

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

November 9, 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

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.

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

IV. CONSENT ITEMS

(The following items have been recommended for approval and will be acted upon simultaneously, unless any member of the City Council wishes to remove an item for separate consideration.)

Motion: That the City Council approve Consent Item 1 through 10

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

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

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|-----|--|----|
| 1. | Approval of Minutes – Joint Meeting – 10/26/10 | 1 |
| 2. | Approval of Minutes – Regular Meeting – 10/26/10. | 2 |
| 3. | Report of Investments for August 2010. | 14 |
| 4. | Report of Investments for September 2010 | 24 |
| 5. | Resolution No. 2010-33, Authorizing the Destruction of City Records as Provided by Section 34090 of the California Government Code and Resolution No. 2003-26 of the City of Banning as listed in Attachment A. | 34 |
| 6. | Resolution No. 2010-70, Approving the Revised Annual Pole Attachment Fees for Any Foreign Utility Not Participating in the Southern California Joint Pole Committee’s Authorized Costs Program | 48 |
| 7. | Resolution No. 2010-77, Approving the Projects for the Fiscal Year 2011-2012 Community Development Block Grant (CDBG) Program | 53 |
| 8. | Resolution No. 2010-78, Authorizing a \$0.0326/ kWh Increase to the Low Income Qualified Baseline Service Rate (Also Known as the Banning Electric Alternative Rate “BEAR”) and Approving the City of Banning Electric Utility Rate Schedule | 61 |
| 9. | Resolution No. 2010-80, Amending the Professional Services Agreement to C&S Engineers, Inc. for Design Services at the Banning Municipal Airport to Include Construction Observation and Administrative Services. | 88 |
| 10. | Resolution No. 2010-82, Authorizing the City Manager to Direct the Preparation Of and Send Letters Of Support or Opposition Consistent With Legislative Positions Adopted by the League of California Cities | 94 |

- Open for Public Comments
- Make Motion

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. Ordinance No. 1421, Adopting the New California Fire Code (CFC 2010 Edition).

Staff Report 97
Recommendation: Adopt Ordinance No. 1421 and the 2010 California Fire Code.

Mayor asks the City Clerk to read the title of Ordinance No. 1421:

"An Ordinance of the City Council of the City of Banning, California, Amending Chapter 8, Article II, Section 8-16 Repealing Sections 8-17 of the Banning Ordinance Code Adopting the 2010 California Fire Code In Its Entirety for 1) Regulating and Governing the Safeguard of Life and Property from Fire and Explosion Hazards (Arising from the Storage, Handling and Use of Hazardous Substances, materials and Devices) and From Conditions Hazardous to Life or Property in the Occupancy of Buildings and Premises in the City of Banning, and 2) Providing for the Issuance of Permits and the Collection of Fees Therefor."

Motion: I move to waive further reading of Urgency Ordinance No. 1421

(Requires a majority vote of Council)

Motion: I move that Ordinance No. 1421 pass its first reading.

2. Adopting of the Latest Editions of California Building, Residential, Green Building Standards, Plumbing, Mechanical and Electrical Codes.

Staff Report 123

Recommendation: That the Council introduce the first reading of Ordinance No. 1433 and set the second reading of the Ordinance at the Council Meeting on December 14, 2010.

Mayor asks the City Clerk to read the title of Ordinance No. 1433:

"An Ordinance of the City Council of the City of Banning, California, Amending Sections 15.08.010 Through 15.08.110 of Title 15 of the Banning Municipal Code By Adopting the 2010 Editions of the California Codes and Related Model Codes With Appendices and Amendments Thereto."

Motion: I move to waive further reading of Urgency Ordinance No. 1433

(Requires a majority vote of Council)

Motion: I move that Ordinance No. 1433 pass its first reading.

VI. REPORTS OF OFFICERS

1. Stagecoach Days

Staff Report 131

Recommendation: If the City Council supports the continuation of Stagecoach Days, staff recommends the following: That the City Council indicate the Monetary level of in-kind services that will be given to support of Stagecoach Days 2010.

2. Resolution in Support of the Southern California Association of Governments (SCAG) "Business Friendly Principles."

Staff Report 133

Recommendation: That the City Council adopt Resolution No. 2010-79, In Support of “Business Friendly Principles” as Part of Southern California Association of Governments (SCAG) Development of a Southern California Economic Growth Strategy.

3. Resolution No. 2010-81, Approval of the Business Retention Electric Rate Schedule and the Economic Development Rate Agreement for Business Retention of Electric Service Customer.

Staff Report 139

Recommendation: That the City Council adopt Resolution No. 2010-81, Approving the Business Retention Electric Rate Schedule and the Banning Economic Development Rate Agreement for Business Retention of Electric Service Customer, attached herewith as Exhibit “A” and “B” respectively.

4. Discussion on Expiration of TUMF (Transportation Uniform Mitigation Fee) Fees

Staff Report (ORAL)

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

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

VIII. ITEMS FOR FUTURE AGENDAS

New Items –

Pending Items –

1. Schedule Meetings with Our State and County Elected Officials
2. 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. December 7, 2010 at 5:00 p.m. – Special Meeting (Swearing in of City Council Members and Reorganization).

IX. ADJOURNMENT

Pursuant to amended Government Code Section 54957.5(b) staff reports and other public records related to open session agenda items are available at City Hall, 99 E. Ramsey St., at the office of the City Clerk during regular business hours, Monday through Thursday, 8 a.m. to 5 p.m.

NOTICE: Any member of the public may address this meeting of the Mayor and Council on any item appearing on the agenda by approaching the microphone in the Council Chambers and asking to be recognized, either before the item about which the member desires to speak is called, or at any time during consideration of the item. A five-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor and Council. No member of the public shall be permitted to "share" his/her five minutes with any other member of the public.

Any member of the public may address this meeting of the Mayor and Council on any item which does not appear on the agenda, but is of interest to the general public and is an item upon which the Mayor and Council may act. A three-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor and Council. A thirty-minute time limit is placed on this section. No member of the public shall be permitted to "share" his/her three minutes with any other member of the public. The Mayor and Council will in most instances refer items of discussion which do not appear on the agenda to staff for appropriate action or direct that the item be placed on a future agenda of the Mayor and Council. However, no other action shall be taken, nor discussion held by the Mayor and Council on any item which does not appear on the agenda, unless the action is otherwise authorized in accordance with the provisions of subdivision (b) of Section 54954.2 of the Government Code.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office (909) 922-3102. **Notification 48 hours prior to the meeting** will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.02-35.104 ADA Title II].

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

10/26/10
JOINT MEETING

A joint meeting of the Banning City Council and the Community Redevelopment Agency was called to order by Mayor Botts on October 26, 2010 at 4:02 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

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

COUNCIL MEMBERS ABSENT: None

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

CLOSED SESSION

Agency Counsel stated that there would be no discussion in regards to 280 E. Ramsey Street (APN: 541-183-004) this evening.

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) 1585 W. Ramsey Street (APN 540-130-024 former Ramsey Ford property).

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

Meeting went into closed session at 4:03 p.m. and returned to regular session at 4:28 p.m. and the meeting reconvened at 5:02 p.m.

ADJOURNMENT

By common consent the meeting adjourned at 5:02 p.m.

Marie A. Calderon, City Clerk/
Agency Secretary

MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

10/26/10

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 26, 2010 at 5:02 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
Fred Mason, Electric Utility Director
Zai Abu Bakar, Community Development Director
Heidi Meraz, Community Services Director
Phil Holder, Police Lieutenant
John McQuown, City Treasurer
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 City Council and Redevelopment Agency Board met in closed session pursuant to Government Code Section 54956.8 to discuss real property negotiations concerning the property at 1585 W. Ramsey Street (APN 540-130-024 former Ramsey Ford property). A status report was given on the negotiations and direction was given for further negotiations. There was no discussion in regards to 280 E. Ramsey Street (APN: 541-183-004).

PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS

PUBLIC COMMENTS – On Items Not on the Agenda

Bob Rochelle, 1538 Bryan Street addressed the Council stating what CNN and Money Magazine and others have to say about what makes a great small city and it includes adequate fresh water, infrastructure, low crime, cultural centers, recreation, education, history, employment, different age groups, health services and a downtown with parking that people can walk to and well marked signs. The attractions are another item such as seasonal attractions and so forth. Regarding the signage for downtown and elsewhere in the city he feels could be improved. The only signage we have on the freeway for downtown that he sees is 22nd Street which says downtown coming from west to east. So with Caltrans we need to work or get some signage that shows where downtown is. People who turn off on 22nd Street looking for downtown go to Sunset or 8th Street and they can't find downtown and they move back on the freeway so it is a simple idea that he thinks we can improve on. He thinks that we are a great small town and we can't do everything for everybody but we do what we can and for every action there is a reaction of course on what we do.

Henri De Roule resident of Banning representing H.E.L.P. addressed the Council and passed out some information. He reminded everyone about the Pipe Organ Concert being given by the Grace Lutheran Church, 1000 W. Wilson to be held on November 13th at 4 p.m. Tickets are \$10 in advance and \$14 at the door and can be purchased at H.E.L.P. or at the church. Also, they are having a Christmas Boutique to be held on November 18th and 19th from 9 a.m. to 4 p.m. with refreshments, Toyland for children, linens, clothing, jewelry and a lot of other different things so please come by and visit. He reported that in regards to the second sheet he distributed it is unfortunately not a very pretty picture. This shows the number of clients that they have been serving from January through the 22nd of October and you can see that they passed the 4,000 mark in September and they will be over that again for October, November and December. That represents a total of 1743 families and of those families they anticipated having about 350 double AA families and those are families where there are five or more people and it turns out that they have 450. They are receiving from the Morongo Indians a donation of 200 turkeys and receiving 100 turkey dinners through Debbie Franklin to distribute. They would appreciate anything that the City of Banning could do to help them acquire additional turkeys. He did some calculations and the extra 200 that they need would amount to about \$2000. He will be asking the other cities to contribute as well because out of those 450, 202 families reside in Banning.

Councilmember Franklin said she is not doing the dinners herself. There is a local business that is donating those dinners.

John McCormick resident of Banning for 22 years stated that he lives across the street from Repplier Park and he wanted to thank the City Council. He said that they recently received a benefit of a redevelopment grant and got some windows on their house and it is a situation where they would have never been able to afford to improve anything with what he makes. He said his wife signed up for the grant over two years ago and they felt many timed that they would not get the grant and then they received a call from Arlene Long and she was very professional and very kind and also he worked along with Dirk Voss. He can't tell you how well and how great these people are and how well they worked with him and his wife. He wanted to thank them and the Council and they are very humbled and very grateful that our City was able to do this for them.

Lyndon Taylor, Banning resident said as he has talked to people around town in the past couple of weeks especially he has ran across a very persistent rumor and maybe it ought to be dealt with to clarify the situation. People are saying that there is a plan afoot to close the Haven down in the next few weeks. He said he hasn't heard anything official about this and he hasn't really been able to give these people a very good answer to either confirm or deny that rumor. He is wondering if any of the Council Members have engaged in any kind of conversation or are aware of any plans to close the Haven. He believes that it is relevant to the general issue of the downtown planning and also redevelopment.

Krista Baird, 1036 Charles Street addressed the Council stating that she was here again about the Landscape Maintenance District. She has some real issues and concerns about it and they have come before the Council before asking to have a committee and they were told by Mayor Botts that they could have a committee, at least that was her understanding, and they went out and got a group of people together for this committee and they came back to the City and then Mayor Botts told them that he didn't feel the City needed to have a committee to overlook the Landscape Maintenance District. She said the City took over the Landscape Maintenance District and because of budget issues the City raised their fees but now they fired the company that was taking care of the Landscape Maintenance District down in their area and at one time she brought in a huge piece of asphalt that shouldn't have been buried and now they have a City worker who comes down there with people from the jail, work release program people doing the work down there. She doesn't want those people in her neighborhood. She wants to know where her money is going. When she talked to the supervisor that came down there she was told that they get down there maybe twice in a two week period every other week. Also in regards to their tax bill the breakdown that she thought was supposed to be on the City's website done by Webb and Associates only shows a one line item that doesn't answer any questions and when she came down to the City to try to get the information they want to charge her \$70 dollars for one set of documents and another \$70 dollars for another set of documents when Barbara Hanna had said in that meeting when Mayor Botts said they didn't need the committee to have the City have that paperwork made available to them. This is not right; this is not right.

Mayor Botts said he wished that he was in charge but the City Manager really is the gentleman that runs the City. He said he never approved the committee nor would he have been in a position to deny the committee. He remembers that meeting and they distinctly said that they would like you to work with Duane Burk and our City Manager and he doesn't recall this group opposing or approving that. He would ask that she talk with the City Manager and work through Duane Burk to get the information that you need.

Matthew Clarke, 1036 Charles Street addressed the Council stating he was here to substantiate what the previous speaker spoke of that previously because of budget constraints the City took over the workload of maintaining the Maintenance District and obviously for a lower cost even though their fees were raised and now they can understand why they do it at a lower cost using work release inmates or prisoners in a residential area. He wants the people who are watching this television to understand that it has been approved to introduce prisoners into residential areas to do maintenance work for the City. This is unacceptable.

Use them on City property; use them in city hall or I challenge you to take them to Sun Lakes and he bets that it wouldn't be approved there but they are doing it at Fair Oaks Ranch and doing it in other maintenance district zones. This is not right. He would guess that explains how the City could do it for cheaper when the private contractor couldn't do it for that price. In these chambers he believes that Mr. Burk said it would be either parks or recreation department that would be doing the work. We only see one of those City representatives out there with as many as 7 or 8 prisoners, work release, convicts, and criminals. You are introducing these to areas where there are children playing in their front yards, mothers and grandmothers home alone, police budgets being cut and we are introducing prisoners to residential areas. We are asking for a full accounting of how and why this is being done. We the residents of Fair Oaks Ranch and the rest of the city want to know why prisoners are being used to do the City work.

Edward Miller resident of Banning said that a very deplorable incident occurred at the last Council meeting and no one on the Council said anything about it. Several of the residents said that we certainly do not want to vote for somebody else from Sun Lakes because that would put three people on the Board from Sun Lakes. That type of attitude is one that tries to separate our city. Our city only has 29,000 people in it and that is a tiny little group. Obviously you can tell from his accent that he came from New York and that is the amount of people that would live on one city block in New York. To say that one part of that block should be separated in people's minds from the other part would be ludicrous to separate one part of our city from the other part is also ludicrous and the City Council should not sit quietly and listen to people say that. Sun Lakes is part of Banning and every other part is part of Banning and no one should try to separate us into separate parts. Sun Lakes contributes quite a bit to our city and we all know that Sun Lakes fought to get our tax money for the schools separated from Beaumont and put into Banning. We just saw in the newspaper that the library will get the money from Sun Lakes. Sun Lakes is part of Banning and anyone who tries to separate Banning into two parts is simply doing that to destroy our city. Again, we need our city to work together to solve its problems. Again, the City Council should not sit by quietly while people try to separate our city into two parts or more than two parts.

Carol Newkirk, 905 Twin Hills Drive reminded the Council that November 11th is a very important day to all of us and even more special here in Banning because the Alliance is dedicating their Veterans Memorial Wall at 1:00 p.m. that day in the Women's Club Garden. It is a very handsome wall and plaques can be obtained to put on it memorializing deceased veterans of any branch of service. They also have a very exciting unveiling of a sculpture that has been done of Iwo Jima by local artist Martin Contreras. This particular work that they are doing has been funded by the Laura May Stewart Foundation Trust. Following this event they will have a special showing at their gallery of military paintings, etc.

Dorothy Familetti-McLean addressed the Council stating that in regards to Edward Miller's comments Sun Lakes is a gated community and the other members of the town cannot go in there unless we have permission. It would not seem right that we would have three people from any one area of town representing all of Banning. She has not heard anybody say that is okay except Mr. Miller. She would think that a representation from Banning should come from all over Banning and not just from Sun Lakes.

Don Smith, resident of Banning addressed the Council stating that on Saturday, November 30th from 5:30 to 8:30 p.m. the Cultural Alliance in conjunction with the Banning Chamber of Commerce will be having a Halloween Night for the kids downtown at the corner of San Gorgonio and Ramsey Street. There will be trick-a-treating, a haunted house, entertainment and other things for the whole family. He also said that he never considered what the Clark's said before as to whether or not it is appropriate to be using the work release crews in residential areas. He wanted to be clear though that this is not a new thing that is happening because of the budget. He said when he joined the Council 18 years ago in 1992 it had been done for a long time and so he really doesn't know how long we have been doing it but for a long time we have been using work crews to do the city right-of-way areas in residential areas. He is not saying that is the right thing to do or the wrong thing to do and it has never really considered that and he doesn't know if any Council has every considered what would be the best use of those people so maybe you want to make that consideration.

CORRESPONDENCE: None at this time.

PRESENTATION:

1. Stagecoach Days Committee Report

Sue Palmer addressed the Council stating that she and the Committee would like to say thank you to the City of Banning for sponsoring this year's event with not just the \$5,000 that was donated but with the staff time, the staff work, and all the repairs that were done at the park. This was a banner year for the Stagecoach Days Committee with respect to the City working with them. They did an outstanding job and she cannot thank them enough and the Council for all the work that they helped with this year. She presented to Mayor Botts a plaque presented in honor of the outstanding contributions and continuous support generously provided by the City of Banning, Diamond Sponsor. She also presented a plaque to I.B.E.W. (International Brotherhood of Electrical Workers) in honor of the outstanding contributions and continuous support generously provided by I.B.E.W., Gold Sponsor. For the last two years they have saw the need for something here in the city of Banning.

Sue Palmer continued her report stating that the improvements that were made to the park this year are quite noticeable and she even spoke with two gentlemen that were interested in holding an event down at the park and they stated that the park had really been improved. She thinks the Entry Sign is the most visible going into the park and very fitting. The announcer's booth had a lot of work done on it, the black top was mostly spread out throughout the park to make it easier for walking, there was a lot of painting done, vendor area improvements, a lot of general repairs and the fence that was falling over was refurbished. She intended to give the Council a expense and income report but she couldn't get it to balance and didn't want to give the Council something that was not completely accurate and will get that to them by the next Council meeting. The good news is that the balance in their checkbook with a few little things still needing to be paid is over \$16,000. All of the major items have been paid. That will be very nice to start out for the next year. Everything was bigger and better in their minds this year. The marketing effort was much better with everyone's help. They partnered with

United Way Day of Caring this year and also introduced a new website which was very helpful. They are getting to the point where they are ready to start working on next year's event and they are concerned about what is going to happen next year. They need a commitment from the City that you are actually going to partner with them for Stagecoach Days for next year. They don't want to sign contacts or book carnivals or do anything until they know that the City will partner with them. Not so much for the sponsorship money but for the in-kind services and for the upkeep of the park. If they don't have the in-kind services the Committee just doesn't feel like it is something they want to spend hundreds of hours working on. They need to know soon so that they can continue on with Stagecoach Days. Each of the members on the Committee went over specific items of Stagecoach Days that they were involved in at those that addressed the Council were: Bill Lamb, Helen Barnes, David Wilson, Bill Dickson, and Sue Barnett.

Sue Palmer said she forgot to mention that there were some concerns over their sponsorship and the signs that they allowed at the park. The Committee had talked about this and there was a question that one of the banners may have been political and they looked back on all of the Stagecoach Days records and what has been allowed in the past and she actually contacted the Council Members prior to putting the banners up and spoke to the City Manager about what type of sponsorships should they allow. They were told as long as the banners didn't say anything like "elect" or "re-elect", it was okay. It had to be positive in nature and nothing demeaning to the City of Banning and the Stagecoach Committee totally shares that opinion. The banner that seemed to get the controversy is a banner that Debbie Franklin had made up for them as a sponsor and it said, "Council Member Debbie Franklin Proudly Sponsors Banning Stagecoach Days." They did not feel it was political in nature and allowed that banner. She hopes the Council as a whole will agree with their actions. The Pageantry Production Company used to do the parade in Banning and that is how they managed the parade also and she explained. She said that she was the Sponsorship Chairperson so she takes full responsibility of this banner and the sponsorship and so if anyone is upset, they need to be upset with her.

Bill Dickson said that Sue Palmer had full support from the entire Committee and always will. She did everything according to the book and gave leadership that he has never seen before and everybody is behind her.

Mayor Botts thanked Sue Palmer and the Committee for an outstanding job. He reminded the Committee that there were only three of the Council Members that voted in favor of supporting you and providing funding for this year so clearly he whole-heartedly supported Stagecoach Days. He is assuming that this item should be on an agenda if the Council is going to take a position.

City Manager said that if the Council wants to take a position it should be on an agenda. He thanked Duane Burk, Heidi Meraz and Fred Mason for their work with Stagecoach Days. It was both Duane's and Fred's crew that went out there and fixed up the park. That park is a City park and it was not in very good condition at that point in time and our goal was to put that park back in the way we want the rest of our parks to look like so basically that was what

the goals was and we will continue to maintain that park whether there is Stagecoach Days or not there. They did a fantastic job and probably went over and above what was requested.

Mayor Botts opened the item for public comments.

Don Smith resident of Banning congratulated Sue Palmer, the entire Committee and the entire staff and they took a dramatic step and turned it around this year and did an excellent job. The improvement from last year to this year in advertising, the look of the property, the number of vendors, the cleanliness and everything was better and they are to be congratulated. His concern is that it is already October and it time for them to start planning next year's event and apparently they can't start planning until they get some commitments from the City. So, he highly would suggest that it be put on an agenda so that they will know they will have the in-kind services. He thinks that from a redevelopment standpoint he strongly believes that special events are redevelopment tools. In part they also bring the entire town together into a family. This is our premier event and he suggests that the City really get behind it and get them started on next year's event.

Rudolph Cortez Jr. addressed the Council stating that he volunteered for the Stagecoach Days Carnival driving a golf cart around and there were big rocks and a couple of people couldn't walk on those rocks and they had a wheel chair that couldn't go up those rocks such a veterans and it is hard for them so he was wondering if some cement could be put in all the way up to where the food vendors are located and it would also help them also and we don't want them to leave. He has a couple of ideas and thinks that would help.

Vince Pellegrini addressed the Council stating that he was involved in a lot of the talent show portion of Stagecoach Days and it was a real joy to see the level of talent that we had. It was a pleasure to be the Master of Ceremonies and a pleasure to be there. Also, one of the things that happened earlier in the Council Meeting since he is the majority shareholder of the Haven he can tell you that it is not closing. He doesn't know where these vicious rumors come from and he doesn't know why they continue to spread around this town but it is disheartening for a business that is just trying to do the right thing to consistently get rumors spread by people that don't know the truth. He is the majority shareholder and he is consistently right across the street and if anybody has any questions are more than welcome to come and talk to him at any time.

Councilmember Franklin personally thanked the Committee mainly because she hasn't had an opportunity to work there for a few years at the gate and this year she can say it was really good to see not only the excitement of a lot of the children that came up especially on Thursday but just to see how many things were there for people this year. One of things she thinks would be good is if we included in our agenda is the future relationship so that this is not something you have to do every year but talk in the long term about what to do and especially because we have our centennial coming up fairly soon and it would be good to include some kind of partnership for that. There were many events going on for 9/11 and it was good to see how busy it was still with all the different events going on and to know that there were so many people coming to volunteer.

Mayor Pro Tem Hanna said that the talent show was really spectacular and it is something that should be kept going. Also, this is our signature event and she agrees with Councilmember Franklin wholeheartedly that we should have a long term commitment and a long term relationship and have that in writing. There is always more to be done and we need to figure out how to get more people there but the parade was fantastic and the whole thing was clearly superior than it had been in previous years.

Councilmember Machisic said that he sat on the Council for these past eight years and he has seen eight Stagecoach Days and he can remember the first one he saw and when he saw the financial deficit he almost fell off his chair. Different groups have tried to handle it and some have met with very modest success but he thinks that this group has done an excellent job and when Sue said \$16,000 dollars he thought that was just great. This is what he expects out of some events in the city but they need to be on their own and self-support and he knows that it is not necessarily popular but he thinks because of the condition of the City and we have cut a lot in the last couple of years so we have to be sensitive about what we fund. For instance we don't know what the State budget is going to give us yet. He thinks it is good to have this be put on an agenda for discussion.

Councilmember Robinson congratulated the group also and the addition of the pets is pretty close to his heart and he thinks it was very successful and very well done. Also, once people find out that pets are involved they come. He hopes the pets will be included next year also.

Mayor Pro Tem Hanna said in regards to political signs this is in the political season and we want Stagecoach Days to get as much income as possible as long as there is no actual campaigning. People running for office should not be handing out stuff during the parade. But she thinks it should be allowed and would encourage it as long as there is no over campaigning allowed.

City Manager said that he wanted to clarify that he is bringing forward the in-kind service issues and not the sponsorship money and is that correct. **There was Council consensus that this was correct.**

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

CONSENT ITEMS

1. Approval of Minutes – Joint Meeting – 10/12/10

Recommendation: That the minutes of the joint meeting of October 12, 2010 be approved.

2. Approval of Minutes – Regular Meeting – 10/12/10

Recommendation: That the minutes of the regular meeting of October 12, 2010 be approved.

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.

Recommendation: That the City Council adopt Resolution No. 2010-75.

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 2010/2011; and Approving the Necessary Budget Appropriations for Said Project.

Recommendation: That the City Council adopt 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 2010/2011, as shown on Exhibit C; and 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 adjustments and transfers related to these funds.

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.

Recommendation: That the City Council adopt Resolution No. 2010-09 UA, 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; and Authorizing the Interim Administrative Services Director to make the 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).

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.

Recommendation: That the City Council adopt Resolution No. 2010-10 UA, 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; and authorizing the Interim Administrative Services Director to make the 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).

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.

Recommendation: That the City Council 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.

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

Mayor Botts adjourned the joint meeting of the Banning City Council and Banning Utility Authority and reconvened the regular City Council Meeting.

PUBLIC HEARINGS

1. Massage Establishment business License Fee – Resolution No. 2010-74
(Staff Report – Zai Abu Bakar, Community Development Director)

Zai gave the staff report as contained in the agenda packet. This purpose of this resolution is to establish a \$50.00 Business License fee for massage establishments because we don't have that right now. She clarified that the \$50.00 license fee is for massage establishments only. The beauty shops or barber shops that employ State certified massage therapist do not have to pay this additional fee because they already pay their business license.

Mayor Botts opened the item for public comments.

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

Heather Perry addressed the Council with her concerns about someone opening a massage establishment and need for some kind of background search on these people.

There was some Council and staff discussion in regards to background checks on owners who are running these businesses and also a State certified license.

Mayor Botts closed the public hearing seeing no one else coming forward.

Motion Hanna/Robinson 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 massage establishment. Motion carried, all in favor.

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

City Council

Councilmembers Robinson and Hanna –

- Stated that Michelle Green in our Finance Department is having a fundraiser on November 10th at Sizzler and if you have a flyer from Michelle Green and eat at Sizzler some percentage will go towards the Susan G. Komen 3-Day Walk for the Cure. Michelle is about \$500 away from being able to participate. She really needs your donations and it is really a good thing and you can get more information from the City of Banning.

Mayor Botts –

- Reminded everyone that the Mid-County Justice Center Project seems to be moving forward. If you want to see what the wall is going to look like it has been construction at the corner of Williams and Alessandro behind the Post Office. It is about 15 feet wide and 20 feet tall. This Thursday at 1:00 p.m. there will be inspectors there looking at it and if anyone would like to see it you can attend or you can view it at any time.
- Thursday at 5:00 there will be a joint meeting with the Banning School Board.
- The State of the City will be held on November 17th at 11 a.m. and you need to get reservations in to the Banning Chamber of Commerce and the cost is \$25.00 at the Banning White House.

Councilmember Franklin –

- She attended the Autumn Gala at the Edward Dean Museum that was put on by Supervisor Ashley and this was a fundraiser to help improve the kitchen at the museum so that they can have more events.
- She participated in the Community Action Joint Meeting with the Board of Supervisors last week and they talked about several different projects and the ones that impact Banning have to do with the \$3.3 million dollars given in Community Services Block Grant Funding through American Recovery and Reinvestment Act (ARRA) for weatherization projects for those that are income qualified to get weatherization for their homes. The other area that truly impacted us was our Cool Center and we are one of 29 throughout the County and there are also Warm Centers for the cold months.
- She participated in the Workforce Investment Board Strategy Plan for the upcoming year focusing on is how to get employers and employees coordinated.

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

Report by City Manager

- The Task Force that the Council created with Mayor Botts and Councilmember Franklin need to get together soon with Beaumont to make Highland Springs a better traffic area and he will have staff take care of that.
- Staff has been working with the Banning Heights Mutual Water Company to try to secure, under the Council's direction, water for us in the future.
- We are going to have later on a comprehensive discussion on wastewater and having some capital improvements of doing some satellite package treatment facilities and where we are at

with the Water Quality Control Board as far as their concerns about our current plant and those types of things and this should take place some time in December.

- There will be a Bulky Item Drop Off on October 30th at Dysart Park from 8 a.m. to 1 p.m. In regards to hazardous waste that can be taken to the Lambs Canyon Landfill.

ITEMS FOR FUTURE AGENDAS

New Items –

Pending Items –

Councilmember Robinson would like some dates on some of these pending items. In regards to the update on the golf carts he hasn't read the Compass Blueprint Project on traffic and parking and he doesn't know what that includes and will we have a separate report.

City Manager said that actually staff does have some dates on these and those will be brought forward. In regards to our state and county elected officials do you want those at different times and are those regular or special meetings?

Mayor Botts said that we have done both and in the past we have had luncheons with our Supervisor with it being focused on local issues where there is a better exchange and sharing of information than having it at a regular meeting.

Councilmember Machisic said the more levels of government you try to include in a meeting, the more difficult the meeting is to have and the issues are different with different governmental levels.

Mayor Pro Tem Hanna said that we had our congress person here once at a formal meeting and it was very useful to have the exchange of issues. It doesn't have to be a meal but a meeting specifically or him or her.

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

ADJOURNMENT

Mayor Botts adjourned the meeting at 6:35 p.m.

Marie A. Calderon, City Clerk

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

CITY COUNCIL AGENDA

Date: November 9, 2010

TO: City Council

FROM: Kirby Warner, Interim Administrative Services Director

SUBJECT: Report of Investments for August 2010

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

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

BACKGROUND: This report includes investments on hand at the end of August 2010. As of August 31, 2010, the City's operating funds totaled \$70,219,317. Included in operating funds is \$3,117,689 of restricted CRA bond proceeds that are on deposit with LAIF and reflected separately on the Treasurer's Report. As of August 31, 2010 approximately 40% of the City's unrestricted cash balances were invested in investments other than LAIF.

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

FISCAL DATA: The latest reports from the State indicate that the average interest achieved by the Local Agency Investment Fund (LAIF) decreased to 0.513 % in August. The average rate for all investments in August was 0.748%.

RECOMMENDED BY:



Kirby Warner
Interim Administrative Services Director

APPROVED BY:



Andy Takata
City Manager

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

Wells Fargo Bank

Wells Fargo Bank-Investment Account

Bank of America-Airport

Bank of America-Parking Citations

Bank of America-CNG Station

| | | Amount |
|--|--|--------|
| | | 2,305 |

Interest

| Rate | Amount |
|--------|---------|
| 0.000% | 263,597 |
| 0.100% | 894,318 |
| 0.300% | 3,671 |
| 0.300% | 3,080 |
| 0.300% | 3,313 |

Money Market and Bank Account Sub-Total

1,167,979

Government Pools

Local Agency Investment Fund: Account #1

0.513% 31,330,445

Account #2 Operating Amount

8,366,913

Account #2 CRA Bond Cash Bal

3,117,689

Local Agency Investment Fund: Account #2

0.513% 11,484,602*Government Pool Sub-Total*42,815,047**Operating Cash Balance****43,985,330**Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund

0.050%

887,303

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2

1.178%

25,346,683

*Operating Funds Total*70,219,317**Fiscal Agent**

BNY Western Trust Company

US Bank

| | | Amount |
|--|--|-------------------|
| | | 539,035 |
| | | <u>45,150,268</u> |

*Fiscal Agent Total*45,689,303

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City of Banning Investment Report

August 31, 2010

Operational Portfolio Individual Investments

| Par Value | Investment Description | Coupon Rate | Interest Rate | Maturity Date | Purchase Date | Purchase Cost | Discount or (Premium) Amortization | Market Value |
|---|-------------------------------------|-------------|---------------|---------------|---------------|---------------|------------------------------------|--------------------------|
| <u>Bank Accounts</u> | | | | | | | | |
| 263,597 | Wells Fargo Bank-Operating | n/a | 0.000% | daily | varies | 263,597 | n/a | 263,597 |
| 894,318 | Wells Fargo Bank-Investment Acct | n/a | 0.10% | daily | varies | 894,318 | n/a | 894,318 |
| 3,671 | Bank of America-Airport | n/a | 0.30% | daily | varies | 3,671 | n/a | 3,671 |
| 3,080 | Bank of America-Parking Citations | n/a | 0.30% | daily | varies | 3,080 | n/a | 3,080 |
| 3,313 | Bank of America-Parking Citations | n/a | 0.30% | daily | varies | 3,313 | n/a | 3,313 |
| | Sub-total | | | | | | | 1,167,979 |
| <u>Government Pools</u> | | | | | | | | |
| 31,330,445 | L.A.I.F. account #1 | n/a | 0.513% | daily | varies | 31,330,445 | n/a | 31,330,445 |
| 11,484,602 | L.A.I.F. account #2 | n/a | 0.513% | daily | varies | 11,484,602 | n/a | 11,484,602 |
| | | | | | | | | 42,815,047 |
| <u>Investments-US Bank/Piper Jaffray</u> | | | | | | | | |
| 2,000,000 | FNMA MTN | n/a | 1.250% | 4/5/2012 | 4/5/2010 | 2,000,000 | | 2,001,260 |
| 3,000,000 | FNMA MTN | n/a | 1.550% | 10/5/2012 | 4/5/2010 | 3,000,000 | | 3,002,820 |
| 3,000,000 | FNMA MTN | n/a | 1.858% | 4/8/2013 | 4/8/2010 | 3,000,000 | | 3,003,750 |
| 2,000,000 | Federal Home Loan Banks | n/a | 1.625% | 1/7/2013 | 4/7/2010 | 2,000,000 | | 2,007,500 |
| 3,000,000 | FHLMC MTN | n/a | 1.875% | 5/10/2013 | 5/10/2010 | 3,000,000 | | 3,008,130 |
| 3,000,000 | Federal Home Loan Banks | n/a | 1.200% | 8/5/2013 | 8/5/2010 | 3,000,000 | | 3,013,140 |
| 4,000,000 | FHLMC MTN | n/a | 1.150% | 4/26/2013 | 7/26/2010 | 4,000,000 | | 4,008,840 |
| 5,301,243 | Money Market | n/a | 0.000% | daily | varies | 5,301,243 | 0 | 5,301,243 |
| | US Bank/Piper Jaffray Average Rate= | | 1.178% | | | | | 25,346,683 |
| | | | | | | | | Average Rate All= 0.748% |

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on July 27, 2010. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 282 days and does not include Bond Reserve Fund Investments.

City of Banning Investment Report

August 31, 2010

*Paid Semi-Annually-Deposited into Money Mkt Account

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

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

Money Market and Bank Account Sub-Total 2,564,962

Government Pools

Local Agency Investment Fund: Account #1 0.531% 31,287,069

Account #2 Operating Amount 6,787,494

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

Local Agency Investment Fund: Account #2 0.531% 9,984,602

Government Pool Sub-Total 41,271,671

Operating Cash Balance 43,838,939

Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund 0.050% 1,045,233

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2 1.355% 25,328,213

Operating Funds Total 70,212,385

Fiscal Agent

| | Amount |
|---------------------------|-------------------|
| BNY Western Trust Company | <u>539,035</u> |
| US Bank | <u>46,989,262</u> |

Fiscal Agent Total 47,528,298

City of Banning Investment Report

July 31, 2010

Operational Portfolio Individual Investments

| Par Value | Investment Description | Coupon Rate | Interest Rate | Maturity Date | Purchase Date | Purchase Cost | Discount or (Premium) Amortization | Market Value |
|---|--|-------------|---------------|---------------|---------------|---------------|------------------------------------|---------------------------------|
| <u>Bank Accounts</u> | | | | | | | | |
| 411,399 | Wells Fargo Bank-Operating | n/a | 0.00% | daily | varies | 411,399 | n/a | 411,399 |
| 2,137,724 | Wells Fargo Bank-Investment Acct | n/a | 0.10% | daily | varies | 2,137,724 | n/a | 2,137,724 |
| 7,952 | Bank of America-Airport | n/a | 0.30% | daily | varies | 7,952 | n/a | 7,952 |
| 3,800 | Bank of America-Parking Citations | n/a | 0.30% | daily | varies | 3,800 | n/a | 3,800 |
| 4,088 | Bank of America-Parking Citations | n/a | 0.30% | daily | varies | 4,088 | n/a | 4,088 |
| | Sub-total | | | | | | | 2,564,962 |
| <u>Government Pools</u> | | | | | | | | |
| 31,287,069 | L.A.I.F. account #1 | n/a | 0.531% | daily | varies | 31,287,069 | n/a | 31,287,069 |
| 9,984,602 | L.A.I.F. account #2 | n/a | 0.531% | daily | varies | 9,984,602 | n/a | 9,984,602 |
| | | | | | | | | 41,271,671 |
| <u>Investments-US Bank/Piper Jaffray</u> | | | | | | | | |
| 2,000,000 | FNMA MTN | n/a | 1.250% | 4/5/2012 | 4/5/2010 | 2,000,000 | | 2,002,500 |
| 3,000,000 | FNMA MTN | n/a | 1.550% | 10/5/2012 | 4/5/2010 | 3,000,000 | | 3,005,640 |
| 3,000,000 | FNMA MTN | n/a | 1.875% | 4/8/2013 | 4/8/2010 | 3,000,000 | | 3,006,570 |
| 2,000,000 | Federal Home Loan Banks | n/a | 1.625% | 1/7/2013 | 4/7/2010 | 2,000,000 | | 2,009,380 |
| 3,000,000 | FHLMC MTN | n/a | 1.875% | 5/10/2013 | 5/10/2010 | 3,000,000 | | 3,011,880 |
| 4,000,000 | Federal Home Loan Banks | n/a | 2.000% | 5/17/2013 | 5/17/2010 | 4,000,000 | | 4,002,520 |
| 4,000,000 | FHLMC MTN | n/a | 1.150% | 4/26/2013 | 7/26/2010 | 4,000,000 | | 4,008,480 |
| 4,281,243 | Money Market | n/a | 0.000% | daily | varies | 4,281,243 | 0 | 4,281,243 |
| | US Bank/Piper Jaffray Average Rate= | | | | | | | 1.355% |
| | | | | | | | | 25,328,213 |
| | | | | | | | | Average Rate All= 0.816% |

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

City of Banning Investment Report

July 31, 2010

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

2,305

Bank Accounts

Wells Fargo Bank

InterestRateAmount

0.000% 92,467

Wells Fargo Bank-Investment Account

0.100% 2,358,644

Bank of America-Airport

0.300% 3,463

Bank of America-Parking Citations

0.300% 3,249

Bank of America-CNG Station

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

2,460,932

Government Pools

Local Agency Investment Fund: Account #1

0.528% 31,287,069

Account #2 Operating Amount

8,775,054

Account #2 CRA Bond Cash Bal

3,197,174

Local Agency Investment Fund: Account #2

0.528% 11,972,227*Government Pool Sub-Total*43,259,296**Operating Cash Balance****45,722,533**Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund

0.050%

894,109

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2

1.568%

25,297,718

Operating Funds Total**71,914,360****Fiscal Agent**

BNY Western Trust Company

Amount

539,035

US Bank

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

City of Banning Investment Report

Operational Portfolio Individual Investments

June 30, 2010

| Par Value | Investment Description | Coupon Rate | Interest Rate | Maturity Date | Purchase Date | Purchase Cost | Amortization | Market Value |
|--|-----------------------------------|-------------|---------------|---------------|---------------|---------------|--------------|--------------|
| <u>Bank Accounts</u> | | | | | | | | |
| 92,467 | Wells Fargo Bank-Operating | n/a | 0.00% | daily | varies | 92,467 | n/a | 92,467 |
| 2,358,644 | Wells Fargo Bank-Investment Acct | n/a | 0.10% | daily | varies | 2,358,644 | n/a | 2,358,644 |
| 3,463 | Bank of America-Airport | n/a | 0.30% | daily | varies | 3,463 | n/a | 3,463 |
| 3,249 | Bank of America-Parking Citations | n/a | 0.30% | daily | varies | 3,249 | n/a | 3,249 |
| 3,109 | Bank of America-Parking Citations | n/a | 0.30% | daily | varies | 3,109 | n/a | 3,109 |
| | Sub-total | | | | | | | 2,460,932 |
| <i>Government Pools</i> | | | | | | | | |
| 31,287,069 | L.A.I.F. account #1 | n/a | 0.528% | daily | varies | 31,287,069 | n/a | 31,287,069 |
| 11,972,227 | L.A.I.F. account #2 | n/a | 0.528% | daily | varies | 11,972,227 | n/a | 11,972,227 |
| | | | | | | | | 43,259,296 |
| <i>Investments-US Bank/Piper Jaffray</i> | | | | | | | | |
| 3,000,000 | Federal Home Loan Banks | n/a | 1.350% | 1/20/2012 | 1/7/2010 | 3,000,000 | 0 | 3,001,890 |
| 2,000,000 | FNMA MTN | n/a | 1.250% | 4/5/2012 | 4/5/2010 | 2,000,000 | | 2,003,760 |
| 3,000,000 | FNMA MTN | n/a | 1.550% | 10/5/2012 | 4/5/2010 | 3,000,000 | | 3,007,500 |
| 3,000,000 | FNMA MTN | n/a | 1.875% | 4/8/2013 | 4/8/2010 | 3,000,000 | | 3,010,320 |
| 2,000,000 | Federal Home Loan Banks | n/a | 1.625% | 1/7/2013 | 4/7/2010 | 2,000,000 | | 2,010,620 |
| 3,000,000 | FHLMC MTN | n/a | 1.875% | 5/10/2013 | 5/10/2010 | 3,000,000 | | 3,015,420 |
| 4,000,000 | Federal Farm Credits Bks | n/a | 1.470% | 10/26/2012 | 5/4/2010 | 4,000,000 | | 4,002,520 |
| 4,000,000 | Federal Home Loan Banks | n/a | 2.000% | 5/17/2013 | 5/17/2010 | 4,000,000 | | 4,007,520 |
| | | | | | | | | |
| 1,238,168 | Money Market | n/a | 0.000% | daily | varies | 1,238,168 | 0 | 1,238,168 |

U.S. Bank/Pinger Jaffray Average Rate

25,297,718

Average Rate All = 0.883%

It has been verified that this investment portfolio is in conformity with the City Council on July 14, 2009. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 300 days and does not include Bond Reserve Fund Investments.

Investments.

Individual Investments with Fiscal Agent

CITY COUNCIL AGENDA

Date: November 9, 2010

TO: City Council

FROM: Kirby Warner, Interim Administrative Services Director

SUBJECT: Report of Investments for September 2010

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

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

BACKGROUND: This report includes investments on hand at the end of September 2010. As of September 30, 2010, the City's operating funds totaled \$70,378,720. Included in operating funds is \$3,106,975 of restricted CRA bond proceeds that are on deposit with LAIF and reflected separately on the Treasurer's Report. As of September 30, 2010 approximately 42% of the City's unrestricted cash balances were invested in investments other than LAIF.

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

FISCAL DATA: The latest reports from the State indicate that the average interest achieved by the Local Agency Investment Fund (LAIF) decreased to 0.500 % in September. The average rate for all investments in September was 0.800%.

RECOMMENDED BY:



Kirby Warner
Interim Administrative Services Director

APPROVED BY:



Andy Takata
City Manager



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

| | Interest | Amount |
|-------------------------------------|----------|--------------|
| | Rate | Amount |
| Wells Fargo Bank | 0.000% | 270,776 |
| Wells Fargo Bank-Investment Account | 0.100% | 2,028,667 |
| Bank of America-Airport | 0.300% | 5,376 |
| Bank of America-Parking Citations | 0.300% | 3,895 |
| Bank of America-CNG Station | 0.300% | <u>4,217</u> |

Money Market and Bank Account Sub-Total 2,312,931

Government Pools

Local Agency Investment Fund: Account #1 0.500% 31,330,445

Account #2 Operating Amount 7,377,627

Account #2 CRA Bond Cash Bal 3,106,975

Local Agency Investment Fund: Account #2 0.500% 10,484,602

Government Pool Sub-Total 41,815,047

Operating Cash Balance **44,130,283**

Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund 0.050% **906,774**

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2 **25,341,663**

Operating Funds Total **70,378,720**

Fiscal Agent

| | Amount |
|---------------------------|-------------------|
| BNY Western Trust Company | <u>539,035</u> |
| US Bank | <u>44,547,865</u> |

Fiscal Agent Total **45,086,901**

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City of Banning Investment Report

September 30, 2010

*Paid Semi-Annually- Deposited into Money Mkt Account

27

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

2,305

Bank Accounts

Wells Fargo Bank

InterestRateAmount

0.000% 263,597

Wells Fargo Bank-Investment Account

0.100% 894,318

Bank of America-Airport

0.300% 3,671

Bank of America-Parking Citations

0.300% 3,080

Bank of America-CNG Station

0.300% 3,313*Money Market and Bank Account Sub-Total*

1,167,979

Government Pools

Local Agency Investment Fund: Account #1

0.513% 31,330,445

Account #2 Operating Amount

8,366,913

Account #2 CRA Bond Cash Bal

3,117,689

Local Agency Investment Fund: Account #2

0.513% 11,484,602*Government Pool Sub-Total*42,815,047**Operating Cash Balance****43,985,330**Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund

0.050%

887,303

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2

1.178%

25,346,683

*Operating Funds Total*70,219,317**Fiscal Agent**

BNY Western Trust Company

Amount

539,035

US Bank

45,150,268*Fiscal Agent Total*45,689,303

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City of Banning Investment Report

Operational Portfolio Individual Investments

August 31, 2010

| Par Value | Investment Description | Coupon Rate | Interest Rate | Maturity Date | Purchase Date | Purchase Cost | (Premium) Amortization | Market Value | Discount or Premium |
|--------------------------------|-----------------------------------|-------------|---------------|---------------|---------------|---------------|------------------------|--------------|---------------------|
| <u>Bank Accounts</u> | | | | | | | | | |
| 263,597 | Wells Fargo Bank-Operating | n/a | 0.00% | daily | varies | 263,597 | n/a | 263,597 | |
| 894,318 | Wells Fargo Bank-Investment Acct | n/a | 0.10% | daily | varies | 894,318 | n/a | 894,318 | |
| 3,671 | Bank of America-Airport | n/a | 0.30% | daily | varies | 3,671 | n/a | 3,671 | |
| 3,080 | Bank of America-Parking Citations | n/a | 0.30% | daily | varies | 3,080 | n/a | 3,080 | |
| 3,313 | Bank of America-Parking Citations | n/a | 0.30% | daily | varies | 3,313 | n/a | 3,313 | |
| | Sub-total | | | | | | | | 1,167,979 |
| 31,330,445 | L.A.I.F. account #1 | n/a | 0.513% | daily | varies | 31,330,445 | n/a | 31,330,445 | |
| 11,484,602 | L.A.I.F. account #2 | n/a | 0.513% | daily | varies | 11,484,602 | n/a | 11,484,602 | |
| | | | | | | | | | 42,815,047 |
| <u><i>Government Pools</i></u> | | | | | | | | | |
| 2,000,000 | FNMA MTN | n/a | 1.250% | 4/5/2012 | 4/5/2010 | 2,000,000 | | 2,001,260 | |
| 3,000,000 | FNMA MTN | n/a | 1.550% | 10/5/2012 | 4/5/2010 | 3,000,000 | | 3,002,820 | |
| 3,000,000 | FNMA MTN | n/a | 1.858% | 4/8/2013 | 4/8/2010 | 3,000,000 | | 3,003,750 | |
| 2,000,000 | Federal Home Loan Banks | n/a | 1.625% | 1/7/2013 | 4/7/2010 | 2,000,000 | | 2,007,500 | |
| 3,000,000 | FHLMC MTN | n/a | 1.875% | 5/10/2013 | 5/10/2010 | 3,000,000 | | 3,008,130 | |
| 3,000,000 | Federal Home Loan Banks | n/a | 1.200% | 8/5/2013 | 8/5/2010 | 3,000,000 | | 3,013,140 | |
| 4,000,000 | FHLMC MTN | n/a | 1.150% | 4/26/2013 | 7/26/2010 | 4,000,000 | | 4,008,840 | |
| 5,301,243 | Money Market | n/a | 0.000% | daily | varies | 5,301,243 | | 5,301,243 | |

Average Rate All = 0.748%

It has been verified that this investment portfolio is in conformity with the City of Banning's investment policy which was approved by the City Council on July 27, 2010. The Treasurer's cash management program provides sufficient liquidity to meet estimated future expenditures for a period of six months. The weighted average maturity of the pooled investment portfolio is 282 days and does not include Bond Reserve Fund Investments.

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City of Banning Investment Report

August 31, 2010

Individual Investments with Fiscal Agent

| TRUSTEE | Bond Issue Description | Bond Maturity Date | Investment Description | Current Yield | Bond Maturity Date | Bond Reserve | Minimum Reserve | Interest Requirement | Interest Aug-10 | Market Value | 8/31/2010 |
|---|------------------------------------|------------------------------------|---|------------------|--------------------|--------------|-----------------|----------------------|-----------------|-------------------|-----------|
| BNY WESTERN TRUST COMPANY | 1997 Admin Building COPs Refunding | 2020 | Republic Bank Investment Agreement Federated U.S. Treasury Money Mkt | 6.270% 0.010% | 11/1/2020 daily | 522,375 | | * | | 522,562 16,473 | |
| US BANK | | | | | | 265,580 | 4.65 | | | 265,585 | |
| 1991 Wilson St. Assessment District | 2012 | AIM U.S. Treasury Money Market | | 0.200% | daily | | | | | | |
| | | US Bank Mmkt 4-Ct | | 0.180% | daily | | | | | | 27 |
| | | US Bank Mmkt 4-Ct | | 0.200% | daily | | | | | | 233,323 |
| 2005 Fair Oaks Ranch Estates | 2035 | US Bank Mmkt 4-Ct | | 0.200% | daily | 188,943 | 36.85 | | | 309,956 | |
| 2003 CRA Tax Allocation Bonds | 2028 | US Treasury Bill | | 0.870% | 7/29/2010 | 971,763 | | | | 990,737 | |
| | | US Bank Mmkt 4-Ct | | 0.200% | daily | | | | | | 20,729 |
| | | US Bank Mmkt 4-Ct | | 0.200% | daily | | | | | | 95 |
| Surplus Fund | | US Bank Mmkt 4-Ct | | 0.025% | daily | | | | | | 8 |
| COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007 | | | | | | | | | | | |
| Redevelop Fund | 2037 | US Bank Mmkt 4-Ct | | 0.200% | daily | | | | 2,022.93 | 11,911,266 | |
| Reserve Fund | | US Bank Mmkt 4-Ct | | 0.200% | daily | | | | 318.98 | 1,875,728 | |
| Special Fund | | US Bank Mmkt 4-Ct | | 0.200% | daily | | | | 139.51 | 140 | |
| Surplus Fund | | US Bank Mmkt 4-Ct | | 0.210% | daily | | | | | | 9 |
| BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES | | | | | | | | | | | |
| Bond Fund | | US Bank Mmkt 4-Ct | | 0.200% | daily | | | | 0.00 | 25 | |
| Principal Account | | US Bank Mmkt 4-Ct | | 0.200% | daily | | | | 22.51 | 132,565 | |
| | | US Bank Mmkt 4-Ct | | 0.200% | daily | | | | 625.31 | 3,681,891 | |
| BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES | | | | | | | | | | | |
| Bond Fund | | US Bank Mmkt 4-Ct | | 0.200% | daily | | | | 0.02 | 108 | |
| Principal Account | | US Bank Mmkt 4-Ct | | 0.200% | daily | | | | 58.20 | 342,669 | |
| Reserve Fund | | US Bank Mmkt 4-Ct | | 0.200% | daily | | | | 393.28 | 2,315,681 | |
| Project Fund | | US Bank Mmkt 4-Ct | | 0.200% | daily | | | | 711.67 | 4,190,384 | |
| BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES | | | | | | | | | | | |
| Reserve Fund | | US Bank Mmkt 4-Ct | | 0.200% | daily | | | | 0.03 | 171 | |
| Acquisition & Construction | | Reliance Trust Company # 9AMGGBEZ7 | | 3.650% | 11/1/2011 | 2,961,500 | | | | 3,016,509 | |
| | | US Bank Mmkt 4-Ct | | 0.190% | daily | | | | 0.01 | 41 | |
| | | US Bank Mmkt 4-Ct | | 0.200% | daily | | | | 1,352.72 | 7,862,621 | |
| | | Reliance Trust Co C D #7AMCD49F7 | | 0.500% | 11/18/2010 | | | | | 8,000,000 | |
| | | | | | | Total | | | 5,801.75 | 45,689,303 | |

*Paid Semi-Annually-Deposited into Money Mkt Account

30

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

2,305

Bank Accounts

Wells Fargo Bank

InterestRate

0.000% 411,399

Wells Fargo Bank-Investment Account

0.100% 2,137,724

Bank of America-Airport

0.300% 7,952

Bank of America-Parking Citations

0.300% 3,800

Bank of America-CNG Station

0.300% 4,088

Money Market and Bank Account Sub-Total

2,564,962

Government Pools

Local Agency Investment Fund: Account #1

0.531% 31,287,069

Account #2 Operating Amount

6,787,494

Account #2 CRA Bond Cash Bal

3,197,109

Local Agency Investment Fund: Account #2

0.531% 9,984,602

Government Pool Sub-Total

41,271,671

Operating Cash Balance**43,838,939**Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund

0.050%

1,045,233

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2

1.355%

25,328,213

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

BNY Western Trust Company

Amount

539,035

US Bank

46,989,262

*Fiscal Agent Total*47,528,298

City of Banning Investment Report

Operational Portfolio Individual Investments

July 31, 2010

IIS Bank/Piner Laffraw Average Rate

25,328,213

Average Rate All = 0.816%

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

Investments.

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City of Banning Investment Report

July 31, 2010

Individual Investments with Fiscal Agent

**CITY COUNCIL AGENDA
RESOLUTIONS**

Date: November 9, 2010

TO: City Council

FROM: Kirby Warner, Interim Administrative Services Director

SUBJECT: Recommendation to Adopt a Resolution Authorizing the Destruction of City Records as Provided by Section 34090 of the California Government Code and Resolution No. 2003-26 of the City of Banning.

RECOMMENDATION: The City Council adopt Resolution No. 2010-33, "Authorizing The Destruction of City Records As Provided By Section 34090 of The California Government Code and Resolution No. 2003-26 of The City of Banning."

JUSTIFICATION: The City Clerk and the City Attorney have certified that the records listed in Attachment A to Resolution 2010-33, are no longer required to be kept by the City.

BACKGROUND: On March, 2003, the City Council adopted Resolution No. 2003-26, setting forth the schedule for destruction of City Records. The records from Human Resources and Finance listed in Attachment A of Resolution No. 2010-33 have all reached the end of their retention period.

FISCAL DATA: Staff has obtained a quote for \$2,400.00 from Shred-It for the destruction of these records.

REVIEWED BY:



Kirby Warner
Interim Administrative Services Director

RECOMMENDED BY:



Andy Takata
City Manager

RESOLUTION NO. 2010-33

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING
AUTHORIZING THE DESTRUCTION OF CITY RECORDS AS PROVIDED BY
SECTION 34090 OF THE CALIFORNIA GOVERNMENT CODE AND
RESOLUTION NO. 2003-26 OF THE CITY OF BANNING.**

WHEREAS, the City Council has adopted Resolution No. 2003-26 setting forth the schedule for the destruction of records; and

WHEREAS, Section 34090 of the California Government Code provides a procedure whereby any City record that has served its purpose and is no longer required may be destroyed;

WHEREAS, the City Clerk has endorsed on Attachment A to this resolution her determination that the Records from Human Resources and Finance set forth in Attachment A are not required to be kept by the City;

WHEREAS, the City Attorney has endorsed on Attachment A to this resolution his determination that the Records from Human Resources and Finance set forth on Attachment A are not required to be kept by the City;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Banning that the Records from Human Resources and Finance described in Attachment A to this Resolution may be destroyed.

PASSED, APPROVED, AND ADOPTED this 9th day of November, 2010.

Robert E. Botts, Mayor
City of Banning

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

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

ATTEST:

Marie A. Calderon, City Clerk

CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2010-33, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 9th day of November, 2010, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

REQUEST FOR DESTRUCTION OF RECORDS

Date: October 28, 2010
Department: Human Resources & Risk Management

We are requesting destruction of the attached records due to:

A copy has been made in accordance with Administrative Policy #A-28.
 The retention period on the following records has elapsed.

Approvals:

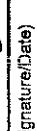
Department Head _____ Date _____

City Clerk _____ Date _____

City Attorney _____ Date _____

| Destruction Date: | Destroyed By: | Remarks: |
|-------------------|---------------|----------|
| | | |

Return signed original to City Clerk when completed.

| DEPARTMENT | | Human Resources/Risk Management | | BUILDING | | CRA Building | | |
|---|--------------------|---|----------------|---|------------------|---|-----------------------|----------------|
| INVENTORY TAKEN BY: | | PROGRAM MANAGER: | | PROGRAM MANAGER: | | PROGRAM MANAGER: | | |
|  | |  | |  | |  | | |
| (Signature/Date) | | (Signature/Date) | | (Signature/Date) | | (Signature/Date) | | |
| RECORDS INVENTORY | | | | | | | | |
| (1) RECORDS SERIES | (2) DESCRIPTION | (3) FILE LOCATION | (4) MEDIA TYPE | (5) YEARS COVERED | (6) REFER STATUS | (7) DOCUMENT ORIG COPY | (8) VOLUME CUBIC FEET | (9) REMARKS |
| Personnel Files | Adams, Barbara | CRA | P | 6/30/2006 | I | X | | 1 Confidential |
| Non-Safety | Anderson, Matt | CRA | P | 11/29/2006 | I | X | | 1 Confidential |
| | Bello, Shonda | CRA | P | 6/16/2006 | I | X | | 1 Confidential |
| | Chhor, Nguon | CRA | P | 8/10/2005 | I | X | | 1 Confidential |
| | Delgado, Paul | CRA | P | 9/26/2006 | I | X | | 1 Confidential |
| | Downes, Jack | CRA | P | 12/22/2006 | I | X | | 1 Confidential |
| | Dozier, Terrance | CRA | P | 2006 | I | X | | 1 Confidential |
| | Dunn, Rebecca | CRA | P | 5/28/1998 | I | X | | 1 Confidential |
| | Estrada, Robert | CRA | P | 3/31/2006 | I | X | | 1 Confidential |
| | Garcia, Melissa | CRA | P | 1/5/2006 | I | X | | 1 Confidential |
| | Gloudeman, David E | CRA | P | 9/28/2006 | I | X | | 1 Confidential |
| | Grady, Gail | CRA | P | 4/28/2006 | I | X | | 1 Confidential |
| | Grady, Stephanie | CRA | P | 8/2/2002 | I | X | | 1 Confidential |
| | Irwin, Patrick | CRA | P | 3/9/2006 | I | X | | 1 Confidential |
| | Isham, Lester | CRA | P | 10/20/2006 | I | X | | 1 Confidential |
| | Jones, Gloria | CRA | P | 5/18/2006 | I | X | | 1 Confidential |
| | Juarez, Alexandra | CRA | P | 8/18/2005 | I | X | | 1 Confidential |
| | Lamb, Melissa | CRA | P | 8/18/2005 | I | X | | 1 Confidential |
| | Lindborg, Robert | CRA | P | 10/31/2006 | I | X | | 1 Confidential |
| | Martinez, Victor | CRA | P | 8/25/2005 | I | X | | 1 Confidential |

| DEPARTMENT | BUILDING | CRA Building | | | | | | |
|-----------------------|------------------------|-------------------------|----------------------|-------------------------|------------------------|------------------------------|-----------------------------|----------------|
| INVENTORY TAKEN BY: | PROGRAM MANAGER: | | | | | | | |
| <i>D.L. H.</i> | | | | | | | | |
| (Signature/Date) | | | | | | | | |
| (Signature/Date) | | | | | | | | |
| RECORDS INVENTORY | | | | | | | | |
| (1) RECORDS SERIES | (2) DESCRIPTION | (3) FILE LOCATION | (4) MEDIA TYPE | (5) YEARS COVERED | (6) REFER STATUS | (7) DOCUMENT ORIG COPY | (8) VOLUME CUBIC FEET | (9) REMARKS |
| Personnel Files | Lester, Stepheni | CRA | P | 2/16/2006 | — | X | | 1 Confidential |
| Non-Safety | Lockert-David, Crystal | CRA | P | 3/31/2006 | — | X | | 1 Confidential |
| | Lopez, Carlos | CRA | P | 6/14/2004 | — | X | | 1 Confidential |
| | Mayfield, Ira | CRA | P | 6/30/2006 | — | X | | 1 Confidential |
| | Medina, Charles | CRA | P | 5/24/2006 | — | X | | 1 Confidential |
| | Megli, Gerald | CRA | P | 8/18/2006 | — | X | | 1 Confidential |
| | Millen, Chris | CRA | P | 12/29/2006 | — | X | | 1 Confidential |
| | Mosley, Dalia | CRA | P | 9/7/2006 | — | X | | 1 Confidential |
| | Nuckols, Marie | CRA | P | 4/10/2006 | — | X | | 1 Confidential |
| | Osborne, Daniel | CRA | P | 9/22/2005 | — | X | | 1 Confidential |
| | Palmer, Sue | CRA | P | 12/11/2006 | — | X | | 1 Confidential |
| | Pettie, Candi | CRA | P | 8/11/2006 | — | X | | 1 Confidential |
| | Perryman, Erika | CRA | P | 8/9/2005 | — | X | | 1 Confidential |
| | Perryman, David | CRA | P | 8/13/2005 | — | X | | 1 Confidential |
| | Perryman, Micah | CRA | P | 8/18/2006 | — | X | | 1 Confidential |
| | Rocha, Eugene | CRA | P | 5/17/2006 | — | X | | 1 Confidential |
| | Senn, Waylynn | CRA | P | 8/19/2006 | — | X | | 1 Confidential |
| | Shaffer, Sheryl | CRA | P | 6/30/2006 | — | X | | 1 Confidential |
| | Stewart, Jonathon | CRA | P | 8/5/2005 | — | X | | 1 Confidential |
| | Taylor, Yolanda | CRA | P | 4/5/2006 | — | X | | 1 Confidential |
| | Vaccarello, Paul | CRA | P | 8/18/2005 | — | X | | 1 Confidential |
| | Williams, Andrew | CRA | P | 9/13/2006 | — | X | | 1 Confidential |
| | Witham, Linda | CRA | P | 4/28/2006 | — | X | | 1 Confidential |

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RECORDS INVENTORY WORKSHEET

PAGE 1 OF 1

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REQUEST FOR DESTRUCTION OF RECORDS

Date: October 28, 2010
Department: Finance

We are requesting destruction of the attached records due to:

A copy has been made in accordance with Administrative Policy #A-28.
 The retention period on the following records has elapsed.

Approvals:

Department Head _____ Date _____

City Clerk _____ Date _____

City Attorney _____ Date _____

| Destruction Date: | Destroyed By: | Remarks: |
|-------------------|---------------|----------|
| | | |

Return signed original to City Clerk when completed.

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RECORDS INVENTORY WORKSHEET

PAGE 1 OF 1

**CITY COUNCIL AGENDA
CONSENT**

Date: November 9, 2010
TO: Honorable Mayor and City Council
FROM: Fred Mason, Electric Utility Director
SUBJECT: Resolution No. 2010-70 Revise Annual Pole Attachment Fees for Any Foreign Utility Not Participating in the SCJPC's Authorized Costs Program

RECOMMENDATION: The City Council approves the revised pole attachment fee for any foreign utility not participating in the SCJPC's Authorized Costs program, with calculations attached herewith as Exhibit "A".

JUSTIFICATION: After reviewing our own per-pole costs and surveying nearby municipal electric utilities, we have discovered that the current annual attachment charge of \$5 per pole no longer covers our costs associated with foreign utility attachments. Exhibit "A" includes revised rate calculations for both foreign power and communications utilities. Exhibit "B" includes a survey of nearby municipal electric utilities' foreign utility attachment rates.

BACKGROUND: The Southern California Joint Pole Committee ("SCPJC") is made up of a group of member representatives of utilities and municipalities in Southern California who hold joint equity interest in utility poles. The SCJPC's principal function is to calculate the established value of each transaction, involving the sale or purchase of joint pole equity interests or maintenance of those interests. The Joint Pole Committee office prepares monthly Bills of Sale to the members to enable them to make monetary settlement of their joint enterprises. Most utilities participate in this SCJPC Authorized Costs program, but an annual attachment fee must be established for non-participants (such as Time Warner Cable, Inc.)

FISCAL DATA: Exhibit "A" includes calculations that result with the following recommended foreign utility attachment charges: \$30 annually for each communications attachment and \$45 annually for each power attachment. We currently have 2,175 non-SCJPC foreign communications attachments and thus anticipate an increase of \$54,375.00 in annual non-SCJPC pole attachment revenues.

RECOMMENDED BY:


Fred Mason
Electric Utility Director

APPROVED BY:


Andrew J. Takata
City Manager

RESOLUTION NO. 2010-70

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING APPROVING THE REVISED ANNUAL POLE ATTACHMENT FEES FOR ANY FOREIGN UTILITY NOT PARTICIPATING IN THE SCJPC'S AUTHORIZED COSTS PROGRAM

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

WHEREAS, a foreign utility attaches to City of Banning power poles in order to connect to their customers; and

WHEREAS, the City of Banning maintains an annual attachment rate agreement with any foreign utility that does not participate in the Southern California Joint Pole Committee ("SCJPC") Authorized Costs program; and

WHEREAS, the Electric Utility updated the costs related to foreign utility attachments, attached herewith as Exhibit "A".

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

1. Adopt Resolution No. 2010-70 approving the revised annual pole attachment fees for any foreign utility not participating in the SCJPC's Authorized Costs program, and authorize the City Manager or his designee to administer this fee revision to any current or future pole attachment agreements.
2. Authorize the Mayor to execute Resolution No. 2010-70. The revised attachment rates shall be effective on December 1, 2010. Said authorization shall become void if not executed within 30 days of the effective date of this resolution.

PASSED, APPROVED, AND ADOPTED this 9th day of November 2010.

Robert E. Botts, Mayor

APPROVED AS TO FORM
AND LEGAL CONTENT:

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

ATTEST:

Marie A. Calderon, City Clerk
City of Banning

CERTIFICATION

I, MARIE A. CALDERON, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2010-70 was duly adopted by the City Council of the City of Banning, California at a regular meeting thereof held on the 9th day of November 2010 by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

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

ATTACHMENT RATE CALCULATIONS

POLE BREAKDOWN - COMMUNICATIONS

Average pole height = 45'
Usable footage = 21'
Safety clearance zone = 6'
Communication responsibility = $6' \div 2 = 3'$
Communication space = 4'
Communication pole usage = $(4' + 3') \div 21' = 1/3$ of pole

COMMUNICATIONS UTILITY COST BREAKDOWN

Life span of pole = 25 years
Cost of installing pole = \$2,254
Communication's share of pole install = $\$2,254 \div 3 = \751
Communication annual attachment cost = $\$751 \div 25 = \30

POLE BREAKDOWN - POWER

Average pole height = 45'
Usable footage = 21'
Power space = 11'
Power pole usage = $11' \div 2 = 1/2$ of pole

POWER UTILITY COST BREAKDOWN

Life span of pole = 25 years
Cost of installing pole = \$2,254
Power's share of pole install = $\$2,254 \div 2 = \$1,127$
Power annual attachment cost = $\$1,127 \div 25 = \45

ATTACHMENT RATE SURVEY

| Electric Utility | Attachment Charge | Notes |
|-------------------------|--------------------------|---|
| Anaheim | \$25.00 | Rate increases/decreases annually based on annual CPI change. |
| Colton | \$5.00 | They are planning to revise this rate soon. |
| Los Angeles | \$33.00 | |
| Riverside | \$40.00 | |

CITY COUNCIL AGENDA

Date: November 9, 2010

TO: City Council

FROM: Kahono Oei, City Engineer

SUBJECT: Resolution No. 2010-77, "Approving the Projects for Fiscal Year 2011-2012 Community Development Block Grant (CDBG) Program"

RECOMMENDATION: Resolution No. 2010-77, "Approving the Projects for Fiscal Year 2011-2012 Community Development Block Grant (CDBG) Program," and authorize staff to submit said applications to the Riverside County Economic Development Agency.

JUSTIFICATION: The approval of this resolution is essential in order to utilize the federally funded grant funds available through the Community Development Block Grant (CDBG) Fiscal Year 2011-2012 program.

BACKGROUND: The City of Banning, through the Riverside County Economic Development Agency, has been submitting various projects annually for funding under the CDBG program.

Requests for applications were mailed by the Public Works Department on September 16, 2010 to City Departments and non-profit organizations that serve the community within the City of Banning. Additionally a press release was published in the Press Enterprise on September 22, 2010 notifying the public of application availability as shown in Exhibit "A".

As part of the CDBG guidelines, the proposed projects/activities must meet the following criteria:

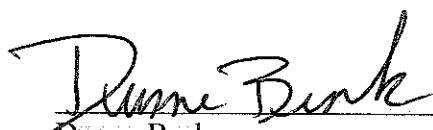
1. The project or activity must primarily benefit the low and moderate-income community.
2. The project or activity must aid in the prevention or elimination of slums and blight areas.
3. The project or activity must be designed to meet the Community's development needs and have a particular urgency.

On September 28, 2010 at its regular meeting, the City Council appointed a committee to review the applications. On October 21, 2010 the committee met with the Public Works staff as well as the applicants and provided recommendations as shown as Exhibit "B". All project applications are available at the City Clerk's office for public review.

The notice inviting public community participation was published in a local newspaper on October 29, 2010 as attached herewith as Exhibit "C". As set forth in the guidelines for utilization of the Community Development Block Grant funding, the City Council may allocate up to 15% of the total allocation to service oriented non-profit agencies.

FISCAL DATA: The estimated funding under the CDBG Fiscal Year 2011-2012 program is approximately \$160,000.00. Upon approval of the City Council, the projects will be submitted to the Riverside County Economic Development Agency and it is anticipated that final funding approval will be conveyed to the City by July of 2011.

RECOMMENDED BY:



Duane Burk

Director of Public Works

REVIEWED BY:



Kirby Warner

Interim Administrative Services Director

APPROVED BY:



Andy Takata
City Manager

RESOLUTION NO. 2010-77

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING,
CALIFORNIA, APPROVING THE PROJECTS FOR THE FISCAL YEAR 2011-2012
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM**

WHEREAS, the City of Banning has been submitting the applications for projects/activities under the Community Development Block Grant (CDBG) program to the Riverside County Economic Development Agency annually; and

WHEREAS, on September 16, 2010, the City of Banning mailed out requests for applications to the eligible organizations that serve the Community within the City of Banning and a press release was published in the Press Enterprise on September 22, 2010 as shown in Exhibit "A"; and

WHEREAS, on September 28, 2010 at its regular meeting, the City Council appointed a committee to review the applications and on October 21, 2010 the committee met with the Public Works staff as well as the applicants and provided recommendations as shown as Exhibit "B" and;

WHEREAS, the projects/activities submitted herein meet the CDBG program guidelines and/or requirements; and

WHEREAS, it is essential that the projects/activities be approved by the City Council through resolution in order for the City and its citizens to utilize the federally funded CDBG grant funds.

NOW, THEREFORE, BE IT RESOLVED as follows:

- Section 1. Resolution No. 2010-77, approving the projects/activities submitted for funding under the Community Development Block Grant program for Fiscal Year 2011-12 as listed in Exhibit "B" is hereby adopted.
- Section 2. Staff is authorized to submit CDBG applications to the Riverside County Economic Development Agency for approval by their Board.

PASSED, ADOPTED AND APPROVED this 9th day of November, 2010.

Robert E. Botts, Mayor
City of Banning

ATTEST:

Marie A. Calderon, City Clerk

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

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

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2010-77, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 9th day of November, 2010.

AYES:

NOES:

ABSTAIN:

ABSENT:

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

EXHIBIT "A"

SEPTEMBER 22, 2010 PRESS RELEASE NOTIFYING THE PUBLIC OF APPLICATION AVAILABILITY

THE PRESS-ENTERPRISE

LOCAL

IN BRIEF

BANNING

City accepting block grant applications

Banning is accepting applications for the 2011-12 Community Development Block Grant program.

Services eligible for grants include child care, health care and job training, as well as services for the homeless and senior citizens and recreation programs.

The city is accepting applications until 4 p.m. Oct. 13. Applications and guidelines are available at www.rivcoeda.org.

For more information, call the city engineering division at 951-922-3130.

—ERIN WALDNER
ewaldner@PE.com

EXHIBIT “B”

**Requested Project for FY 2011-12
Community Development Block Grant (CDBG) Program**

CITY PROJECTS

| NO. | PROJECT NAME | DESCRIPTION | FY 2011-12 REQUESTED | AD-HOC RECOMMENDATION |
|-----|--------------------------------|-----------------------|----------------------|-----------------------|
| 1. | Repli Park Bowl Rehabilitation | Construction Services | \$300,000.00 | \$160,000.00 |
| | Total | | \$300,000.00 | \$160,000.00 |

Requested Projects for FY 2011-2012
Community Development Block Grant (CDBG) Program

SERVICE RELATED PROJECTS

| NO. | AGENCY | DESCRIPTION | FY 2011-12 REQUESTED | AD-HOC RECOMMENDATION |
|-----|--|---|----------------------|-----------------------|
| 1. | Boys and Girls Club | Youth Development Services | \$15,000.00 | \$9,000.00 |
| 2. | Court Appointed Special Advocates (CASA) | Advocacy for Abused and Neglected Children in Banning | \$21,754.10 | \$2,000.00 |
| 3. | San Gorgonio Child Care Consortium | Special Needs | \$10,000.00 | \$9,000.00 |
| 4. | Soroptimist House of Hope | Residential 24 HR Substance Recovery | \$12,000.00 | \$4,000.00 |
| | Total | | \$87,000.00 | \$24,000.00 |

EXHIBIT "C"
NOTICE INVITING PUBLIC
COMMUNITY PARTICIPATION

October 29, 2010

Record Gazette

www.recordgazette.net ■ Page 45

Public Notice
On Tuesday, November 9, 2010, the City of Banning will be considering the approval of Community Development Block Grant Program applications for Fiscal Year 2011-2012 at its regular City Council Meeting. Beginning at 5:00, the public is invited to participate throughout the duration of the public comments portion of the meeting.
Publish The Record
Gazette
No. 30614
10/29, 2010

CITY COUNCIL AGENDA

Date: **November 9, 2010**
TO: **Honorable Mayor and City Council**
FROM: **Fred Mason, Electric Utility Director**
SUBJECT: **Resolution No. 2010-78, Banning Electric Alternative Rate**

RECOMMENDATION: The City Council approves Resolution No. 2010-78 authorizing a \$0.0326 / kWh increase to the Low Income Qualified Baseline Service rate (also known as the Banning Electric Alternative Rate “BEAR”) and approving the City of Banning Electric Utility Rate Schedule, attached herewith as Exhibit “A”.

JUSTIFICATION: Per Assembly Bill 1890 (AB1890) and Assembly Bill 995 (AB995) funds collected through the Public Benefit Surcharge are to be expended on qualified programs.

BACKGROUND: The California electric restructuring legislation signed into law on September 23, 1996, AB 1890, requires that Investor Owned Utilities (“IOUs”) and Publically Owned Utilities (“POUs”) establish a non-bypassable usage based charge to fund investments in energy related Public Benefit Charge (“PBC”) programs. AB 995, signed into law September 30, 2000, extended funding for PBC programs another 10 years to January 1, 2012.

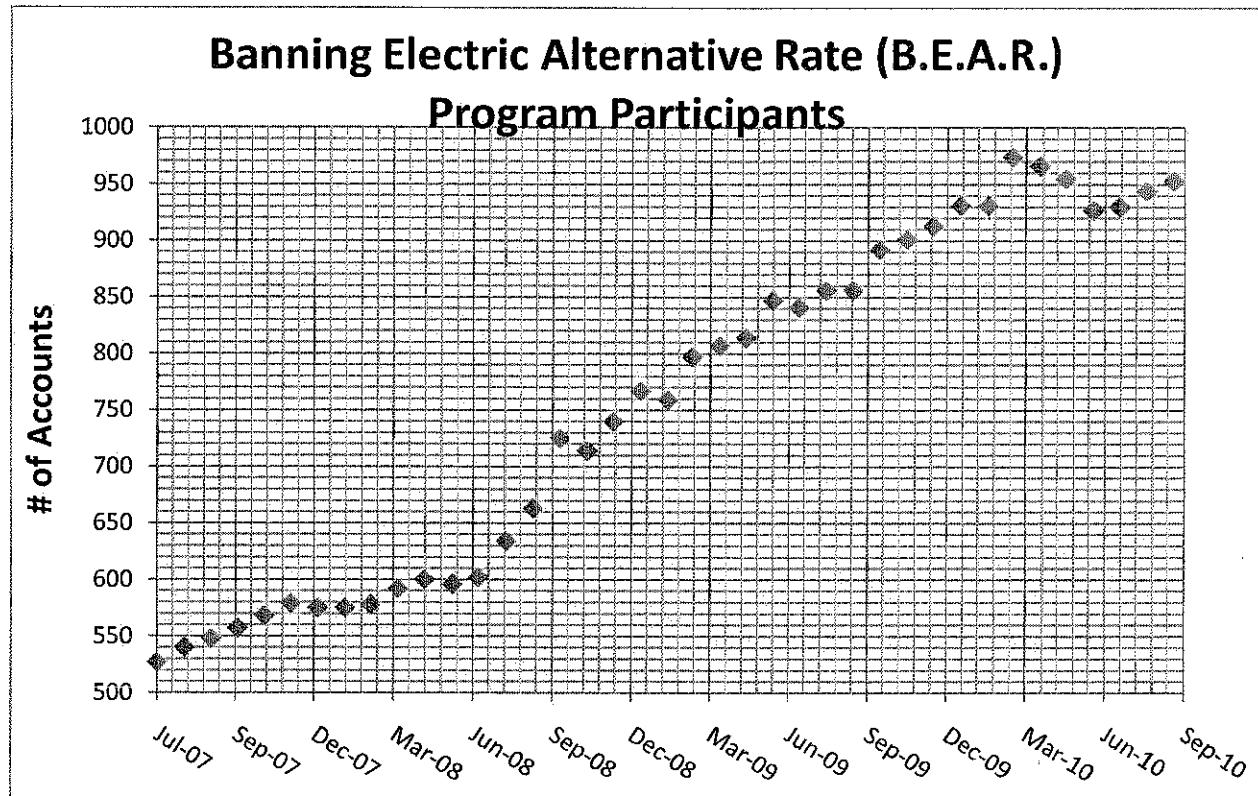
With respect to municipal electric utilities, AB1890 and AB995 mandated that each municipal utility must collect and spend a set percentage of annual revenues during the years 1998-2012 on PBC programs. Specifically, “each local publicly owned electric utility shall establish a non-bypassable, usage based charge on local distribution service of not less than the lowest expenditure level of the three largest electrical corporations in California on a percent of revenue basis, calculated from each utility’s total revenue requirement for the year ended December 31, 1994, and each utility’s total annual public benefit programs expenditures.” The California Municipal Utilities Association has determined this amount to be 2.85% of annual revenues.

These funds are to support programs that provide:

- (1) Cost-effective demand-side management services to promote energy-efficiency and energy conservation;
- (2) New investment in renewable energy resources and technologies consistent with existing statutes and regulations, which promote those resources and technologies;
- (3) Research, development and demonstration programs for the public interest to advance science or technology which is not adequately provided by competitive and regulated markets.
- (4) Services provided for low-income electricity customers, including but not limited to, targeted energy efficiency service and rate discounts.

In September of 2009 City Council passed resolution 2009-69 authorizing an electric rate increase. The rate increase was not applied to the BEAR rate which has remained at its present level, \$0.0672 /kWh for baseline service, since October 2007. As a result Banning Electric

Utility's ("Utility") low income subsidy has more than doubled. Furthermore, due to the effects of a widespread economic recession, the Utility is experiencing an increase in the number of applicants to the BEAR Low Income Assistance program. Both the doubling of the subsidization and the increase in applicants to the BEAR program will result in a significant rise in Public Benefit Fund expenditures for low income assistance, in excess of the amount budgeted in the fiscal year 2010/11 budget. The chart below shows the number of customer accounts participating in the BEAR program from July 2007 to the present.



Approximately 10% of all Utility residential customers are currently participating in the BEAR program. Demographic data suggests that more than 1/3 of all Utility residential customers qualify for the program.

Total PBC revenues for the current fiscal year are projected at \$684,000, of which approximately \$400,000 or (58%) is projected to be used for low income assistance programs, including \$10,000 for the H.E.L.P. non-profit charity operating in Banning. Out of the total PBC programs budget, less than \$100,000 remains for energy efficiency/conservation & renewable energy programs.

The participation trend in the BEAR program continues to rise, and average participation in the program in FY 2010/11 will likely reach 990 accounts. As of the end of September 2010 there were 953 active accounts within the BEAR program with an average increase of 11 approved applicants every month. As a result of the increased low income assistance expenditures, the Utility has been forced to cut the rebate amounts on several of the energy efficiency programs, and has eliminated other programs. Even if staff's recommendation is adopted, the rebate amounts of these programs will not return to former levels, as overall participation in the

Utility's energy efficiency programs has continued to increase and it is expected that these programs will absorb any additional PBC funds.

FISCAL DATA:

The baseline energy allotment for all residential customers in the City of Banning totals 4,696 kWh/year. This energy amount is broken down to 558 kWh during the months of June through September and 308 kWh for all other months. It is reasonable to assume, for the purpose of budget analysis, that all of the BEAR customers will use their entire baseline energy amounts in any given month. Staff's recommendation is to increase the BEAR rate by \$0.0326/kWh, bringing the new baseline rate of the BEAR program to \$0.0998/kWh. By comparison, the Utility's standard baseline rate is \$0.1498/kWh. The maximum monthly increase BEAR customers will realize is \$10.04 during the winter months (October – May) and \$18.19 during the four summer months. At the current level of BEAR program participation, adoption of the recommended rate increase will result in an additional \$151,000 in available PBC funds for Banning's other existing PBC programs.

If approved, the BEAR rate change will become effective December 1, 2010. Alternatives to the recommended BEAR rate change are the following: 1) Increase the PBC beyond the current level of 2.85% of each Utility customer's electric bill (staff estimates that for every 0.1% increase beyond the 2.85%, the annual adjustment to the PBC fund will be approximately \$24,000); 2) A combination of a BEAR rate change and an increase to the PBC percentage; or 3) Do not increase the BEAR rate or PBC, and continue to scale back the energy conservation and renewable energy programs.

RECOMMENDED BY:

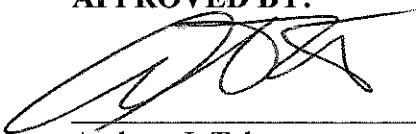


Fred Mason
Electric Utility Director



Kirby Warner
Interim Administrative Services Director

APPROVED BY:



Andrew J. Takata
City Manager

Report Prepared By: H. Pandey, Power Resource & Revenue Administrator

RESOLUTION NO. 2010-78

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING AUTHORIZING A \$0.0326 / KWH INCREASE TO THE LOW INCOME QUALIFIED BASELINE SERVICE RATE (ALSO KNOWN AS THE BANNING ELECTRIC ALTERNATIVE RATE "BEAR") AND APPROVING THE CITY OF BANNING ELECTRIC UTILITY RATE SCHEDULE

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

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

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

WHEREAS, the City desires to maintain a Public Benefit Program which meets the requirements of AB1890 and provides adequate funding for low income assistance, energy conservation, and renewable energy programs;

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

1. Adopt Resolution No. 2010-78 approving a \$0.0326/kWh increase to the Low Income Qualified Baseline Service rate, and authorize the City Manager, or his designee to implement the City of Banning Electric Utility Rate Schedule, attached herewith as Exhibit "A", effective December 1, 2010.
2. Authorize the Mayor to execute Resolution No. 2010-78 said authorization shall become void if not executed within 30 days of the effective date of this resolution.

PASSED, APPROVED, AND ADOPTED this 9th day of November 2010.

Robert E. Botts, Mayor
City of Banning

APPROVED AS TO FORM
AND LEGAL CONTENT

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

ATTEST:

Marie A. Calderon, City Clerk
City of Banning

CERTIFICATION

I, MARIE A. CALDERON, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2010-78 was duly adopted by the City Council of the City of Banning, California at a regular meeting thereof held on the 9th day of November 2010 by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

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

CITY OF BANNING

ELECTRIC UTILITY RATE SCHEDULE

December 2010

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CITY OF BANNING
Electric Division

GENERAL PROVISIONS

SYSTEM COST ADJUSTMENT FACTOR

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

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

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

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

Where:

a = revenue from retail sales during the period.

b = revenue from bulk sales to other utilities.

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

d = miscellaneous revenues.

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

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

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

PUBLIC BENEFITS CHARGE

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

General Provisions (continued)

SEASONS

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

CITY OF BANNING
Electric Division

SCHEDULE A

RESIDENTIAL SERVICE

APPLICABILITY

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

CHARACTER OF SERVICE

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

TERRITORY

Within the area served by the City of Banning

RATES

| | | <u>Per Meter</u> | <u>Per Month</u> |
|----|---------------------------------------|------------------|------------------|
| 1. | Standard Residential Service | | |
| | Customer Charge | \$ 3.00 | |
| | Energy Charge | | <u>Per kWh</u> |
| | Baseline Service | | |
| | All kWh | \$.1498 | |
| | Low Income Qualified Baseline Service | | |
| | All kWh as described below | \$.0998 | |
| | Non-baseline Service (Winter) | | |
| | All kWh above baseline through 1,000 | \$.1995 | |
| | All kWh above 1,000 | \$.3180 | |
| | Non-baseline Service (Summer) | | |
| | All kWh above baseline through 1,500 | \$.1995 | |
| | All kWh above 1,500 | \$.3180 | |

Schedule A – Residential Service (continued)

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

MINIMUM CHARGE

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

MINIMUM REQUIREMENTS

All services through one meter.

Multiple Family Dwellings

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

Energy Surcharge

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

LOW INCOME SENIOR CITIZEN SERVICE

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

LOW INCOME QUALIFIED BASELINE SERVICE

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

BASELINE SERVICE

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

Schedule A – Residential Service (continued)

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

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

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

LIFE SUPPORT DEVICES

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

A. Eligibility

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

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

B. Life-support Devices

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

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

Schedule A – Residential Service (continued)

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

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

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

D. Hardship Cases

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

E. Certification

The City may require the following Certification:

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

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

Schedule A – Residential Service (continued)

F. Termination of Use

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

WATER WELL PUMPS

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

CITY OF BANNING
Electric Division

SCHEDULE B

SMALL GENERAL SERVICE

APPLICABILITY

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

CHARACTER OF SERVICE

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

TERRITORY

Within the area served by the City of Banning.

RATES

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

MINIMUM CHARGE

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

Schedule B – Small General Service (continued)

SPECIAL CONDITIONS

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

CITY OF BANNING
Electric Division

SCHEDULE C

GENERAL AND INDUSTRIAL SERVICE

APPLICABILITY

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

CHARACTER OF SERVICE

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

TERRITORY

Within the area served by the City of Banning.

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

MINIMUM CHARGE

The monthly minimum charge shall be the Demand Charge.

Schedule C – General and Industrial Service (continued)

SPECIAL CONDITIONS

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

The monthly charges will be decreased by \$0.20 per kW of measured maximum demand and will be increased by \$0.20 per kilovar of reactive demand. In no case will the kilovars used for the adjustment be less than 20 % of the number of kW the kilovars of reactive demand shall be calculated by multiplying the kW of measured maximum demand by the ratio of kilovar hours to the kWh. Demands in kW and kilovars shall be determined to the nearest 1/10 unit. A ratchet device will be installed on the kilovar meter to prevent its reverse operation on leading power factors.

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

CITY OF BANNING
Electric Division

SCHEDULE TOU

LARGE GENERAL AND INDUSTRIAL SERVICE

APPLICABILITY

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

CHARACTER OF SERVICE

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

TERRITORY

Within the area served by the City of Banning.

RATES

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

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

Schedule TOU – Large General and Industrial Service (continued)

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

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

SPECIAL CONDITIONS

1. Time periods are defined as follows:

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

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

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

Schedule TOU – Large General and Industrial Service (continued)

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

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

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

6. **MINIMUM DEMAND CHARGE:** Where a contract demand is established, the monthly minimum demand charge shall be \$1.00 per kilowatt of contract, but not less than \$500.00.

7. **EXCESS TRANSFORMER CAPACITY:** Excess Transformer Capacity is the amount of transformer capacity requested by a customer in excess of that which the City would normally install to serve the customer's Maximum Demand. Excess Transformer Capacity shall be billed at \$1.00 per KVA per month.

8. **POWER FACTOR ADJUSTMENT:** The charges will be adjusted each month for reactive demand. The Charge will be increased by \$0.30 per kilovar of maximum reactive demand imposed on the City. The kilovars of reactive demand shall be calculated by multiplying the kilowatts of measured maximum demand by the ratio of the kilovar-hours to the kilowatt hours. Demand in kilowatts and kilovars shall be determined to the nearest unit. A device will be installed on each kilovar meter to prevent reverse operation of the meter.

9. **TEMPORARY DISCONTINUANCE OF SERVICE:** Where the use of energy is seasonal or intermittent, no adjustment will be made for a temporary discontinuance of service. Any customer prior to resuming service within twelve months after such service was discontinued will be required to pay all charges which would have been billed if service had not been discontinued.

10. **SUPPLEMENTAL VISUAL DEMAND METER:** Subject to availability, and upon written application by the customer, the City will, within 180 days, supply and install a City owned supplemental visual demand meter. The customer shall provide the required space and associated wiring beyond the point of interconnection for such installation. Said supplemental visual demand meter shall be in parallel with the standard billing meter delineated in Special Condition 3 above. The reading measured or recorded by the supplemental visual demand

Schedule TOU – Large General and Industrial Service (continued)

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

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

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

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

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

Schedule TOU – Large General and Industrial Service (continued)

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

CITY OF BANNING
Electric Division

SCHEDULE SLS

UNMETERED STREET LIGHTING SERVICE

APPLICABILITY

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

TERRITORY

Within the area served by the City of Banning.

RATES

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

SPECIAL CONDITIONS:

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

CITY OF BANNING
Electric Division

SCHEDULE OLS

OUTDOOR LIGHTING SERVICE
(SECURITY)

APPLICABILITY

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

TERRITORY

Within the area served by the City of Banning.

RATES

Per Lamp
Per Month

(Fixture installed on existing support)

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

Pole (Department owned wood pole installation) Per Pole
Per Month

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

SPECIAL CONDITIONS

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

Schedule OLS (continued)

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

CITY OF BANNING
Electric Division

SCHEDULE MS

MUNICIPAL SERVICE

APPLICABILITY

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

CHARACTER OF SERVICE

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

TERRITORY

Within the area served by the City of Banning.

RATES

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

MINIMUM CHARGE

Municipal services are not assessed a minimum charge.

SPECIAL CONDITIONS

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

CITY COUNCIL AGENDA

DATE: November 9, 2010

TO: City Council

FROM: Duane Burk, Director of Public Works

SUBJECT: Resolution No. 2010-80, "Amending the Professional Services Agreement with C&S Engineers, Inc. for Design Services at the Banning Municipal Airport to include Construction Observation and Administrative Services"

RECOMMENDATION: Adopt Resolution No. 2010-80:

- I.** Amending the Professional Services Agreement with C&S Engineers, Inc. of San Diego, California in an amount "Not to Exceed" \$40,163.70 to include Construction Observation and Administrative Services.
- II.** Authorizing the Administrative Services Director to make necessary budget adjustments and appropriations from the Airport Fund to Account No. 600-5100-435.33-11 in an amount of \$40,163.70.

JUSTIFICATION: It is essential to hire an experienced professional firm to ensure that the construction of the Navigational Improvements at the Banning Municipal Airport are managed effectively, efficiently and are built per the project plans and specifications.

BACKGROUND: In April of 2007, the Airport Master Plan Update was completed by C&S Engineers, Inc. and submitted to the Federal Aviation Administration (FAA) for review. FAA approval was obtained in May of 2007. Consequently, the Airport Master Plan Update was submitted to the County of Riverside Airport Land Use Commission (ALUC) in June of 2007. The ALUC found this update to be consistent with the 2004 Banning Airport Land Use Compatibility Plan and therefore approved the new Airport Master Plan in August of 2007.

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

On March 9, 2010, City Council approved Resolution No. 2010-14, "Awarding a Professional Services Agreement to C & S Engineers, Inc. for Design Services at the Banning Municipal Airport" in the amount of \$79,691.37. The scope of work under this contract was to design the Airport Rotating Beacon, Wind Cone, Segmented Circle and Automated Weather Observing System (AWOS). These items are currently listed in the Airport's AIP.

On September 28, 2010, City Council approved Resolution No. 2010-69, "Awarding the Construction Contract for Federal Aviation Administration Airport Improvement Project No. 3-06-0018 AIP 10 (C), 'Airport Rotating Beacon, Wind Cone, Segmented Circle & AWOS'". The scope of work for this construction project includes the complete removal and replacement of the airport rotating beacon and tower and associated foundation and cabling; the complete removal and replacement of the airport segmented circle and tetrahedron; the complete removal and replacement of the airport lighted wind cone and associated foundation and cabling; the installation of AWOS and associated foundations and cabling.

Construction Observation and Administrative Services for the above mentioned project are necessary. The scope of work for these services consists of all construction observation and administration needed for the construction of the navigational improvements per the approved plans and specifications in accordance with FAA, Caltrans and local reporting guidelines. Consequently, staff recommends an Amendment to the original Agreement with C&S Engineers, Inc. for the design services to include the additional services. Since C&S Engineers, Inc. prepared the Master Plan Update, original plans and specifications for this project and are familiar with FAA's and Caltrans' requirements during the construction process, they can effectively and efficiently complete this portion of the project.

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

FISCAL DATA: An appropriation in the amount of \$40,163.70 from the Airport Fund to Account No. 600-5100-435.33-11 is necessary in order to fund the Amendment to the Professional Services Agreement with C & S Engineers, Inc. The total contract with C & S Engineers, Inc. for Professional Services related to Navigational Improvements at the airport amounts to \$119,855.07. FAA will reimburse the City 95% of the total design and construction costs including administration and inspection services for this project, up to \$536,750.00. The City's match will be \$28,250.00 if the entire grant amount is used. Said match will be funded from the Airport Fund which currently holds a balance of \$86,274.00.

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. 2010-80

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AMENDING THE PROFESSIONAL SERVICES AGREEMENT TO C&S ENGINEERS, INC. FOR DESIGN SERVICES AT THE BANNING MUNICIPAL AIRPORT TO INCLUDE CONSTRUCTION OBSERVATION AND ADMINISTRATIVE SERVICES

WHEREAS, in April of 2007, the Airport Master Plan Update was completed by C&S Engineers, Inc. and submitted to the Federal Aviation Administration (FAA) for review, subsequently FAA approval was obtained in May of 2007; and

WHEREAS, the Airport Master Plan Update was submitted to the County of Riverside Airport Land Use Commission (ALUC) in June of 2007 and was approved in August of 2007; and

WHEREAS, the Airport Master Plan took inventory of current conditions of the airport's infrastructure and recommended alternatives for airside and landside facility improvements at the airport which consequently developed the Airport Improvement Program (AIP); and

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

WHEREAS, on September 28, 2010, City Council approved Resolution No. 2010-69, "Awarding the Construction Contract for Federal Aviation Administration Airport Improvement Project No. 3-06-0018 AIP 10 (C), 'Airport Rotating Beacon, Wind Cone, Segmented Circle & AWOS"'; and

WHEREAS, Construction Observation and Administrative Services for the above mentioned project are necessary and the scope of work for these services consists of all construction observation and administration needed for the construction of the navigational improvements per the approved plans and specifications in accordance with FAA, Caltrans and local reporting guidelines; and

WHEREAS, staff recommends an Amendment to the original Agreement with C& S Engineers, Inc. for the design services to include the Construction Observation and Administrative Services in an amount "Not to Exceed" \$40,163.70; and

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

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

Section 1. The Amendment to the Professional Services Agreement with C&S Engineers, Inc. of San Diego, California in an amount “Not to Exceed” \$40,163.70 is approved for Construction Observation and Administrative Services for the Navigational Improvements Project at the Banning Municipal Airport.

Section 2. The Administrative Services Director is authorized to make necessary budget adjustments and appropriations from the Airport Fund to Account No. 600-5100-435.33-11 in an amount of \$40,163.70.

Section 3. The City Manager is authorized to execute the Amendment with C&S Engineers, Inc. of San Diego, California. This authorization will be rescinded if the contract agreement is not executed by the parties within ninety (90) days of the date of this resolution.

PASSED, ADOPTED AND APPROVED this 9th day of November, 2010.

Robert E. Botts, Mayor
City of Banning

APPROVED AS TO FORM AND
LEGAL CONTENT:

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

ATTEST:

Marie A. Calderon, City Clerk
City of Banning

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2010-80, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 9th day of November, 2010.

AYES:

NOES:

ABSTAIN:

ABSENT:

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

**CITY COUNCIL AGENDA
CONSENT**

DATE: November 9, 2010

TO: Honorable Mayor and City Council

FROM: Andy Takata, City Manager

SUBJECT: Resolution No. 2010-82, "Authorizing the City Manager to Direct the Preparation of and Send Letters of Support or Opposition Consistent with Legislative Positions Adopted by the League of California Cities".

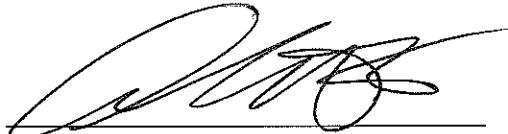
RECOMMENDATION: It is recommended that the City Council approve Resolution No. 2010-82, "Authorizing the City Manager to Direct the Preparation of and Send Letters of Support or Opposition Consistent with Legislative Positions Adopted by the League of California Cities".

JUSTIFICATION: The League of California Cities turns to cities to support legislation; due to the timing of certain legislative matters; often requests are not made within sufficient time for review and approval by the City Council. Any item the City Manager deems controversial would be brought forward to the City Council for action.

BACKGROUND: The City Manager receives and monitors all requests from the League of California Cities and shall update the City Council on legislation that the City and League have taken a position on, including any substantive amendments or issues that would impact the spirit of the City's adopted policies.

FISCAL DATA: There are no fiscal impacts associated with approving such authorization.

RECOMMENDED BY:



Andy Takata
City Manager



RESOLUTION NO. 2010-82

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING AUTHORIZING THE CITY MANAGER TO DIRECT THE PREPARATION OF AND SEND LETTERS OF SUPPORT OR OPPOSITION CONSISTENT WITH LEGISLATIVE POSITIONS ADOPTED BY THE LEAGUE OF CALIFORNIA CITIES.

WHEREAS, the League of California Cities turns to cities to support legislation; and

WHEREAS, due to the timing of certain legislative matters; often requests are not made within sufficient time for review and approval by the City Council; and

WHEREAS, the City Manager is responsible for updating the City Council on legislation that the City and League have taken a position on, including any substantive amendments or issues that would impact the spirit of the City's adopted policies; and

WHEREAS, the City Manager is committed to monitoring and informing the City Council of any legislative positions which may impact the City and its residents; and

WHEREAS, the City Manager shall be authorized to send certain letters without a vote of the City Council.

NOW THEREFORE, BE IT RESOLVED, the City Council of the City of Banning authorizes the City Manager to direct the preparation of and send letters of support or opposition consistent with legislative positions adopted by the League of California Cities.

PASSED, APPROVED AND ADOPTED this 9th day of November, 2010.

Robert E. Botts, Mayor
City of Banning

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

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

ATTEST:

Marie A. Calderon, City Clerk
City of Banning

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2010-82 was duly adopted by the City Council of the City of Banning, California, at a regular meeting held of the 9th day of November, 2010, by the following to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

**CITY COUNCILAGENDA
PUBLIC HEARING**

DATE: **November 9, 2010**

TO: **City Council**

FROM: **Doug Clarke, Assistant Fire Marshal**

SUBJECT: **Ordinance 1421: Adopting the new California Fire Code (CFC 2010 edition).**

RECOMMENDATIONS: Adopt Ordinance 1421 and the 2010 California Fire Code.

JUSTIFICATION: Adopting ordinance 1421 and the 2010 Edition of the California Fire Code to be referred to as the Fire Code of the City of Banning, regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the City of Banning providing for the issuance of permits and collection of fees.

RECOMMENDED BY:


Doug Clarke
Assistant Fire Marshal

Approved BY:


Andrew Takata
City Manager

ORDINANCE NO. 1421

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA AMENDING CHAPTER 8, ARTICLE II, SECTION 8-16 REPEALING SECTIONS 8-17 OF THE BANNING ORDINANCE CODE ADOPTING THE 2010 CALIFORNIA FIRE CODE IN ITS ENTIRETY FOR 1) REGULATING AND GOVERNING THE SAFEGUARD OF LIFE AND PROPERTY FROM FIRE AND EXPLOSION HAZARDS [ARISING FROM THE STORAGE, HANDLING AND USE OF HAZARDOUS SUBSTANCES, MATERIALS AND DEVICES] AND FROM CONDITIONS HAZARDOUS TO LIFE OR PROPERTY IN THE OCCUPANCY OF BUILDINGS AND PREMISES IN THE CITY OF BANNING, AND 2) PROVIDING FOR THE ISSUANCE OF PERMITS AND THE COLLECTION OF FEES THEREFOR.

WHEREAS, the California Fire Code contains regulations consistent with nationally recognized accepted practices for safeguarding, to a reasonable degree, life and property from the hazards of (i) fire and explosion, (ii) dangerous conditions arising from the storage, handling and use of hazardous materials and devices, and (iii) hazardous conditions in the use or occupancy of buildings or premises; and

WHEREAS, the City of Banning has historically adopted and followed the most current standards set forth in California Fire Code (the "Fire Code"); and

WHEREAS, the California Fire Code was recently updated to a 2010 Edition

NOW THEREFORE BE IT HEREBY ORDAINED, that an Ordinance of the City of Banning adopting the 2010 Edition of the California Fire Code in its entirety to be referred to as the Fire Code of the City of Banning, regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the City of Banning providing for the issuance of permits and collection of fees. The above-referenced codes are adopted in their entirety as amended herein below.

Section 1. REPEALS.

- (1) Banning Fire Services Ordinance No. 1380 is hereby repealed in its entirety and fully replaced by this ordinance, as amended

Section 2. FINDINGS AND ADOPTION OF THE INTERNATIONAL AND STATE CODES.

A. FINDINGS. The City Council of the City of Banning hereby finds as follows:

- (1) That the International Code Council is a private organization which has been in existence for at least three (3) years.
- (2) That California Fire Code, California Building Code, California Mechanical Code, California Plumbing Code, and California Electrical Code 2010

Edition, and the California Fire Code Standards published by International Code Council, are nationally recognized compilations of proposed rules, regulations, and standards of said organization the California Fire Code, 2010 Edition, and the California Fire Code Standards published by International Code Council, are nationally recognized compilations of proposed rules, regulations, and standards of said organization.

- (3) That the International Fire Code has been printed and published as a code in book form within the meaning of Section 50022.2 et seq., of the California Government Code and said code has been adopted and amended by the California Building Standards Commission into the California Code of Regulations (CCR) as Title 24 Part 9, Title 24 Part 2, Title 24 Part 3, Title 24 Part 5, and Title 24 Part 3 titled the California Fire Code, California Building Code, California Mechanical Code, California Plumbing Code, and California Electrical Code 2010 Edition.
- (4) That one (1) copy of each of the following codes has been certified by the Clerk of the Board of Supervisors to be true copy, and has been filed for use and examination by the public in the office of the Clerk of the board of Supervisors prior to the adoption of this ordinance: the California Fire Code (and Standards).
- (5) That the sections of the California Fire Code and California Fire Code Standards may be referred to by the same number used in said published compilation preceded by the words "City of Banning Fire Code Section" or "International Fire Code Section" or "Fire Code Section."
- (6) That added protection from new development is necessary to supplement normal Fire Department response resources available in areas impacted by new development to provide immediate fire protection for life and safety of single family residential and multiple occupancy occupants during fire occurrence. The additional requirements and standards herein, including, but not limited to, enhanced on-site protection of property and occupants, are necessary to properly protect the health, safety, and welfare of the existing and future residents and workers of the City of Banning based upon the following:
 - (a) Climatic Conditions: Generally, the City of Banning has an arid climate. Annual rainfall averages about 15 inches. Hot, strong, dry Santa Ana winds are common to areas within the City. These winds constitute a contributing factor that causes small fires originating in high density development presently being constructed in the City of Banning that spread quickly and create the need for an increased level of fire protection. This added protection, including, but not limited to, on-site protection, will supplement normal Fire Department response available in new development,

and provide immediate fire protection for life and safety of multiple occupancy occupants during fire occurrence;

(b) Geologic and Topographic:

1. The City of Banning includes mountainous, brush covered wildlands, and agricultural lands. Elevation ranges from twenty-two hundred (2200) feet above sea level to over six thousand (6000) feet high. Topography extends from flat to 25% slope for habitable land. Travel distances in rural and wildland areas often place Fire Department response times to emergencies at risk. This condition makes the need for enhanced on-site protection for property occupants necessary.
2. Traffic and circulation in urban areas are an impetus to extreme travel distances in rural and wild land areas, often increasing Fire Department response time to emergencies, thus increasing risk to life and property, thus creating a need for enhanced on-site protection.
3. There is a major earthquake fault that bisects the City, the San Andreas. In addition, there are numerous minor faults. There are numerous areas within the City that are subject to earthquakes, landslides, wind erosion, blown sand, flooding, and wildfires. Placement of multiple occupancy buildings, location of arterial roads, and Fire Department staffing constraints due to revenue limiting State legislation, have made it difficult for the Fire Department to locate additional fire stations and provide staffing sufficient to concentrate fire companies and personnel to control fires in single and multi-story retail, commercial and industrial buildings, making enhanced built-in protection necessary.

B. ADOPTION OF INTERNATIONAL AND STATE FIRE CODES.

The City Council of the City of Banning hereby adopts as amended, revised and supplemented: 1) the California Fire Code edition 2010 California Code of Regulations Title 24 Part 9, and Part 2 in its entirety. The provisions of the above referenced codes, standards and appendices shall apply to all the unincorporated areas of the City of Banning, and shall apply to incorporated areas of City of Banning through ratification.

The provisions of the above-referenced codes, chapters, standards, and appendices adopted shall include any amendments, revisions, and supplements made subsequent to the adoption of this ordinance.

Section 3. AMENDMENTS TO THE CALIFORNIA FIRE

The Codes, Chapters, Standards and Appendices are amended as specifically set forth in the following Chapters herein:

CHAPTER 1 APPENDIX ADMINISTRATION PERMITS – page x
CHAPTER 2 DEFINITIONS – page x
CHAPTER 4 EMERGENCY PLANNING AND PARPARDNESS – x
CHAPTER 5 FIRE SERVICE FEATURES – page x
CHAPTER 6 BUILDING SERVICES AND SYSTEMS – page x
CHAPTER 9 FIRE PROTECTION SYSTEM – page x
CHAPTER 22 MOTOR FUEL DISPENSING FACILITIES– page x
CHAPTER 23 HIGH PILED COMBUSTIBLE STORAGE – page x
CHAPTER 25 TIRE REBUILDING AND TIRE STORAGE – page x
CHAPTER 35 FLAMMABLE GASES – page x
CHAPTER 38 LIQUIDIFIED PETROLEUM GASES – page x
CHAPTER 49 REQUIREMENTS FOR WILDLAND-URBAN INTERFACE FIRE AREAS
APPENDICIED – page x
PENALTIES – page x

CHAPTER 1 ADMINISTRATION PERMITS.

Section 101.4 of the California Fire Code is hereby amended to read as follows:

Section 101.4. SEVERABILITY.

If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance, it being expressly declared that this ordinance and each section, subsection, paragraph, sentence, clause and phrase thereof would have been adopted, irrespective of the fact that one or more other section, subsection, paragraph, sentence, clause or phrase be declared invalid or unconstitutional.

Section 103.4 of the California Fire Code is hereby amended to read as follows:

Section 103.4. LIABILITY.

Any liability against the City of Banning or any officer or employee shall be as provided for in California Government Code and case law.

Fire suppression, investigation and rescue or emergency medical costs are recoverable in accordance with California Health and Safety Code Sections 13009 and 13009.1.

Any person who negligently or intentionally, or in violation of law, causes an emergency response, including but not limited to, a traffic accident or spill of toxic or flammable fluids or chemicals, is liable for the costs of securing such emergency, including those costs set out in Government Code Section 53150, et seq. Any expense incurred by the fire

department for securing such an emergency situation shall constitute a debt of such person and shall be collectable by the City of Banning or political subdivision thereof if incorporated, in the same manner as in the case of an obligation under contract, expressed or implied.

Section 104.1 of the California Fire Code is hereby amended at the end of existing paragraph to add the following:

Section 104.1. AUTHORITY OF THE FIRE CHIEF AND THE FIRE DEPARTMENT.

The chief is authorized to administer, interpret and enforce the California Fire Code. Under the chief's direction, the Riverside County Fire Department is authorized to enforce all ordinances of the City of Banning pertaining to:

- (1) The prevention of fires.
- (2) The suppression or extinguishment of dangerous or hazardous fires.
- (3) The storage, use and handling of hazardous materials.
- (4) The installation and maintenance of automatic, manual and other private fire alarm systems and fire extinguishing equipment.
- (5) The maintenance and regulation of fire escapes.
- (6) The maintenance of fire protection and the elimination of fire hazards on land and in buildings, structures and other property, including those under construction.
- (7) The maintenance of means of egress.
- (8) The investigation of the cause, origin and circumstance of fire and unauthorized releases of hazardous materials.

Section 104.2.1 of the California Fire Code is hereby added to read as follows:

Section 104.2.1. INSPECTION AND PERMIT FEES.

A fee shall be charged for each inspection and permit issued. The fee schedule shall be established by the City Council and reviewed annually.

Section 104.3 of the California Fire Code is hereby amended to add as follows:

Section 104.3. FIRE DEPARTMENT PERSONNEL AND PEACE OFFICERS.

- (1) The chief and his or her designees are authorized and directed to enforce all

applicable State fire laws and the provisions of this code and he shall perform such related duties as may be fixed by the City Council, and for such purposes, he or she shall have the power of a peace officer.

- (2) The Chief is authorized to administer, interpret and enforce this code. Under the Chief's direction, the fire department is authorized to enforce all ordinances of jurisdiction pertaining to:
 - a) The prevention of fires
 - b) The suppression or extinguishment of dangerous materials
 - c) The storage, use and handling of hazardous materials
 - d) The installation and maintenance of automatic, manual and other private fire alarm systems and fire extinguishing equipment
 - e) The maintenance and regulation of fire escapes
 - f) The maintenance of fire protection and elimination of fire hazards on land and in buildings, structures and other property, including those under construction.
 - g) The maintenance of means of egress
 - h) The investigation of the cause, origin and circumstance of fire and unauthorized release of hazardous materials.
- (3) The following persons are hereby authorized to interpret and enforce the provisions of this Code and to make arrests and issue citations as authorized by law:
 1. The Unit Chief and peace officers and public officers of the California Department of Forestry and Fire Protection.
 2. The Fire Chief, Peace Officers and Public Officers of the Riverside County Fire Department.
 3. The Riverside County Sheriff and any Deputy Sheriff.
 4. The Police Chief and any Police Officer of any city served by the County Fire Department.
 5. Officers of the California Highway Patrol.
 6. Peace Officers of the California Department of Parks and Recreation.
 7. The law enforcement officers of the Federal Bureau of Land Management.

Section 104.6.5 of the California Fire Code is hereby amended to read as follows:

Section 104.6.5. Records and Reports

Requests for copies of public and legal documents, photographs, etc., relating to department activities are available as authorized by law through the Fire Department's Custodian of Records. All document requests shall be in writing, accompanied by a check made payable to the Riverside County Fire Department, in the amount(s) set forth in Section 104.2.1

Section 105.5.6.30. of the California Fire Code is hereby amended to read as follows:

105.6.30 an operational permit

Shall be required for the kindling or maintaining of an open fire or a fire on any public street, alley, road or other public or private ground. In instructions and stipulations of the permit shall be adhered to.

Exception: Recreational fires

Section 109.4. AUTHORTY OF THE FIRE CHIEF.

The chief is hereby given the authority to officially determine and publicly announce the closure of any hazardous fire area or portion thereof. However, any closure by the chief for a period of more than fifteen (15) days must be approved by the City of Banning Counsel within fifteen (15) days of the chief's original order of closure. No person shall go in or be upon any hazardous fire area, except upon the public roadways and inhabited areas therein, during such time as the area is closed to entry. This section shall not prohibit residents or owners of private property within any closure area, or their invitees, from going in or being upon their lands. This section does not apply to any entry, in the course of duty by a peace officer or any duly authorized public officer, member of any fire department, Riverside County Fire Department or member of the U.S. Forest Service or California Department of Forestry and Fire Protection nor does this section apply to National Forest Land in any respect. During periods of closure, the chief shall erect and maintain at all entrances to the closed area sufficient signs giving adequate notice of closure.

CHAPTER 2 DEFINITIONS.

Section 202 of the California Fire Code is hereby amended to add the following to the list of definitions:

FIRE CHIEF or CHIEF shall mean the Fire Chief of the County of Riverside or his authorized representative.

HAZARDOUS FIRE AREA is land other than State designated fire hazard severity zone of FHSZ or local designation of FHSZ which is covered with grass, grain, brush, or forest, whether privately or publicly owned, which is so situated or is of such inaccessible location that a fire originating upon such land would present an abnormally difficult job of suppression or would result in great and unusual damage through fire or resulting erosion.

CHAPTER 3 GENERAL PRECAUTIONS AGAINST FIRE is adopted in its entirety with out amendments or deletions.

CHAPTER 4 EMERGENCY PLANNING AND PREPAREDNESS.

Section 404 of the California Fire Code is hereby amended to add:

Section 404.2. #14 Fire Safety and Evacuation Plans.

An approved fire safety and evacuation plan shall be prepared and maintained for the following occupancies and buildings:

15. Windowless buildings having an occupant load of 15 or more.

CHAPTER 5 FIRE SERVICE FEATURE.

Section 501.2 of the California Fire Code is hereby amended to add:

501.2 Timing of Installation

Fire apparatus access roads and a permanent water supply for fire protection shall be installed and made serviceable prior to and during the time of construction. Temporary street signs shall be installed at each intersection when construction of new roadways allows passage by vehicles in accordance with section 505.2 herein below.

Exception: When alternative methods are approved by the Chief.

Section 503.1 of the California Fire Code is hereby amended to add:

503.1 Where Required.

Fire apparatus access roads shall be provided and maintained in accordance with Section 503.1.1 through 503.1.3 set forth hereinbelow. The Riverside County Fire Department shall be the only authority authorized to designate fire lanes.

Section 503.3 of the California Fire Code is hereby amended to add:

503.2 Fire apparatus access roads

Where required, shall be identified by curbs painted red on both the top and face along the entire length of the fire apparatus access road. Where no curb exists or a rolled curb is installed, a 6 inch wide red strip or approved posted signs applied the full length of the fire apparatus access road shall be installed. (See Riverside County Fire Department standard that is incorporated herein by reference).

Exception: On school grounds this requirement shall be implemented as approved by the Chief.

503.4 Obstructions of Fire Apparatus access roads.

When other obstructions are installed that cause the distances from an approved fire department access road to exceed the maximum distance allowed in Section 503 herein, the Fire Chief is authorized to require additional fire protection as specified in Section 901.4.3 herein.

Section 503.7 of the California Fire Code is hereby added:

503.7 Loading areas and passage drop-off areas.

On private properties, where fire apparatus access roads are utilized for loading or unloading or are utilized for passenger drop-off or pick-up, an additional eight (8) feet of width shall be added to the fire apparatus access road. This width is in addition to the minimum required access road width.

Section 504.1 Required access:

504.1 shall be further amended by adding the following paragraph at the end of the first paragraph:

“Finished grade to be flat and accessible on all sides of the building were ground ladder access is the only means to reach the highest point on the building from the exterior. Distance from building for finish grade shall be flat as required by the Fire Chief. Obstructions will not be placed as to interfere with ground ladder placement.”

Section 505.4 of the California Fire Code is hereby amended to add:

Sections 510.4 of the California Fire Code are hereby added:

510.4 Radio Coverage.

Except as otherwise provided in this article, no person shall erect, construct or modify any building or structure or any part thereof, or cause the same to be done which fails to support adequate voice and/or data radio coverage for any emergency response personnel within the structure or the area immediately surrounding the structure or building. A final inspection shall not be approved for any building or structure that fails to comply with this requirement.

5110.4.2 When required by the Fire Chief, approved radios, repeaters, relays, signal amplifiers, antennas, coaxial cables, passive signal conductors, conduits and access, secondary power source and other equipment as determined shall be provided within buildings to ensure emergency response personnel radio and data communications to and from surrounding buildings and structures and emergency communications centers (see Fire Department Standards).

Section 510.5 of the California Fire Code is hereby added as follows:

513.5 Scope

510.5 The provisions of this article shall apply to any new residential or commercial buildings or structures or any commercial tenant improvements that affect more than twenty five percent (25%) of the square footage of the existing building or structure, that are determined to be within Riverside County Fire Department established marginal or non-existent radio coverage areas. Any construction as defined above will be subject to review by the Riverside County Fire Department Planning and/or Communications Division and the developer and/or building owner may be responsible for improving Fire Department communications in the affected area. Any construction performed in these areas will be subject to the addition of new communications facilities, if needed, and/or the addition of public safety radio system enhancement equipment in the building, to enhance radio coverage to and from existing communications facilities (see Fire Department Standards).

Section 510.5.1 of the California Fire Code is hereby amended to add:

510.5.1 At the time the building permit is issued, the Riverside County Fire Department's Communication and Technology units, in cooperation with appropriate fire and law enforcement departments, shall determine the frequency range or ranges that must be supported. For the purpose of this section, adequate radio coverage shall constitute a successful communications test between the building and the communications centers for all appropriate emergency service providers for the building.

Section 511 of the California Fire Code is hereby amended to add new section:

511 Fire Department Breathing Apparatus Air Systems.

All buildings having floors used for human occupancy located five (5) stories or more above or below the lowest level of Fire Department vehicular access shall be equipped with an approved breathing apparatus air refilling system. Such system shall provide an adequate pressurized air supply through a permanent piping system for the replenishment of self contained breathing apparatus carried by fire suppression, rescue and other personnel in the performance of their duties. Location and specification of access stations, and the installation of such breathing apparatus air refilling system shall be made in accordance with the requirements and standards of the Fire Chief (see Fire Department Standards).

CHAPTER 6 BUILDING SERVICES AND SYSTEMS.

Section 606.8 of the California Fire Code is hereby amended as follows:

606.8 Machinery rooms that use refrigerant shall have a detector with audible and visual alarms. The alarm signaling devices shall comply with the audible and visual requirements from NFPA 72. The detector, or a sampling tube that draws air into the detector, shall be located in an area where a refrigerant leak may be expected to concentrate. The alarm shall be actuated at a value not greater than the corresponding TLV-TWA values shown in the

California Mechanical Code for the refrigerant classification. Detectors and alarms shall be placed in one or more locations to insure maximum notification to all occupants.

Section 609.2 of the California Fire Code is hereby amended to add:

Added 609.2

Exception: Fire Stations where the use of the commercial appliance is by station personnel and not for the intention of a commercial cooking facility as defined by the California Mechanical Code.

CHAPTER 7 FIRE –RESISTIVE-RATED CONSTRUCTION shall be adopted in its entirety without amendments or deletions.

CHAPTER 8 INTERIOR FINISH, DECORATIVE MATERIALS AND FURNISHINGS shall be adopted in its entirety with out amendments or deletions.

CHAPTER 9 FIRE PROTECTION SYSTEMS

Section 902.1 of the California Fire Code is hereby amended to add:

902.1 Common Area.

For the purposes of ADA compliance for visual notification, a common area shall be a room, space, or element made available for use of a restricted group of people (example, occupants of a homeless shelter, the occupants of an office building, or the guests of such occupants). Common areas shall include restrooms, hallways, lobbies, meeting and conference rooms, classrooms, cafeterias, filing and photocopy rooms, employee break rooms, open office areas exceeding 300 square feet, examination and treatment rooms, and similar areas that are not used solely as employee work areas. Mechanical, electrical and telephone closets, janitor closets, and similar non-occupied spaces that are not common areas or assigned work areas are not required to have visual alarm devices.

Section 903.2 of the California Fire Code is hereby amended as follows: All occupancies

In all new buildings and structures which are 3,600 sqft or greater an approved automatic sprinkler system shall be provided, regardless of occupancy classification. Where the code is requiring a more restrictive requirement, the more restrictive requirement shall take precedence. All exceptions for section 903 beginning at 903.2.1 and ending at 903.2.17 shall not be allowed except for the following sections: CFC 903.2.3.1.1, CFC 903.2.6 and 903.2.11.4.

Section 903.2.11.1.1 of the California Fire Code is hereby amended as follows:

Section 903.2.11.11.1 Opening dimensions and access

Opening dimension and access. Openings shall have a minimum dimension of not less than (delete 30) 36 inches (762 mm). Such openings shall be accessible to the fire department from the exterior and shall not be obstructed in a manner that the fire fighter or rescue cannot be accomplished from the exterior.

Section 908.3.1 of the California Fire Code and California Building Code is hereby added as follows:

908.3.1 Alarms.

The gas detection system shall initiate a local alarm and shall be monitored per NFPA 72, and transmit a signal to a constantly attended control station when a short-term hazard condition is detected. The alarm shall be both visible and audible and shall provide warning both inside and outside the area where gas is detected. The audible alarm shall be distinct from all other alarms.

Section 908.3.2 of the California Fire Code and California Building Code is hereby added as follows:

908.3.2 Shutoff of gas supply.

The gas detection system shall automatically close the shutoff valve at the source on gas supply piping and tubing related to the system being monitored for whichever gas is detected.

Exception: Automatic shutdown is not required for reactors utilized for the production of highly toxic or toxic compressed gases where such reactors are:

1. Operated at pressures less than 15 pounds per square inch gauge (psig)
(103.4 kPa)
2. Constantly attended.
3. Provided with readily accessible emergency shut-off valves.

Section 908.3.3 of the California Fire Code and California Building Code is hereby added as follows:

908.3.3 Valve closure. The automatic closure of shutoff valves shall be in accordance with the following:

1. When the gas-detection sampling point initiates the gas detection system alarm is within a gas cabinet exhausted enclosure, the shutoff valve in the gas cabinet or exhausted enclosure for the specific gas detected shall automatically close.
2. Where the gas-detection sampling point is initiating the gas detection system alarm is within a gas room and compressed gas containers are not in gas cabinets or exhausted enclosures, the shutoff valves on all gas lines for the specific gas detected shall automatically close.
3. Where the gas-detection sampling point initiating the gas detection system alarm is within a piping distribution manifold enclosure, the shutoff valve for the compressed container of specific gas detected supplying the manifold shall automatically close.

Exception: When the gas-detection sampling point initiating the gas detection system alarm is at a use location or within a gas valve enclosure of a branch line down-stream of a piping distribution manifold, the shutoff valve in the gas valve enclosure for the branch line located in the piping distribution manifold enclosure shall automatically close.

.Section 912.2.1 of the California Fire Code is hereby added:

912.2.1 Visible location.

Fire department connections shall be located on the front access side of buildings, fully visible and recognizable from the street or nearest point of Fire Department vehicle access or as otherwise approved by the Fire Chief. The location of Fire Department connections shall be approved and installed as follows:

1. Within 50 feet of an approved roadway or driveway and arranged so that hose lines can be readily attached to the inlets without interference from any nearby objects including buildings, fences, posts, plantings, or other Fire Department connections and/or otherwise approved by the Fire Chief.
2. Within 200 feet of an approved hydrant.
3. So that the inlet height shall not be less than 18 inches or more than 48 inches above grade.
4. Guard posts or other approved means may be required to protect Fire Department inlet connections from vehicular damage.

5. Fire Department connection shall not be allowed in the rear of any building.

Section 914.5 of the California Fire Code and California Building Code is hereby amended as follows:

914.5 Underground (insert “and Windowless buildings.”).

Underground and Windowless buildings shall comply with sections 914.5.1 through 914.5.6 herein, each section relating to Underground buildings shall also include Windowless buildings.

CHAPTER 10 MEANS OF EGRESS shall be adopted in its entirety with out amendments or deletions.

CHAPTER 11 AVIATION FACILITIES shall be adopted in its entirety with out amendments or deletions.

CHAPTER 12 DRY CLEANING shall be adopted in its entirety with out amendments or deletions.

CHAPTER 13 COMBUSTIBLE DUST PRODUCING OPERATIONS shall be adopted in its entirety with out amendments or deletions.

CHAPTER 14 FIRE SAFETY DURING CONSTRUCTION AND DEMOLITION shall be adopted in its entirety with out amendments or deletions.

CHAPTER 15 FLAMMABLE FINISHES shall be adopted in its entirety with out amendments or deletions.

CHAPTER 16 FRUIT AND CROP RIPENING shall be adopted in its entirety with out amendments or deletions.

CHAPTER 17 FUMIGATION AND THERMAL INSECTICIDAL FOGGING shall be adopted in its entirety with out amendments or deletions.

CHAPTER 18 SEMICONDUCTOR FABRICATION FACILITIES shall be adopted in its entirety with out amendments or deletions.

CHAPTER 19 LUMBER YARDS AND WOOD WORKING FACILITIES shall be adopted in its entirety with out amendments or deletions.

CHAPTER 20 MANUFACTURER OF ORGANIC COATINGS shall be adopted in its entirety with out amendments or deletions.

CHAPTER 21 INDUSTRIAL OVENS shall be adopted in its entirety with out amendments or deletions.

CHAPTER 22 MOTOR FUEL DISPENSING FACILITIES AND REPAIR GARAGES

2202.1 Definition of Motor Vehicle.

“Motor Vehicle” includes, but is not limited to, a vehicle, machine, tractor, trailer or semi-trailer, or any combination thereof, propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property. It does not include a vehicle, locomotive or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway

service. The term “motor vehicle” also includes freight containers or cargo tank used, or intended for use, in connection with motor vehicles. (As per 49 CFR Pt. 171.8 (October 2002).)

Motor Vehicle, Unattended is defined as a motor vehicle where the driver cannot see the motor vehicle or hear noises in or near the motor vehicle.

Exceptions:

- (1) Necessary absence in connection with loading and unloading the motor vehicle.
- (2) Stops for meals during the day or night, if the point of parking is well lighted.
- (3) When in case of accident or emergency, the driver must leave to obtain assistance.

CHAPTER 23 HIGH PILED COMBUSTIBLE STORAGE

Section 2301.3 of the California Fire Code is hereby amended as follows:

2301.3 Construction documents:

(Add to item #7): location and classification of commodities in accordance with Section 2303 *and NFPA 13*.

Section 2304.2 of the California Fire Code is added with new paragraph:

2304.2.1 Minimum Requirements for Client Leased or Occupant Owned Warehouses.

Designs of an automatic sprinkler system for client leased or occupant owned buildings containing high pile storage shall be based on the requirements of NFPA 13. The responsible Fire Protection Engineer shall perform a survey of the building to determine commodity classification, storage configuration, building height and other information related to the

CHAPTER 23 HIGH PILED COMBUSTIBLE STORAGE

Section 2301.3 of the California Fire Code is hereby amended as follows:

2301.3 Construction Documents.

(Add to item #7): location and classification of commodities in accordance with Section 2303 and NFPA 13.

Section 2304.2.1 of the California Fire Code is added:

2304.2.1 Minimum Requirements for Client Leased or Occupant Owned Warehouses.

Designs of an automatic sprinkler system for client leased or occupant owned buildings containing high pile storage shall be based on the requirements of NFPA 13. The responsible Fire Protection Engineer shall perform a survey of the building to determine commodity classification, storage configuration, building height and other information related to the development of an appropriate sprinkler system design. The Engineer shall also make reasonable efforts to meet with the building owner or operator to understand seasonal or customer related fluctuations to the stored commodities, storage height, and configuration. The sprinkler design shall be based on the most demanding requirements determined through the onsite survey and discussions with the building owner or operator. The technical report shall clearly define the basis for determining the commodity and sprinkler design selection, along with how the commodities will be isolated or separated, and the referenced design document(s), including NFPA 13 or the current applicable Factory Mutual Data Sheets. If a specific fire test is used as the basis of design, a copy of the fire test report shall be provided at the time of plan review.

CHAPTER 24 TENTS AND OTHER MEMBRANE STRUCTURES shall be adopted in its entirety with out amendments or deletions.

CHAPTER 25 TIRE REBUILDING AND TIRE STORAGE shall be adopted in its entirety with out amendments or deletions.

CHAPTER 26 WELDING AND OTHER HOT WORK shall be adopted in its entirety with out amendments or deletions.

CHAPTER 27 HAZARDOUS MATERIALS-GENERAL PROVISIONS shall be adopted in its entirety with out amendments or deletions.

CHAPTER 28 AEROSALS shall be adopted in its entirety with out amendments or deletions.

CHAPTER 29 COMBUSTIBLE FIBERS shall be adopted in its entirety with out amendments or deletions.

CHAPTER 30 COMPRESSED GASES shall be adopted in its entirety with out amendments or deletions.

CHAPTER 31 CORROSIVE MATERIALS shall be adopted in its entirety with out amendments or deletions.

CHAPTER 32 CRYOGENIC FLUIDS shall be adopted in its entirety with out amendments or deletions.

CHAPTER 33 EXPLOSIVES AND FIREWORKS shall be adopted in its entirety with out amendments or deletions.

CHAPTER 34 FLAMMABLE AND COMBUTIBLE GASES shall be adopted in its entirety with out amendments or deletions.

CHAPTER 35 FLAMMABLE GASES shall be adopted in its entirety with out amendments or deletions.

CHAPTER 36 FLAMMABLE SOLIDS shall be adopted in its entirety with out amendments or deletions.

CHAPTER 37 HIGHLY TOXIC AND TOXIC MATERIALS shall be adopted in its entirety with out amendments or deletions.

CHAPTER 38 LIQUIFIED PETROLEUM GASES shall be adopted in its entirety with out amendments or deletions.

CHAPTER 39 ORGANIC PEROXIDES shall be adopted in its entirety with out amendments or deletions.

CHAPTER 40 OXIDIZERS,OXIDIZING GASES AND OXIDIZING CRYOGENIC FLUIDS shall be adopted in its entirety with out amendments or deletions.

CHAPTER 41 PYROPHORIC MATERIALS shall be adopted in its entirety with out amendments or deletions.

CHAPTER 42 PROXYLIN CELLULOSE NITRATE PLASTICS shall be adopted in its entirety with out amendments or deletions.

CHAPTER 43 UNSTABLE REACTIVE MATERIALS shall be adopted in its entirety with out amendments or deletions.

CHAPTER 44 WATER REACTIVE SOLIDS AND LIQUIDS shall be adopted in its entirety with out amendments or deletions.

CHAPTER 45 MARINAS shall be adopted in its entirety with out amendments or deletions.

CHAPTER 46 CONSTRUCTION REQUIREMENTS FOR EXISTING BUILDINGS shall be adopted in its entirety with out amendments or deletions.

CHAPTER 47 REFERENCED STANDARDS shall be adopted in its entirety with out amendments or deletions.

CHAPTER 48 MOTION PICTURE AND TELEVISION PRODUCTION STUDIO SOUND STAGES, APPROVED PRODUCTION FACILITES AND PRODUCTION LOCATIONS shall be adopted in its entirety with out amendments or deletions.

CHAPTER 49 REQUIREMENTS FOR WILDLAND-URBAN INTERFACE FIRE AREAS

Section 4904 of the California Fire Code is hereby amended to add a new section 4904.3 to read as follows:

Section 4904.3. High Fire Hazard Severity Zone Maps.

The County of Riverside Board of Supervisors hereby designates Very High Fire Hazard Severity Zones as recommended by the Director of the California Department of Forestry and Fire Protection and pursuant to Government Code Sections 51175 through 51189, as designated on a map titled "Very High Fire Hazard Severity Zones in LRA", dated 4/8/2010, and retained on file at the Clerk of this Board, the office of the County and pursuant to Government Code Sections 51175 through 51189, as designated Fire Chief of Riverside County, the Office of the State Fire Marshal, and is more readily available at: http://www.fire.ca.gov/fire_prevention/fire_prevention_wildland_zones.php.

This map will supersede other maps previously adopted by the County of Riverside designating high fire hazard areas.”

With in the designated land areas as adopted by the County of Riverside Board of Supervisors and in accordance with the Government Code Sections 51175 through 51189, and in accordance with section 104.3 the following shall apply when required: Per section 51182.(a) A person who owns, leases, controls, operates, or maintains an occupied dwelling or occupied structure in, upon, or adjoining a mountainous area, forest-covered land, brush-covered land, grass-covered land, or land that is covered with flammable material, which area or land is within a very high fire hazard severity zone designated by the local agency (Riverside County Fire Department) pursuant to Section 51179, shall at all times do all of the following:

- (1) Maintain defensible space of 100 feet from each side and from the front and rear of the structure, but not beyond the property line except as provided in paragraph
- (2) The amount of fuel modification necessary shall take into account the flammability of the structure as affected by building material, building standards, location, and type of vegetation. Fuels shall be maintained in a condition so that a wildfire burning under average weather conditions would be unlikely to ignite the structure. This paragraph does not apply to single specimens of trees or other vegetation that are well-pruned and maintained so as to effectively manage fuels and not form a means of rapidly transmitting fire from other nearby vegetation to a structure or from a structure to other nearby vegetation. The intensity of fuels management may vary within the 100-foot perimeter of the structure, the most intense being within the first 30 feet around the structure. Consistent with fuels management objectives, steps should be taken to minimize erosion.
- (3) A greater distance than that required under paragraph (1) may be required by state law, local ordinance, rule, or regulation. Clearance beyond the property line may only be required if the state law, local ordinance, rule, or regulation includes findings that the clearing is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite the structure, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to the structure. Clearance on adjacent property shall only be conducted following written consent by the adjacent landowner.
- (4) An insurance company that insures an occupied dwelling or occupied structure may require a greater distance than that required under paragraph (1) if a fire expert, designated by the fire chief or fire official from the authority having jurisdiction, provides findings that the clearing is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite the structure, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to the structure. The greater distance may not be beyond the property line unless allowed by state law, local ordinance, rule, or regulation.
- (5) Remove that portion of a tree that extends within 10 feet of the outlet of a chimney or stovepipe.
- (6) Maintain a tree, shrub, or other plant adjacent to or overhanging a building free of dead or dying wood.

- (7) Maintain the roof of a structure free of leaves, needles, or other vegetative materials.
- (8) Prior to constructing a new dwelling or structure that will be occupied or rebuilding an occupied dwelling or occupied structure damaged by a fire in that zone, the construction or rebuilding of which requires a building permit, the owner shall obtain a certification (approved building plan/job card) from the local building official that the dwelling or structure, as proposed to be built, complies with all applicable state and local building standards, including those described in subdivision (b) of Section 51189, and shall provide a copy of the certification, upon request, to the insurer providing course of construction insurance coverage for the building or structure. Upon completion of the construction or rebuilding, the owner shall obtain from the local building official, a copy of the final inspection report that demonstrates that the dwelling or structure was constructed in compliance with all applicable state and local building standards, including those described in subdivision (b) of Section 51189, and shall provide a copy of the report, upon request, to the property insurance carrier that insures the dwelling or structure. (b) A person is not required under this section to manage fuels on land if that person does not have the legal right to manage fuels, nor is a person required to enter upon or to alter property that is owned by any other person without the consent of the owner of the property. (c) The Department of Forestry and Fire Protection shall develop, periodically update, and post on its Internet Web site a guidance document on fuels management pursuant to this chapter. Guidance shall include, but not be limited to, regionally appropriate vegetation management suggestions that preserve and restore native species, minimize erosion, minimize water consumption, and permit trees near homes for shade, aesthetics, and habitat; and suggestions to minimize or eliminate the risk of flammability of non-vegetative sources of combustion such as woodpiles, propane tanks, decks, and outdoor lawn furniture.

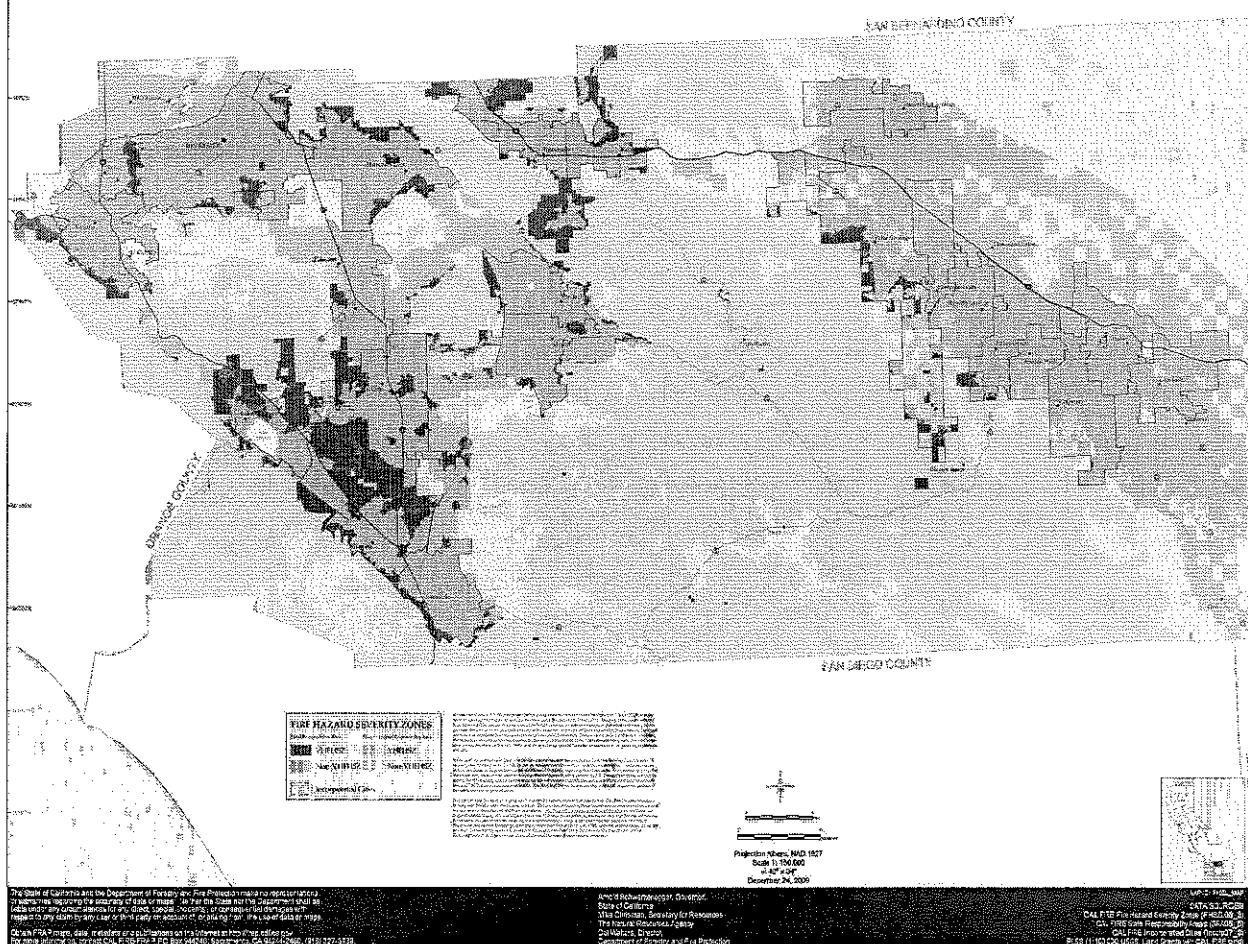
See following maps for reference and contact the Riverside County Fire Department for further information.



WESTERN RIVERSIDE COUNTY

VERY HIGH FIRE HAZARD SEVERITY ZONES IN LRA

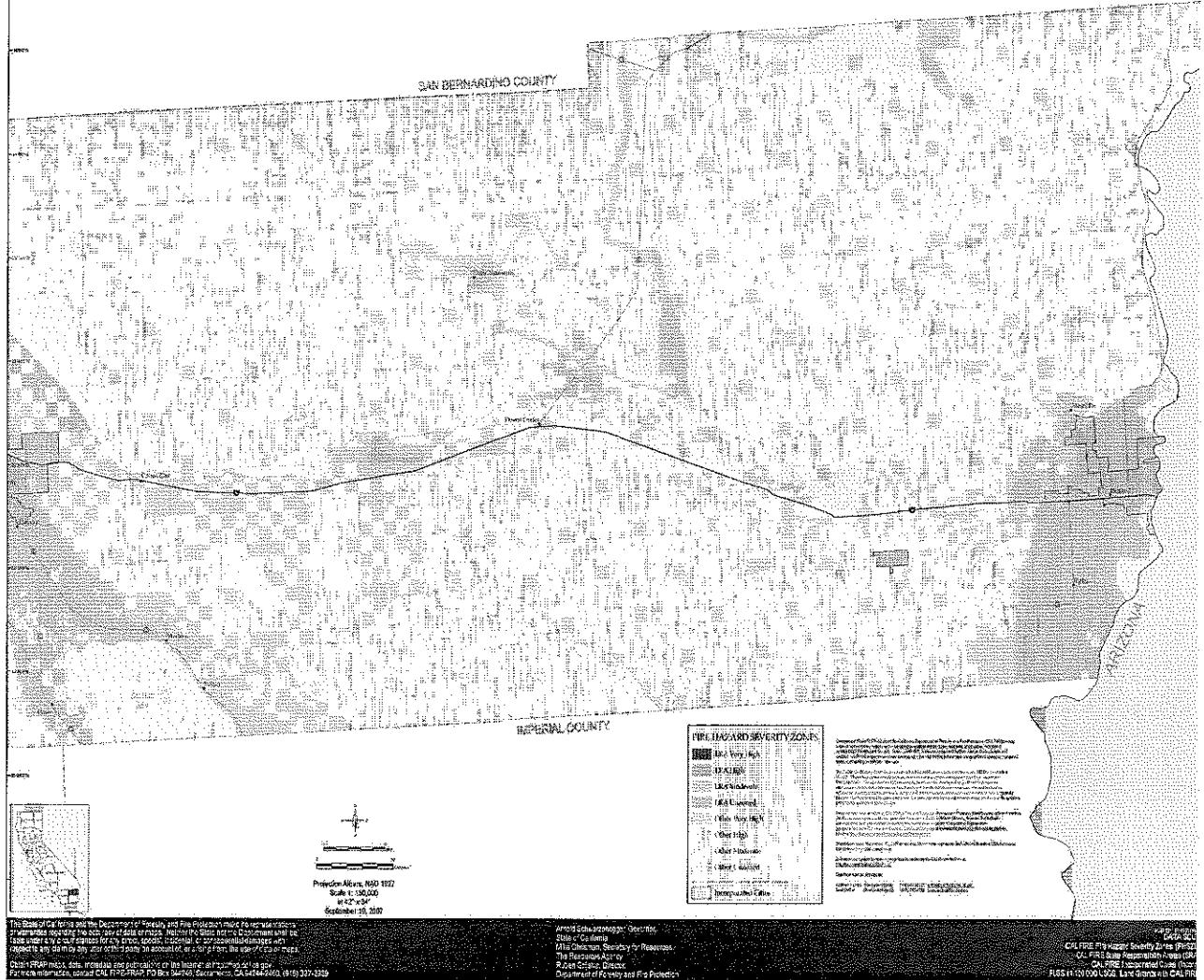
As Recommended By CAL FIRE





EASTERN RIVERSIDE COUNTY

DRAFT FIRE HAZARD SEVERITY ZONES IN LRA



APPENDICES

All Appendices to the California Fire Code are adopted in their entirety except as follows:

Appendix Chapter 4 shall be adopted in its entirety with out amendments or deletions.

Appendix B

Section B- 105.2 exception first sentence

A reduction in required fire flow of up to 50 percent as approved, is allowed when the building is provided with an approved automatic sprinkler system installed in accordance with section 903.3.1.1 or 903.3.1.2, of the California Fire Code.

Appendix BB shall be adopted in its entirety with out amendments or deletions.

APPENDICES

Appendix C Table C105.1 Footnotes C.

Where new water mains are extended along streets where hydrants are not needed for protection of structures or similar fire problems, serving one and two-family residential developments, standard fire hydrants shall be provided at spacing not to exceed 1000 feet along the tract boundary for transportation hazards. When serving multi-family, commercial and industrial developments, super or enhanced fire hydrants as determined by the Fire Chief shall be provided at spacing not to exceed 500 feet of frontage for transportation hazards.

Appendix CC shall be adopted in its entirety with out amendments or deletions.

APPENDIX D shall NOT be adopted or amended.

APPENDIX E shall be adopted in its entirety with out amendments or deletions.

APPENDIX F shall be adopted in its entirety with out amendments or deletions.

APPENDIX G shall be adopted in its entirety with out amendments or deletions.

APPENDIX H shall be adopted in its entirety with out amendments or deletions.

APPENDIX I shall NOT be adopted in its entirety or amended.

APPENDIX J shall be adopted in its entirety with out amendments or deletions.

-PENALITIES

Section 9 Penalties.

It shall be unlawful for any person, firm, corporation or association of persons to violate any provision of this ordinance, or to violate the provisions of any permit granted pursuant to this ordinance. Any person, firm, corporation or association of persons violating any provision of this ordinance or the provisions of any permit granted pursuant to this ordinance, shall be deemed guilty of an infraction or misdemeanor as herein after specified. Such person or entity shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this ordinance or the provisions of any permit granted pursuant to this ordinance, is committed, continued, or permitted.

Any person, firm, corporation or association of persons so convicted shall be: (1) guilty of an infraction offense and punished by a fine not exceeding two hundred dollars (\$200.00) for a first violation; (2) guilty of an infraction offense and punishable by a fine now exceeding three hundred dollars (\$300.00) for a second violation on the same site. The third and any additional violations on the same site shall constitute a misdemeanor offense and shall be punishable by a fine not exceeding one thousand dollars (\$1,000.00) or six months in jail, or both. Notwithstanding the above, a first offense may be charged and prosecuted as a misdemeanor. Payment of any penalty herein shall not relieve a person or entity from the responsibility for correcting the violation.

Section 3. Sections 8-17 of the Banning Ordinance Code is hereby repealed.

Section 4.

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

Section 5.

That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidance or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2010.

Robert E. Botts, Mayor

APPROVED AS TO FORM
AND LEGAL CONTENT:

Dave Aleshire, City Attorney
Aleshire & Wynder, LLP

ATTEST:

Marie A. Calderon, City Clerk

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1421 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 9th day of November, 2010, and was duly adopted at a regular meeting of said City Council on the 14th day of December, 2010, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

CITY COUNCIL AGENDA PUBLIC HEARING

DATE: November 9, 2010

TO: Mayor and City Council

FROM: Zai Abu Bakar, Community Development Director

SUBJECT: Adoption of the Latest Editions of California Building, Residential, Green Building Standards, Plumbing, Mechanical and Electrical Codes

RECOMMENDATION

That the Council introduce the first reading of Ordinance No. 1433 and set for second reading of the Ordinance at the Council meeting on December 14, 2010.

JUSTIFICATION

The State's Health and Safety Code requires local governments to adopt the most recent editions of the model codes related to construction. The Construction Codes include the California Building, Residential, Green Building Standards, Plumbing, Mechanical, and Electrical Codes. If the City Council approves Ordinance No. 1433, the most recent editions of the Construction Codes with the applicable amendments will be in effect within the City of Banning as required by State law. This procedure is in accordance with California Government Code Title 5, Division 1, Part 1, as published by the Building Standards Bulletin 09-02.

BACKGROUND

The State's Health and Safety Code Section 17958 mandates that the California Building Standards Commission adopt and publish the California Building Standards Code (Title 24 California Code of Regulations) every three (3) years. The 2010 Edition of the California Code of Regulations Title 24, which incorporates the below-listed model codes, becomes effective on January 1, 2011.

If approved, Ordinance No. 1433 would amend Title 15 by repealing references to the prior editions of the model codes.

The list below identifies the model codes upon which the 2010 Title 24 is based. The two new codes that are included in this adoption are 2010 California Residential Code and 2010 California Green Building Standards Code.

California Building Standards Code

2010 California Building Code
2010 California Residential Code
2010 California Green Building Standards Code
2010 California Plumbing Code

Reference Model Code

2009 International Building Code (ICC)
2009 International Residential Code (ICC)
2009 Uniform Plumbing Code (IAPMO)

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California Building Standards Code (cont'd)

2010 California Mechanical Code
2010 California Electrical Code
2006 International Property Maintenance Code
1997 Uniform Code for the Abatement of
Dangerous Buildings

Reference Model Code (cont'd)

2009 Uniform Mechanical Code (IAPMO)
2008 National Electrical Code (NFPA)

The Construction Codes proposed for adoption by reference include the following:

2010 California Building Code
2010 California Residential Code
2010 California Green Building Standards Code
2010 California Plumbing Code
2010 California Mechanical Code
2010 California Electrical Code
2006 International Property Maintenance Code
1997 Uniform Code for the Abatement of Dangerous Buildings

The Community Development Department is recommending that no changes or modifications be made to the Codes.

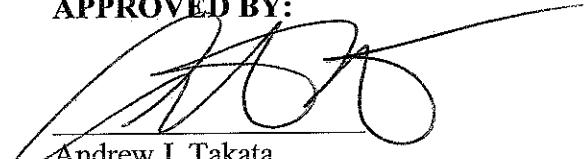
FISCAL REVIEW

No fiscal impact.

CONCLUSION

That the City Council approve Ordinance No. 1433, the most recent editions of the Construction Codes with the applicable amendments will be in effect within the City of Banning as required by State law.

APPROVED BY:



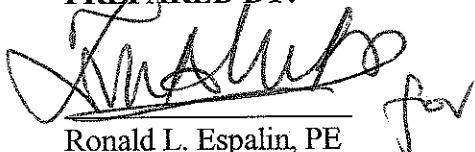
Andrew J. Takata
City Manager

REVIEWED BY:



Zai Abu Bakar
Community Development Director

PREPARED BY:



Ronald L. Espalin, PE
Building Official

Attachments:

1. Ordinance No. 1433
2. Legal Notice

ATTACHMENT 1

Ordinance No. 1433

ORDINANCE NO. 1433

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING CALIFORNIA, AMENDING SECTIONS 15.08.010 THROUGH 15.08.110 OF TITLE 15 OF THE BANNING MUNICIPAL CODE BY ADOPTING THE 2010 EDITIONS OF THE CALIFORNIA CODES AND RELATED MODEL CODES WITH APPENDICES AND AMENDMENTS THERETO

WHEREAS, the State's Health and Safety Code Section 17958 mandates that the California Building Standards Commission adopt and publish the California Building Standards Code (Title 24 California Code of Regulations) every three (3) years.

WHEREAS, the State's Health and Safety Code requires local governments to adopt the most recent editions of the model codes related to construction.

WHEREAS, the construction codes include the California Building, Residential, Green Building Standards, Plumbing, Mechanical, and Electrical Codes.

WHEREAS, the adoption of the Ordinance related to construction codes is consistent with California Government Code Title 5, Division 1, Part 1, as published by the Building Standards Bulletin 09-02.

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

Section 1. Adoption

Sections 15.08.010 through 15.08.110 of Chapter 15.08, Title 15, of the Banning Municipal Code are hereby amended to read as follows:

"Sec. 15.08.010 Construction Codes Adopted.

For the purpose of prescribing regulations for erecting, construction, enlargement, alteration, repair, improving, removal, conversion, demolition, occupancy, equipment use, height, and area of buildings and structures, the following construction codes subject to the modifications set forth in this Chapter, are hereby adopted: the California Building Code, 2010 Edition, including Chapter 1 Division II, based on the 2009 International Building Code as published by the International Code Council; the California Residential Code, 2010 Edition, based on the 2009 International Residential Code as published by the International Code Council; the California Green Building Standards Code, 2010 Edition; the California Plumbing Code, 2010 Edition, based on the 2009 Uniform Plumbing Code as published by the International Association of Plumbing and Mechanical Officials; the California Mechanical Code, 2010 Edition, based on the 2009 Uniform Mechanical Code as published by the International Association of Plumbing and Mechanical Officials; the California Electrical Code, 2010 Edition, based on the 2008 National Electrical Code as published by the National Fire Protection Association; *the International Property Maintenance Code, 2006 Edition, as published by the International Code Council; the Uniform Code For The Abatement of Dangerous Buildings, 1997 Edition, as published by the International Code Council.* The provisions of these Construction Codes as amended by this chapter shall constitute the Building Regulations of the City of Banning. Where the California Code of Regulations and State Building Standards Code of Regulations differ from any sections of the Construction Codes,

State regulations shall prevail over the Construction Codes

One (1) copy of all the above codes and standards therefore are on file in the office of the building official pursuant to Health and Safety Code Section 18942 (d) (1) and are made available for public inspection.

Section 2. Severability

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held out to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Banning hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsection, sentence clause, phrases or portions be declared valid or unconstitutional.

PASSED, APPROVED AND ADOPTED this 9th day of November, 2010.

Robert E. Botts, Mayor
City of Banning

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

Dave Aleshire
Aleshire & Wynder, LLP
City Attorney

ATTEST:

Marie A. Calderon, City Clerk
City of Banning

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1433 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 9th day of November, 2010, and was duly adopted at a regular meeting of said City Council on the _____ day of _____, 2010, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

ATTACHMENT 2

Legal 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, November 9, 2010, at 5:00 p.m. in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, California, to consider the following:

Ordinance No. 1433: An Ordinance of the City Council of the City of Banning for the adoption of the Latest Editions of California Building, Residential, Green Building Standards, Plumbing, Mechanical and Electrical Codes.

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 26, 2010
Publish: October 29, 2010

CITY COUNCIL AGENDA

DATE: November 9, 2010

TO: Honorable Mayor and City Council

FROM: Heidi Meraz, Community Services Director

SUBJECT: Staff Report – Stagecoach Days

RECOMMENDATION

If the City Council supports the continuation of Stagecoach Days, staff recommends the following:

The City Council indicates the monetary level of in-kind services that will be given to support of Stagecoach Days 2010.

JUSTIFICATION

1. If Stagecoach Days is to be held in fall of 2011, event preparations such as planning, contract negotiations, and sponsorship solicitation will need to begin as soon as possible. The longer the Stagecoach Days Committee goes without a commitment of in-kind services, the harder it will be to create a successful event this year.
2. Over the past four years the Stagecoach Days Committee has worked diligently to provide a quality event while at the same time reducing the amount of city resources that are requested.

BACKGROUND

For over 50 years, Stagecoach Days has been an annual citywide celebration of Banning's history as a stagecoach stop on the Colorado Stage and Express Line. It has become the "signature event" for the City of Banning. The event serves as a community-building tool, bringing community members together, and as an economical development tool, assisting with City name recognition and drawing people to the community to spend money.

Over the years, Stagecoach Days has been organized and operated by various organizations. Prior to 2007, the Chamber of Commerce had produced the event. In January 2007 the Chamber stepped away from producing the event, stating their desire to focus on more chamber-like activities. In 2007 the city produced the event in-house with the assistance of volunteers and in subsequent years the Stagecoach Days has been organized by an independent committee.

Historically, Stagecoach Days is a weeklong special event culminating in a four-day carnival and three-day rodeo which is held at A.C. Dysart Park. In an effort to reduce costs

and increase profits, the current committee has made the decision to reduce the events held at A.C. Dysart Park to three days beginning in 2011.

FISCAL DATA

Stagecoach Days is a major special event requiring a substantial volunteer workforce, as well as financial and in-kind contributions.

Stagecoach Days has existed as long as it has due to the commitment of many unnamed volunteers who have given a significant amount of their time to planning and implementing the numerous details that allows this event to occur. Without their continued efforts, there would not be a Stagecoach Days.

Stagecoach Days, as it is operated now, (excluding the events sponsored by community organizations) is a \$60,000 - \$80,000 event. Event admission, ticket sales, registration fees, food and alcohol sales, arena advertising, and vendor fees cover roughly half of the event's total costs. As proven by the current committee, the event can generate sufficient funds to cover the production costs. However, without the in-kind support being given by the city, there would be a significant deficit incurred.

The City has been a long-time financial supporter of Stagecoach Days. In-kind services have always been provided by the city and cash contributions during some years have been as high as \$20,000.00. Past records show that in-kind support costs over the past decade have averaged 20,370.00. Each year police security accounted for over the half of the total costs of services provided by the city. A break-down of in-kind services will be provided at the meeting in regards to this year's event.

The fiscal impact to the City depends on the level of in-kind support that the City Council chooses to give towards Stagecoach Days.

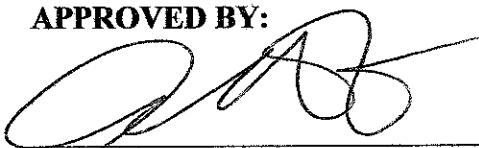
RECOMMENDED BY:



Heidi Meraz

Community Services Director

APPROVED BY:



Andrew J. Takata

City Manager

REVIEWED BY:



Kirby Warner

Interim Administrative Services Director

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CITY COUNCIL AGENDA

DATE: November 9, 2010

TO: Mayor and City Council

FROM: Zai Abu Bakar, Community Development Director

SUBJECT: Resolution in Support of the Southern California Association of Governments (SCAG) "Business Friendly Principles"

RECOMMENDATION:

That the City Council adopt Resolution No. 2010-79 in support of SCAG's "Business Friendly Principles."

JUSTIFICATION:

The City of Banning is a SCAG member agency. SCAG is a metropolitan planning organization representing six counties, 190 cities and more than 19 million residents. SCAG coordinates a number of planning and policy initiatives related to Southern California transportation and land-use planning.

In May, 2010, the SCAG General Assembly discussed the need for a concerted effort to reduce impediments to creating jobs and stimulating economic investments through incentives. SCAG staff was directed to prepare a Southern California Economic Growth Strategy and they are proceeding with that effort. SCAG has planned a December 2, 2010, *Southern California Road to Economic Recovery Summit* at which they plan to have the Governor-elect, State legislative leaders, the Regional Council, cities, counties and business leaders discuss working together in the next year to remove State-related economic impediments to economic growth. SCAG has asked all member agencies to adopt the attached resolution supporting "Business Friendly Principles" to demonstrate Southern California's commitment to this effort.

ANALYSIS:

SCAG understands that many local jurisdictions are already following the "Business Friendly Principles" outlined in the proposed resolution as part of their regular economic development practices. Having the member agencies adopt the resolution in support of the December 2, 2010 Summit is intended to demonstrate to state leaders that the SCAG municipalities "are serious about working together in the next legislative session to find ways together to increase economic growth." The principles included in the proposed resolution include the following:

- Demonstrating commitment to economic development as a priority
- Providing quality municipal services to attract and retain businesses
- Communicating effectively with businesses including processes to increase responsiveness to businesses seeking or doing business within the jurisdiction
- Striving to streamline operations for efficient and responsive business assistance and seeking to improve cities' attractiveness to new and existing businesses.

The City of Banning has and is continuing its efforts in the economic development program to be consistent with the principles above. The City of Banning also seeks SCAG and the State support to reform the state's environmental regulations and housing element reform in an effort to streamline the land use review process at the local level.

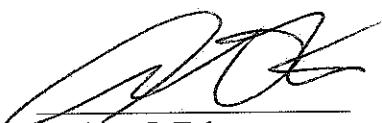
FISCAL DATA:

Adoption of the attached resolution has no impacts to the General Fund.

CONCLUSION:

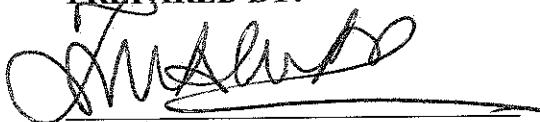
That the City Council adopt Resolution No. 2010-79 in support of SCAG's "Business Friendly Principles."

APPROVED BY:



Andrew J. Takata
City Manager

PREPARED BY:



Zai Abu Bakar
Community Development Director

Attachment:

1. Resolution No. 2010-79

ATTACHMENT 1

Resolution No. 2010-79

RESOLUTION NO. 2010-79

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA IN SUPPORT OF “BUSINESS FRIENDLY PRINCIPLES” AS PART OF SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS (SCAG) DEVELOPMENT OF A SOUTHERN CALIFORNIA ECONOMIC GROWTH STRATEGY

WHEREAS, the City of Banning is a member of the Southern California Association of Governments (SCAG) who is engaged in the development of a Southern California Economic Growth Strategy;

WHEREAS, the City of Banning supports working with SCAG and other key economic stakeholders to improve the Southern California economy;

WHEREAS, the City of Banning is a business friendly municipality and has practices in place and is striving to demonstrate efforts to encourage economic growth within its community;

WHEREAS, the City of Banning seeks SCAG and State support to reform the state’s environmental regulations and housing element reform in an effort to streamline the land use review process at the local level as part of the California economic growth strategy;

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

Section 1. Support.

That the City of Banning supports the following “Business Friendly Principles” as part of SCAG’s development of a Southern California Economic Growth Strategy:

Principle One – Economic Development as a Priority

The City of Banning strives to demonstrate commitment to economic development as a priority.

Principle Two - Business Partnership

The City of Banning strives to provide quality municipal services to attract and retain businesses and employees.

Principle Three-Business Responsive Processes

The City of Banning strives to communicate effectively with businesses including

processes to increase its responsiveness to businesses that are seeking or doing business within its jurisdiction (commitments include responding to business inquires within an established time period and offering an expedited permitting process for new businesses).

Principle Four – Attractiveness to Business Investment

The City of Banning strives to streamline operations for efficient and responsive business assistance in areas of licensing, permitting, inspections and other municipal services and will seek to improve its attractiveness to new and existing businesses within its jurisdiction (commitments include striving to maintain competitive fees and establishing good communications with business base via newsletter or website).

Section 2. Signature.

The Mayor shall sign this Resolution and the City Clerk shall attest thereto and thereupon and thereafter this Resolution shall become effective after its adoption.

Section 3. Transmission of Copy.

That the City of Banning City Council authorizes its staff to submit a copy of this resolution to SCAG in time for SCAG's Regional Economic Summit currently scheduled for December 2, 2010.

PASSED, APPROVED AND ADOPTED this 9th day of November 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. 2010-79 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 9th day of November 2010, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie Calderon, City Clerk
City of Banning

CITY COUNCIL AGENDA

Date: November 9, 2010
TO: Honorable Mayor and City Council
FROM: Fred Mason, Electric Utility Director
SUBJECT: Resolution 2010-81 Approval of the Business Retention Electric Rate Schedule and the Economic Development Rate Agreement for Business Retention of Electric Service Customer

RECOMMENDATION: The City Council adopt Resolution 2010-81 approving the Business Retention Electric Rate Schedule and the Economic Development Rate Agreement for Business Retention of Electric Service Customer, attached herewith as Exhibit "A" and "B" respectively.

JUSTIFICATION: On May 12, 2009, the City Council adopted the "Three Year Strategies with One Year Goals Supporting the Vision and Mission Statements" document. Approval and implementation of the Business Retention Electric Rate Schedule ("BR Rate") supports the goals outlined in said document.

BACKGROUND: The "Three Year Strategies with One year Goals Supporting the Vision and Mission Statements" is the document the City Council developed and adopted to provide direction to staff to implement its vision for the City over the next three years.

One of the goals is to "support existing businesses that generate jobs and revenue." The proposed BR Rate is a tool which will enable the City to retain larger commercial and industrial customers that may be actively looking to relocate outside of Banning's service territory. The rate would only apply to electric utility customers with a minimum Demand of 100 kW. Additional eligibility requirements are outlined below, and will ensure that the proposed rate is not potentially misused.

Banning Electric Utility ("Utility") delivers electricity to customers through distribution and transmission facilities. These facilities represent capital investment whose dollars are spread amongst all customers and recovered over a long-term period. Energy is produced and/or obtained from generation facilities through long-term contracts to meet base load needs, with summer peaking needs obtained through short-term contracts or on the open market. The Utility has a number of fixed costs which must be paid regardless of customer demand or load. Retaining revenue generated by larger commercial and industrial customers will preserve the costs to existing customers, as the fixed costs will be continued to be allocated over a larger customer base. Cost recovery for these fixed costs is spread over several decades, so it would be possible to reduce these charges for larger commercial and industrial customers for a limited timeframe. This benefit could be made available to existing customers with significant electric demand that are actively looking at relocating outside the Utility's service territory. Over a longer period, a substantial decrease in customer load would potentially increase the overall distribution and transmission costs for all customers. Therefore, it would be reasonable to defer charging full costs for fixed distribution and transmission service to existing large customer load

for a two year period, if it were determined that the customer would then commit to staying in Banning's service territory.

The proposed BR Rate requires that the customer execute the standard Banning Economic Development Rate Agreement for Business Retention of Electric Service Customers, attached herewith as Exhibit "B". This includes providing documentation verifying the customer's relocation activities. The Agreement is a two-year contract that provides a rate reduction, while still recovering all variable costs to serve the customer's load during the two year term. The customer would return to full tariff rates in year three. If the customer terminates their service at any time during the two-year agreement, they must pay the City the total amount of the discounted portion of the rate.

In addition to maintaining economic stability for the Utility, the BR Rate also would help maintain local jobs and the City's tax base. Many major utilities in California (both municipal and investor-owned) have some form of a business retention rate. Some of the challenges considered when proposing such a rate are:

1. Ensuring that the rate and term provide a balance between cost recovery and long-term revenue stability for the electric utility;
2. Offering meaningful savings to customers that will influence decisions to relocate out of Banning's service territory; and
3. Ensuring that the business retention rate has no negative impact on other customers.

The BR Rate is targeted towards larger commercial and industrial customers (minimum 100 kW demand) as their large electric loads assist in reducing overhead costs to all utility customers. Smaller customers are already included in the City's power planning process, and do not produce load or revenues that provide meaningful benefits to other utility customers.

Typical customers at the 100 kW size could be a Walgreens or Rite-Aid, a medium to large manufacturing facility, a refrigerated distribution warehouse, or a single business occupying a large office building.

The proposed BR Rate would provide a 20 percent rate reduction off the applicable Energy and Demand Charges for Schedule C and Schedule TOU rates for the first year and a 10 percent reduction off the second year of the two-year term of the Banning Economic Development Rate Agreement for Business Retention of Electric Service Customer. All other charges and conditions applicable to Schedule C and Schedule TOU customers would apply as shown in the corresponding rate schedules.

Staff recommends City Council approval of the proposed Business Retention Electric Rate Schedule and the Banning Economic Development Rate Agreement for Business Retention of Electric Service Customer, attached herewith as Exhibit "A" and "B" respectively, as a way to maintain the economic stability within the City of Banning. If approved, the BR Rate would become effective December 1, 2010.

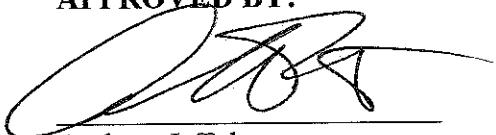
FISCAL DATA: There is no negative fiscal impact by adopting these rates. Any customer would continue to pay all power and transmission costs, while receiving a discount of the distribution costs over a two-year period.

RECOMMENDED BY:



Fred Mason
Electric Utility Director

APPROVED BY:



Andrew J. Takata
City Manager

RESOLUTION NO. 2010-81

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING APPROVING THE BUSINESS RETENTION ELECTRIC RATE SCHEDULE AND THE BANNING ECONOMIC DEVELOPMENT RATE AGREEMENT FOR BUSINESS RETENTION OF ELECTRIC SERVICE CUSTOMER

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

WHEREAS, the City Council adopted the “Three Year Strategies with One Year Goals Supporting the Vision and Mission Statements” document on May 12, 2009, which provided direction to staff to implement the Council’s vision for the City over the next three years; and

WHEREAS, approval of the Economic Development Electric Rate supports the goal outlined in said document to “support existing businesses that generate jobs and revenue”; and

WHEREAS, the Business Retention Electric Rate Schedule and Banning Economic Development Rate Agreement for Business Retention of Electric Service Customer, attached herewith as Exhibit “A” and “B” respectively, will not have a negative impact on other Banning Electric Utility customers, and will provide a tool to the City to retain larger commercial and industrial businesses in Banning by offering a discounted electric rate;

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

1. Adopt Resolution No. 2010-81 approving the Business Retention Electric Rate Schedule and the Banning Economic Development Rate Agreement for Business Retention of Electric Service Customer, and authorize the City Manager or his/her designee to implement said Rate Schedule effective December 1, 2010, and execute and administer said Agreement with qualified Banning Electric Utility commercial and industrial customers.
2. Authorize the Mayor to execute Resolution No. 2010-81. Said authorization shall become void if not executed within 30 days of the effective date of this resolution.

PASSED, APPROVED, AND ADOPTED this 9th day of November 2010.

Robert E. Botts, Mayor
City of Banning

APPROVED AS TO FORM
AND LEGAL CONTENT:

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

CERTIFICATION

I, MARIE A. CALDERON, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2010-81 was duly adopted by the City Council of the City of Banning, California at a regular meeting thereof held on the 9th day of November 2010 by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

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

SCHEDULE BR
BUSINESS RETENTION RATE

Applicability:

This Schedule is applicable to existing customers with a minimum monthly demand of at least 100 kW provided that:

- A. The Customer must demonstrate to the satisfaction of the Electric Utility Director of Banning Electric that relocation of its entire operations or a qualified portion of their operations which consists of load of at least 100 kW, to a site outside of Banning's service territory is a viable alternative or that the threat of closure of the customer's existing facilities is otherwise imminent.
- B. Customers must provide:
 1. An affidavit that "but for" the economic development retention rate incentives, in combination with other city-sponsored-incentives, such customer would relocate outside of the City's electric service territory, and
 2. Substantial evidence demonstrating the business has considered viable locations outside of Banning's service territory including but not limited to incentive offer letters from competing states, local jurisdictions and economic development organizations and/or real estate sale and lease agreements for competing sites, or
 3. Substantial evidence documenting the imminent threat of facility closure, including but not limited to letters from business owners or appropriate corporate officers documenting the circumstances which have lead to this imminent threat and why the Business Retention Rate is necessary to retain the business within Banning's service territory.
- C. The customer's application for this Schedule is approved by the Electric Utility Director of Banning Electric, based upon standards and guidelines adopted by resolution and approved by the Banning City Council.

Territory:

City of Banning

Rates:

Except as provided herein, or in the Economic Development Business Retention Rate Agreement, all charges and provisions of the customer's Otherwise Applicable Tariff shall apply, except that the customer's Energy and Demand charges shall be subject to discount as follows:

Exhibit "A"

Year 1 – 20%
Year 2 – 10%

Special Conditions:

1. Term:

Economic Development Business Retention Rate Agreements entered into under this Schedule shall be for a single two-year term.

2. Otherwise Applicable Tariff:

The Utility's published electric rate schedule which otherwise applies to Customer for service provided under this Schedule.

3. Approval:

Application of this Schedule shall be subject to approval of the Electric Utility Director. The Electric Utility Director's approval shall be based upon standards and guidelines established, approved, and adopted by resolution of the Banning City Council. The standards and guidelines: 1) shall include but not be limited to the consideration of such factors as evidence that relocation is imminent, job retention, property tax increment, land use, City's business base, retention of a business within the Banning Electric Service Area and City's overall economic development strategic vision and 2) shall provide adequate protection against arbitrary application of the Schedule.

The Electric Utility Director's decision to disapprove application of this Schedule to a customer shall be appealable to the Banning City Council, not later than thirty days after Banning notifies the customer of the Electric Utility Director's decision. Customer shall file a written appeal with the Banning City Clerk setting forth the grounds on which the appeal is based. The Banning City Council shall consider the appeal within thirty (30) days after receipt of the written appeal, and shall affirm, modify or reverse the decision of the Electric Utility Director.

4. Agreement

The customer must sign the standard Economic Development Business Retention Rate Agreement, as approved by the Banning City Council, in order for the rates under this Schedule to be applicable. In addition to the other terms of this Schedule, the Economic Development Business Retention Rate Agreement shall require the customer to reimburse Banning for all rate reductions received under this Schedule, if the customer fails to maintain the required minimum load during the two-year term of the Agreement.

Exhibit "A"

5. Minimum Load:

All customers must agree to maintain a minimum level of load for two years from the date service is first rendered under this Schedule as set forth in the Economic Development Business Retention Rate Agreement.

6. State Mandated Benefits Charge:

The rates in Customer's Otherwise Applicable Tariff and under this Schedule are subject to a surcharge as adopted via City Council Resolution No. 2001-62, and such surcharge as in effect from time to time. The applicable Public Benefits Charge will be applied to the Customer's total electricity usage charges for the applicable billing period.

7. Miscellaneous Fees and Charges:

Rates charged pursuant to this Schedule shall be subject to any energy Users Taxes, Utility Users Taxes and any other governmental taxes, duties, or fees which are applicable to Electric Service provided to Customer by Banning. Rates are also subject to adjustment, as established and adopted by the Banning City Council in response to federal or state climate change laws renewable portfolio standards or other mandatory legislation. These adjustments may include but are not limited to charges to mitigate the impacts of greenhouse gas emissions or "green power" premiums. No discount shall be made to Customer for these fees and charges.

8. Agreement Deadline:

The start date of the Economic Development Business Retention Rate Agreement shall commence with the customer's first full billing cycle following approval of the Electric Utility Director.

9. Program Cap and Termination Date:

The total contract demand on this Schedule shall collectively not exceed 2 MW (megawatts) at any one time. Once this limit is reached, the rate will be closed to all customers, new or existing, until such time as qualified customers under the 2 MW Program Cap with an executed Economic Development Business Retention Rate Agreement expires thus allowing participation by additional qualified customers until a new 2 MW Program Cap is reached.

All Business Retention Rate Agreements must be executed prior to December 31, 2013 after which no further agreements will be executed. This Schedule will remain open until such time as the last agreement expires or terminates.

10. Restrictions:

Residential customers, Small Commercial customers, and federal, state or local governmental agencies are not qualified under this Schedule.

ECONOMIC DEVELOPMENT RATE AGREEMENT
FOR BUSINESS RETENTION OF ELECTRIC SERVICE CUSTOMER
(CUSTOMER'S NAME)

THIS BUSINESS RETENTION RATE AGREEMENT for Electric Service Customer is made and entered into this ____ day of _____, 20____ by and between _____ ("Customer"), and the CITY OF BANNING ("Banning"), a California general law city and municipal corporation organized and existing under the laws of the State of California, each hereinafter sometimes referred to individually as "Party" and collectively as "Parties."

RECITALS

This Agreement is made with reference to the following facts, among others:

- A. Customer is a commercial or industrial end-use electric customer that is currently served by Banning and was approved for eligibility by the Electric Utility Director, and that meets the applicability requirements of Banning's Electric Rate Schedule BR ("Schedule BR").
- B. Banning owns and operates a municipal utility, engaging in the business of generating, transmitting and distributing electric energy to its retail customers and others.
- C. Customer desires to enter into this electric service agreement pursuant to Schedule BR in order to receive a discount for Electric Service purchased during the term of this two (2) year Agreement.
- D. Banning desires to provide this discount to Customer to encourage Customer to remain in Banning's service territory, thereby continuing to generate additional revenue, which will reduce the costs to existing customers, as Banning's fixed costs will be allocated over a larger group of customers.

AGREEMENT

In consideration of the mutual covenants and promises in this Agreement, the Parties agree as follows:

1. **DEFINITIONS.** Terms used herein with initial capitalization, whether in singular or plural, shall have the meaning set forth in the Electric Rules except as defined below:
 - 1.1 **Agreement:** This Business Retention Rate Agreement for Electric Service Customer between Customer and Banning.
 - 1.2 **Authorized Representative:** The representative designated by each Party, in accordance with Section 13.1, to act on such Party's behalf with respect to those matters specified in this Agreement.
 - 1.3 **Base Period Usage:** Base Period Usage for Expanded Load Customers shall be the average monthly energy use and demand for the customer during the last three years.

1.4 Commencement Date: The date on which Banning shall begin charging Customer for Electric Service at the Electric Rate as such date may be established pursuant to Section 2.1 and may be tolled pursuant to Section 10.3, but not to exceed twelve (12) months from the Effective Date.

1.5 Current Peak Demand: As determined by averaging the Customer's annual peak demand of the past three years. If a Customer has not had service for at least three years, the maximum peak for the entire service period will be used.

1.6 Customer Sites: Customer's metered locations to which Banning shall provide Electric Service under this Agreement as listed in Exhibit "A".

1.7 Effective Date: The date this Agreement is executed by both parties, as set forth in the introductory paragraph of the Agreement.

1.8 Electric Rate: Those Customer's Otherwise Applicable Rate Schedule for Electric Service, less the discounts set forth in Subsection 4.2.

1.9 Electric Rules: Applies to all, or any combination of, Banning's "Electric Rules & Regulations", "Electric Utility Rate Schedule", and "Miscellaneous Utility Fees", as modified from time to time and adopted by Banning's City Council.

1.10 Electric Service: Energy, demand, substation, distribution and transmission service necessary to deliver such Energy to Customer's Points of Interconnection, and such other services that Banning is required to provide pursuant to this Agreement, the Electric Rules and any programs or services mandated by a state or federal regulatory agency, or Banning's City Council.

1.11 Electric Utility Director: The Director of the City of Banning's Electric Utility Department.

1.12 Energy: Electric energy, expressed in kilowatt-hours.

1.13 Interest Rate: The lesser of ten percent (10%) per annum or the maximum rate permitted by law.

1.14 Labor Dispute: A strike, walkout, lockout or other dispute between a Party's labor force and the Party.

1.15 Liquidated Damages: Damages owed by Customer to Banning as provided in Section 8 of this Agreement.

1.16 Minimum Charge: The amount as defined in Customer's Otherwise Applicable Rte Schedule.

1.17 Minimum Load: The minimum metered kilowatt input at the Point of Interconnection during one calendar month as averaged over a rolling one year period, as referenced in Subsection 4.5 below.

1.18 Otherwise Applicable Rate Schedule: Banning's published electric rate Schedule TOU or electric rate Schedule C, as applicable.

1.19 Point of Interconnection: The defined point where Banning's electric distribution facilities interconnect with Customer's account meters listed, and as such points may be depicted in Exhibit A.

1.20 Public Benefit Charge: The surcharge imposed on all Banning electric utility customers as established by Banning's City Council from time to time pursuant to California Public Utilities Code Section 385.

1.21 Term: The two (2) year period of this Agreement during which the Electric Rate is applicable beginning on the Commencement Date.

1.22 Time Period: The On-Peak, Mid-Peak or Off-Peak energy billing period as defined in the applicable Electric Utility Rate Schedules.

1.23 Uncontrollable Force: Any cause beyond the control of the Party affected and asserting excuse from performance, including but not restricted to flood, drought, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, labor dispute, labor or material shortage, sabotage, restraint by court order or public authority, and action or inaction by, or failure to obtain the necessary authorizations or approvals from, any governmental agency or authority which by exercise of due diligence such Party could not reasonably have been expected to avoid and to the extent which by exercise of due diligence it has been unable to overcome. The Party claiming such Uncontrollable Force must give the other Party at least ten (10) days written notice of the commencement of such cause, and keep the other Party informed concerning the continuance of such cause.

2. COMMENCEMENT DATE; TERM.

2.1 Commence After Notice: Banning shall begin providing Electric Service at the Electric Rate with the next regular billing period after Customer notifies Banning in writing of the date that Electric Service should begin under Schedule BR ("Commencement Date"), which date shall be not more than twelve (12) months following the Effective Date.

2.2 Estimated Date: Customer estimates that the Commencement Date for Electric Service under Schedule BR shall commence with the next regular billing period beginning after _____ and shall provide Banning with written notice of any change in such date no later than five (5) business days before such date.

2.3 Term: Except as provided in Subsection 10.3, the Term of this Agreement shall be two (2) years from the Commencement Date.

2.4 Termination: This Agreement may be terminated (subject to payment of Liquidated Damages) upon written notice as follows:

2.4.1 Termination at Customer's Request: On the sixtieth (60th) day after Banning receives notice by Customer requesting termination of this Agreement.

2.4.2 Termination for Nonpayment: On the thirtieth (30th) day after Banning sends notice of nonpayment to Customer, if Customer fails to pay any amount due hereunder, under Schedule BR or the Electric Rate Schedules.

2.4.3 Termination for Noncompliance: On the fifth (5th) day after Banning sends notice of noncompliance to Customer, if Customer fails to comply with any term or condition of Schedule BR or this Agreement, or if any representation made by Customer in this Agreement is untrue in any material respect, or if Customer ceases the operations to which this Agreement applies or moves its operations out of Banning's service territory.

2.4.4 Termination for Ineligibility: On the fifth (5th) day after Banning sends notice of ineligibility to Customer, if Banning determines that Customer was not eligible for Schedule BR when the Agreement was signed, that Customer has become ineligible for Schedule BR, or that any material statement in Customer's Affidavit of Eligibility pursuant to Section 3 submitted to the Electric Utility Director was untrue.

2.4.5 Termination for Failure to Maintain Minimum Load: On the ninetieth (90th) day after Banning sends such notice to Customer of failure to maintain Minimum Load, if Customer fails to maintain its Minimum Load during any regular billing period during the Term of this Agreement and if during such ninety (90) day notice period Customer fails to increase and maintain its load to the Minimum Load and fails to demonstrate to Banning's satisfaction that it will continue to maintain its Minimum Load for the remaining Term of this Agreement.

2.4.6 Termination for Failure to Commence Service: Banning may terminate this Agreement effective upon Banning giving written notice to Customer, if Customer does not begin service within twelve (12) months after the Effective Date.

2.5 Obligations Continuing: Termination of this Agreement shall not relieve either Party of its obligations incurred prior to termination.

2.6 Existing Rate Schedule: Upon termination of this Agreement, Banning's obligations to provide Electric Service to Customer and the rates and rules applicable to Banning's provision of such Electric Service shall be pursuant to Banning's then existing Electric Rate Schedules.

2.7 Nonrenewable: This Agreement is not renewable at the expiration or termination of its Term.

3. CUSTOMER AFFIDAVIT OF ELIGIBILITY.

Customer represents and warrants to Banning that it satisfies the criteria for Schedule BR eligibility as indicated by Customer's initials below **[Customer must initial Subsections 3.1 and 3.2]:**

3.1 Customer Qualifications: []

3.1.1 Customer has a projected minimum monthly electrical demand of at least one hundred (100) kW and an annual peak demand of at least two hundred (200) kW; and

3.1.2 Customer provides an affidavit that "but for" the business retention rate incentives, in combination with other city-sponsored incentives, such customer would relocate outside of Banning's electric service territory; and

3.1.3 Customer provides substantial evidence demonstrating the business has considered viable locations outside of Banning's service territory, including, but not limited to incentive offer letters from competing states, local jurisdictions and economic development organizations, and/or real estate sale and lease agreements for competing sites;

3.2 Representation: [] Customer represents and warrants under penalty of perjury under the laws of the State of California that all covenants, statements of facts, representations, and documents provided to Banning and the Electric Utility Director with respect to Customer's eligibility for Schedule BR are true and correct.

4. ELECTRIC SERVICE AND RATES.

4.1 Electric Service Requirements: Customer agrees to purchase from Banning and Banning agrees to sell to Customer at the Electric Rate set forth herein, all of Customer's Electric Service requirements at Customer's Site(s) including Electric Service necessary to deliver such Energy to Customer's Points of Interconnection, throughout the Term of this Agreement. Except as expressly provided in this Agreement, Banning shall provide such Electric Service in accordance with the Electric Rules. In the event any term of this Agreement adds to, varies or contradicts the Electric Rules, the terms of this Agreement shall prevail.

4.2 Electric Rate: Customer shall pay Banning for Electric Service at Customer's Otherwise Applicable Rate Schedule beginning with the Commencement Date during the period set forth below. The discount set forth below applies towards the applicable Energy Charge and Demand Charge of Customer's Otherwise Applicable Rate Schedule:

| | |
|--------|-----|
| Year 1 | 20% |
| Year 2 | 10% |

In addition to the Electric Rate, Customer shall pay the Miscellaneous Fees and Taxes and Miscellaneous Charges, as set forth in Subsections 4.3 and 7.2, respectively.

4.3 Miscellaneous Fees and Taxes: All charges for Electric Service pursuant to this Agreement shall be subject to Banning's Public Benefit Charges, any applicable state or federal energy Tax, and any other governmental taxes, duties, or fees, as may be revised from time to time by the relevant regulatory authority, applicable to Electric Service provided by Banning.

4.4 Service to Others: The Electric Service provided herein is expressly reserved for Customer's sole use. Customer is prohibited from transferring, providing or reselling all or any portion of such service to any third party or parties.

4.5 Covenant to Maintain Minimum Load: By initialing Subsection 3.1 above, respectively, Customer covenants to maintain the Minimum Load designated in Subsection 4.5.1 throughout the Term of this Agreement.

4.5.1 The Minimum Load for a Customer representing and warranting its eligibility for Schedule BR under Subsection 3.1 of this Agreement shall be a minimum monthly demand of at least one hundred (100) kilowatts and an annual peak demand of at least two hundred (200) kilowatts.

5. METERING SERVICES.

5.1 Existing Accounts: Banning shall maintain, service and replace (as needed), and retain ownership of all electric meters at the existing Customer Site(s) as reflected in Exhibit A. These meter services and meters shall be provided free of charge, so long as such meters are standard meters consistent with those provided to similar Banning non-residential customers.

5.2 New Accounts: This Agreement applies only to the meters and accounts at Customer's Site existing as of the Effective Date and reflected in Exhibit A. All new, modified or upgraded service, meters, and accounts shall be added in accordance with the terms, conditions, costs, and rates in the Electric Rules.

6. BILLING AND PAYMENT.

6.1 Procedure: Unless otherwise specified in this Agreement, all billing for Electric Service shall be rendered and payments collected in accordance with the Electric Rules.

6.2 Adjustments of Bills for Undercharges: Banning reserves the right to adjust any Customer bill for undercharges, computed and billed in accordance with the Electric Rules in effect at the discovery of an error.

7. PUBLIC BENEFIT AND MISCELLANEOUS CHARGES.

7.1 Public Benefit Charge: In accordance with the requirements of California Public Utilities Code section 385, Banning's City Council adopted a usage based Public Benefit Charge equal to 2.85% of electricity costs, which is generally applicable to all Banning electric customers. Customer shall pay the Public Benefit Charge in addition to the Electric Rate, on a monthly basis so long as the Public Benefit Charge remains in effect in Banning.

7.2 Miscellaneous Charges: Customer shall pay any other applicable new fees or surcharges imposed by Banning on other non-residential customers in accordance with Customer's Otherwise Applicable Rate Schedule, unless specifically exempted by Banning's City Council, after the Effective Date of this Agreement, in the same manner and amounts, as set forth in the Electric Rules, and any premiums or surcharges as established by Banning's City Council in response to federal or state climate change laws, renewable portfolio standards, or other mandated legislation. These charges shall include but not be limited to charges to mitigate the impacts of greenhouse gas emissions or "green power" premiums.

8. LIQUIDATED DAMAGES.

8.1 Liquidated Damages for Early Termination: Upon termination of this Agreement before the end of its Term, Customer shall pay Banning Liquidated Damages. The payment of Liquidated Damages is required to ensure that neither Banning nor its ratepayers are

financially or otherwise damaged if this Agreement is prematurely terminated before the end of its Term.

8.2 Reasonable Approximation: It would be extremely difficult for the Parties to identify the amounts of increased or additional costs attributable to early termination of this Agreement. The Parties agree the Liquidated Damages specified herein are a reasonable approximation of damages which Banning and its ratepayers may incur as a result of such early termination, and that the damage amount does not represent a penalty.

8.3 Amount: Liquidated Damages under this Agreement shall be an amount equal to the difference between (i) the amount the Customer would have paid for its Electric Service if billed at the Otherwise Applicable Rate Schedule from the Commencement Date to the date of termination, and (ii) the amount billed to Customer under this Agreement and Schedule BR during the same period plus interest (at the Interest Rate), retroactively applied on the foregoing amounts from the original billing due dates to the date of payment.

8.4 Revert to Applicable Rates: After termination of this Agreement, Customer shall be billed at the Otherwise Applicable Rate Schedule.

8.5 Security: Prior to the Effective Date or at any time during the Term, Banning, through its Authorized Representative, may in its discretion require Customer to establish a letter of credit or other security as a condition to providing Electric Service under Schedule BR to secure repayment of any Liquidated Damages.

9. ASSIGNMENT OF INTERESTS.

9.1 Approval of Assignment Required: This Agreement is personal to Customer as served by Banning, and Customer shall not assign or transfer this Agreement or assign or transfer any privilege hereunder, or interest herein, in whole or in part ("assign") without the prior written consent of Banning, which consent shall not be unreasonably withheld. Any attempt by Customer to make such an assignment without Banning's consent shall be void ab initio, shall confer no right on any third party, and shall entitle Banning to terminate this Agreement on five (5) days written notice to Customer pursuant to Subsection 2.4.3.

9.2 Grounds for Disapproval: It shall not be unreasonable for Banning to withhold its consent to a request for assignment that does not meet all of the following requirements:

9.2.1 The request to Banning must be given in writing no less than sixty (60) days prior to the proposed effective date of such assignment;

9.2.2 The written request must include documentation satisfactory to Banning that the proposed assignee's Electric Service usage at the Customer's Site for the Term of the Agreement shall be substantially identical to or greater than Customer's Energy Usage;

9.2.3 The written request shall include documentation and security, satisfactory to Banning, that the assignee's creditworthiness is as good as or better than Customer's creditworthiness as of the Effective Date; and

9.2.4 Assignee shall execute such documentation as Banning shall require expressing assignee's assumption of all of Customer's obligations, duties and liabilities under this Agreement.

9.2.5 Customer makes payment of \$500.00 to Banning in advance of Banning's review of the assignment request as compensation for Banning's administrative costs of such review.

10. UNCONTROLLABLE FORCE.

10.1 No Default for Uncontrollable Force: No Party shall be considered to be in default in the performance of any obligation under this Agreement when and to the extent that failure of performance shall be caused by an Uncontrollable Force. Provided that no Party shall be relieved by operation of this section of any obligation to pay any payments then due or for Electric Service provided prior to the Uncontrollable Force.

10.2 Conditions for Excusing Performance: A Party rendered unable to fulfill all or any part of its obligations by reason of an Uncontrollable Force shall be excused from its performance affected by the Uncontrollable Force to the extent the following conditions are satisfied:

10.2.1 The suspension of performance is of no greater scope and no longer duration than is required by the Uncontrollable Force.

10.2.2 The non-performing Party uses its best efforts to cure its inability to perform; provided that this Subsection shall not require the settlement of any labor dispute on terms, which, in the sole judgment of the Party involved in the labor dispute, are contrary to its interest. Both Parties understand and agree that the settlement of labor disputes shall be at the sole discretion of the Party having the labor dispute.

10.2.3 The non-performing Party shall give prompt written notice of the occurrence and particulars of the Uncontrollable Force, no later than ten (10) days following commencement of the claimed Uncontrollable Force, and the date on which the non-performing Party gives such notice shall be the date from which the non-performing Party's performance is excused. The notice shall estimate the period of continuance of the Uncontrollable Force.

10.2.4 The non-performing Party shall keep the other Party informed concerning the continuance of the delay and the conclusion thereof.

10.3 Tolling of Agreement: Upon the occurrence of an Uncontrollable Force, as provided in this Section 10, that prevents Customer from performing all or any part of its obligations under this Agreement, Customer may request that Banning suspend the terms of this Agreement for the duration of the Uncontrollable Force. Customer will be billed at the Otherwise Applicable Rate Schedule for the duration of the suspension of this Agreement. When Customer is able to resume its obligations under this Agreement, Customer shall give Banning written notice to that effect immediately. Resumption of the terms of this Agreement shall commence with the next regularly scheduled billing period. In addition, the Term of this Agreement will be extended for up to twelve (12) months beyond the Term originally established in this Agreement by the length of time this Agreement was suspended.

10.4 Termination for Other Cause: The occurrence of an Uncontrollable Force shall not: (i) prevent Banning from terminating this Agreement in accordance with Subsections 2.4.2, 2.4.3, 2.4.4, 2.4.5, or 2.4.6, or (ii) except as provided under Subsection 10.3, extend the period any level of discount is available as provided in Subsection 4.2.

11. INDEMNITY.

11.1 Indemnity and Hold Harmless: Except for any liens, claims, costs, damages, liability or loss resulting from Willful Action, as defined herein, Customer agrees to indemnify, protect, defend, and hold harmless Banning, and Banning's employees, officers, managers, agents and City Council Members from and against any claim for damage, charge, lawsuit, action, judicial, administrative, regulatory or arbitration proceeding, damage, cost, expense (including reasonable attorney and expert fees), judgment, civil fine and penalties, liabilities or losses of any kind or nature whatsoever whether actual, threatened or alleged, which arise out of, pertain to, or relate to, or are a consequence of, or are attributable to, or are in any manner connected with this Agreement but only in proportion to and to the extent such liens, claims, damages, liability or loss are caused by or result from the negligent acts, errors, or omissions of Customer, its employees, officers, or agents. This indemnification provision shall apply to any acts, omissions, negligence, recklessness, or willful misconduct, whether active or passive, on the part of the Customer or anyone employed or working under the Customer.

11.2 Willful Action: "Willful Action" shall be defined as an action taken or not taken by a Party at the direction of its directors, officers, or employees where:

11.2.1 An action is knowingly or intentionally taken or not taken with conscious indifference to the consequences thereof or with intent that injury or damage would probably result therefrom; or

11.2.2 An action has been determined by final arbitration, judgment, or judicial decree to be a material default under this Agreement and occurs beyond the time specified for curing such default or, if no time to cure is specified therein, occurs or continues thereafter beyond a reasonable time to cure such default; or

11.2.3 An action is knowingly or intentionally taken or not taken with the knowledge of material default under this Agreement.

11.3 Limitation: Willful Action does not include any act or failure to act which is merely involuntary, accidental, negligent, or performed (or not performed).

11.4 Survival: The provisions of this Section 11 shall be binding upon the Parties to the full extent permitted by law. The obligations set forth herein are binding on the successors, assigns and heirs of Customer and shall survive termination of this Agreement.

12. RELATIONSHIP OF PARTIES, THIRD PARTIES AND SUCCESSORS.

12.1 Partnership: This Agreement does not create any association, partnership, joint venture or agency between the Parties or their successors in interest. Any correspondence or other references to "partner" or other similar terms will not be deemed to alter, amend or change the relationship between the Parties unless there is a formal written

agreement specifically detailing the rights, liabilities and obligations of the Parties as to a new, specifically defined legal relationship.

12.2 Dedication of Facilities: No undertaking by one Party to the other Party under this Agreement shall constitute the dedication of the electric system or any portion thereof by the undertaking Party to the public or to the other Party, and it is understood and agreed that any such undertaking under any provision of this Agreement by a Party shall cease upon the termination of such Party's obligations under this Agreement.

12.3 Third Party Beneficiaries: This Agreement shall not be construed to create rights in or to grant remedies to, any third party as a beneficiary of this Agreement or of any duty, obligation or undertaking established in this Agreement.

12.4 Successors: This Agreement shall be binding upon and inure to the benefit of the successors, heirs, administrators, executors and assigns of the Parties.

13. REPRESENTATIVES AND NOTICES.

13.1 Representatives: Upon the Effective Date of the Agreement, the Electrical Utilities Director for Banning, and person identified on the execution page for Customer shall be the Authorized Representatives who will act on its behalf in the implementation of this Agreement. Either Party may at any time change, via written notice, the designation of its Authorized Representative to the other Party.

13.2 Form of Notice: Any notice and other communication required or permitted to be given under this Agreement shall be deemed given: (i) when hand delivered; or (ii) one (1) business day after pickup by Federal Express or similar overnight delivery service properly addressed as provided below; or (iii) three (3) business days after such notice or communication shall have been deposited with the United States Postal Service, postage prepaid and properly addressed as provided below; or (iv) when sent by facsimile transmission to the fax numbers provided below, with receipt of such fax confirmed telephonically, provided that on the same day such notice or communication shall also be hand delivered or sent by overnight delivery pursuant to this Subsection.

13.3 Addresses of Parties: Notices to Banning should be given to: Electric Utility Director, City of Banning, 99 East Ramsey Street, Banning, CA 92220; Notices to Customer shall be given to the addressee at the location shown on the execution page.

13.4 Changes of Address: Either Party may change such address by giving notice to the other Party as provided herein.

14. ENFORCEMENT

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

14.2 Governing Law: This Agreement shall be interpreted, governed by, and construed under the laws of the State of California or the laws of the United States as applicable without regard to the conflicts of laws or rules thereof. Any action at law or in equity brought by either of the Parties for the purpose of enforcing a right or rights provided in this Agreement shall be tried in a court of proper jurisdiction in the County of Riverside, State of California, and the Parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county.

14.3 Damage Limitation: Banning shall not be liable for any consequential, incidental, indirect, or special damages, whether in contract, tort, or strict liability including, but not limited to, lost profits, property damage, personal injury and loss of power, arising out of or in any way related to power outages, other electric service interruption(s), Banning's performance or nonperformance of its obligations under this Agreement or termination of this Agreement.

14.4 Attorney Fees: If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees, whether or not the matter proceeds to judgment.

14.5 Disputes: All disputes regarding questions of fact, opinions or interpretation of provisions in this Agreement shall be submitted to the Authorized Representatives. If the Authorized Representatives are unable to resolve the dispute, the matter shall be referred to the individuals designated to receive notices pursuant to Section 13. Nothing in this Agreement precludes either Party from taking any lawful action it deems appropriate to enforce its rights.

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

15. MISCELLANEOUS.

15.1 Integration and Amendment: This Agreement contains the final, complete, and exclusive statement of the terms of the agreement between the Parties pertaining to the subject matter of this Agreement, and supersedes all prior and contemporaneous oral or written communications of the Parties. Neither Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty of the other Party outside those expressly set forth in this Agreement. Ambiguities or uncertainties in the wording of this Agreement shall not be construed for or against either Party, but shall be interpreted in a manner that most accurately reflects the original intent of the Parties, and is consistent with the nature of the Parties' rights and obligations. No modification of this Agreement shall be valid or binding unless in writing duly signed by both Parties.

Exhibit "B"

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

15.3 Exhibits: All documents referred to below and attached to this Agreement as Exhibits are incorporated into and made a part of this Agreement. Exhibit "A": Customer Site(s); Metered Accounts

15.4 Corporate Authority: The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

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

CITY:

CITY OF BANNING, a municipal corporation

City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

David Aleshire, City Attorney

CUSTOMER:

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

Address for Notice Representative:

Name: _____

Street: _____

City: _____

Telephone: _____

Fax: _____

Email: _____

Two signatures are required if a corporation

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

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF

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

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

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

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

CAPACITY CLAIMED BY SIGNER

INDIVIDUAL
 CORPORATE OFFICER

PARTNER(S) LIMITED
 GENERAL
 ATTORNEY-IN-FACT
 TRUSTEE(S)
 GUARDIAN/CONSERVATOR
 OTHER _____

DESCRIPTION OF ATTACHED DOCUMENT

SIGNER IS REPRESENTING:
(NAME OF PERSON(S) OR ENTITY(IES))

SIGNER(S) OTHER THAN NAMED ABOVE

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF

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

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

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

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

CAPACITY CLAIMED BY SIGNER

INDIVIDUAL

CORPORATE OFFICER

PARTNER(S)

LIMITED
GENERAL

ATTORNEY-IN-FACT

TRUSTEE(S)

GUARDIAN/CONSERVATOR

OTHER _____

DESCRIPTION OF ATTACHED DOCUMENT

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER IS REPRESENTING:

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

SIGNER(S) OTHER THAN NAMED ABOVE

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EXHIBIT "A"
CUSTOMER SITE(S); METERED ACCOUNTS

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