

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

October 26, 2010
5:00 p.m.

Banning Civic Center
Council Chambers
99 E. Ramsey St.

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

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

I. CALL TO ORDER

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

II. REPORT ON CLOSED SESSION

III. PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS

PUBLIC COMMENTS – On Items Not on the Agenda

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

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

PRESENTATION:

1. Stagecoach Days Committee Report (ORAL)

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

**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 7

Items to be pulled _____, _____, _____, _____ for discussion.

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

1.	Approval of Minutes – Joint Meeting – 10/12/10	1
2.	Approval of Minutes – Regular Meeting – 10/12/10.	2
3.	Resolution No. 2010-75, Accepting and Authorizing the Expenditure of \$12,842.25 from the California Office of Traffic Safety (OTS) for the California Checkpoint Program in the City of Banning	17
4.	Resolution No. 2010-76, Awarding the Construction Contract for Project No. 2010-02, A.C. Overlay, Pavement Rehabilitation and Sidewalk Improvements on Various Streets to Matich Corporation of San Bernardino, CA for an amount of “Not-to-Exceed” \$837,000.00; Accepting and Authorizing the Expenditures of SB-821 Bicycle and Pedestrian Facilities Grant Program Funds for Fiscal Year 2010/201; and Approving the Necessary Budget Appropriations for Said Project.	20
5.	Resolution No. 2010-09 UA, Amending the Professional Services Agreement with Roy McDonald, Environmental and Regulatory Consultant of Sacramento, CA in an amount of \$85,900.00 for services Related to the Whitewater Flume Restoration Project for a total contract Amount “Not-to-Exceed” \$110,900.00.	32
6.	Resolution No. 2010-10 UA, Awarding a Professional Services Agreement to Stephen P. Stockton, P.E. of Redlands, CA in an amount of \$20,000.00 for consulting services related to the Whitewater Flume Restoration Project.	44
7.	Approve the Emergency Sewer Main Repair at 521 E. Ramsey Street in the amount of \$10,460.00 and direct the City Clerk to record the Notice of Completion	48

- 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. Massage Establishment business License Fee – Resolution No. 2010-74 Staff Report	52
Recommendation: Adopt Resolution No. 2010-74, Establishing a business License Fee of \$50.00 per year for the owner or operator of massage establishment.	

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
5. Review of Fees and Rates

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].

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

10/12/10
JOINT MEETING

A joint meeting of the Banning City Council and the Community Redevelopment Agency was called to order by Mayor Botts on October 12, 2010 at 4:03 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS/

BOARDMEMBERS PRESENT:

Councilmember Franklin
Councilmember Hanna
Councilmember Machisic
Councilmember Robinson
Mayor Botts

COUNCIL MEMBERS ABSENT:

None

OTHERS PRESENT:

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

CLOSED SESSION

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) 150 E. Ramsey Street (APN 541-181-028); 2) 280 E. Ramsey Street (APN 541-183-004); and 3) 2648 W. Ramsey Street (APN 538-190-011) and a status report will be given on these real property negotiations.

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

Meeting went into closed session at 4:04 p.m.

The meeting recessed at 5:06 p.m. and reconvened at 5:13 p.m.

ADJOURNMENT

By common consent the meeting adjourned at 5:15 p.m.

Marie A. Calderon, City Clerk/
Agency Secretary

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

10/12/10
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 October 12, 2010 at 5:13 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
Leonard Purvis, Police Chief
Rita Chapparosa, Deputy Human Resources Dir.
Fred Mason, Electric Utility Director
Brian Guillot, Assistant Planner
Perry Gerdes, Public Utilities Superintendent
Marie A. Calderon, City Clerk

Mayor Botts asked for a silent invocation. Councilmember Robinson invited the audience to join him in the Pledge of Allegiance to the Flag.

REPORT ON CLOSED SESSION

City Attorney said that the Redevelopment Agency Board met in closed session pursuant to Government Code Section 54956.8 to discuss real property negotiations. A status report was given concerning the negotiations regarding 280 E. Ramsey Street and direction was given for further negotiations. There was no discussion regarding the properties at 150 E. Ramsey Street (APN 541-181-028) and 2678 W. Ramsey Street (APN 538-190-011).

PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS

PUBLIC COMMENTS

Inge Schuler addressed the Council regarding the article in the Record Gazette from last Friday with the headline "Realtor Worries Deal for Old Dodge Site Could Die". She understands that these real estate negotiations are in closed session and here the real estate representative, Jim Stewart, puts this add in the Record Gazette saying that they might back out because of various things that have been in the public where not part of the negotiations because they have been out. It seems that this is sort of holding us hostage to their demands that they want to do something and this is one way to threaten backing out. She is really upset about that because she doesn't think this tactic of the real estate agency "Group One" is acceptable. Many developers have done this before and it is done in Los Angeles repeatedly and done in surrounding communities that these developers come in and say we are going to do this and if you don't let us do this we are going to back out basically holding the cities hostage and she thinks that we have some very impressive monuments to the result of that tactic here in town like the Business Center here on Lincoln come to mind where we bend over backwards to help them and them they just leave unfinished places. Don't let them hold you hostage.

Henri De Roule representing Hope, Empathy, Love and Prayer located here in Banning passed out some information to the Council and stated that there were a couple of developments that have taken place relatively recently. The first one is that the U. S. Department of Agriculture has significantly reduced the amount of food that food pantries are receiving in the United States. This is due to the cutbacks that the Feds have done in their farm subsidies and it is affecting the food pantries. They do not as of yet have exact numbers and wanted to make the Council aware that this was happening and it will severely impact Banning residents. The second item is the poverty rate in Banning. In their research for Block Grant applications and their applications for emergency food and service program grants they have found that according to AmericanTown.com Banning has a poverty rate of 14.3%. According to ZIPskinny which has more recent data that number is 19.5%. The third item is unemployment and currently according to the census labor force data of August 2010 unemployment in Banning stood at 17.4%. He said his last item is that the Grace Lutheran Church for the second year in a row is having a Pipe Organ Concert on November 13th in support of our efforts to help the underprivileged in our community. Tickets are \$10.00 per person in advance and \$14.00 at the door. The concert will take place at 4 p.m. If anyone has any questions they can contact him at 951-392-7796 or at H.E.L.P.

Mayor Pro Tem Hanna said that some of the statistics are for Zip Code 92220 which of course includes more than the city and does it differentiate between the city versus the zip code and would you like to mention your new website address.

Mr. De Roule said it does not unfortunately. They do have Cabazon as a different zip code and other cities that do have their own zip codes. Also, the Morongo Indian Reservation numbers would be included in the 92220 zip code. Also their new website address is www.helpinc.me. On that site you can also donate to H.E.L.P. and they appreciate all donations and H.E.L.P. is a 100% volunteer organization and have absolutely no paid employees of any kind.

Dorothy Familetti-McLean of Banning addressed the Council stating that this was a public service announcement: "People of Banning listen up – there are four candidates from Sun Lakes running for two Council positions. Banning does not need or deserve three members of the Council from Sun Lakes or from any one area in town. In addition several of the Sun Lakes candidates are not good representatives of some of the fine people in Sun Lakes."

Carol Barber addressed the Council speaking for the seniors at the Senior Center. She thanked Councilmember Franklin for coming to their Yard Sale that they had recently. Also, they are having a Halloween Party at 1:00 p.m. on October 27th.

Joann Teland of Banning stated that at the last Council Meeting a man spoke about a school on Wilson Street and Mountain and he mentioned radiation and she wanted to know if that was followed up on or not because she does live pretty close to that area.

Mayor Botts said that they did ask the City Manager to follow up on that issue but a gentleman followed it up and said that wasn't true and said what the problems were but the City Manager will follow up on that item.

Edward Miller resident of Banning in the area of Sun Lakes addressed the Council stating that the reason there are so many people from Sun Lakes running for the City Council is simply because they are all retired and have the time, the energy and the interest in helping all of Banning. There was nothing special about Sun Lakes and there was nothing about Sun Lakes that prevents them from being interested in the entire area of Banning. Again, the fact that people happen to live in one area of Banning does not mean that they are only interested in that area.

CORRESPONDENCE: None

APPOINTMENTS:

1. Appointment of a Task Force (Ad Hoc) for Highland Springs Traffic Improvements

Duane Burk, Public Works Director stated that staff is asking for an appointment for a task force from the Council to work with a task force of elected officials from the City of Beaumont as it relates to interim improvements on Highland Springs.

Brian De Forge, Mayor of the City of Beaumont and Councilmember Paul St. Martin who are on this Task Force addressed the Council in regards to working together.

There was some Council discussion in regards to those that want to serve on this Task Force and it was decided that Mayor Botts and Councilmember Franklin will serve on this task force.

CONSENT ITEMS

Mayor Pro Tem Hanna pulled Consent Item No. 6 for discussion. City Manager requested that Consent Item No. 5 be continued.

1. Approval of Minutes – Joint Meeting – 09/28/10

Recommendation: That the minutes of the Joint Meeting of September 28, 2010 be approved.

2. Approval of Minutes – Regular Meeting – 09/28/10

Recommendation: That the minutes of the Regular Meeting of September 28, 2010 be approved.

3. Approval of Accounts Payable and Payroll Warrants for the Month of August 2010.

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

4. Agreement to Provide Animal Control Services

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

7. Resolution No. 2010-73, Authorizing the Banning Police Department To Accept the 2010 U. S. Department of Justice COPS Hiring Program (CHP) Grant in the Amount of \$791,956 to Fund Two Police Officer Positions Over a Three Year Period.

Recommendation: That the City Council adopt Resolution No 2010-73.

8. Resolution No. 2010-13 (as amended) – Vacating a Portion of Val Monte Street from Ramsey Street to Interstate 10 and Adjacent Alleys.

Recommendation: That the City Council adopt Resolution No. 2010-13, as amended, vacating a portion of Val Monte Street from Ramsey Street to Interstate 10 and adjacent alleys.

Motion Hanna/Robinson to approve Consent Items 1 through 4 and 7 and 8. Mayor Botts opened the item for public comments. There were none. **Motion carried, all in favor.**

5. Resolution No. 2010-70, Approving the Revised Annual Pole Attachment Fees for Any Foreign Utility Not Participating in the Southern California Joint Pole Committee (“SCJPC”) Authorized Costs Program.

Motion Hanna/Robinson that Resolution No. 2010-70 be continued. Mayor Botts opened the item for public comments. There were none. **Motion carried, all in favor.**

6. Resolution No. 2010-72, Authorizing the Banning Police Department to Accept the

2010 U. S. Department of Justice COPS Law Enforcement Technology Grant in the Amount of \$300,000 to Purchase State-of-the Art Handheld Radios.

Mayor Pro Tem Hanna said that how proud we are of the Banning Police Department having received the COPS Department of Justice Grant in the amount of \$791,956.00 to fund two police officer positions over a three-year period and congratulations. She said in regards to this technology grant she would like to have an update and make sure she understands how the interoperability will work. Ever since 9/11 it has been an issue in our country whether police can talk to other police departments and sheriff's departments and with fire and so forth.

Chief Purvis said that September was a good month for the Banning Police Department and stated that they did receive a grant notification about a week and half ago that we received the \$791,956.00 to save two police office positions and they also received word that they received \$300,000 from the COPS office as well. Those radios will allow them to do is to talk to other agencies whether it be the Sheriff's Department or this new radio system being installed in the Coachella Valley and also when the County of Riverside finally implements their new radio system. They received this grant with the help of Duane Burk and they are proud to work with other City department directors to get these grants.

Councilmember Machisic said one of the things we occasionally hear from the audience and other people is about securing grants and here we have a prime example of securing \$1.1 million dollars in a grant. Also about two meetings ago we received \$550,000 for our airport. So we have collected approximately \$1.7 million dollars within approximately the last month and a half. So we do go out and look for these grants and they are not readily available as some people might lead you to believe but you have to work for them pretty hard and he thinks our police department as well as Duane Burk have worked hard and we have received a nice sum of money.

Motion Hanna/Machisic that Resolution No. 2010-72 be adopted accepting the U. S. Department of Justice COPS Law Enforcement Technology Grant in the amount of \$300,000 and authorize the Banning Police Department to purchase state-of-the-art handheld interoperable radios with the grant funds.

Mayor Botts opened the item for public comments.

Don Smith resident of Banning addressed the Council stating that four or five months ago the Council supported the Chief in keeping some officers in place so that when this grant came into place the officers would still be here and that foresight is to be congratulated because the Chief actually got his grant with the help of Duane Burk. And we know the hardest grant of all to get is not the ones for capital like the radio although that is a great grant. We know the hardest grant to get are the ones to help us cover our operational costs so that \$791,000 dollar grant is amazing. The Council is to be congratulated and the staff is to be congratulated on getting this grant.

Motion carried, all in favor.

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 and Duane Burk, Public Works Director)

City Manager stated that at our last public hearing staff had recommended 30%, 7%, 7%, 7% and 7%. The Council looked and that and didn't feel that our residents could afford to pay that so they asked staff to go back to the drawing board with a couple of options. One was an option that we gave to you on Option A which was 18%, 17.5%, 8% and 8%. At that point in time we have taken off the fifth year because we really feel in the fifth year we really need to look at the budget on an annual basis and so what staff is requesting is that the Council pass one of the options A or B. He asked Mr. Warner to discuss some of the aspects of the bond in 2005 since that has been a big discussion among the residents. But what staff is recommending on an annual basis prior to adopting any new rates for that year is that the Council goes through all the aspects of what we are not doing, what we are not funding or what we are funding and then make a vote every year so that way the Council has their finger on the pulse per say in regard to that issue.

Kirby Warner, Interim Administrative Services Director gave a summary of the bonds in 2005 because this has been a big issue and he has given the same discussion and answers many times but he wants to do it again because it has been out in the community since the last meeting and he is not sure that everybody has gotten the difference of what this is and how it relates to Prop 218. He expanded on what the City Manager talked about and reiterated the major differences from the original staff recommended proposal that was talked about on September 14th and said that it has been shortened from 5 years to 4 years in both of these options, both of these options spread out that first year revenue need that was identified over the first two years and that means that we will not collect the revenue as quickly and both of them then will be reviewed annually. He also gave an example of the potential reductions or cutbacks and how it is going to affect projects. Mr. Warner what he is saying is that the plans although not say idea but they will both work and both get you into compliance by the second year and think there are ways that you can at least work through both on the operations and maintenance and the capital on the out years by making sure you review very carefully each year what is going on with the rates and whether you need then and how much money you have in the bank and where you are at for the next year. He thinks that this will put you in a much better place by the time you get out to the year 2014 and need to go through this process again. Mr. Warner explained the second option in regards to 15%, 15%, 7% and 7%.

There were various questions and discussion by the Council in regards to accounts being flat, reserves, funding for the flume, state water purchases, normal maintenance capital, new water wells, and service charges.

City Attorney said for the record at the close of the last meeting it wasn't totally clear what we were going to do with regards to additional protests if they were submitted after the hearing that was held that night. Staff has continued to receive them when they came in and he understands from the City Clerk that there is something like 31 that were received so it doesn't really alter the count significantly from where we were at before.

Mayor Botts opened the public hearing 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*):

Ernest Wright, president of the High Valley Water District Board of Directors

Gary Hironimus, Banning

Mike Riley, Redlands

Edward Miller, Banning

Lyndon Taylor, Banning

Vera Macias, 385 W. Wilson Street

Joann Teland, Banning

Camille Smith, Banning

Nathan Johns, Banning

Sheila Herder, Serrano Del Vista

Dorothy Familetti-McLean (See Exhibit "A" for the record)

Don Smith, resident of Banning

Edward Miller

Marion Johnson

Gary Hironimus, Banning

Fred Sakurai, 4985 Bermuda Dun

Mayor Botts closed the public hearing.

At this time staff responded to the questions that were asked in regards to reasons for bond issues in the first place, is there still a working committee on this deciding where the money goes, the Jarvis Association and legality of this matter, coverage ratio, can funds be used only for water, 500 units being gone, the selling of city-owned properties, and the use of redevelopment money. There were also comments from Mr. Burk in regards to restrictions on water and the ability to develop new sources. Also we do own a lot a land in the Banning Water Canyon which is a jewel in the community and would never recommend selling any of that.

There were Council comments in regards to water, water infrastructure, the original May 2005 report in regards to capital projects, background information in regards to the police station, questions posed to the person technically in charge of water, the bonding company that dealt with financing and the legal aspects of this project.

City Manager said that Mr. Burk did not take over the Water Department until October 2009 so he is not the individual that made that statement that Councilmember Machisic referred to, nor were the current City Manager, City Attorney and Interim Director of Administrative Services.

Mayor Pro Tem Hanna asked if renters were notified of this Prop 218 issue. Mr. Warner said yes. All accounts were sent notices. City Attorney said that Prop 218 only talks about people on the last equalized assessment role which has been one of the things about whether it should apply to utility accounts and so their advice and the City gave every customer a notice.

Councilmember Franklin said for those people that are saying that they did not receive a notice, what happens when something like that happens. Mr. Warner said we have the data base that we did send out in the mailing and he can certainly check the address against the data base and against the accounts. We did mail it.

Councilmembers made further comments in regards to this matter.

Mayor Botts asked the City Clerk to read the title of Ordinance No. 1428. City Clerk read: An Urgency Ordinance of the City Council of the City of Banning, Amending Chapter 13.08 of the Banning Municipal Code Relating to the Water Rate Schedule.

Motion Hanna/ Machisic to waive further reading of Urgency Ordinance No. 1428 and to go with Option B with an Annual Review. Motion carried, all in favor.

Motion Hanna/Machisic that Urgency Ordinance No. 1428 be adopted. Motion carried, all in favor.

Meeting recessed at 7:45 p.m. and reconvened at 7:56 p.m.

2. Urgency Ordinance No. 1429, Increase of the Wastewater Rates for Wastewater Utility.
(Staff Report – Kirby Warner, Interim Administrative Services Director and Duane Burk, Public Works Director)

Mr. Warner said that nothing has changed on this item from the previous presentations. Staff has detailed the needs for the same things for meeting the debt service coverage ratios for various capital projects that are out in the future as well as operations. In this particular case they were asked to look at one option that had some lower percentages on the amount of revenue to be raised however, as you will see on Option A in years 2013 and 2014 where it says that the coverage ratio would be only 79% and 91% in that particular case staff really is not recommending this particular reduction of this option simply because it plans to not meet debt service coverage again out in the out years even though you meet it in the beginning years because you have the higher amounts but because of the needs and the things that are out in those out years you will run out of the ability to be under coverage and then be right back in the boat you are in today which is not meeting the agreements that you have under the bonds so staff continues to recommend the rates as proposed in the original plan at 12%, 10%,

8% and 8%. The percentage again is the amount of revenue raised and not necessarily the amount of the way the bill is going up. Those are monthly fixed charges per residence and for commercial it is an amount based on an equivalent dwelling unit which means how many equivalent houses they have in that development so they pay larger bills than that per month.

Councilmember Hanna said that one of the questions that was raised was the tertiary treatment plant and that is included in this and asked Mr. Burk to address how we are required to do this.

Mr. Burk said currently the City of Banning's wastewater plant is a dual stage trickling filter process. It is kind of an older style process and part of the bonds that were sold were to design a tertiary plant to develop recycled water and then that water to be used for irrigation purposes. The reason why is that you can see as you go out to the right this year falls off and if you continue the project you wouldn't have the coverage because the project would continue to move on and the only real project we have is creating the tertiary plant and building the pipeline improvements. Now the caveat is with this current Council and again, one of the ideas was to move forward with the grant applications and it was even stated tonight the various grants and part of the coverage in here, the tertiary surcharge, the dollars per EDU is \$2.00 and that is based on the State Revolving Fund payback mechanism. The City currently has a State Revolving Fund loan in place when they improved the headworks about nine years ago where all of the confluence of all of the sewers comes into the plant, the City did an expansion by adding some sludge drying beds, increased that confluence to an ability of about 6 million gallons per day however, the plant today is only a 3 million gallon per day plant. So our predecessors who put forward the bonds designed a plant for 1.5 million gallons a day; half the size of the plant with the idea that they would phase in the other process at a later date. However, I caution you all and the public is that it has not been approved by the Regional Board. The reason why you are going to tertiary plant is exactly what Mayor Pro Tem Hanna said is that it is a regulatory requirement as it relates to your current discharge and how you are handing the processes of the sewer.

Mayor Pro Tem Hanna said she knows that you mentioned in other presentations that you had some other ideas and we never explored those publically and it is certainly something that is going to make a difference and we have to hear back what your thoughts are in the future.

Mr. Burk said he has not brought his forward. The technology as it relates to scalping plants or satellite plants or drop in plants that can be put somewhere else in the community where it might take the load off the current plant and have fewer improvements to the plant is an idea he wants to bring forward to this Council. However, he can't really do that without getting the rate increases in place and see where we stand. He does plan on October 26th bringing a presentation to the Council to discuss what a scalping plant.

City Manager said that in the Exhibit A, the original one, staff would like to take off the fifth year and go with four years so that it is consistent with the water and also this would be reviewed on an annual basis as well.

There was some further discussion on the proposed option and questions in regards to the capital projects.

Mayor Botts opened the public hearing 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*):

Don Smith, Banning
Gary Hironimus, Banning

Mayor Botts closed the public hearing on the item.

Mayor Botts asked staff if they had the expense slides and there were questions last time in regards to the assumptions for the expenses.

Mr. Warner said that they were not in the agenda packet but he will get them. In regards to the EDU's for the jail they are included in the plan. The use of reserves to meet debt service is not able to be done so reducing the reserves will have no impact whatsoever on the coverage ratio. It will in fact have an impact on how much money you have available to do the capital projects and there again you do have the options in that fourth year. In the third and fourth year the reason why the coverage becomes a problem again is that you have now taken on the debt you anticipated to do that wastewater treatment plant. If you don't take that debt on, then your coverage would be okay. So if you choose to say you are not going to do the wastewater treatment plant, then the other option A would work and you would still have coverage at that point. The \$2.00 per month has been collected and put into a capital facility fee to gain the money to help pay for the wastewater treatment plant that is true and when we actually do the wastewater treatment plant the anticipation was that that \$2.00 per month the total amount would be about \$5 million dollars and we would not have collected that much so it continues on or you are pushing it out to pay it back in the future and that is what that \$2.00 per month is going to do over time is to bring the total of the \$5 million dollars that it was going to supply in addition to the debt that was going to be issues on the SRF loan.

Mayor Botts said he has been asked about the \$3 million dollars that Sun Lakes has paid into an account and hope that it is still here and where does that fit into the scheme of these things.

Mr. Warner said that he research it and he doesn't have the email with him but it identified the amount that Sun Lakes actually originally paid and the amount that went into that same reclamation which is called "an irrigation water fund". The majority of the money actually came from annual payments from the Water Fund which is \$150,000. It started way back and went on for quite awhile. When budget issues started a few years ago it stopped but the majority of that money came from those payments from the Water Fund which everybody paid for in the whole community and then the rest of it came from Sun Lakes in the development fees. The money is still there and it is part of the capital fees that go for part of the recycle projects.



Mr. Burk said that Sun Lakes was conditioned to also install their pipe and their pipe is already in the system from Highland Home Road through the development already on the golf course. So that capital cost is something they already absorbed through that second or third amendment when they came forward plus the irrigation fee. The pipe is actually in the ground and in place.

There was more discussion in regards to the wastewater treatment plant and its expansion, the recycled line, regulatory requirements for the future and the bond debt.

Mayor Botts said that he proposed Option A last time and he certainly would like to move forward with Option A as it is presented here with the recommendation of four years.

Mayor Botts asked the City Clerk to read the title of Ordinance No. 1429. City Clerk read: An Urgency Ordinance of the City Council of the City of Banning, Amending Chapter 13.08 of the Banning Municipal Code Relating to the Sewer Rate Schedule.

Motion Robinson/Machisic to waive further reading of Urgency Ordinance No. 1429 with the additional of annual review and go with Option A. Motion carried, all in favor.

Motion Robinson/Machisic that Urgency Ordinance No. 1429 be adopted going with annual review and Option A. Motion carried, all in favor.

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

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

City Council Reports

Councilmember Franklin –

- She attended a meeting with the Regional Director of the Small Business Association a couple of weeks ago with the Planning Director and in that meeting they talked about the cooperation of the SBA with working with our City to talk about economic development here. One of things that we were able to research was whether or not we have enterprise zones in this area and we found out that we are HUB Enterprise Qualified which means that HUB is historically underserved in businesses so staff is working on that to see if we can offer to businesses being in an enterprise zone because that was one of the things that came up in another workshop with businesses that that will make us more competitive especially in terms of tax credits. That was good information and especially knowing that the Regional Director also offered to help conduct workshops here to help some of our small businesses not only be in business but to stay in business.
- She attended the Transportation NOW meeting last week and it was good to hear that we have already had 513 rides for our “Go Pass” where people who are students at Mt. San Jacinto College are using the buses. We have actually had over 10,000 rides in one month. We are showing ridership and we have people that are riding the bus who have passes not

only through RTA (Riverside Transit Agency) but also through Beaumont in addition to Banning.

- She went to the Passcom meeting this morning and they talked about our city-wide preparation for mass shelter in the event of emergency so we are planning to have that come back and see what else we can do as a City because Red Cross is the agency that really certifies an area but our concern is that there is no Red Cross in our area and should there be an emergency they are not going to be coming probably very soon.
- She said one of the things she wanted to bring up tonight with Council's concurrence is to see if staff could work on something possible with AMR (American Medical Response). As we get into the holiday season you know we have a lot of ambulance and fire calls to Sun Lakes and in getting to the south side of the freeway. So if there was anyway that staff could work with out something with AMR that they might have some position on the south side of the freeway so that they can increase their response capability in the event of an emergency when we have heavy traffic flows. **There was consensus of the Council to look into this.**

There was some discussion about emergency preparedness and bringing in Chief Stowells to go over what we have done in regards to emergency preparedness and to update the Council, etc. Mayor Botts said he would like that on the list of Future Agenda Items.

- Councilmember Franklin said that one of our members of a pioneer family, Joan Coombs, passed away and hopefully we can adjourn our meeting in her memory.

Councilmember Mâchisic –

- He said he passed out information to each of the Councilmembers about the Riverside County Water Task Force meeting to be held on Monday, October 18th and they will be talking about water for the next five years.
- As we move closer to the election whatever you can do to support Proposition 22 is important.
- Paul Cook supported a gaming bill for \$30 million dollars and at first it was created as being dead and he spoke last Saturday at the Business Expo with representatives of Cook and Emmerson and they both indicated that Cook's bill had been passed so the gaming fund is alive and we probably won't find out anything for the next two to four weeks.
- He attend the Business Expo on Saturday at Beaumont City Hall and they had 50 booths and they were all sold out and it was interesting because they had representatives there from Beaumont, Banning, Calimesa and the County but they also had governmental agencies as well as private companies and he also served on the pie judging contest.

Mayor Pro Tem Hanna –

- She reported on a "Town Gown Divide" a conference last week in Riverside partnering toward economic recovery and she imagines like others on the Council she received numerous emails about this Annual Town Gown Conference, universities and colleges with cities that meets in California. She attended not really understanding what she was getting into and in fact it turned out to be one of the most exciting economic development conferences she ever been to and would highly recommend that others consider going and the next event will be in 2011 in Berkley. She did mention a few things and underlines how important Measure U will be. We will be getting a temporary campus facility right now but

to speed up the idea of having a permanent campus is very, very important. Universities provide support with a relatively stable payroll for the community, local services through institutional spending, private spending by faculty, students and visitors, and direct investments such as construction. Not only is there the state organization but an International Town Gown Association. She said that because this is all new to us we can build from scratch learning from these other organizations and associations and we don't have to make it up. They can tell you how to do all of these things and there is actually a week long institute by this International Town Gown Association in January. There are buy local programs focusing on students and she will give more information later. Also one of her thoughts is that as Mt. San Jacinto Community College develops is that we should have a Council 2 x 2 and meeting with them on a regular basis in addition to Friends of MSJC. She thinks it is really important to get to know the professors and continually explore how we can work together government/education/businesses and she gave some examples of how this could be done.

Councilmember Robinson –

- Christi's Hair Salon will be having her one-year anniversary on Saturday, October 16th from 4 to 5 p.m.
- The First Annual Oktoberfest will be held this weekend October 16th at 41 W. Ramsey at 12 p.m.
- He attended the Shawn Hill Memorial and he had done many outstanding things for this city. He didn't live in this city but we received awards from him being involved in not only the Cultural Alliance but the art museums. He was a great man for this Pass Area.
- He attended the Candidate Forum and if you want to see that it is playing on Channel 10 and 29 and you can go to the City's website to get the play dates.

Mayor Pro Tem Hanna said that there is a Pipe Organ Concert to be held on November 13th at 4:00 p.m. at the Grace Lutheran Church on Wilson Street. All of the proceeds will benefit H.E.L.P.

Councilmember Franklin said that she knows that Mayor Pro Tem Hanna was talking about doing surveys to find out what the needs are and she is doesn't know if people are aware that the Workforce Investment Board actually does that and that is one of their charges that was part of the Strategic Plan about a year and half ago and so they have been very diligently working on trying to match employers with employees as well as finding out what the needs are in the communities for upcoming businesses as well as for people who are looking for jobs. There is also a pre-apprentice program that is available through the County for small businesses where they are able to get preferably a junior or senior in high school to come in and work for so many hours and they are reimbursed that salary for that student while they are in training and we have had some local businesses actually utilize them and they are now permanent employees through that program.

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

Report by City Manager – Nothing to report.

ITEMS FOR FUTURE AGENDAS

New Items –

Councilmember Machisic said that we had Stagecoach Days and we never got a report back on how they did. Also in regards to the Chamber Golf Tournament and he would like to have a report on how successful it was. City Manager said that the report for Stagecoach Days will be coming forward soon and he will schedule a report in regards to the Chamber golf tournament.

Councilmember Robinson said in regards to the meeting they have scheduled with the Banning School Board he was hoping that they could talk about joint uses of facilities at that meeting and obviously they are going to move into their new facilities at the high school and we could certainly use the facilities that they are using up here now for their high school activities.

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
5. Review of Fees and Rates

Future Meetings –

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

City Manager said that if we are able to come to some conclusion with staff, they are hoping to have an agreement in front of the Council that they could actually execute.

ADJOURNMENT

Mayor Botts adjourned the meeting at 8:53 p.m. in memory Joan Coombs.

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.

Rec'd 10-12-10
City Council mtg.

Dear Mayor Botts and Members of the Council,

We must make a decision on the water rates, and I trust that you will all pull together and do what is best for the city right now and for the future.

As far as Mr. Taylor is concerned, he appears to be "god" and knows all. He touts his hindsight as absolute. I think that if we all used hindsight to make decisions life might be easier, but we do not always have that luxury.

To begin with, it is a fact that the council minutes are not printed "verbatim". And it is a known fact that even if Councilwoman Franklin had voted differently, the bond money would have been used as stated.

In addition, I find it hard to believe that Banning pays an attorney big bucks for his/her expertise, and that our attorney would have allowed the use of this money if it were not "legal".

Obviously, people like Mr. Taylor make it big by promoting "issues". The sludge plant never came to a vote, and I truly believe that the people were so against it that the council members would have had to watch their backs if the sludge plant had passed. I never saw it as a reality.

If there had not been a downturn in the economy, the issue of the police station would have not been an issue. When there was talk of it being built, people were thrilled to get a new police station. Where were the naysayers at that time? Where were Mr. Taylor and Mr. Miller?

We want people who truly care about the people of Banning on our council, not people who massage their egos every time they open their mouths.

Something important to think about: There are four candidates from Sun Lakes running for two council positions. Banning does not need or deserve three members of the council from Sun Lakes or any one area of town. In addition, several of the Sun Lakes candidates are not good representations of some of the fine people from Sun Lakes.

Think before you vote.

Sincerely,

Dorothy Familetti-McLean

If 3 people on the council
were from the east side or
south side, Sun Lakes would
be "up-in-arms"!!

Dorothy Familetti-McLean

Exhibit "A"

15

reg.mtg.-10/12/10

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**CITY COUNCIL AGENDA
CONSENT ITEM**

Date: **October 26, 2010**

TO: **City Council**

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

SUBJECT: **Resolution No. 2010-75 Accepting and authorizing expenditures under the 2011 California Sobriety Checkpoint Program Mini-Grant in the amount of \$12,842.25.**

RECOMMENDATIONS: "Adopt Resolution No. 2010-75 accepting and authorizing the expenditure of \$12,842.25 from the California Office of Traffic Safety (OTS) for the California Sobriety Checkpoint Program in the City of Banning."

JUSTIFICATION: Utilizing funds from the 2011 California Office of Traffic Safety Sobriety Checkpoint Grant to pay overtime for officers participating in the 2011 California Sobriety Checkpoint Program will enhance the police department's ability to proactively seek out and arrest persons driving under the influence of alcohol and/or drugs. This program will also help educate the public on the importance of not driving a motor vehicle while intoxicated.

BACKGROUND: The California Office of Traffic Safety has notified the Banning Police Department that \$12,842.25 is available in overtime for Banning Police Officers to participate in the 2011 California Sobriety Checkpoint Program beginning October 1, 2010. The checkpoints will also be used to ensure motorists are driving with valid licenses and children are securely fastened in their child seats.

STRATEGIC PLAN INTEGRATION: Approval of this request will enhance the City's image and provide the Citizens of Banning a safe, pleasant, and prosperous community in which to live, work, and play, while remaining cost effective.

FISCAL DATA: This grant requires the City Council to authorize an upfront appropriation in the amount of \$12,842.25 from the City's General Fund to the police department's overtime account (001-2200-421-1030), which will be reimbursed to the City's General Fund on a quarterly basis by the California Office of Traffic Safety.

RECOMMENDED BY:

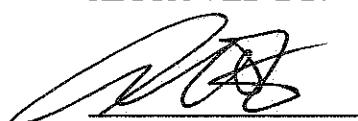


Leonard Purvis
Chief of Police



Kirby Warner
Administrative Services Director

APPROVED BY:



Andrew Takata
City Manager

RESOLUTION NO. 2010-75

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BANNING AUTHORIZING THE POLICE DEPARTMENT TO ENTER INTO AN AGREEMENT WITH THE CALIFORNIA OFFICE OF TRAFFIC SAFETY TO RECEIVE \$12,842.25 IN OVERTIME FUNDS TO BE USED FOR OFFICERS PARTICIPATING IN THE 2010 CALIFORNIA SOBRIETY CHECKPOINT PROGRAM.

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

WHEREAS, the City of Banning Police Department is committed to better traffic safety measures in the City of Banning; and

WHEREAS, the City of Banning Police Department is committed to educating the public on traffic safety issues; and

WHEREAS, the City of Banning Police Department is committed to participating in the California Sobriety Checkpoint Program; and

WHEREAS, the City's procedures requires the City Council to adopt a resolution authorizing the expenditure of funds procured through grants.

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Banning authorizes the Banning Police Department to enter into an agreement with the California Office of Traffic Safety accepting overtime funds from the California Sobriety Checkpoint Program Grant in the amount of \$12,842.25. Additionally, the Banning City Council authorizes the appropriation of \$12,842.25 from the City's General Fund into the Banning Police Department Overtime Account (001-2200-421-1030), which will be reimbursed into the general fund as funds are received from the California Office of Traffic Safety on a quarterly basis. The Finance Department is authorized to make the necessary budget adjustments related to these funds.

PASSED, APPROVED, AND ADOPTED this 26th day of October, 2010.

Bob Botts, Mayor
City of Banning

APPROVED AS TO FORM
AND LEGAL CONTENT

ATTEST

Aleshire & Wynder, LLP
City Attorney

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. 2010-75 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 26th day of October 2010, by the following to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

**CITY COUNCIL/BANNING UTILITY AUTHORITY
AGENDA**

DATE: **October 26, 2010**

TO: **Honorable Mayor and City Council**

FROM: **Kahono Oei, City Engineer**

SUBJECT: **Resolution No. 2010-76, “Awarding the Construction Contract for Project No. 2010-02, ‘A.C. Overlay, Pavement Rehabilitation and Sidewalk Improvements on Various Streets,’ Accepting and Authorizing the Expenditures of SB-821 Bicycle and Pedestrian Facilities Grant Program Funds for Fiscal Year 2010/2011 and Approving the Necessary Budget Appropriations for Said Project.”**

RECOMMENDATION: Adopt Resolution No. 2010-76:

I. Awarding the Construction Contract for Project No. 2010-02, “A.C. Overlay, Pavement Rehabilitation and Sidewalk Improvements on Various Streets,” to Matich Corporation of San Bernardino, California for an amount of “Not to Exceed” \$837,000.00.

II. Accepting and Authorizing the Expenditures of SB-821 Bicycle and Pedestrian Facilities Grant Program Funds for Fiscal Year 2010/2011, as shown on attached Exhibit “C”.

III. Authorizing the appropriation of \$920,700.00, which includes a 10% contingency, from the Article 3, Measure “A” and Waste Water Capital Facility Funds and authorizing the Interim Administrative Services Director to make the necessary budget adjustments and transfers related to these funds.

JUSTIFICATION: Matich Corporation is the lowest responsible bidder to perform the work for the City of Banning’s Project No. 2010-02, “A.C. Overlay, Pavement Rehabilitation and Sidewalk Improvements on Various Streets”.

BACKGROUND: The voters of Riverside County approved a 0.5% sales tax for the purpose of transportation infrastructure improvements through the passage of the Measure “A” program. The City Council approved last year’s Five-Year Capital Improvement Program on April 27, 2010, which subsequently was approved by the Riverside County Transportation Commission (RCTC), and contained the list of streets to be rehabilitated in this project.

The scope of work under this project includes grinding/cold planing of existing asphalt; grading, placing new A.C. and base, and A.C. overlay per City Engineer’s recommendations; constructing A.C. berm, sidewalks, curbs, gutters, driveways, cross gutters, spandrels and handicap ramps; construction of a sewer main and manholes; adjusting manholes, fire hydrants, water meters, and water valve covers to grade; removing and replacing water services, water meter boxes, and mailboxes when required by the Public Works Inspector; striping improvements; and cleaning; etc., on various streets all in accordance with the City of Banning and CALTRANS Standard Specifications. The Contractor must comply with all NPDES requirements to reduce storm water run-off by implementing applicable BMPs, as required by the Public Works Inspector. The

proposed sidewalk locations have been approved by the RCTC under the SB-821 Bicycle and Pedestrian Facilities Program and are shown with the proposed street locations on the attached Exhibit "A."

The project was advertised for bids on September 17, 2010, as shown attached as Exhibit "B", and ten (10) bids were received and opened on October 7, 2010, with the following results:

	<u>NAME OF FIRM</u>	<u>BID AMOUNT</u>
1.	Matich Corporation., San Bernardino, CA	\$837,000.00
2.	Hardy & Harper, Inc., Santa Ana, CA	\$862,000.00
3.	EBS, Inc., Corona, CA	\$867,867.00
4.	M & E Construction, Riverside, CA	\$872,000.00
5.	Cooley Construction, Inc., Hesperia, CA	\$915,771.00
6.	Silvia Construction Company, Inc., Ranch Cucamonga, CA	\$927,728.00
7.	All American Asphalt, Corona, CA	\$940,000.00
8.	Laird Construction, Rancho Cucamonga, CA	\$969,699.00
9.	Vance Corp., Rialto, CA	\$1,058,030.00
10.	TBU Inc., Beaumont, CA	\$1,155,854.00

The Engineer's estimate for the project is \$995,000.00.

A call for projects for the annual SB-821 Bicycle and Pedestrian Facilities Grant Program was issued by the Riverside County Transportation Commission (RCTC) on March 22, 2010. Two applications were fully prepared in house by the Engineering Division of the Public Works Department and submitted to the RCTC on May 4, 2010. A presentation was then given by the Assistant Engineer to the RCTC Review Committee on May 11, 2010.

There were 35 applications submitted by cities in Riverside County for this highly coveted grant. The RCTC Review Committee scored each project application competitively and awarded a total of \$2,598,871.00 to cities within Riverside County. The scoring summary sheet is attached as Exhibit "C". The City of Banning obtained RCTC approved grants in June, 2010 in the amount of \$169,220.00 for Bid Schedules II and III:

<u>Bid Schedules No.</u>	<u>Project Description</u>	<u>Project Cost</u>
I.	AC Overlay and Pavement Rehabilitation	\$431,193.00
II.	Handicap Ramp Improvements In the Vicinity of Hemmerling Elementary School	\$ 50,300.00
III.	Almond Way Sidewalk Improvements on the East Side of the Street from Nicolet Street to Indian School Lane	<u>\$355,507.00</u>
	Subtotal	\$837,000.00
	+ 10% contingency	<u>\$ 83,700.00</u>
	Total	\$920,700.00

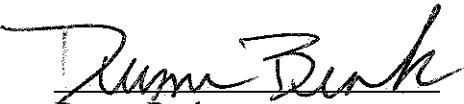
21

FISCAL DATA: The Engineering Division of the Public Works Department obtained a grant in the not-to-exceed amount of \$169,220.00 for Bid Schedules II and III from the RCTC to fund sidewalk improvements at two project locations. The City is required to provide matching funds estimated at \$56,405.00. Said match will be funded from the Measure "A" funds.

The entire project amount is \$920,700.00, which includes a 10% construction contingency. Appropriations are being requested in the Article 3, Measure "A" and Wastewater Capital Facility funds. Appropriations in an amount sufficient to cover the portion of the project to be charged to the BUA Water Project Fund (\$33,620.00) currently exist.

The unappropriated balances available in the funds are as follows: Article 3 (\$13,045.00); Measure "A" (\$1,123,189.00); Wastewater Capital Facility (\$10,591,950.00).

RECOMMENDED BY:



Duane Burk

Director of Public Works

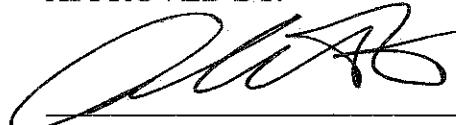
REVIEWED BY:



Kirby Warner

Interim Administrative Services Director

APPROVED BY:



Andy Takata

City Manager



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RESOLUTION NO. 2010-76

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA,
AWARDING THE CONSTRUCTION CONTRACT FOR PROJECT NO. 2010-02, "A.C.
OVERLAY, PAVEMENT REHABILITATION AND SIDEWALK IMPROVEMENTS ON
VARIOUS STREETS," ACCEPTING AND AUTHORIZING THE EXPENDITURES OF
SB-821 BICYCLE AND PEDESTRIAN FACILITIES GRANT PROGRAM FUNDS FOR
FISCAL YEAR 2010/2011 AND APPROVING THE NECESSARY BUDGET
APPROPRIATIONS FOR SAID PROJECT.**

WHEREAS, on April 27, 2010 the City Council approved a 5 year Citywide Annual Street Rehabilitation Program for the City of Banning and it was subsequently approved by the Riverside County Transportation Commission (RCTC); and

WHEREAS, Project 2010-02, "A.C. Overlay, Pavement Rehabilitation and Sidewalk Improvements on Various Streets," was advertised for bids on September 17, 2010, and bids were received and opened on October 7, 2010, with ten (10) contractors bidding the project; and

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

WHEREAS, a call for projects for the annual SB-821 Bicycle and Pedestrian Facilities Grant Program for Fiscal Year 2010/2011 was issued by the Riverside County Transportation Commission (RCTC) on March 22, 2010; and

WHEREAS, in June of 2010, the Riverside County Transportation Commission (RCTC) approved two City of Banning project applications and awarded the City \$169,220.00 to be used toward two sidewalk improvement projects: Various locations within the vicinity of Hemmerling Elementary School; Almond Way, on the east side of the street from Nicolet Street to Indian School Lane; and

WHEREAS, funding for Project 2010-02, "A.C. Overlay, Pavement Rehabilitation and Sidewalk Improvements on Various Streets," is available in the Measure "A" and SB-821 (Bicycle and Pedestrian Facilities Program Grant) funds.

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

Section I. The construction contract for Project No. 2010-02, "A.C. Overlay, Pavement Rehabilitation and Sidewalk Improvements on Various Streets," is awarded to Matich Corporation of San Bernardino, California, for an amount "Not to Exceed" \$837,000.00 and staff is authorized to appropriate an additional 10% construction contingency, and all other bids are hereby rejected.

Section II. The City Council of the City of Banning hereby accepts the \$169,220.00 SB-821 Bicycle and Pedestrian Facilities Grant from the RCTC and authorizes the appropriation of the City's match from the Measure "A" Fund.

Section III. The Interim Administrative Services Director is authorized to make the necessary budget adjustments and appropriations to the Article 3 Fund

(Account No. 104-4900-431.93-11) for \$344,312.00, the Measure "A" Fund (Account No. 101-4900-431.93-16) for \$446,388.00 and the Wastewater Capital Facility Fund (Account No. 681-8000-454.95-14) for \$96,380.00. Appropriations in an amount sufficient to cover the portion of the project to be charged to the BUA Water Project Fund (\$33,620.00) currently exist.

Section III. The Mayor is authorized to execute the contract agreement for Project No. 2010-02, "A.C. Overlay, Pavement Rehabilitation and Sidewalk Improvements on Various Streets." This authorization will be rescinded if the contract agreement is not executed by both parties within thirty (30) days of the date of this resolution.

PASSED, ADOPTED AND APPROVED this 26th day of October, 2010.

Bob Botts, Mayor

ATTEST:

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

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

Burke, Williams & Sorensen, LLP
City Attorney

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2010-76, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 26th day of October, 2010.

AYES:

NOES:

ABSTAIN:

ABSENT:

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

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EXHIBIT "A"

STREET AND SIDEWALK LIST

STREET PAVING LIST

No.	Street Locations	1-1/2" of A.C. Overlay	6" A.C. Berm	4" of A.C. over 6" of Base	3" of A.C. over 4" of Base	Grade, Compact, and Place Specified Base
1.	Highland Springs Avenue from Sun Lakes Boulevard to 850' South of the Intersection	*				
2.	Sunset Avenue from Ramsey Street to Wilson Street	*				
3.	Wilson Street from McGovern Avenue to the Riverside County Flood Control Channel West of Sunrise Avenue		*	*		*
4.	Almond Way from Nicolet Street to Indian School Lane				*	*

SIDEWALK IMPROVEMENT LIST FISCAL YEAR 2010/2011 SB-821 FUNDED

No.	Sidewalk Locations	From	To
1.	Handicap Ramp Improvement in the Vicinity of Hemmerling Elementary School	Various Locations	Various Locations
2.	Almond Way (east side of street)	Nicolet Street	Indian School Lane

EXHIBIT “B”

**NOTICE INVITING TO BID
AND BID OPENING SUMMARY**

THE PRESS-ENTERPRISE

3450 Fourteenth Street
Riverside CA 92501-3878
951-684-1200
951-368-9018 FAX

PROOF OF PUBLICATION (2010, 2015.5 C.C.P.)

Press-Enterprise

PROOF OF PUBLICATION OF

Ad Desc.: NIB - Proj. 2010-02 AC Overlay

I am a citizen of the United States. I am over the age of eighteen years and not a party to or interested in the above entitled matter. I am an authorized representative of THE PRESS-ENTERPRISE, a newspaper of general circulation, printed and published daily in the County of Riverside, and which newspaper has been adjudicated a newspaper of general circulation by the Superior Court of the County of Riverside, State of California, under date of April 25, 1952, Case Number 54446, under date of March 29, 1957, Case Number 65673 and under date of August 25, 1995, Case Number 267864; that the notice, of which the annexed is a printed copy, has been published in said newspaper in accordance with the instructions of the person(s) requesting publication, and not in any supplement thereof on the following dates, to wit:

09-17-10
09-24-10

I Certify (or declare) under penalty of perjury that the foregoing is true and correct.

Date: Sep. 24, 2010
At: Riverside, California



BANNING, CITY OF
99 E RAMSEY ST
PUBLIC WORKS DEPT.
BANNING CA 92220

Ad #: 10397188

PO #:

Agency #: _____

Ad Copy:

NOTICE INVITING TO BID PROJECT NO. 2010-02 "AC OVERLAY, PAVEMENT REHABILITATION AND SIDEWALK IMPROVE- MENTS ON VARIOUS STREETS"

OWNER: City of Banning

PROJECT DESCRIPTION: The scope of work under this project includes grinding/cold planing of existing asphalt; grading, placing new A.C. and base, and A.C. overlay per City Engineer's recommendations; constructing A.C. berm, sidewalks, curbs, gutters, driveways, cross gutters, spandrels and handicap ramps; construction of a sewer main and manholes; adjusting manholes, fire hydrants, water meters, and water valve covers to grade; removing and replacing water services, water meter boxes, and mailboxes when required by the Public Works Inspector; striping improvements; and cleaning, etc., on various streets all in accordance with the City of Banning and CALTRANS Standard Specifications. The Contractor must comply with all NPDES requirements to reduce storm water run-off by implementing applicable BMPs, as required by the Public Works Inspector.

PLANS & SPECS: Full-size drawings and specifications will be made available on September 20, 2010, and may be obtained at the Public Works Department, Engineering Division, City of Banning, 99 E. Ramsey Street, Banning, California 92220, by non-refundable deposit of Forty Dollars (\$40.00) per set. An additional non-refundable charge of Fifteen Dollars (\$15.00) to cover the cost of wrapping, handling, and postage will be made for each set of Contract Documents mailed.

NON-MANDATORY PRE-BID CONFERENCE: September 28, 2010 at 10 a.m. at City Hall, 99 E. Ramsey St, Banning.

REQUIREMENTS: Prevailing Wage, Certified Payroll, Bid Bond, Payment and Performance Bond, Insurance, etc., per the approved specifications. Pursuant to the provisions of Public Contract Code Section 3300, the City has determined that the Contractor shall possess a valid Class A license at the time that the Contract is awarded. Failure to possess the specified license shall render the bid as not responsible and/or non-responsive and shall act as a bar to award the Contract to any bidder not possessing said license at the time of award.

SEALED BIDS DUE: October 7, 2010 and Opened Publicly at 10 a.m. local time, at the above City Hall address, Attn: City Clerk.

CITY OF BANNING, CALIFORNIA

Dated: 9/14/2010
Publication Date: 9/17/2010
9/24/2010

Marie A. Calderon
City Clerk 9/17, 24

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**SUMMARY OF BIDS RECEIVED
CITY OF BANNING**

PROJECT NO.: 2010-02

DESCRIPTION: AC Overlay, Pavement Rehabilitation and Sidewalk
Improvements on Various Streets

BID OPENING DATE: October 7, 2010 TIME: 10:00 a.m.

	NAME OF BIDDER:	Bid Bond	Addendum		TOTAL BID AMOUNT:
1)	EBS Inc. Corona, CA	✓	✓		\$ 867,867.00
2)	Laird Construction Co. Inc. Rancho Cucamonga, CA	✓	✓		\$ 969,699.00
3)	Cooley Construction, Inc. Hesperia, CA	✓	✓		\$ 915,771.00
4)	All American Asphalt Corona, CA	✓	✓		\$ 940,000.00
5)	Vance Corporation Rialto, CA	✓	✓		\$ 1,058,030.00
6)	Silvia Construction, Inc. Rancho Cucamonga, CA	✓	✓		\$ 927,728.00
7)	TBU Inc. Beaumont, CA	✓			\$ 1,155,854.00
8)	Hardy & Harper, Inc. Santa Ana, CA	✓	✓		\$ 862,000.00
9)	M & E Construction Riverside, CA	✓	✓		\$ 872,000.00
10)	MATCH CORP.	✓	✓		\$ 837,000.00

SAN BERNARDINO, CA

VERIFIED BY: *Ch. J. V.*

Mari J. Calabrese, City Clerk

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EXHIBIT "C"

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION
SB-821 BICYCLE AND PEDESTRIAN FACILITIES PROGRAM
FY 2010/2011 RECOMMENDED FUNDING
SUMMARY SHEET**

**RIVERSIDE COUNTY TRANSPORTATION COMMISSION
SB 821 BICYCLE AND PEDESTRIAN FACILITIES PROGRAM
FY 2010/11 RECOMMENDED FUNDING**

Attachment III

<u>Rank</u>	<u>Agency</u>	<u>Project Description</u>	<u>Total Costs</u>	<u>SB 821 Funds Requested</u>	<u>Recommended Allocation</u>	<u>Cummulative Funds Allocated</u>	<u>Average Score</u>
1	Lake Elsinore	Riverside Drive Sidewalks	\$207,000	\$103,500	\$103,500	\$103,500	94.0
2	Moreno Valley	Citywide Sidewalk and Access Ramps	868,525	150,000	\$150,000	253,500	94.0
3	Canyon Lake	Railroad Canyon Road Infill Sidewalk	140,000	70,000	\$70,000	323,500	91.2
4	Beaumont	Noble Creek Pedestrian Bridge	143,000	71,500	\$0	323,500	90.3
5	Temecula	Citywide Sidewalk and ADA Ramps	150,000	75,000	\$75,000	398,500	89.7
6	Riverside County	Krameria Avenue	389,000	194,500	\$194,500	593,000	85.8
7	Indio	Highway 111 Sidewalk Infill & Access	188,000	94,000	\$94,000	687,000	85.3
8	Coachella	Badouma Park Vicinity	111,877	55,939	\$55,939	742,939	83.7
9	Wildomar	Wildomar Sidewalk Improvements	407,500	285,250	\$285,250	1,028,189	83.3
10	Riverside County	66th Avenue	294,000	147,000	\$147,000	1,175,189	82.7
11	Riverside County	Camino Campanero	254,000	127,000	\$127,000	1,302,189	82.3
12	Riverside County	Ben Nevis Boulevard	198,000	99,000	\$99,000	1,401,189	82.2
13	Riverside County	Jurupa Road	231,000	115,500	\$115,500	1,516,689	81.5
14	Corona	Corona Sidewalk Gap Closures	71,561	34,721	\$34,721	1,551,410	80.8
15	Rancho Mirage	Frank Sinatra Dr. Sidewalk Improvements	141,588	111,588	\$111,588	1,662,998	79.2
16	Coachella	Valley View Vicinity	137,290	68,645	\$68,645	1,731,643	78.0
17	Coachella	Pueblo Viejo Vicinity	148,016	74,008	\$74,008	1,805,651	75.5
18	Banning	Handicap Ramps at Various Locations	80,625	60,470	<u>\$60,470</u>	1,866,121	75.0
19	San Jacinto	West Cottonwood Avenue Sidewalk Ext. Project	200,000	75,000	\$75,000	1,941,121	75.0
20	San Jacinto	West Esplanade Avenue Pedestrian Pathway	140,000	70,000	\$70,000	2,011,121	74.7
21	Riverside	Randolph & Lake Streets Sidewalk Construction	330,000	165,000	\$165,000	2,176,121	74.2
22	Riverside	Wheelchair Ramp Construction	400,000	175,000	\$175,000	2,351,121	72.3
23	Riverside	Dauchy Avenue Sidewalk	54,000	39,000	\$39,000	2,390,121	70.9
24	Riverside	Orrenmaa School Footpath Access Project	200,000	100,000	\$100,000	2,490,121	70.7
25	Banning	Almond Way Sidewalk	145,000	108,750	<u>\$108,750</u>	2,598,871	70.5
26	Desert Hot Springs	Palm Drive ADA Ramps	120,000	90,000	\$90,000	2,688,871	69.3
27	Desert Hot Springs	Avenida Jalisco Sidewalk	80,000	60,000	\$60,000	2,748,871	68.0

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RIVERSIDE COUNTY TRANSPORTATION COMMISSION
SB 821 BICYCLE AND PEDESTRIAN FACILITIES PROGRAM
FY 2010/11 RECOMMENDED FUNDING

Attachment II

<u>Rank</u>	<u>Agency</u>	<u>Project Description</u>	<u>Total Costs</u>	<u>SB 821 Funds Requested</u>	<u>Recommended Allocation</u>	<u>Cummulative Funds Allocated</u>	<u>Average Score</u>
28	Beaumont	Rangel Park & Historical Area Sidewalks	193,830	91,472	\$91,472	2,840,343	67.8
29	Palm Desert	Magnesia Falls Drive Ped/Bike Improvements	25,000	12,500	\$12,500	2,852,843	67.8
30	Lake Elsinore	Langstaff Street Sidewalk Improvements	87,500	43,750	\$43,750	2,896,593	67.5
31	Desert Hot Springs	Desert Hot Springs Bike Lanes	40,000	30,000	\$30,000	2,926,593	67.3
32	Palm Desert	Access. Ped. Signal at Intersections	100,000	30,000	\$30,000	2,956,593	64.7
33	Riverside	Purchase/Install Bike Rack in Dwntn Riverside	50,000	37,500	\$37,500	2,994,093	63.8
34	Palm Springs	Farrell Drive Missing Link Sidewalk	48,000	38,400	\$38,400	3,032,493	63.3
35	Palm Springs	Cerritos Road Missing Link Sidewalk	106,000	84,800	\$84,800	3,117,293	61.3
Totals			<u>\$6,480,312</u>	<u>\$3,188,793</u>	<u>\$3,117,293</u>		

JLE: 5/11/2010

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CITY COUNCIL/BANNING UTILITY AUTHORITY AGENDA

DATE: **October 26, 2010**

TO: **Banning Utility Authority**

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

SUBJECT: **Resolution No. 2010-09 UA, "Amending the Professional Services Agreement for the Whitewater Flume Restoration Project with Roy McDonald, Environmental and Regulatory Consultant"**

RECOMMENDATION: The Utility Authority adopt Resolution No. 2010-09 UA:

- I.** Amending the Professional Services Agreement with Roy McDonald, Environmental and Regulatory Consultant of Sacramento, California in an amount of \$85,900.00 for services related to the Whitewater Flume Restoration Project for a total contract amount "Not to Exceed" \$110,900.00.
- II.** Authorizing the Administrative Services Director to make necessary adjustments and appropriations in an amount of \$85,900.00 from the Banning Utility Authority Water Capital Facility Fund to Account No. 661-6300-471.33-11 (Professional Services).

JUSTIFICATION: It is necessary for the City to obtain an Environmental and Regulatory Consultant to assist the City with implementing its responsibilities under its Agreement with Southern California Edison (SCE) on the Whitewater Flume Restoration Project.

BACKGROUND: Southern California Edison (SCE) owns and previously operated hydroelectric 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 hydroelectric 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.

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, the City of Banning, Banning Heights, and San Gorgonio Pass Water Agency (Pass Water Agency). The Participating Entities are currently evaluating the purchase and repair of the water conveyance system. The City will be responsible for ten percent of the associated costs.

As part of the project, staff has determined that it is necessary to obtain a consultant to assist the City in implementing its responsibilities, including but not limited to, the following: providing information and recommendations for action to be performed by the City and its partners; supporting the City in meetings with its partners, including AD Hoc Committee meetings; assisting the City by working with SCE staff and SCE consultants to review and edit portions of the SCE application for Surrender of License that are critical to protecting continued water deliveries; assisting the City by consulting on technical, regulatory, and processing issues with the U.S. Forest Service and/or other interested agencies and/or non-governmental organizations; developing a scope of work, budget and identifying a technical support team to implement necessary updates to environmental studies that are critical to protecting continued water deliveries and avoiding substantial unnecessary future costs and delays.

In August of 2010 staff awarded an Agreement to Roy McDonald, Environmental and Regulatory Consultant in the amount of \$25,000.00 to assist with and re-evaluate the project. Roy McDonald has a Doctorate in Environmental Engineering and was formally employed by SCE. Roy McDonald has become an expert in preparing environmental documents for SCE and has obtained specialized knowledge on Whitewater Flume facilities classifying him as a sole source provider of the environmental services that are necessary to complete this project. In 2000, Roy McDonald was obtained by the Pass Water Agency to prepare the original California Environmental Quality Act (CEQA) documents for this project. Additionally, Banning Heights highly recommends Roy McDonald to provide the essential services. For these reasons, Banning Heights, the Pass Water Agency and City staff have determined and agree that the updates to the environmental documents for this project must be performed by said Consultant.

As a result of Roy McDonald's recent evaluation, a list of necessary tasks has been provided as shown in Exhibit "A". Consequently, staff respectfully requests an Amendment to the Professional Services Agreement with Roy McDonald for Environmental and Regulatory Consulting Services for a total contract amount of \$110,900.00. These services are expected to cover the Fiscal Year 2011 period. Once completed, the project will be re-evaluated to determine if additional services are necessary. If required, staff will bring additional items to the City Council for review and approval.

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 \$85,900.00 from the Water Capital Facility Fund to Account No. 661-6300-471.33-11 (Professional Services) is necessary in order to fund the Amendment to the Professional Services Agreement with Roy McDonald, Environmental and Regulatory Consultant. The total contract amount "Not to Exceed" \$110,900.00 unless otherwise approved by City Council.

RECOMMENDED BY:

Duane Burk
Duane Burk
Director of Public Works

REVIEWED BY:

Kirby Warner
Kirby Warner
Interim Administrative Services Director

APPROVED BY:

Andy Takata
Andy Takata
City Manager

RESOLUTION NO. 2010-09 UA

A RESOLUTION OF THE BANNING UTILITY AUTHORITY OF THE CITY OF BANNING, CALIFORNIA, AMENDING THE PROFESSIONAL SERVICES AGREEMENT FOR THE WHITEWATER FLUME RESTORATION PROJECT WITH ROY MCDONALD, ENVIRONMENTAL AND REGULATORY CONSULTANT

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, also known as the Whitewater Flume, was fully executed between SCE, City of Banning, Banning Heights, and San Gorgonio Pass Water Agency; and

WHEREAS, staff has determined that it is necessary to obtain an Environmental and Regulatory Consultant to assist the City in implementing its responsibilities under its Agreement with SCE on the Whitewater Flume Restoration Project, including providing information and recommendations for actions to be performed by the City and its partners, Banning Heights Mutual Water Company, and San Gorgonio Pass Water Agency; and

WHEREAS, in August of 2010 staff awarded an Agreement to Roy McDonald, Environmental and Regulatory Consultant in the amount of \$25,000.00 to assist with and evaluate the project; and

WHEREAS, Roy McDonald provided environmental and regulatory compliance assistance and evaluated the said project which resulted in a list of necessary tasks to be completed as shown in Exhibit "A"; and

WHEREAS, staff respectfully requests an Amendment to the Professional Services Agreement with Roy McDonald for Environmental and Regulatory Consulting Services for a total contract amount of \$110,900.00; and

WHEREAS, these services are expected to cover the Fiscal Year 2011 period and once completed the project will be re-evaluated to determine if additional services are necessary.

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

Section 1. The Amendment to the Professional Services Agreement with Roy McDonald for Environmental and Regulatory Consulting Services for the Whitewater Flume Restoration project is approve in the amount of \$85,900.00 for a total contract amount "Not to Exceed" 110,900.00.

Section 2. The Administrative Services Director is authorized to appropriate funds from the Water Capital Facility Fund to Account No. 661-6300-471.33-11 (Professional Services), in the amount of \$85,900.00 and is authorized to make necessary budget adjustments related to these funds.

Section 3. The City Manager is authorized to execute the Amendment to Professional Services Agreement with Roy McDonald 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 26th day October, 2010.

Robert E. Botts, Chairman
Banning Utility Authority

ATTEST:

Marie A. Calderon, Secretary

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

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

CERTIFICATION:

I, Marie A. Calderon, Secretary to the Utility Authority of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2010-09 UA was adopted by the Banning Utility Authority of the City of Banning at its Joint Meeting thereof held on the 26th day of October, 2010.

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie A. Calderon, Secretary
Banning Utility Authority

Exhibit “A”

Roy McDonald’s Proposal

Attachment A

Contract No.	P7-10
Task Order No.	#1
Effective Date	July 21, 2010

TASK ORDER #1

In accordance with Article 1 of the Professional Services Agreement dated July 21, 2010 ("Agreement") between City of Banning, California ("CLIENT") and Roy McDonald ("CONSULTANT"), this Task Order sets forth services to be performed, the schedule for the services, and CONSULTANT's compensation for the services, as follows:

1. Services to be performed:

Dr. McDonald will assist the City of Banning in implementing its responsibilities under its Agreement with the Southern California Edison Company (SCE) on the Whitewater Flume Restoration Project, including: providing information and recommendations for actions to be performed by the City and its partners, Banning Heights Mutual Water Company (BHMWC), and San Gorgonio Pass Water Agency (Pass Agency); supporting the City in meetings with its partners, including the Ad Hoc Committee of City and BHMWC representatives, and/or the City Council; assisting the City by working with SCE staff and SCE consultants to review and edit portions of SCE's Application for Surrender of License that are critical to protecting continued water deliveries; assisting the City by consulting on technical, regulatory, and process issues with the U.S. Forest Service and/or other interested agencies and/or non-governmental organizations (NGOs); developing a scope of work, budget, and identifying a technical support team to implement necessary updates to environmental studies that are critical to protecting continued water deliveries and avoiding substantial unnecessary future costs and delays; and supporting the City in other matters associated with the Whitewater Flume Restoration to the extent such supporting services can be performed within the budget identified under 3, below.

2. Time of performance:

The services set forth in this Task Order #1 are to be performed during the period, July 21, 2010, through September 28, 2010.

3. CONSULTANT's Compensation:

The services set forth in this Task Order #1 will not exceed \$25,000, including all professional time and associated expenses. The break down is expected to be as follows:

Professional Time: 126 hours @ \$172.00 per hour = \$21,672.

Associated Expenses: Incidental Expenses = \$378. Travel Expenses = \$2,950

Dr. McDonald's time will be billed at \$172.00 per hour. Travel including airfares, mileage at \$0.50 per mile, rental cars, and hotels, will be billed at cost with no mark-up. Incidental expenses, including such things as computer use, supplies, and telephone will be covered under a fee of \$3.00 per each hour of Dr.

McDonald's time. Dr. McDonald does not charge for meals during authorized travel. Travel time that causes the workday to exceed eight hours is charged at $\frac{1}{2}$ the normal rate, or \$86.00 per hour and incidental expense fees are not charged for these hours.

All other terms and conditions remain unchanged.

CLIENT

Signature

Name (Printed or Typed)

Date

CONSULTANT

Signature
Roy McDonald

Name (Printed or Typed)

July 21, 2010

Date

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Attachment A

Contract No.	<u>P7-10</u>
Task Order No.	<u>#2</u>
Effective Date	<u>September 29, 2010</u>

TASK ORDER #2

In accordance with Article 1 of the Professional Services Agreement dated July 21, 2010 ("Agreement") between City of Banning, California ("CLIENT") and Roy McDonald ("CONSULTANT"), this Task Order sets forth services to be performed, the schedule for the services, and CONSULTANT's compensation for the services, as follows:

1. Services to be performed:

Dr. McDonald will assist the City of Banning in implementing its responsibilities under its Agreement with the Southern California Edison Company (SCE) on the Whitewater Flume Restoration Project, including providing information and recommendations for actions to be performed by the City and its partners, Banning Heights Mutual Water Company (BHMWC), and San Gorgonio Pass Water Agency (Pass Agency); and assisting the City in carrying out the following subtasks:

- a. Work with City, BHMWC, and Pass Agency contractors to develop a construction layout and plan for fully replacing damaged Project facilities and use available information, supplemented by field observations, to assess the environmental effects of this construction scenario. File the resulting documentation with the FERC.
- b. Review and edit a report on fishery studies performed in fall 2010 by Thomas R. Payne & Associates, and assist in presenting the preliminary results to the San Bernardino National Forest, California Department of Fish and Game, and State Water Resources Control Board. Work with SCE to include the information in a December 2010 filing with the FERC.
- c. Prepare and submit FERC intervention motions for the City, BHMWC, and Pass Agency. The objective will be to obtain FERC Intervenor status separately for each entity.
- d. Prepare for and participate in two meetings with SCE, the San Bernardino National Forest, California Department of Fish and Game, and State Water Resources Control Board to summarize and discuss the contents of the SCE Application for Surrender of License, and to discuss these agencies' perceptions and potential additional study and/or mitigation recommendations.
- e. Prepare and submit comments on SCE's Application for Surrender of License for filing with the FERC. Review and evaluate other comments received from agencies, NGOs, and others, and assist in making recommendations to SCE for corrective or other kinds of actions.
- f. Develop a list of supporting activities to be performed by the City, BHMWC, and Pass Agency such as passing of resolutions for filing with FERC and others that support the need for continued

reliable and safe water supply. Provide drafts or examples to facilitate the supporting activities. Assist in editing and filing.

- g. Review agency comments and terms and conditions, meet with agencies and NGOs to discuss their comments, terms, and conditions, provide information, prepare responses to comments, work with SCE on their responses, work with USFS on their Section 4(e) conditions, develop mitigation or enhancement strategies, and file with FERC
- h. Review FERC Additional Information Requests (AIRs) and make recommendations for actions. Coordinate with SCE on studies, results, consultation, and filing.
- i. Review and prepare comments on FERC REA notice and Scoping Document 1 (SD1), meet with agencies and NGOs to discuss comments, terms and conditions, and mitigation/enhancement strategies, work with SCE on their comments, and file with FERC.
- j. Review and respond to agency and NGO comments on SD1, meet with agencies and NGOs to resolve differences and develop alternative mitigation/enhancement strategies, work with SCE on their responses, and file with FERC.
- k. Participate in FERC agency and public scoping meetings and site visit, prepare and present comments on the content and structure of the EA, prepare analysis and briefing materials.
- l. Prepare and submit written comments to FERC following the FERC scoping meetings and site visit, providing alternative perspectives, rebutting negative or unsupported comments, and suggesting alternative mitigation or enhancement strategies.
- m. Support the City in other matters associated with the Whitewater Flume Restoration to the extent such supporting services can be performed within the budget identified in 3, below.

2. **Time of performance:**

The services set forth in this Task Order #2 are to be performed during the period, September 29, 2010, through June 30, 2011.

3. **CONSULTANT's Compensation:**

The services set forth in this Task Order #2 will not exceed \$85,900, including all professional time and associated expenses. The break down is expected to be as follows:

Professional Time: 450 hours @ \$172.00 per hour = \$77,400.

Associated Expenses: Incidental Expenses = \$1,350. Travel Expenses = \$7,150.

Dr. McDonald's time will be billed at \$172.00 per hour. Travel including airfares, mileage at \$0.50 per mile, rental cars, and hotels, will be billed at cost with no mark-up. Incidental expenses, including such things as computer use, supplies, and telephone will be covered under a fee of \$3.00 per each hour of Dr. McDonald's time. Dr. McDonald does not charge for meals during authorized travel. Travel time that causes the workday to exceed eight hours is charged at $\frac{1}{2}$ the normal rate, or \$86.00 per hour and incidental expense fees are not charged for these hours.

All other terms and conditions remain unchanged.

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CLIENT

Signature

Name (Printed or Typed)

Date**CONSULTANT**

Signature

Roy McDonald

Name (Printed or Typed)

Date

CITY COUNCIL/BANNING UTILITY AUTHORITY AGENDA

DATE: **October 26, 2010**

TO: **Banning Utility Authority**

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

SUBJECT: **Resolution No. 2010-10 UA, "Awarding a Professional Services Agreement for the Whitewater Flume Restoration Project to Stephen P. Stockton, P.E.**

RECOMMENDATION: The Utility Authority adopt Resolution No. 2010-10 UA:

- I.** Awarding a Professional Services Agreement to Stephen P. Stockton, P.E. of Redlands, California in an amount of \$20,000.00 for consulting services related to the Whitewater Flume Restoration Project.
- II.** Authorizing the Administrative Services Director to make necessary adjustments and appropriations in an amount of \$20,000.00 from the Banning Utility Authority Water Capital Facility Fund to Account No. 661-6300-471.33-11 (Professional Services).

JUSTIFICATION: It is necessary for the City to obtain Professional Services to assist the City with implementing its responsibilities under its Agreement with Southern California Edison (SCE) on the Whitewater Flume Restoration Project.

BACKGROUND: Southern California Edison (SCE) owns and previously operated hydroelectric 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 hydroelectric 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.

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, the City of Banning, Banning Heights, and San Gorgonio Pass Water Agency (Pass Water Agency). The Participating Entities are currently evaluating the purchase and repair of the water conveyance system. The City will be responsible for ten percent of the associated costs.

As part of the project, staff has determined that it is necessary to obtain a consultant to assist the City in implementing its responsibilities, including but not limited to, the following: providing information and recommendations for action to be performed by the City and its partners; assisting the City by consulting on technical and processing issues with SCE; and developing a scope of work and budget for construction.

At this time, staff respectfully requests an award of Agreement to Stephen P. Stockton, P.E. to provide the abovementioned services. This consultant previously held employment with the San Gorgonio Pass Water Agency and is well educated and knowledgeable on the Whitewater Flume facilities and water conveyance system. Through his prior experiences and knowledge, Stephen P. Stockton, P.E. has obtained the specialized background and technical understanding of the Whitewater Flume facility that are necessary to complete the project, which cannot be provided as efficiently or economically by another, indentifying him as a sole source provider. Additionally, Stephen P. Stockton, P.E. prepared the original documents for the decommissioning of the Whitewater Flume and water conveyance system. Stephen P. Stockton, P. E. has also been highly recommended by Banning Heights. Banning Heights, the Pass Water Agency and City staff have determined and agree that this Consultant's services are necessary in order to efficiently and successfully continue with the project.

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 \$20,000.00 from the Water Capital Facility Fund to Account No. 661-6300-471.33-11 (Professional Services) is necessary in order to fund the Professional Services Agreement with Stephen P. Stockton, P.E.

RECOMMENDED BY:



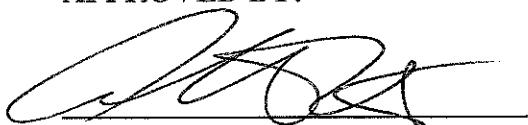
Duane Burk
Director of Public Works

REVIEWED BY:



Kirby Warner
Interim Administrative Services Director

APPROVED BY:



Andy Takata
City Manager

RESOLUTION NO. 2010-10 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 STEPHEN P. STOCKTON, P.E.

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, also known as the Whitewater Flume, was fully executed between SCE, City of Banning, Banning Heights, and San Gorgonio Pass Water Agency; and

WHEREAS, staff has determined that it is necessary to obtain a consultant to assist the City in implementing its responsibilities, including but not limited to, the following: providing information and recommendations for action to be performed by the City and its partners; assisting the City by consulting on technical and processing issues with the SCE; and developing a scope of work and budget for construction; and

WHEREAS, Stephen P. Stockton, P.E. previously held employment with the San Gorgonio Pass Water Agency and is well educated and knowledgeable on the Whitewater Flume facilities and water conveyance system; and

WHEREAS, staff respectfully requests an award of a Professional Services Agreement to Stephen P. Stockton, P.E. for Consulting Services in an amount of \$25,000.00.

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

Section 1. The Professional Services Agreement for the Whitewater Flume Restoration project is awarded to Stephen P. Stockton, P.E. in the amount of \$25,000.00.

Section 2. The Administrative Services Director is authorized to appropriate funds from the Water Capital Facility Fund to Account No. 661-6300-471.33-11 (Professional Services), in the amount of \$25,000.00 and is authorized to make necessary budget adjustments related to these funds.

Section 3. The City Manager is authorized to execute the Professional Services Agreement with Stephen P. Stockton, P.E. 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 26th day October, 2010.

Robert E. Botts, Chairman
Banning Utility Authority

ATTEST:

Marie A. Calderon, Secretary

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

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

CERTIFICATION:

I, Marie A. Calderon, Secretary to the Utility Authority of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2010-10 UA was adopted by the Banning Utility Authority of the City of Banning at its Joint Meeting thereof held on the 26th day of October, 2010.

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie A. Calderon, Secretary
Banning Utility Authority

CITY COUNCIL/BANNING UTILITY AUTHORITY AGENDA

DATE: October 26, 2010

TO: Banning Utility Authority

FROM: Duane Burk, Director of Public Works

SUBJECT: Emergency Sewer Main Repair at 521 E. Ramsey Street

RECOMMENDATION: Approve the sewer main repairs at 521 E. Ramsey Street in the amount of \$10,460.00 and direct the City Clerk to record the *Notice of Completion*.

JUSTIFICATION: The sewer repairs were essential to ensure public health providing the flow of sewage water into the City's sewer system.

BACKGROUND: On September 7, 2010, City staff received notification of sewage backing up into 521 E. Ramsey Street. Upon investigation of the back up, it was discovered that the lateral line had been damaged during the construction of Storm Line "D", which was completed in October of 2009. Since the business had been vacant for some time the damage to the lateral was not evident until it became occupied and drainage from the address began to back up into the building.

The Public Works Department solicited quotes for the repair and Merlin Johnson Construction, Inc., the lowest bidder, was called to repair the lateral line. Merlin Johnson Construction, Inc. is a reputable firm in the Water and Wastewater Utility industry and has extensive experience in the field of design and construction. This company has successfully completed numerous projects for the City.

Authorization for this repair work is consistent with the City Policy as set forth in Ordinance No. 1266 for emergency repairs.

FISCAL DATA: The funds for the repairs to the sewer main will be utilized from the FY 2010-2011 Wastewater Division Operation Budget, Account No. 680-8000-454.45-09.

RECOMMENDED BY:



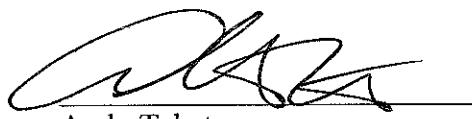
Duane Burk
Director of Public Works

REVIEWED BY:



Kirby Warner
Interim Administrative Services Director

APPROVED BY:



Andy Takata
City Manager

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1 WHEN RECORDED MAIL TO:

2
3 City Clerk's Office
4 City of Banning
5 City Hall, 99 E. Ramsey Street
6 Banning, California 92220

7
8 FREE RECORDING:

9 Exempt Pursuant to
10 Government Code §6103

11
12
13 NOTICE OF COMPLETION

14 Sewer Main Repair at 521 E. Ramsey Street

15
16 THIS NOTICE OF COMPLETION IS HEREBY GIVEN by the City of Banning,
17 a municipal corporation, pursuant to the provisions of Section 3093 of the Civil Code of
18 the State of California, and is hereby accepted by the City of Banning pursuant to
19 authority conferred by the City Council this October 26, 2010 and the grantees consent to
20 recordation thereof by its duly authorized agent.

21
22 (1) That the OWNER, the City of Banning and Merlin Construction, Inc., the
23 vendee entered into a written Agreement dated September 23rd, 2010, for the
24 Emergency Services to Repair the sewer main at 521 E. Ramsey Street ("Work of
25 Improvement"). The scope of work under this project was the furnishing of labor,
26 materials, tools, equipment and other services necessary for the "Emergency Sewer Main
27 Repair at 521 E. Ramsey Street".

28
29 (2) That the Work of Improvement was substantially completed on September
30 17, 2010, and the Nature of Interest is in fee simple owner.

31
32 (3) That the OWNER, the City of Banning, a municipal corporation, whose
33 address is Banning City Hall, 99 E. Ramsey Street, Banning, California 92220, is the
34 owner of said Work of Improvement.

36 (4) That the said Work of Improvement was performed at 521 E. Ramsey
37 Street, Banning, California.

38
39 (5) That the original contractor for said improvement was Merlin Johnson,
40 Inc, State Contractor's License No. 467306.

41
42 (6) Performance and payment bonds where not required for this emergency
43 work.

44
45 Dated: October 26, 2010.

46
47 CITY OF BANNING
48 A Municipal Corporation
49
50

51 By _____
52 Andrew J. Takata, City Manager
53

54 APPROVED AS TO FORM:

55
56 _____
57 David Aleshire, Aleshire & Wynder, LLP
58 City Attorney
59

1
2
3 JURAT
4
5

6 State of California
7 County of Riverside
8
9

10 Subscribed and sworn to (or affirmed) before me on this _____ day of
11 _____, 2010 by _____ proved to me on the basis of
12 satisfactory evidence to be the person(s) who appeared before me.

13 (Seal) _____
14
15
16
17

18 STATE OF CALIFORNIA)
19) ss
20 COUNTY OF RIVERSIDE)
21
22
23 MARIE A. CALDERON, being duly sworn, deposes and says:
24
25 That I am the City Clerk of the City of Banning, which City caused the work to be
26 performed on the real property hereinabove described, and is authorized to execute this
27 Notice of Completion on behalf of said City; that I have read the foregoing Notice and
28 know the contents thereof, and that the facts stated therein are true based upon
29 information available to the City of Banning, and that I make this verification on behalf
30 of said City of Banning. I declare under perjury that the forgoing is true and correct.
31 Executed on _____, 2010 at Banning, California.
32
33
34

51
City Clerk of the City of Banning

**CITY COUNCIL AGENDA
PUBLIC HEARING**

DATE: October 26, 2010

TO: Mayor and City Council

FROM: Zai Abu Bakar, Community Development Director

SUBJECT: Massage Establishment Business License Fee – Resolution No. 2010-74

RECOMMENDATION:

That the City Council adopt Resolution No. 2010-74 establishing a business license fee of \$50.00 per year for the owner or operator of a massage establishment.

JUSTIFICATION:

Subsequent to the adoption of the ordinance regulating massage establishments and state certified massage therapists, concerns were raised by staff and members of the City Council that the City must keep track of the massage establishments and their owners/operators. The way to keep track is through business licensing and payment of the business license annual fee.

ANALYSIS:

The proposed business license fee of \$50.00 per year is consistent and reasonable based on the fees that were established in the Municipal Code (Chapter 5.08). For retail and wholesale businesses, such as a beauty salon, the business owner/operator is required to pay the business license fee based on the number of employees employed in his/her business as follows:

1 - 5 persons	\$50.00
6 - 10 persons	110.00
11 - 15 persons	165.00
16 - 20 persons	220.00
21 - 25 persons	275.00
26 + persons	330.00

The state certified massage therapist is currently required to pay his/her business license fee of \$125.00. Therefore, the proposed \$50.00 business license fee per annum is solely for the licensing of the owner/operator of the establishment.

The owner of a beauty salon that employs a state certified massage therapist(s) is exempt from paying the massage establishment business license fee since he/she has to pay for the business license fee to operate a beauty salon.

52

ENVIRONMENTAL DETERMINATION

The establishment of a business license fee is exempt per Section 15273(a)(1) of the California Environmental Quality Act (CEQA). Section 15273(a)(1) states that, "CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies which the public agency finds are for the purpose of meeting operating expenses, including employee wage rates and fringe benefits." The purpose of the business license fee of \$50.00 per annum is for the purpose of meeting operating expenses as part of regulating massage establishments. Therefore, the establishment of this fee is exempt per Section 15273(a)(1) of CEQA.

FISCAL DATA:

The proposed fee will generate revenue to the General Fund.

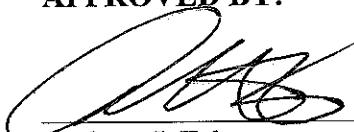
PUBLIC HEARING NOTICE AND COMMUNICATION:

The public hearing notice for this item was published in Record Gazette on October 15, 2010. Staff has not received any comments from the public as of the writing of this report.

CONCLUSION:

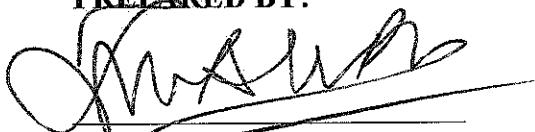
That the City Council adopt Resolution No. 2010-74 establishing a business license fee of \$50.00 for the owner or operator of a massage establishment.

APPROVED BY:



Andrew J. Takata
City Manager

PREPARED BY:



Zai Abu Bakar
Community Development Director

Attachments:

1. Resolution No. 2010-74
2. Public Hearing Notice

ATTACHMENT 1

Resolution No. 2010-74

RESOLUTION NO. 2010-74

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF BANNING, CALIFORNIA ESTABLISHING A BUSINESS
LICENSE FEE FOR OWNER(S)/OPERATOR(S) OF
MASSAGE ESTABLISHMENT(S)**

WHEREAS, the City Council adopted Ordinance No. 1426 on August 24, 2010 regulating massage establishments and state certified massage therapists in order to comply with SB 731.

WHEREAS, subsequent to the adoption of Ordinance No. 1426, concerns were raised by City staff and members of the City Council that the City must keep track of the massage establishments and their owners/operators.

WHEREAS, the way to keep track of the owner(s)/operator(s) of massage establishments is through business licensing and payment of the business license annual fee.

WHEREAS, the business license fee of \$50.00 per year is consistent and reasonable based on the fees that were established in the Municipal Code Chapter 5.08 in that similar businesses such as beauty salons pay similar business licensing fees.

WHEREAS, the \$50.00 business license fee per annum is solely for the licensing of the owner/operator of the establishment.

NOW THEREFORE, the City Council of the City of Banning does hereby approve and resolve as follows:

Section 1. Compliance with California Environmental Quality Act

The establishment of a business license fee is exempt per Section 15273(a)(1) of the California Environmental Quality Act (CEQA). Section 15273(a)(1) states that, "CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies which the public agency finds are for the purpose of meeting operating expenses, including employee wage rates and fringe benefits." The purpose of the business license fee of \$50.00 per annum is for the purpose of meeting operating expenses as part of regulating massage establishments. Therefore, the establishment of this fee is exempt per Section 15273(a)(1) of CEQA.

Section 2. Fees

Massage Establishment Annual Business License Fee - \$50.00

Section 3. Exemption

The owner of a beauty salon or similar business that employs a state certified massage therapist(s) is exempt from paying the massage establishment business license fee since he/she has to pay for the business license fee to operate a beauty salon.

Section 4. Signature.

The Mayor shall sign this Resolution and the City Clerk shall attest thereto and shall within fifteen (15) days cause it or a summary of it to be published in the Record Gazette, and thereupon and thereafter this Resolution shall become effective after its adoption.

PASSED, APPROVED AND ADOPTED this 26th day of October 2010.

Robert E. Botts, Mayor
City of Banning

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

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

ATTEST:

Marie Calderon, City Clerk
City of Banning

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Resolution No. 2010-74 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 26th day of October 2010, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie Calderon, City Clerk
City of Banning

ATTACHMENT 2

Public Hearing Notice

NOTICE OF PUBLIC HEARING

PURSUANT TO LAW, NOTICE IS HEREBY GIVEN of a Public Hearing before the City Council of the City of Banning, to be held at a regular City Council Meeting on Tuesday, October 26, 2010, at 5:00 p.m. in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, California, to consider the following:

Resolution No. 2010-74: A Resolution of the City Council of the City of Banning establishing a Business License fee of \$50.00 for the owner or operator of a massage establishment.

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

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

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

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

Marie A. Calderon
City of Banning

Date: October 11, 2010
Publish: October 15, 2010

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