the easterly extension of Nicolet Street beginning at Hathaway Street and ending at a point that intersects proposed "B" Street. "B" Street is a north/south collector street that runs adjacent to the easterly property line of the project and abuts Assessor's Parcel Number (APN) 532-110-005. A right-of-way dedication from said parcel is essential in order to construct "B" Street to the ultimate width, per the City of Banning Standards. If the right of way dedication is accepted, the improvements will be constructed during the construction phase of Tentative Tract Map No. 36056.

**FISCAL DATA:** Not applicable.

**RECOMMENDED BY:**

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

**APPROVED BY:**

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

EXEMPT RECORDING  
REQUESTED BY  
City of Banning  
PER GOV'T CODE 6103  
AND WHEN RECORDED  
MAIL TO:

City of Banning – City Clerk  
P.O. Box 998  
Banning, CA 92220

MAIL TAX STATEMENTS  
TO:

City of Banning – City Clerk  
P.O. Box 998  
Banning, CA 92220

## RIGHT OF WAY DEDICATION – ROAD PURPOSES

The undersigned, being the present title owner(s) of record of the herein described parcel of land, do hereby make an irrevocable offer of dedication to the City of Banning, a political subdivision of the State of California, and its successors or assigns for public road, street, highway, and utility purposes, the real property situated in the City of Banning, County of Riverside, State of California, described in Exhibit "A" (legal description) and shown on Exhibit "B" (plat map) attached hereto and incorporated herein by this reference as though set forth in full.

It is understood and agreed that the City of Banning and its successors or assigns shall incur no liability with respect to such offer of right of way dedication for road purposes, and shall not assume any responsibility for the offered parcel of land or any improvements thereon or therein, until such offer has been accepted by appropriate action of the City Council, or of the local governing bodies or its successors or assigns.

The provisions hereof shall inure to the benefit of and be binding upon heirs, successors, assigns, and personal representatives of the respective parties hereto.

IN WITNESS THEREOF, these presents have executed this instrument this 13<sup>th</sup> day of July,  
2010.

Vulcan Iron and Steel Co. Inc.

Corporation (Type Name)

Lloyd L. Fields

Signature

Lloyd L. Fields, President

Name and Title (Type)

Corporation (Type Name)

Signature

Name and Title (Type)

See acknowledgements attached to this document.

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

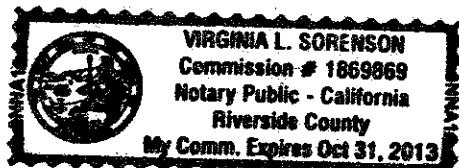
State of California

County of RIVERSIDE

On JULY 13, 2010 before me, VIRGINIA L. SORENSEN, NOTARY PUBLIC  
Date Here Insert Name and Title of the Officer

personally appeared LLOYD L. FIELDS

Name(s) of Signer(s)



Place Notary Seal Above.

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) 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 Virginia L. Sorenson Signature of Notary Public

## OPTIONAL

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

### Description of Attached Document

Title or Type of Document: Right of Way Dedication - Road Purposes

Document Date: 7/13/10 Number of Pages: \_\_\_\_\_

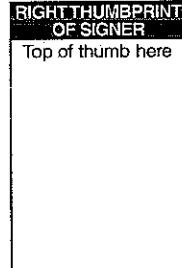
Signer(s) Other Than Named Above: \_\_\_\_\_

### Capacity(ies) Claimed by Signer(s)

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

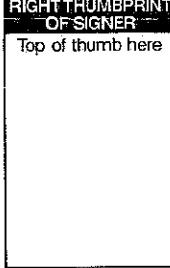
Signer Is Representing: \_\_\_\_\_



Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_



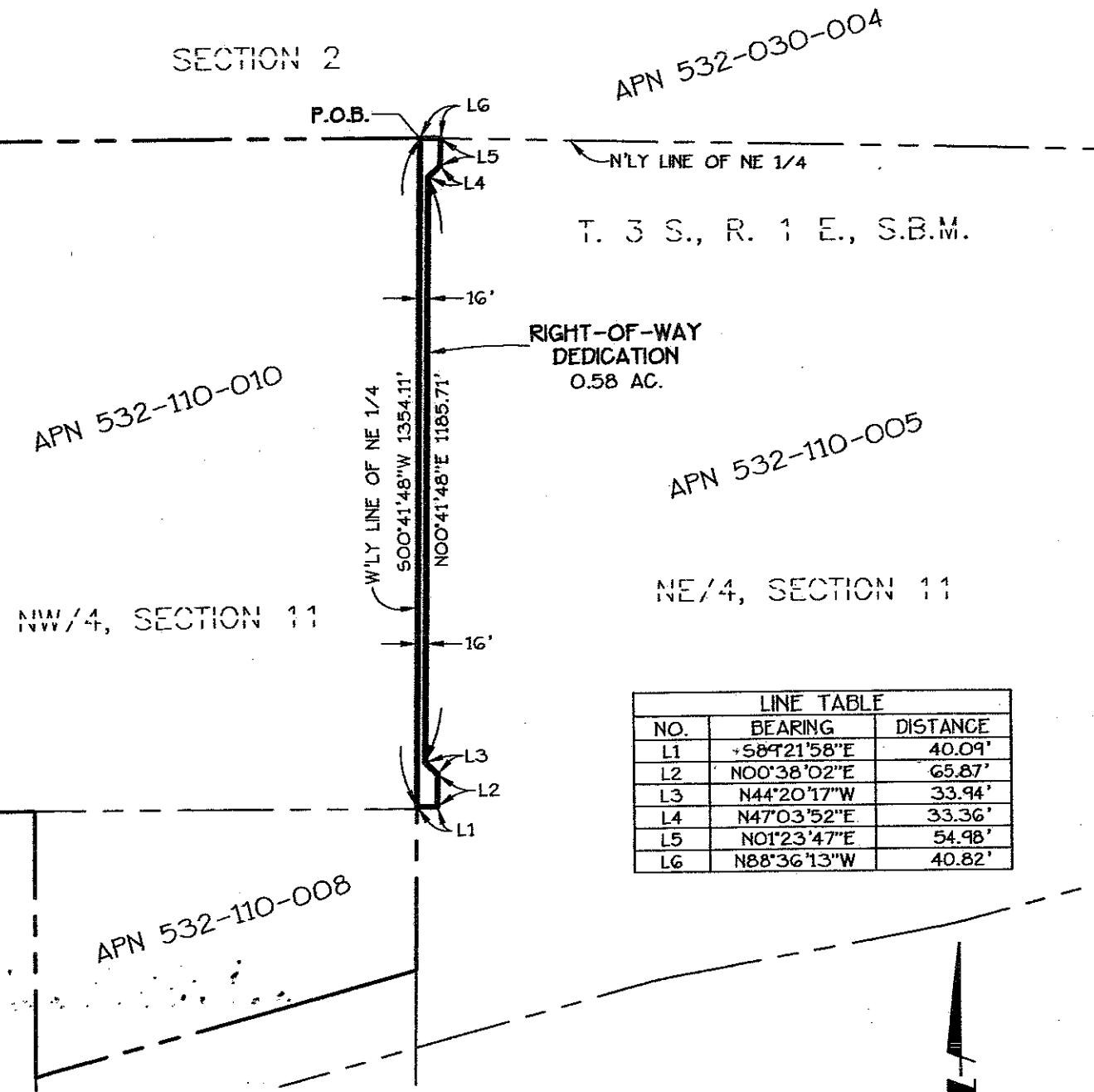
# EXHIBIT "B"

SHEET 1 OF 1

BEING A PORTION OF THE NE 1/4 OF SECTION 11, T. 3 S., R. 1 E., S.B.M.,  
IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

## RIGHT-OF-WAY DEDICATION

SECTION 2



James O. Steines  
JAMES O. STEINES, P.L.S. 6086



Stantec

STANTEC CONSULTING INC.  
19 TECHNOLOGY DRIVE  
IRVINE, CA 92618  
949.923.6000

stantec.com

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**EXHIBIT "A"**  
**RIGHT-OF-WAY DEDICATION**

BEING A PORTION OF THE NORTHEAST 1/4 OF SECTION 11, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS;

BEGINNING AT THE NORTHWESTERLY CORNER OF SAID NORTHEAST 1/4 OF SECTION 11;

THENCE, ALONG THE WESTERLY LINE OF SAID NORTHEAST 1/4 OF SECTION 11, SOUTH  $00^{\circ}41'48''$  WEST, 1354.11 FEET;

THENCE, TRAVERSING THE INTERIOR OF SAID NORTHEAST 1/4 OF SECTION 11, THE FOLLOWING COURSES:

SOUTH  $89^{\circ}21'58''$  EAST, 40.09 FEET;

NORTH  $00^{\circ}38'02''$  EAST, 65.87 FEET;

NORTH  $44^{\circ}20'17''$  WEST, 33.94 FEET TO A LINE PARALLEL WITH AND 16.00 FEET EASTERLY OF SAID WESTERLY LINE OF THE NORTHEAST 1/4 OF SECTION 11;

ALONG SAID PARALLEL LINE, NORTH  $00^{\circ}41'48''$  EAST, 1185.71 FEET;

NORTH  $47^{\circ}03'52''$  EAST, 33.36 FEET;

NORTH  $01^{\circ}23'47''$  EAST, 54.98 FEET TO THE NORTHERLY LINE OF SAID NORTHEAST 1/4 OF SECTION 11;

THENCE, ALONG SAID NORTHERLY LINE OF THE NORTHEAST 1/4 OF SECTION 11, NORTH  $88^{\circ}36'13''$  WEST, 40.82 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.58 ACRES, MORE OR LESS.

ALSO AS SHOWN ON EXHIBIT "B" ATTACHED HERETO AND HEREBY MADE A PART HEREOF.

SUBJECT TO COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS, EASEMENTS, AND RIGHTS-OF-WAY OF RECORD, IF ANY.

PREPARED BY: STANTEC CONSULTING INC.  
UNDER THE DIRECTION OF:

  
JAMES O. STEINES, P.L.S. 6086

JULY 6, 2010  
J.N. 2042 473200



## CITY COUNCIL MEETING

**DATE:** September 28, 2010

**TO:** City Council

**FROM:** Kahono Oei, City Engineer

**SUBJECT:** Approve Final Tract Map No. 32370

**RECOMMENDATION:** Approve Final Tract Map No. 32370 and authorize the City Clerk and the City Engineer to sign said map.

**JUSTIFICATION:** The final map, attached as Exhibit "A", has been examined and is found to be in substantial conformity with the tentative map.

**BACKGROUND:** Tract Map No. 32370 consists of 20 subdivision lots and is located on the west side of the intersection of Mountain Avenue and Red Bluff Lane.

On July 12, 2005 City Council approved Tentative Tract Map No. 32370. As part of the Conditions of Approval for this subdivision, the developer was required to construct certain infrastructure improvements and submit Faithfull Performance, Labor and Material Bonds along with a Monumentation Bond prior to the acceptance of the Final Map by the City Council. In lieu of the bond submittals, and as permitted by the Subdivision Map Act, the developer agreed that prior to the final acceptance of the Tract Map he would cause to be installed all the required public improvements per the approved plans and the City of Banning Specifications. As of October 15, 2010 City staff has inspected the improvements required in the Conditions of Approval and has deemed the improvements acceptable, therefore staff recommends the approval of Tract Map No. 32370.

**FISCAL DATA:** Not applicable

**RECOMMENDED BY:**

  
Duane Burk  
Director of Public Works

**APPROVED BY:**

  
Andy Takata  
City Manager

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**CITY COUNCIL AGENDA  
CONSENT CALENDAR**

**Date:** **September 28, 2010**

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

**FROM:** **Rita Chapparosa, Deputy Human Resources Director**

**SUBJECT:** **Revisions to City of Banning Employer-Employee Relations Resolution**

**RECOMMENDATION:**

Adopt Resolution No. 2010-45 entitled Employer-Employee Relations Resolution ("EERR"), which revokes and supersedes Resolution No. 2007-41.

**JUSTIFICATION:**

EERR Resolution No. 2007-41 adopted by City Council on April 24, 2007 included many errors in regard to references contained within the document. For example, references to particular Articles or Sections were incorrect. In addition, staff believes that the proposed revisions will improve employer-employee relations by clarifying and streamlining certain matters, without adversely affecting any of the rights currently afforded to our represented employees. A summary of the changes are attached for your review. Accordingly, we have been working with the City Attorney and employee bargaining units to make the document complete and the references consistent. All bargaining units have agreed to the changes.

**BACKGROUND:**

The Meyers-Milias-Brown Act ("MMBA"; Gov't Code sections 3500-3511), adopted by the California legislature in 1968, provides: "A public agency may adopt reasonable rules and regulations after consultation in good faith with representatives of a recognized employee organization or organizations for the administration of employer-employee relations..." In 1977, the City of Banning adopted Resolution 1977-2 establishing procedures for the administration of employer-employee relations between the City and its employee organizations. In 2001, the California legislature transferred jurisdiction over the MMBA to the Public Employee Relations Board ("PERB" is a quasi-judicial administrative agency charged with the administration of several statewide collective bargaining statutes in addition to MMBA). The City's EERR was subsequently amended in 2007 to update its procedures and address this change in jurisdiction. However, upon review of the revised 2007 EERR, it was noted there are errors throughout the Resolution with incorrect references and those errors have been corrected along with other revisions.

In accordance with Government Code Section 3507, the City has met and consulted with its entire employee bargaining units in order to obtain their input, comments and/or concerns regarding the proposed changes. The recommended changes are noted throughout the document for review and approval.

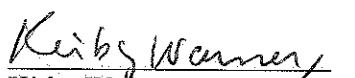
**FISCAL DATA:**

N/A.

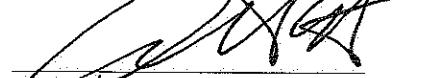
**RECOMMENDED BY:**

  
Rita Chapparosa  
Deputy Human Resources Director

**REVIEWED BY:**

  
Kirby Warner  
Interim Administrative Services Director  
*R.C.*

**APPROVED BY:**

  
Andy Takata  
City Manager

Attachments: Resolution No. 2010-45

Summary of Prepared Changes EERR

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### Summary of Prepared Changes EERR

The majority of the changes were made to correct the references throughout the resolution. Many section or Article references were incorrect.

#### Section 3 – Definitions

Confidential Employee: This provision identified the designated confidential positions. Some no longer existent positions were removed and new positions were added to the list of confidential employees.

Impasse: This definition was shortened and simplified to better describe the what constitutes impasse in negotiations

Scope of Representation: To clarify language, we decided to change “City Rights” to “the Rights of the City. “Article 1” was changed due to correct a reference and changed to “of this Article”.

#### Section 3 – Alternative Recognition Procedures

The title of the mediation service was corrected to State Mediation & Conciliation Service Department of the Department of Industrial Relations to reflect the correct legal title of the entity.

#### Section 6 – Procedure for Decertification of Recognized Employees Organization

We agreed to change the Decertification Petition period of notification from 120 days to 180 days prior to the termination date of a Memorandum of Understanding.

#### Section 9 - Appeals

The title of the mediation service was corrected to State Mediation & Conciliation Service Department of the Department of Industrial Relations to reflect the correct legal title of the entity.

### ARTICLE III - ADMINISTRATION

#### Costs of Impasse Procedures

This Section was modified to mirror Government Code section 3505.2.

**CITY OF BANNING  
EMPLOYER-EMPLOYEE RELATIONS RESOLUTION  
RESOLUTION NO. 2010-45**

**ARTICLE I -- GENERAL PROVISIONS**

**Sec. 1. Title of Resolution.**

This Resolution shall be known as the Employer-Employee Relations Resolution of the City of Banning and shall supersede and replace any prior Employer-Employee Relations Resolutions including but not limited to Resolution 2007-41 and Resolution 1977-2.

**Sec. 2. Statement of Purpose.**

This Resolution implements Chapter 10, Division 4, Title I of the California *Government Code* (Sections 3500 *et seq.*) captioned "Local Public Employee Organizations" known and cited as "Meyers-Milias-Brown Act (MMBA)", by providing reasonable and orderly procedures for the administration of employer-employee relations between the City and its employee organizations. This Resolution is intended to establish uniform and orderly methods of communication among employees, employee organizations, and the City.

However, nothing contained herein shall be deemed to supersede the provisions of federal or state law or regulations, City ordinances, resolutions, and/or rules which establish and regulate the merit service system, or which provide for other methods of administering employer-employee relations. This Resolution is intended to strengthen merit service and other methods of administering employer-employee relations by establishing uniform and orderly methods of communications between employees, employee organizations, and the City.

It is the purpose of this Resolution to provide procedures for meeting and conferring in good faith with exclusively recognized employee organizations regarding all matters that directly and significantly affect and primarily involve the wages, hours, and other terms and conditions of employment of employees in appropriate units, and that are not preempted by federal or state law. However, nothing herein shall be construed to restrict any legal or inherent exclusive City rights with respect to matters of general legislative or managerial policy.

**Sec. 3. Definitions.**

As used in this Resolution, the following terms shall have the meanings indicated:

a. **Appropriate Unit:** A unit of employee classes or positions, established pursuant to Article II, below.

b. **City:** The City of Banning, and, where appropriate, the City Council or any duly authorized City representative as herein defined.

c. **Confidential Employee:** An employee, who, in the course of his/her duties, has access to confidential information relating to the City's administration of employer-employee relations, or who is required to develop or present management positions with respect

to employer-employee relations. Confidential employees include, but are not limited to, the Administrative Services Director/Deputy City Manager, Deputy Human Resources Director, Deputy Finance Director, Human Resources Technician, and any Executive Secretary when assigned to report to the City Manager.

d. Consult/Consultation in Good Faith: Oral or written communication with any or all exclusively represented employee organizations for the purpose of presenting and obtaining views or advising of intended actions; and, as distinguished from meeting and conferring in good faith regarding matters within the required scope of such meet and confer process, does not involve an exchange of proposals and counterproposals with an exclusively represented employee organization in an endeavor to reach agreement in the form of a Memorandum of Understanding, nor is it subject to the impasse procedures set forth in Article IV, below.

e. Day: Calendar day unless expressly stated otherwise.

f. Employee: Any person regularly employed by the City except those persons elected by popular vote.

g. Employee Organization: Any organization that includes employees of the City and has as one of its primary purposes representing such employees in their employment relations with the City or any organization that seeks to represent employees in their relations with the City.

h. Employee Relations Officer: The City Manager or his/her designee.

i. Employer-Employee Relations: The relationship between the City and its employees and their employee organization(s), or, when used in a general sense, the relationship between City management and employees or employee organizations.

j. Exclusively Recognized Employee Organization: An employee organization that has been formally acknowledged by the Employee Relations Officer as the sole employee organization representing the majority of employees in an appropriate unit, pursuant to Article II, having the exclusive right to meet and confer in good faith concerning statutorily required subjects pertaining to unit employees, and thereby assuming the corresponding obligation of fairly representing such employees.

k. Impasse: The point in labor negotiations at which one or both parties to the labor negotiations determine that no further progress can be made toward reaching agreement.

l. Management Employee: An employee having responsibility for formulating, administering, or managing the implementation of City policies and programs. Management employees shall be designated as such by the City Council.

m. Meet and Confer in Good Faith: The exchange of proposals and counterproposals between representatives of the City and an exclusively recognized employee organization regarding matters within the required scope of the meet and confer process in an endeavor to reach agreement in the form of a Memorandum of Understanding on either of the following issues:

1. Those matters within the authority of such representatives; or
2. What will be recommended to the City Council with respect to those matters within the decision-making authority of the City Council.

This process does not require either party to agree to a proposal or to make a concession. "Meet and confer in good faith" may also be referred to herein as "meet and confer" or "meeting and conferring."

n. Professional Employee: Any employee engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction, including, but not limited to, attorneys, physicians, engineers, accountants, planners, and various types of scientists.

o. Proof of Employee Support: Any of the following: (1) an authorization card recently signed and personally dated by an employee, or (2) a verified authorization petition or petitions recently signed and personally dated by an employee, or (3) employee dues deduction authorization, using the payroll register for the period immediately prior to the date a petition is filed hereunder, except that dues deduction authorizations for more than one employee organization for the account of any one employee is not proof of employee support for any employee organization. The only authorization which shall be considered as proof of employee support hereunder shall be the authorization last signed by an employee. The words "recently signed" shall mean within ninety (90) days prior to the filing of a petition.

p. Proposed Unit: A unit that the Employee Relations Officer has not yet designated as an appropriate unit.

q. Scope of Representation: All matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment. However, the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order. The rights of the City as set forth in Section 5 of this Article are excluded from the scope of representation.

r. Supervisory Employee: Any employee having authority, in the interest of the City, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, or to adjust their grievances, or effectively recommend such actions, if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

#### Sec. 4. Employee Rights.

Employees shall have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment. Employees of the City also shall have the right to refuse to join or participate in the activities of employee organizations and shall also have the right to represent themselves individually in their employment relations with the City.

No employee shall be interfered with, intimidated, restrained, coerced, or discriminated against by the City or by an employee organization because of his/her exercise of these rights, or by his/her decision to abstain from the exercise of these rights.

The right to self representation does not confer rights to bargain wages nor employment terms and conditions with the City.

#### Sec. 5. City Rights.

The rights of the City include, but are not limited to the following: determine the mission of its constituent departments, commissions, and boards; determine the processes and materials to be employed in performing services; set standards of service; determine the procedures and standards of selection for employment and promotion; direct and assign its employees; assign work to employees; establish and change work schedules and assignments; determine the days and hours when employees shall work; take disciplinary action for cause; relieve its employees from duty because of lack of work or other lawful reasons; determine the content of job classifications; subcontract work and transfer work out of a bargaining unit; expand or diminish services; maintain the efficiency of government operations; determine the means, methods, and personnel by which government operations are to be conducted; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

### **ARTICLE II -- REPRESENTATION PROCEEDINGS**

#### Sec. 1. Filing of Recognition Petition By Employee Organization.

An employee organization that seeks to be formally acknowledged as the exclusively recognized employee organization representing the employees in an appropriate unit shall file a petition with the Employee Relations Officer containing the following information and documentation:

- a. Name and address of the employee organization.
- b. Names and titles of its officers.
- c. Names of employee organization representatives who are authorized to speak on behalf of the organization.

d. A statement that the employee organization has, as one of its primary purposes, representing employees in their employment relations with the City.

e. A statement whether the employee organization is a chapter of, or affiliated directly or indirectly in any manner, with a local, regional, state, national or international organization, and, if so, the name and address of each such other organization.

f. Certified copies of the employee organization's constitution and by-laws, or articles of incorporation.

g. A designation of those persons, not exceeding two (2) in number, and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose.

h. A statement that the employee organization has no restriction on membership based on race, color, creed, religion, gender, sex, pregnancy, childbirth or related medical conditions, national origin, ancestry, age, physical or mental disability, legally protected medical condition, family care status, veteran status, marital status, sexual orientation, or any other basis protected by state or federal laws.

i. The job classifications or titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein.

j. A Petition must be accompanied by proof of employee support equal to at least thirty percent (30%) of the employees within the proposed unit. Proof may be shown by payroll dues deductions, membership cards, signed authorization cards, petitions, or statements of intent signed by the employees.

k. A request that the Employee Relations Officer formally acknowledge the petitioner as the exclusively recognized employee organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith.

The Petition, including the proof of employee support and all accompanying documentation, shall be declared to be true, correct, and complete, under penalty of perjury, by the duly authorized officer(s) of the employee organization executing it.

## Sec.2. City Response to Recognition Petition.

Upon receipt of the Petition, the Employee Relations Officer shall determine whether:

a. There has been compliance with the requirements of the Recognition Petition, and

b. The proposed representation unit is an appropriate unit in accordance with Section 7 of this Article.

If an affirmative determination is made by the Employee Relations Officer on these matters, he/she shall so inform the petitioning employee organization, shall give written notice of such request for recognition to the employees in the unit, and shall take no action on said request for thirty (30) days thereafter. If either of the foregoing matters are not affirmatively determined, the Employee Relations Officer shall offer to consult thereon with such petitioning employee organization, and, if such determination thereafter remains unchanged, shall inform that organization of the reasons for the denial in writing. The petitioning employee organization may appeal such determination in accordance with Section 9 of this Article.

Sec.3. Alternative Recognition Procedures.

Unless another employee organization has previously been recognized as the exclusive representative of all or part of the same proposed unit, the following procedures may be used as an alternative to Section 1 of this Article.

The City shall grant exclusive recognition to an employee organization based on a signed petition, authorization cards, or union membership cards showing that a majority of employees in an appropriate bargaining unit, as defined in Section 7 of this Article, desire the representation. An employee organization proceeding under these alternative recognition procedures must present the City with a Recognition Petition that meets all the requirements of Section 1 of this Article, except that instead of showing that there is employee support equal to at least thirty percent (30%) of the employees within the proposed unit under Section 1.j of this Article, the employee organization must present a signed petition, authorization cards, or union membership cards showing that a majority of the employees in an appropriate bargaining unit approve the employee organization.

Exclusive representation shall be determined by a neutral third party selected by the City and the employee organization. The neutral third party shall review the signed petition, authorization cards, or union membership cards to verify the exclusive status of the employee organization. In the event that the City and the employee organization cannot agree on a neutral third party, the State Mediation & Conciliation Service Department of the Department of Industrial Relations shall be the neutral third party, and shall verify the exclusive status of the employee organization.

In the event that the neutral third party determines, based on a signed petition, authorization cards, or union membership cards, that a second employee organization has the support of at least thirty percent (30%) of the employees in the unit in which recognition is sought, the neutral third party shall order an election to establish which employee organization, if any, has majority status. Such election shall be conducted in accordance with Section 5 of this Article.

Sec.4. Open Period for Filing Challenging Petition.

Within thirty (30) days of the date written notice was given to affected employees that a valid recognition petition for an appropriate unit has been filed, any other employee organization may file a competing request to be formally acknowledged as the exclusively recognized employee organization of the employees in the same or in an overlapping unit (one which

corresponds with respect to some but not all the classifications or positions set forth in the recognition petition being challenged), by filing a petition evidencing proof of employee support in the unit claimed to be appropriate of at least thirty percent (30%) and otherwise in the same form and manner as set forth in Section 1 of this Article. If such challenging petition seeks establishment of an over-lapping unit, the Employee Relations Officer shall call for a hearing on such overlapping petitions for the purpose of ascertaining the more appropriate unit, at which time the petitioning employee organizations shall be heard. Thereafter, the Employee Relations Officer shall determine the appropriate unit or units in accordance with the standards in Section 7 of this Article. The petitioning employee organizations shall have fifteen (15) days from the date notice of such unit determination is communicated to them by the Employee Relations Officer to amend their petitions to conform to such determination or to appeal such determination pursuant to Section 9 of this Article.

Sec.5. Election Procedure.

The Employee Relations Officer shall arrange for a secret ballot election to be conducted by a neutral third party agreed to by the Employee Relations Officer and the concerned employee organization(s), in accordance with its rules and procedures subject to the provisions of this Resolution. In the event that the parties are unable to agree on a third party to conduct an election, the parties agree that the election shall be conducted by the California Mediation and Conciliation Service.

All employee organizations who have submitted petitions which have been determined to be in conformance with this Article shall be included on the ballot. The choice of "no organization" shall also be included on the ballot. Employees entitled to vote in such election shall be those persons employed in regular permanent positions within the designated appropriate unit who were employed during the pay period immediately prior to the date which ended at least fifteen (15) days before the date the election commences, including those who did not work during such period because of authorized leaves of absence, and who are employed by the City in the same unit on the date of the election. An employee organization shall be formally acknowledged as the exclusively recognized employee organization for the designated appropriate unit following an election or run-off election if it received a numerical majority of all valid votes cast in the election.

In an election involving three or more choices, where none of the choices receives a majority of the valid votes cast, a run-off election shall be conducted between the two choices receiving the largest number of valid votes cast; the rules governing an initial election being applicable to a run-off election.

There shall be no more than one valid election under this Resolution pursuant to any petition in a twelve (12) month period affecting the same unit.

Costs of conducting elections shall be borne in equal shares by the City and by each employee organization appearing on the ballot.

Sec. 6. Procedure for Decertification of Recognized Employees Organization.

A Decertification Petition alleging that the incumbent exclusively recognized employee organization no longer represents a majority of the employees in an established appropriate unit may be filed with the Employee Relations Officer only during the month of January of any year following the first full year of recognition, or during the thirty (30) day period commencing one hundred eighty (180) days prior to the termination date of a Memorandum of Understanding then having been in effect less than three (3) years, whichever occurs later. A Decertification Petition may be filed by two (2) or more employees or their representative, or an employee organization, and shall contain the following information and documentation declared by the duly authorized signatory under penalty of perjury to be true, correct, and complete:

- a. The name, address and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information.
- b. The name of the established appropriate unit and of the incumbent exclusively recognized employee organization sought to be decertified as the representative of that unit.
- c. An allegation that the incumbent exclusively recognized employee organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts relating thereto.
- d. Proof of employee support that at least thirty percent (30%) of the employees in the established appropriate unit no longer desire to be represented by the incumbent exclusively recognized employee organization. Such proof shall be submitted for confirmation to the Employee Relations Officer within the time limits specified in the first paragraph of this Section.

An employee organization may, in satisfaction of the Decertification Petition requirements hereunder, file a Petition under this Section in the form of a Recognition Petition that evidences proof of employee support of at least thirty (30) percent and otherwise conforms to the requirements of Section 1 of this Article.

The Employee Relations Officer shall initially determine whether the Petition has been filed in compliance with the applicable provisions of this Article. If his/her determination is in the negative, he/she shall offer to consult thereon with the representative(s) of such petitioning employees or employee organization, and, if such determination thereafter remains unchanged, shall return such Petition to the employees or employee organization with a statement of the reasons therefor in writing. The petitioning employees or employee organization may appeal such determination in accordance with Section 9 of this Article. If the determination of the Employee Relations Officer is in the affirmative, or if his/her negative determination is reversed on appeal, he/she shall give written notice of such Decertification or Recognition Petition to the incumbent exclusively recognized employee organization and to unit employees.

The Employee Relations Officer shall thereupon arrange for a secret ballot election to be held on or about fifteen (15) days after such notice to determine the wishes of unit employees as to the question of decertification, and, if a Recognition Petition was duly filed hereunder, the question of representation. Such election shall be conducted in conformance with Section 5 of this Article.

During the "open period" specified in the first paragraph of Section 6 of this Article, the Employee Relations Officer may on his/her own motion, when he/she has reason to believe that a majority of unit employees no longer wish to be organized, inform all unit employees that there will be an election to determine that issue. In such an event, any other employee organization may, within fifteen (15) days of such notice, file a Recognition Petition in accordance with Section 1 of this Article, which the Employee Relations Officer must act on in accordance with Section 2 of this Article.

If, pursuant to the procedure of Section 6 of this Article, a different employee organization is formally acknowledged by the Employee Relations Officer as the exclusively recognized employee organization, such organization will be bound by all the terms and conditions of any Memorandum of Understanding then in effect for that bargaining unit for which they are newly being exclusively recognized as the employee organization for its remaining term.

#### Sec. 7. Policy and Standards for Determination of Appropriate Units.

The policy objectives in determining the appropriateness of units shall be the effect of a proposed unit on (1) the efficient operations of the City and its compatibility with the primary responsibility of the City and its employees to effectively and economically serve the public, and (2) providing employees with effective representation based on recognized community of interest considerations. These policy objectives require that the appropriate unit shall be the broadest feasible grouping of positions that share an identifiable community of interest. The City shall consider the following factors, among others, in making such determinations:

- a. Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions.
- b. History of representation in the City and in similar employment; except however, that no unit shall be deemed to be an appropriate unit solely on the basis of the extent to which employees in the proposed unit have organized.
- c. Consistency with the organizational patterns of the City.
- d. Number of employees and classifications, and the effect on the administration of employee-employer relations.
- e. Effect on the classification structure and impact on the stability of the employer-employee relationship of dividing a single classifications among two (2) or more units.
- f. Effect of differing legally-mandated impasse resolution procedures.

Managerial, supervisory, and confidential responsibilities are determining factors in establishing appropriate units hereunder, and therefore such managerial, supervisory, and confidential employees may not be included in units that include non-managerial, non-supervisory, and non-confidential employees. Managerial, supervisory, and confidential employees may not represent any employee organization which represents other employees on matters within the scope of representation.

The Employee Relations Officer shall, after notice to and consultation with affected employee organizations, allocate new classifications or positions, delete eliminated classifications or positions, and retain, reallocate or delete modified classifications or positions from units in accordance with the provisions of this Section.

**Sec. 8. Procedure for Modification of Established Appropriate Units.**

Requests by employee organizations for modifications of established appropriate units may be considered by the Employee Relations Officer only during the period specified in Section 6 of this Article. Such requests shall be submitted in the form of a Recognition Petition, and, in addition to the requirements set forth in Section 1 of this Article, shall contain a complete statement of all relevant facts and citations in support of the proposed modified unit in terms of the policies and standards set forth in Section 7 of this Article. The Employee Relations Officer shall process such petitions as other Recognition Petitions under this Article.

The Employee Relations Officer may, on his/her own motion, propose during the period specified in Section 6 of this Article, that an established unit be modified. The Employee Relations Officer shall give written notice of the proposed modification(s) to any affected employee organization and shall hold a meeting concerning the proposed modification(s), at which time all affected employee organizations shall be heard.

Thereafter, the Employee Relations Officer shall determine the composition of the appropriate unit or units in accordance with Section 7 of this Article, and shall give written notice of such determination to the affected employee organizations. The Employee Relations Officer's determination may be appealed as provided in Section 9 of this Article. If a unit is modified pursuant to the motion of the Employee Relations Officer hereunder, employee organizations may thereafter file Recognition Petitions seeking to become the exclusively recognized employee organization for such new appropriate unit or units pursuant to Section 1 of this Article.

**Sec. 9. Appeals.**

An employee organization aggrieved by an appropriate unit determination of the Employee Relations Officer under this Article may, within ten (10) days of notice thereof, request the intervention of the State Mediation & Conciliation Service Department of the Department of Industrial Relations through the use of its program pursuant to *Government Code* Sections 3507.1 and 3507.3, or may, in lieu thereof or thereafter, appeal such determination to the City Council for final decision within fifteen (15) days of notice of the Employee Relations Officer's determination or the termination of proceedings pursuant to *Government Code* Sections 3507.1 or 3507.3, whichever is later.

An employee organization aggrieved by a determination of the Employee Relations Officer that a Recognition Petition Challenging Petition or Decertification or Recognition Petition – or employees aggrieved by a determination of the Employee Relations Officer that a Decertification Petition – has not been filed in compliance with the applicable provisions of this Article, may, within fifteen (15) days of notice of such determination, appeal the determination to the City Council for final decision.

Appeals to the City Council shall be filed in writing with the City Clerk, and a copy thereof served on the Employee Relations Officer. The City Council will commence to consider the matter within thirty (30) days of the filing of the appeal. The decision of the City Council shall be final and binding. The City Council may, in its discretion, but with the consent of the appellant, refer the dispute to a third party hearing process. The decision of the City Council to so refer the dispute shall be final and binding. However, if the City Council so refers the dispute, the City Council will determine whether the opinion of the hearing officer will be advisory or binding. If advisory, the City Council will review the decision of the hearing officer and determine whether it will adopt, modify, or reject the hearing officer's decision.

## **ARTICLE III -- ADMINISTRATION**

### Sec.1. Administrative Rules and Procedures.

The Employee Relations Officer is hereby authorized to establish such rules and procedures as appropriate to implement and administer the provisions of this Resolution after consultation with affected employee organizations.

### Sec.2. Submission of Current Information by Exclusively Recognized Employee Organization.

All changes in the information filed with the City by an exclusively recognized employee organization under Section 1 of Article II shall be submitted in writing to the Employee Relations Officer within fourteen (14) days of such change.

### Sec. 3. Payroll Deductions on Behalf of Employee Organizations.

Upon formal acknowledgement by the City of an exclusively recognized employee organization under this Resolution, only such exclusively recognized employee organization may be provided payroll deductions of membership dues and insurance premiums for plans sponsored by such organization upon the written authorization of employees in the unit represented by exclusively recognized employee organization on forms provided therefor by the City. The providing of such service to the exclusively recognized employee organization by the City shall be contingent upon and in accordance with the provisions of Memoranda of Understanding and/or applicable administrative procedures. This shall not preclude the continuation of payroll deductions heretofore granted to any employee. An exclusively recognized employee organization for which dues are deducted may be required to pay the City, upon written demand of the City, a service charge of ten cents (\$0.10) per name per month.

Sec.4. Reasonable Time Off to Meet and Confer.

The exclusively recognized employee organization may select employee members of such organization to attend scheduled meetings with the Employee Relations Officer or other management officials on subjects within the scope of representation during regular work hours without loss of compensation. The number of employee members who may attend these meetings shall be designated in the exclusively recognized employee organization's Memorandum of Understanding. If the Memorandum of Understanding does not so designate, no more than three (3) such employees may attend meetings under this Section. The exclusively recognized employee organization must, whenever practicable, submit the names of all such employee representatives to the Employee Relations Officer at least two (2) working days in advance of such meetings.

Any such meeting is subject to scheduling by City management in a manner consistent with operating needs and work schedules. In addition, no employee representative may abandon or leave his/her duties, work station, or assignment without specific approval from his/her Supervisor, Department Head, or other authorized City management official.

Sec.5. Bulletin Boards.

The City will furnish adequate bulletin board space where available and exclusively recognized employee organizations may use portions of City bulletin boards under the following conditions:

- a. No materials may be defamatory, violate the City's Personnel Rules, nor shall they advocate election or defeat of candidates for public office.
- b. All materials must be dated and must identify the organization that published them.
- c. Unless special arrangements are made, materials will be removed thirty-one (31) days after the posting.

The City reserves the right to determine where bulletin boards shall be placed and what portion of them are to be allocated to exclusively recognized employee organizations' materials.

An exclusively recognized employee organization that does not abide by these rules may forfeit its right to have materials posted on City bulletin boards. The City reserves the right to immediately remove any material posted in a manner that is not in conformance with this Section.

Sec.6. Reasonable Access to Work Locations.

Reasonable access to employee work locations shall be granted to exclusively recognized employee organizations and their officially designated representatives, for the purpose of processing grievances or contacting members of the exclusively recognized employee organization concerning business within the scope of representation.

a. Such officers or representatives shall not enter any work location without the prior consent of the Department Head or the Employee Relations Officer, which must be obtained at least one (1) business day in advance of the date of desired access.

b. Access shall be restricted so as not to interfere with the normal operations of the department, any of its facilities, or established safety or security requirements.

c. Officially designated representatives of the exclusively recognized employee organization must obtain prior permission from his/her immediate Supervisor to engage, during duty hours, in issues relating to business within the scope of representation. If permission is denied, an alternate time will be designated.

d. The Department Head and/or the Employee Relations Officer shall not arbitrarily or capriciously deny access to officers of exclusively recognized employee organizations.

#### Sec. 7. Solicitation of Membership and Activities.

Solicitation of membership and activities concerning the internal management of an employee organization, such as collecting dues, holding membership meetings, campaigning for office, conducting elections, and distributing literature shall not be conducted during working hours, unless specifically authorized by the Employee Relations Officer.

#### Sec. 8. Use of City Facilities.

Employee organizations may, with the prior approval of the Employee Relations Officer, be granted the use of City facilities during non-work hours for meetings of City employees, provided space is available, and provided further that such meetings are not used for organizational activities or membership drives of City employees.

All requests made for the use of City facilities must be made in writing. The City reserves the right to assess reasonable charges for the use of such facilities. The use of City equipment other than items normally used in the conduct of business meetings, such as desks and chairs, is strictly prohibited, the presence of such equipment in approved City facilities notwithstanding.

#### Sec. 9. Access to Information.

The City will make non-confidential employee information available to exclusively recognized employee organizations in accordance with the requirements of the California Public Records Act (*Government Code §§ 6250 et seq.*). Access to this information will be made during regular business hours and subject to payment for reasonable costs of copying. In addition, the City will impose additional charges for requests for records that are produced only periodically or for requests that require programming, compilation, or extraction of electronic data.

The following types of information are examples of the type of information that is not subject to disclosure under this Section:

- a. Personnel, medical, or similar files, the disclosure of which would cause the City to violate individual privacy rights;
- b. Working papers or memoranda that are not retained in the ordinary course of business;
- c. Records pertaining to pending litigation to which the City is a party;
- d. Records pertaining to claims or appeals that the City has not yet settled; or
- e. Records for which the public interest served by non-disclosure clearly outweighs the public interest served by the disclosure of the record.

## **ARTICLE IV -- IMPASSE PROCEDURES**

### Sec.1. Initiation of Impasse Procedures.

If the meet and confer process has reached impasse as defined in this Resolution, either party may initiate the impasse procedures by filing with the other party a written request for an impasse meeting, together with a statement of its position on all disputed issues. An impasse meeting shall then be scheduled promptly by the Employee Relations Officer. The purpose of such impasse meeting shall be:

- a. To identify and specify in writing the issue or issues that remain in dispute.
- b. To review the position of the parties in a final effort to resolve such disputed issue or issues; and
- c. If the dispute is not resolved, to discuss arrangements for the utilization of the impasse procedures provided herein.

### Sec.2. Impasse Procedures.

Impasse procedures are as follows:

- a. Mediation. If the parties agree to submit the dispute to mediation, and agree on the selection of a mediator, the dispute shall be submitted to mediation. All mediation proceedings shall be private. The mediator shall make no public recommendation, nor take any public position at any time concerning the issues.
- b. Determination by the City Council. If the parties failed to agree to submit the dispute to mediation or failed to agree on the selection of a mediator, or failed to resolve the dispute through mediation within fifteen (15) days after the mediator commenced meeting with the parties, the matter may be submitted to the City Council. The City Council shall take such action regarding the impasse as it, in its discretion, deems appropriate and in the public interest. Any legislative action by the City Council on the impasse shall be final and binding.

### Sec. 3. Costs of Impasse Procedures.

If after a reasonable period of time, representatives of the City and the exclusive employee organization fail to reach agreement, the City and the exclusive employee organization may together agree upon the appointment of a mediator mutually agreeable to the parties. Costs of mediation shall be divided one-half to the public agency and one-half to the exclusive employee organization as provided for and stated in California Government Code Section 3505.2.

## **ARTICLE V -- MISCELLANEOUS PROVISIONS**

### Sec. 1. Strikes and Work Action.

Nothing in this Resolution shall be construed as making the provisions of California *Labor Code* Section 923 applicable to City employees or employee organizations, or of giving employees or employee organizations the right to participate in, support, cooperate or encourage, directly or indirectly, any strike, sick-out, or other total or partial stoppage or slow down of work which is contrary to law or court order. In the event the employees engage in such actions contrary to law or court order, they may subject themselves to discipline up to and including termination, and may be deemed to have abandoned their employment; and employee organizations may thereby forfeit all rights accorded them under this Resolution and other City law for a period of up to one (1) year from commencement of such activity.

### Sec. 2. Construction.

This Resolution shall be administered and construed as follows:

- a. Nothing in the Resolution shall be construed to deny to any person, employee, organization, the City, or any authorized officer, body, or other representative of the City, the rights, powers, and authority granted by federal, state, or City law.
- b. This Resolution shall be interpreted so as to carry out its purposes as set forth in Article I.

### Sec. 3. Severability.

If any provision of this Resolution or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications, and, to this end, the provisions of this Resolution are severable.

Sec. 4. Effective Date.

This Resolution becomes effective immediately upon adoption. Further, upon adoption, this Resolution revokes Resolution 2007-41.

PASSED AND ADOPTED this 28th day of September, 2010.

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Mayor, City of Banning, California

APPROVED AS TO FORM  
AND LEGAL CONTENT:

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

I, Marie Calderon, City Clerk of the City of Banning DO HEREBY CERTIFY that the foregoing Resolution was duly adopted by the City Council of the City of Banning at a Regular Meeting thereof held on September 28, 2010, by the following vote, to-wit.

AYES:

NOES:

ABSENT:

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City Clerk, City of Banning, California

( S E A L )

## CITY COUNCIL AGENDA

**Date:** September 28, 2010  
**TO:** Honorable Mayor and City Council  
**FROM:** Fred Mason, Electric Utility Director  
**SUBJECT:** Resolution No. 2010-67 Budget Appropriation of Funds for the Public Benefit Programs

**RECOMMENDATION:** The City Council approves Resolution No. 2010-67 appropriating funds from the fund balance in the amount of \$1,488,517 for the City of Banning's Public Benefit Programs.

**JUSTIFICATION:** Per Assembly Bill 1890 (AB1890), funds collected through the Public Benefit Surcharge are to be expended on qualified programs. Per Senate Bill 1 (SB1), California Electric Utilities are to implement incentive programs for the California Solar Initiative.

**BACKGROUND:** Per the requirements of AB1890, utilities are mandated to implement and fund Public Benefit Programs equal to 2.85% of retail sales. Utilities are able to collect these funds through a surcharge assessed on customer's electric bills. These funds are only to be expended on qualified Public Benefit Programs.

In 2006 The State of California enacted legislation in the form of SB1, the California Solar Initiative, which required California Electric Utilities to provide incentive programs for California rate payers to install a solar photovoltaic (PV) system on their home or business. Banning's share of the \$2.8 billion program was determined to be \$2 million in rebate incentives, based on the Electric Utility load. The source of funds being the Public Benefits surcharge collected from Banning Electric's customers.

The City implemented a solar PV rebate program in 2005, and although the Utility actively promoted it, the program only had one participant until late 2008 when the statewide investor owned utilities started aggressively marketing their own solar PV programs, and Banning's program benefitted from the increased media exposure. This resulted in active marketing by solar PV system contractors in Banning Electric's service territory, which greatly increased participation in Banning's solar PV rebate program.

Banning Electric made a decision to continue accepting solar PV rebate applications, in excess of the official amount budgeted in the fiscal year 2009/10 and 2010/11 budgets. This was due to the \$2 million SB1 rebate requirement that Banning was obligated to expend, and the fact that the Public Benefit fund balance was sufficient to fund the \$2 million in its entirety, without affecting Banning Electric customers.

In September of 2009 City Council passed resolution 2009-69 authorizing an electric rate increase. The rate increase was not applied to Low Income Assistance customers on the Banning Electric Alternative Rate (BEAR) which has remained at its present level since October 2007. The result was that the amount being subsidized by the Public Benefits program nearly doubled.

Furthermore, due to a widespread economic recession, Banning Electric is experiencing an increase in the number of applicants to the BEAR Low Income Assistance program. Both the electric rate increase and the increase in applicants to the BEAR program have resulted in significantly increased Public Benefits Fund expenditures for low income assistance, in excess of the amount budgeted in the fiscal year 2009/10 budget.

Staff is requesting that the Public Benefits Budget for FY 2009/10 & FY 2010/11 be increased by appropriating from the Public Benefits Fund Balance to satisfy increased expenditures for solar photovoltaic rebates and low income assistance.

**FISCAL DATA:** There is no direct financial impact associated with this proposal as the funds used to provide the rebates have been previously collected.

The budgeted amounts for the affected Public Benefits Fund accounts will be increased by the amounts shown in the Appropriation Request column in the table below:

<u>FY 2009/10</u>	Approved Budget	Appropriation Request	Account
Residential Photovoltaic	\$ 121,000	\$ 455,374	675-7020-473-42-61
Commercial Photovoltaic	\$ 25,000	\$ 163,801	675-7020-473-42-62
Low Income-BEAR	\$ 130,000	\$ 106,438	675-7020-473-42-42
	\$ 276,000	\$ 725,613	

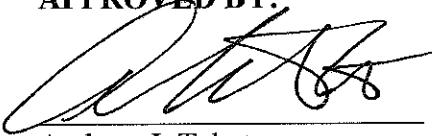
  

<u>FY 2010/11</u>	Approved Budget	Appropriation Request	Account
Residential Photovoltaic	\$ 59,600	\$ 611,500	675-7020-473-42-61
Commercial Photovoltaic	\$ -	\$ 151,404	675-7020-473-42-62
	\$ 59,600	\$ 762,904	
<b>TOTAL</b>	<b>\$ 335,600</b>	<b>\$ 1,488,517</b>	

**RECOMMENDED BY:**

  
Fred Mason  
Electric Utility Director

**APPROVED BY:**

  
Andrew J. Takata  
City Manager

  
Kirby Warner  
Interim Administrative Services Director

**RESOLUTION NO. 2010-67**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING APPROVING THE APPROPRIATION OF FUNDS FOR THE PUBLIC BENEFIT PROGRAMS**

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

**WHEREAS**, Assembly Bill 1890 mandated the implementation and funding of qualified Public Benefit Programs equal to 2.85% of retail sales; and

**WHEREAS**, the City collects funds for its Public Benefits Program through a surcharge of 2.85% assessed on its electric retail customers; and

**WHEREAS**, the City desires to maintain a Public Benefit Program which meets the requirements of AB1890; and

**WHEREAS**, the City desires to meet its Solar PV rebate obligation under Senate Bill 1;

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

1. Adopt Resolution No. 2010-67 approving the appropriation of funds in the total amount of \$1,488,517 for accounts under 675-7020-473 (Public Benefit Program Expenditures).
2. Authorize the Mayor to execute Resolution No. 2010-67 said authorization shall become void if not executed within 30 days of the effective date of this resolution.

**PASSED, APPROVED, AND ADOPTED** this 28<sup>th</sup> day of September 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 Wydner, LLP

**CITY COUNCIL AGENDA  
CONSENT ITEM**

**Date:** September 28, 2010

**TO:** City Council

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

**SUBJECT:** Recommendation to Adopt a Resolution Authorizing Investment of Monies in the Local Agency Investment Fund

**RECOMMENDATION:** "The City Council adopt Resolution No. 2010-68, a Resolution of the City Council of the City of Banning Authorizing Investment of Monies in the Local Agency Investment Fund."

**JUSTIFICATION:** The Local Agency Investment Fund (LAIF) now requires a specific resolution of the Council authorizing individuals to make investments in the Fund.

**BACKGROUND/ANALYSIS:** The City of Banning has two investment accounts with LAIF. One is in the name of the City of Banning and the other is in the name of the Redevelopment Agency.

The City Council adopts an investment policy annually that includes the titles of the individuals authorized to make certain investments on behalf of the City and the Redevelopment Agency. The most recently adopted policy was approved on July 27, 2010. It had been the City's practice to provide a copy of our approved investment policy to LAIF as evidence of authority.

Recently, we were informed that LAIF no longer accepted investment policies as authorization to make investments. They require a specific resolution of the Council to authorize individuals to make investments. The authorized investors listed in the attached resolution are the same as those listed in the City's investment policy. Adoption of this resolution will allow us to comply with LAIF's requirements.

**FISCAL DATA:** No fiscal impact will result from the adoption of this resolution.

**RECOMMENDED BY:**

Kirby Warner  
Kirby Warner  
Interim Administrative Services Director

**APPROVED BY:**

  
Andy Takata  
City Manager

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**RESOLUTION NO. 2010-68**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING  
AUTHORIZING INVESTMENT OF MONIES IN THE LOCAL AGENCY  
INVESTMENT FUND**

**CITY**  
**ADDRESS** 99 E. RAMSEY ST., BANNING, CA 92220 **CITY**  
**PHONE** 951-922-3102

**WHEREAS**, Pursuant to Chapter 730 of the statutes of 1976 Section 16429.1 was added to the California Government Code to create a Local Agency Investment Fund in the State Treasury for the deposit of money of a local agency for purposes of investment by the State Treasurer; and

**WHEREAS**, the City Council of the City of Banning does hereby find that the deposit and withdrawal of money in the Local Agency Investment Fund in accordance with the provisions of Section 16429.1 of the Government Code for the purpose of investment as stated therein as in the best interests of the City;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BANNING**, that the City Council does hereby authorize the deposit and withdrawal of City monies in the Local Agency Investment Fund in the State Treasury in accordance with the provisions of Section 16429.1 of the Government Code for the purpose of investment as stated therein, and verification by the State Treasurer's Office of all banking information provided in that regard;

**BE IT FURTHER RESOLVED**, that the following City officers **or their successors in office** shall be authorized to order the deposit of withdrawal of monies in the Local Agency Investment Fund:

<b>Name</b>	<b>Title</b>	<b>Signature</b>
Robert E. Botts	Mayor	_____
Barbara Hanna	Mayor Pro Tem	_____
John Machisic	Councilman	_____
Don R. Robinson	Councilman	_____
Deborah Franklin	Council member	_____
Kirby Warner	Administrative Services Director	_____
Andrew Takata	City Manager	_____

*EE*

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Banning of the State of California this 28th day of September, 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. 2010-68 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 28<sup>th</sup> day of September, 2010 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

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**CITY COUNCIL AGENDA  
RESOLUTION**

**DATE:** **September 28, 2010**

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

**FROM:** **Arturo Vela, Senior Engineer**

**SUBJECT:** **Resolution No. 2010-69, “Awarding the Construction Contract for Federal Aviation Administration Airport Improvement Project No. 3-06-0018 AIP 10(C), ‘Airport Rotating Beacon, Wind Cone, Segmented Circle & AWOS’”**

**RECOMMENDATION:** Adopt Resolution No. 2010-69:

- I. Awarding the Construction Contract for Federal Aviation Administration Airport Improvement Project No. 3-06-0018 AIP 10(C), “Airport Rotating Beacon, Wind Cone, Segmented Circle & AWOS” to Cindy Bales Engineering, Inc. from Big Bear City, California, for an amount “Not to Exceed” \$326,246.50.
- II. Authorizing an additional ten-percent (10%) construction contingency in the amount of \$32,624.65 to be used for additional work that arises from unforeseen conditions.
- III. Authorizing the Director of Finance to appropriate funds from the Airport Fund to Account No. 600-5100-435-93.73.

**JUSTIFICATION:** The proposed improvements will enhance safety elements needed for efficient navigation to and from the Banning Municipal Airport. Cindy Bales Engineering, Inc. is the lowest responsible bidder to construct the improvements.

**BACKGROUND:** In April of 2007, the Airport Master Plan Update was completed by C&S Engineers, Inc. and submitted to the Federal Aviation Administration (FAA) for review. FAA approval was obtained in May of 2007. Consequently, the Airport Master Plan Update was submitted to the County of Riverside Airport Land Use Commission (ALUC) in June of 2007 and issued an approval in August of 2007.

The main objective of the Airport Master Plan update was to determine the extent, type, and schedule of development needed to accommodate existing needs and future aviation demand at the airport. The Airport Master Plan took inventory of current conditions of the airport’s infrastructure and recommended alternatives for airside and landside facility improvements at the airport which consequently developed the Airport Improvement Program (AIP).

On March 9, 2010, City Council approved Resolution No. 2010-14, “Awarding a Professional Services Agreement to C & S Engineers, Inc. for Design Services at the Banning Municipal Airport”. The scope of work under this contract was to design the Airport Rotating Beacon, Wind Cone, Segmented Circle and Automated Weather Observing System (AWOS). These items are currently listed in the Airport’s AIP.

The scope of work for this construction project includes the complete removal and replacement of the airport rotating beacon and tower and associated foundation and cabling; the complete removal and replacement of the airport segmented circle and tetrahedron; the complete removal and replacement of the airport lighted wind cone and associated foundation and cabling; the installation of AWOS and associated foundations and cabling.

This project was publicly advertised and one (1) bid was received and publicly opened on August 18, 2010 with the following results:

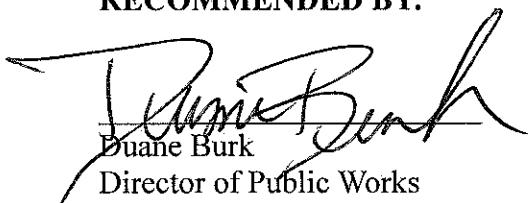
Rank	Name of Firm/Bidder	Bid Amount
1	Cindy Bales Engineering, Inc.	\$ 326,246.50

The Engineer's estimate for the project is \$424,600.00. If approved, the project is anticipated to start by November, 2010.

In early 2010, the Public Works Department, Engineering Division, submitted a grant application to the FAA to construct navigational improvements at the Banning Municipal Airport. FAA staff evaluated the grant application and awarded the City of Banning an amount of \$536,750.00. On August 24, 2010, the City Council adopted Resolution No. 2010-62, "Approving the Airport Improvement Program Grant Agreement Offer from the Federal Aviation Administration".

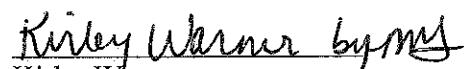
**FISCAL DATA:** The total project cost is \$358,871.15, which includes a ten-percent (10%) construction contingency. FAA will reimburse the City 95% of the total design and construction costs, up to \$536,750.00. The City's match will be \$28,250.00 if the entire grant amount is used. Said match will be funded from the Airport Fund which currently holds a balance of approximately \$121,690.00.

**RECOMMENDED BY:**



Duane Burk  
Director of Public Works

**REVIEWED BY:**



Kirby Warner by my  
Kirby Warner  
Interim Administrative Services  
Director

**APPROVED BY:**



Andy Takata

Interim City Manager

**RESOLUTION NO. 2010-69**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AWARDING THE CONSTRUCTION CONTRACT FOR FEDERAL AVIATION ADMINISTRATION AIRPORT IMPROVEMENT PROJECT NO. 3-06-0018 AIP 10(C), "AIRPORT ROTATING BEACON, WIND CONE, SEGMENTED CIRCLE & AWOS"**

**WHEREAS**, the City of Banning Airport Master Plan Update was approved by the Federal Aviation Administration (FAA) in May of 2007 and subsequently received approval in August of 2007 from the County of Riverside Airport Land Use Commission; and

**WHEREAS**, the objective of the Airport Master Plan update was to determine the extent, type, and schedule of development needed to accommodate existing needs and future aviation demand at the airport; and

**WHEREAS**, on March 9, 2010, City Council approved Resolution No. 2010-14, "Awarding a Professional Services Agreement to C & S Engineers, Inc. for Design Services at the Banning Municipal Airport" which included items listed in the Airport Master Plan such as the design of the Airport Rotating Beacon, Wind Cone, Segmented Circle and Automated Weather Observing System (AWOS); and

**WHEREAS**, the project was publicly advertised and one (1) bid was received and publicly opened on August 18, 2010; and

**WHEREAS**, Cindy Bales Engineering, Inc. from Big Bear City, California is the lowest responsible bidder to construct the improvements; and

**WHEREAS**, on August 24, 2010, the City Council adopted Resolution No. 2010-62, "Approving the Airport Improvement Program Grant Agreement Offer from the Federal Aviation Administration" that states that FAA will reimburse the City 95% of the construction costs, up to \$536,750.00.

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

**Section I.** Awarding the Construction Contract for Federal Aviation Administration Airport Improvement Project No. 3-06-0018 AIP 10(C), "Airport Rotating Beacon, Wind Cone, Segmented Circle & AWOS" to Cindy Bales Engineering, Inc. from Big Bear City, California, for an amount of "Not to Exceed" \$326,246.50, and authorize an additional ten-percent (10%) construction contingency to be used for additional work that arises from unforeseen conditions.

**Section II.** Authorize the Director of Finance to make the necessary budget adjustments and appropriations from the Airport Fund to Account No. 600-5100-435-93-73.

**Section III.** The Mayor is authorized to execute the Construction Contract agreement with Cindy Bales Engineering, Inc. from Big Bear City, California for Airport Improvement Project No. 3-06-0018 AIP 10(C), "Airport Rotating Beacon, Wind Cone, Segmented Circle & AWOS". This authorization will be rescinded if the contract agreement is not executed by both parties, for each agreement, within sixty (60) days of the date of this resolution.

**PASSED, ADOPTED AND APPROVED** this 28<sup>th</sup> day of September, 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. 2010-69, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 28<sup>th</sup> day of September, 2010.

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

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

## CITY COUNCIL/BANNING UTILITY AUTHORITY AGENDA

**DATE:** September 28, 2010

**TO:** Banning Utility Authority

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

**SUBJECT:** Resolution No. 2010-08 UA, "Awarding a Professional Services Agreement for the Whitewater Flume Restoration Project to Tomas R. Payne & Associates"

**RECOMMENDATION:** The Utility Authority adopt Resolution No. 2010-08 UA:

- I. Award a Professional Services Agreement to Tomas R. Payne Associates of Arcata, California in an amount "Not to Exceed" \$37,900.00 for the Fisheries and Aquatic Resources Update and Riparian Habitat Evaluation Update for the Southern California Edison Surrender of License Application.
- II. Authorize the Director of Finance to make necessary adjustments and appropriations in an amount of \$37,900.00 from the Banning Utility Authority Water Capital Facility Fund to Account No. 661-6300-471.33-11 (Professional Services).

**JUSTIFICATION:** Southern California Edison (SCE) prepared an application for the Surrender of Federal Energy Regulatory Commission (FERC) License for Project No. 344, also known as the Whitewater Flume Project, in 2005. The award of this agreement is necessary in order to update information previously provided by the City to Southern California Edison. The information will be included in Southern California Edison's Surrender of License application.

**BACKGROUND:** Southern California Edison (SCE) owns and previously operated hydroelectrical facilities consisting of two small power plants. The water supply for the power plants comes from the South Fork and East Fork of the Whitewater River and is discharged into the Banning Heights Mutual Water Company's (Banning Heights) water system as well as the Banning Water Canyon. The water that is discharged into the Banning Water Canyon replenishes the underlying groundwater subbasins, which eventually are pumped into the City of Banning's Water System.

SCE operated the hydroelectrical facilities under a permit from the Federal Energy Regulatory Commission (FERC) and previously notified FERC of its intention not to renew the permit after April of 2003. SCE has not operated the facilities to generate electricity since 1998 due to failure of a 900,000 gallon forbay tank and due to the failure of a portion of the canal. On October 8, 2003, FERC issued an order affirming the validity of an annual license for the water conveyance facilities and is requiring the filing of a Surrender of License application.

The City has water rights to a section of the Whitewater River along with Banning Heights and it is prudent for the City to ensure continuous replenishment of the underlying groundwater subbasins in the Banning Water Canyon. The water supply from the SCE system is very valuable to the Banning Canyon water shed area.

In June of 2010, an Agreement for Transfer of San Gorgonio Hydroelectric Project No. 344 Water Conveyance Facilities, also known as the Whitewater Flume, was fully executed between SCE, City of Banning, Banning Heights, and San Gorgonio Pass Water Agency (Pass Water Agency). The Participating Entities are evaluating the purchase and repair of the water conveyance system. The City will be responsible for ten percent of the associated costs.

To comply with the terms of the Agreement, SCE is required to obtain FERC approval of the Surrender of SCE's FERC license or the transfer of SCE's FERC license to Participating Entities for the water conveyance facilities. Currently, SCE is updating the application of the Surrender of License that was prepared in 2005. Previously, Banning contributed by providing information for the "Fisheries Resources" and "Evaluation of Water Diversion Effects on Riparian Vegetation South Fork and East Fork Diversions Dams, San Gorgonio Project" and "Vegetative Cover" sections of the application and is now required to provide updated information for the same.

At this time, staff respectfully requests an agreement be awarded to Tomas R. Payne Associates, which originally prepared the information on the City's behalf in 2005. The scope of work for these services include the following: Fisheries and Aquatic Resources Update and Riparian Habitat Evaluation Update which entails collecting and analyzing field data; writing a report on the effects of the existing water diversion on fish and aquatic invertebrates and water diversions on riparian habitat; and providing results to SCE.

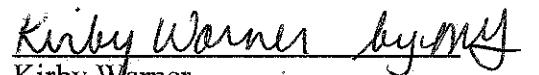
**STRATEGIC PLAN INTEGRATION:** Approval of this recommendation will meet the City's goal of providing a more reliable delivery of the water supply to the present and future customers of the Water Utility.

**FISCAL DATA:** An appropriation in the amount of \$37,900.00 from the Water Capital Facility Fund to Account No. 661-6300-471.33-11 (Professional Services) is necessary in order to fund the proposed Professional Services Agreement for the update of information for the SCE Surrender of License Application.

**RECOMMENDED BY:**

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

**REVIEWED BY:**

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

**APPROVED BY:**

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

**RESOLUTION NO. 2010-08 UA**

**A RESOLUTION OF THE BANNING UTILITY AUTHORITY OF THE CITY OF BANNING, CALIFORNIA, AWARDING A PROFESSIONAL SERVICES AGREEMENT FOR THE WHITEWATER FLUME RESTORATION PROJECT TO TOMAS R. PAYNE ASSOCIATES**

**WHEREAS**, Southern California Edison (SCE) owns and previously operated hydroelectrical facilities consisting of two small power plants and the water supply for the power plants comes from the Whitewater River and is discharged into the Banning Heights Mutual Water Company's (Banning Heights) water system and the Banning Water Canyon; and

**WHEREAS**, SCE has not operated the facilities to generate electricity since 1998 and on October 8, 2003, Federal Energy Regulatory Commission (FERC) issued an order affirming the validity of an annual license for the water conveyance facilities and is requiring the filing of a Surrender of License application; and

**WHEREAS**, in June of 2010 an Agreement for Transfer of San Gorgonio Hydroelectric Project No. 344 Water Conveyance Facilities was fully executed between SCE, City of Banning, Banning Heights, and San Gorgonio Pass Water Agency; and

**WHEREAS**, in order to comply with the terms of the Agreement SCE is required to obtain FERC approval of the Surrender of SCE's FERC license or the transfer of SCE's FERC license to Participating Entities for the water conveyance facilities; and

**WHEREAS**, Banning previously provided information for the Surrender of License in 2005 and is required to provide revised information so that SCE can update the application; and

**WHEREAS**, staff respectfully requests an agreement be awarded to Tomas R. Payne Associates, which is the consultant that prepared the information on the City's behalf in 2005, to collect and analyze the necessary data; and

**WHEREAS**, the scope of work for the agreement includes the following: Fisheries and Aquatic Resources Update and Riparian Habitat Evaluation Update which entails collecting and analyzing field data; writing a report on the effects of the existing water diversion on fish and aquatic invertebrates and water diversions on riparian habitat; and providing results to SCE.

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

**Section I.** Award a Professional Services Agreement to Tomas R. Payne Associates, of Arcata, California for the Whitewater Flume Restoration Project in the amount of \$37,900.00.

**Section II.** Authorize the appropriation of \$37,900.00 from the Water Capital Facility Funds to Account No. 661-6300-471.33-11 (Professional Services), and authorize the Director of Finance to make the necessary budget adjustments related to these funds.

**Section III.** The City Manager is authorized to execute the Professional Services Agreement for the Whitewater Flume Restoration Project. This authorization will be rescinded if the parties do not execute the contract agreement within Ninety (90) days of this resolution.

**PASSED, ADOPTED AND APPROVED** this 28th day September, 2010.

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Robert E. Botts, Chairman  
Banning Utility Authority

**ATTEST:**

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Marie A. Calderon, Secretary

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

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

**CERTIFICATION:**

I, Marie A. Calderon, Secretary to the Utility Authority of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2010-08 UA was adopted by the Banning Utility Authority of the City of Banning at its Joint Meeting thereof held on the 28th day of September, 2010.

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Marie A. Calderon, Secretary  
Banning Utility Authority

**CITY COUNCIL AGENDA  
PUBLIC HEARING**

**DATE:** September 28, 2010

**TO:** Honorable Mayor and City Council

**FROM:** Heidi Meraz, Community Services Director

**SUBJECT:** Banning Pass Transit Service Route Reduction

**RECOMMENDATION:** "That the Council approves proposed route reduction of the Banning Pass Transit System to be effective October 15, 2010.

**JUSTIFICATION:** Banning Pass Transit is funded annually through a grant from the Riverside County Transportation Commission (RCTC). Due to the current economic climate and funding limitations, funding from RCTC to Banning Pass Transit was reduced by 12% for the fiscal year 2010/2011. With this reduction, it is necessary to make adjustments to not only administrative costs, but to the level of service.

**BACKGROUND:** On July 13, 2010 the Council approved Resolution 2010-51 authorizing the approval of the Fiscal Year 2010/11 – 2012/13 Short Range Transit Plan (SRTP). Within the SRTP was the possibility of eliminating Sunday Service on both fixed Route and Dial-A-Ride as well as the potential of other reductions and route modifications if necessary.

**ANALYSIS:** Results of the most recent passenger survey which were conducted in 2009 indicate that transit services are most needed Monday – Friday, followed by Saturday and lastly on Sundays. Ridership data supports the survey results with a 33% difference in passenger trips between Saturdays and Sundays. Ridership data also indicated the early morning hour, 6AM is not highly utilized.

Staff is proposing the following changes:

- Elimination of Sunday Service
- Reduction of Saturday Service from 8:00AM – 5:00PM to 9:00AM – 4:00PM
- Service hours on Monday – Friday will begin at 7:00AM as opposed to the current start time of 6:00AM

**FISCAL DATA:** The proposed reduction of services will save approximately \$55,000 annually.

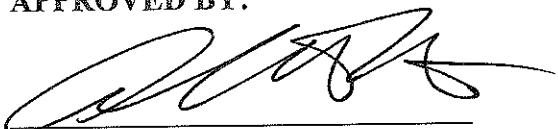
**RECOMMENDED BY:**

  
Heidi Meraz  
Community Services Director

**REVIEWED BY:**

  
Kirby Warner  
Interim Administrative Services Director

APPROVED BY:



Andy Takata  
City Manager