

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

June 28, 2011  
**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, Community Redevelopment Agency, and Banning Utility Authority and 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 – Pastor Carlton Anderson, Fountain of Life Church
- Pledge of Allegiance
- Roll Call – Councilmembers Botts, Franklin, Machisic, Robinson, Mayor Hanna

**II. REPORT ON CLOSED SESSION**

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

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

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

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

**INTRODUCTION:**

1. Introduction of “Citizens on Patrol Volunteers” – Chief Purvis (ORAL)

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

#### **IV. CONSENT ITEMS**

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

**Motion: That the City Council approve Consent Item 1 through 7**

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

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

1.	Approval of Minutes – Joint Meeting – 06/14/11.....	1
2.	Approval of Minutes – Regular Meeting – 06/14/11 .....	2
3.	Report of Investments for April 2011.....	10
4.	Resolution No. 2011-35, Approving the State Grant Agreement for the California Department of Resources Recycling and Recovery (Cal Recycle) Targeted Recycled Asphalt Concrete (RAC) Grant and Authorizing the City Manager to Execute the Grant Agreement with Cal Recycle. ....	20
5.	Resolution No. 2011-52, Authorizing the Acceptance of the FY 10-11 Special Distribution Fund Grant in the Amount of \$564,951.00 and Authorizing the Expenditures as Outlined in Addendum A.....	55
6.	Resolution No. 2011-58, Authorizing staff to Submit an Application for Proposition 84 Statewide Park Development and Community Revitalization Program (Statewide Park Program) for the Repplier Park Playhouse Bowl Project and Authorizing the City Engineer to execute the application that Engineering Division staff will submit to the State of California, Department of Parks and Recreation .....	60
7.	Resolution No. 2011-61, Approving Cooperation Agreement for the Community Development Block Grant (CDBG), Home Investment Partnership Program, and Emergency Shelter Grant for Fiscal Years 2012-2013, 2013-2014, 2014-2015 .....	65

- Open for Public Comments
- Make Motion

#### **V. PUBLIC HEARINGS**

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

1.	Resolution No. 2011-53, Amending the Franchise Agreement between the City and Waste Management of the Inland Empire for the Collection, Transportation and Disposal of Solid Waste.
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Staff Report .....

**Recommendation: That the City Council adopt Resolution No. 2011-53, Amending the Franchise Agreement between the City and Waste Management of the Inland Empire for the collection, Transportation and Disposal of Solid Waste as set forth in the City of Banning's Franchise Agreement with Waste Management of the Inland Empire.**

**RECESS REGULAR CITY COUNCIL MEETING AND CALL TO ORDER A JOINT MEETING OF THE BANNING CITY COUNCIL, THE COMMUNITY REDEVELOPMENT AGENCY AND THE BANNING UTILITY AUTHORITY.**

**VI. REPORTS OF OFFICERS**

1. Adoption of Resolutions Related to the Second Year of the Two Year Budget Plan for Fiscal Year 2011-2012 for the City, Redevelopment Agency and Utility Authority ..... 180

Recommendations:

- a.) That the City Council adopt Resolution No. 2011-54, Adopting the Annual Budget for the Fiscal Period July 1, 2011 through June 30, 2012 and Making appropriations to Meet Expenses Approved Therein and Approving Budgetary Policies and Recommendations.
- b.) That the Banning Utility Authority adopt Resolution No. 2011-10UA, Adopting the Budget Plan for the Fiscal Period July 1, 2011 through June 30, 2012 and Making Appropriations to Meet Expenses Approved Therein.
- c.) That the Agency Board adopt CRA Resolution No. 2011-24, Adopting the Budget Plan for the Fiscal Period July 1, 2011 through June 30, 2012 and Making Appropriations to Meet Expenses Approved Therein.
- d.) That the City Council adopt Resolution No. 2011-55, Establishing An Appropriations Limit for the Fiscal Year 2011, Pursuant to Article XIIIIB of the California Constitution.
- e.) That the City Council adopt Resolution No. 2011-59, Amending the Classification & Compensation Plan for the City of Banning.

**Adjourn Joint Meeting of the Banning City Council, Community Redevelopment Agency and the Banning Utility Authority and Call to Order a Joint Meeting of the Banning City Council and the Banning Utility Authority.**

**VII. PUBLIC HEARINGS**

1. Banning Utility Authority Resolution No. 2011-09UA, Adopting the 2010 Urban Water Management Plan and Approving the Submittal to the California Department of Water Resources ..... 204

Recommendation: That the Authority Board adopt Resolution No. 2011-09UA, Adopting the 2010 Urban Water Management Plan and Approving the Submittal to the California Department of Water Resources.

- Open for Public Comments
- Make Motion

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

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

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

**IX. ITEMS FOR FUTURE AGENDAS**

New Items –

Pending Items – City Council

1. Schedule Meetings with Our State and County Elected Officials
2. Review of Fees and Rates
3. Policy Discussion Re. Code Enforcement *(study session – July 26<sup>th</sup> Tentative)*
4. Update on Shop Local Program
5. FEMA Training – Senior Officials *(Aug. 30, 2011)*
6. Speaker Cards
7. Update on Loans

**X. 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 (951) 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

06/14/2011  
JOINT MEETING

A joint meeting of the Banning City Council and the Community Redevelopment Agency was called to order by Mayor Hanna on June 14, 2011 at 4:46 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

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

COUNCIL MEMBERS ABSENT: None

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

## CLOSED SESSION

City Attorney said that the City Council and Agency Board will meet in closed session pursuant to the provisions of Government Code Section 54956.8 regarding real property negotiations concerning 128-130 N. San Gorgonio, and pursuant to the provisions of Government Code Section 54956.9 regarding two cases of potential litigation. We also need to add one item that was not listed which is the Smith Litigation matter to give a status report on that item.

Motion Machisic/Robinson to add the Smith Litigation Matter to the agenda with the finding that the need to take action arose subsequent to the posting of the agenda. Motion carried, all in favor.

Mayor Hanna opened the item for public comments. There were none. Meeting went into closed session at 4:47 p.m. returned to regular session at 5:05 p.m. The meeting reconvened at 5:57 p.m. and returned to regular session at 6:28 p.m.

City Attorney reported that the City Council and Agency Board met in closed session to discuss real property negotiations with the Cultural Alliance on their lease and a status report was given concerning negotiations and direction was given for further negotiations and no reportable action was taken.

## ADJOURNMENT

By common consent the meeting adjourned at 6:30 p.m.

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Marie A. Calderon, City Clerk

MINUTES  
CITY COUNCIL  
BANNING, CALIFORNIA

06/14/11  
REGULAR MEETING

A regular meeting of the Banning City Council and a Joint Meeting of the Banning City Council and the Banning Utility Authority was called to order by Mayor Hanna on June 14, 2011 at 5:13 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

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

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Andrew Takata, City Manager  
David J. Aleshire, City Attorney  
Duane Burk, Public Works Director  
June Overholt, Administrative Services Director  
Fred Mason, Electric Utility Director  
Leonard Purvis, Police Chief  
Jeff Stowells, Fire Services Battalion Chief  
Marie A. Calderon, City Clerk

The invocation was given by Dr. Roy Wortman, First Landmark Missionary Baptist Church. Councilmember Robinson invited the audience to join him in the Pledge of Allegiance to the Flag.

## REPORT ON CLOSED SESSION

City Attorney stated that the City Council met in closed session and discussed one matter involving litigation regarding the Smith Case that has been filed and a status report was given and no action was taken. In regards to the two cases regarding potential litigation there was no discussion. The Agency Board was in discussion regarding real property negotiations concerning 128-130 N. San Gorgonio and that item was not completed and the Agency Board will return to closed session at the end of the meeting to continue that discussion.

## PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS/APPOINTMENTS

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

Bill Dickson resident of Banning addressed the Council regarding a special event coming up called "Doo Wop Sock Hop - A Return to the Swinging 50's" to benefit Tender Loving Critters. This will be held on June 25, 2011 at 4:00 p.m. at the Eagles, 5200 W. Ramsey Street. There will be different contests for the best 50's Costume, "Best Jitter Bug/Swing, Bubble Gum

Blowing and Hula Hoop. So everyone come out and support this event to support Ellen Carr who has really given her heart and soul to the community and our animals.

Yvonne De Roule resident of Banning addressed the Council regarding problems in her neighborhood in a one block area with run-down homes, trucks being working on, overgrown yards, live and dead weeds, and tree branches growing out over the street. She stated that she went to Code Enforcement and found out the way you get anything done is to get the addresses of these particular places and then they will come out and look at them eventually. You have to write a letter to Code Enforcement and weeks later you get someone to come and look at them. She also found out that there is only one Code Enforcement Officer in all Banning and he cannot cover that complete area. She thinks that where she lives the officer never got any further than Sunset. She said she knows that we are having our 100<sup>th</sup> Anniversary and she has lived here for almost 30 years and she is very interested in that and thinks it is wonderful but she had a visitor come and spend some time and they took a walk around her block and she was so embarrassed the way it was looking and she couldn't believe it. She knows that the City over the years has spent a lot of money on the east end of the city trying to make it look like a nice place then she finds out about having only one Code Enforcement Officer. She was also told that the Fire Department takes care of some of the problems but found out that the system with the Fire Department was that they write a letter to the property owner telling them that they have to clean up their property and so nothing happens and a month later they send out another letter and that is the end of it and if the property owner does not clean it up, they will do it and charge the property owner and they will not do that anymore because the City has no money to do it and that is the end of it.

Mayor Hanna asked Mrs. De Roule to speak with the City Manager so that he could clarify the issue and further investigate the matter.

David Kealy, 1314 Laguna Seca Court addressed the Council stating that he was following up to the Art Hop that was held recently and read a letter from Kenneth D. Summers of Desert Hot Springs regarding the geocaching event (see Exhibit A). Mr. Kealy said that they met all of their objectives in promoting the Art Hop and they had a lot of people who came from far and near.

Charlene Sakurai speaking as the Chair of Passcom addressed the Council stating that they had a meeting today with the Coroner for Riverside County and he gave a wonderful program about the County's Mass-Casualty Plan. They found out that there are two coroner's offices with one in Perris and one in Indio. The office in Indio can under optimal conditions house about 100 bodies and the one in Perris a few less but it is a smaller building. In case of a disaster on the order of Japan or Joplin or whatever the Perris one can take up to 3,000 and you can pretty much triple what goes into the one in Indio. This mass fatality plan involves the work of numerous groups and it was really based on a plan done in another state and now we have one in place in Riverside County. He stressed several times that an earthquake of the magnitude of 8 or 9 is a great concern to everybody but they are not worried about it because that is something that they can take care of because it is localized and they can call in federal and state resources and counties and everybody has agreements to help each other. It is the pandemic that really scares them because there is no control over that and he said that the closest one that they have come to recently was the H1N1 but that is not over. In talking to him later he said that people hear about it and then it doesn't get in the news very often and then we forget and

people are not getting vaccinated for the H1N1 and not just following up on it and that can kill like 30,000 in one county at a time and if that happens it is going to happen in San Bernardino, in San Diego and we have no one to call on for help and that is the issue. She thinks that in the long run the lesson for the general community is if you are to get flu vaccines or any kind of a vaccine, you are just not helping yourself and your family but you are helping the entire community. We should take it upon ourselves to do that and do it on an annual basis if necessary. She feels that this would be a wonderful presentation to have at a City Council meeting or at another time to have the coroner come.

#### CONSENT ITEMS

1. Approval of Minutes – Joint Meeting – 05/24/11

Recommendation: That the minutes of the joint meeting of May 24, 2011 be approved.

2. Approval of Minutes – Regular Meeting – 05/24/11

Recommendation: That the minutes of the regular meeting of May 24, 2011 be approved.

3. Amending the Existing Contract with Synagro West, LLC for sludge removal/hauling services for an additional amount of \$15,000.00.

Recommendation: That the City Council amend the existing contract with Synagro West, LLC.

4. Ordinance No. 1438 – 2<sup>nd</sup> Reading: An Ordinance of the City Council of the City of Banning Amending the Banning Ordinance Code to Redesignate the Parks and Recreation Committee to a Commission and Amending Section 2.40.030 – Appointment of Members.

Recommendation: That Ordinance No. 1438 pass its second reading and be adopted.

5. Resolution No. 2011-48, Awarding the Bid for the Lighting Retrofit at City Hall to Regency-Pacific Development Corp of Beaumont, CA in the Amount Not to Exceed \$22,075.00 including taxes.

Recommendation: That the City Council adopt Resolution No. 2011-48.

6. Resolution No. 2011-50, Rejecting All Bids for Project No. 2011-02, Street and Electrical Improvements on Ramsey Street, Martin Street and Williams Street.

Recommendation: That the City Council adopt Resolution No. 2011-50.

7. Approving Amendments to the Administrative Policy B-21 and Approving the City's General Fund Emergency Contingency Commitment of Fund Balance in the General Fund.

Recommendation: That the City Council adopt: a) Resolution No. 2011-57, Approving Amendments to Administrative Policy B-21 regarding various budget and fiscal related policies including the “Fund Balance Policy for the General Fund; and b) Resolution No. 2011-56, Approving the City of Banning General Fund Emergency Contingency Commitment of Fund Balance for the General Fund.

8. Approving Contracts for Weed Abatement Within the City Up to a Total of \$65,000.00 the Amount Budgeted in the Fiscal Year 2011-2012 Budget.

Recommendation: That the City Council approve the contracts for weed abatement, so if a property owner does not complete weed abatement per Ordinance No. 969, the City can complete the work and bill the owner.

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

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

#### CONSENT ITEM

Mayor Hanna noted that in regards to the Consent Item No. 2 she will official abstain. This is related to the Pardee Development and because her home is within 500 feet of Pardee’s proposed development she cannot vote or be involved in any discussion regarding Pardee.

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

1. Resolution No. 2011-04UA, “Approving the Maintenance and Services Agreement with Pascal & Ludwig Constructors of Ontario, CA in the Amount Not to Exceed \$18,985.00 for the Repair of the City of Banning’s Wastewater Treatment Plant Bar Screen Rake and Approving the Purchase of All Parts & Materials for the Repair and Approving the purchase of the necessary parts and materials from Flo-Systems, Inc. in the amount of \$66,755.12.

**Motion Machisic/Robinson to approve Consent Item No. 1. Motion carried, all in favor.**

2. Utility Resolution No. 2011-08 UA, Amending the Professional Services Agreement for the 2010 Urban Water Management Plan Update to Include Additional Services.

**Motion Machisic/Robinson to approve Consent Item No. 2. Motion carried with one abstention.**

Mayor Hanna adjourned the Joint Meeting of the Banning City Council and the Banning Utility Authority and reconvened the regular City Council Meeting.

#### PUBLIC HEARINGS

1. Resolution No. 2011-46, Confirming a Diagram and the Levy and Collection of Assessments within the City of Banning's Landscape Maintenance District No. 1 for Fiscal Year 2011/2012.  
(Staff Report – Duane Burk, Public Works Director)

Mr. Burk addressed the Council giving the staff report as contained in the agenda packet. He also gave a short power-point presentation on this item giving a brief history of the District and the maintenance of certain landscape areas within subdivisions that are part of the Landscape Maintenance District. He said last year staff asked that City crews be allowed to do the work as an attempt to help our General Fund Budget and this is the first year that we have accomplished that so it is a little different. He stated that annual assessment charge for the District will range from \$95.07 to \$192.66 which represents an increase of 0.56% based on the average Consumer Price Index percentage increase over the previous fiscal year. The Public Works Department staff will manage the district in-house and will continue to maintain Landscape Maintenance District No. 1. The labor in Public Works was \$84,158.00, the utilities – electric and water was \$32,000.00, miscellaneous - \$15,000 for a total approximate cost of \$131,290.00 per year. The approximate revenue for Fiscal Year 2011/2012 is \$131,260.00.

There was some Council discussion in regards to costs for Landscape Maintenance District No. 1.

Mayor Hanna opened the public hearing on this item. Seeing no one come forward she closed the public hearing on this item.

**Motion Robinson/Machisic that the City Council adopt Resolution No. 2011-46, Confirming a Diagram and the Levy and Collection of Assessments within the City of Banning's Landscape Maintenance District No. 1 for Fiscal Year 2011/2012, pursuant to the provisions of Part 2 of Division 15 of the California Streets and Highways Code and Authorizing and directing the City Clerk to file the diagram and assessment with the Riverside County Assessor/County Clerk-Recorder's Office. Motion carried, all in favor.**

2. Resolution No. 2011-51, 2011 Edward Byrne Memorial Justice Assistance Grant  
(Staff Report – Leonard Purvis, Police Chief)

Chief Purvis gave the staff report as contained in the agenda packet.

Mayor Hanna opened the public hearing on this item. Seeing no one come forward she closed the public hearing on this item.

Councilmember Franklin said that she would abstain from voting on this item because she sits on the Board for Banning Police Activities League (BPAL).

**Motion Botts/Franklin that the City Council conduct a Public Hearing and adopt Resolution No. 2011-51, Authorizing the Acceptance of the 2011 U.S. Department of Justice Edward Byrne Memorial Justice Assistance Grant in the Amount of \$16,212 to cover overtime costs for police officers participating in Banning Police Activities League (BPAL) activities. Motion carried with one abstention.**

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

City Council

Councilmember Robinson –

- He said that RTA (Riverside Transit Agency) presented a Highlander Van to Legacy Church this last week. They do have people in their group that require handicap transportation. There is another van coming up that will hopefully go to another church here in the community. This will help handicap people get to church and doctor's appointments and things that they can't normally do.

Councilmember Machisic –

- He stated that we had a presentation on AB 811 dealing with energy and water conservation and it was formally adopted by WRCOG (Western Riverside Council of Governments) this past Monday. There will be workshops in July for all the cities involved to provide operational details. This is where money could be borrowed from a fund and it would be put on your tax bill to be repaid for energy saving devices.
- He said that Dave Willmon, representative of the League of California Cities gave a report on the status of the budget in Sacramento and said the most important date is coming up tomorrow. As you know the proposition was passed where if there is not a budget developed by that time legislators no longer get paid until the budget is passed and that seems to be a super important factor. There has been some activity so maybe we will have a budget tomorrow or in the near future.
- WRCOG General Assembly will be held on June 23, 2011 at Casino Morongo and Condoleezza Rice former Secretary of State will be the featured speaker.
- The County has recently passed a Health Communities Element for the County General Plan. He quoted some things from the Plan: "As the obesity epidemic continues to increase research has shown that building communities in a sprawling disjointed fashion contributes to the lifestyle that promotes obesity and chronic diseases. Incorporating principles that promote health in General Plan can lay the groundwork for developing communities with a better quality of life for the present and future generations." He also read some things from the doctor who heads up the program for the County.
- He announced that Council Member Robinson has been appointed to the SCAG (Southern California Association of Governments) Transportation Committee and he will be representing WRCOG.
- He attended a kind of graduation program at Banning High School and they have what is called a "Dual Emersion Program". These are students who are of Spanish origin and at the same time kids of English origin as far as language and they started back in the Third Grade with this program and so the first class that started in 1998 was completing graduating requirements at Banning High School. They had a nice awards ceremony and dinner. Not only the enthusiasm of the students was important but the other group that was higher in emotion was the parents.

Councilmember Franklin –

- She had the opportunity to attend the Banning High School Awards Ceremony last night and said she would like to commend all of our high school seniors who were able to collect over \$400,000 dollars in scholarship as they head off for college.

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

Report by City Manager

- The metal building of the former West Coast Electric property will be moved over to our Water Department property which will be replacing a trailer that we rent.
- Nice kudos to the Electric Department. We were 10<sup>th</sup> out of 230 cities that have the number of solar panels versus per capita.
- Grading on Inland Behavioral has started.
- The City Council Special Meeting scheduled for June 21<sup>st</sup> regarding the strategic plan will be postponed and he will arrange another date in the not-to-distant future.
- A caveat on the State Budget – they don't get paid after the 15<sup>th</sup> and that could be good or bad. So hopefully they won't rush it and go with Governor Brown's budget which would eliminate redevelopment which would cause the General Fund some additional issues right now.

ITEMS FOR FUTURE AGENDAS

New Items –

Pending Items – City Council

1. Schedule Meetings with Our State and County Elected Officials
2. Update on Economic Development Plan (*June 28<sup>th</sup>*)
3. Review of Fees and Rates
4. Policy Discussion Re. Code Enforcement (*study session*) (*July*)
5. Update on Shop Local Program
6. FEMA Training – Senior Officials (*Aug. 30, 2011*)
7. Speaker Cards

Mayor Hanna said that there is a Special Joint Meeting tomorrow at 11:30 a.m. in the City Council Chambers of the City Council, Planning Commission and Parks and Recreation Commission regarding the Brown Act, Conflict of Interest, Civility Code and discussion on the mayoral selection.

ADJOURNMENT

By common consent the meeting adjourned the meeting at 5:48 p.m.

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Marie A. Calderon, City Clerk

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

Received 6-14-11  
Council mtg.  
Public Comments

Kenneth D. Summers

8 May 2011

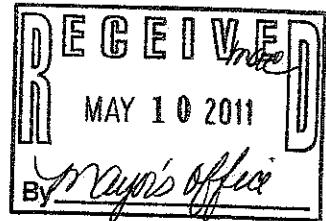
16400 Bubbling Wells Road, Site 274

Desert Hot Springs, Ca 92240

Mayor Barbara Hanna

99 E. Ramsey St

Banning, CA 92220



Dear Mayor:

Yesterday, I, and two other geocachers, attended a geocaching event that was organized by two of your stalwart citizens. I only know them by their caching names of Active Fire and DASHON. They both told us at their Art Hop Meet and Greet Event that you encouraged them to sponsor this event to attract more people to your city.

I can tell you that our trio was comprised of myself – my caching name is Ammo Chief – Me & Marley and Hummingbird Freak. We found geocaches in an area that included Ramsey Street, Bluff Street and Sunset Avenue. We saw areas of your city that we never knew existed and we were surprised at their beauty and charm. We spent the entire day going to over 40 geocaches.

Thank you for your support of our sport. We would appreciate it if you would pass along our thanks to Active Fire and DASHON also. There are many more geocaches in your city. We will be back.

I will be signing this letter for Me & Marley, who lives in Palm Springs, and Hummingbird Freak, who lives in Palm Desert. I know they also appreciate your support of geocachers in your city.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth D. Summers".

Exhibit "A"

8

reg.mtg.-6/14/11

9

## CITY COUNCIL AGENDA

**Date:** June 28, 2011

**TO:** City Council

**FROM:** June Overolt, Administrative Services Director/Deputy City Manager

**SUBJECT:** Report of Investments for April 2011

**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 April 2011. As of April 30, 2011, the City's operating funds totaled \$64,478,269. Included in operating funds is \$2,015,784 of restricted CRA bond proceeds that are on deposit with LAIF and reflected separately on the Treasurer's Report. As of April 30, 2011 approximately 43% of the City's unrestricted cash balances were invested in investments other than LAIF.

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

**FISCAL DATA:** The latest reports from the State indicate that the average interest achieved by the Local Agency Investment Fund (LAIF) increased to 0.588 % in April. The average rate for all investments in April was 0.683%.

**RECOMMENDED BY:**

  
\_\_\_\_\_  
June Overolt  
Administrative Services Director/  
Deputy City Manager

**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

InterestRateAmount

0.000% 34,856

0.100% 858,602

0.300% 4,799

0.300% 3,247

0.300% 3,508*Money Market and Bank Account Sub-Total*

905,011

Government Pools

Local Agency Investment Fund: Account #1

0.588% 31,446,232

Account #2 Operating Amount

3,749,479

Account #2 CRA Bond Cash Bal

2,015,784

Local Agency Investment Fund: Account #2

0.588% 5,765,262*Government Pool Sub-Total*37,211,494**Operating Cash Balance****38,118,811**Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund

0.010%

**883,132**Other Investments

Investments-US Bank/Piper Jaffray - See Page 2

0.843%

**25,476,327*****Operating Funds Total*****64,478,269****Fiscal Agent**

BNY Western Trust Company

US Bank

Amount

4,050,979

45,459,929***Fiscal Agent Total*****49,510,908**

## City of Banning Investment Report

April 30, 2011

### Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	Discount or (Premium) Amortization	Market Value
<i>Bank Accounts</i>								
34,856	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	34,856	n/a	34,856
858,602	Wells Fargo Bank-Investment Acct	n/a	0.10%	daily	varies	858,602	n/a	858,602
4,799	Bank of America-Airport	n/a	0.30%	daily	varies	4,799	n/a	4,799
3,247	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,247	n/a	3,247
3,508	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,508	n/a	3,508
	Sub-total					905,011		
<i>Government Pools</i>								
31,446,232	L.A.I.F. account #1	n/a	0.588%	daily	varies	31,446,232	n/a	31,446,232
5,765,262	L.A.I.F. account #2	n/a	0.588%	daily	varies	5,765,262	n/a	5,765,262
						37,211,494		
<i>Investments-US Bank/Piper Jaffray</i>								
2,000,000	Federal Home Loan Banks	n/a	0.750%	4/23/2013	10/5/2010	2,000,000		1,998,800
3,000,000	Federal Home Loan Banks	n/a	1.000%	10/21/2013	10/5/2010	3,000,000		2,973,270
3,000,000	Federal Home Loan Banks	n/a	1.200%	8/5/2013	8/5/2010	3,000,000		3,006,690
4,000,000	FHLMC MTN	n/a	1.150%	9/3/2013	9/3/2010	4,000,000		4,002,600
3,000,000	FNMA MTN	n/a	1.100%	12/9/2013	12/9/2010	3,000,000		2,992,050
4,000,000	FHLMC MTN	n/a	1.375%	2/3/2014	2/3/2014	4,000,000		4,005,840
6,497,077	Money Market	n/a	0.000%	daily	varies	6,497,077	0	6,497,077
US Bank/Piper Jaffray Average Rate=								
						0.843%		25,476,327
							Average Rate All=	0.683%

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 243 days and does not include Bond Reserve Fund Investments.

12

# City of Banning Investment Report

April 30, 2011

## Individual Investments with Fiscal Agent

TRUSTEE	Bond	Maturity Date	Investment Description	Current Yield	Bond Maturity Date	Minimum Reserve Requirement	Interest Apr-11	Market Value	4/30/2011
<b>BNY WESTERN TRUST COMPANY</b>									
1997 Admin Building COP's Refunding	2020	Republic Bank Investment Agreement Federated U.S. Treasury Money Mkt	6.270% 0.000%	11/1/2020 daily	522,375	15,472.19 *		4,050,979	0
US BANK	2012	AIM U.S. Treasury Money Market US Bank Mmkt 4-Ct	0.200% 0.200%	daily daily	265,580	4.65 19.22	112,519	112,519	
2005 Fair Oaks Ranch Estates	2035	US Bank Mmkt 4-Ct	0.200%	daily	188,943	37.67		219,259	
2003 CRA Tax Allocation Bonds	2028	US Treasury Bill US Bank Mmkt 4-Ct US Bank Mmkt 4-Ct US Bank Mmkt 4-Ct	0.110% 0.200% 0.210% 0.250%	7/28/2011 daily daily daily	971,763	3.63 0.01	991,901 21,364 39	21,364	
Surplus Fund									8
<b>COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007</b>									
Redevelop Fund	2037	US Bank Mmkt 4-Ct	0.200%	daily	1,880,751	2,025.63 318.67	11,927,135 1,876,344	11,927,135	
Reserve Fund		US Bank Mmkt 4-Ct	0.200%	daily		0.02	93	1,876,344	
Special Fund		US Bank Mmkt 4-Ct	0.200%	daily					
Surplus Fund		US Bank Mmkt 4-Ct	0.210%	daily					9
<b>BUA - WASTE WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES</b>									
Bond Fund		US Bank Mmkt 4-Ct	0.140%	daily					7
Interest Account		US Bank Mmkt 4-Ct	0.200%	daily					196,548
Principal Account		US Bank Mmkt 4-Ct	0.190%	daily					52
		US Bank Mmkt 4-Ct	0.200%	daily					
Bond Fund		US Bank Mmkt 4-Ct	0.140%	daily					
Interest Account		US Bank Mmkt 4-Ct	0.200%	daily					
Principal Account		US Bank Mmkt 4-Ct	0.190%	daily					
		US Bank Mmkt 4-Ct	0.200%	daily					
<b>BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES</b>									
Bond Fund		US Bank Mmkt 4-Ct	0.200%	daily					0.01
Interest Account		US Bank Mmkt 4-Ct	0.200%	daily					0.01
Principal Account		US Bank Mmkt 4-Ct	0.200%	daily					0.02
Reserve Fund		US Bank Mmkt 4-Ct	0.200%	daily					0.01
Project Fund		US Bank Mmkt 4-Ct	0.200%	daily					626.14
<b>BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES</b>									
Reserve Fund		US Bank Mmkt 4-Ct	0.200%	daily					9.38
Acquisition & Construction		Reliance Trust Company # 9AMGGBEZ7	3.650%	11/17/2011	2,961,500	0.00	10.84	2,931,509	55,229
		US Bank Mmkt 4-Ct	0.200%	daily				141,313	141,313
		US Bank Mmkt 4-Ct	0.200%	daily				15,372,636	15,372,636
<b>Total</b>									<b>49,510,908</b>
*Paid Semi-Annually-Deposited into Money Mkt Account									

13

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

	Interest		Amount
	Rate	Amount	
Wells Fargo Bank	0.000%	153,692	
Wells Fargo Bank-Investment Account	0.100%	2,116,263	
Bank of America-Airport	0.300%	5,281	
Bank of America-Parking Citations	0.300%	3,274	
Bank of America-CNG Station	0.300%	3,713	

*Money Market and Bank Account Sub-Total* 2,282,224

Government Pools

Local Agency Investment Fund: Account #1 0.500% 31,406,941

Account #2 Operating Amount 5,114,643

Account #2 CRA Bond Cash Bal 2,142,350

Local Agency Investment Fund: Account #2 0.500% 7,256,992

*Government Pool Sub-Total* 38,663,933

**Operating Cash Balance** 40,948,462

Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund 0.040% 1,183,245

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2 0.844% 25,343,517

**Operating Funds Total** 67,475,223

**Fiscal Agent**

	Amount
BNY Western Trust Company	<u>538,762</u>
US Bank	<u>44,104,405</u>

**Fiscal Agent Total** 44,643,167

City of Banning Investment Report

March 31, 2011

## Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	(Premium) Amortization	Discount or Market Value
<u><b>Bank Accounts</b></u>								
153,692	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	153,692	n/a	153,692
2,116,263	Wells Fargo Bank-Investment Acct	n/a	0.10%	daily	varies	2,116,263	n/a	2,116,263
5,281	Bank of America-Airport	n/a	0.30%	daily	varies	5,281	n/a	5,281
3,274	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,274	n/a	3,274
3,713	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,713	n/a	3,713
	Sub-total							2,282,224
<u><b>Government Pools</b></u>								
31,406,941	L.A.I.F. account #1	n/a	0.500%	daily	varies	31,406,941	n/a	31,406,941
7,256,992	L.A.I.F. account #2	n/a	0.500%	daily	varies	7,256,992	n/a	7,256,992
								38,663,933
<u><b>Investments-US Bank/Piper Jaffray</b></u>								
2,000,000	Federal Home Loan Banks	n/a	0.750%	4/23/2013	10/5/2010	2,000,000		1,989,080
3,000,000	Federal Home Loan Banks	n/a	1.000%	10/21/2013	10/5/2010	3,000,000		2,952,420
3,000,000	Federal Home Loan Banks	n/a	1.200%	8/5/2013	8/5/2010	3,000,000		2,997,150
4,000,000	FHLMC MTN	n/a	1.150%	9/3/2013	9/3/2010	4,000,000		3,981,520
3,000,000	FNMA MTN	n/a	1.100%	12/9/2013	12/9/2010	3,000,000		2,970,930
4,000,000	FHLMC MTN	n/a	1.375%	2/3/2014	2/3/2014	4,000,000		3,977,840
6,474,577	Money Market	n/a	0.000%	daily	varies	6,474,577	0	6,474,577

Average Rate All = 0.618%

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 242 days and does not include Bond Reserve Fund Investments.

15

# City of Banning Investment Report

March 31, 2011

## Individual Investments with Fiscal Agent

TRUSTEE	Bond Issue Description	Bond Maturity Date	Investment Description	Current Yield	Bond Maturity Date	Bond Reserve Requirement	Minimum Reserve	Interest Mar-11	Market Value	3/31/2011
<b>BNY WESTERN TRUST COMPANY</b>										
1997 Admin Building COPs Refunding	2020		Republic Bank Investment Agreement Federated U.S. Treasury Money Mkt	6.270% 0.000%	11/1/2020 daily	522,375		*	522,562 16,200	
US BANK	2012		AIM U.S. Treasury Money Market US Bank Mmkt 4-Ct	0.200% 0.150%	daily daily	265,580	8.85		265,589 112,500	
2005 Fair Oaks Ranch Estates	2035		US Bank Mmkt 4-Ct	0.150%	daily	188,943	29.07		219,222	
2003 CRA Tax Allocation Bonds	2028		US Treasury Bill US Bank Mmkt 4-Ct US Bank Mmkt 4-Ct US Bank Mmkt 4-Ct	0.150% 0.150% 0.150% 0.130%	7/28/2011 daily daily daily	971,763	3.28 0.01		991,653 21,360 39	
<b>COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007</b>										
Redevelop Fund	2037		US Bank Mmkt 4-Ct US Bank Mmkt 4-Ct US Bank Mmkt 4-Ct US Bank Mmkt 4-Ct	0.150% 0.150% 0.150% 0.110%	daily daily daily daily	1,880,751	1,829,31 287.78		11,925,109 1,876,025	
Surplus Fund							0.01		93	9
<b>BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES</b>										
Bond Fund			US Bank Mmkt 4-Ct	0.140%	daily				7	
Interest Account			US Bank Mmkt 4-Ct	0.110%	daily				9	
Principal Account			US Bank Mmkt 4-Ct	0.150%	daily				52	
Surplus Fund			US Bank Mmkt 4-Ct	0.150%	daily				93	
<b>BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES</b>										
Bond Fund			US Bank Mmkt 4-Ct	0.160%	daily				44	
Interest Account			US Bank Mmkt 4-Ct	0.160%	daily				38	
Principal Account			US Bank Mmkt 4-Ct	0.150%	daily				135	
Reserve Fund			US Bank Mmkt 4-Ct	0.150%	daily				2,313,032	
Project Fund			US Bank Mmkt 4-Ct	0.150%	daily				4,195,254	
<b>BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES</b>										
Reserve Fund			US Bank Mmkt 4-Ct	0.150%	daily				8.47 280.95 0.00	55,220 2,931,509 141,302
Acquisition & Construction			Reliance Trust Company # 9AMGGBEZ7	3.650%	11/17/2011 daily	2,961,500				
			US Bank Mmkt 4-Ct	0.150%	daily				2,357.76	15,370,025
<b>Total</b>										<b>6,369.39</b>
<b>*Paid Semi-Annually-Deposited into Money Mkt Account</b>										<b>44,643,167</b>

16

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

	Interest	Amount
	Rate	Amount
Wells Fargo Bank	0.000%	-
Wells Fargo Bank-Investment Account	0.100%	1,924,555
Bank of America-Airport	0.300%	9,526
Bank of America-Parking Citations	0.300%	3,596
Bank of America-CNG Station	0.300%	3,370

*Money Market and Bank Account Sub-Total* 1,941,047

Government Pools

Local Agency Investment Fund: Account #1 0.512% 31,406,941

Account #2 Operating Amount 4,985,263

Account #2 CRA Bond Cash Bal 2,271,730

Local Agency Investment Fund: Account #2 0.512% 7,256,992

*Government Pool Sub-Total* 38,663,933

**Operating Cash Balance** **40,607,285**

Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund 0.040% **1,262,236**

Other Investments

Investments-US Bank/Piper Jaffray - See Page 2 0.817% 25,344,297

***Operating Funds Total*** **67,213,818**

**Fiscal Agent**

	Amount
BNY Western Trust Company	<u>538,762</u>
US Bank	<u>43,909,588</u>

***Fiscal Agent Total*** **44,448,350**

## Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Cost	Amortization	Discount or (Premium)	Market Value
<u><b>Bank Accounts</b></u>									
1,924,555	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	-	n/a	-	1,924,555
9,526	Wells Fargo Bank-Investment Acct	n/a	0.10%	daily	varies	1,924,555	n/a	n/a	9,526
3,596	Bank of America-Airport	n/a	0.30%	daily	varies	9,526	n/a	n/a	3,596
3,370	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,596	n/a	n/a	3,370
	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,370	n/a	n/a	3,370
	Sub-total								1,941,047
31,406,941	L.A.I.F. account #1	n/a	0.512%	daily	varies	31,406,941	n/a	31,406,941	31,406,941
7,256,992	L.A.I.F. account #2	n/a	0.512%	daily	varies	7,256,992	n/a	7,256,992	7,256,992
									38,663,933
<u><i>Investments-US Bank/Piper Jaffray</i></u>									
2,000,000	Federal Home Loan Banks	n/a	0.750%	4/23/2013	10/5/2010	2,000,000			1,995,700
3,000,000	Federal Home Loan Banks	n/a	1.000%	10/21/2013	10/5/2010	3,000,000			2,956,650
3,000,000	Federal Home Loan Banks	n/a	1.200%	8/5/2013	8/5/2010	3,000,000			3,003,600
4,000,000	FHLMC MTN	n/a	1.150%	9/3/2013	9/3/2010	4,000,000			3,983,240
3,000,000	FNMA MTN	n/a	1.100%	12/9/2013	12/9/2010	3,000,000			2,973,330
4,000,000	FHLMC MTN	n/a	1.200%	12/3/2014	2/3/2011	4,000,000			3,980,200
6,451,577	Money Market	n/a	0.000%	daily	varies	6,451,577			6,451,577

Average Rate All = 0.618%

US Bank/Piper Jaffray Average Rate =

25,344,297  
0.817%

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 252 days and does not include Bond Reserve Fund Investments.

18

City of Banning Investment Report

February 28, 2011

## CITY COUNCIL AGENDA

**DATE:** June 28, 2011

**TO:** City Council

**FROM:** Kahono Oei, City Engineer

**SUBJECT:** Resolution No. 2011-35, "Approving the State Grant Agreement for the California Department of Resources Recycling and Recovery (Cal Recycle) Targeted Recycled Asphalt Concrete (RAC) Grant"

**RECOMMENDATION:**

- I. Adopt Resolution No. 2011-35, "Approving the State Grant Agreement for the California Department of Resources Recycling and Recovery (Cal Recycle) Targeted Recycled Asphalt Concrete (RAC) Grant."
- II. Authorize the City Manager to execute the Grant Agreement with the Cal Recycle, attached herewith as Exhibit "A."

**JUSTIFICATION:** It is essential for the City Council to authorize the execution of the State Grant Agreement from the Cal Recycle in order to obtain and utilize funds for the repaving portion of Project No. 2011-03, "Street Improvements along Wilson Street, from Stargaze Way to West of Sunset Avenue." This project will improve traffic conditions and safety on Wilson Street, while beautifying one of the City's most highly visible and well-traveled streets.

**BACKGROUND:** On February 8, 2011, at its regularly scheduled meeting, the City Council approved Resolution No. 2011-08, "Authorizing staff to Submit a Grant Application for Rubberized Asphalt Concrete (RAC) for Street Improvements along Wilson Street, from Stargaze Way to West of Sunset Avenue," authorizing the City Manager of the City of Banning to apply for a \$250,000.00 grant from the Cal Recycle.

In February of 2011, the Public Works Department's Engineering Division submitted a grant request to the Cal Recycle for a street improvement project along Wilson Street, from Stargaze Way to West of Sunset Avenue. The potential scope of work for the project consists of grinding/cold planing of existing asphalt; overlaying 1-1/2" of RAC on existing pavement; adjusting manholes, sewer cleanouts, and water valve covers to grade; construction of sidewalks, curbs, gutters, and handicap ramps; and striping, in accordance with the City of Banning's Standard Specifications. The pavement overlay consists of 6,500 tons of rubberized asphalt concrete, which is crumb rubber derived from 100% California waste tires.

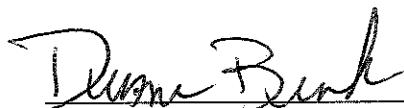
This project would continue street improvements using RAC along Wilson Street. In the fall of 2008, Project No. 2007-07, "Street Improvements along Wilson Street, between 8<sup>th</sup> Street and Stargaze Way" was constructed with a Cal Recycle RAC grant of \$150,000.00. This

project would continue street improvements along Wilson Street, from Stargaze Way to west of Sunset Avenue. When completed, Wilson Street will be overlaid with RAC from 8<sup>th</sup> Street to west of Sunset Avenue, over 1.5 miles.

The Cal Recycle staff evaluated the proposed project in April and approved the maximum grant award available, in the amount of \$250,000.00. The Cal Recycle receives an annual appropriation from the California Tire Recycling Management Fund (Tire Fund) to administer the Tire Recycling Act, per the terms of Senate Bill 937 and related legislation. As part of the Act, Cal Recycle offers the grant program to encourage the use of waste tire rubber in order to reduce landfill disposal and stockpiling of California waste tires. The construction of this project is anticipated to commence in the fall of 2011.

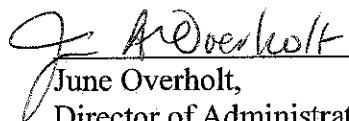
**FISCAL DATA:** The RAC grant was designed to fund the difference in cost between RAC and conventional asphalt which, historically, is between the range of \$55 and \$75 per ton. Cal Recycle will provide grant funding in the amount of \$250,000.00 towards project costs. The RAC project was included in the 5 Year Measure A CIP list submitted to the Riverside County Transportation Commission, therefore the project balance will be funded using Measure A funds. The exact amount of the required Measure A funding will be determined at a later date once bids are solicited and opened in the fall of 2011.

**RECOMMENDED BY:**



Duane Burk,  
Director of Public Works

**REVIEWED BY:**



June Overholt,  
Director of Administrative Services

**APPROVED BY:**



Andy Takata,  
City Manager

**RESOLUTION NO. 2011-35**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING,  
CALIFORNIA, APPROVING THE STATE GRANT AGREEMENT FOR THE  
CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND  
RECOVERY (CAL RECYCLE) TARGETED RECYCLED ASPHALT  
CONCRETE (RAC) GRANT**

**WHEREAS**, the Cal Recycle receives an annual appropriation from the California Tire Recycling Management Fund (Tire Fund) to administer the Tire Recycling Act, per the terms of Senate Bill 937 and related legislation; and

**WHEREAS**, in the fall of 2008, Project No. 2007-07, "Street Improvements along Wilson Street, between 8<sup>th</sup> Street and Stargaze Way" was constructed with a Cal Recycle RAC grant of \$150,000.00, and this project would continue street improvements along Wilson Street, from Stargaze Way to west of Sunset Avenue; and

**WHEREAS**, on February 8, 2011, at its regularly scheduled meeting, the City Council approved Resolution No. 2011-08, "Authorizing Staff to Submit a Grant Application for Rubberized Asphalt Concrete (RAC) for Street Improvements along Wilson Street, from Stargaze Way to West of Sunset Avenue," authorizing the City Manager of the City of Banning to apply for and execute a grant application from the Cal Recycle; and

**WHEREAS**, Cal Recycle staff evaluated the proposed project and approved the maximum grant award in the amount of \$250,000.00; and

**WHEREAS**, the potential scope of work for Project No. 2011-03, "Street Improvements along Wilson Street, from Stargaze Way to West of Sunset Avenue," consists of grinding/cold planing of existing asphalt; overlaying 1-1/2" of RAC on existing pavement; adjusting manholes, sewer cleanouts, and water valve covers to grade; construction of sidewalks, curbs, gutters, and handicap ramps; and striping, in accordance with the City of Banning's Standard Specifications; and

**WHEREAS**, approval of the Cal Recycle's \$250,000.00 grant agreement will enable the City of Banning, California to accept the grant.

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

**SECTION 1.** The Grant Agreement between the City of Banning and the Cal Recycle for a \$250,000.00 grant towards the construction of Project No. 2011-03, "Street Improvements along Wilson Street, from Stargaze Way to West of Sunset Avenue," is approved and authorization is hereby granted for the City Manager to execute said Agreement, as attached herein as Exhibit "A." This authorization will be rescinded if the contract agreement is not executed by both parties within forty-five (45) days of the date of this resolution.

**PASSED, APPROVED, AND ADOPTED** this 28<sup>th</sup> day of June, 2011.

---

Barbara Hanna, 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. 2011-35 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 28<sup>th</sup> day of June, 2011.

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

---

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

**EXHIBIT “A”**

**GRANT AGREEMENT**



## DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

801 K STREET, MS 19-01, SACRAMENTO, CALIFORNIA 95814 • (916) 322-4027 • WWW.CALRECYCLE.CA.GOV

May 31, 2011

CITY OF BANNING

Ann Marie Loconte P.E.  
Associate Civil Engineer  
City of Banning  
99 E Ramsey St  
Banning, CA 92220

107  
PUBL. WORKS DEPT.

**SUBJECT: Targeted Rubberized Asphalt Concrete Incentive Grant Program  
Grant Agreement Package, FY 2010/11 – Grant No. TRI32-10-7**

Dear Ann Marie Loconte:

Congratulations! On April 12, 2011, the Department of Resources Recycling and Recovery (CalRecycle) approved your request for a \$250,000.00 grant.

Please review the enclosed Grant Agreement package and complete the grantee portion of the Grant Agreement Cover Sheet (CalRecycle 110).

The Grant Agreement Cover Sheet must be signed and returned to CalRecycle within 90 days from the date of this letter. In addition, full payment of any outstanding debt(s) owed by the proposed grantee to CalRecycle is required within 90 days of **May 31, 2011**. If the Grant Agreement Cover Sheet is not signed and returned within 90 days and payments not made by the grantee of all outstanding debts owed to CalRecycle within 90 days of **May 31, 2011**, the grant award will be voided.

The Grant Agreement Cover Sheet must be signed by the "authorized signatory" as identified in your resolution. If the resolution authorizes a designee and the signature authority would like to designate another individual to sign on their behalf, the "authorized signatory" must provide a letter identifying the job title of the designee.

Please retain all Grant Agreement documents, which include Exhibits A through C and the Attachment, for your records and return only the Grant Agreement Cover Sheet (CalRecycle 110) to:

CalRecycle  
Rubberized Asphalt Concrete Grant Program  
Attn: Debbie Escobar, MS 9A  
1001 I Street, P.O. Box 4025  
Sacramento, CA 95812-4025

(over)

Upon execution of the Grant Agreement Cover Sheet by both parties, CalRecycle will return a copy of the executed Grant Agreement Cover Sheet with a Notice to Proceed via e-mail. Remember, do not incur any grant cost until the Agreement is signed by both parties and you receive a Notice to Proceed letter. If you choose to incur costs prior to the Notice to Proceed letter, you do so at your own risk.

If you have any questions regarding the Grant Agreement package, please contact me at (916) 341-6436 or Victoria.Rocha@CalRecycle.ca.gov.

We look forward to your participation in this grant program.

Sincerely,



for Victoria Rocha  
Grant Manager  
Targeted Rubberized Asphalt Concrete Incentive Grant Program

Enclosures:

- Attachment – Forms Guide
- Grant Agreement Cover Sheet (CalRecycle 110)
- Exhibit A – Terms and Conditions
- Exhibit B – Procedures and Requirements / Project Summary
- Exhibit C – Grant Application

**Attachment**  
**FORMS GUIDE**

<b>Form Name</b>	<b>When it's used?</b>	<b>Completed by...</b>
Reliable Contractor Declaration form (CalRecycle 168)	Prior to authorizing contractor to commence work	Grantee & Contractor
Grant Payment Request form (CalRecycle 87)	When requesting reimbursement	Grantee
Rubberized Asphalt Concrete (RAC) Certification form (CalRecycle 727-RAC)	When requesting reimbursement	Product Supplier, Manufacturer, Contractor, or Grantee

**IMPORTANT!** These forms are provided for your reference as you review your grant agreement documents. This may not be an all inclusive list. These forms may be updated during your grant term. Please refer to the following website for the latest version,  
<http://www.calrecycle.ca.gov/Grants/Forms/>.

**GRANT AGREEMENT COVER SHEET**

CalRecycle 110 (Revised 5/11)

GRANT NUMBER  
TRI32-10-7

NAME OF GRANT PROGRAM	2010/11 Targeted Rubberized Asphalt Concrete Incentive Grant Program	
GRANTEE NAME	City of Banning	
TAXPAYER'S FEDERAL EMPLOYER IDENTIFICATION NUMBER	TOTAL GRANT AMOUNT NOT TO EXCEED	
	\$250,000.00	
TERM OF GRANT AGREEMENT		
FROM: April 12, 2011	TO: April 1, 2013	

THIS AGREEMENT is made and entered into on this 12th day of April 2011, by the Department of Resources Recycling and Recovery (CalRecycle) and City of Banning (the "Grantee"). This Agreement is of no force or effect until signed by both parties. Grantee shall not commence performance until it receives written approval from CalRecycle. CalRecycle and the Grantee, in mutual consideration of the promises made herein, agree to adhere to the provisions of the following exhibits attached hereto and incorporated herein:

Exhibit A – Terms &amp; Conditions

Exhibit B – Procedures &amp; Requirements /Project Summary

Exhibit C – Application

The Grantee's CalRecycle-approved Application and Application Guidelines and Instructions are incorporated by reference herein and made a part hereof:

CalRecycle agrees to fund work done by the Grantee in accordance with this Agreement up to but not to exceed the Total Grant Amount specified herein. The parties hereto have executed this Agreement as of the dates entered below.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates entered below.

CALRECYLE		GRANTEE' NAME (PRINT OR TYPE)		
		City of Banning		
SIGNATURE OF CALRECYLE'S AUTHORIZED SIGNATORY:		SIGNATURE OF GRANTEE: (AS AUTHORIZED IN RESOLUTION OR LETTER OF DESIGNATION AUTHORIZATION)		
Director, CalRecycle	DATE	TITLE (Authorized representative)		DATE
GRANTEE' ADDRESS (INCLUDE STREET, CITY, STATE AND ZIP CODE)				

**CERTIFICATION OF FUNDING**

AMOUNT ENCUMBERED BY THIS AGREEMENT	PROGRAM/CATEGORY (CODE AND TITLE)			FUND/TITLE
\$250,000.00	2010/11 Targeted Rubberized Asphalt Concrete Incentive Grant Program			CBORF Clearing Account
PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT	(OPTIONAL USE)			
TOTAL AMOUNT ENCUMBERED TO DATE	ITEM	CHAPTER	STATUTE	FISCAL YEAR
\$250,000.00	3500-001-0133	712	2010	2010/11
	OBJECT OF EXPENDITURE (CODE AND TITLE)			
	7820-G3100-418.03			

I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.

SIGNATURE OF CALRECYLE ACCOUNTING OFFICER:

*Gianalee Moxie*

DATE

MAY 26 2011

*28 PM*

## EXHIBIT A

### TERMS AND CONDITIONS

#### Rubberized Asphalt Concrete Grant Program

Targeted Rubberized Concrete Asphalt Incentive Grant  
Rubberized Asphalt Concrete Chip Seal Grant

**Fiscal Year 2010/11**

This grant may not be funded unless the proposed Grantee meets the following two conditions:

- 1) The proposed Grantee must pay or bring current all outstanding debts or scheduled payments owed to the Department of Resources Recycling and Recovery within ninety (90) days from the date of the grant award. The Grant Agreement will not be released by CalRecycle until all outstanding invoices have been paid.
- 2) The proposed Grantee must complete, sign, and return the Grant Agreement within ninety (90) days from the date recorded on the Grant Agreement package's cover letter.

The following terms used in this Grant Agreement (Agreement) have the meanings given to them below, unless the context clearly indicates otherwise:

- "CalRecycle" means the Department of Resources Recycling and Recovery.
- "Executive Director" means the Executive Director of CalRecycle or his or her designee.
- "Grant Agreement" and "Agreement" means all documents comprising the agreement between CalRecycle and the Grantee for this Grant.
- "Grant Manager" means CalRecycle staff person responsible for monitoring the grant.
- "Grantee" means the recipient of funds pursuant to this Agreement.
- "Program" means the Rubberized Asphalt Concrete Grant Program.
- "State" means the State of California, including, but not limited to, CalRecycle and/or its designated officer.

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#### 1. ACKNOWLEDGEMENTS

The Grantee shall acknowledge CalRecycle's support each time projects funded, in whole or in part, by this Agreement are publicized in any medium, including, but not limited to, news media, brochures, or other types of promotional materials. The acknowledgement of CalRecycle's support must incorporate CalRecycle logo. Initials or abbreviations for CalRecycle shall not be used. The Grant Manager may approve deviation from the prescribed language on a case-by-case basis where such deviation is consistent with CalRecycle's Communication Strategy and Outreach Plan. If, subsequent to this Agreement, CalRecycle adopts updated or new logos or language (language), the Grant Manager may require the Grantee to include this language in newly printed or generated materials.

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#### 2. ADVERTISING/ PUBLIC EDUCATION

The Grantee shall submit copies of all draft public education or advertising materials to the Grant Manager for review and approval prior to the Grantee's production of materials. Unless omission of the following copyright designation is pre-approved in writing by the Grant Manager, all public education and advertising materials shall state: "© {year of creation} by the California Department of Resources Recycling and Recovery (CalRecycle). All rights reserved. This publication, or parts thereof, may not be reproduced without permission from CalRecycle."

**3. AIR OR WATER  
POLLUTION VIOLATION**

Under the State laws, the Grantee shall not be:

- a. In violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district;
- b. Subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or
- c. Finally determined to be in violation of provisions of federal law relating to air or water pollution.

**4. AMENDMENT**

No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties, and approved as required. No oral understanding or agreement not incorporated into this Agreement is binding on any of the parties. This Agreement may be amended, modified or augmented by mutual consent of the parties, subject to the requirements and restrictions of this paragraph.

**5. AMERICANS WITH  
DISABILITIES ACT**

The Grantee assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. § 12101 et seq.)

**6. ASSIGNMENT,  
SUCCESSORS AND  
ASSIGNS**

- a. This Agreement may not be assigned by the Grantee, either in whole or in part, without CalRecycle's prior written consent.
- b. The provisions of this Agreement shall be binding upon and inure to the benefit of CalRecycle, the Grantee, and their respective successors and assigns.

**7. AUDIT/RECORDS  
ACCESS**

The Grantee agrees that CalRecycle, the Department of Finance, the Bureau of State Audits, or their designated representative(s) shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. The Grantee agrees to maintain such records for possible audit for a minimum of three (3) years after final payment date or grant term end date, whichever is later, unless a longer period of records retention is stipulated, or until completion of any action and resolution of all issues which may arise as a result of any litigation, dispute, or audit, whichever is later. The Grantee agrees to allow the designated representative(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Grantee agrees to include a similar right of the State to audit records and interview staff in any contract or subcontract related to performance of this Agreement.

*[You may find it helpful to share the Terms and Conditions and Procedures and Requirements with your finance department, contractors and subcontractors. Examples of audit documentation include, but are not limited to: expenditure ledger, payroll register entries and time sheets, personnel expenditure summary form, travel expense log, paid warrants, contracts, change orders, invoices, and/or cancelled checks.]*

**8. AUTHORIZED  
REPRESENTATIVE**

The Grantee shall continuously maintain a representative vested with signature authority authorized to work with CalRecycle on all grant-related issues. The Grantee shall, at all times, keep the Grant Manager informed as to the identity and contact information of the authorized representative.

**9. AVAILABILITY OF FUNDS**

CalRecycle's obligations under this Agreement are contingent upon and subject to the availability of funds appropriated for this grant.

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**10. CHILD SUPPORT  
COMPLIANCE ACT**

For any agreement in excess of \$100,000, the Grantee acknowledges that:

- a. The Grantee recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and
  - b. The Grantee, to the best of its knowledge, is fully complying with the earnings assignment orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
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**11. COMMUNICATIONS**

All communications from the Grantee to CalRecycle shall be directed to the Grant Manager. All notices, including reports and payment requests, required by this Agreement shall be given in writing by E-mail, letter, or FAX to the Grant Manager as identified in Exhibit B—Procedures and Requirements. If an original document is required, prepaid mail or personal delivery to the Grant Manager is required following the E-mail or FAX.

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**12. COMPLIANCE**

The Grantee shall comply fully with all applicable federal, state, and local laws, ordinances, regulations, and permits. The Grantee shall provide evidence, upon request, that all local, state, and/or federal permits, licenses, registrations, and approvals have been secured for the purposes for which grant funds are to be expended. The Grantee shall maintain compliance with such requirements throughout the grant period. The Grantee shall ensure that the requirements of the California Environmental Quality Act are met for any approvals or other requirements necessary to carry out the terms of this Agreement. Any deviation from the requirements of this section shall result in non-payment of grant funds.

With each Payment Request (CalRecycle 87), the Grantee's signature authority shall either initial and certify under penalty of perjury that the Grantee's General Checklist of Permits, Licenses, and Filings (CalRecycle 669) on file with CalRecycle is current and complete, or submit an updated General Checklist of Permits, Licenses, and Filings (CalRecycle 669) available at: [www.calrecycle.ca.gov/Grants/Forms/CalRecycle669.doc](http://www.calrecycle.ca.gov/Grants/Forms/CalRecycle669.doc).

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**13. CONFLICT OF INTEREST**

The Grantee needs to be aware of the following provisions regarding current or former state employees. If the Grantee has any questions on the status of any person rendering services or involved with this Agreement, CalRecycle must be contacted immediately for clarification.

*Current State Employees (Public Contracts Code (PCC) § 10410):*

- a. No officer or employee shall engage in any employment, activity, or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity, or enterprise is required as a condition of regular state employment.
- b. No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

*Former State Employees (PCC § 10411):*

- a. For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

- b. For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the twelve month period prior to his or her leaving state service.

If the Grantee violates any provisions of above paragraphs, such action by the Grantee shall render this Agreement void. (PCC § 10420).

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**14. CONTRACTORS/  
SUBCONTRACTORS**

The Grantee will be entitled to make use of its own staff and such contractors and subcontractors as are mutually acceptable to the Grantee and CalRecycle. Any change in contractors or subcontractors must be mutually acceptable to the parties. Immediately upon termination of any such contract or subcontract, the Grantee shall notify the Grant Manager.

Nothing contained in this Agreement or otherwise, shall create any contractual relation between CalRecycle and any contractors or subcontractors of Grantee, and no agreement with contractors or subcontractors shall relieve the Grantee of its responsibilities and obligations hereunder. The Grantee agrees to be as fully responsible to CalRecycle for the acts and omissions of its contractors and subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Grantee. The Grantee's obligation to pay its contractors and subcontractors is an independent obligation from CalRecycle's obligation to make payments to the Grantee. As a result, CalRecycle shall have no obligation to pay or to enforce the payment of any moneys to any contractor or subcontractor.

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**15. COPYRIGHTS AND  
TRADEMARKS**

- a. To the extent the Grantee shall have the legal right to do so, Grantee shall assign to CalRecycle any and all rights, title, and interests to any copyrightable material or trademarkable material created or developed in whole or in any part as a result of this Agreement, but which originated from previously copyrighted or trademarked material. With respect to all other copyrightable and trademarkable materials, CalRecycle shall retain any and all rights, title and interests to any copyrightable material or trademarkable material created or developed in whole or in any part as a result of this Agreement. These rights, both assigned and retained, shall include the right to register for copyright or trademark of such materials. Grantee shall require that its contractors and subcontractors agree that all such materials shall be the property of CalRecycle. The Grantee is responsible for obtaining any necessary licenses, permissions, releases or authorizations to use text, images or other materials owned, copyrighted or trademarked by third parties and for assigning such licenses, permissions, releases, or authorizations to CalRecycle pursuant to this section. Copies of any licenses, permissions, releases or authorizations obtained pursuant for the use of text, images or other materials owned, copyrighted or trademarked by third parties shall be provided to the Grant Manager. Under unusual and very limited circumstances, where to do so would not conflict with the rights of CalRecycle and would serve the public interest, upon written request by the Grantee, CalRecycle may give, at the Executive Director's sole discretion, written consent to the Grantee to retain all or any part of the ownership of these rights.
- b. CalRecycle hereby grants to the Grantee a royalty-free, nonexclusive, nontransferable world-wide license to reproduce, translate, and distribute copies of the copyrightable materials produced pursuant this Agreement, for nonprofit, non-commercial purposes, and to have or permit others to do so on the Grantee's behalf. This license is limited to the copyrightable materials produced pursuant to this Agreement and does not extend to any materials
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**16. CORPORATION  
QUALIFIED DOING  
BUSINESS IN  
CALIFORNIA**

capable of being trademarked. The following shall appear on all intellectual property used by Contractor pursuant to this license, solely for the purpose of protecting CalRecycle's intellectual property rights therein: "© {year of creation} by the Department of Resources Recycling and Recovery (CalRecycle). Used pursuant to license granted by CalRecycle. All rights reserved. This publication, or parts thereof, may not be reproduced without permission."

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**17. DISCLAIMER OF  
WARRANTY**

When work under this Agreement is to be performed in California by a corporation, the corporation shall be in good standing and currently qualified to do business in the State. "Doing business" is defined in Revenue and Taxation Code Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit.

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**18. DISCRETIONARY  
TERMINATION**

The Executive Director shall have the right to terminate this Agreement at his or her sole discretion at any time upon thirty (30) days written notice to the Grantee. Within forty-five (45) days of receipt of written notice, Grantee is required to:

- a. Submit a final written report describing all work performed by the Grantee;
  - b. Submit an accounting of all grant funds expended up to and including the date of termination; and,
  - c. Reimburse CalRecycle for any unspent funds.
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**19. DISPUTES**

Unless otherwise instructed by the Grant Manager, the Grantee shall continue with its responsibilities under this Agreement during any dispute.

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**20. DRUG-FREE  
WORKPLACE  
CERTIFICATION**

The person signing this Agreement on behalf of the Grantee certifies under penalty of perjury under the laws of California, that the Grantee will comply with the requirements of the Drug-Free Workplace Act of 1990 (GC § 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions that will be taken against employees for violations.
  - b. Establish a drug-free awareness program to inform employees about all of the following: (1) the dangers of drug abuse in the workplace, (2) the Grantee's policy of maintaining a drug-free workplace, (3) any available counseling, rehabilitation, and employee assistance programs, and (4) penalties that may be imposed upon employees for drug abuse violations.
  - c. Require that each employee who works on the grant: (1) receive a copy of the drug-free policy statement of the Grantee, and (2) agrees to abide by the terms of such statement as a condition of employment on the grant.
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<b>21. EFFECTIVENESS OF AGREEMENT</b>	This Agreement is of no force or effect until signed by both parties.
<b>22. ENTIRE AGREEMENT</b>	This Agreement supersedes all prior agreements, oral or written, made with respect to the subject hereof and, together with all attachments hereto, contains the entire Agreement of the parties.
<b>23. ENVIRONMENTAL JUSTICE</b>	In the performance of this Agreement, the Grantee shall conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations of the State.
<b>24. EXPATRIATE CORPORATIONS</b>	The person signing this Agreement on behalf of the Grantee certifies under penalty of perjury under the laws of California, that the Grantee is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.
<b>25. FAILURE TO PERFORM AS REQUIRED BY THIS AGREEMENT</b>	<p>CalRecycle will benefit from the Grantee's full compliance with the terms of this Agreement only by the Grantee's:</p> <ul style="list-style-type: none"> <li>a. Investigation and/or application of technologies, processes, and devices which support reduction, reuse, and/or recycling of wastes; or</li> <li>b. Cleanup of the environment; or</li> <li>c. Enforcement of solid waste statutes and regulations, as applicable.</li> </ul> <p>Therefore, the Grantee shall be in compliance with this Agreement only if the work it performs results in:</p> <ul style="list-style-type: none"> <li>a. Application of information, a process, usable data or a product which can be used to aid in reduction, reuse, and/or recycling of waste; or</li> <li>b. The cleanup of the environment; or</li> <li>c. The enforcement of solid waste statutes and regulations, as applicable.</li> </ul> <p>If the Grant Manager determines that the Grantee has not complied with the Grant Agreement, the Grantee may forfeit the right to reimbursement any grant funds not already paid by CalRecycle, including, but not limited to, the ten percent (10%) withhold.</p>
<b>26. FORCE MAJEURE</b>	Neither CalRecycle nor the Grantee, its contractors, vendors, or subcontractors, if any, shall be responsible hereunder for any delay, default, or nonperformance of this Agreement, to the extent that such delay, default, or nonperformance is caused by an act of God, weather, accident, labor strike, fire, explosion, riot, war, rebellion, sabotage, flood, or other contingencies unforeseen by CalRecycle or the Grantee, its contractors, vendors, or subcontractors, and beyond the reasonable control of such party.
<b>27. FORFEIT OF GRANT FUNDS/REPAYMENT OF FUNDS IMPROPERLY EXPENDED</b>	If grant funds are not expended, or have not been expended, in accordance with this Agreement, or if real or personal property acquired with grant funds is not being used, or has not been used, for grant purposes in accordance with this Agreement, the Executive Director, at his or her sole discretion, may take appropriate action under this Agreement, at law or in equity, including requiring the Grantee to forfeit the unexpended portion of the grant funds, including, but not limited to, the ten percent (10%) withhold, and/or to repay to CalRecycle any funds improperly expended.

<b>28. GENERALLY ACCEPTED ACCOUNTING PRINCIPLES</b>	The Grantee is required to use Generally Accepted Accounting Principles in documenting all grant expenditures.
<b>29. GRANT MANAGER'S AUTHORITY</b>	The Grant Manager does not have the authority to approve any deviation from or revision to the Terms and Conditions (Exhibit A) or the Procedures and Requirements (Exhibit B), unless such authority is expressly stated in the Procedures and Requirements (Exhibit B).
<b>30. GRANTEE ACCOUNTABILITY</b>	The Grantee is ultimately responsible and accountable for the manner in which the grant funds are utilized and accounted for and the way the grant is administered, even if the Grantee has contracted with another organization, public or private, to administer or operate its grant program. In the event an audit should determine that grant funds are owed to CalRecycle, the Grantee is responsible for repayment of the funds to CalRecycle.
<b>31. GRANTEE'S INDEMNIFICATION AND DEFENSE OF THE STATE</b>	The Grantee agrees to indemnify, defend and save harmless the State and CalRecycle, and their officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Grantee in the performance of this Agreement.
<b>32. GRANTEE'S NAME CHANGE</b>	A written amendment is required to change the Grantee's name as listed on this Agreement. Upon receipt of legal documentation of the name change, CalRecycle will process the amendment. Payment of Payment Requests presented with a new name cannot be paid prior to approval of the amendment.
<b>33. NATIONAL LABOR RELATIONS BOARD CERTIFICATION</b>	The person signing this Agreement on behalf of the Grantee certifies under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against the Grantee within the immediately preceding two-year period because of the Grantee's failure to comply with an order of a federal court which orders the Grantee to comply with an order of the National Labor Relations Board. (Not applicable to public entities.)
<b>34. NO AGENCY RELATIONSHIP CREATED/ INDEPENDENT CAPACITY</b>	The Grantee and the agents and employees of Grantee, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of CalRecycle.
<b>35. NO WAIVER OF RIGHTS</b>	CalRecycle shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by CalRecycle. No delay or omission on the part of CalRecycle in exercising any rights shall operate as a waiver of such right or any other right. A waiver by CalRecycle of a provision of this Agreement shall not prejudice or constitute a waiver of CalRecycle's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by CalRecycle, nor any course of dealing between CalRecycle and Grantee, shall constitute a waiver of any of CalRecycle's rights or of any of Grantee's obligations as to any future transactions. Whenever the consent of CalRecycle is required under this Agreement, the granting of such consent by CalRecycle in any instance shall not constitute continuing consent to subsequent instances where such consent is

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required and in all cases such consent may be granted or withheld in the sole discretion of CalRecycle.

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**36. NON-DISCRIMINATION CLAUSE**

- a. During the performance of this Agreement, Grantee and its contractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment on the bases enumerated in Government Code §§ 12900 et seq.
  - b. The person signing this Agreement on behalf of the Grantee certifies under penalty of perjury under the laws of California that the Grantee has, unless exempted, complied with the nondiscrimination program requirements (Government Code § 12990(a-f)) and California Code of Regulations, Title 2, Section 8103). (Not applicable to public entities.)
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**37. OWNERSHIP OF DRAWINGS, PLANS, AND SPECIFICATIONS**

The State shall have separate and independent ownership of all drawings, design plans, specifications, notebooks, tracings, photographs, negatives, reports, findings, recommendations, data, software, and memoranda of every description or any part thereof, paid for in whole or in any part with grant funds. Copies thereof shall be delivered to CalRecycle upon request. Grantee agrees, and shall require that its contractors, subcontractors, and vendors agree, that the State shall have the full right to use said copies in any manner when and where it may determine without any claim to additional compensation.

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**38. PAYMENT**

- a. The approved Budget, if applicable, is attached hereto and incorporated herein by this reference and states the maximum amount of allowable costs for each of the tasks identified in the Work Plan, if applicable, which is attached hereto and incorporated herein by this reference. CalRecycle shall reimburse the Grantee for only the work and tasks specified in the Work Plan or the Grant Application at only those costs specified in the Budget and incurred in the term of the Agreement.
  - b. The Grantee shall carry out the work described on the Work Plan or in the Grant Application in accordance with the approved Budget, and shall obtain the Grant Manager's written approval of any changes or modifications to the Work Plan, approved project as described in the Grant Application or the approved Budget prior to performing the changed work or incurring the changed cost. If the Grantee fails to obtain such prior written approval, the Executive Director, at his or her sole discretion, may refuse to provide funds to pay for such work or costs.
  - c. The Grantee shall request reimbursement in accordance with the procedures described in the Procedures and Requirements.
  - d. Ten percent (10%) will be withheld from each Payment Request and paid at the end of the grant term, when all reports and conditions stipulated in this Agreement have been satisfactorily completed. Failure by the Grantee to satisfactorily complete all reports and conditions stipulated in this Agreement may result in forfeiture of any such funds withheld pursuant to CalRecycle's ten percent (10%) retention policy.
  - e. Lodgings, Meals and Incidentals: Grantee's Per Diem eligible costs are limited to the amounts authorized in the *California State Administrative Manual* (contact your Grant Manager for more information).
  - f. Payment will be made only to the Grantee.
  - g. Reimbursable expenses shall not be incurred unless and until the Grantee receives a Notice to Proceed as described in Exhibit B — Procedures and
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Requirements.

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**39. PERSONAL JURISDICTION**

The Grantee consents to personal jurisdiction in the State of California for all proceedings concerning the validity and operation of this Agreement and the performance of the obligations imposed upon the parties. Native American Tribal Grantees expressly waive tribal sovereign immunity as a defense to any and all proceedings concerning the validity and operation of this Agreement and the performance of the obligations imposed upon the parties.

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**40. PERSONNEL COSTS**

If there are eligible costs pursuant to Exhibit B, Procedures and Requirements, any personnel expenditures to be reimbursed with grant funds must be computed based on actual time spent on grant-related activities and on the actual salary or equivalent hourly wage the employee is paid for his or her regular job duties, including a proportionate share of any benefits to which the employee is entitled, unless otherwise specified in the Procedures and Requirements (Exhibit B).

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**41. REAL AND PERSONAL PROPERTY ACQUIRED WITH GRANT FUNDS**

- a. All real and personal property, including equipment and supplies, acquired with grant funds shall be used by the Grantee only for the purposes for which CalRecycle approved their acquisition for so long as such property is needed for such purposes, regardless of whether the Grantee continues to receive grant funds from CalRecycle for such purposes. In no event shall the length of time during which such property, including equipment and supplies, acquired with grant funds, is used for the purpose for which CalRecycle approved its acquisition be less than five (5) years after the end of the grant term, during which time the property, including equipment and supplies, must remain in the State of California.
  - b. Subject to the obligations and conditions set forth in this section, title to all real and personal property acquired with grant funds, including all equipment and supplies, shall vest upon acquisition in the Grantee. The Grantee may be required to execute all documents required to provide CalRecycle with a security interest in any real or personal property, including equipment and supplies, and it shall be a condition of receiving this grant that CalRecycle shall be in first priority position with respect to the security interest on any such property acquired with the grant funds, unless pre-approved in writing by the Grant Manager that CalRecycle will accept a lower priority position with respect to the security interest on the property. Grantee shall inform any lender(s) from whom it is acquiring additional funding to complete the property purchase of this grant condition.
  - c. The Grantee may not transfer Title to any real or personal property, including equipment and supplies, acquired with grant funds to any other entity without the express authorization of CalRecycle.
  - d. CalRecycle will not reimburse the Grantee for the acquisition of equipment that was previously purchased with CalRecycle grant funds, unless the acquisition of such equipment with grant funds is pre-approved in writing by the Grant Manager. In the event of a question concerning the eligibility of equipment for grant funding, the burden will be on the Grantee to establish the pedigree of the equipment.
- 

**42. RECYCLED-CONTENT CERTIFICATION**

The Grantee shall certify the minimum, if not the exact, percentage of postconsumer and secondary material in the products, materials, goods, and supplies purchased with grant funds. This certification shall be provided to CalRecycle on the Recycled Content Certification Form (CalRecycle 74G) available at [www.calrecycle.ca.gov/Grants/Forms/CalRecycle074G.doc](http://www.calrecycle.ca.gov/Grants/Forms/CalRecycle074G.doc).

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43. RECYCLED-CONTENT PAPER	All documents submitted by the Grantee must be printed double-sided on recycled-content paper containing one hundred percent (100%) post-consumer (PC) fiber. Specific pages containing full color photographs or other ink-intensive graphics may be printed on photographic paper.
44. RECYCLED-CONTENT PRODUCT PROCUREMENT	In the performance of this Agreement, for purchases made with grant funds, the Grantee shall purchase recycled-content products (RCP), as defined by the State Agency Buy Recycled Campaign (SABRC) minimum recycled content requirements see <a href="http://www.calrecycle.ca.gov/BuyRecycled/StateAgency/">www.calrecycle.ca.gov/BuyRecycled/StateAgency/</a> . If the Grantee cannot purchase RCPs, the Grantee must document why it was unable to comply with this requirement and request written pre-approval from its Grant Manager to deviate from this policy.
45. REDUCTION OF WASTE	In the performance of this Agreement, grantee shall take all reasonable steps to ensure that materials purchased or utilized in the course of the project are not wasted. Steps should include, but not be limited to: the use of used, reusable, or recyclable products; discretion in the amount of materials used; alternatives to disposal of materials consumed; and the practice of other waste reduction measures where feasible and appropriate.
46. REDUCTION OF WASTE TIRES	Unless otherwise provided for in this Agreement, in the performance of this Agreement, for all purchases made with grant funds, including, but not limited to equipment and tire-derived feedstock, the Grantee shall purchase and/or process only California waste tires and California waste tire-derived products. As a condition of final payment under this Agreement, the Grantee must provide documentation substantiating the source of the tire materials used during the performance of this Agreement to the Grant Manager.
47. REMEDIES	Unless otherwise expressly provided herein, the rights and remedies hereunder are in addition to, and not in limitation of, other rights and remedies under this Agreement, at law or in equity, and exercise of one right or remedy shall not be deemed a waiver of any other right or remedy.
48. SELF ASSESSMENT CHECKLIST	The Grantee shall submit with its Final Report a completed and signed Self Assessment Checklist Form, which is designed to aid the Grantee and CalRecycle in measuring compliance with grant administrative requirements.
49. SEVERABILITY	If any provisions of this Agreement are found to be unlawful or unenforceable, such provisions will be voided and severed from this Agreement without affecting any other provision of this Agreement. To the full extent, however, that the provisions of such applicable law may be waived, they are hereby waived to the end that this Agreement be deemed to be a valid and binding agreement enforceable in accordance with its terms.
50. SITE ACCESS	The Grantee shall allow the State to inspect sites at which grant funds are expended and related work being performed at any time during the performance of the work and for ninety (90) days after completion of the work, or until all issues related to the grant project have been resolved.
51. STOP WORK NOTICE	Immediately upon receipt of a written notice from the Grant Manager to stop work, the Grantee shall cease all work under this Agreement.
52. TERMINATION FOR CAUSE	CalRecycle may terminate this Agreement and be relieved of any payments should the Grantee fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination, CalRecycle may proceed with the work in any manner deemed proper by CalRecycle. All costs to CalRecycle shall be deducted from any sum due the Grantee under this

	Agreement. Termination pursuant to this section may result in forfeiture by the Grantee of any funds retained pursuant to CalRecycle's ten percent (10%) retention policy.
<b>53. TIME IS OF THE ESSENCE</b>	Time is of the essence to this Agreement.
<b>54. TOLLING OF STATUTE OF LIMITATIONS</b>	The statute of limitations for bringing any action, administrative or civil, to enforce the terms of this Agreement or to recover any amounts determined to be owing to CalRecycle as the result of any audit of the grant covered by this Agreement shall be tolled during the period of any audit resolution, including any appeals by the Grantee to the Executive Director and/or the Board.
<b>55. UNION ORGANIZING</b>	By signing this Agreement, the Grantee hereby acknowledges the applicability of Government Code §§ 16645, 16645.2, 16645.8, 16646, 16647, and 16648 to this Agreement and hereby certifies that: <ul style="list-style-type: none"> <li>a. No grant funds disbursed by this grant will be used to assist, promote, or deter union organizing by employees performing work under this Agreement.</li> <li>b. If the Grantee makes expenditures to assist, promote, or deter union organizing, the Grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee shall provide those records to the Attorney General upon request.</li> </ul>
<b>56. UNRELIABLE LIST</b>	Prior to authorizing a contractor(s) to commence work under this Grant, the Grantee shall submit to CalRecycle a declaration from the contractor(s), signed under penalty of perjury, stating that within the preceding three (3) years, none of the events listed in Section 17050 of Title 14, California Code of Regulations, Natural Resources, Division 7, has occurred with respect to the contractor(s). See <a href="http://www.calregs.com">http://www.calregs.com</a> to access the referenced regulation. If a contractor is placed on CalRecycle Unreliable List after award of this Grant, the Grantee may be required to terminate that contract.
<b>57. VENUE/ CHOICE OF LAW</b>	<ul style="list-style-type: none"> <li>a. All proceedings concerning the validity and operation of this Agreement and the performance of the obligations imposed upon the parties hereunder shall be held in Sacramento County, California. The parties hereby waive any right to any other venue. The place where the Agreement is entered into and place where the obligation is incurred is Sacramento County, California.</li> <li>b. The laws of the State of California shall govern all proceedings concerning the validity and operation of this Agreement and the performance of the obligations imposed upon the parties hereunder.</li> </ul>
<b>58. WAIVER OF CLAIMS AND RE COURSE AGAINST THE STATE</b>	The Grantee agrees to waive all claims and recourse against the State, its officials, officers, agents, employees, and servants, including, but not limited to, the right to contribution for loss or damage to persons or property arising out of, resulting from, or in any way connected with or incident to this Agreement. This waiver extends to any loss incurred attributable to any activity undertaken or omitted pursuant to this Agreement or any product, structure, or condition created pursuant to, or as a result of, this Agreement.
<b>59. WORK PRODUCTS</b>	The Grantee must provide CalRecycle with copies of all final products identified in the Work Plan.
<b>60. WORKERS' COMPENSATION/ LABOR CODE</b>	The Grantee is aware of Labor Code section 3700, which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the Labor Code, and the Grantee affirms to comply with such provisions before commencing the performance of

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the work of this Agreement.

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**EXHIBIT B**  
**PROCEDURES AND REQUIREMENTS**  
Rubberized Asphalt Concrete Grant Program  
Targeted Rubberized Asphalt Concrete Incentive Grant  
Rubberized Asphalt Concrete Chip Seal Grant  
Fiscal Year 2010/11

**INTRODUCTION**

The Procedures and Requirements of the Department of Resources Recycling and Recovery's (CalRecycle) Rubberized Asphalt Concrete (RAC) Grant Program Grant Agreement (Agreement) describes project and reporting requirements, report due dates, report contents, grant payment conditions, eligible and ineligible project costs, project completion and close-out procedures, records and audit requirements.

**RELIABLE  
CONTRACTOR  
DECLARATION**

Prior to authorizing a contractor(s) to commence work under this Grant, the Grantee shall submit to the CalRecycle Grant Manager a declaration from the contractor(s), signed under penalty of perjury, stating that within the preceding three (3) years, none of the events listed in Section 17050 of Title 14, California Code of Regulations Natural Resources, Division 7, has occurred with respect to the contractor(s) and the subcontractor(s), respectively. See <http://www.calrecycle.ca.gov/Laws/Regulations/Title14/ch1.htm#ch1a5>.

Provide the Reliable Contractor Declaration Form (CalRecycle 168) for all contractors and subcontractors that supplied rubberized asphalt materials for the project. To obtain CalRecycle 168 form, see the General Grant Forms section of the CalRecycle forms web page, <http://www.calrecycle.ca.gov/Grants/Forms>.

If a (sub) contractor is placed on the CalRecycle Unreliable List after award of this Grant, the Grantee may be required to terminate that contract.

**PROJECT  
REQUIREMENTS**

All projects are subject to the following requirements:

- One hundred percent (100%) California-generated waste tires must be used in the rubber portion of the project(s).
- The binder material must contain a minimum of 300 pounds (equivalent to 15% by weight) of tire-derived crumb rubber per ton of rubberized binder.
- Reimbursement will not exceed the amount stated on the Grant Agreement Cover Sheet (CalRecycle 110).
- Construction of the RAC portion of any project must commence on or after the date indicated in the Notice to Proceed and be completed by April 1, 2013.

Additionally, the following project requirements are specific to the individual grant as indicated:

**Targeted Rubberized Asphalt Concrete Incentive (Targeted) Grant**

- Project(s) must use a minimum of 3,500 tons of RAC.
- Grantee's staff involved in the proposed RAC project(s) must attend a CalRecycle-sponsored training before beginning the project. Topics for the

training are typically in one-hour modules and may include a general introduction or more detailed discussion regarding the RAC manufacturing and construction processes and procedures.

- Reimbursement will be based on the following, as stated in the Grant Application Guidelines and Instructions for each project/phase:

Number of RAC Grants Received in the Past	Differential Between RAC and Conventional Asphalt Concrete
0	100%
1	70%
2	40%

#### **Rubberized Asphalt Concrete Chip Seal (Chip Seal) Grant**

- Project(s) must use a minimum area of 35,000 square yards of RAC chip seal material.
- Reimbursement will be based on the following, as stated in the Grant Application Guidelines and Instructions for each project/phase:

Number of RAC Chip Seal Grants Received in the Past	Reimbursement Rate
0-1	\$1.00 per square yard
2-3	\$.50 per square yard

#### **PROJECT ACKNOWLEDGEMENT REQUIREMENTS**

By April 1, 2013 the grantee must list on their website, for a minimum period of one year, an acknowledgement of CalRecycle's funding and waste tire diversion amounts for the project(s). See the "Acknowledgements" and "Advertising/Public Education" provisions in Exhibit A – Terms and Conditions, for acknowledgement requirement information. When the web site acknowledgement posting is problematic due to grantee-specific issues, the grantee may substitute alternative forms of acknowledgement requirements upon written pre-approval from the CalRecycle Grant Manager.

Alternatives to the web site posting acknowledgement requirement must include one or more of the following:

1. Utility bill inserts
2. Newspaper ads/stories
3. Local radio
4. Television public service announcement (PSA)
5. Signage acknowledgement. See Attachment 2 to the Grant Award Cover Letter – Signage for an example and sign specifications. The signage acknowledgement must include the following:
  1. Funded by grant from CalRecycle;
  2. CalRecycle Logo; and
  3. Number of California waste tires diverted from the waste stream by this project.

WORK PLAN AND CHANGES/ MODIFICATIONS	The grantee will construct one or more RAC project(s) at the location(s) specified in the approved grant application. Changes or modifications to the original project must be submitted in writing to the CalRecycle Grant Manager by the Grantee. Only non-substantive changes will be considered. The total amount of RAC or chip seal material used for the grant must be equal to or greater than the amount in the approved application. <b>The CalRecycle Grant Manager must approve the proposed changes in writing prior to the Grantee performing the changed work.</b>				
RECYCLED-CONTENT CERTIFICATION	The certification required in the "Recycled Content Certification" provision of the Terms and Conditions (Exhibit A) shall be provided on the Crumb Rubber Modifier Certification Form (CalRecycle 727-RAC) available at <a href="http://www.calrecycle.ca.gov/Grants/Forms">http://www.calrecycle.ca.gov/Grants/Forms</a> , in the Tire Recycling, Cleanup, and Enforcement Grants section.				
REPORTING REQUIREMENTS	A Progress Report and a Final Report are required by this Agreement. All reports must be current, including all required sections/documents, and must be approved by the CalRecycle Grant Manager before Grant Payment Requests can be processed. Failure to comply with the specified reporting requirements or the approved work plan may result in the termination of this Agreement or suspension of any outstanding Grant Payment Requests. Any problems or delays must be reported immediately to the CalRecycle Grant Manager.  All documents submitted must be printed double-sided on recycled-content paper containing one hundred percent (100%) post consumer fiber. Specific pages containing full-color photographs or other ink-intensive graphics may be printed on photographic paper.				
PROGRESS REPORT REQUIREMENTS	The Grantee must submit a Progress Report to the CalRecycle Grant Manager by June 30, 2012. The reporting period begins from the date of the Notice to Proceed issued by CalRecycle notifying the grantee to begin the grant project and continues through April 30, 2012.  The Progress Report must be prepared in the format specified below.				
<table border="1"> <thead> <tr> <th>Report Component</th> <th>Description</th> </tr> </thead> <tbody> <tr> <td>Cover Page</td> <td> <ul style="list-style-type: none"> <li>• Name of the grantee</li> <li>• Grant number</li> <li>• Amount of grant award</li> <li>• Dates of report coverage</li> <li>• Report preparation date</li> <li>• Disclaimer statement, as follows: "The statements and conclusions of this report are those of the Grantee and not necessarily those of the Department of Resources Recycling and Recovery, its employees, or the State of California. The State makes no warranty, express or implied, and assumes no liability for</li> </ul> </td> </tr> </tbody> </table>		Report Component	Description	Cover Page	<ul style="list-style-type: none"> <li>• Name of the grantee</li> <li>• Grant number</li> <li>• Amount of grant award</li> <li>• Dates of report coverage</li> <li>• Report preparation date</li> <li>• Disclaimer statement, as follows: "The statements and conclusions of this report are those of the Grantee and not necessarily those of the Department of Resources Recycling and Recovery, its employees, or the State of California. The State makes no warranty, express or implied, and assumes no liability for</li> </ul>
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		the information contained in the succeeding text.”
	<b>Project Summary and Status</b>	<p>Provide a brief description of the progress of the RAC grant project(s) including</p> <ul style="list-style-type: none"> <li>• Approved, completed and in-process project(s)</li> <li>• The timeline for completion of remaining project(s)</li> <li>• Results Achieved</li> <li>• Problems encountered or anticipated</li> <li>• Provide a brief description of any changes to the project and/or schedule including:</li> <li>• Changes in Grantee contact information</li> <li>• Changes or modifications to the original project.</li> </ul>
FINAL REPORT REQUIREMENTS		<p>The Final Report and final Grant Payment Request may be submitted at any time after the project is completed, but must be submitted no later than April 1, 2013. The reporting period covers from the Notice to Proceed to April 1, 2013. <b>Failure to submit the Final Report and final Grant Payment Request with appropriate documentation by April 1, 2013 may result in rejection of the final Grant Payment Request and/or forfeiture by the Grantee of any claims for reimbursement of otherwise eligible costs.</b></p> <p>The Final Report must be prepared in the format specified below. If requested, the Grantee shall make an oral presentation to the appropriate CalRecycle committee or workshop.</p>

Report Component	Description
Cover Page	<ul style="list-style-type: none"> <li>• Name of the grantee</li> <li>• Grant number</li> <li>• Amount of grant award</li> <li>• Dates of report coverage</li> <li>• Report preparation date</li> <li>• Disclaimer statement, as follows: “The statements and conclusions of this report are those of the Grantee and not necessarily those of the Department of Resources Recycling and Recovery, its employees, or the State of California. The State makes no warranty, express or implied, and assumes no liability for the information contained in the succeeding text.”</li> </ul>
Table of Contents	Identify report contents and corresponding page numbers.

<b>Project Summary and Information</b>	Provide a concise Executive Summary of the project(s). Within the narrative of the report, include the following information: <ul style="list-style-type: none"> <li>• Locations of Paving (List of Street); limits of paving (Point A to Point B)</li> <li>• Amount (tons) of RAC; amount of rubberized binder (tons) and square yardage of chip seal used</li> <li>• General Information (thickness of paving, type of mix – e.g. asphalt-rubber, type G, gap graded, open graded, etc.)</li> <li>• Binder information (asphalt cement type, percent crumb rubber, percent binder in mix, terminal blend)</li> <li>• Pounds of rubber per ton of mix (a minimum of 300 pounds [equivalent to 15 percent by weight] of tire-derived crumb rubber per ton of rubberized binder) and the total pounds of crumb rubber used in project(s)</li> <li>• Cost of material (\$/ton-RAC, \$/yd<sup>2</sup>-chip seal)</li> <li>• Problems encountered</li> </ul>
<b>Waste Tires Diverted</b>	Total number of California waste tires diverted from the waste stream as a result of the project's completion. You must provide verification that 100% of the tire rubber purchased and used in the project was from California by signing the Crumb Rubber Modifier Certification Form (CalRecycle 727-RAC).
<b>Photographs/ Project Acknowledgement</b>	Two digital photographs of the completed project on disk. Pre-construction photographs are highly recommended, however, not mandatory. <ul style="list-style-type: none"> <li>• A copy of your internet web page (or alternative) project acknowledgement.</li> </ul>
<b>Contractor Summary</b>	List of all contractors and subcontractors that supplied rubberized asphalt materials for the project. For each contractor and subcontractor include the following information: <ul style="list-style-type: none"> <li>• Name of Firm</li> <li>• Contact person</li> <li>• Address</li> <li>• Concise statement of work completed</li> <li>• Time period in which the work was completed</li> <li>• Amount paid</li> <li>• Reliable Contractor Declaration</li> </ul>

GRANT PAYMENT  
INFORMATION

(CalRecycle 168) required by Exhibit A – Terms and Conditions (Unreliable List).

1. Payment to the Grantee for eligible grant expenses are made on a reimbursement basis only and for only those materials and services specified in the approved Grant Application.
2. The Grantee must submit the required Progress Report/Final Report, and the CalRecycle Grant Manager must approve the report prior to, or concurrent with, submission of the Grant Payment Request.
3. The Grantee must submit a completed Grant Payment Request and provide supporting documentation as described in the “Grant Payment Request and Documentation” section for completed project(s) only.
4. Grant payments will only be made to the Grantee. It is the Grantee’s responsibility to pay all contractors and subcontractors for purchased goods and services.
5. Ten percent (10%) of each approved Grant Payment Request will be withheld and retained until all conditions stipulated in the Grant Agreement, including submission and CalRecycle Grant Manager approval of the Progress and/or Final Report, have been satisfied. Reimbursement of the 10% retention must be requested in the final Grant Payment Request.
6. CalRecycle will make payments to the Grantee as promptly as fiscal procedures permit. The Grantee can typically expect payment approximately forty-five (45) days from the date a Grant Payment Request is approved by the CalRecycle Grant Manager.
7. The Grantee must provide a Reliable Contractor Declaration (CalRecycle 168) (see <http://www.calrecycle.ca.gov/Grants/Forms>) signed under penalty of perjury by the Grantee’s contractor(s) and subcontractor(s) in accordance with the “Unreliable List” provision of the Terms and Conditions. The declaration must be received and approved by the CalRecycle Grant Manager prior to commencement of work. See “Unreliable List” provision in Exhibit A – Terms and Conditions for more information.

ELIGIBLE PROJECT  
COSTS

Eligible costs include:

Expenditures incurred during the term of the grant project (beginning after receipt from CalRecycle of a Notice to Proceed through April 1, 2013) directly related to the project(s) rubberized paving material and its installation.

INELIGIBLE PROJECT  
COSTS

Ineligible costs include, but are not limited to, the following:

- Costs incurred for projects that start construction of the RAC paving prior to the Notice to Proceed date, or end construction after April 1, 2013;
- Projects utilizing tire rubber material that is not made from 100% California-generated waste tires or that use truck tire buffing material;
- Projects using less than the required amount of crumb rubber, tonnage of RAC or yardage of chip seal material, as specified in Project Requirements;
- Binder material not meeting the minimum 300 pounds (equivalent to 15

	<p>percent by weight) of tire-derived crumb rubber per ton of rubberized binder;</p> <ul style="list-style-type: none"> <li>• Personnel costs, including fringe benefits;</li> <li>• Overhead and/or indirect costs; and</li> <li>• Any other costs deemed unreasonable or unrelated to the purpose of the grant by the CalRecycle Grant Manager.</li> </ul>
GRANT PAYMENT REQUEST AND DOCUMENTATION	<p>1. Submit a Grant Payment Request (CalRecycle 87) with an original signature of the individual or his/her designee, as authorized in the resolution. Copies of or faxed Grant Payment Request forms will not be approved for payment. To obtain the Grant Payment Request (CalRecycle 87), see <a href="http://www.calrecycle.ca.gov/Grants/Forms">http://www.calrecycle.ca.gov/Grants/Forms</a>.</p>
	<p>Include supporting documentation such as invoices, receipts, weigh tickets or approved progress payment authorizations containing:</p> <ul style="list-style-type: none"> <li>➤ Vendor name, phone number or address, purchase amount and date</li> <li>➤ Description of goods or services</li> <li>➤ Proof of payment (e.g., copies of cancelled checks, bank statements, invoice marked as paid with corresponding receipts or cancelled checks)</li> <li>➤ Amount of RAC or chip seal material produced for the project</li> <li>➤ For reimbursement based on differential cost, provide proof of: actual RAC cost (\$/ton) <u>and</u> conventional AC cost (#/ton) {e.g., an alternate bid from the RAC project or other recent, comparable size AC project.}</li> </ul>
	<p><i>Note: All supporting documentation must be maintained in accordance with the "Audit/Records Access" section of Exhibit A – Terms and Conditions.</i></p> <p>2. Submit a Crumb Rubber Modifier Certification Form (CalRecycle 727-RAC) with each payment request. The Crumb Rubber Modifier Certification Form can be found at <a href="http://www.calrecycle.ca.gov/Grants/Forms">http://www.calrecycle.ca.gov/Grants/Forms</a>, in the Tire Recycling, Cleanup, and Enforcement Grants section.</p> <p>3. Please submit all reports and payment requests to:</p> <p style="text-align: center;">Department of Resources Recycling and Recovery ATTN: RAC Grant Program FiRM Branch, 9<sup>th</sup> Floor P.O. Box 4025 Sacramento, CA 95812-4025</p>
RECORDS AND AUDIT REQUIREMENTS	This grant is subject to a desk or field audit. See the "Audit/Records Access" provision in Exhibit A – Terms and Conditions for more information.
ANNUAL SURVEY	Post-grant term Annual Surveys are required by this Agreement to help assess your long-term satisfaction with the RAC road projects funded by this Grant Agreement. The Grantee must complete and submit an Annual Survey for the RAC Grant Program every year for five (5) years after the grant is closed based upon the schedule below.

Survey Due Date	Survey Period
June 30, 2014	Completion of Project – June 30, 2014
June 30, 2015	July 1, 2014 – June 30, 2015
June 30, 2016	July 1, 2015 – June 30, 2016
June 30, 2017	July 1, 2016 – June 30, 2017
June 30, 2018	July 1, 2017 – June 30, 2018

The annual online survey may be accessed online at:  
<http://www.calrecycle.ca.gov/Tires/Grants/RAC/default.htm>

**SURVEY SUBMITTAL**

If you are unable to access the online survey for any reason, you may download, print, and mail the RAC Annual Survey form.

If mailed, please send to:

Department of Resources Recycling and Recovery

ATTN: RAC Grant Program Survey  
 FiRM Branch, 9<sup>th</sup> Floor  
 P.O. Box 4025  
 Sacramento, CA 95812-4025

Complete

TRI 32-10-7

**Rubberized Asphalt Concrete Grant Program FY 2010/11**

Complete and submit all sections. See the Application Guidelines and Instructions for definitions.

**INDICATE FOR WHICH RAC CATEGORY YOU ARE APPLYING:**

- An applicant can only apply for one category under Targeted (1-3)
- Please note, if you have had three RAC grants and/or four Chip Seal grants you are not eligible to apply for one or both of those respective grants.
- See Application Guidelines & Instructions for Category & Eligibility requirements

RECEIVED

FEB 14 2011

<input type="checkbox"/> Category 1 - Targeted	<input checked="" type="checkbox"/> Category 2 - Targeted	<input type="checkbox"/> Category 3 - Targeted
--	---	--

AN APPLICANT CAN ALSO APPLY FOR A CHIP SEAL PROJECT.

**IF APPLICABLE, INDICATE FOR WHICH CHIP SEAL CATEGORY YOU ARE APPLYING:**

- an applicant can apply for only one category (4-5)
- See Application Guidelines & Instructions for Category and Eligibility requirements.

<input type="checkbox"/> Category 4 - Chip Seal	<input type="checkbox"/> Category 5 - Chip Seal
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**APPLICANT / ORGANIZATION INFORMATION**

**REQUESTED GRANT AMOUNT:**

(ROUND AMOUNTS TO THE NEAREST WHOLE DOLLAR.)

APPLICANT / ORGANIZATION NAME:  
 City of Banning, Public Works Department

Categories 1-3

\$250,000.00

Categories 4-5

\$

**MAILING ADDRESS:**

99 E. Ramsey Street

CITY: Banning	COUNTY: Riverside	ZIP CODE: 92220
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PRIMARY CONTACT NAME: Ann Marie Loconte, P.E.	SIGNATURE AUTHORITY NAME: (AS AUTHORIZED IN RESOLUTION, SEE APP. GUIDELINES & INSTRUCTIONS FOR MORE INFO.) Andy Takata	AUTHORIZED DESIGNEE NAME: (IF APPLICABLE, SEE APP. GUIDELINES & INSTRUCTIONS FOR MORE INFO.)
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TITLE: Associate Civil Engineer	TITLE: City Manager	TITLE:
------------------------------------	------------------------	--------

PHONE NUMBER: 951.922.3130	FAX NUMBER: 951.922.3141	PHONE NUMBER: 951.922.3101	FAX NUMBER: 951.922.3174	PHONE NUMBER:	FAX NUMBER:
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EMAIL ADDRESS: amloconte@ci.banning.ca.us	EMAIL ADDRESS: atakata@ci.banning.ca.us	EMAIL ADDRESS:
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**INDICATE WHICH TYPE OF ENTITY YOU ARE (CHECK ONLY ONE):**

<input checked="" type="checkbox"/> CITY	<input type="checkbox"/> COUNTY	<input type="checkbox"/> CITY & COUNTY	<input type="checkbox"/> QUALIFYING CALIFORNIA INDIAN TRIBE
--	---------------------------------	--	---

LEGISLATIVE DISTRICT NUMBERS: (TO FIND YOUR DISTRICT,

FEDERAL TAX IDENTIFICATION NUMBER:

USE MAILING ADDRESS ABOVE AND GO TO

[www.calrecycle.ca.gov/Profiles/Juris/](http://www.calrecycle.ca.gov/Profiles/Juris/)

ASSEMBLY: SENATE:

65

27

956000674

RAC OR CHIP SEAL PROJECT HISTORY (Note: If no history indicate "none".)

NUMBER	CALRECYCLE GRANT NUMBER	PROJECT DATE	PROJECT LOCATION
1.	TRI 13-06-3	FALL 2008	WILSON STREET FROM 8 <sup>TH</sup> STREET TO STARGAZE WAY
2.			
3.			
4.			
5.			

ENVIRONMENTAL JUSTICE CERTIFICATION

*CalRecycle Grantees must in the performance of the Grant Agreement conduct their programs, policies, and activities that substantially affect human health or the environment in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations of the State. (Govt. Code §65040.12(e))*

Must check box

Applicant will comply with the principles of Environmental Justice as described above.

CALIFORNIA CRUMB RUBBER CERTIFICATION

Must check box	Applicant certifies that all crumb rubber used in the aforementioned project(s) will be derived from one hundred percent (100%) California waste tires.
----------------	---

RESOLUTION REQUIREMENT

- Submit either a current approved Resolution, valid up to 5 years, or Letter of Commitment, valid up for 1 year, with your application or the following acknowledgement  
*(If applicable, submit a current Letter of Designation (LOD) for signature designee)*

Check one box	<i>Note: See Application Guidelines &amp; Instructions for Resolution, Letter of Commitment and Letter of Designation (LOD) information and examples</i>
<input checked="" type="checkbox"/>	A current approved Resolution and, if applicable, LOD designating additional signature authority are enclosed in the application.
<input type="checkbox"/>	We acknowledge that our approved Resolution must be received by the CalRecycle no later than March 18, 2011, or that the application will not be considered for award.

ENVIRONMENTALLY PREFERABLE PURCHASES AND PRACTICES POLICY

*Environmentally preferable purchasing protects human health and environmental well-being by reducing the procurement of goods and services that result in larger volumes of waste and pollutants. The Legislature declares that the responsibility of environmentally preferable purchasing shall be that of any agency that does procuring on behalf of the state (Chan, Statutes of 2002, Chapter 575), and this extends to grantees using state funds.*

*"Environmentally preferable purchasing (EPP)" as defined in PCC section 12400 means "the procurement or acquisition of goods and services that have a lesser or reduced effect on human health and the environment when compared with competing goods or services that serve the same purpose. This comparison shall take into consideration, to the extent feasible, raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, disposal, energy efficiency, product performance, durability, safety, the needs of the purchaser, and cost." In other words, EPP*

considers, among other things, the environment, performance and cost."

**Acknowledgement that your organization has an Environmentally Preferable Purchasing & Practices Policy**

<b>Must check one</b>	<i>Note: See Application Guidelines &amp; Instructions for example and Notification</i>
<input checked="" type="checkbox"/>	Yes, our entire organization <sup>1</sup> has an Environmentally Preferable Purchases and Practices Policy. Date adopted: <u>Ordinance 1329, October 11, 2005</u>
<input type="checkbox"/>	No, our organization does not have an Environmentally Preferable Purchases and Practices Policy. We acknowledge that our organization must adopt one by <b>March 18, 2011</b> and notify CalRecycle of such adoption by the secondary deadline of <b>March 18, 2011</b> , or our application will be disqualified.

**Rubberized Asphalt Concrete & Chip Seal Projects**

Please list project information. (Note: Attach additional sheet(s) if necessary.)

<b>PROJECT INFORMATION</b>	
LOCATION (E.G., CITY/TOWN, INTERSECTION): <b>BANNING, WILSON STREET IN THE CITY OF BANNING</b>	
LIMITS (E.G., POST MILE OR POINT A TO POINT B): <b>WILSON STREET, FROM STARGAZE WAY TO WEST OF SUNSET AVENUE</b>	
TONS OF RAC OR RUBBERIZED BINDER USED: <b>6500 TONS OF RAC</b>	SQUARE YARDAGE OF CHIP SEAL:
AMOUNT OF CRUMB RUBBER (PER TON) OF RAC OR BINDER – <b>300 lbs Crumb Rubber Material/Ton of Binder Material</b>	PROPOSED CONSTRUCTION START DATE: <b>SEPTEMBER, 2011</b>
TYPE OF RAC: <input checked="" type="checkbox"/> ASPHALT-RUBBER <input type="checkbox"/> TERMINAL BLEND <input type="checkbox"/> CHIP SEAL	
<b>PROJECT INFORMATION</b>	
LOCATION (E.G., CITY/TOWN, INTERSECTION):	
LIMITS (E.G., POST MILE OR POINT A TO POINT B):	
TONS OF RAC OR RUBBERIZED BINDER USED:	SQUARE YARDAGE OF CHIP SEAL:
AMOUNT OF CRUMB RUBBER (PER TON) OF RAC OR BINDER	PROPOSED CONSTRUCTION START DATE:
TYPE OF RAC: <input type="checkbox"/> ASPHALT-RUBBER <input type="checkbox"/> TERMINAL BLEND <input type="checkbox"/> CHIP SEAL	
<b>PROJECT INFORMATION</b>	
LOCATION (E.G., CITY/TOWN, INTERSECTION):	
LIMITS (E.G., POST MILE OR POINT A TO POINT B):	
TONS OF RAC OR RUBBERIZED BINDER USED:	SQUARE YARDAGE OF CHIP SEAL:

<sup>1</sup> "Entire organization" refers to the entire city, county or non-profit applicant, not an individual office or subunit of the larger entity.

AMOUNT OF CRUMB RUBBER (PER TON) OF RAC OR BINDER	PROPOSED CONSTRUCTION START DATE:
TYPE OF RAC: <input type="checkbox"/> ASPHALT-RUBBER <input type="checkbox"/> TERMINAL BLEND <input type="checkbox"/> CHIP SEAL	
<b>PROJECT INFORMATION</b>	
LOCATION (E.G., CITY/TOWN, INTERSECTION):	
LIMITS (E.G., POST MILE OR POINT A TO POINT B):	
TONS OF RAC OR RUBBERIZED BINDER USED:	SQUARE YARDAGE OF CHIP SEAL:
AMOUNT OF CRUMB RUBBER (PER TON) OF RAC OR BINDER	PROPOSED CONSTRUCTION START DATE:
TYPE OF RAC: <input type="checkbox"/> ASPHALT-RUBBER <input type="checkbox"/> TERMINAL BLEND <input type="checkbox"/> CHIP SEAL	
<b>PROJECT INFORMATION</b>	
LOCATION (E.G., CITY/TOWN, INTERSECTION):	
LIMITS (E.G., POST MILE OR POINT A TO POINT B):	
TONS OF RAC OR RUBBERIZED BINDER USED:	SQUARE YARDAGE OF CHIP SEAL:
AMOUNT OF CRUMB RUBBER (PER TON) OF RAC OR BINDER	PROPOSED CONSTRUCTION START DATE:
TYPE OF RAC: <input type="checkbox"/> ASPHALT-RUBBER <input type="checkbox"/> TERMINAL BLEND <input type="checkbox"/> CHIP SEAL	

### Rubberized Asphalt Concrete Projects

Please list total material and cost information for categories 1-3 only.

<b>MATERIAL COST INFORMATION</b>		<b>ESTIMATED TESTING COST INFORMATION</b>	
X HISTORICAL COST <input type="checkbox"/> BID COST		X HISTORICAL COST <input type="checkbox"/> BID COST	
CONVENTIONAL AC \$ 55 / TON		15,000.00	
ASPHALT RUBBER \$ 115 / TON			

### TOTAL CALCULATION FOR REQUESTED PROJECTS - REQUESTED GRANT AMOUNT

(Note: See Application Guidelines & Instructions for calculation example)

AMOUNT OF RAC (in tons)	X	DIFFERENTIAL COST OF RAC (RAC cost minus AC cost) \$/ton	DIFFERENTIAL		TOTAL (must match req. grant amount)
			X	FACTOR	
6500	X	\$ 60.00	X	0.7	\$ 273,000
					= \$ 250,000

6500 X \$60 X 0.7 = \$ 250,000

**Chip Seal Projects**

Please list total material and cost information for category 4 and 5 only.

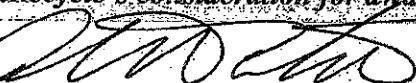
<b>NEW USER CALCULATION</b>					
<i>(Note: See Application Guidelines &amp; Instructions for calculation example)</i>					
AMOUNT OF RAC CHIP SEAL USED IN PROJECT(S) (IN YD <sup>2</sup> )	X	REIMBURSEMENT RATE (\$1.00 or \$0.50 per yd <sup>2</sup> )		=	TOTAL
	X	\$1.00 or \$0.50		=	\$

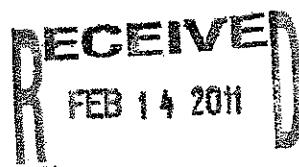
**GRANT PROVISIONS ACCEPTANCE**

<b>Check box</b>	<p><input checked="" type="checkbox"/> By checking this box, Applicant acknowledges that submittal of this application constitutes acceptance of all Grant Agreement provisions as contained in the Terms and Conditions and Procedures and Requirements. To download these documents see: (<a href="http://www.calrecycle.ca.gov/Tires/Grants/RAC/">http://www.calrecycle.ca.gov/Tires/Grants/RAC/</a>)</p>
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**APPLICATION CERTIFICATION**

*Certification: I declare, under penalty of perjury under the laws of the State of California, that I have read all information in the Application Guidelines and Instructions and that all information submitted for CalRecycle's consideration for award of grant funds is true and correct to the best of my knowledge.*

<input checked="" type="checkbox"/> 	
<p><i>Signature Authority - as authorized in Resolution; or Authorized Designee - as authorized in submitted Letter of Designation</i></p> <p>Andy Takata Type or Print Name</p>	<p><i>Date</i> 2-9-2011</p> <p><i>City Manager</i> <i>Title</i></p>



## APPLICATION CHECKLIST

This application checklist is provided for your convenience and is not intended to be all inclusive. Prior to submitting your application, check the Q&A website at <http://www.calrecycle.ca.gov/Tires/Grants/RAC/FY201011/Apply/QandA.htm> for additional information. You are responsible for completing and submitting all required documentation.

### Grant Application Form ( CalRecycle 243-RAC )

- |                                     |  |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | All applicable information and documents are provided; applicable boxes are checked. |
| <input checked="" type="checkbox"/> | Application Certification is signed by the:  |
|                                     | 1) Signature Authority as authorized in Resolution, or                               |
|                                     | 2) Authorized Designee.  |

*Authorized Designee may sign only if the Letter of Designation has been submitted to CalRecycle.*

### Environmental Justice Certification

- |                                     |                |
|-------------------------------------|----------------|
| <input checked="" type="checkbox"/> | Box is checked |
|-------------------------------------|----------------|

### California Crumb Rubber Certification

- |                                     |                |
|-------------------------------------|----------------|
| <input checked="" type="checkbox"/> | Box is checked |
|-------------------------------------|----------------|

### Resolution Requirement

*See Application Guidelines & Instructions for Resolution, Letter of Commitment, and Letter of Designation (LOD) information and examples*

- |                                     |  |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | Current approved Resolution submitted; box is checked, or  |
| <input type="checkbox"/>            | If applicable, approved Resolution not submitted with Application but will be submitted to CalRecycle for receipt by <b>March 18, 2011</b> ; box is checked. |
| <input type="checkbox"/>            | If applicable, Letter of Designation (LOD) is included with Application.   |
- A LOD is not required to be submitted with the Application; however, it must be submitted prior to Designee's exercise of his/her authority.*

### Environmentally Preferable Purchases and Practices Policy

- |                                     |                |
|-------------------------------------|----------------|
| <input checked="" type="checkbox"/> | Box is checked |
|-------------------------------------|----------------|

*Note: See Application Guidelines & Instructions for information and notification.*

### Grant Provision Acceptance

- |                                     |                |
|-------------------------------------|----------------|
| <input checked="" type="checkbox"/> | Box is checked |
|-------------------------------------|----------------|

### Application Format & Submittal

- |                                     |  |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | Copies: One original, with wet signature (blue ink preferred), and one copy                                  |
| <input checked="" type="checkbox"/> | Paper: 8½ X 11, double-sided, single spaced, printed on 100% post consumer fiber, and numbered consecutively |
| <input checked="" type="checkbox"/> | Stapled, not bound: upper left-hand corner   |
| <input checked="" type="checkbox"/> | Font: 12 pt. Times New Roman or comparable font  |
| <input checked="" type="checkbox"/> | Addressed to the appropriate mailing address of CalRecycle   |

**CITY COUNCIL AGENDA  
CONSENT ITEM**

**Date:** **June 28, 2011**

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

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

**SUBJECT:** **Resolution No. 2011-52 authorizing acceptance of the FY10-11 Special Distribution Fund Grant**

**RECOMMENDATION:** "Adopt Resolution No. 2011-52 authorizing acceptance of the FY10-11 Special Distribution Fund Grant in the amount of \$564,951 and authorizing the expenditures as outlined in addendum A.

**JUSTIFICATION:** Monies obtained through the FY10-11 Special Distribution Fund Grant will provide funding for one full time police officer position for a period of one year, overtime for police officers working the Entertainment District Patrol, four (4) marked police vehicles, three (3) unmarked police vehicles, and equipment for a camera surveillance system.

The officer funded under the SDF Grant will be assigned as the "Tribal Liaison Officer/Entertainment District Patrol Coordinator." This particular officer will work closely with tribal members to foster and improve the relationship between the Banning Police Department and the Morongo Band of Mission Indians in addition to managing the deployment of officers working the Entertainment District Patrol.

**BACKGROUND:** On February 23, 2010, the Banning Police Department submitted a proposal for the FY10-11 SDF Grant to the Morongo Band of Mission Indians in the amount of \$564,951. The Morongo Band of Mission Indians forwarded the department's application to the Riverside County Indian Gaming Local Community Benefits Committee with their full support. The proposal identified the police department's need for a police officer position, overtime for the Entertainment District Patrol, and equipment.

On May 2, 2011, the Banning Police Department was notified by the Riverside County Indian Gaming Local Community Benefits Committee that its FY10-11 application was approved for \$564,951.

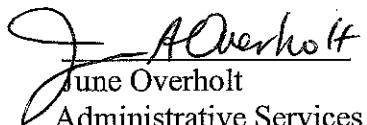
**STRATEGIC PLAN INTEGRATION:** Council approval of this recommendation will help facilitate the Police Department's goals of better serving the community and the citizens who live here through increased services and implementation of updated and state of the art equipment.

**FISCAL DATA:** The Riverside County Indian Gaming Local Community Benefits Committee has already provided the City of Banning with the FY10-11 SDF funds (\$564,951). This grant does not require matching funds.

**RECOMMENDED BY:**

  
Leonard Purvis  
Chief of Police

**REVIEWED BY:**

  
June Overholt  
Administrative Services Director

**APPROVED BY:**

  
Andrew Takata  
City Manager

**RESOLUTION NO. 2011-52**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BANNING AUTHORIZING THE ACCEPTANCE OF THE FY10-11 SPECIAL DISTRIBUTION FUND GRANT IN THE AMOUNT OF \$564,951.00**

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

**WHEREAS**, the City of Banning Police Department operates a 24 hour a day operation; and

**WHEREAS**, the Police Department is proactive in its efforts to provide a safe and secure environment for Citizens of the City and visitors to conduct their business; and

**WHEREAS**, the Police Department is dedicated to providing its employees with state of the art technology and equipment to better serve the community; and

**WHEREAS**, the Riverside County Indian Gaming Local Community Benefits Committee awarded the City FY10-11 Special Distribution Fund Grant to fund a police officer position, overtime, and equipment; and

**WHEREAS**, the City's procedures requires the City Council to adopt a resolution authorizing the expenditure of grant funds.

**NOW, THEREFORE, BE IT RESOLVED**, the City Council of the City of Banning authorizes acceptance and expenditure of FY10-11 SDF Funds (\$564,951.00) received from the Riverside County Indian Gaming Local Community Benefits Committee for a police officer position, overtime, and equipment as identified on Addendum A to this resolution. Additionally, the Finance Department is authorized to make necessary budget adjustments related to these grant funds and is given authorization to increase position control by one officer.

**PASSED, APPROVED, AND ADOPTED** this 28<sup>th</sup> day of June, 2011.

---

Barbara Hanna, 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 Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2011-52 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 28<sup>th</sup> day of June 2011, by the following to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

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

## **ADDENDUM A**

### **Synopsis of 2010-11 Indian Gaming Mitigation Grant Requests**

Tribal Liaison Police Officer/ Entertainment District Patrol Coordinator:	\$140,451
Overtime for I-10 Corridor Entertainment District Patrol Officers:	\$110,000
Four marked police units used to support Entertainment District Patrol:	\$196,000
Three unmarked police units used to support Entertainment District Patrol:	\$ 88,500
Camera Surveillance Systems:	<u>\$ 30,000</u>
<b>Total Request</b>	<b>\$564,951</b>

## CITY COUNCIL AGENDA

**DATE:** **June 28, 2011**

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

**FROM:** **Kahono Oei, City Engineer**

**SUBJECT:** **Resolution No. 2011-58, “Authorizing Staff to Submit an Application for Proposition 84 Statewide Park Development and Community Revitalization Program (Statewide Park Program) for the Repplier Park Playhouse Bowl Project”**

**RECOMMENDATION:**

- I. Adopt Resolution No. 2011-58, “Authorizing Staff to Submit an Application for Proposition 84 Statewide Park Development and Community Revitalization Program (Statewide Park Program) for the Repplier Park Bowl Project.”
- II. Authorize the City Engineer to execute the application that Engineering Division staff will submit to the State of California, Department of Parks and Recreation.

**JUSTIFICATION:** It is essential for the City Council to authorize the execution of the application for the grant, and its subsequent submittal to the State of California, Department of Parks and Recreation, in order to be considered for Proposition 84 Statewide Park Development and Community Revitalization Program (Statewide Park Program) for the Repplier Park Playhouse Bowl project.

**BACKGROUND:** On November 7, 2006, Californian voters passed Proposition 84, the \$5.4 billion “Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bonds Act of 2006” (Proposition 84). This measure provides funding for the Statewide Park Development and Community Revitalization Program in the amount of \$368 million available over two competitive rounds.

The program will award grants on a competitive basis for the creation of new parks and new recreation opportunities in proximity to the most critically under-served communities across California. Applicants may request a minimum of \$100,000 and a maximum of \$5,000,000 with no matching funds required. Applicants will be notified by the end of 2011 on the outcome of their applications.

For the City of Banning, staff recommends requesting grant funding for the construction of the new Repplier Park Playhouse Bowl project. The existing Repplier Park Playhouse Bowl has been utilized for many years and requires significant upgrades including items such as seating, electrical, restrooms, lighting, landscaping, irrigation and so forth, in order for the City of Banning to continue to provide high quality community service events and entertainment for its residents.

On May 26, 2009, the City Council approved the Professional Services Agreement for Project No. 2009-02, "Design of the New Repplier Park Playhouse Bowl" with Williams Architects, Inc. of Upland, California. This design is currently in progress with a projected completion in the year 2013.

**FISCAL DATA:** The preliminary cost estimate to complete the construction phase of this project, including construction, construction management, etc. is approximately \$6 million. Staff anticipates submitting a request for the maximum amount of \$5 million. The remaining portion of the project funding will be requested through Community Development Block Grants and other grants as they become available.

**RECOMMENDED BY:**

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

**REVIEWED BY:**

  
\_\_\_\_\_  
June Overholt,  
Director of Administrative Services

**APPROVED BY:**

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

**RESOLUTION NO. 2011-58**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING,  
CALIFORNIA, AUTHORIZING STAFF TO SUBMIT AN APPLICATION FOR  
PROPOSITION 84 STATEWIDE PARK DEVELOPMENT AND COMMUNITY  
REVITALIZATION PROGRAM (STATEWIDE PARK PROGRAM) FOR THE  
REPLPLIER PARK PLAYHOUSE BOWL PROJECT**

**WHEREAS**, On November 7, 2006, Californian voters passed Proposition 84, the \$5.4 billion “Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bonds Act of 2006” (Proposition 84); and

**WHEREAS**, the State Department of Parks and Recreation has been delegated the responsibility by the Legislature of the State of California for the administration of the Statewide Park Program, setting up necessary procedures governing the Application; and

**WHEREAS**, said procedures established by the State Department of Parks and Recreation require the applicant to certify by resolution the approval of application(s) before submission of said application(s) to the State; and

**WHEREAS**, this measure provides funding for the Statewide Park Development and Community Revitalization Program in the amount of \$368 million available over two competitive rounds; and

**WHEREAS**, the program will award grants on a competitive basis for the creation of new parks and new recreation opportunities in proximity to the most critically under-served communities across California; and

**WHEREAS**, the City will enter into a contract with the State of California to complete the grant scope project; and

**WHEREAS**, staff recommends requesting grant funding for the construction of the new Repplier Park Playhouse Bowl project since the existing Repplier Park Playhouse Bowl has been utilized for many years and requires significant upgrades including items such as seating, electrical, restrooms, lighting, landscaping, irrigation and so forth, in order for the City of Banning to continue to provide high quality community service events and entertainment for its residents; and

**WHEREAS**, it is essential for the City Council to authorize the execution of an application for the Repplier Park Playhouse Bowl Project, and subsequent submittal to the State of California, Department of Parks and Recreation in order to be considered for Proposition 84 Statewide Park Development and Community Revitalization Program (Statewide Park Program).

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

**SECTION 1.** The City Council of the City of Banning hereby authorizes Engineering Division staff to submit an application for Proposition 84 Statewide Park Development and Community Revitalization Program (Statewide Park Program) for the Repplier Park Playhouse Bowl Project.

**SECTION 2.** The City Council of the City of Banning hereby authorizes the City Engineer to execute the application that Engineering Division staff will submit to the State of California, Department of Parks and Recreation.

**SECTION 3.** The City will have available, prior to commencement of any work on the project included in this application, the sufficient funds to complete the project.

**SECTION 4.** The City will have sufficient funds to operate and maintain the project.

**SECTION 5.** The City Engineer has reviewed, understands, and agrees to the General Provision contained in the contract shown in the Grant Administration Guide.

**SECTION 6.** The City Council delegates the authority to the City Engineer or his designee to conduct all negotiations, sign and submit all documents, including, but not limited to applications, agreements, amendments and payment requests, which may be necessary for the completion of the grant scope.

**SECTION 7.** The City agrees to comply with all applicable federal, state and local laws, ordinance, rules, regulations and guidelines.

**PASSED, APPROVED AND ADOPTED** this 28<sup>th</sup> day of June, 2011.

---

Barbara Hanna, 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

Reso. No. 2011-58

**CERTIFICATION:**

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2011-58 was duly adopted by the City Council of the City of Banning, California, at the regular meeting thereof held on the 28<sup>th</sup> day of June, 2011, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

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

## CITY COUNCIL AGENDA

**DATE:** June 28, 2011

**TO:** City Council

**FROM:** Kahono Oei, City Engineer 

**SUBJECT:** **Resolution 2011-61, “Approving Cooperation Agreement for the Community Development Block Grant (CDBG), Home Investment Partnership Program, and Emergency Shelter Grant for Fiscal Years 2012-2013, 2013-2014, 2014-2015”**

**RECOMMENDATION:** Adopt Resolution No. 2011-61, “Approving Cooperation Agreement for the Community Development Block Grant (CDBG), Home Investment Partnership Program, and Emergency Shelter Grant for Fiscal Years 2012-2013, 2013-2014, 2014-2015”

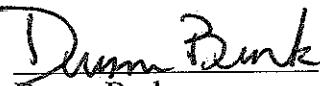
**JUSTIFICATION:** The approval of this resolution is essential in order to participate in the urban county designation and to obtain federally-assisted community block grants.

**BACKGROUND:** The City of Banning, through the Riverside County Economic Development Agency, has been submitting various projects annually for funding under the CDBG Program. The HOME program authorized by the HOME Investment Partnerships Act (HOME) was enacted as Title II of the National Affordable Housing Act of 1990, has as its purposes: to expand the supply of decent, affordable housing for low and very-low income families with emphasis on rental housing; build State and local capacity to carry out affordable housing programs, and provide for coordinated assistance to participants in the development of affordable low-income housing. The Emergency Shelter Grant, referred to as “ESG”, was authorized by the McKinney-Vento Homeless Assistance Act of 1987. The objectives of the “ESG”, to be renamed the Emergency Solutions Grant under the Homeless Emergency Assistance, and Rapid Transition to Housing (HEARTH) Act of 2009, are to increase number and quality of emergency shelters and transition all housing facilities for homeless individuals and families, to operate and provide essential social services and to prevent homelessness. In regard to the CDBG Program, the Riverside County Economic Development Agency is the lead agency that helps the City of Banning obtain all CDBG grants.

In order to participate in this program, the City must execute and submit the “Statement of Participation and the Co-operation Agreement, as attached herewith as exhibit “A.”

**FISCAL DATA:** N/A

**REVIEWED BY:**

  
Duane Burk,  
Director of Public Works

**APPROVED BY:**

  
Andy Takata,  
City Manager

66

**RESOLUTION NO. 2011-61**

**A RESOLUTION 2011-61, "APPROVING COOPERATION AGREEMENT FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT(CDBG), HOME INVESTMENT PARTNERSHIP PROGRAM, AND EMERGENCY SHELTER GRANT FOR FISCAL YEARS 2012-2013, 2013-2014, 2014-2015"**

**WHEREAS**, the Housing and Community Development Act of 1974, as amended (Public Law 93-383) hereinafter called "ACT" provides that Community Development Block Grant, hereinafter referred to as "CDBG", funds may be used for the support of activities that provide decent housing and suitable living environments and expanded economic opportunities principally for persons of low and moderate income; and

**WHEREAS**, the HOME program authorized by the HOME Investment Partnerships Act (HOME) was enacted as Title II of the National Affordable Housing Act of 1990, has as its purposes; to expand the supply of decent, affordable housing for low and very-low income families with emphasis on rental housing; build State and local capacity to carry out affordable housing programs, and provide for coordinated assistance to participants in the development of affordable low-income housing; and

**WHEREAS**, the Emergency Shelter Grant referred to as "ESG", was authorized by the McKinney-Vento Homeless Assistance Act of 1987. The objectives of the "ESG", to be renamed the Emergency Solutions Grant under the Homeless Emergency Assistance, and Rapid Transition to Housing (HEARTH) Act of 2009, are to increase number and quality of emergency shelters and transition all housing facilities for homeless individuals and families, to operate and provide essential social services, and to prevent homelessness; and

**WHEREAS**, CDBG regulations require counties to re-qualify as an Urban County under the CDBG program every three years; and

**WHEREAS**, the execution of this Agreement is necessary to include the City of Banning as a participating unit of general government under Riverside County's Urban County CDBG, HOME and ESG programs.

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

**SECTION 1.** The Cooperation Agreement for the Community Development Block Grant, Home Investment Partnership Program, and Emergency Shelter Grant Funds for Fiscal Years 2012-2013, 2013-2014, 2014-2015 is approved, and the Mayor is authorized to execute the Statement of Participation and the Agreement as attached herewith as exhibit "A."

**SECTION 2.** Said authorization shall expire 90 days following the date herewith if the agreement has not been executed.

**PASSED, APPROVED AND ADOPTED** this 28<sup>th</sup> day of June, 2011.

---

Barbara Hanna, 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 Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2011-61 was duly adopted by the City Council of the City of Banning, California, at the regular meeting thereof held on the 28<sup>th</sup> day of June, 2011, by the following vote, to wit:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

---

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

**EXHIBIT “A”**

**COOPERATION AGREEMENT  
FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT,  
HOME INVESTMENT PARTNERSHIP PROGRAM, AND EMERGENCY SHELTER  
GRANT FOR FISCAL YEARS 2012-13, 2013-14, 2014-15**

This Cooperation Agreement hereinafter referred to as "Agreement" is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2011, by and between the COUNTY OF RIVERSIDE, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and City of Banning, an incorporated municipality within the geographical boundaries of the COUNTY, hereinafter referred to as "CITY," who together are sometimes referred to herein individually as "Party" or collectively as the "Parties."

## RECITALS

WHEREAS, the Housing and Community Development Act of 1974, as amended (Public Law 93-383), hereinafter called "ACT", provides that Community Development Block Grant, funds hereinafter referred to as "CDBG", may be used for the support of activities that provide decent housing, suitable living environments, and expanded economic opportunities principally for persons of low and moderate-income; and

**WHEREAS**, the HOME program, authorized by the HOME Investment Partnerships Act (HOME), was enacted as Title II of the National Affordable Housing Act of 1990, has as its purposes to: expand the supply of decent, affordable housing for low and very-low income families with emphasis on rental housing; build State and local capacity to carry out affordable housing programs; and provide for coordinated assistance to participants in the development of affordable low-income housing; and

WHEREAS, the Emergency Shelter Grant, hereinafter referred to as "ESG", was authorized by the McKinney-Vento Homeless Assistance Act of 1987. The objectives of the Emergency Shelter Grant, to be renamed the Emergency Solutions Grant under the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009, are to increase the number and quality of emergency shelters and transitional housing facilities for homeless

1 individuals and families, to operate these facilities and provide essential social services, and to  
2 help prevent homelessness.

3 **WHEREAS**, CDBG regulations require counties to re-qualify as an Urban County under  
4 the CDBG program every three years; and

5 **WHEREAS**, the execution of this Agreement is necessary to include CITY as a  
6 participating unit of general government under COUNTY's Urban County CDBG, HOME, and  
7 ESG programs.

8 **NOW THEREFORE**, in consideration of the mutual covenants herein set forth and the  
9 mutual benefits to be derived there from, the parties agree as follows:

10 1. GENERAL.

11 This Agreement gives COUNTY authority to undertake, or assist in undertaking,  
12 activities for Fiscal Years 2012-13, 2013-14, and 2014-15, that will be funded from the CDBG  
13 program, the HOME Investment Partnership program, the Emergency Shelter Grant program,  
14 and from any program income generated from the expenditure of such funds. COUNTY and  
15 CITY agree to cooperate, to undertake, or to assist in undertaking, community renewal and  
16 lower-income housing assistance activities. COUNTY is qualified as an "Urban County" under  
17 the ACT. CITY, by executing this Agreement, hereby gives notice of its election to participate  
18 in an Urban County Community Development Block Grant program, hereinafter referred to as  
19 "CDBG programs".

20 By executing this Agreement, CITY understands that it may not apply for grants  
21 from appropriations under the Small Cities or State CDBG Programs for fiscal years during the  
22 period in which it participates in the Urban County's CDBG program and that CITY may only  
23 participate in the HOME program through the COUNTY'S Urban County program, not a  
24 consortium. The CITY may apply for ESG funds from the State of California, if permitted by the  
25 State.

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1                   2.        TERM.

2                   The term of this Agreement shall be for three (3) years commencing on July 1,  
3                   2012, through June 30, 2015, unless an earlier date of termination is fixed by U.S. Department of  
4                   Housing and Urban Development, hereinafter called HUD, pursuant to ACT.

5                   This Agreement will be automatically renewed for participation in successive  
6                   three-year qualification periods, unless the COUNTY or the CITY provides written notice to the  
7                   other Party that it elects not to participate in the next three-year Urban County program.  
8                   COUNTY will notify CITY of CITY's right not to participate in the next three-year period no  
9                   later than the date specified by HUD in the *Urban County Qualification Notice*. CITY shall  
10                  notify COUNTY no later than the date specified in COUNTY's notification that CITY elects not  
11                  to participate in the next three-year Urban County Program. COUNTY will send copies of all  
12                  notifications required by this Paragraph to the HUD Field Office.

13                  The terms of this Agreement shall remain in effect until the CDBG, HOME, and  
14                  ESG funds and program income received with respect to activities carried out during the three-  
15                  year qualification period are expended and the funded activities completed. Furthermore, neither  
16                  the COUNTY nor the CITY may terminate or withdraw from this Agreement while it remains in  
17                  effect.

18                  3.        PREPARATION   OF   FEDERALLY   REQUIRED   FUNDING  
19                  APPLICATIONS.

20                  The Riverside County Economic Development Agency, subject to approval of  
21                  COUNTY's Board of Supervisors, shall be responsible for preparing and submitting to HUD, in  
22                  a timely manner, all reports and statements required by the ACT and the Federal regulations  
23                  promulgated by HUD to secure entitlement grant funding under the CDBG, HOME, and ESG  
24                  programs. This duty shall include the preparation and processing of COUNTY Housing,  
25                  Community, and Economic Development Needs Identification Report, Citizen Participation  
26                  Plan, the County Five-Year Consolidated Plan, One-Year Action Plan, Consolidated Annual  
27                  Performance and Evaluation Report (CAPER), and other related programs which satisfy the  
28                  application requirements of ACT and its regulations.

1                   4. COMPLIANCE WITH FEDERAL STATUTES, REGULATIONS AND  
2 OTHER APPLICABLE STATUTES, REGULATIONS AND ORDINANCES.

3                   (a) COUNTY and CITY will comply with the applicable provisions of the  
4 ACT and those federal regulations promulgated by HUD pursuant thereto, as the same currently  
5 exists or may hereafter be amended. The COUNTY and CITY will take all actions necessary to  
6 assure compliance with COUNTY's certifications required by Section 104 (b) of Title I of ACT.  
7 COUNTY and CITY will comply with the provisions of the following: National Environmental  
8 Policy Act of 1969; Title VI of the Civil Rights Act of 1964 and Title VIII of the Civil Rights  
9 Act of 1968; and Title 24 Code of Federal Regulations part 570; the Fair Housing Act; Cranston-  
10 Gonzales National Affordable housing Act (Public Law 101-625); Section 109 Title I of the  
11 Housing and Community Development Act of 1974 (42 U.S.C. §5309); Executive Order 11063,  
12 as amended by Executive Order 12259; Executive Order 11988; the Uniform Relocation  
13 Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. §4630, et. seq.); and  
14 other federal or state statute or regulation applicable to the use of CDBG or HOME Investment  
15 Partnerships Act (enacted as Title II of the National Affordable Housing Act of 1990) funds.

16                   (b) CITY agrees that CDBG funding for activities in, or in support of, CITY  
17 are prohibited if CITY does not affirmatively further fair housing within its own jurisdiction or  
18 impedes COUNTY actions to comply with its fair housing certification.

19                   (c) CITY and COUNTY shall meet the citizen participation requirements of  
20 24 CFR 570.301 and provide Riverside County citizens with all of the following:

21                   i. The estimate of the amount of CDBG funds proposed to be used  
22 for activities that will benefit persons of low and moderate-income;

23                   ii. A plan for minimizing displacement of persons as a result of  
24 activities assisted with CDBG funds and to assist persons actually displaced as a result of such  
25 activities;

26                   iii. A plan that provides for and encourages citizen participation, with  
27 particular emphasis on participation by persons of low and moderate-incomes, residents of slum  
28 and blighted areas, and of areas in which funds are proposed to be used, and provides for

participation of residents in low and moderate-income neighborhoods;

iv. Reasonable and timely access to local meetings, information, and records relating to the grantee's proposed use of funds, as required by the regulations of the Secretary, and relating to the actual use of funds under the ACT;

v. Provide for public meetings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, including at least the development of needs, the review of proposed activities and review of program performance. Meeting shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodation for the disabled.

(d) CITY shall develop a community development plan, for the period of this Agreement, which identifies community development and housing needs and specifies both short and long-term community development objectives.

(e) CITY certifies, to the best of its knowledge and belief, that:

i. No Federal appropriated funds have been paid or will be paid, by or on behalf of the CITY, to any person influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

ii. If any funds other than Federally-appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

iii. The CITY shall require that the language provided in Section 4(e)(i) and (ii) of this Agreement be included in the award documents for all sub-awards at all

74

1 tiers (including subcontracts, sub- grants and contracts under grants, loans, and cooperative  
2 agreements) and that all sub-recipients shall certify and disclose accordingly. This certification  
3 is a material representation of fact upon which reliance was placed when this transaction was  
4 made or entered into.

5 (f) In accordance with Section 519 of Public Law 101-144, (the 1990 HUD  
6 Appropriations Act), the CITY certifies that it has adopted and is enforcing a policy prohibiting  
7 the use of excessive force by law enforcement agencies within its jurisdiction against any  
8 individuals engaged in non-violent civil rights demonstrations, and that it has adopted and is  
9 enforcing applicable State and local laws against physically barring entrance to, or exit from, a  
10 facility or location which is the subject of such non-violent civil rights demonstrations within its  
11 jurisdiction.

12 5. COMPLIANCE WITH POLICY AND PROGRAM OBJECTIVES.

13 The COUNTY's Board of Supervisors have adopted policies and procedures to  
14 ensure efficient and effective administration of the CDBG, HOME, and ESG programs.  
15 COUNTY will provide these policies and procedures to CITY within a reasonable time after this  
16 Agreement's commencement date. COUNTY and City agree to comply with these said policies  
17 and program objectives.

18 6. OTHER AGREEMENTS.

19 Pursuant to Federal regulations at 24 CFR 570.501(b), CITY is subject to the  
20 same requirements applicable to sub-recipients, including the requirement of a written agreement  
21 set forth in Federal regulations at 24 CFR 570.503. For each fiscal year during the term of this  
22 Agreement, COUNTY and CITY shall enter into an additional agreement, commonly known as a  
23 Supplemental Agreement, that will have a term coinciding with a CDBG Program Year and  
24 enumerate the project(s) CITY will implement with its entitlement funds. Said Supplemental  
25 Agreement will set forth the time schedule for completion of said project(s) and any funding  
26 sources, in addition to entitlement funds, that will be used in completing the project(s). If  
27 substantial compliance with the completion schedule, due to unforeseen or uncontrollable  
28 circumstances, cannot be met by CITY, the schedule for the project(s) may be extended by

1 COUNTY. If COUNTY determines that substantial progress toward drawdown of funds is not  
2 made during the term of the Supplemental Agreement, the entitlement funds associated with the  
3 project(s) may be reprogrammed by COUNTY, to other activities as determined by COUNTY,  
4 after COUNTY provides appropriate written notice to CITY. COUNTY's decision not to extend  
5 the completion schedule associated with the project(s), or to reprogram the entitlement funds  
6 associated with the project(s), will not excuse CITY from complying with terms of this  
7 Agreement.

8           7. DETERMINATION OF PROJECTS TO BE FUNDED AND  
9 DISTRIBUTION OF ENTITLEMENT FUNDS.

10           CITY agrees to submit to COUNTY, no later than the date specified by COUNTY  
11 prior to each program year, the activities that the CITY desires to implement with its entitlement  
12 funds, said designation to comply with statutory and regulatory provisions governing citizen's  
13 participation. Said designation is to be reviewed by the COUNTY's Economic Development  
14 Agency to determine that the projects are eligible under federal regulations for funding and  
15 inclusion in the One Year Action Plan of the County's Five-Year Consolidated Plan and  
16 consistent with both Federal and COUNTY policy governing use of Community Development  
17 Block Grant (CDBG) funds.

18           Consistent with Paragraphs 3, 4, 5, 6, and 7 of this Agreement, COUNTY's Board  
19 of Supervisors will make the final determination of the distribution and disposition of all CDBG  
20 funds received by COUNTY pursuant to the Act.

21           8. COMMUNITY DEVELOPMENT BLOCK GRANT MANUAL.

22           CITY warrants that those officers, employees, and agents, retained by it and  
23 responsible for implementing projects funded with CDBG have received, reviewed, and will  
24 follow the Community Development Block Grant Manual that has been prepared and amended  
25 by COUNTY, and by this reference, said Manual is incorporated herein and made a part hereof.

26           9. REAL PROPERTY ACQUIRED OR PUBLIC FACILITY  
27 CONSTRUCTED WITH CDBG FUNDS.

28           When CDBG funds are used, in whole or in part, by CITY to acquire real

1 property or to construct a public facility, CITY will comply with the National Environmental  
2 Policy Act of 1969 (42 U.S.C. §§4321, et seq.), the California Environmental Quality Act (Cal.  
3 Pub. Resources Code §§21000, et seq.), the Uniform Relocation Assistance and Real Property  
4 Acquisition Policies Act of 1970 (42 U.S.C. §§4630, et seq.), and the California Government  
5 Code Sections 7260 et seq., as those Acts may be amended from time-to-time and any Federal or  
6 state regulations issued to implement the aforementioned laws.

7 In addition, the following is to occur:

8 (a) Title to the real property shall vest in CITY;

9 (b) The real property title will be held by or the constructed facility will be  
10 maintained by the CITY for the approved use until five years after the date that the project is  
11 reported as "Completed" within the annual Consolidated Annual Performance and Evaluation  
12 Report.

13 (c) While held by CITY, the real property or the constructed facility is to be  
14 used exclusively for the purpose for which acquisition or construction was originally approved  
15 by COUNTY;

16 (d) CITY shall provide timely notice to COUNTY of any action which would  
17 result in a modification or change in the use of the real property purchased or improved, in whole  
18 or in part, with CDBG or HOME funds from that planned at the time of acquisition or  
19 improvement, including disposition.

20 (e) CITY shall provide timely notice to citizens and opportunity to comment  
21 on any proposed modification or change;

22 (f) Written approval from COUNTY must be secured if the property or the  
23 facility is to be put to an alternate use that is or is not consistent with federal regulations  
24 governing CDBG funds;

25 (g) Should CITY desire during the five (5) year period to use the real property  
26 or the constructed facility for a purpose not consistent with applicable federal regulations  
27 governing CDBG funds or to sell the real property or facility, then:

(i) If CITY desires to retain title, it will have to reimburse either COUNTY or the Federal government an amount that represents the percentage of current fair market value that is identical to the percentage that CDBG funds initially comprised to when the property was acquired or the facility was constructed;

(ii) If CITY sells the property or facility, or is required to sell the property or facility, CITY is to reimburse the COUNTY an amount that represents the percentage of proceeds realized by the sale that is identical to the percentage that CDBG funds comprised of the monies paid to initially acquire the property or construct the facility. This percentage amount will be calculated after deducting all actual and reasonable cost of sale from the sale proceeds.

10. DISPOSITION OF INCOME GENERATED BY THE EXPENDITURE  
OF CDBG FUNDS.

CITY shall inform COUNTY of any income generated by the expenditure of CDBG funds received by CITY from COUNTY. CITY may not retain any program income so generated. Any and all program income shall be returned to the County and may only be used for eligible activities in accordance with all CDBG requirements, including all requirements for citizen participation.

The COUNTY is required by HUD to monitor and report the receipt and use of all program income. CITY is required to track, monitor, and report any and all program income as requested by COUNTY.

## 11. TERMINATION.

Except as provided for in Paragraph 2, CITY and COUNTY cannot terminate or withdraw from this Agreement while it remains in effect.

12. FORMER AGREEMENTS UTILIZING COMMUNITY  
DEVELOPMENT BLOCK GRANT FUNDS BETWEEN COUNTY AND CITY.

All agreements between CITY and COUNTY regarding the use of CDBG funds for fiscal years 1975-76 through 2011-2012, and any Supplemental Agreements there under, shall remain in full force and effect. If the language of this Agreement is in conflict or

1 inconsistent with the terms of any prior said agreements between CITY and COUNTY, the  
2 language of this Agreement will be controlling.

3           13. INDEMNIFICATION

4           CITY agrees to indemnify, defend and hold harmless COUNTY and its  
5 authorized officers, employees, agents, and volunteers from any and all claims, actions, losses,  
6 damages, and/or liability arising from CITY acts, errors or omissions and for any costs or  
7 expenses incurred by COUNTY on account of any claim therefore, except where such  
8 indemnifications is prohibited by law. CITY shall promptly notify COUNTY in writing of the  
9 occurrence of any such claims, actions, losses, damages, and/or liability.

10           CITY shall indemnify and hold harmless COUNTY against any liability, claims,  
11 losses, demands, and actions incurred by COUNTY as a result of the determination by HUD or  
12 its successor that activities undertaken by CITY under the program(s) fail to comply with any  
13 laws, regulations, or policies applicable thereto or that any funds billed by and disbursed to  
14 CITY under this Agreement were improperly expended.

15           14. COMPLIANCE WITH LAWS AND REGULATIONS.

16           By executing this Agreement, the Parties hereby certify that they will adhere to  
17 and comply with all federal, state and local laws, regulations and ordinances.

18           15. ENTIRE AGREEMENT.

19           It is expressly agreed that this Agreement embodies the entire agreement of the  
20 Parties in relation to the subject matter hereof, and that no other agreement or understanding,  
21 verbal or otherwise, relative to this subject matter, exists between the Parties at the time of  
22 execution.

23           16. SEVERABILITY.

24           Each paragraph and provision of this Agreement is severable from each other  
25 provision, and if any provision or part thereof is declared invalid, the remaining provisions shall  
26 remain in full force and effect.

27           17. ASSIGNMENT.

28           The Parties will not make any sale, assignment, conveyance or lease of any trust

1 or power, or transfer in any other form with respect to this Agreement, without prior written  
2 approval of the other Party.

3           18. INTERPRETATION AND GOVERNING LAW.

4           This Agreement and any dispute arising hereunder shall be governed by and  
5 interpreted in accordance with the laws of the State of California. This Agreement shall be  
6 construed as a whole according to its fair language and common meaning to achieve the  
7 objectives and purposes of the Parties hereto, and the rule of construction to the effect that  
8 ambiguities are to be resolved against the drafting Party shall not be employed in interpreting  
9 this Agreement, all Parties having been represented by counsel in the negotiation and  
10 preparation hereof.

11           19. WAIVER.

12           Failure by a Party to insist upon the strict performance of any of the provisions  
13 of this Agreement by the other Party, or the failure by a Party to exercise its rights upon the  
14 default of the other Party, shall not constitute a waiver of such Party's right to insist and demand  
15 strict compliance by the other Party with the terms of this Agreement thereafter.

16           20. JURISDICTION AND VENUE.

17           Any action at law or in equity arising under this Agreement or brought by a Party  
18 hereto for the purpose of enforcing, construing or determining the validity of any provision of  
19 this Agreement shall be filed in the consolidated Courts of Riverside County, State of  
20 California, and the Parties hereto waive all provisions of law providing for the filing, removal or  
21 change of venue to any other court or jurisdiction.

22           21. AMENDMENTS

23           No change, amendment, or modification to the Agreement shall be valid or  
24 binding upon CITY or COUNTY unless such change, amendment, or modification is in writing  
25 and duly executed. CITY and COUNTY agree to adopt any necessary amendments to this  
26 Agreement to incorporate changes required by HUD as set forth in the Urban County  
27 Qualification Notice. Amendments must be submitted to HUD as provided in the Urban  
28 County Qualification Notice and failure to do so will void the automatic renewal for such

1 qualification period.

2           22. AUTHORITY TO EXECUTE.

3           The persons executing this Agreement or exhibits attached hereto on behalf of  
4 the Parties to this Agreement hereby warrant and represent that they have the authority to  
5 execute this Agreement and warrant and represent that they have the authority to bind the  
6 respective Parties to this Agreement to the performance of its obligations hereunder.

7           23. INCORPORATION OF RECITALS

8           The Parties hereby affirm the facts set forth in the recitals above. Said recitals  
9 are incorporated herein and made an operative part of this Agreement.

10           IN WITNESS WHEREOF, the COUNTY and CITY have executed this  
11 Agreement on the date shown below.

12           ATTEST:

13           Kecia Ihem-Harper  
14           Clerk of the Board

15           COUNTY OF RIVERSIDE

16           By: \_\_\_\_\_

17           By: \_\_\_\_\_ for

18           Bob Buster, Chairman  
19           Board of Supervisors  
20           Rob Field, Assistant County  
21           Executive Officer/EDA

22           Date: \_\_\_\_\_

23           ATTEST:

24           CITY OF BANNING

25           By: \_\_\_\_\_  
26           City Clerk

27           By: \_\_\_\_\_  
28           Mayor

29           Date: \_\_\_\_\_

## **COUNTY COUNSEL CERTIFICATION**

The Office of County Counsel hereby certifies that the terms and provisions of this Agreement are fully-authorized under state and local law and that the Agreement provides full legal authority for the COUNTY to undertake, or assist in undertaking, essential community development and housing assistance activities specifically urban renewal and publicly-assisted housing.

Pamela J. Walls  
County Counsel

By: \_\_\_\_\_  
Deputy, Anita Willis

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**CITY COUNCIL AGENDA  
PUBLIC HEARING**

**DATE:** **June 28, 2011**

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

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

**SUBJECT:** **Resolution No. 2011-53, “Amending the Franchise Agreement between the City and Waste Management of the Inland Empire for the Collection, Transportation and Disposal of Solid Waste”**

**RECOMMENDATION:** The City Council adopt Resolution No. 2011-53, “Amending the Franchise Agreement between the City and Waste Management of the Inland Empire for the Collection, Transportation and Disposal of Solid Waste,” as set forth in the City of Banning’s Franchise Agreement with Waste Management of the Inland Empire.

**JUSTIFICATION:** It is essential to amend the Franchise Agreement in order to continue the service of collection, transportation and disposal of solid waste.

**BACKGROUND:** The City entered into a Franchise Agreement for refuse collection and disposal with Waste Management of the Inland Empire in 1993 for an eight year period. Subsequently, the City Council at its regular meeting on April 24, 2001, adopted Resolution No. 2001-35, extending the agreement for an additional five years as allowed per the agreement, from July 1, 2001 to June, 2006. On March 15, 2002 under Resolution No. 2002-28 the contract was re-negotiated to include automated services and to extend the agreement for an additional five year period from July 1, 2006 to June 30, 2011.

At this time, the City and Waste Management have mutually agreed to modify the terms and conditions of the Agreement and to extend services for an additional ten years to June 30, 2021. The services to be provided by Waste Management will adjust to reflect the following: Waste Management will routinely assess Single Family containers and provide replacements when necessary to ensure good conditions and consistent color schemes of the containers; Waste Management shall increase the number of roll-off boxes from 10 to 26 to accommodate Bulky Item events at one central location, Dysart Park, three times per year; the public outreach and education portion of the agreement is revised to eliminate the Recycle America campaign to be replaced by a general program to expand public and customer awareness concerning the necessity for methods of reducing, reusing, and recycling solid waste; modification in the calculation of rate adjustments; and all collection equipment shall comply with applicable provisions of South Coast Air Quality Management District Rule 1193. Modifications to the agreement are further described in the attached Exhibit “A”, Fourth Amendment.

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

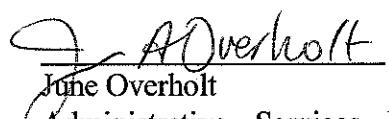
This year, the Tipping Fee charge will remain at \$34.37 per ton. The change in the CPI for the effective twelve month period was approximately 1%. Due to the increase, and per section 18 of the Franchise Agreement, the rate needs to be adjusted accordingly. If approved, the new rate will be effective on July 1, 2011. The Notice of Public Hearing was advertised on June 10, 2011, as shown as Exhibit "B".

**FISCAL DATA:** The current rate for the refuse collection is \$17.60 per month, per household, and if approved, the rate will increase to \$17.97. The commercial rate will be adjusted accordingly, as shown in the attached Exhibit "C".

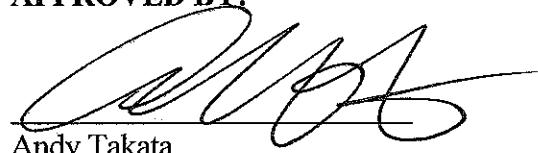
**RECOMMENDED BY:**

  
Duane Burk  
Director of Public Works

**REVIEWED BY:**

  
June Overholt  
Administrative Services Director/  
Deputy City Manager

**APPROVED BY:**

  
Andy Takata  
City Manager

**RESOLUTION NO. 2011-53**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING,  
CALIFORNIA, AMENDING THE FRANCHISE AGREEMENT BETWEEN THE CITY  
AND WASTE MANAGEMNT OF THE INLAND EMPIRE FOR THE COLLECTION,  
TRANSPORTATION AND DISPOSAL OF SOLID WASTE**

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

**WHEREAS**, on April 24, 2001, City Council adopted Resolution No. 2001-35, extending the agreement for an additional five years as allowed per the agreement, from July 1, 2001 to June, 2006; and

**WHEREAS**, on March 15, 2002 under Resolution No. 2002-28 the contract was re-negotiated to include automated services and to extend the agreement for an additional five year period from July 1, 2006 to June 30, 2011; and

**WHEREAS**, the City and Waste Management have mutually agreed to modify the terms and conditions of the Agreement and to extend services for an additional ten years to June 30, 2021 and as described further in Exhibit "A"; and

**WHEREAS**, the Notice of Public Hearing was advertised on June 10, 2011, as shown as Exhibit "B"; and

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

**WHEREAS**, the residential and commercial rate will be adjusted accordingly, as shown in the attached Exhibit "C"; and

**WHEREAS**, it is essential to amend the Franchise Agreement in order to continue the service of collection, transportation and disposal of solid waste.

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

**SECTION 1.** The City Council of the City of Banning approves the Fourth Amendment of the Franchise Agreement between the City and Waste Management of the Inland Empire as attached hereto as Exhibit "A" and by this reference made a part hereof except as so amended all provisions of the original agreement shall continue with full force and effect.

**SECTION 2.** The City Council of the City of Banning approves the rate structure for the collection, transportation and disposal of solid waste.

**SECTION 3.** The City Council of the City of Banning authorizes the City Manager to execute the Fourth Amendment of the Franchise Agreement. 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, APPROVED and ADOPTED** this 28<sup>th</sup> day of June, 2011.

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Barbara Hanna, Mayor  
City of Banning

**ATTEST:**

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

APPROVED AS TO FORM AND  
LEGAL CONTENT:

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

**CERTIFICATION:**

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2011-53, was adopted by the City Council of the City of Banning at a Regular Meeting thereof held on the 28<sup>th</sup> day of June, 2011, by the following vote, to wit:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Marie A. Calderon  
City Clerk of the City of Banning

## **EXHIBIT “A”**

### **FOURTH AMENDMENT**

**FOURTH AMENDMENT TO FRANCHISE AGREEMENT BETWEEN THE  
CITY OF BANNING AND WASTE MANAGEMENT OF INLAND EMPIRE, A  
DIVISION OF USA WASTE OF CALIFORNIA, INC., FOR COLLECTION,  
TRANSPORTATION, RECYCLING AND DISPOSAL OF SOLID WASTE**

This Fourth Amendment to the Franchise Agreement for the Collection, Transportation, Recycling and Disposal of Solid Waste ("Amendment") is made and entered into this \_\_\_\_\_ day of June, 2011, by and between the CITY OF BANNING ("City") and Waste Management of the Inland Empire, a Division of USA Waste of California, Inc., a Delaware corporation ("Grantee"), for the collection, transportation, recycling, composting and disposal of solid waste, compostables and recyclables.

**RECITALS**

- A. WHEREAS, the City and the Grantee entered into a Franchise Agreement for the Collection, Transportation, Recycling, Composting and Disposal of Solid Waste dated July 15, 1993 ("Agreement"), a copy of which is attached hereto as Exhibit "1"; and
- B. WHEREAS, the City and the Grantee entered into an amendment ("First Amendment") to the Franchise Agreement on July 1, 2001, a copy of which is attached hereto as Exhibit "2", a Second Amendment ("Second Amendment") to Franchise Agreement on June 14, 2002, a copy of which is attached hereto as Exhibit "3", and a Third Amendment on December 12, 2006, a copy of which is attached hereto as Exhibit "4"; and
- C. WHEREAS, the City and the Grantee have mutually agreed to modify the terms and conditions of the Agreement, the First Amendment, the Second Amendment and the Third Amendment as set forth in order to provide for an extended term, and modified terms and conditions.

NOW, THEREFORE, the parties agree to amend the Agreement, the First Amendment, the Second Amendment, and the Third Amendment as follows:

## SECTION 2. TERM; EXTENSIONS.

The TERM of this Agreement shall be extended for an additional ten-year period, from July 1, 2011 to June 30, 2021. The parties may further extend the TERM upon mutual agreement. Approximately one (1) year prior to the expiration date, the parties agree to commence good faith negotiations regarding a potential further extension.

## SECTION 6. SERVICES PROVIDED BY GRANTEE.

Section 6.B.(1)B. is hereby amended to add the following additional provision:

Grantee shall use reasonable business efforts to routinely assess the condition of the Single Family Containers provided by Grantee, as to both condition and consistency of appearance, and to replace containers in due course, as needed, to assure suitable Single Family Containers in good condition and with a consistent color scheme.

Section 6.B.(1)C. is hereby deleted in its entirety and replaced with the following:

Grantee shall provide up to twenty-six (26) roll-off boxes at Dysart Park, as requested by the City, three times per calendar year to respond to organized community clean-up efforts at no charge, for collection of green waste, metals and e-waste. These events shall take place on a selected Saturday agreed upon by the City and Grantee, and shall occur between the hours of 8 am and 1 pm. The City shall arrange to have disposal costs waived by the Riverside County Waste Management Department (RCWMD) for at least two of these clean up events per calendar year. Grantee shall deliver rolloff containers to the agreed upon collection locations and shall cooperate with the City and designated community leaders to remove containers and dispose/process collected solid waste at the end of the event. Once the date of the clean-up is determined, City will notify residents via mail of the date and location of the cleanup event. Grantee will

work with RCWMD to provide up to thirty (30) free landfill passes, in addition to the thirty (30) passes currently provided by RCWMD, as needed for the events. The additional thirty (30) passes will have identical disposal guidelines and restrictions as outlined in RCWMD's original "free landfill passes". As a matter of procedure, the City will use the first thirty (30) passes granted by RCWMD and then, if needed, begin using Grantee's free landfill passes.

Section 6.I and Exhibit "E" are hereby deleted in their entirety and replaced with the following:

Grantee acknowledges that education and public awareness are essential elements of efforts to achieve AB 939 requirements. Accordingly, Grantee will implement a public education program to expand public and customer awareness concerning the necessity for methods of reducing, reusing, and recycling solid waste. Grantee must cooperate fully with City in this regard.

#### SECTION 18. COMPENSATION.

Sections 18.A.2 and 18.A.3 are hereby deleted in their entirety and replaced with the following:

2. Beginning July 1, 2012 and on each July 1 thereafter, the rates shall be adjusted in accordance with the rate adjustment methodology set forth below. Grantee shall submit to the City, not less than sixty (60) days prior to the effective date of the proposed adjustment, information in support of the adjustment. The City Manager shall review the information submitted by Grantee for completeness and accuracy, and the parties agree to negotiate in good faith regarding any dispute. Notwithstanding any provision to the contrary, the application of the criteria set forth below shall not result in a reduction of the rates for the first rate adjustment on July 1, 2012.

Service Component. The Service Component comprises sixty-five percent (65%) of the rate. The Service Component will be adjusted by the average of the monthly percentage increases in the Consumer Price Index ("CPI"), All Urban Consumers, for the Los Angeles/Orange County/Riverside Area as published by the United States Department of Labor, Bureau of Labor Statistics, for the March to February period immediately preceding the effective date of rate adjustment.

3. Disposal/Green Waste Processing Component. The Disposal/Green Waste Processing Component comprises thirty five percent (35%) of the rate. The Disposal/Green Waste Processing Component will be adjusted by the greater of:

- (1) The average of the monthly percentage increases in the CPI for the March to February period immediately preceding the effective date of the rate adjustment; or
- (2) the percentage increase in the per ton tipping fee established by the Riverside County Waste Management Department for disposal of Solid Waste generated within Riverside County at landfills comprising the County System (Badlands Landfill, Lamb Canyon Landfill, El Sobrante Landfill) for the March to February period immediately preceding the effective date of the rate adjustment.

#### SECTION 19. COLLECTION EQUIPMENT.

Section 19 is hereby amended to add the following additional provision:

All collection vehicles shall comply with all applicable provisions of South Coast Air Quality Management District Rule 1193. The City and Grantee understand and acknowledge in good faith that the requirements of revised Rule 1193, adopted on July 9, 2010, are not applicable to this Agreement because the number of private fleet solid waste collection vehicles providing services to the City is less than fifteen (15). In the event such Rule becomes applicable, Grantee shall

comply within the time frame provided by the Rule. In addition, collection vehicles shall conform to applicable California Air Resources Board requirements.

Except as provided herein, all other conditions and terms in the Agreement, First Amendment and Second Amendment shall remain in full force and effect as if this Third Amendment had not been made

In WITNESS WHEREOF, the parties hereto have caused the Agreement to be executed by their duly authorized officers as of the date first above written.

CITY OF BANNING

WASTE MANAGEMENT OF THE INLAND  
EMPIRE, A DIVISION OF USA WASTE OF  
CALIFORNIA, INC.

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

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

Barbara Hanna  
Mayor

Title: \_\_\_\_\_

Attest:

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

Approved as to form:

\_\_\_\_\_  
City Attorney

**EXHIBIT “1”**

**FRANCHISE AGREEMENT**

93

Exhibit  
1

FRANCHISE AGREEMENT BETWEEN THE CITY OF BANNING  
AND WASTE MANAGEMENT OF INLAND VALLEY,  
A DIVISION OF WASTE MANAGEMENT COLLECTION & RECYCLING, INC.,  
FOR THE COLLECTION, TRANSPORTATION, RECYCLING  
AND DISPOSAL OF SOLID WASTE

94

TABLE OF CONTENTS

SECTION 1, GRANT OF COMMERCIAL AND RESIDENTIAL FRANCHISE	1
SECTION 2, TERM: EXTENSIONS	1
SECTION 3, DEFINITIONS	2
A. AB 939	2
B. Bins	2
C. Bulky Waste	2
D. City Limits	3
E. Collection	3
F. Collection Point	3
G. Commercial Can Service	3
H. Commercial Collection	3
I. Compostable	3
J. Customer	3
K. Grantee	3
L. Household Hazardous Waste	3
M. Multi-Family Residential	4
N. Recyclables	4
O. Residential Collection	4
P. Solid Waste	4
Q. Special Community Events	4
R. Special Wastes	4
SECTION 4, ACCEPTANCE: WAIVER	4
SECTION 5, FRANCHISE AREA	5
SECTION 6, SERVICES PROVIDED BY GRANTEE	5
A. General	5
B. Residential Collection	5
C. Commercial Collection	7
D. Recycling Program	8
E. Collection on Holidays	8
F. Special Wastes	8
G. Collection from City Facilities	8
H. Special Event Collection	8
I. Educational Services	8
SECTION 7, FRANCHISE FEES AND BILLING	8
A. Franchise Fee	8
B. Compensation to City	9
C. Billings	9
D. Delinquent Accounts	9
E. Refunds	9
SECTION 8, PERFORMANCE BOND	10

SECTION 9, FRANCHISE TRANSFERRABLE; CITY CONSENT REQUIRED	10
SECTION 10, IMPOSITION OF DAMAGES OR TERMINATION	11
A. Notice of Violation	11
B. Notice of Appeal	12
C. Determination	13
D. Right of Termination	13
E. Termination Events	13
F. Liquidated Damages	14
SECTION 11, ADMINISTRATIVE HEARING PROCEDURES	15
SECTION 12, CITY'S ADDITIONAL REMEDIES	16
SECTION 13, RIGHTS OF CITY TO PERFORM DURING EMERGENCY	17
SECTION 14, PRIVACY	17
SECTION 15, REPORTS AND ADVERSE INFORMATION	18
A. Annual Reports	18
B. Adverse Information	19
C. Failure to Report	20
SECTION 16, ANNUAL REVIEW OF PERFORMANCE AND QUALITY OF SERVICE	20
SECTION 17, SYSTEM AND SERVICES REVIEW	20
SECTION 18, COMPENSATION	21
A. Grantee Rates	21
B. Rate Adjustments	22
C. Tipping Fee Adjustment	22
D. Resolution of Disputes Regarding Rate Adjustments	22
SECTION 19, COLLECTION EQUIPMENT	22
SECTION 20, PUBLIC ACCESS TO GRANTEE	23
A. Office Hours	23
B. Service Complaints	23
C. Government Liaison	24
SECTION 21, RESOLUTION OF DISPUTED CUSTOMER COMPLAINTS	24
SECTION 22, OWNERSHIP OF SOLID WASTE	25

SECTION 23, INDEMNIFICATION AND INSURANCE	25
A. Indemnification of City	25
B. Litigation Indemnification	25
C. Indemnification of Grantee	26
D. Hazardous Substances Indemnification	26
E. ABA 939 Indemnification	27
F. Workers' Compensation Insurance	27
G. Public Liability Insurance	27
SECTION 24, PARTIES' BOOKS AND RECORDS; AUDITS	28
SECTION 25, GENERAL PROVISIONS	29
A. Force Majeure	29
B. Independent Contractor	29
C. Pavement Damage	29
D. Property Damage	30
E. Right of Entry	30
F. Law to Govern; Venue	30
G. Fees and Gratuities	30
H. Prior Agreements/Amendments	30
I. Compliance with Franchise Agreement	30
J. Notices	30
K. Savings Clause/Entirety	31
L. Exhibits Incorporated	31
M. Indemnification Required	31
SIGNATURES	32
NOTARIAL ACKNOWLEDGMENT	33
EXHIBITS A THROUGH E Separately Numbered	Follow Page 33

FRANCHISE AGREEMENT BETWEEN THE CITY OF BANNING  
AND WASTE MANAGEMENT OF INLAND VALLEY,  
A DIVISION OF WASTE MANAGEMENT COLLECTION & RECYCLING, INC.,  
FOR THE COLLECTION, TRANSPORTATION, RECYCLING  
AND DISPOSAL OF SOLID WASTE

This Franchise Agreement ("Franchise Agreement") is entered into the 15th day of July, 1993, by and between the CITY OF BANNING ("City") and Waste Management of Inland Valley, A Division of Waste Management Collection & Recycling, Inc. ("Grantee"), for the collection, transportation, recycling, composting and disposal of solid waste, compostables and recyclables.

R E C I T A L S

WHEREAS, the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 ("AB939" Public Resources Code § 40000 et seq.), has declared that it is within the public interest to authorize and require local agencies to make adequate provisions for solid waste handling within their jurisdiction; and

WHEREAS, pursuant to California Public Resources Code Section 40059(a)(1), the City Council of the City of Banning ("City") has determined that the public health, safety, and well-being require that a franchise be awarded to a qualified solid waste enterprise for solid waste collection, recycling and disposal in residential, commercial, and industrial areas in the City of Banning; and

WHEREAS, the City council of the City of Banning declares its intention of maintaining reasonable rates for collection and disposal of solid waste within City limits;

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

SECTION 1.      GRANT OF COMMERCIAL AND RESIDENTIAL  
FRANCHISE.

This Franchise Agreement (hereinafter "Franchise Agreement") grants a franchise as described hereinbelow within the City of Banning.

SECTION 2.      TERM: EXTENSIONS.

A. The term of this Franchise Agreement shall be for eight (8) years, and shall commence on July 1, 1993 and expire on June 30, 2001. The contract shall be renewable for an additional five (5) years on the same terms and conditions contained herein through the following procedure: one-hundred and eighty days prior to date of expiration of the original term of this Franchise Agreement, Grantee shall notify City in writing of Grantee's willingness to

continue the contract for the additional 5 years. The City shall thereafter have 30 days within which to notify Grantee of its acceptance of said offer. If City fails to take action within such time the Franchise Agreement shall be deemed to be terminated upon the expiration of the term.

SECTION 3. DEFINITIONS.

Whenever any term used in this Franchise Agreement has been defined by the Banning Ordinance Code or Division 30, Part 1, Chapter 2 of the California Public Resources Code, the definitions in the Ordinance Code or Public Resources Code shall apply unless the term is otherwise defined in this Franchise Agreement.

A. AB 939.

"AB 939" shall mean the California Integrated Waste Management Act of 1989, (Public Resources Code § 40000 et seq.) as it may be amended from time to time.

B. Bins

"Bins" shall mean those containers provided by Grantee for commercial, industrial, construction and multi-family residential uses. Bins are of two types: (i) Bins (usually 3 Cubic yards in size) which are picked up by refuse trucks by means of front loading apparatus; and (ii) Roll-Off Bins (usually 40 cubic yards in size) which are picked up by trucks using rear loading winches onto rails.

C. Bulky Waste

"Bulky Waste"

"Commercial"- shall mean an object of solid waste which because of its size, shape and construction could not be placed in an empty three yard bin in such manner as to permit the top to close or an item with a single-lift weight in excess of sixty-five pounds. An object which has been reduced in its dimensions or weight to meet this test is not bulky waste.

"Residential" - shall mean an object of solid waste which because of its size shape and construction could not be placed in an empty 33 gallon residential waste container.

D. City Limits.

"City Limits" means the boundaries of the City together with all amendments and changes thereto, which boundaries are shown by maps incorporated herein as Exhibit D and which are on file in the office of the Clerk of the City Council.

E. Collection

"Collection" shall mean the operation of gathering together and transporting to the point of disposal all Solid Waste, and/or Recyclables and/or Compostables and/or Bulky Waste.

F. Collection Point

Curbside or other agreed upon location for the placement of solid wastes by the customer for collection by Grantee.

G. Commercial Can Service

"Commercial Can Service" shall mean residential type collection provided to small business.

H. Commercial Collection

"Commercial Collection" means the removal of solid waste from any commercial establishment regardless of the nature thereof, any school, industry, business, government office, boarding house, church, motel, apartment, mobile home park, hotel, and family dwelling unit utilized for a home occupation or other organization, or other similar nonresidential locations.

I. Compostable

"Compostable" means solid waste which is subject to the process described in California Public Resources Code §40116.

J. Customer ("Householder, etc.") Person or entity entitled to collection of solid wastes or recyclables pursuant to this agreement.

K. Grantee.

"Grantee" means Waste Management of Inland Valley, a division of Waste Management Collection & Recycling, Inc. the entity granted the Franchise pursuant to this Franchise Agreement.

L. Household Hazardous Waste

"Household Hazardous Waste" shall mean Hazardous waste and Hazardous Substance as those terms are defined in California Health and Safety Code Section 25501 subsections (l) and (m) respectively which are disposed of by the occupants of residence within the Franchise Area.

M. Multi-Family Residential

Three or more residential units on a single parcel of land.

N. Recyclables

"Recyclables" means materials which are subject to the processes described in California Public Resources Code § 40180 and which have been "segregated from other waste material" as that term is used in California Public Resources Code §40190.

O. Residential Collection

"Residential Collection" means the removal of solid waste from a single-family or duplex residential property.

P. Solid Waste

As used herein, "Solid Waste" shall have the same meaning as set forth at California Public Resources Code Section 40191 as of date of execution of this Franchise Agreement except that "Solid Waste" shall not include "Special Wastes", and Household Hazardous Waste as defined in this Franchise Agreement.

Q. Special Community Events.

Special Community Events include but are not limited to; Stagecoach Days, Carnivals coordinated by nonprofit organizations, parades, etc.

R. Special Wastes.

"Special Wastes" shall mean all the items and materials which are set forth on Exhibit "B" "Special Wastes".

SECTION 4, ACCEPTANCE: WAIVER.

The parties agree to be bound by and comply with all the requirements of this Franchise Agreement. Parties waive their right to challenge the terms of this Franchise Agreement under federal, state or local law, or administrative regulation, as such laws and regulations exist as of the date of execution of this Franchise Agreement. Grantee waives any right or claim to serve the City or any part of the City under any prior grant of this agreement, contract, license or permit issued or granted by any governmental entity including any right under Section 49520 of the Public Resources Code.

SECTION 5. FRANCHISE AREA.

A. Franchise area Defined. The Franchise Area granted by this Franchise Agreement shall be all residential or commercial premises. As provided below, the Franchise Area may be changed by annexation.

B. Annexation Covered by Existing Franchise. Territory annexed to the City that is covered by an existing solid waste permit, license, agreement or franchise granted by another public entity may continue to be served by the same grantee for the balance of the term, not to exceed five (5) years of its permit, license, agreement or franchise, subject to the provisions of this Franchise Agreement.

SECTION 6. SERVICES PROVIDED BY GRANTEE.

A. General. Grantee shall provide Solid Waste, Compostables and Recyclables collection, transportation, disposal, recycling and marketing services within the Franchise Area in accordance with the terms of this Franchise Agreement.

B. Residential Collection.

(1) Weekly Service.

A. Once each week Grantee shall collect the Solid Waste, Compostables, and Recyclables which have been accumulated in Containers or Bins at single family residences within the Franchise Area and placed at the collection point at Grantee's scheduled weekly collection time. Grantee is bound under this subsection only to the extent that all such Solid Waste, Compostables and Recyclables are in the appropriate bins or containers and the bins or containers have been placed at a collection point which is accessible by Grantee's collection vehicle without obstruction.

B. Containers, bags, bundles, etc. shall be provided by the customer except as otherwise required by Exhibit "C".

C. The Grantee shall collect all Bulky Wastes placed at the collection point within 24 hours of telephone notification of such placement by resident or the City. Otherwise, placement at such collection point by the customer shall constitute notice hereunder to Grantee upon actual notice or, as of the collection date at such collection point. Grantee shall make collection of such bulky waste within 24 hours of notice of such placement. Collections hereunder shall be made five (5) days a week.

D. Disabled Services - Upon request from any person who suffers from a disability as that term is defined in the Americans With Disabilities Act Grantee shall make reasonable accommodation for the collection of Solid Waste from the residence of such person without extra charge.

E. City agrees to use its best efforts to enforce parking and other ordinances to facilitate collection and to prohibit scavenging.

F. Grantee may negotiate special collection procedures with customers for an additional fee in an amount approved by the City Manager.

G. Under no circumstances shall Grantee fail to remove any Solid Waste which has been placed for collection which Grantee is legally and physically capable of removing on the scheduled collection date. If the householder places an excessive amount of matter or improperly prepared matter or excessively bulky matter at the collection point, the Grantee shall cause such matter to be collected on the regularly scheduled collection day. The Grantee may thereafter notify the householder of the offense and of the potential for the assessment of a penalty if the offense is repeated. "Excessive amount of matter" or "improperly prepared matter" or "excessively" bulky matter" as used herein shall be as determined by Grantee, subject to approval by the City Manager. Prior to enforcement of its rights against the customer under this section, the Grantee shall have provided at least thirty (30) days prior written notice of its definition of the above-cited terms to the customer.

H. Waste oil and used tire Recycling- Grantee shall collect the waste oil and used tires placed at the collection point for recycling without additional charge to customer or City. Grantee shall not be required to accept more than two gallons per month of waste oil or in excess of four tires per month from any customer.

I. Grantee shall establish a procedure to be approved by the City for monitoring the flow of the City's Hazardous Household Wastes to the disposal site. Such procedure shall at a minimum require the direct inspection of a statistically appropriate portion of the Solid Waste (sampling) at statistically appropriate intervals and a report to the City of the percentage of Hazardous Household Waste contained in the sample. This sampling shall be at no charge to the City or the Customers. The specific procedures for conducting such audits shall otherwise be as determined by the parties.

(2) Special Service.

A. Three times a year on days designated by City, Grantee shall make a special collection of Bulky Waste which has been placed at collection point in residential areas within the franchise area without additional charge to the householder or to the City. Grantee shall be notified of such dates in writing a minimum of 90 days prior to date selected by City.

B. Household Hazardous Wastes - Household Hazardous Waste collections shall be bid on a per collection basis. Disposal

fees shall not be included in the cost. Staging, collection and transportation fees for hazardous waste shall be quoted at the hauler's cost and based on a direct cost pass-through only, with no markup by the Grantee or any subcontractor. Grantee shall have at least 90 days prior written notice of the date of such household hazardous waste collection day scheduled by the City. Grantee agrees to prepare all applications and manifests and to obtain all necessary approvals. Copies of all such documentation shall be provided to the City. City shall not be designated as the generator.

C. Commercial Collection.

(1) Weekly Service.

A. Not less often than once per week, Grantee shall collect the Solid Waste, Compostables and Recyclables which have been placed for collection in bins or recycling containers on the subject property. The provisions of subsection 6(B)(1)(G) above are hereby made applicable to Commercial Collections at multi-family residential locations.

B. Grantee may make a scheduled collection more than once each week if it is determined by Grantee and the owner of the multi-family premises that such additional collections are required.

C. Collection shall be made from a Bin or Bins located on the property. After emptying any such Bin or Bins Grantee shall replace the Bin within the trash enclosure located on the property.

D. Bulky Waste- For multi-family residential customers, Grantee shall remove from the property all bulky waste which has been placed for collection within twenty-four hours of notice of such placement at no additional cost to the City or the customer.

(2) Special Service.

A. Multi-family residential- special services shall be the same as for residential special services except that bulky waste shall be collected if placed in or near the bin or container at the location for collection.

B. Commercial- This category encompasses retail sales locations and service facilities. There shall be no special bulky waste or hazardous waste collections from such customers.

C. Industrial/manufacturing- This category encompasses production facilities. There shall be no special bulky waste collection or hazardous waste collections from such facilities.

D. Recycling Program. The Grantee will provide recycling service in the Franchise area in accordance with the terms set

forth in Exhibit "C", Recycling Program".

E. Collection on Holidays. If the day of collection on any given route falls on a Holiday observed by the landfill or other lawful disposal site to which refuse collected within the Franchise area is taken for disposal, or recycling facility to which recyclables are taken, or composting facility to which compostables are taken, Grantee shall provide collection service for such route on the workday next following such Holiday.

F. Special Wastes. The exclusive franchise granted by this Franchise Agreement does not extend to the disposal of Special Wastes. Grantee may, but is not required to, provide such collection, transportation and disposal services for Special Wastes. Grantee may provide such services for Special Wastes if contracted to do so by customers under separate written contracts negotiated between Grantee and the customer generating such Special Wastes.

G. Collection from City Facilities:

Grantee shall provide an adequate number of bins, containers, and roll-offs on selected City property which will be collected and disposed at no charge to the City. These locations shall be selected by the City Manager and the collection schedule shall be mutually agreed upon between the City Manager and the Contractor.

In addition to the foregoing, the Grantee shall maintain the existing civic refuse containers which are placed along major streets determined by agreement between the City Manager and the Grantee. These cement city containers will be picked up and disposed at no charge to the City at a frequency to be mutually agreed upon between the City Manager and the Grantee so as to provide adequate service.

H. Special Event Collection

Grantee shall provide a maximum 5 times a year special collection at the locations designated by the City Manager or his or her designee for special events at no additional charge to City or the organization conducting the special event.

I. Educational Services.

Grantee shall provide educational services as set forth in Exhibit "E".

SECTION 7, FRANCHISE FEES AND BILLING.

A. A Franchise Fee of ten percent (10%) of the Grantee's Gross Revenues shall be payable by Grantee to City. Said sums shall be deducted from receipts by City each month.

B. COMPENSATION TO CITY. For services to be rendered by City in the billing and collection of all charges, and in further consideration of the rights and privileges granted hereunder by City, Grantee shall pay the sum of twenty-one percent (21%), inclusive of the Franchise Fee described in subsection A immediately above, of the gross revenue from the charges made by Grantee pursuant to this Franchise Agreement.

C. BILLINGS:

1. For and on behalf of Grantee, City shall provide all billing and collection services as described herein. Each customer shall be billed monthly by City. The form of the bill shall be as determined by the City. The City shall bill the customer for all services whether regular or special. The City shall also charge for any late payments. Retroactive adjustments shall be made on the basis of addresses of premises added and the date added. Collections ordered after the first of the month shall be charged on a prorated 30 day/monthly basis.

2. On the 20th day of each calendar month, City shall pay over to Grantee one hundred percent (100%) of the gross receipts derived from the billings for regular and special services and late charges in the prior month after first deducting therefrom the twenty-one percent (21%) of such gross billings due to City under Section 6 paragraph (B) hereof. Anything contained herein to the contrary notwithstanding, until the City notifies Grantee in writing that Grantee is to commence recycling services, City shall not be required to pay over to Grantee any assessment made to the customer for recycling services.

3. Roll off bins- Grantee shall have the exclusive right under this Franchise Agreement to collect and dispose of materials resulting from building demolition or construction with roll-off containers at the site. The Grantee may bill the customer directly and provide a copy of the billing to the City or provide the City with the necessary information for direct billing by the City for this service in accordance with the Grantee's regular fee schedules as set forth in Exhibit "A". Grantee shall pay the 21% fee assessed hereinabove on all direct billings on a monthly basis.

D. Delinquent Accounts. Grantee may discontinue service as directed by the City. Persons who have not remitted required payments within 30 days after the date of billing shall be notified by City. Said notice shall contain a statement that services may be discontinued 15 days from the date of notice if payment is not made before that time. Upon payment of the delinquent fees, Grantee shall resume collection on the next regularly scheduled collection day.

E. Refunds. Grantee shall refund to each customer, on a pro rata basis, any advance service payments made by such customer for service not provided when service is discontinued by the customer.

SECTION 8, PERFORMANCE BOND.

A. City hereby reserves the right to, without prior notice to Grantee of such intent to withdraw, withdraw from any monies in the possession of the City owed to Grantee hereunder a maximum of \$20,000 to be applied towards the correction of any default of Grantee hereunder. Grantee shall thereafter have the right to appeal such withdrawal under the provisions of Section 12 hereof.

B. Grantee shall also provide a faithful performance bond in the sum of one hundred thousand dollars (\$100,000.00). The performance bond shall be in a form acceptable to the City Attorney. The performance bond (hereinafter "Performance Bond") shall serve as security for the faithful performance by Grantee of all its duties and obligations under this Franchise Agreement. The performance bond shall remain in place and in effect at all times during the term of this Franchise Agreement.

C. Assessment against the Performance Bond by the City shall be accomplished substantially as set forth in the following procedures:

(1) Grantee shall be given five (5) days [or such other prior of notice as the parties may agree] prior written notice by City of Grantees failure of performance under this agreement. Upon expiration of the above-described cure period without correction by Grantee of the failure of performance, the City may commence assessment against the Performance Bond. Grantee may thereafter make an appeal of the assessment under the procedures hereinafter set forth. Grantee is hereby required and agrees to exhaust such appeal procedures before taking recourse to any judicial remedies.

The Bond may be assessed by the City for purposes including, but not limited to:

(a) Failure of Grantee to pay the City sums due under the terms of the Franchise Agreement.

(b) Reimbursement of costs borne by the City to correct Franchise Agreement violations not corrected by Grantee, after due notice.

(c) Monetary remedies or damages assessed against Grantee due to breach of the Franchise Agreement.

SECTION 9, FRANCHISE TRANSFERRABLE; CITY CONSENT REQUIRED.

A. The franchise granted by this Franchise Agreement shall not be transferred, sold, hypothecated, sublet or assigned, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold or transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person, except the Grantee, either by act of the Grantee or by operation of law,

without the prior written consent of the City expressed by resolution. Any attempt by Grantee to assign this franchise without the consent of City shall be void. An intra-corporate transfer or transfer of this franchise to any current affiliate of Grantee shall not constitute a transfer of the franchise for purposes of this Section 9.

B. It is hereby determined and agreed that, as liquidated damages and not as a penalty, If the Grantee attempts to transfer the franchise prior to obtaining City consent, all of the profits or twenty-five percent (25%) of the Gross Revenues in excess of the twenty-one percent (21%) due to City under Section 7(B) which is collected from the date of attempted transfer until the date of City consent, whichever is greater, shall be paid over to City by Grantee.

C. The City shall not unreasonably withhold its consent to a transfer of the franchise granted by this Franchise Agreement. The City may impose conditions of approval on an Franchise Agreement transfer, including, but not limited to conditions requiring acceptance of amendment and this Franchise Agreement, and the payment of a transfer fee to the City.

D. City consent is required for any change in control of Grantee. "Change in control" shall mean any sale, transfer or acquisition of Grantee. Grantee is a corporation, and any acquisition of more than ten percent (10%) of Grantee's voting stock by a person, or group of persons acting in concert, who already owns less than 50% of the voting stock, shall be deemed a change in control. "Change in control" as used herein shall not apply to intra-corporate change of ownership or purchase by any current affiliate of Grantee.

E. Any change in control of the Grantee occurring without prior City approval shall constitute a material breach of the Franchise Agreement.

F. Any application for a franchise transfer shall be made in a manner prescribed by the City Manager. The application shall include a transfer fee in an amount to be set by City by Resolution of the Council but not less than twenty-five thousand dollars (\$25,000). The applicant shall pay all such fees at the time of application for the transfer. These franchise transfer fees are over and above any franchise fees otherwise specified in this Franchise Agreement.

#### SECTION 10. IMPOSITION OF DAMAGES OR TERMINATION

##### A. Notice of Violation

1. If the City Manager determines that the Grantee's performance pursuant to this Franchise Agreement has not been in conformity with reasonable industry standards which apply in similar cities in Southern California, the provisions of this

Franchise Agreement, the requirements of the California Integrated Waste Management Board and the Integrated Waste Management Act (H&S §40000 et seq.), including, but not limited to, requirements for source reduction and recycling (as to the waste stream subject to this Franchise Agreement) or any other applicable federal, state or local law or regulation, including but not limited to the law governing transfer, storage or disposal of hazardous waste, the City Manager shall advise Grantee in writing of such deficiencies.

2. The City Manager shall in such notice set a reasonable time within which correction of all such deficiencies shall be made. Unless otherwise specified, a reasonable time for correction shall be sixty (60) days from date of mailing of such written notice, or such other period as the parties may agree.

3. Upon the expiration of the time period set forth in the notice, the City Manager shall review the Grantee's response. The City Manager shall have ten business days following date of expiration of the response period within which to make a determination as to whether the response by Grantee has been adequate or that additional action is necessary. The City Manager shall notify the Grantee in writing of his decision. City Manager shall take such action or require any such action by the Grantee, as he may deem appropriate for the correction of the problem including, but not limited to, an assessment against the Performance Bond or a recommendation to the City Council for termination of the Franchise Agreement.

4. The decision of the City Manager shall be final and binding on Grantee unless the Grantee files a "Notice of Appeal" with the City Clerk within 30 days of receipt of the City Manager's decision. Within ten working days of receipt of a Notice of Appeal, the City Clerk shall refer the appeal to the City Council to set a date and time for proceedings in accordance with Section 11.

B. Upon receipt of the Notice of Appeal, The City Council shall set the matter for hearing. The City Council shall give Grantee fourteen (14) days prior written notice of the time and place of the hearing. At the hearing, the City Council shall consider the report of the City Manager indicating the deficiencies, and shall give the Grantee, or its representatives a reasonable opportunity to be heard. Said hearing need not be a public hearing.

C. The Council shall determine by resolution the remedy to the matter. If the City Council determines that the Grantee is in breach of any material term of this Franchise Agreement or any material provision of any applicable federal, state or local statute or regulation, the City Council, in the exercise of its sole discretion, may terminate forthwith, this Franchise Agreement or impose liquidated damages, as defined below. The decision of the City Council shall be final and conclusive, subject to referral of the matter for an administrative hearing pursuant to Section 11.

below. Grantee's performance under its Franchise is not excused at any time during the period of the City Council's consideration of the matter or following any final determination.

D. This right of termination or to impose liquidated damages is in addition to any other rights of City upon a failure of Grantee to perform its obligations under this Franchise Agreement.

E. The City further reserves the right to terminate Grantee's Franchise or impose liquidated damages in the event of any of the following:

- (1) If the Grantee practices, or attempts to practice, any fraud or deceit upon the City.
- (2) If the Grantee becomes insolvent, unable or unwilling to pay its debts, or upon listing of an order for relief in favor of Grantee in a bankruptcy proceeding.
- (3) If the Grantee fails to provide or maintain in full force and effect, the workers compensation, liability and indemnification coverage's or cash bond as required by the Franchise Agreement.
- (4) If the Grantee willfully violates any orders or rulings of any regulatory body having jurisdiction over the Grantee relative to this Franchise Agreement, provided that the Grantee may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no breach of the Franchise Agreement shall be deemed to have occurred.
- (5) If the Grantee ceases to provide collection service as required under this Franchise Agreement over all or any portion of its Franchise Area for a period of three (3) days or more for any reason within the control of the Grantee.
- (6) If the Grantee willfully fails to make any payments required under the Franchise Agreement and/or refuses to provide City with required information, reports and/or test results in a timely manner as provided in the Franchise Agreement.
- (7) Any other act or omission by the Grantee which materially violates the terms, conditions or requirements of the Franchise Agreement, the California Integrated Waste Management Act of 1989, as it may be amended from time to time or any order, directive, rule or regulation issued thereunder and which is not corrected or remedied within the time set in the written notice of the

violation or, if the Grantee cannot reasonably correct or remedy the breach within the time set forth in such notice, if the Grantee should fail to commence to correct or remedy such violation within the time set forth in such notice and diligently effect such correction or remedy thereafter. Grantee shall have the right to appeal imposition of any liquidated damages pursuant to this Section.

F. LIQUIDATED DAMAGES.

(1) The City finds, and the Grantee agrees, that as of the time of the execution of this Franchise Agreement, it is impractical, if not impossible to reasonably ascertain the extent of damages which will be incurred by the City as a result of a material breach by Grantee of its obligations under this Franchise Agreement. The factors relating to the impracticability of ascertaining damages include, but are not limited to, the fact that: (i) substantial damage results to members of the public who are denied services or denied quality or reliable service; (ii) such breaches cause inconvenience, anxiety, frustration and deprivation of the benefits of the Franchise Agreement to individual members of the general public in subjective ways and in varying degrees of intensity which are incapable of measurement in precise monetary terms; (iii) that services might be available at substantially lower costs than alternative services, and the monetary loss resulting from denial of services or denial of quality or reliable services is impossible to calculate in precise monetary terms; and (iv) the termination of this Franchise Agreement for such breaches, and other remedies are, at best, a means of future correction and not remedies which make the public whole for past breaches.

(2) Accordingly, the City Council may, at its discretion, assess liquidated damages not to exceed the sum of Seven Hundred and Fifty Dollars (\$750.00) per day, for each calendar day that service is not provided by Grantee in accordance with this Franchise Agreement. The amount of the liquidated damages shall be increased by the past year's consumer price index for the Los Angeles-Anaheim-Riverside area on March 1 and effective July 1 of each year. In addition, the Council may order the assessment against the receipts held by City

for benefit of Grantee or the performance bond required by Section 8A, above, the termination of the Franchise Agreement, or any of the above.

(3) Grantee has the right to appeal the imposition of liquidated damages through the process described in Section 11 hereof.

#### SECTION 11, ADMINISTRATIVE HEARING PROCEDURES.

A. Should Grantee contend that City is in breach of this Franchise Agreement, it shall file a request with the City Manager for an administrative hearing before an impartial hearing officer on the allegation.

B. City and Grantee shall mutually agree on a hearing officer. If agreement is not reached within twenty working days of the filing of the notice of appeal, then Grantee shall select the hearing officer from a list of three potential hearing officers who are retired California Superior Court judges or Appellate Court justices, none of whom are related to the parties. The list shall be as prepared by the City Manager and approved by the City Council.

C. The hearing shall be conducted according to California Code of Civil Procedure Section 1280, *et seq.* The exclusive venue shall be in Riverside County, California. A hearing officer to whom a matter is referred shall have the authority to (i) order the City or the Grantee to undertake remedial action to cure the breach and to prevent occurrence of similar breaches in the future; (ii) assess damages and/or levy a penalty upon the Grantee consistent with the terms of this Franchise Agreement; or (iii) find there has been no breach. If the hearing officer finds there has been no breach, such a decision precludes the City from conducting a default hearing.

D. The party losing the hearing shall be liable for the hearing officer's fees.

E. Any failure of the Grantee to comply with the hearing officer's order shall be deemed a material breach of the Franchise Agreement, and may be grounds for termination of the Franchise Agreement.

F. The hearing officer shall commence the hearing within thirty (30) days of selection unless the parties and the hearing officer otherwise agree. Any party to the hearing may issue a request to compel reasonable document production from the other party. Disputes concerning the scope of document production and enforcement of document requests shall be subject to agreement by the parties, or if agreement is not reached within twenty (20) days of the document request, then by disposition by order of the hearing officer. Any such document request shall be subject to the

proprietary rights and privileges of the parties, and the hearing officer shall adopt procedures to protect such rights. Except as may be otherwise specifically agreed by the parties, no other form of pretrial discovery shall be available to the parties; provided that if either party notifies the hearing officer that a material violation of the Franchise Agreement or rights in connection therewith is claimed by either party, the provisions of Code of Civil Procedure Section 1283.05 shall apply save that only one deposition each shall be allowed to Grantee and City.

G. Neither party may communicate separately with the hearing officer after the hearing officer has been selected. All subsequent communications between a party and a hearing officer shall be simultaneously delivered to the other party.

H. Until final judgment is entered from the hearing officer proceeding under the foregoing provisions and the time for appeal or other post-judgement petition has expired, the imposition or enforcement of any penalties or sanctions provided in the Franchise Agreement and related to the subject matter of the hearing shall be stayed. The hearing officer may modify or cancel any proposed penalties or sanctions upon a finding that the interests of justice so require.

I. Any party to a hearing may petition the Superior Court in Riverside County, California to confirm, correct or vacate the award on the grounds stated in the General Arbitration Act. Any proceedings on appeal shall be in accordance with Code of Civil Procedures § 1294 and § 1294.2.

#### SECTION 12, CITY'S ADDITIONAL REMEDIES.

In addition to and not as a limitation on the remedies set forth in Sections 10, 11 and 12, above, City shall have the following rights:

A. Upon twenty-four hours prior presentation of a demand made pursuant to this section, to rent or lease equipment from Grantee for the purpose of collecting, transporting and disposing of solid waste which Grantee is obligated to collect, transport and dispose of pursuant to this Franchise Agreement. Such lease may be for a period not to exceed six (6) months. In the case of equipment not owned by Grantee, Grantee shall assign to City, to the extent Grantee is permitted to do so under the instruments pursuant to which Grantee possesses such equipment, the right to possess the equipment. Such equipment as shall be required by City shall be made available to the City by Grantee. Such equipment shall be made available to City at Grantee's facility in the City of Banning at the time indicated in the notice. If no such facility, then at Grantee's closest facility to the City of Banning. If City exercises its rights under this Section 12, City shall pay to Grantee the reasonable rental value of the equipment so taken for the period of City's possession thereof; provided that City agrees that, in such event, it assumes complete responsibility

for the proper and normal use of such equipment and facilities. City agrees that it shall immediately relinquish possession of all of the above-mentioned property to Grantee upon receipt of written notice from Grantee to the effect that it is able to resume its normal responsibilities under this Franchise Agreement.

B. The right to license others to perform the services otherwise to be performed by Grantee hereunder, or to perform such services itself; and

C. The right to obtain damages and/or injunctive relief. Both parties recognize and agree that in the event of a breach under the terms of this Franchise Agreement by Grantee, City shall be deemed to suffer irreparable injury and incalculable damages sufficient to support injunctive relief, to enforce the provisions of this Franchise Agreement and to enjoin the Breach thereof.

#### SECTION 13, RIGHTS OF CITY TO PERFORM DURING EMERGENCY.

A. Should Grantee, for any reason whatsoever refuse or be unable to collect, transport and dispose of any or all of the refuse, compostables and Recyclables which it is obligated under this Franchise Agreement to collect, transport and dispose of for a period of more than seventy-two (72) hours, as a result of conditions described in the "Force Majeure" provisions of section 27 below, then in such event City shall have the right during the period of such emergency and, upon twenty-four (24) hour prior written notice to Grantee, to temporarily take possession of any or all equipment and facilities of Grantee previously used in the collection, transportation and disposal of refuse, compostables and Recyclables under this Franchise Agreement, and to use such equipment and facilities to collect and transport any or all refuse, compostables and Recyclables which Grantee would otherwise be obligated to collect and transport pursuant to this Franchise Agreement. Grantee agrees that in such event it will fully cooperate with City to effect such a transfer of possession for City's use.

B. Grantee agrees that, in such event, City may take temporary possession of and use all of said equipment and facilities without paying Grantee any rental or other charge, provided that City agrees that, in such event, it assumes complete responsibility for the proper and normal use of such equipment and facilities. City agrees that it shall immediately relinquish possession of all of the above-mentioned property to Grantee upon receipt of written notice from Grantee to the effect that it is able to resume its normal responsibilities under this Franchise Agreement.

#### SECTION 14, PRIVACY

A. Grantee shall strictly observe and protect the rights of privacy of customers. Information identifying individual customers, or the composition or contents of a customer's solid

waste or recyclables shall not be revealed to any person, governmental unit, private agency or company, unless upon the authority of a court of law, by statute, or upon valid authorization of the customer. This provision shall not be construed to preclude Grantee from preparing, participating in, or assisting in the preparation of waste characterization studies or waste stream analyses which may be required by AB 939 or this Franchise Agreement.

B. Grantee shall not market or distribute mailing lists with the names and addresser of customers.

C. The rights accorded customers pursuant to this Section shall be in addition to any other privacy right accorded customers pursuant to federal or state law. This section does not create a right in any third party to the enforcement of this provision by the City.

#### SECTION 15, REPORTS AND ADVERSE INFORMATION.

##### A. Annual Reports.

The Grantee shall submit to the City on the anniversary of this Franchise Agreement, a written annual report in a form approved by the City Manager, including, but not limited to, the following information relating to Grantee's performance hereunder:

- (1) A summary of the previous year's (or, in the case of the initial report year, the initial year's) activities including, but not limited to, services begun or discontinued during the reporting year, and the number of customers for each class of service;
- (2) A report on the City's progress in meeting and maintaining its ability to meet its goals under AB 939 as applied to the Franchise area, along with any recommended changes. This report shall include the following:
  - A. report of tonnage to landfill by month;
  - B. Accounting of recyclables by type;
  - C. Amount of compostables diverted.
  - D. Educational component compliance.
- (3) A revenue statement, setting forth quarterly Franchise Fees, and the basis for the calculation thereof, certified by an officer of the Grantee;
- (4) A list of Grantee's officers and members of its board of directors.
- (5) A list of stockholders or other equity investors holding five percent (5%) or more of the voting

interest in the Grantee and any subsidiaries unless Grantee is a public corporation whose annual reports are publicly available.

Any of the reports listed above shall be produced and presented monthly if requested by City.

B. Adverse Information.

Grantee shall provide City two copies of all reports, or other information which may materially affect Grantee's ability to provide service pursuant to this Franchise Agreement or which may create liability on the part of the City to a third party, submitted by Grantee to the Environmental Protection Agency ("EPA"), the California Integrated Waste Management Board or any other Federal, State or Riverside County agency. Copies shall be submitted to City simultaneously with Grantee's filing of such matters with said agencies. Grantee's routine correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request, as provided in Section 24, below.

- (1) The Grantee shall submit to City copies of all pleadings, applications, notifications, communications and documents of any kind, submitted by the Grantee to, as well as copies of all decisions, correspondence and actions by, any Federal, State and local courts, regulatory agencies and other government bodies relating specifically to Grantee's performance of services pursuant to this Franchise Agreement. Any confidential data exempt from public disclosure shall be retained in confidence by the City and its authorized agents and shall not be made available for public inspection.
- (2) Grantee shall submit to the City such other information or reports in such forms and at such times as the City may reasonably request or require.
- (3) All reports and records required under this or any other section shall be furnished at the sole expense of the Grantee.
- (4) A copy of each of Grantee's annual and other periodic public financial reports and those of its parent, subsidiary and affiliated corporation and other entities, as the City requests, shall be submitted to the City within thirty (30) days after receipt of a request.

C. Failure to Report.

The refusal, failure, or neglect of the Grantee to file any of the reports required within 15 days of initial date of execution by the Grantee, or the inclusion of any materially false or misleading statement or representation that materially affects this Franchise

Agreement made knowingly by the Grantee in such report shall be deemed a material breach of the Franchise Agreement, and shall subject the Grantee to all remedies, legal or equitable, which are available to the City under the Franchise Agreement or otherwise.

SECTION 16, ANNUAL REVIEW OF PERFORMANCE AND QUALITY OF SERVICE.

A. At City's sole option, within ninety (90) days prior to the first anniversary of the effective date of this Franchise Agreement, and each year thereafter throughout the term of the Franchise Agreement, City may hold a public hearing at which the Grantee shall be present and shall participate, to review the Grantee's performance and quality of service. The reports required by this Franchise Agreement regarding customer complaints shall be utilized as the basis for review. In addition, any customer may submit comments or complaints during the review meetings, either orally or in writing, and these shall be considered.

B. Within thirty (30) days after the conclusion of the public hearing, City shall issue a report with respect to the adequacy of performance and quality of service. If any noncompliance with the Franchise Agreement is found, City may direct Grantee to correct the inadequacies in accordance with Sections 10, 11 and 12, above.

SECTION 17, SYSTEM AND SERVICES REVIEW.

To provide for technological, economic, and regulatory changes in refuse collection and recycling, to facilitate renewal procedures, to promote competition in the refuse and recycling industry, and to achieve a continuing, advanced refuse collection and recycling system, the following system and services review procedures are hereby established:

A. At City's sole option, City may hold a public hearing on or about the second anniversary date of the Franchise Agreement at which the Grantee shall be present and shall participate, to review the refuse collection and recycling system and services. Subsequent system and services review hearings may be scheduled by City each two (2) years thereafter. It is City's intent to conduct any system and services review concurrently with any Annual Review of Performance and Quality of Service as provided for in Section 16, above.

B. Sixty (60) days after receiving notice from the City, Grantee shall submit a report to City indicating the following:

- (1) All refuse collection, composting and recycling services reported in refuse collection and recycling industry trade journals that are being commonly provided on an operational basis, excluding tests and demonstrations, to communities in the United States with comparable populations, that are not provided to City; and

(2) Changes recommended to improve the City's ability to meet the goals of AB 939.

(3) Any specific plans for provision of such new services by the Grantee, or a justification indicating why Grantee believes that such services are not feasible for the ordinance area.

C. Topics for discussion and review at the system and services review hearing shall include, but shall not be limited to, services provided, feasibility of providing new services, application of new technologies, customer complaints, rights of privacy, amendments to the Franchise Agreement, developments in the law, new initiatives for meeting or exceeding AB 939's goals and regulatory constraints.

D. City and the Grantee may each select additional topics for discussion at any systems and services review hearing.

E. Not later than sixty (60) days after the conclusion of each system and service review hearing, City shall issue a report. The report shall include a listing of any refuse collection and recycling services not then being provided to City that are considered technically and economically feasible by City. City may require Grantee to provide such services within a reasonable time, for reasonable rates and compensation.

#### SECTION 18, COMPENSATION.

##### A. Grantee Rates.

1. The Grantee agrees to accept from customers as full compensation for the services described in this Franchise Agreement those rates established by resolution of the City Council and set forth in Exhibit "A", which is attached hereto and made a part hereof; said rates shall be subject to modification on the following basis:

2. The monthly rates shall be automatically adjusted to reflect changes in the consumer price index and tipping fees. The CPI adjustment shall be made annually and such adjustment shall be effective as of the first day of July of each calendar year. The CPI adjustment shall be equal to the ninety-five percent (95%) of the amount derived by multiplying the previous rate by the percentage change in the Consumer Price Index for all Urban Consumers for the Los Angeles-Long Beach-Anaheim Major Metropolitan Area (or as the area may be amended) during the prior calendar year, excluding the housing component. The comparison shall be made for each March 1st during the term hereof and shall be effective each July 1st. The first CPI adjustment shall occur July 1, 1994, provided that tipping fee adjustments will be available April 1, 1994 to account for any landfill fee increases after submission of bids. CPI based increase shall be applicable to the cost of services only. There shall be no direct or indirect CPI

increase in the tipping fee.

3. Any increase in tipping fees shall be passed through on a pro rata basis, and shall be effective at the start of the first full billing period after the tipping fee increase.

B. In addition to, and not in lieu of, the annual CPI adjustment described above, Grantee shall also be entitled to rate adjustments in an amount equal to the extraordinary change in the cost of collection. Such extraordinary adjustment shall be subject to prior approval of the City Council. Such extraordinary change in Grantee's cost of collection shall include, by way or example and not by way of limitation: (1) a change in the location of the landfill or other lawful disposal sites for Solid Wastes to which the Grantee is required to transport Solid Waste collected under this Franchise Agreement; (2) increase or decreases in other permit fees payable to Grantee based on Grantee's operations; and (3) changes not otherwise included in this Franchise Agreement in the local, state or federal laws governing collection, separation, transportation or disposal of Solid Waste.

Except as provided in Exhibit "A", the rates set forth on Exhibit "A" shall remain in effect until adjusted by City, by resolution of the City Council.

C. Tipping Fee Adjustment:

Any adjustment in the rate shall reflect a change in the direct cost of disposal as a result of the trend in the annual tonnage of waste disposed of at disposal sites. The baseline reference weights or tonnages shall be as shown in Exhibit "A".

D. Resolution of Disputes Regarding Rate Adjustments:

Any dispute regarding the annual "CPI" and Tipping Fee adjustment, or the computation thereof, described in Exhibit "A", or any other dispute regarding Grantee's reimbursement for fees, special services or extraordinary costs described in Exhibit "A", shall be first presented to the City Manager for resolution pursuant to the procedures described in Article 10 Sections (A)(3-4), (B) and (C) and Article 12. The rates in effect at the time such dispute is submitted to the City Council or to a hearing officer shall remain in effect pending resolution of such dispute. The effective date of any dispute resolution, whether retroactive or prospective, shall reasonably be determined by the City Council, or the hearing officer, as appropriate.

SECTION 19, COLLECTION EQUIPMENT.

Grantee shall provide an adequate number of vehicles but not less than the number of vehicles specified in Exhibit "A" and equipment for the collection, disposal and transportation services for which it is responsible under this Franchise Agreement. All vehicles used by Grantee under this Franchise Agreement shall be

registered with the Department of Motor Vehicles of the State of California, shall be kept clean and in good repair, shall be uniformly painted and shall be no older than ten (10) years. Solid waste collection vehicles shall be washed at least once every seven (7) calendar days. Grantee's name, telephone number and vehicle number shall be visibly displayed on its vehicles in letters and figures no less than five inches (5") high. Refuse collection vehicles routinely assigned to the City of Banning shall display the words "Serving the City of Banning" in letters no less than eight inches (8") high. All vehicles will display the seal of the City of Banning, in a figure at least twelve inches (12") in diameter. The equipment of Grantee used under this Franchise Agreement shall be subject to inspection by City on a semiannual basis but shall not be subject to any permit fees therefore. The Grantee shall provide necessary bins or containers for recyclables and compostables as specified under Recycling Program described in Exhibit "C". The Grantee shall be responsible for the maintenance and replacement of all residential containers at no additional charge to the customer or the City. Said replacement shall be provided within 21 days of date of notification of loss. Commercial customers shall be responsible for destroyed, lost or stolen bins; however, maintenance of such bins shall be by the Grantee. Maintenance by Grantee of containers/bins shall include removal of any graffiti.

#### SECTION 20, PUBLIC ACCESS TO GRANTEE.

##### A. Office Hours.

Grantee's office hours shall be, at a minimum, from 8:00 a.m. to 5:00 p.m. daily, on all collection days. A representative of Grantee shall be available during office hours for communication with the public at Grantee's office located at 26500 Scaramella Circle, Hemet, California. Normal office hours telephone numbers will either be a local or toll free call. Grantee shall also maintain a local or toll free after hours telephone number for use during other than normal business hours. Grantee shall have a representative or answering service available at said after-hours telephone number during all hours other than normal office hours.

##### B. Service Complaints.

(1) All customer complaints shall be directed to Grantee, Grantee shall record all complaints received by mail, by telephone or in person (including date, name, address of complainant and nature of complaint). Grantee agrees to use its best efforts to resolve all complaints by close of business of the second business day following the date on which such complaint is received. Service complaints may be investigated by the City Manager or the Manager's designee. Unless a settlement satisfactory to complainant, the Grantee and the Manager's designee is reached, the complainant may refer the matter to the City Manager for review.

(2) Grantee will maintain records listing the date of

consumer complaints, the customer, describing the nature of the complaint or request, and when and what action was taken by the Grantee to resolve the complaint. All such records shall be maintained for a period of three (3) years, and shall be available for inspection by City. Grantee shall prepare monthly summaries of consumer complaints. The summaries shall be delivered monthly to the City Manager or the City Manager's designated representative.

C. Government Liaison Person:

A person to be named annually in the annual report of Grantee to City is hereby designated the "government liaison person" who shall be responsible for working with the City Manager or the City Manager's designated representative to resolve consumer complaints. The first governmental liaison person shall be named by Grantee within 30 days following date of execution of this Franchise Agreement.

SECTION 21 RESOLUTION OF DISPUTED CUSTOMER COMPLAINTS.

A. The Grantee shall notify customers of this complaint arbitration procedure at the time customers apply for service, and shall annually provide such notice.

B. A customer dissatisfied with Grantee's decision regarding a complaint may ask the City to review the complaint. To obtain this review, the customer must request City review within 30 days of receipt of Grantee's response to the Complaint, or within 45 days of submitting the complaint to the Grantee, if the Grantee has failed to respond to the complaint. The City may extend the time to request its review for good cause.

C. Before reviewing the complaint, the City Manager shall refer it to the Grantee. If the Grantee fails to cure the complaint within ten (10) days, the City Manager shall review the customer's complaint and determine if further action is warranted. The City Manager may request written statements from the Grantee and customer, and/or oral presentations.

D. The City Manager shall determine if the customer's complaint is justified, and if so, what remedy, if any, shall be imposed. The remedy under this Section shall be limited to a rebate of customer charges related to the period of breach of any of the terms of this Franchise Agreement or a penalty of up to \$100 for any single event or series of related events, or any actual damages.

E. The City Manager may delegate his duties to a designee. The decision of the City Manager or his designee shall be final on any matter under Five Thousand Dollars (\$5,000.00). In the event of a decision on a matter awarding five thousand dollars or more (\$5,000), Grantee may seek review pursuant to Section 13, above.

## SECTION 22, OWNERSHIP OF SOLID WASTE AND RECYCLABLES.

Once compostables and Recyclables are placed in containers or bins for collection or at the collection point, ownership shall transfer to Grantee. The ownership of Solid Waste and recyclables shall not otherwise pass to Grantee until collected. Subject to Grantee's duty to meet the source reduction and recycling goals which apply to City, Grantee is hereby granted the right to retain, recycle, compost, dispose of and otherwise use such refuse, compostables and Recyclables, or any part thereof, in the most economical manner provided by law or for any lawful purpose as mutually agreed to in advance by City and the Grantee. Subject to the provisions of this Franchise Agreement, and as further consideration for same, Grantee shall have the right to retain any benefit resulting from its right to retain, recycle, compost, dispose of or use the refuse or Recyclables which it collects. Grantee shall share with the City of Banning, in addition to any other consideration to City under this Franchise Agreement, one-half of the profit resulting from such right. Refuse which is disposed of at a disposal site or sites (whether landfill, transformation facility, transfer station or material recovery facility) shall become the property of the owner or operator of the disposal site or sites once deposited there by Grantee.

## SECTION 23, INDEMNIFICATION AND INSURANCE.

### A. Indemnification of City.

Grantee agrees that it shall protect, defend with counsel approved by City, indemnify and hold harmless City, its officers, employees and agents from and against any and all losses, judgments, including attorneys fees, arising out of or resulting in any way from Grantee's exercise of the franchise, unless such claim is due to the active negligence or willful acts of the City, its officers, employees, agents or contractors, or from the City's grant of this Franchise Agreement to Grantee. Subject to the scope of this indemnification and upon demand of the City, made by and through the City Attorney, the Grantee shall appear in and defend the City and its officers, employees and agents in any claims or actions, whether judicial, administrative or otherwise arising out of the exercise of the Franchise Agreement.

B. Litigation Indemnification. Any provision contained in this Franchise Agreement to the contrary notwithstanding, Grantee shall indemnify, defend (with counsel approved by City) and protect against all damages, costs and liabilities (including reasonable attorney's fees) arising out of the awarding of an exclusive franchise to the Grantee, or the proposal process by which that award was made. The foregoing indemnity specifically excludes damages, liabilities or costs where arising out of the willful misconduct of the City, its agents or employees.

C. Indemnification of Grantee.

The City shall indemnify, defend and hold the Grantee, its affiliates and their respective officers, directors, employees and shareholders harmless from and against any and all liabilities, losses, damages, claims, actions, causes of action, costs and expenses (including reasonable attorneys' fees) arising from or in any manner related to the sole negligence or willful acts of the City, its officers, employees, agents or contractors.

D. Hazardous Substances Indemnification.

Grantee shall indemnify, defend with counsel approved by City, protect and hold harmless City, its officers, employees, agents, assigns and any successor or successors to City's interest from and against all claims, actual damages (including but not limited to special and consequential damages), natural resources damage, punitive damages, injuries, costs, responsive remediation and removal costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties and expenses (including but not limited to attorneys' and expert witness fees and costs incurred in connection with defending against any of the foregoing or in enforcing this indemnity) of any kind whatsoever paid, incurred or suffered by, or asserted against, City or its officers, employees, agents or Grantees arising from or attributable to any repair, cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure, capping or other corrective plan (regardless of whether undertaken due to governmental action) concerning any Hazardous Substance or hazardous wastes at any place where Grantee stores or disposes of municipal solid waste pursuant to this Franchise Agreement. The foregoing indemnity is intended to and shall be construed to operate as an agreement pursuant to Section 107(e) of the Comprehensive Environmental Response, Compensation and Liability Act, "CERCLA", 42 U.S.C. Section 9607(e) and California Health and Safety Code Section 25364, to insure, protect, hold harmless and indemnify City from liability.

Grantee's indemnity under this subsection shall be limited to an amount not to exceed Five Hundred Thousand Dollars (\$500,000.00); provided, however, that this limitation may be exceeded and shall not apply to liabilities under this subsection arising from Grantee's transfer, storage or disposal of Solid Waste, Compostables and Recyclables at a facility which is owned and operated by Grantee, its subsidiaries or affiliates, or any corporation in which Grantee or any wholly-owned subsidiary holds fifty percent (50%) or more of the common voting shares. In such instance, the Grantee shall provide complete indemnity.

The foregoing indemnity is expressly conditioned upon the City's implementation, through this Franchise Agreement or otherwise of a program for the safe collection, recycling, treatment and disposal of hazardous wastes generated in households in compliance with Sections 41500 and 41802 of the Public Resources

Code. The foregoing indemnification shall not apply to the extent that any costs and damages arise out of the active negligence or willful misconduct of the City, its agents, employees, officers and contractors. Grantee shall have an affirmative duty to select for disposal of the City's Solid Waste only those landfill facilities which comply with state and federal law.

Grantee shall at all times insure that Grantee's ultimate parent company has a net worth of at least \$75M. Grantee shall provide evidence of such net worth of Grantee's ultimate parent company upon written request of the City.

**E. AB 939 Indemnification.**

Grantee agrees to protect, defend (with counsel approved by City) and indemnify City against all fines or penalties imposed by the California Integrated Waste Management Board in the event the source reduction and recycling goals or any other requirements of AB 939 as amended are not met by City with respect to the waste stream collected under this Franchise Agreement. The foregoing indemnity is expressly conditioned upon the City's implementation of any additional programs or activities, requested by Grantee, which are within the City's authority and ability to implement and which would be effective as a means to increase the percentage of solid waste diversion, all as determined by the City Council in the exercise of its sole discretion.

**F. Workers' Compensation Insurance.**

Grantee shall obtain and maintain in full force and effect throughout the entire term of this Franchise Agreement full workers compensation insurance in accord with the provisions and requirements of the Labor Code of the State of California. Endorsements that implement the required coverage shall be filed and maintained with the City Clerk throughout the term of this Franchise Agreement. The policy providing coverage shall be amended to provide that the insurance shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail return receipt requested has been given to City. The policy shall also be amended to waive all rights of subrogation against the City, its elected or appointed officials, employees, agents or Grantees for losses which arise from work performed by the named insured for the City.

**G. Public Liability Insurance.**

Grantee shall obtain and maintain in full force and effect throughout the entire term of this Franchise Agreement a Broad Form comprehensive General Liability (occurrence) policy with a minimum limit of TWO MILLION DOLLARS (\$2,000,000.00) aggregate and ONE MILLION DOLLARS (\$1,000,000.00) per occurrence for bodily injury and property damage, with any self-insured retention not exceeding \$200,000.00 per occurrence. Said insurance shall protect

Grantee and City from any claim for damages for bodily injury, including accidental death, as well as from any claim for property damage which may arise from operations performed pursuant to this Franchise Agreement, whether such operations be by Grantee itself, or by its agents, employees and/or subgrantees. Copies of the policies or endorsements evidencing the above required insurance coverage shall be filed with the City Clerk. All of the following endorsements are required to be made a part of the insurance policies required by this Section:

- (1) "The City, its employees, agents, Grantees and officers, are hereby added as insureds as respects liability arising out of activities performed by or on behalf of Grantee."
- (2) "This policy shall be considered primary insurance as respects any other valid and collectible insurance the City may possess including any self-insured retention the City may have, and any other insurance the City does possess shall be considered excess insurance and shall not contribute with it."
- (3) "This insurance shall act for each insured, as though a separate policy had been written for each. This, however, will not act to increase the limit of liability of the insuring company".
- (4) "Thirty (30) days prior written notice by certified mail, return receipt requested, shall be given to the City in the event of suspension, cancellation, reduction in coverage or in limits or non-renewal of this policy for whatever reason. Such notice shall be sent to the City Clerk."

The limits of such insurance coverage, and companies, shall be subject to review and approval by the City Manager every year and may be increased at that time and match the coverage provided by the City's own liability insurance policy. The City shall be included as an additional named insured on each of the policies, or policy endorsements.

#### SECTION 24, PARTIES' BOOKS AND RECORDS; AUDITS.

A. Except as otherwise specified herein, Grantee shall maintain all records relating to the services provided hereunder, including, but not limited to, customer lists, billing records, maps, AB 939 compliance records, and customer complaints, for the full term of this Franchise Agreement, and an additional period of not less than three (3) years, or any longer period required by law. The City shall have the right, upon five (5) business days advance notice, to inspect all maps, AB 939 compliance records, customer complaints, and other like materials of the Grantee which reasonably relate to Grantee's compliance with the provisions of the Franchise Agreement. Such records shall be made available to

City at Grantee's regular place of business, but in no event outside the County of Riverside.

B. Should any examination or audit of Grantee's records reveal an underpayment of any fee required under this Franchise Agreement, the amount of such underpayment shall become due and payable to City no later than fifteen (15) days after written notice of such underpayment is sent to Grantee by City. Should an underpayment of more than three percent (3%) be discovered, Grantee shall bear the entire cost of the audit.

C. Upon three business days prior notice from Grantee to City, Grantee shall have the right to examine City's books and records for the purpose of comparing City's billing records with Grantee's operational records.

#### SECTION 25, GENERAL PROVISIONS.

##### A. Force Majeure.

Grantee shall not be in default under this Franchise Agreement in the event that the collection, transportation and/or disposal services of Grantee are temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, explosion, natural disasters such as floods, earthquakes, landslides and fires, strikes, lockouts and other labor disturbances or other catastrophic events which are beyond the reasonable control of Grantee. Other catastrophic events does not include the financial inability of the Grantee to perform or failure of the Grantee to obtain any necessary permits or licenses or from other such failure as is due solely to the acts or omissions of the Grantee. In the event a labor disturbance interrupts collection, transportation and/or disposal of refuse by Grantee as required under this Franchise Agreement, City may elect to exercise its rights under Section 13 of this Franchise Agreement.

##### B. Independent Contractor.

Grantee is an independent contractor and not an officer, agent, servant or employee of City. Grantee is solely responsible for the acts and omissions of its officers, agents, employees, Grantees and subgrantees, if any. Nothing in this Franchise Agreement shall be construed as creating a partnership or joint venture between City and Grantee. Neither Grantee nor its officers, employees, agents or subgrantees shall obtain any rights to retirement or other benefits which accrue to City employees.

##### C. Pavement Damage.

Grantee shall be responsible for any extraordinary damage to City's driving surfaces, whether or not paved, resulting from the weight of vehicles providing refuse collection services at the location of Bins and containers on public or private property.

D. Property Damage.

Any physical damage caused by the negligent or willful acts or omissions of employees, Grantees or subgrantees of the Grantee to private or public property shall be repaired or replaced.

E. Right of Entry.

Grantee shall have the right, until receipt of written notice revoking permission to pass is delivered to Grantee, to enter or drive on any private street, court, place, easement or other private property for the purpose of collecting or transporting refuse pursuant to this Franchise Agreement.

F. Law to Govern; Venue.

The law of the State of California shall govern this Franchise Agreement. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Riverside. In the event of litigation in a U.S. District Court, exclusive venue shall lie in the Central District of California.

G. Fees and Gratuities.

Grantee shall not, nor shall it permit any agent, employee or subgrantee employed by it to, request, demand or accept, either directly or indirectly, any compensation or gratuity for the collection of refuse otherwise required to be collected under this Franchise Agreement.

H. Prior Agreements and Amendment.

This Franchise Agreement is intended to carry out City's obligations to comply with the provisions of the California Integrated Waste Management Act of 1989, ("AB 939") as it from time to time may be amended, and as implemented by regulations of the California Integrated Waste Management Board ("Regulations"), as they from time to time may be amended. In the event that AB 939 or other state or federal laws or regulations enacted after this Franchise Agreement has been enacted, prevent or preclude compliance with one or more provisions of this Franchise Agreement, such provisions of the Franchise Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations. No other amendment of this Franchise Agreement shall be valid unless in writing duly executed by the parties.

I. Compliance with Franchise Agreement.

Grantee shall comply with those provisions of the Banning Ordinance code which are applicable, and with any and all amendments to such applicable provisions during the term of this Franchise Agreement.

J. Notices.

All notices required or permitted to be given under this Franchise Agreement shall be in writing and shall be personally delivered or sent by telecopier or United States certified mail, postage prepaid, return receipt requested, addressed as follows:

To City:

City of Banning  
99 E. Ramsey Street  
P. O. Box 998  
Banning, Calif. 92220  
Attention: Jan Wages  
Telecopier: (909) 922-0433

Copy To:

City Attorney  
99 E. Ramsey St.  
P. O. Box 998  
Banning, Ca. 92220

To Grantee:

Waste Management of Inland Valley  
26500 Scaramella Circle  
Hemet, CA 92545  
Attention: Division President  
Telecopier: (909) 652-5198

Copy To:

Waste Management, Inc. - West  
18500 Von Karman Ave., Suite 900  
Irvine, CA 92715  
Attn: V. P. - Law & Compliance  
Telecopier: (714) 757-2509

or such other address as either party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed effective on the date personally served or, if mailed, three (3) business days from the date such notice is deposited in the United States mail.

K. Savings Clause and Entirety.

If any non-material provision of this Franchise Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or enforceability of such provision shall not affect the validity and enforceability of any of the remaining provisions of this Franchise Agreement.

L. Exhibits Incorporated.

Exhibits "A" through "E" are attached to and incorporated in this Franchise Agreement by reference.

M. Identification Required:

(1) Grantee shall provide its employees, Grantees and subgrantees with identification for all

individuals who may make personal contact with residents of the City.

(2) The Grantee shall provide a list of current employees, Grantees and subgrantees to the City upon request. The City may require the Grantee to notify customers yearly of the form of said identification.

WITNESS the execution of the Franchise Agreement on the day and year written above.

CITY OF BANNING

By: Augie Lopez  
Mayor

ATTEST:

Leanne M. Elizabeth  
City Clerk

APPROVED AS TO FORM:

JAC  
City Attorney

WASTE MANAGEMENT OF INLAND VALLEY, A DIVISION OF WASTE MANAGEMENT COLLECTION & RECYCLING, INC.

By: Don A. Ruppel

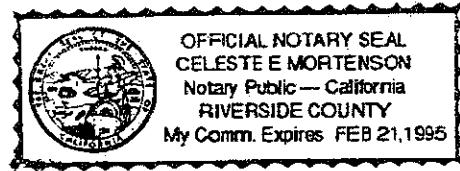
ACKNOWLEDGMENT

STATE OF California , )  
COUNTY OF Riverside . ) ss.

On 15 July 1993 , before me Celeste E Mortenson ,  
personally appeared Dean A Ruffridge personally known  
to me or proved to be the person who executed the within instrument  
entitled FRANCHISE AGREEMENT BETWEEN THE CITY OF BANNING AND WASTE  
MANAGEMENT OF INLAND VALLEY, A DIVISION OF WASTE MANAGEMENT  
COLLECTION & RECYCLING, INC., FOR THE COLLECTION, TRANSPORTATION,  
RECYCLING AND DISPOSAL OF SOLID WASTE, as President  
\_\_\_\_\_, on behalf of Waste Management of Inland Valley a California  
corporation, and acknowledged to me that such execution was  
pursuant to its bylaws or a resolution of its board of directors.

DATE:

CORPORATE SEAL



Celeste E Mortenson



WASTE MANAGEMENT  
EXHIBIT "A"

Franchise for residential and commercial service City-Wide.  
(All rates include landfill charges)

a. Non-mechanized Residential Collection and Disposal Service - City Billing (including 10% franchise fee and 11% billing fee):

1. Single family unit \$8.35 per month.

2. Special services per single family unit:

Recycling Program A \$1.95 per month.

Recycling Program B \$3.90 per month.

b. Multi family residential and Commercial Collection and Disposal Service monthly rate-City billing: (including 10% City Franchise Fee and 11% billing fee).

1. Commercial can service

1 x week \$ 14.75 per month

2. Three (3) cubic yard bin pick up

1 x week \$ 80.00 per month.

2 x week \$ 160.00 per month.

3 x week \$ 235.00 per month.

4 x week \$ 310.00 per month.

5 x week \$ 385.00 per month.

6 x week \$ 460.00 per month.

Recycling (1 x week) \$ 64.00 per month.

3. Two (2) cubic yard bin pick up

1 x week \$ 60.00 per month.

Recycling (1 x week) \$ 50.00 per month.

4. Four (4) cubic yard bin pick up

1 x week \$ 107.00 per month.  
Recycling (1 x week) \$ 85.00 per month.

5. Six (6) cubic yard bin pick up

1 x week \$ 152.00 per month.  
Recycling (1 x week) \$ 110.00 per month.

6. (a) 40 Cubic yard \$ 125.00 per pick-up.\*

(b) 10 Cubic yard \$ 125.00 per pick-up.\*

\*(INCLUDES 21% FRANCHISE AND BILLING FEE, DOES NOT INCLUDE TIPPING FEES AND DELIVERY FEES)

c. Minimum number of vehicles to be assigned specifically to the City of Banning seven (7) collection vehicles with percentages of support vehicles.

d. Number of full time staff to be assigned specifically to the City of Banning eight (8).

All rates bid are fixed through June 30, 1994; subsequently, they are subject to adjustment as follows:

A. Annual consumer Price Index ("CPI") and Tipping Fee Adjustment.

The maximum rates shall be automatically adjusted to reflect changes in the consumer price index and tipping fees. The CPI adjustment shall be made annually and such adjustment shall be effective as of the first day of July of each calendar year. The CPI adjustment shall be equal to the ninety five percent (95%) of the amount derived by multiplying the previous rate by the percentage increase or decrease in the Consumer Price Index for all urban consumers within the Los Angeles-Anaheim-Riverside Metropolitan Area during the prior calendar year, excluding the housing component. The comparison shall be made for each March 1st during the term hereof and shall be effective each July 1st. The first CPI adjustment shall occur July 1, 1994, provided that tipping fee adjustments will be available April 1, 1994 to account for any landfill fee increases after submission of bids. Any increase in tipping fees shall be passed through on a pro rata basis, based on actual tonnage, and shall be effective at the start of the first full billing period after the tipping fee increase, or as mutually agreed.

B. Extraordinary Costs

In addition to, and not in lieu of, the annual CPI increase or decrease described above, Bidder shall also be entitled to rate increases or decreases in an amount equal to their extraordinary increases or decreases in its cost of collection. Such extraordinary cost increases or decreases shall be subject to City Council approval. Such extraordinary increases or decreases in its cost of collection shall include, by way of example and not by way of limitation: (1) a change in the location of the landfill or other lawful disposal sites to which the Bidder is required to transport Solid Waste collected hereunder; (2) increase or decreases in other permit fees payable to Bidder based on its operations; and (3) changes in the local, state or federal laws governing collection, separation, transportation or disposal of Solid Waste.

## EXHIBIT A - INITIAL RATES

CITY OF BANNING  
DISPOSAL COMPONENTS OF INITIAL RATES

<u>RESIDENTIAL</u>	Pounds per household per week	44.00					
	Pounds-to-tons factor	÷ 2,000.00					
	Monthly factor	× 4.33					
	Riverside County landfill rate as of 7/1/93	× \$34.50					
	Franchise fee factor	÷ \$0.79					
	Monthly Disposal Component for One Residential Household	\$4.16					
<u>COMMERCIAL CAN</u>	Pounds per customer per week	90.00					
	Pounds-to-tons factor	÷ 2,000.00					
	Monthly factor	× 4.33					
	Riverside County landfill rate as of 7/1/93	× \$34.50					
	Franchise fee factor	÷ \$0.79					
	Monthly Disposal Component for One Commercial Can Cust.	\$8.52					
<u>COMMERCIAL REFUSE</u>	Pounds per cubic yard	95.00					
	Pounds-to-tons factor	÷ 2,000.00					
	Monthly factor	× 4.33					
	Riverside County landfill rate as of 7/1/93	× \$34.50					
	Franchise fee factor	÷ \$0.79					
	Monthly Disposal Component for One Cubic Yard	\$8.99					
SCHEDULE CALCULATION: DISPOSAL COMPONENT OF \$7.10 MULTIPLIED BY SIZE, QUANTITY, AND FREQUENCY							
Pick-ups per Week							
Size	Qty	One	Two	Three	Four	Five	Six
2.0 Cubic Yard	One	17.98	35.96	53.94	71.92	89.90	107.88
3.0	One	26.97	53.94	80.91	107.88	134.85	161.82
4.0	One	35.96	71.92	107.88	143.84	179.80	215.76
6.0	One	53.94	107.88	161.82	215.76	269.70	323.64
2.0 Cubic Yard	Two	35.96	71.92	107.88	143.84	179.80	215.76
3.0	Two	53.94	107.88	161.82	215.76	269.70	323.64
4.0	Two	71.92	143.84	215.76	287.68	359.60	431.52
6.0	Two	107.88	215.76	323.64	431.52	539.40	647.28
2.0 Cubic Yard	Three	53.94	107.88	161.82	215.76	269.70	323.64
3.0	Three	80.91	161.82	242.73	323.64	404.55	485.46
4.0	Three	107.88	215.76	323.64	431.52	539.40	647.28
6.0	Three	161.82	323.64	485.46	647.28	809.10	970.92
2.0 Cubic Yard	Four	71.92	143.84	215.76	287.68	359.60	431.52
3.0	Four	107.88	215.76	323.64	431.52	539.40	647.28
4.0	Four	143.84	287.68	431.52	575.36	719.20	863.04
6.0	Four	215.76	431.52	647.28	863.04	1,078.80	1,294.56
2.0 Cubic Yard	Five	89.90	179.80	269.70	359.60	449.50	539.40
3.0	Five	134.85	269.70	404.55	539.40	674.25	809.10
4.0	Five	179.80	359.60	539.40	719.20	899.00	1,078.80
6.0	Five	269.70	539.40	809.10	1,078.80	1,348.50	1,618.20
2.0 Cubic Yard	Six	107.88	215.76	323.64	431.52	539.40	647.28
3.0	Six	161.82	323.64	485.46	647.28	809.10	970.92
4.0	Six	215.76	431.52	647.28	863.04	1,078.80	1,294.56
6.0	Six	323.64	647.28	970.92	1,294.56	1,618.20	1,941.84

COMMERCIAL RECYCLING

Disposal component is zero.

134

## EXHIBIT A - INITIAL RATES

**CITY OF BANNING**  
**SERVICE COMPONENT OF INITIAL RATES**  
 (Initial Rate less Disposal Component)

**RESIDENTIAL \***

Single Family Refuse Rate:	\$4.19
Single Family Rate with Recycle Program A:	6.14
Single Family Rate with Recycle Program B:	8.09

**COMMERCIAL CAN SERVICE \***

Refuse Service Only:	\$6.23
Refuse Service with Recycling Program A:	8.18

**COMMERCIAL REFUSE SERVICE \***

## Pick-ups per Week

Size	QTY	One	Two	Three	Four	Five	Six
2.0 Cubic Yard	One	42.02	84.04	122.06	161.08	199.10	237.12
3.0	One	53.03	106.06	154.09	202.12	250.15	298.18
4.0	One	71.04	142.08	206.12	271.16	335.20	399.24
6.0	One	98.06	196.12	285.18	373.24	462.30	550.36
2.0 Cubic Yard	Two	84.04	168.08	244.12	322.16	398.20	474.24
3.0	Two	106.06	212.12	308.18	404.24	500.30	596.36
4.0	Two	142.08	284.16	412.24	542.32	670.40	798.48
6.0	Two	196.12	392.24	570.36	746.48	924.60	1,100.72
2.0 Cubic Yard	Three	126.06	252.12	366.18	483.24	597.30	711.36
3.0	Three	159.09	318.18	462.27	606.36	750.45	894.54
4.0	Three	213.12	426.24	618.36	813.48	1,005.60	1,197.72
6.0	Three	294.18	588.36	855.54	1,119.72	1,386.90	1,651.08
2.0 Cubic Yard	Four	168.08	336.16	488.24	644.32	796.40	948.48
3.0	Four	212.12	424.24	616.36	808.48	1,000.60	1,192.72
4.0	Four	284.16	568.32	824.48	1,084.64	1,340.80	1,596.96
6.0	Four	392.24	784.48	1,140.72	1,492.96	1,849.20	2,201.44
2.0 Cubic Yard	Five	210.10	420.20	610.30	805.40	995.50	1,185.60
3.0	Five	265.15	530.30	770.45	1,010.60	1,250.75	1,490.90
4.0	Five	355.20	710.40	1,030.60	1,355.80	1,676.00	1,996.20
6.0	Five	490.30	980.60	1,425.90	1,866.20	2,311.50	2,751.80
2.0 Cubic Yard	Six	252.12	504.24	732.36	966.48	1,194.60	1,422.72
3.0	Six	318.18	636.36	924.54	1,212.72	1,500.90	1,789.08
4.0	Six	426.24	852.48	1,236.72	1,626.96	2,011.20	2,395.44
6.0	Six	588.36	1,176.72	1,711.08	2,239.44	2,773.80	3,302.16

**COMMERCIAL RECYCLING SERVICE \***

## Pick-ups per Week

Size	QTY	One
2.0 Cubic Yard	One	\$50.00
3.0	One	64.00
4.0	One	85.00
6.0	One	110.00

\* City Franchise Fee (10%) and  
 billing fee (11%) included in  
 these rates.

**ROLLOFF SERVICES \***

40 Cubic Yard Container	\$125.00
10 Cubic Yard Container	125.00
Delivery/Delivery Fee	46.00

135

EXHIBIT A - INITIAL RATE

CITY OF BANNING  
REFUSE/RECYCLING RATES AS OF JULY 1, 1993

**RESIDENTIAL \***

Single Family Refuse Rate:	\$8.35
Single Family Rate with Recycle Program A:	10.30
Single Family Rate with Recycle Program B:	12.25

**Note:** Special rates for the commercial service with compactors shall be established based on the basic commercial service rate per container plus the additional tipping fee for additional weight due to compaction, without any additional charge, for the basic service

**COMMERCIAL CAN SERVICE \***

Refuse Service Only:	\$14.75
Refuse Service with Recycling Program A:	16.70

**COMMERCIAL REFUSE SERVICE \***

Pick-ups per Week

Size	QTY	One	Two	Three	Four	Five	Six
2.0 Cubic Yard	One	60.00	120.00	176.00	233.00	289.00	345.00
3.0	One	80.00	160.00	235.00	310.00	385.00	460.00
4.0	One	107.00	214.00	314.00	415.00	515.00	615.00
6.0	One	152.00	304.00	447.00	589.00	732.00	874.00
2.0 Cubic Yard	Two	120.00	240.00	352.00	466.00	578.00	690.00
3.0	Two	160.00	320.00	470.00	620.00	770.00	920.00
4.0	Two	214.00	428.00	628.00	830.00	1,030.00	1,230.00
6.0	Two	304.00	608.00	894.00	1,178.00	1,464.00	1,748.00
2.0 Cubic Yard	Three	180.00	360.00	528.00	699.00	867.00	1,035.00
3.0	Three	240.00	480.00	705.00	930.00	1,155.00	1,380.00
4.0	Three	321.00	642.00	942.00	1,245.00	1,545.00	1,845.00
6.0	Three	456.00	912.00	1,341.00	1,767.00	2,196.00	2,622.00
2.0 Cubic Yard	Four	240.00	480.00	704.00	932.00	1,156.00	1,380.00
3.0	Four	320.00	640.00	940.00	1,240.00	1,540.00	1,840.00
4.0	Four	428.00	856.00	1,256.00	1,660.00	2,060.00	2,460.00
6.0	Four	608.00	1,216.00	1,788.00	2,356.00	2,928.00	3,496.00
2.0 Cubic Yard	Five	300.00	600.00	880.00	1,165.00	1,445.00	1,725.00
3.0	Five	400.00	800.00	1,175.00	1,550.00	1,925.00	2,300.00
4.0	Five	535.00	1,070.00	1,570.00	2,075.00	2,575.00	3,075.00
6.0	Five	760.00	1,520.00	2,235.00	2,945.00	3,660.00	4,370.00
2.0 Cubic Yard	Six	360.00	720.00	1,056.00	1,398.00	1,734.00	2,070.00
3.0	Six	480.00	960.00	1,410.00	1,860.00	2,310.00	2,760.00
4.0	Six	642.00	1,284.00	1,884.00	2,490.00	3,090.00	3,690.00
6.0	Six	912.00	1,824.00	2,682.00	3,534.00	4,392.00	5,244.00

**COMMERCIAL RECYCLING SERVICE \***

Pick-ups per Week

Size	QTY	One
2.0 Cubic Yard	One	\$50.00
3.0	One	64.00
4.0	One	85.00
6.0	One	110.00

\* City Franchise Fee (10%) and billing fee (11%) included in these rates.

**ROLLOFF SERVICES \***

40 Cubic Yard Container	\$125.00 + landfill fees
10 Cubic Yard Container	125.00 + landfill fees

136

EXHIBIT B

Special Wastes

Flammable waste.

Containerized waste (e.g., a drum, barrel, portable tank, box, pail, etc.)

Waste transported in a bulk tanker.

Liquid waste.

Sewage sludge.

Waste from a pollution control process.

Residue and debris from the cleanup of a spill or release of chemical substances, commercial products or any other special wastes.

Contaminated soil, waste, residue, debris and articles from the cleanup of a site or facility formerly used for the generation, storage, treatment, recycling, reclamation or disposal of any other special wastes.

Dead animals.

Manure.

Waste water.

Explosive substances.

Radioactive materials.

Materials which have been exposed to highly infectious or contagious diseases.

Hazardous materials.

EXHIBIT "C"

RECYCLING PROGRAM

A. Grantee agrees that it will cause at least twenty-five percent (25%) of the waste stream collected under the Franchise Agreement to be diverted from ultimate deposit in landfills or transformation facilities by January 1, 1995, in accordance with the regulations implementing the California Integrated Waste Management Act of 1989 (as amended) (also known as "AB 939").

B. Grantee will institute a recycling program after the execution of this agreement as directed by the City. The initial recycling barrels will be provided by Grantee at Grantee's expense. Grantee will replace recycling barrels as may be necessary as a result of normal wear and tear.

C. Grantee guarantees to City that said twenty-five percent (25%) of the City's waste stream shall be diverted annually by January 1, 1995, and fifty (50%) shall be diverted by January 1, 2000, as required by AB 939, as amended. Grantee will be responsible to implement the public education and awareness portion of the SRRE in conjunction with the educational program proposed by the Grantee enclosed herein as Exhibit "E". The failure of Grantee to achieve these goals shall be deemed a material breach of this Franchise Agreement.

D. Grantee will provide City with written reports in a form adequate to meet City's reporting requirements to the California Integrated Waste Management Board, and to the County of Riverside throughout the term of this Franchise Agreement wherein its performance under this program is set forth in detail.

E. RESIDENTIAL RECYCLING

Curbside collection shall provide a system for separation of the following designated recyclable materials from waste collected prior to transportation to the recycling/composting facility:

- (1) Newsprint, glass, PET, HDPE, and other plastics aluminum beverage containers, steel/tin cans and compostables are designated as the initial items for collection.
- (2) Additional items may be added to the list either by amendment or resolution adopted by the City Council.
- (3) Additional materials may be collected for recycling purposes at the discretion or desire of the Grantee.

- (4) The Grantee shall provide three containers for curbside collection of recyclable materials: one for glass, PET, HDPE and other plastics, steel/tin cans and aluminum beverage containers, one for newsprint, and one for compostables. Each container provided for recyclables shall have a minimum combined capacity of seventeen (17) gallons, be constructed of rigid, durable, recyclable materials with a minimum five (5) year life expectancy warranted by the manufacturer. The compostable container shall have a minimum capacity of 90 gallons with a five (5) year life expectancy warranted by the manufacturer. The Bidder's company or subcontractor's company name and phone number shall be permanently affixed to each container. All containers and handling methods shall be approved by the City.
- 5) All compostable items shall be delivered to a site designated by the City.

The compensation for recycling program with compostables shall be as set forth in Exhibit "A" Recycling Program B.

**F. COMMERCIAL CAN RECYCLING**

Small business's receiving commercial can service shall be provided with a recycling program similar to residential recycling above, with the exception of composting. The compensation shall be as set forth in Exhibit "A" Recycling Program A.

**G. REPORTING**

The Grantee shall report monthly tonnages of refuse disposed of and each recyclable material collected to include the gross revenue for each material to the City to the best of the Bidder's ability, in a format prescribed by the City.

**H. HANDLING RECYCLABLES**

The Grantee shall not dispose of separately collected recyclable products at County landfills without prior written approval from the City, or violate any state statute or local ordinances regarding the handling and storage of the recyclable materials.

**I. RECYCLING REVENUE SHARING**

- (a) Grantee shall share equally with City, revenues net of processing fees, which are received from the sale of recycled materials collected by Grantee from this Recycling

Program. Grantee shall provide satisfactory documentation accounting for the processing fees paid by the Grantee.

- (b) Grantee shall not be compensated from any charges collected from the customers for residential/commercial recycling program until the effective date of the recycling program.

**J. MULTI-FAMILY UNIT AND COMMERCIAL RECYCLING**

**1. SCOPE OF WORK**

Grantee shall provide separate collection of recyclable materials to all such units receiving commercial collection, at the discretion of the City. The rate for recycling shall be based on the services provided, as set forth in Exhibit "A". The City may choose to revise the plan based upon its SRRE, and will establish a new recycling rate to address any increase/decrease in the work necessary to accomplish the plan, as revised. Material which has not been placed by the occupants for collection by the franchisee shall not be deemed within this scope of work.

**2. MATERIAL TO BE RECYCLED**

Curbside collection shall provide a system for separation of the following designated recyclable materials from waste collected prior to transportation to the recycling/composting facility:

- (a) Newsprint, glass, and PET, HDPE, and other plastics steel/tin cans and aluminum beverage containers and compostables are designated as the initial items for collection.
- (b) Additional items may be added to the list either by amendment or resolution adopted by the City Council.
- (c) Additional materials may be collected for recycling purposes at the discretion or desire of the Grantee.

**K. CITY FACILITY RECYCLING**

Grantee shall provide bins necessary for collection of recyclables/compostables at the City owned facility as needed, and shall pick up, transport and dispose recyclables/compostables to recycling facilities at no additional cost to the City.

L. OTHER RECYCLING

Grantee shall provide a central location for collection of all compostables delivered by a person holding a City business license as a gardner or a landscape firm doing business in the City at no additional charge. This service shall not be provided for compostables generated from facilities such as private golf courses, private parks, or similar facilities as approved by the City Manager. Grantee shall be responsible to transport and dispose compostables to a composting facility.

M. REPORTING

The Grantee shall report monthly tonnages of refuse disposed of and each recyclable material collected to include the gross revenue for each material to the City to the best of the Grantee's ability, in a format prescribed by the City.

N. HANDLING RECYCLABLES

The Grantee shall not dispose of separately collected recyclable products at County landfills without prior written approval from the City, or violate any state statute or local ordinances regarding the handling and storage of the recyclable materials.

O. RECYCLING REVENUE SHARING

- (a) Grantee shall share equally with City, revenues net of processing fees, which are received from the sale of recycled materials collected by Grantee from this Recycling Program. Grantee shall provide satisfactory documentation accounting for the processing fees paid by the Grantee.
- (b) Grantee shall not begin to charge customers for residential recycling until the effective date of the recycling program.

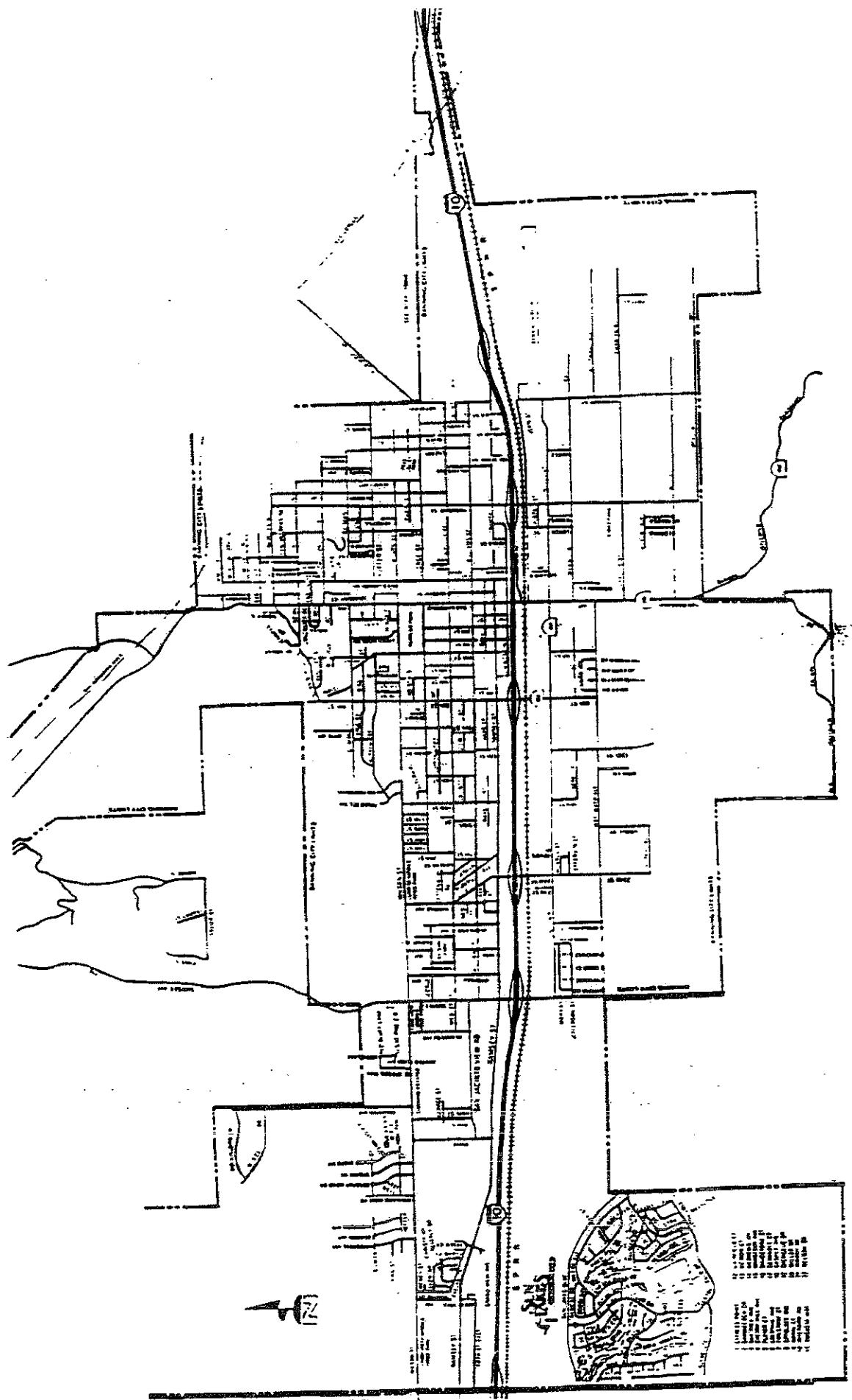


EXHIBIT "D"

142

**EXHIBIT “2”**

**FIRST AMENDMENT**

FIRST AMENDMENT TO FRANCHISE AGREEMENT BETWEEN THE CITY OF  
BANNING AND WASTE MANAGEMENT OF THE INLAND EMPIRE, A DIVISION  
OF USA WASTE OF CALIFORNIA INC., FOR COLLECTION,  
TRANSPORTATION, RECYCLING AND DISPOSAL OF SOLID WASTE

This First Amendment to the Franchise Agreement for the Collection, Transportation, Recycling and Disposal of Solid Waste ("Amendment") is made and entered into this 1st day of July, 2001, by and between the City of Banning ("City") and Waste Management of the Inland Empire, A Division of USA Waste of California Inc., a Delaware Corp., (Grantee), formerly known as Waste Management of Inland Valley, a division of Waste Management Collection and Recycling, Inc., for the collection, transportation, recycling, composting and disposal of solid waste, compostables and recyclables.

RECITALS

- A. WHEREAS, the City and the Grantee entered into a Franchise Agreement for the Collection, Transportation, Recycling, Composting and Disposal of Solid Waste dated July 15, 1993 ("Agreement"), a copy of which is attached hereto as Exhibit "1"; and
- B. WHEREAS, the City and the Grantee have mutually agreed to modify the terms and conditions of the Agreement as set forth below in order to improve service levels and comply with AB 939 diversion needs:

NOW, THEREFORE, the parties agree to amend the Agreement as follows:

SECTION 2. The TERM of this Agreement shall be extended for an additional five- year period, from July 1, 2001 to June 30, 2006.

SECTION 3. DEFINITIONS.

The following Definition shall be added to the Definition List:

Single Family Containers ("Containers"):

Single Family Containers means any container for the temporary accumulation and collection of solid waste, recyclables, or compostables. With the incorporation of this Amendment, containers for recyclables and compostables (green waste) shall be provided by the Grantee. Typical customer trash containers shall be as allowed in the Agreement. Upon direction of the City Manager, or his duly authorized appointee, Grantee shall also provide an additional container for solid waste (trash) upon mutual agreement.

The following Definitions of the Agreement are hereby revised:

C. BULKY WASTE.

- There is no change to the existing Agreement language regarding "Commercial Bulky Waste".
- "Residential Bulky Waste" shall mean an object of solid waste, which because of its size, shape and construction can not be placed in an empty residential container.

K. GRANTEE, the successor in interest to, and formerly known as Waste Management of the Inland Valley.

Grantee means Waste Management of the Inland Empire, a division of USA Waste of California, Inc., a Delaware corporation, the entity granted the Franchise pursuant to this Amended Franchise Agreement.

## SECTION 6. SERVICES PROVIDED BY GRANTEE.

The Original Agreement Section 6. B. 1. B., is hereby replaced with the following:

Beginning July 1, 2001, the Grantee shall provide containers for all single-family residential accounts for compostables and recyclables. Solid Waste (Trash) will continue to be collected via customers' containers as defined in the original Agreement. At the direction of the City Manager or his designee, and upon mutually agreed adjustments to the rate by both parties, the Grantee shall provide containers for the temporary storage and collection of Solid Waste. At the time that three automated containers for said services have been provided at single-family residences, only material from these containers shall be collected from the curbside, except as provided for in Sections 6B.(1) C. and 6B.(2) of the Agreement.

The Original Agreement Section 6.B.1.G. shall be amended as follows at the time Grantee is directed to provide an automated container for Trash:

All Trash shall be placed in containers and shall be limited to the container(s) provided by Grantee.

All Recyclable materials shall be placed in containers and shall be limited to the container(s) provided by Grantee.

All Compostables (green waste) shall be placed in containers provided by Grantee and shall be limited to the containers provided by the Grantee.

Once directed and delivered to the customer, Grantee shall inform customers that additional containers are available at rates as designated in the Approved Rate Schedule.

All Containers must be placed at the Collection Point without obstructions so as to permit collection. City agrees to use its best efforts to enforce parking and other ordinances so as to facilitate these collection systems.

Grantee shall, at no charge, repair or replace any provided container, which becomes unusable by reason of normal conditions of wear and tear. Grantee shall charge the actual replacement or repair cost to each customer however, for replacement or repair of provided containers, which are stolen or damaged by any event not caused by Grantee.

## SECTION 25. J.

SECTION 25.6:  
The Address for Grantee shall be changed to the following:  
TO GRANTEE: WASTE MANAGEMENT OF THE INLAND EMPIRE  
800 South Temescal Street  
Corona, California 92879-2058  
P.O. Box 787  
Corona, California 91718-0787  
ATTN: District Manager  
800-423-9986  
909-817-2400

EXHIBIT "A" RATES:

The Word: "non-mechanized" shall be changed to "mechanized" or "as directed by the City Manager", or his designee.

The following shall be added to the Rate Schedule:

**ADDITIONAL RATE EXHIBIT ITEMS:**

## 1 RESIDENTIAL PROGRAM

Additional containers and service are available for the service (maximum of three (3) additional containers per service)

Additional containers per service) \$6.32 per month per container (96 gallon) \*

\$6.32 per month per container (30 gallon) \*  
\$5.06 per month per container (64 gallon) \*

\$5.06 per month per container (64 gallon)  
\$2.89 per month per container (35 gallon) \*

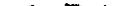
Recycling: Free of Charge

Recycling: Free of Charge  
Green Waste: \$3.16 per month per container.

Exchanges due to customer size change or due to customer misuse (as examples) in excess of  
one time per year: \$19.00 per container

- \* Rates will apply when trash is automated; as designated and approved by the City Manager

### 3. COMMERCIAL BIN SERVICE PROGRAM

All commercial bin customers shall be charged monthly rates as outlined in the Rate Exhibit "A". Collection service shall be at a minimum of one time per week and more often to satisfy the demand of waste generated on the site. 

Commercial Can Service:

In cases where there is either no appropriate space on site or with neighboring businesses for the placement of commercial bins, the Grantee may allow Commercial Can Service to satisfy the requirement of refuse removal service.

Said Commercial Can Service shall be collected via a typical 96-gallon residential type containers (one for trash, when directed by the City Manager or his designee, and one for recyclables) and shall be placed at the Collection Point by the commercial business on collection day. Extra containers shall be available at the established residential rate, up to a maximum of three (3) refuse and three (3) recycling containers.

<u>Bin Exchange</u> in Excess of one time per year:	\$ 59.00*
<u>Lost or Stolen Bin:</u> (customer cost of half only)	\$250.00*
<u>Burned Bin:</u> (customer cost of half only)	\$140.00*
<u>Extra Bin Dump while on Site</u>	\$ 45.00*
<u>Overage Fee:</u>	\$ 35.00*
<u>Locking Lids:</u>	\$12.00 per month times the weekly service frequency *
<u>Replacement Lock:</u>	\$25.00*
<u>Replacement Key:</u>	\$ 5.00*

\* Billed by Grantee with no Franchise or Billing Fees included

**EXHIBIT "C" RECYCLING PROGRAM**  
Revision to Section E. (4) Residential Recycling:

The Grantee shall provide containers as directed by the City of Banning for the temporary storage and collection of Solid Waste, Recyclables, and Compostables. The size of these containers shall be as directed, but will have some unity in size throughout the specific areas of the City. With this Amendment, the Grantee shall provide containers for Compostables and Recyclables. Solid Waste (Trash) containers may be negotiated, at a later date, at the direction of the City Manager, or his designee.

The following Recycling Education Program shall be a part of Grantee's responsibility with this Amendment:

## RECYCLING EDUCATION PROGRAM

### COMMUNITY

#### Residential Program Implementation

Waste Management will conduct an aggressive marketing campaign to ensure all residents will be educated on the new Recycling Program, and future automated trash collection program.

#### **Outreach Plan:**

- **Two Residential Mailings**

1. The first mailing will be a Letter explaining the new container procedures.
2. A second mailing will be a Postcard announcing the program just before the implementation date.

- **Posters**

1. How the Program works, container usage procedures, acceptable items, etc.
2. Actual containers may be placed under the posters.
3. Posters/Containers should be displayed at City Hall, Library, etc.

- **Stickers**

1. Cummiled Recycling Containers- Each container will have a sticker under the lid with a list of the Acceptable Items.

- **Brochures**

1. An outline of the Fully Automated Program will be delivered with the new containers.

- **Chamber of Commerce**

1. Advertise in Newsletter

- **Newspaper**

1. Press Release in the Record Gazette and the Press Enterprise

#### "Recycling All-Stars"

Recycling drivers will audit each route for eight weeks. At that time the drivers will select the best recycling residents in the City of Banning.

Waste Management and the City of Banning will honor each selected resident at a City Council meeting. Each recipient shall receive awards and prizes.

#### **Marketing Campaign:**

- Advertise on local cable channel
- Press release in local newspaper
- Website

Multiple Dwellings and Mobile Home Parks

A brochure outlining the recycling options will be mailed. The following options will be discussed:

Option 1

- 1-96 Gallon Commingled Recycling Container

Option 2

- 1-96 Gallon Commingled Recycling Container/ 1-96 Gallon Green Waste Container

Option 3

- 1-18 Gallon Commingled Recycling Basket with on-site 3 or 6 cubic yard bins

Commercial and Industrial Recycling

A special mailing will be mailed to all commercial and industrial customers explaining the recycling services that are available.

"America Recycles Day"

The recycling drivers select an "Outstanding Business Recycler" in Banning. Waste Management honors the business with an award.

Chamber Events

Recycling will be a part of all major community events, such as the Banning Stage Coach Days.

Time Warner, Cable Television

Waste Management will be working closely with Time Warner Cable, to coordinate recycling contests and other public education activities.

## SCHOOLS

### Recycled Art Show

Students collect materials such as thread spools, popsicle sticks, corks, buttons, steel cans; plastic milk jugs and other items that they would normally throw away.

Once enough materials have been collected, students will create an art project. Waste Management will sponsor a *Recycled Art Show*.

Each grade level will have one winner and there will be one selected classroom as the "Most Original Classroom". Awards and prizes will be given to all of the winners.

### "Give Your Shoes A New Pair of Feet!"

Students and faculty are invited to donate one pair of old running shoes. World Shoe Relief is the Non-profit group responsible for collecting the shoes.

The shoes are first cleaned and given new laces. After the cleaning process, the shoes are distributed to Southern California orphanages and homeless agencies. In addition, shoes have also been provided to organizations in Mexico and Africa.

The classroom who donates the most shoes wins a pizza or ice cream party! This program is a great way to educate children about recycling. It also enhances a school district's image for being environmentally responsible.

### CYCLER- A Recycling Robot

Cycler performs educational shows about recycling. The children learn ways to recycle, be environmentally responsible and have a lot of fun. Cycler shows have been developed for Kindergarten through 3<sup>rd</sup> grades. Coloring books and crayons are given to the students at each Cycler show.

### Earth Day 2001

This year Earth Day is on Sunday, April 22, 2001. We have been working with Albertson's grocery store to participate in Earth Day 2001 by donating paper bags to local schools. The students will put their Earth Day 2001 messages on the bags. All of the shoppers will get their groceries in the special bags on Earth Day. The stores will also display some of the bags on the walls. This is a great way to educate both the community and the schools about recycling.

In April 2000, Hoffer Elementary participated in the Earth Day Paper Bag Program.

Waste Management will continue to create new innovative programs for the schools and the community.

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150

In WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the date first above written.

City of Banning, California

Waste Management of the Inland Empire,  
A Division of USA Waste of California, Inc.

By: John Hunt  
Mayor  
John Hunt

By: J. Alex Braicovich  
J. Alex Braicovich  
District Manager 4/27/01

Attest:

Mark A. Caldwell  
City Clerk 5-2-01

Approved as to form:

By: J.A.  
City Attorney

**City of Banning**  
**Rate Schedule Summary**  
**Effective July 1, 2001**

Type of Service	Existing Rate	Proposed Rate
Residential House Hold	\$ 11.64	\$ 12.21 *
Commercial Can Services	\$ 14.01	\$ 15.05 **
Commercial Refuse Rate - 1 pick up per week - 2 Cu. Yd.	\$ 66.13	\$ 67.15 **
- 3 Cu. Yd.	\$ 87.93	\$ 89.05 **
- 6 Cu. Yd.	\$ 166.82	\$ 168.75 **
Rolloff Service	\$ 140.88 + landfill fees	\$ 145.95 ** + landfill fees

\* No CPI applied. Pounds per home remains constant. Includes additional barrel for co-mingled recycling.

\*\* 3.6% CPI applied to service component only (95% of 3.8%), disposal component remains constant.

Commercial can service includes trash and recycling cart.

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152

**CITY OF BANNING**  
**DISPOSAL COMPONENTS OF RATES**  
**AS OF JULY 1, 2001**

<b>RESIDENTIAL</b>	Pounds per household per week	28.87					
	Pounds-to-tons factor	divide by 2,000					
	Monthly factor	x 4.33					
	Riverside County landfill rate as of 7/1/01	x \$ 30.00					
	Franchise Fee factor	divide by 0.79					
	Monthly Disposal Component for one Residential Household	\$ 2.37					
<b>COMMERCIAL CAN</b>	Pounds per customer per week	60.00					
	Pounds-to-tons factor	divide by 2,000					
	Monthly factor	x 4.33					
	Riverside County landfill rate as of 7/1/01	x \$ 30.00					
	Franchise Fee factor	divide by 0.79					
	Monthly Disposal Component for one Commercial Can Customer	\$ 4.93					
<b>COMMERCIAL REFUSE</b>	Pounds per yard	109.97					
	Pounds-to-tons factor	divide by 2,000					
	Monthly factor	x 4.33					
	Riverside County landfill rate as of 7/1/01	x \$ 30.00					
	Franchise Fee factor	divide by 0.79					
	Monthly Disposal Component for One Cubic Yard	\$ 9.04					
<b>SIZE</b>	<b>QTY</b>	<b>ONE</b>	<b>TWO</b>	<b>THREE</b>	<b>FOUR</b>	<b>FIVE</b>	<b>SIX</b>
2 Yard	1	\$ 18.08	\$ 36.16	\$ 54.25	\$ 72.33	\$ 90.41	\$ 108.49
3 Yard	1	\$ 27.12	\$ 54.25	\$ 81.37	\$ 108.49	\$ 135.61	\$ 162.74
4 Yard	1	\$ 36.16	\$ 72.33	\$ 108.49	\$ 144.65	\$ 180.82	\$ 216.98
6 Yard	1	\$ 54.25	\$ 108.49	\$ 162.74	\$ 216.98	\$ 271.23	\$ 325.47
2 Yard	2	\$ 36.16	\$ 72.33	\$ 108.49	\$ 144.65	\$ 180.82	\$ 216.98
3 Yard	2	\$ 54.25	\$ 108.49	\$ 162.74	\$ 216.98	\$ 271.23	\$ 325.47
4 Yard	2	\$ 72.33	\$ 144.65	\$ 216.98	\$ 289.31	\$ 361.64	\$ 433.96
6 Yard	2	\$ 108.49	\$ 216.98	\$ 325.47	\$ 433.96	\$ 542.46	\$ 650.95
2 Yard	3	\$ 54.25	\$ 108.49	\$ 162.74	\$ 216.98	\$ 271.23	\$ 325.47
3 Yard	3	\$ 81.37	\$ 162.74	\$ 244.11	\$ 325.47	\$ 406.84	\$ 488.21
4 Yard	3	\$ 108.49	\$ 216.98	\$ 325.47	\$ 433.96	\$ 542.46	\$ 650.95
6 Yard	3	\$ 162.74	\$ 325.47	\$ 488.21	\$ 650.95	\$ 813.68	\$ 976.42
2 Yard	4	\$ 72.33	\$ 144.65	\$ 216.98	\$ 289.31	\$ 361.64	\$ 433.96
3 Yard	4	\$ 108.49	\$ 216.98	\$ 325.47	\$ 433.96	\$ 542.46	\$ 650.95
4 Yard	4	\$ 144.65	\$ 289.31	\$ 433.96	\$ 578.62	\$ 723.27	\$ 867.93
6 Yard	4	\$ 216.98	\$ 433.96	\$ 650.95	\$ 867.93	\$ 1,084.91	\$ 1,301.89
2 Yard	5	\$ 90.41	\$ 180.82	\$ 271.23	\$ 361.64	\$ 452.05	\$ 542.46
3 Yard	5	\$ 135.61	\$ 271.23	\$ 406.84	\$ 542.46	\$ 678.07	\$ 813.68
4 Yard	5	\$ 180.82	\$ 361.64	\$ 542.46	\$ 723.27	\$ 904.09	\$ 1,084.91
6 Yard	5	\$ 271.23	\$ 542.46	\$ 813.68	\$ 1,084.91	\$ 1,356.14	\$ 1,627.37
2 Yard	6	\$ 108.49	\$ 216.98	\$ 325.47	\$ 433.96	\$ 542.46	\$ 650.95
3 Yard	6	\$ 162.74	\$ 325.47	\$ 488.21	\$ 650.95	\$ 813.68	\$ 976.42
4 Yard	6	\$ 216.98	\$ 433.96	\$ 650.95	\$ 867.93	\$ 1,084.91	\$ 1,301.89
6 Yard	6	\$ 325.47	\$ 650.95	\$ 976.42	\$ 1,301.89	\$ 1,627.37	\$ 1,952.84

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153

**CITY OF BANNING**  
**SERVICE COMPONENTS OF RATES**  
**AS OF JULY 1, 2001**

RESIDENTIAL	\$ 9.84
Single Family Service Rates (includes automation of recycling):	

COMMERCIAL CAN SERVICE							
		Refuse Service With Recycling program A: \$ 10.26					
SIZE	QTY	ONE	TWO	THREE	FOUR	FIVE	SIX
2 Yard	One	\$ 49.07	\$ 98.14	\$ 142.53	\$ 188.09	\$ 232.49	\$ 276.88
3 Yard	One	\$ 61.93	\$ 123.86	\$ 179.93	\$ 236.01	\$ 292.08	\$ 348.17
4 Yard	One	\$ 82.95	\$ 165.90	\$ 240.68	\$ 316.62	\$ 391.40	\$ 466.19
6 Yard	One	\$ 114.50	\$ 229.00	\$ 332.99	\$ 435.82	\$ 539.82	\$ 642.63
2 Yard	Two	\$ 98.14	\$ 196.28	\$ 285.06	\$ 376.18	\$ 464.98	\$ 553.76
3 Yard	Two	\$ 123.86	\$ 247.73	\$ 359.86	\$ 472.03	\$ 584.16	\$ 696.35
4 Yard	Two	\$ 165.90	\$ 331.80	\$ 481.36	\$ 633.25	\$ 782.81	\$ 932.37
6 Yard	Two	\$ 229.00	\$ 458.01	\$ 665.99	\$ 871.63	\$ 1,079.64	\$ 1,285.26
2 Yard	Three	\$ 147.21	\$ 294.42	\$ 427.59	\$ 564.27	\$ 697.47	\$ 830.64
3 Yard	Three	\$ 185.79	\$ 371.59	\$ 539.80	\$ 708.04	\$ 876.25	\$ 1,044.52
4 Yard	Three	\$ 248.85	\$ 497.70	\$ 722.05	\$ 949.87	\$ 1,174.21	\$ 1,398.56
6 Yard	Three	\$ 343.50	\$ 687.01	\$ 998.98	\$ 1,307.45	\$ 1,619.46	\$ 1,927.89
2 Yard	Four	\$ 196.28	\$ 392.56	\$ 570.12	\$ 752.36	\$ 929.96	\$ 1,107.52
3 Yard	Four	\$ 247.73	\$ 495.45	\$ 719.73	\$ 944.05	\$ 1,168.33	\$ 1,392.69
4 Yard	Four	\$ 331.80	\$ 663.60	\$ 962.73	\$ 1,266.49	\$ 1,565.62	\$ 1,864.74
6 Yard	Four	\$ 458.01	\$ 916.01	\$ 1,331.98	\$ 1,743.26	\$ 2,159.28	\$ 2,570.52
2 Yard	Five	\$ 245.35	\$ 490.70	\$ 712.65	\$ 940.45	\$ 1,152.45	\$ 1,384.40
3 Yard	Five	\$ 309.66	\$ 619.32	\$ 899.66	\$ 1,180.06	\$ 1,460.41	\$ 1,740.87
4 Yard	Five	\$ 414.75	\$ 829.50	\$ 1,203.41	\$ 1,583.11	\$ 1,957.02	\$ 2,330.93
6 Yard	Five	\$ 572.51	\$ 1,145.01	\$ 1,664.97	\$ 2,179.08	\$ 2,699.10	\$ 3,213.15
2 Yard	Six	\$ 294.42	\$ 588.84	\$ 855.18	\$ 1,128.54	\$ 1,394.94	\$ 1,661.28
3 Yard	Six	\$ 371.59	\$ 743.18	\$ 1,079.59	\$ 1,416.08	\$ 1,752.49	\$ 2,089.04
4 Yard	Six	\$ 497.70	\$ 995.40	\$ 1,444.09	\$ 1,899.74	\$ 2,348.42	\$ 2,797.11
6 Yard	Six	\$ 687.01	\$ 1,374.02	\$ 1,997.97	\$ 2,614.90	\$ 3,238.92	\$ 3,855.78

154

**CITY OF BANNING**  
**TOTAL REFUSE & RECYCLING RATES**  
**AS OF JULY 1, 2001**

<b>RESIDENTIAL</b>	
Single Family Refuse Rate	\$ 12.21

<b>COMMERCIAL CAN SERVICE</b>							
Refuse Service With Recycling Program A:						\$ 15.05	
SIZE	QTY	ONE	TWO	THREE	FOUR	FIVE	SIX
2 Yard	1	\$ 67.15	\$ 134.30	\$ 196.78	\$ 260.42	\$ 322.90	\$ 385.37
3 Yard	1	\$ 89.05	\$ 178.11	\$ 261.30	\$ 344.50	\$ 427.70	\$ 510.91
4 Yard	1	\$ 119.11	\$ 238.23	\$ 349.17	\$ 461.28	\$ 572.22	\$ 683.17
6 Yard	1	\$ 168.75	\$ 337.49	\$ 495.73	\$ 652.80	\$ 811.05	\$ 968.10
2 Yard	2	\$ 134.30	\$ 268.61	\$ 393.55	\$ 520.83	\$ 645.80	\$ 770.74
3 Yard	2	\$ 178.11	\$ 356.22	\$ 522.60	\$ 689.01	\$ 855.39	\$ 1,021.82
4 Yard	2	\$ 238.23	\$ 476.46	\$ 698.35	\$ 922.56	\$ 1,144.45	\$ 1,366.34
6 Yard	2	\$ 337.49	\$ 674.99	\$ 991.46	\$ 1,305.60	\$ 1,622.09	\$ 1,936.21
2 Yard	3	\$ 201.46	\$ 402.91	\$ 590.33	\$ 781.25	\$ 968.70	\$ 1,156.11
3 Yard	3	\$ 267.16	\$ 534.33	\$ 783.90	\$ 1,033.51	\$ 1,283.09	\$ 1,532.73
4 Yard	3	\$ 357.34	\$ 714.68	\$ 1,047.52	\$ 1,383.83	\$ 1,716.67	\$ 2,049.50
6 Yard	3	\$ 506.24	\$ 1,012.48	\$ 1,487.19	\$ 1,958.40	\$ 2,433.14	\$ 2,904.31
2 Yard	4	\$ 268.61	\$ 537.22	\$ 787.10	\$ 1,041.67	\$ 1,291.60	\$ 1,541.48
3 Yard	4	\$ 356.22	\$ 712.44	\$ 1,045.20	\$ 1,378.02	\$ 1,710.78	\$ 2,043.64
4 Yard	4	\$ 476.46	\$ 952.91	\$ 1,396.69	\$ 1,845.11	\$ 2,288.89	\$ 2,732.67
6 Yard	4	\$ 674.99	\$ 1,349.98	\$ 1,982.93	\$ 2,611.19	\$ 3,244.19	\$ 3,872.41
2 Yard	5	\$ 335.76	\$ 671.52	\$ 983.88	\$ 1,302.09	\$ 1,614.50	\$ 1,926.86
3 Yard	5	\$ 445.27	\$ 890.54	\$ 1,306.50	\$ 1,722.52	\$ 2,138.48	\$ 2,554.55
4 Yard	5	\$ 595.57	\$ 1,191.14	\$ 1,745.87	\$ 2,306.39	\$ 2,861.11	\$ 3,415.84
6 Yard	5	\$ 843.73	\$ 1,687.47	\$ 2,478.66	\$ 3,263.99	\$ 4,055.24	\$ 4,840.52
2 Yard	6	\$ 402.91	\$ 805.83	\$ 1,180.65	\$ 1,562.50	\$ 1,937.40	\$ 2,312.23
3 Yard	6	\$ 534.33	\$ 1,068.65	\$ 1,567.80	\$ 2,067.02	\$ 2,566.17	\$ 3,085.46
4 Yard	6	\$ 714.68	\$ 1,429.37	\$ 2,095.04	\$ 2,767.67	\$ 3,433.34	\$ 4,099.01
6 Yard	6	\$ 1,012.48	\$ 2,024.96	\$ 2,974.39	\$ 3,916.79	\$ 4,866.28	\$ 5,808.62

<b>COMMERCIAL RECYCLING SERVICE</b>		
Pick-ups per week		
SIZE	QTY	ONE
2.0 Cubic Yard	One	\$ 58.38
3.0 Cubic Yard	One	\$ 74.72
4.0 Cubic Yard	One	\$ 99.25
6.0 Cubic Yard	One	\$ 128.44

<b>ROLLOFF SERVICES</b>		
40 Cubic Yard Container	\$	145.95 + landfill fees
10 Cubic Yard Container	\$	145.95 + landfill fees
Relocation/Delivery Fee	\$	53.72

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155

**CITY OF BANNING**  
**COMPACTOR SERVICE RATES**  
**(COMPACTION RATIO = 3:1)**  
**AS OF JULY 1, 2001**

SIZE	QTY	ONE	TWO	THREE	FOUR	FIVE	SIX
2 Yard	One	\$ 103.32	\$ 206.63	\$ 305.27	\$ 405.07	\$ 503.72	\$ 602.35
3 Yard	One	\$ 143.30	\$ 286.60	\$ 424.04	\$ 561.49	\$ 698.92	\$ 836.38
4 Yard	One	\$ 191.44	\$ 382.88	\$ 566.16	\$ 750.59	\$ 933.86	\$ 1,117.13
6 Yard	One	\$ 277.24	\$ 554.48	\$ 821.21	\$ 1,086.76	\$ 1,353.50	\$ 1,619.05
2 Yard	Two	\$ 206.63	\$ 413.26	\$ 610.53	\$ 810.14	\$ 1,007.44	\$ 1,204.71
3 Yard	Two	\$ 286.60	\$ 573.20	\$ 848.07	\$ 1,122.97	\$ 1,397.85	\$ 1,672.77
4 Yard	Two	\$ 382.88	\$ 765.77	\$ 1,132.31	\$ 1,501.17	\$ 1,867.72	\$ 2,234.27
6 Yard	Two	\$ 554.48	\$ 1,108.95	\$ 1,642.41	\$ 2,173.53	\$ 2,707.01	\$ 3,238.10
2 Yard	Three	\$ 309.95	\$ 619.90	\$ 915.80	\$ 1,215.22	\$ 1,511.16	\$ 1,807.06
3 Yard	Three	\$ 429.90	\$ 859.80	\$ 1,272.11	\$ 1,684.46	\$ 2,096.77	\$ 2,509.15
4 Yard	Three	\$ 574.32	\$ 1,148.65	\$ 1,698.47	\$ 2,251.76	\$ 2,801.58	\$ 3,351.40
6 Yard	Three	\$ 831.71	\$ 1,663.43	\$ 2,463.62	\$ 3,260.29	\$ 4,060.51	\$ 4,857.15
2 Yard	Four	\$ 413.26	\$ 826.53	\$ 1,221.07	\$ 1,620.29	\$ 2,014.87	\$ 2,409.41
3 Yard	Four	\$ 573.20	\$ 1,146.40	\$ 1,696.15	\$ 2,245.95	\$ 2,795.70	\$ 3,345.54
4 Yard	Four	\$ 765.77	\$ 1,531.53	\$ 2,264.62	\$ 3,002.35	\$ 3,735.44	\$ 4,468.53
6 Yard	Four	\$ 1,108.95	\$ 2,217.91	\$ 3,284.82	\$ 4,347.05	\$ 5,414.01	\$ 6,476.20
2 Yard	Five	\$ 516.58	\$ 1,033.16	\$ 1,526.33	\$ 2,025.36	\$ 2,518.59	\$ 3,011.77
3 Yard	Five	\$ 716.50	\$ 1,433.00	\$ 2,120.19	\$ 2,807.43	\$ 3,494.62	\$ 4,181.92
4 Yard	Five	\$ 957.21	\$ 1,914.42	\$ 2,830.78	\$ 3,752.94	\$ 4,669.30	\$ 5,585.66
6 Yard	Five	\$ 1,386.19	\$ 2,772.38	\$ 4,106.03	\$ 5,433.82	\$ 6,767.52	\$ 8,095.25
2 Yard	Six	\$ 619.90	\$ 1,239.79	\$ 1,831.60	\$ 2,430.43	\$ 3,022.31	\$ 3,614.12
3 Yard	Six	\$ 859.80	\$ 1,719.60	\$ 2,544.22	\$ 3,368.92	\$ 4,193.54	\$ 5,018.30
4 Yard	Six	\$ 1,148.65	\$ 2,297.30	\$ 3,396.94	\$ 4,503.52	\$ 5,603.16	\$ 6,702.80
6 Yard	Six	\$ 1,663.43	\$ 3,326.86	\$ 4,927.23	\$ 6,520.58	\$ 8,121.02	\$ 9,714.30

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156

**EXHIBIT “3”**

**SECOND AMENDMENT**

**SECOND AMENDMENT TO FRANCHISE AGREEMENT BETWEEN THE  
CITY OF BANNING AND WASTE MANAGEMENT OF INLAND EMPIRE, A  
DIVISION OF USA WASTE OF CALIFORNIA, INC., FOR COLLECTION,  
TRANSPORTATION, RECYCLING AND DISPOSAL OF SOLID WASTE**

This Second Amendment to the Franchise Agreement for the Collection, Transportation, Recycling and Disposal of Solid Waste ("Amendment") is made and entered into this 14th day of June, 2002, by and between the CITY OF BANNING ("City") and Waste Management of the Inland Empire, A Division of USA Waste of California Inc., A Delaware Corporation. ("Grantee"), for the collection, transportation, recycling, composting and disposal of solid waste, compostables and recyclables.

**RECITALS**

- A. WHEREAS, the City and the Grantee entered into a Franchise Agreement for the Collection, Transportation, Recycling, Composting and Disposal of Solid Waste dated July 15, 1993 ("Agreement"), a copy of which is attached hereto as Exhibit "1"; and
- B. WHEREAS, the City and the Grantee entered into an Amendment (First Amendment) to the Franchise Agreement on July 1, 2001, a copy of which is attached hereto as Exhibit "2"; and
- C. WHEREAS, the City and the Grantee have mutually agreed to modify the terms and conditions of the Agreement and the First Amendment as set forth below in order to improve service levels for residential customers:

NOW, THEREFORE, the parties agree to amend the Original Agreement and First Amendment as follows:

**SECTION 2. TERM: EXTENSIONS.** The TERM of this Agreement shall be extended for an additional five- year period, from July 1, 2006 to June 30, 2011.

**SECTION 3. DEFINITIONS.**

Section 3 of the First Amendment is hereby amended as follows:

**Single Family Containers ("Containers"):**

Single Family Containers means any container for the temporary accumulation and collection of solid waste, source-separated recyclables, and source-separated compostables delivered by Grantee to Single Family residences covered by the Franchise Agreement.

All other conditions and terms in Sections 3, and in the First Amendment shall remain in effect with the Rate Adjustment Schedule attached as Exhibit "A". All other terms and conditions of the Franchise Agreement shall remain in full force and in effect as if this amendment had not been made.

In WITNESS WHEREOF, the parties hereto have caused the Agreement to be executed by their duly authorized officers as of the date first above written.

**City of Banning**

By: John Hunt

Mayor

John Hunt

Dated: June 14, 2002

**Waste Management of the Inland Empire,  
A Division of USA Waste of California, Inc.**

By: J. Alex Braicovich

J. Alex Braicovich,  
District Manager

Dated: 6-10-02

Attest:

Maria A. Caldeon  
City Clerk

Approved as to form:

J. F.  
City Attorney

Exhibit "A"

CITY OF BANNING  
TOTAL REFUSE & RECYCLING RATES  
AS OF JULY 1, 2002

RESIDENTIAL		\$ 13.03
Single Family Refuse Rate		

COMMERCIAL CAN SERVICE		\$ 15.47
Refuse Service With Recycling Program A:		

COMMERCIAL BIN SERVICE							
SIZE	QTY	ONE	TWO	THREE	FOUR	FIVE	SIX
2 Yard	1	\$ 65.12	\$ 130.24	\$ 190.55	\$ 252.07	\$ 312.39	\$ 372.70
3 Yard	1	\$ 85.69	\$ 171.39	\$ 251.06	\$ 330.75	\$ 410.42	\$ 490.12
4 Yard	1	\$ 114.64	\$ 229.29	\$ 335.54	\$ 442.99	\$ 549.25	\$ 655.50
6 Yard	1	\$ 161.78	\$ 323.55	\$ 474.54	\$ 624.33	\$ 775.33	\$ 925.10
2 Yard	2	\$ 130.24	\$ 260.48	\$ 381.10	\$ 504.13	\$ 624.78	\$ 745.41
3 Yard	2	\$ 171.39	\$ 342.77	\$ 502.13	\$ 661.50	\$ 820.85	\$ 980.25
4 Yard	2	\$ 229.29	\$ 458.57	\$ 671.09	\$ 885.98	\$ 1,098.49	\$ 1,311.01
6 Yard	2	\$ 323.55	\$ 647.11	\$ 949.08	\$ 1,248.65	\$ 1,550.65	\$ 1,850.20
2 Yard	3	\$ 195.36	\$ 390.71	\$ 571.65	\$ 756.20	\$ 937.17	\$ 1,118.11
3 Yard	3	\$ 257.08	\$ 514.16	\$ 753.19	\$ 992.25	\$ 1,231.27	\$ 1,470.37
4 Yard	3	\$ 343.93	\$ 687.86	\$ 1,006.63	\$ 1,328.97	\$ 1,647.74	\$ 1,966.51
6 Yard	3	\$ 485.33	\$ 970.66	\$ 1,423.62	\$ 1,872.98	\$ 2,325.98	\$ 2,775.30
2 Yard	4	\$ 260.48	\$ 520.95	\$ 762.20	\$ 1,008.26	\$ 1,249.56	\$ 1,490.82
3 Yard	4	\$ 342.77	\$ 685.55	\$ 1,004.25	\$ 1,323.60	\$ 1,641.70	\$ 1,960.49
4 Yard	4	\$ 458.57	\$ 917.14	\$ 1,342.17	\$ 1,771.96	\$ 2,196.99	\$ 2,622.01
6 Yard	4	\$ 647.11	\$ 1,294.21	\$ 1,898.16	\$ 2,497.31	\$ 3,101.30	\$ 3,700.40
2 Yard	5	\$ 325.59	\$ 651.19	\$ 952.75	\$ 1,260.33	\$ 1,561.95	\$ 1,863.52
3 Yard	5	\$ 428.47	\$ 856.94	\$ 1,255.31	\$ 1,653.75	\$ 2,052.12	\$ 2,450.62
4 Yard	5	\$ 573.22	\$ 1,146.43	\$ 1,677.72	\$ 2,214.95	\$ 2,746.23	\$ 3,277.52
6 Yard	5	\$ 808.88	\$ 1,617.76	\$ 2,372.70	\$ 3,121.63	\$ 3,876.63	\$ 4,625.50
2 Yard	6	\$ 390.71	\$ 781.43	\$ 1,143.30	\$ 1,512.39	\$ 1,874.34	\$ 2,236.22
3 Yard	6	\$ 514.16	\$ 1,028.32	\$ 1,506.38	\$ 1,984.50	\$ 2,462.55	\$ 2,940.74
4 Yard	6	\$ 687.86	\$ 1,375.72	\$ 2,013.26	\$ 2,657.94	\$ 3,295.48	\$ 3,933.02
6 Yard	6	\$ 970.66	\$ 1,941.32	\$ 2,847.24	\$ 3,745.96	\$ 4,651.95	\$ 5,550.60

COMMERCIAL RECYCLING SERVICE		
Pick-ups per week		
SIZE	QTY	ONE
2.0 Cubic Yard	One	\$ 59.93
3.0 Cubic Yard	One	\$ 76.71
4.0 Cubic Yard	One	\$ 101.89
6.0 Cubic Yard	One	\$ 131.86

ROLLOFF SERVICES		
40 Cubic Yard Container		\$ 149.82 + landfill fees
10 Cubic Yard Container		\$ 149.82 + landfill fees
Relocation/Delivery Fee		\$ 55.15

160

**CITY OF BANNING**  
**SERVICE COMPONENTS OF RATES**  
**AS OF JULY 1, 2002**

<b>RESIDENTIAL</b>							
Single Family Service Rates (includes automation of recycling):		\$ 10.41					
<b>COMMERCIAL CAN SERVICE</b>							
Refuse Service With Recycling program A:		\$ 10.53					
<b>COMMERCIAL BIN SERVICE</b>							
SIZE	QTY	ONE	TWO	THREE	FOUR	FIVE	SIX
2 Yard	One	\$ 50.38	\$ 100.75	\$ 146.32	\$ 193.09	\$ 238.67	\$ 284.24
3 Yard	One	\$ 63.58	\$ 127.16	\$ 184.72	\$ 242.29	\$ 299.85	\$ 357.43
4 Yard	One	\$ 85.16	\$ 170.31	\$ 247.08	\$ 325.04	\$ 401.82	\$ 478.59
6 Yard	One	\$ 117.55	\$ 235.09	\$ 341.85	\$ 447.41	\$ 554.18	\$ 659.72
2 Yard	Two	\$ 100.75	\$ 201.50	\$ 292.64	\$ 386.19	\$ 477.35	\$ 568.49
3 Yard	Two	\$ 127.16	\$ 254.32	\$ 369.44	\$ 484.58	\$ 599.70	\$ 714.87
4 Yard	Two	\$ 170.31	\$ 340.63	\$ 494.17	\$ 650.09	\$ 803.63	\$ 957.17
6 Yard	Two	\$ 235.09	\$ 470.19	\$ 683.70	\$ 894.82	\$ 1,108.36	\$ 1,319.45
2 Yard	Three	\$ 151.13	\$ 302.25	\$ 438.96	\$ 579.28	\$ 716.02	\$ 852.73
3 Yard	Three	\$ 190.74	\$ 381.47	\$ 554.16	\$ 726.87	\$ 899.55	\$ 1,072.30
4 Yard	Three	\$ 255.47	\$ 510.94	\$ 741.25	\$ 975.13	\$ 1,205.45	\$ 1,435.76
6 Yard	Three	\$ 352.64	\$ 705.28	\$ 1,025.56	\$ 1,342.23	\$ 1,662.54	\$ 1,979.17
2 Yard	Four	\$ 201.50	\$ 403.01	\$ 585.29	\$ 772.37	\$ 954.70	\$ 1,136.98
3 Yard	Four	\$ 254.32	\$ 508.63	\$ 738.87	\$ 969.16	\$ 1,199.40	\$ 1,429.74
4 Yard	Four	\$ 340.63	\$ 681.25	\$ 988.34	\$ 1,300.18	\$ 1,607.26	\$ 1,914.34
6 Yard	Four	\$ 470.19	\$ 940.38	\$ 1,367.41	\$ 1,789.64	\$ 2,216.71	\$ 2,638.89
2 Yard	Five	\$ 251.88	\$ 503.76	\$ 731.61	\$ 965.46	\$ 1,193.37	\$ 1,421.22
3 Yard	Five	\$ 317.89	\$ 635.79	\$ 923.59	\$ 1,211.45	\$ 1,499.26	\$ 1,787.17
4 Yard	Five	\$ 425.78	\$ 851.57	\$ 1,235.42	\$ 1,625.22	\$ 2,009.08	\$ 2,392.93
6 Yard	Five	\$ 587.74	\$ 1,175.47	\$ 1,709.26	\$ 2,237.04	\$ 2,770.89	\$ 3,298.62
2 Yard	Six	\$ 302.25	\$ 604.51	\$ 877.93	\$ 1,158.56	\$ 1,432.05	\$ 1,705.47
3 Yard	Six	\$ 381.47	\$ 762.95	\$ 1,108.31	\$ 1,453.74	\$ 1,799.11	\$ 2,144.61
4 Yard	Six	\$ 510.94	\$ 1,021.88	\$ 1,482.51	\$ 1,950.27	\$ 2,410.89	\$ 2,871.52
6 Yard	Six	\$ 705.28	\$ 1,410.56	\$ 2,051.11	\$ 2,684.45	\$ 3,325.07	\$ 3,958.34

161

**CITY OF BANNING  
DISPOSAL COMPONENTS OF RATES  
AS OF JULY 1, 2002**

<b>RESIDENTIAL</b>	Pounds per household per week		<b>32.14</b>				
	Pounds-to-tons factor	divide by	<b>2,000</b>				
	Monthly factor	x	<b>4.33</b>				
	Riverside County landfill rate as of 7/1/01	x \$	<b>30.00</b>				
	Franchise Fee factor	divide by	<b>0.797</b>				
	<b>Monthly Disposal Component for one Residential Household</b>	<b>\$</b>	<b>2.62</b>				
<b>COMMERCIAL CAN</b>	Pounds per customer per week		<b>60.00</b>				
	Pounds-to-tons factor	divide by	<b>2,000</b>				
	Monthly factor	x	<b>4.33</b>				
	Riverside County landfill rate as of 7/1/01	x \$	<b>30.00</b>				
	Franchise Fee factor	divide by	<b>0.79</b>				
	<b>Monthly Disposal Component for one Commercial Can Customer</b>	<b>\$</b>	<b>4.93</b>				
<b>COMMERCIAL REFUSE</b>	Pounds per yard		<b>89.66</b>				
	Pounds-to-tons factor	divide by	<b>2,000</b>				
	Monthly factor	x	<b>4.33</b>				
	Riverside County landfill rate as of 7/1/01	x \$	<b>30.00</b>				
	Franchise Fee factor	divide by	<b>0.79</b>				
	<b>Monthly Disposal Component for One Cubic Yard</b>	<b>\$</b>	<b>7.37</b>				
<b>SIZE</b>	<b>QTY</b>	<b>ONE</b>	<b>TWO</b>	<b>THREE</b>	<b>FOUR</b>	<b>FIVE</b>	<b>SIX</b>
2 Yard	1	\$ 14.74	\$ 29.49	\$ 44.23	\$ 58.97	\$ 73.72	\$ 88.46
3 Yard	1	\$ 22.11	\$ 44.23	\$ 66.34	\$ 88.46	\$ 110.57	\$ 132.69
4 Yard	1	\$ 29.49	\$ 58.97	\$ 88.46	\$ 117.95	\$ 147.43	\$ 176.92
6 Yard	1	\$ 44.23	\$ 88.46	\$ 132.69	\$ 176.92	\$ 221.15	\$ 265.38
2 Yard	2	\$ 29.49	\$ 58.97	\$ 88.46	\$ 117.95	\$ 147.43	\$ 176.92
3 Yard	2	\$ 44.23	\$ 88.46	\$ 132.69	\$ 176.92	\$ 221.15	\$ 265.38
4 Yard	2	\$ 58.97	\$ 117.95	\$ 176.92	\$ 235.89	\$ 294.86	\$ 353.84
6 Yard	2	\$ 88.46	\$ 176.92	\$ 265.38	\$ 353.84	\$ 442.29	\$ 530.75
2 Yard	3	\$ 44.23	\$ 88.46	\$ 132.69	\$ 176.92	\$ 221.15	\$ 265.38
3 Yard	3	\$ 66.34	\$ 132.69	\$ 199.03	\$ 265.38	\$ 331.72	\$ 398.06
4 Yard	3	\$ 88.46	\$ 176.92	\$ 265.38	\$ 353.84	\$ 442.29	\$ 530.75
6 Yard	3	\$ 132.69	\$ 265.38	\$ 398.06	\$ 530.75	\$ 663.44	\$ 796.13
2 Yard	4	\$ 58.97	\$ 117.95	\$ 176.92	\$ 235.89	\$ 294.86	\$ 353.84
3 Yard	4	\$ 88.46	\$ 176.92	\$ 265.38	\$ 353.84	\$ 442.29	\$ 530.75
4 Yard	4	\$ 117.95	\$ 235.89	\$ 353.84	\$ 471.78	\$ 589.73	\$ 707.67
6 Yard	4	\$ 176.92	\$ 353.84	\$ 530.75	\$ 707.67	\$ 884.59	\$ 1,061.51
2 Yard	5	\$ 73.72	\$ 147.43	\$ 221.15	\$ 294.86	\$ 368.58	\$ 442.29
3 Yard	5	\$ 110.57	\$ 221.15	\$ 331.72	\$ 442.29	\$ 552.87	\$ 663.44
4 Yard	5	\$ 147.43	\$ 294.86	\$ 442.29	\$ 589.73	\$ 737.16	\$ 884.59
6 Yard	5	\$ 221.15	\$ 442.29	\$ 663.44	\$ 884.59	\$ 1,105.73	\$ 1,326.88
2 Yard	6	\$ 88.46	\$ 176.92	\$ 265.38	\$ 353.84	\$ 442.29	\$ 530.75
3 Yard	6	\$ 132.69	\$ 265.38	\$ 398.06	\$ 530.75	\$ 663.44	\$ 796.13
4 Yard	6	\$ 176.92	\$ 353.84	\$ 530.75	\$ 707.67	\$ 884.59	\$ 1,061.51
6 Yard	6	\$ 265.38	\$ 530.75	\$ 796.13	\$ 1,061.51	\$ 1,326.88	\$ 1,592.26

162

**CITY OF BANNING**  
**COMPACTOR SERVICE RATES**  
**(COMPACTION RATIO = 3:1)**  
**AS OF JULY 1, 2002**

SIZE	QTY	ONE	TWO	THREE	FOUR	FIVE	SIX
2 Yard	One	\$ 94.61	\$ 189.21	\$ 279.01	\$ 370.01	\$ 459.82	\$ 549.62
3 Yard	One	\$ 129.92	\$ 259.85	\$ 383.75	\$ 507.67	\$ 631.57	\$ 755.50
4 Yard	One	\$ 173.62	\$ 347.23	\$ 512.46	\$ 678.88	\$ 844.11	\$ 1,009.34
6 Yard	One	\$ 250.24	\$ 500.47	\$ 739.92	\$ 978.16	\$ 1,217.62	\$ 1,455.85
2 Yard	Two	\$ 189.21	\$ 378.42	\$ 558.02	\$ 740.02	\$ 919.64	\$ 1,099.24
3 Yard	Two	\$ 259.85	\$ 519.69	\$ 767.50	\$ 1,015.33	\$ 1,263.14	\$ 1,511.00
4 Yard	Two	\$ 347.23	\$ 694.46	\$ 1,024.92	\$ 1,357.76	\$ 1,688.22	\$ 2,018.68
6 Yard	Two	\$ 500.47	\$ 1,000.94	\$ 1,479.83	\$ 1,956.32	\$ 2,435.24	\$ 2,911.71
2 Yard	Three	\$ 283.82	\$ 567.63	\$ 837.03	\$ 1,110.03	\$ 1,379.47	\$ 1,648.86
3 Yard	Three	\$ 389.77	\$ 779.54	\$ 1,151.25	\$ 1,523.00	\$ 1,894.71	\$ 2,266.50
4 Yard	Three	\$ 520.85	\$ 1,041.69	\$ 1,537.38	\$ 2,036.64	\$ 2,532.33	\$ 3,028.02
6 Yard	Three	\$ 750.71	\$ 1,501.41	\$ 2,219.75	\$ 2,934.48	\$ 3,652.86	\$ 4,367.56
2 Yard	Four	\$ 378.42	\$ 756.84	\$ 1,116.04	\$ 1,480.04	\$ 1,839.29	\$ 2,198.49
3 Yard	Four	\$ 519.69	\$ 1,039.38	\$ 1,535.00	\$ 2,030.67	\$ 2,526.29	\$ 3,022.00
4 Yard	Four	\$ 694.46	\$ 1,388.93	\$ 2,048.84	\$ 2,715.52	\$ 3,376.44	\$ 4,037.35
6 Yard	Four	\$ 1,000.94	\$ 2,001.88	\$ 2,959.67	\$ 3,912.65	\$ 4,870.48	\$ 5,823.41
2 Yard	Five	\$ 473.03	\$ 946.05	\$ 1,395.05	\$ 1,850.05	\$ 2,299.11	\$ 2,748.11
3 Yard	Five	\$ 649.62	\$ 1,299.23	\$ 1,918.75	\$ 2,538.33	\$ 3,157.86	\$ 3,777.50
4 Yard	Five	\$ 868.08	\$ 1,736.16	\$ 2,562.30	\$ 3,394.40	\$ 4,220.55	\$ 5,046.69
6 Yard	Five	\$ 1,251.18	\$ 2,502.35	\$ 3,699.58	\$ 4,890.81	\$ 6,088.10	\$ 7,279.26
2 Yard	Six	\$ 567.63	\$ 1,135.26	\$ 1,674.06	\$ 2,220.06	\$ 2,758.93	\$ 3,297.73
3 Yard	Six	\$ 779.54	\$ 1,559.08	\$ 2,302.50	\$ 3,046.00	\$ 3,789.43	\$ 4,533.00
4 Yard	Six	\$ 1,041.69	\$ 2,083.39	\$ 3,074.76	\$ 4,073.28	\$ 5,064.66	\$ 6,056.03
6 Yard	Six	\$ 1,501.41	\$ 3,002.82	\$ 4,439.50	\$ 5,868.97	\$ 7,305.72	\$ 8,735.12

163

Waste Management of the Inland Empire  
City of Banning  
Residential Rate Adjustment Summary

Existing Rate	\$ 12.21
Existing Rate – Service Component	\$ 9.84
CPI – 95% of 2.8% on Service (9.84X2.66%)	\$ 0.26
Proposed Rate – Disposal Component	\$ 2.62
Barrel Amortization Cost	\$ 0.31
<b>PROPOSED JULY 1, 2002 RATE</b>	<b>\$13.03</b>

164

**EXHIBIT “4”**

**THIRD AMENDMENT**

**THIRD AMENDMENT TO FRANCHISE AGREEMENT BETWEEN THE  
CITY OF BANNING AND WASTE MANAGEMENT OF INLAND EMPIRE, A  
DIVISION OF USA WASTE OF CALIFORNIA, INC., FOR COLLECTION,  
TRANSPORTATION, RECYCLING AND DISPOSAL OF SOLID WASTE**

This Third Amendment to the Franchise Agreement for the Collection, Transportation, Recycling and Disposal of Solid Waste ("Amendment") is made and entered into this 12<sup>th</sup> day of December, 2006, by and between the CITY OF BANNING ("City") and Waste Management of the Inland Empire, a Division of USA Waste of California, Inc., a Delaware corporation ("Grantee"), for the collection, transportation, recycling, composting and disposal of solid waste, compostables and recyclables.

**RECITALS**

- A. WHEREAS, the City and the Grantee entered into a Franchise Agreement for the Collection, Transportation, Recycling, Composting and Disposal of Solid Waste dated July 15, 1993 ("Agreement"), a copy of which is attached hereto as Exhibit "1"; and
- B. WHEREAS, the City and the Grantee entered into an amendment ("First Amendment") to the Franchise Agreement on July 1, 2001, a copy of which is attached hereto as Exhibit "2", a Second Amendment ("Second Amendment") to Franchise Agreement on June 14, 2002, a copy of which is attached hereto as Exhibit "3", and
- C. WHEREAS, the City and the Grantee have mutually agreed to modify the terms and conditions of the Agreement for the collection of Bulky Wastes from single-family or duplex residential properties.

NOW, THEREFORE, the parties agree to amend the Agreement, with this Third Amendment, as follows:

166

## SECTION 6. SERVICES PROVIDED BY GRANTEE.

Section 6.B. (1)C. is hereby deleted in its entirety and replaced with the following:

Grantee shall provide up to ten large roll-off refuse and recycling containers at two locations, as requested by the City, three times per calendar year to respond to organized community clean-up efforts at no charge. The Recycling containers may include, but are not limited to the collection of greenwaste/wood waste, metals and e-waste (as defined by the California department of Toxic Substance Control). These events shall take place on a selected Saturday agreed upon by the City and Grantee, and shall occur between the hours of 8am and 1pm. The City shall arrange to have disposal costs waived by Riverside County for at least two of these clean up events per calendar year. Grantee shall deliver rolloff containers to an agreed upon collection point and shall cooperate with the City and designated community leaders to remove containers and dispose of collected solid waste at the end of the event. Once the date of the clean-up is determined, City will notify residents via mail of the date and location of the cleanup event. Grantee will work with the Riverside County Waste Management Department (RCWMD) to provide up to thirty free landfill passes, in addition to the thirty passes provided by the RCWMD, as needed for the event. The additional thirty landfill passes will have identical disposal guidelines and restrictions as outlined in the County's original "free landfill passes". As a matter of procedure, the City will first use the thirty passes granted by the County and then, if needed, begin using the grantee's free landfill passes.

Section 6.B (2)A. is hereby deleted in its entirety and replaced with the following:

Grantee shall provide Bulky Waste pickup service to all customers receiving Residential Collection. Grantee shall provide residential customers with bulky waste pick-up service, up to three times per calendar year, arranged at the request of the customer, for large household items, appliances, furniture or multiple smaller items not exceeding one and one-half cubic yards or six items. Customers must request these collections at least two

weekdays prior to their regular collection day. Grantee will make a good faith effort to divert the bulky material away from the designated landfill to another facility where it can be either recycled or refurbished for reuse. Additional Bulky Waste pickups requested by the customer, beyond three per calendar year, will be made by Grantee on the same terms and conditions as set forth above, at the rate of \$15.00 per item, however, at the request from the City, the Grantee shall agree to negotiate with the customer for the removal of additional bulky items at no additional cost to the City.

- a. **Acceptable Items.** Acceptable bulky waste materials shall include, but are not limited to, oversize household solid waste, furniture, mattresses, old appliances, lumber (cut into 4-foot pieces and bundled, not exceeding 50 lbs.), refrigerators\*, freezers\* and air conditioners\* (\*all must have certified seal of Freon/CFC removal).
- b. **Unacceptable Items.** Items that will not be accepted include, but are not limited to, green waste, dirt, rock, concrete, bricks, tires, auto parts, special waste, building materials and hazardous waste\* (\*car batteries, paints, oils, solvents, cleaners, gasoline, gasoline additives, etc.).
- c. **Electronic or Universal Waste Collection.** Electronic/Universal Waste ("E-waste or U-waste") shall be included in the bulky item collections in the residential sector only. Grantee shall provide for the collection of computers (terminals, monitors and peripherals), stereo systems (home and auto), television sets, DVDs, VCRs, cellular phones and other electronic devices that are categorized as E-waste or U-

Waste by the California Integrated Waste Management Board. A maximum of two items per bulky item pick up, per calendar year, shall be collected for free. Residents may make arrangements with Contractor to collect additional E-waste or U-waste items at other times throughout the year at a cost outlined in the current rate schedule.

In addition to the services mentioned above, the City and Grantee agree to add a new service level for commercial recycling customers. The new service will allow for commercial recycling customers to choose two times per week service in addition to the weekly service currently provided in the agreement. The rates for this new "twice per week" commercial recycling service are outlined below:

Container Size	Quantity	Rate
2 Cu Yard	One	\$134.42
3 Cu Yard	One	\$172.06
4 Cu Yard	One	\$228.54
6 Cu Yard	One	\$295.74
3 Cu Yard*	One	\$112.14

\* Banning Unified School District within City Limits Only

Except as provided herein, all other conditions and terms in the Agreement, First Amendment and Second Amendment shall remain in full force and effect as if this Third Amendment had not been made

**SIGNATURES ON NEXT PAGE**

169

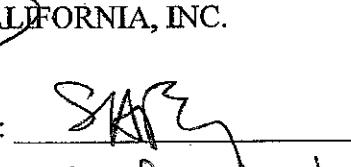
In WITNESS WHEREOF, the parties hereto have caused the Agreement to be executed by their duly authorized officers as of the date first above written.

CITY OF BANNING

By: 

Randy Anstine  
City Manager

WASTE MANAGEMENT OF THE INLAND  
EMPIRE, A DIVISION OF USA WASTE OF  
CALIFORNIA, INC.

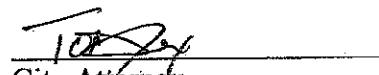
By: 

Title: Vice President

Attest:

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

Approved as to form:

  
\_\_\_\_\_  
Dep. City Attorney

/

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170

## **EXHIBIT “B”**

**PRESS ENTERPRISE  
JUNE 10, 2011**

# THE PRESS-ENTERPRISE

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

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

Press-Enterprise

### PROOF OF PUBLICATION OF

Ad Desc.: Resolution No. 2011-53

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

06-10-11

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

Date: Jun. 10, 2011  
At: Riverside, California



PUBLIC WORKS / CITY OF BANNING

99 E RAMSEY ST  
BANNING CA 92220

Ad #: 10688196

PO #:

Agency #: \_\_\_\_\_

### Ad Copy:

#### NOTICE OF PUBLIC HEARING

PURSUANT TO LAW, notice is hereby given of a Public Hearing before the City Council of the City of Banning, to be heard June 28, 2011 at 5:00 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey St., Banning, California, to consider Adopting Resolution No. 2011-53, "Amending the Franchise Agreement between the City and Waste Management of the Inland Empire for the Collection, Transportation and Disposal of Solid Waste".

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

Note: If you challenge this matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Banning at, or prior to, the public hearing.

Questions regarding this matter should be directed to City of Banning, Public Works Department at (951) 922-3130.

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

Date: June 7, 2010  
Publish: Press Enterprise  
June 10, 2010

Marie A. Calderon  
City Clerk

6/10

172

## **EXHIBIT “C”**

**RATES EFFECTIVE JULY 1, 2011**

**CITY OF BANNING**  
**RATE SCHEDULE SUMMARY**

**EFFECTIVE JULY 1, 2011**

Type of Service	Existing Rate	Proposed Rate
Residential Household	\$17.60	\$17.97
Commercial Can Service	\$18.77	\$19.30
Commercial Bin Service		
One Pick-up per Week:		
-2 cubic yard	\$78.98	\$81.41
- 3 cubic yard	\$103.55	\$106.59
-4 cubic yard	\$138.55	\$142.62

**City of Banning  
Rate Components  
As of July 1, 2011**

**Service Components**

<b>RESIDENTIAL</b>								
Single Family Service Rates:		\$ 13.58						
<b>COMMERCIAL CAN SERVICE</b>								
Refuse Service With Recycling program A:		\$ 13.65						
<b>COMMERCIAL BIN SERVICE</b>								
SIZE	QTY		ONE	TWO	THREE	FOUR	FIVE	SIX
2 Yard	One	\$	65.66	\$ 131.31	\$ 190.74	\$ 251.73	\$ 311.17	\$ 370.60
3 Yard	One	\$	82.96	\$ 165.91	\$ 241.07	\$ 316.25	\$ 391.41	\$ 466.60
4 Yard	One	\$	111.11	\$ 222.22	\$ 322.46	\$ 424.24	\$ 524.49	\$ 624.73
6 Yard	One	\$	153.46	\$ 306.93	\$ 446.41	\$ 584.34	\$ 723.84	\$ 861.75
2 Yard	Two	\$	131.31	\$ 262.62	\$ 381.48	\$ 503.45	\$ 622.34	\$ 741.20
3 Yard	Two	\$	165.91	\$ 331.83	\$ 482.15	\$ 632.50	\$ 782.82	\$ 933.20
4 Yard	Two	\$	222.22	\$ 444.43	\$ 644.92	\$ 848.49	\$ 1,048.97	\$ 1,249.46
6 Yard	Two	\$	306.93	\$ 613.85	\$ 892.82	\$ 1,168.68	\$ 1,447.68	\$ 1,723.51
2 Yard	Three	\$	196.97	\$ 393.93	\$ 572.22	\$ 755.18	\$ 933.51	\$ 1,111.80
3 Yard	Three	\$	248.87	\$ 497.74	\$ 723.22	\$ 948.75	\$ 1,174.22	\$ 1,399.79
4 Yard	Three	\$	333.32	\$ 666.65	\$ 967.38	\$ 1,272.73	\$ 1,573.46	\$ 1,874.19
6 Yard	Three	\$	460.39	\$ 920.78	\$ 1,339.23	\$ 1,753.02	\$ 2,171.52	\$ 2,585.26
2 Yard	Four	\$	262.62	\$ 525.24	\$ 762.96	\$ 1,006.91	\$ 1,244.69	\$ 1,482.40
3 Yard	Four	\$	331.83	\$ 663.65	\$ 964.29	\$ 1,264.99	\$ 1,565.63	\$ 1,866.39
4 Yard	Four	\$	444.43	\$ 888.86	\$ 1,289.84	\$ 1,696.97	\$ 2,097.95	\$ 2,498.92
6 Yard	Four	\$	613.85	\$ 1,227.70	\$ 1,785.64	\$ 2,337.36	\$ 2,895.36	\$ 3,447.02
2 Yard	Five	\$	328.28	\$ 656.55	\$ 953.70	\$ 1,258.63	\$ 1,555.86	\$ 1,853.01
3 Yard	Five	\$	414.78	\$ 829.57	\$ 1,205.37	\$ 1,581.24	\$ 1,957.04	\$ 2,332.99
4 Yard	Five	\$	555.54	\$ 1,111.08	\$ 1,612.29	\$ 2,121.22	\$ 2,622.43	\$ 3,123.65
6 Yard	Five	\$	767.31	\$ 1,534.63	\$ 2,232.05	\$ 2,921.70	\$ 3,619.20	\$ 4,308.77
2 Yard	Six	\$	393.93	\$ 787.86	\$ 1,144.44	\$ 1,510.36	\$ 1,867.03	\$ 2,223.61
3 Yard	Six	\$	497.74	\$ 995.48	\$ 1,446.44	\$ 1,897.49	\$ 2,348.45	\$ 2,799.59
4 Yard	Six	\$	666.65	\$ 1,333.29	\$ 1,934.75	\$ 2,545.46	\$ 3,146.92	\$ 3,748.38
6 Yard	Six	\$	920.78	\$ 1,841.55	\$ 2,678.46	\$ 3,506.04	\$ 4,343.04	\$ 5,170.52

**City of Banning  
Rate Components  
As of July 1, 2011**

**Disposal Components**

<b>RESIDENTIAL TRASH</b>		Pounds per household per week					32.64
		Pounds-to-tons factor		divide by			2,000
		Monthly factor		x			4.33
		Riverside County landfill rate		x		\$	34.37
		Franchise Fee factor		divide by			0.79
		<b>Monthly Disposal Component for one Residential Household</b>				\$	3.07
<b>RESIDENTIAL GREENWASTE</b>		Pounds per household per week					16.51
		Pounds-to-tons factor		divide by			2,000
		Monthly factor		x			4.33
		Riverside County landfill rate		x		\$	29.00
		Franchise Fee factor		divide by			0.79
		<b>Monthly Disposal Component for one Residential Household</b>				\$	1.31
<b>COMMERCIAL CAN</b>		Pounds per customer per week					60.00
		Pounds-to-tons factor		divide by			2,000
		Monthly factor		x			4.33
		Riverside County landfill rate		x		\$	34.37
		Franchise Fee factor		divide by			0.79
		<b>Monthly Disposal Component for one Commercial Can Customer</b>				\$	5.65
<b>COMMERCIAL REFUSE</b>		Pounds per yard					83.63
		Pounds-to-tons factor		divide by			2,000
		Monthly factor		x			4.33
		Riverside County landfill rate		x		\$	34.37
		Franchise Fee factor		divide by			0.79
		<b>Monthly Disposal Component for One Cubic Yard</b>				\$	7.88
<b>SIZE</b>	<b>QTY</b>	<b>ONE</b>	<b>TWO</b>	<b>THREE</b>	<b>FOUR</b>	<b>FIVE</b>	<b>SIX</b>
2 Yard	1	\$ 15.75	\$ 31.51	\$ 47.26	\$ 63.02	\$ 78.77	\$ 94.53
3 Yard	1	\$ 23.63	\$ 47.26	\$ 70.90	\$ 94.53	\$ 118.16	\$ 141.79
4 Yard	1	\$ 31.51	\$ 63.02	\$ 94.53	\$ 126.04	\$ 157.55	\$ 189.06
6 Yard	1	\$ 47.26	\$ 94.53	\$ 141.79	\$ 189.06	\$ 236.32	\$ 283.59
2 Yard	2	\$ 31.51	\$ 63.02	\$ 94.53	\$ 126.04	\$ 157.55	\$ 189.06
3 Yard	2	\$ 47.26	\$ 94.53	\$ 141.79	\$ 189.06	\$ 236.32	\$ 283.59
4 Yard	2	\$ 63.02	\$ 126.04	\$ 189.06	\$ 252.08	\$ 315.10	\$ 378.12
6 Yard	2	\$ 94.53	\$ 189.06	\$ 283.59	\$ 378.12	\$ 472.65	\$ 567.18
<b>SIZE</b>	<b>QTY</b>	<b>ONE</b>	<b>TWO</b>	<b>THREE</b>	<b>FOUR</b>	<b>FIVE</b>	<b>SIX</b>
2 Yard	3	\$ 47.26	\$ 94.53	\$ 141.79	\$ 189.06	\$ 236.32	\$ 283.59
3 Yard	3	\$ 70.90	\$ 141.79	\$ 212.69	\$ 283.59	\$ 354.49	\$ 425.38
4 Yard	3	\$ 94.53	\$ 189.06	\$ 283.59	\$ 378.12	\$ 472.65	\$ 567.18
6 Yard	3	\$ 141.79	\$ 283.59	\$ 425.38	\$ 567.18	\$ 708.97	\$ 850.77
2 Yard	4	\$ 63.02	\$ 126.04	\$ 189.06	\$ 252.08	\$ 315.10	\$ 378.12
3 Yard	4	\$ 94.53	\$ 189.06	\$ 283.59	\$ 378.12	\$ 472.65	\$ 567.18
4 Yard	4	\$ 126.04	\$ 252.08	\$ 378.12	\$ 504.16	\$ 630.20	\$ 756.24
6 Yard	4	\$ 189.06	\$ 378.12	\$ 567.18	\$ 756.24	\$ 945.30	\$ 1,134.36
2 Yard	5	\$ 78.77	\$ 157.55	\$ 236.32	\$ 315.10	\$ 393.87	\$ 472.65
3 Yard	5	\$ 118.16	\$ 236.32	\$ 354.49	\$ 472.65	\$ 590.81	\$ 708.97
4 Yard	5	\$ 157.55	\$ 315.10	\$ 472.65	\$ 630.20	\$ 787.75	\$ 945.30
6 Yard	5	\$ 236.32	\$ 472.65	\$ 708.97	\$ 945.30	\$ 1,181.62	\$ 1,417.95
2 Yard	6	\$ 94.53	\$ 189.06	\$ 283.59	\$ 378.12	\$ 472.65	\$ 567.18
3 Yard	6	\$ 141.79	\$ 283.59	\$ 425.38	\$ 567.18	\$ 708.97	\$ 850.77
4 Yard	6	\$ 189.06	\$ 378.12	\$ 567.18	\$ 756.24	\$ 945.30	\$ 1,134.36
6 Yard	6	\$ 283.59	\$ 567.18	\$ 850.77	\$ 1,134.36	\$ 1,417.95	\$ 1,701.54

**City of Banning  
Rate Components  
As of July 1, 2011**

**Total Rates**

<b>RESIDENTIAL</b>	
Single Family Refuse Rate	\$ 17.97

<b>Additional Containers:</b>	Trash - 96 gallon	\$ 7.58
	Trash - 64 gallon	\$ 6.07
	Trash - 35 gallon	\$ 4.56
	Recycling	\$ 1.95
	Green Waste	\$ 4.64
<b>Exchanges due to size change or customer misuse (as examples)</b>		
<b>In excess of one time per year</b>		<b>\$ 22.80</b>

<b>COMMERCIAL CAN SERVICE</b>	
Refuse Service With Recycling Program A:	\$ 19.30

<b>TEMPORARY COMMERCIAL SERVICE</b>	
Temporary Bin (up to 7 Days)	\$ 118.26
Temporary Bin (30 Days)	\$ 192.94

<b>COMMERCIAL BIN SERVICE</b>								
<b>SIZE</b>	<b>QTY</b>		<b>ONE</b>	<b>TWO</b>	<b>THREE</b>	<b>FOUR</b>	<b>FIVE</b>	<b>SIX</b>
2 Yard	1	\$	81.41	\$ 162.82	\$ 238.01	\$ 314.75	\$ 389.95	\$ 465.13
3 Yard	1	\$	106.59	\$ 213.18	\$ 311.97	\$ 410.78	\$ 509.57	\$ 608.39
4 Yard	1	\$	142.62	\$ 285.24	\$ 416.99	\$ 550.28	\$ 682.04	\$ 813.79
6 Yard	1	\$	200.73	\$ 401.46	\$ 588.21	\$ 773.40	\$ 960.16	\$ 1,145.34
2 Yard	2	\$	162.82	\$ 325.64	\$ 476.01	\$ 629.49	\$ 779.89	\$ 930.26
3 Yard	2	\$	213.18	\$ 426.36	\$ 623.94	\$ 821.56	\$ 1,019.14	\$ 1,216.79
4 Yard	2	\$	285.24	\$ 570.47	\$ 833.98	\$ 1,100.57	\$ 1,364.07	\$ 1,627.58
6 Yard	2	\$	401.46	\$ 802.91	\$ 1,176.41	\$ 1,546.80	\$ 1,920.33	\$ 2,290.69
2 Yard	3	\$	244.23	\$ 488.46	\$ 714.02	\$ 944.24	\$ 1,169.84	\$ 1,395.39
3 Yard	3	\$	319.77	\$ 639.54	\$ 935.91	\$ 1,232.33	\$ 1,528.71	\$ 1,825.18
4 Yard	3	\$	427.85	\$ 855.71	\$ 1,250.97	\$ 1,650.85	\$ 2,046.11	\$ 2,441.37
6 Yard	3	\$	602.18	\$ 1,204.37	\$ 1,764.62	\$ 2,320.20	\$ 2,880.49	\$ 3,436.03
2 Yard	4	\$	325.64	\$ 651.28	\$ 952.02	\$ 1,258.99	\$ 1,559.78	\$ 1,860.52
3 Yard	4	\$	426.36	\$ 852.71	\$ 1,247.88	\$ 1,643.11	\$ 2,038.28	\$ 2,433.57
4 Yard	4	\$	570.47	\$ 1,140.94	\$ 1,667.95	\$ 2,201.13	\$ 2,728.15	\$ 3,255.16
6 Yard	4	\$	802.91	\$ 1,605.82	\$ 2,352.82	\$ 3,093.60	\$ 3,840.66	\$ 4,581.37
2 Yard	5	\$	407.05	\$ 814.10	\$ 1,190.03	\$ 1,573.73	\$ 1,949.73	\$ 2,325.65
3 Yard	5	\$	532.95	\$ 1,065.89	\$ 1,559.85	\$ 2,053.89	\$ 2,547.85	\$ 3,041.96
4 Yard	5	\$	713.09	\$ 1,426.18	\$ 2,084.94	\$ 2,751.42	\$ 3,410.18	\$ 4,068.95
6 Yard	5	\$	1,003.64	\$ 2,007.28	\$ 2,941.03	\$ 3,867.00	\$ 4,800.82	\$ 5,726.72
2 Yard	6	\$	488.46	\$ 976.92	\$ 1,428.03	\$ 1,888.48	\$ 2,339.68	\$ 2,790.79
3 Yard	6	\$	639.54	\$ 1,279.07	\$ 1,871.83	\$ 2,464.67	\$ 3,057.42	\$ 3,650.36
4 Yard	6	\$	855.71	\$ 1,711.41	\$ 2,501.93	\$ 3,301.70	\$ 4,092.22	\$ 4,882.74
6 Yard	6	\$	1,204.37	\$ 2,408.73	\$ 3,529.23	\$ 4,640.39	\$ 5,760.99	\$ 6,872.06

**City of Banning  
Rate Components  
As of July 1, 2011**

**COMMERCIAL RECYCLING SERVICE**

<b>SIZE</b>	<b>QTY</b>	<b>Pick-ups per week</b>		<b>ONE</b>	<b>TWO</b>
		<b>76.02</b>	<b>\$ 152.04</b>		
2.0 Cubic Yard	One	\$ 76.02		\$ 152.04	
3.0 Cubic Yard	One	\$ 97.31		\$ 194.62	
4.0 Cubic Yard	One	\$ 129.26		\$ 258.51	
6.0 Cubic Yard	One	\$ 167.27		\$ 334.53	

**ROLLOFF SERVICES**

40 Cubic Yard Container	\$ 195.72	+ landfill fees
10 Cubic Yard Container	\$ 195.72	+ landfill fees
Monthly Minimum Pull	\$ 195.72	
40 Cubic Yard Compactor	\$ 252.66	+landfill
40 Cubic Yard Temporary Container	\$ 356.53	includes 4 tons
Relocation/Trip/Delivery Fee	\$ 71.44	

**OTHER SERVICES**

Bin exchange	\$ 47.37
Lost or Stolen Bin:	\$ 287.43
Burned Bin:	\$ 160.96
Extra bin dump while on site	\$ 56.42
Overage Fee	\$ 43.88
Locking Lids: (per month times service frequency)	\$ 13.80
Replacement Lock	\$ 28.74
Replacement Key	\$ 5.75
Residential Set Up Fee	\$ 9.96
Commercial Set Up Fee	\$ 16.61
Industrial Set Up Fee	\$ 16.61
Additional Bulky Waste - E Waste	\$ 17.33 per item
HOC fee	\$ 26.32

**City of Banning**  
**Rate Components**  
**As of July 1, 2011**

**COMPACTOR SERVICE RATES**  
**(COMPACTION RATIO = 3:1)**

SIZE	QTY	ONE	TWO	THREE	FOUR	FIVE	SIX
2 Yard	One	\$ 112.92	\$ 225.84	\$ 332.54	\$ 440.79	\$ 547.50	\$ 654.19
3 Yard	One	\$ 153.85	\$ 307.71	\$ 453.77	\$ 599.84	\$ 745.89	\$ 891.98
4 Yard	One	\$ 205.64	\$ 411.28	\$ 606.05	\$ 802.36	\$ 997.14	\$ 1,191.91
6 Yard	One	\$ 295.26	\$ 590.51	\$ 871.79	\$ 1,151.52	\$ 1,432.81	\$ 1,712.52
2 Yard	Two	\$ 225.84	\$ 451.68	\$ 665.07	\$ 881.57	\$ 1,094.99	\$ 1,308.38
3 Yard	Two	\$ 307.71	\$ 615.42	\$ 907.53	\$ 1,199.68	\$ 1,491.79	\$ 1,783.96
4 Yard	Two	\$ 411.28	\$ 822.55	\$ 1,212.10	\$ 1,604.73	\$ 1,994.27	\$ 2,383.82
6 Yard	Two	\$ 590.51	\$ 1,181.03	\$ 1,743.59	\$ 2,303.04	\$ 2,865.63	\$ 3,425.04
2 Yard	Three	\$ 338.76	\$ 677.52	\$ 997.61	\$ 1,322.36	\$ 1,642.49	\$ 1,962.57
3 Yard	Three	\$ 461.56	\$ 923.13	\$ 1,361.30	\$ 1,799.51	\$ 2,237.68	\$ 2,675.95
4 Yard	Three	\$ 616.91	\$ 1,233.83	\$ 1,818.14	\$ 2,407.09	\$ 2,991.41	\$ 3,575.73
6 Yard	Three	\$ 885.77	\$ 1,771.54	\$ 2,615.38	\$ 3,454.55	\$ 4,298.44	\$ 5,137.57
2 Yard	Four	\$ 451.68	\$ 903.36	\$ 1,330.14	\$ 1,763.14	\$ 2,189.98	\$ 2,616.76
3 Yard	Four	\$ 615.42	\$ 1,230.83	\$ 1,815.06	\$ 2,399.35	\$ 2,983.58	\$ 3,567.93
4 Yard	Four	\$ 822.55	\$ 1,645.10	\$ 2,424.19	\$ 3,209.45	\$ 3,988.54	\$ 4,767.64
6 Yard	Four	\$ 1,181.03	\$ 2,362.06	\$ 3,487.18	\$ 4,606.07	\$ 5,731.25	\$ 6,850.09
2 Yard	Five	\$ 564.60	\$ 1,129.20	\$ 1,662.68	\$ 2,203.93	\$ 2,737.48	\$ 3,270.95
3 Yard	Five	\$ 769.27	\$ 1,538.54	\$ 2,268.83	\$ 2,999.19	\$ 3,729.47	\$ 4,459.91
4 Yard	Five	\$ 1,028.19	\$ 2,056.38	\$ 3,030.24	\$ 4,011.81	\$ 4,985.68	\$ 5,959.54
6 Yard	Five	\$ 1,476.29	\$ 2,952.57	\$ 4,358.97	\$ 5,757.59	\$ 7,164.07	\$ 8,562.61
2 Yard	Six	\$ 677.52	\$ 1,355.04	\$ 1,995.21	\$ 2,644.72	\$ 3,284.98	\$ 3,925.14
3 Yard	Six	\$ 923.13	\$ 1,846.25	\$ 2,722.59	\$ 3,599.03	\$ 4,475.37	\$ 5,351.89
4 Yard	Six	\$ 1,233.83	\$ 2,467.65	\$ 3,636.29	\$ 4,814.18	\$ 5,982.81	\$ 7,151.45
6 Yard	Six	\$ 1,771.54	\$ 3,543.09	\$ 5,230.77	\$ 6,909.11	\$ 8,596.88	\$ 10,275.13

**COUNCIL AGENDA/REDEVELOPMENT AGENCY/UTILITY AUTHORITY  
SPECIAL JOINT MEETING  
REPORT OF OFFICERS**

**DATE:** **June 28, 2011**

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

**FROM:** **June Overholt, Administrative Services Director/Deputy City Manager**

**SUBJECT:** **Adoption of Resolutions Related to the second year of the Two Year Budget Plan for Fiscal Year 2011-2012 for the City, Redevelopment Agency and Utility Authority**

**RECOMMENDATION:**

1. That the City Council adopt Resolution No. 2011-54 approving the City's Budget for Fiscal Year 2011-12
2. That the Banning Utility Authority Board adopt Resolution No. 2011-10UA approving the Utility Authority's Budget for Fiscal Year 2011-12.
3. That the Redevelopment Agency Board adopt Resolution No. 2011-24 approving the Redevelopment Agency's Budget for Fiscal Year 2011-12.
4. That the City Council adopt Resolution No. 2011-55 approving the Fiscal Year 2011-12 Gann Limit Calculation
5. That the City Council adopt Resolution No. 2011-59 amending the classification and compensation plan.

**DISCUSSION:** At the end of each fiscal year the City Council, Utility Authority Board and Redevelopment Agency Board adopt a budget to provide a variety of services to citizens, to complete planned projects and to pay the required debt service payments for the coming year. The budgets and the related policy statements serve as a control and monitoring tool. This budget is being presented as the second year of the two year budget. The next budget cycle will begin a new two year budget cycle.

The update of the budget process included department input, meetings with department heads and the City Manager, and additional reviews by Finance to identify areas of concern, budget savings or changes in estimates. The total appropriations for all funds for Fiscal Year 2011/12 (FY12) are \$85,015,786.

The budget information consists of 7 categories of funds as follows:

- Governmental (General Fund) & Special Revenue Funds
- Capital Improvement Funds
- Banning Utility Authority

- Enterprise Funds
- Internal Service Funds
- Community Redevelopment Agency Funds

A budget message has been included in the budget document which describes major changes in the budget, observations and areas of concern for future budgets. Staff is continuing to explore options for addressing operating funds with structural deficits. There are three resolutions required to adopt the budget by the Council and board members of the City of Banning, the Banning Utility Authority and the Community Redevelopment Agency.

The budgetary and fiscal policies routinely adopted by the Council and Boards have been included as a part of Resolution No. 2011-57. Most of these policies are considered best practice measures and are common to most organizations concerned with fiscal health. The policy has been updated to include the recently adopted GASB 54 policy.

The proposed budget document is on file with the City Clerk. The document is presented at a fund total level. A line item, detailed version will be completed following adoption for use by management and department personnel in controlling and monitoring expenditure and revenue activity. A copy of the detailed version will be available upon request.

#### **Position Control:**

During the budget presentation last year, staff identified that a separate resolution would be presented to Council adopting the authorized budgeted positions. This was accomplished at the December 14, 2010 meeting, when Council approved the authorized positions for Fiscal Year 2010-11. With the adoption of the FY12 budget, Council is adopting the authorized positions identified in the summary.

Within the budget document there is a personnel summary by fund/division. The summary includes a reconciliation of the position changes being recommended. The primary change is in the police department. The reorganization proposed for the Police Department provides a budget savings of over \$50k in FY12. The intent of the changes is to provide a better organizational structure that facilitates cross training and/or provides a more structured career path for the officers. By separate agenda report, staff will be requesting adding back the 2 positions eliminated during the reorganization. The requests to add back 2 officers will be funded through Tasin and BUSD funding. A resolution has been included to amend the classification and compensation plan to include the classifications, ranges and job descriptions needed for the reorganization.

The personnel summary also reflects changes that do not require amending the classification study. Several salary splits have been changed. Included in the Police department changes is the removal of any CRA funding for the Gang Task Force officer. This function still exists in the City but is no longer funded by CRA. In addition, the Code Enforcement staffing has been removed from the CRA and fully funded in the General Fund. This action is consistent with the CRA 5 year implementation plan.

**Gann Limit Calculation:**

In accordance with Article XIIIIB of the California Constitution, the City is limited as to how much revenue from taxes it may receive. The revenue is actually limited by the appropriations in the base year of FY 1978-79, adjusted by inflation and population growth.

The limit is calculated by taking the prior year's limit and applying growth factors as appropriate. The appropriation limit for FY 2011-12 is calculated to be \$31,909,447. The limit exceeds taxes subject to appropriation by \$24,946,791. Details about the Gann Limit for the City of Banning are included within the budget document.

**FISCAL DATA:** The budgets as currently proposed for the City, Utility Authority and Community Redevelopment Agency contain the estimated revenue and appropriation requests necessary to begin the new fiscal year on July 1, 2011.

**RECOMMENDED BY:**



June Overholt  
Administrative Services Director/  
Deputy City Manager

**APPROVED BY:**



Andy Takata  
City Manager

**RESOLUTION NO. 2011-54**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING ADOPTING THE ANNUAL BUDGET FOR THE FISCAL PERIOD JULY 1, 2011 THROUGH JUNE 30, 2012 AND MAKING APPROPRIATIONS TO MEET EXPENSES APPROVED THEREIN AND APPROVING BUDGETARY POLICIES AND RECOMMENDATIONS**

**WHEREAS**, the Administrative Services Director prepared the 2<sup>nd</sup> year of the two year budget plan for Fiscal Year 2011-12 which set forth all of the expected revenue of the City of Banning, and the recommended appropriations to meet the operating and capital expenses for all City of Banning funds; and

**WHEREAS**, the proposed budget for fiscal year 2011-12 of the City of Banning has been submitted to this Council, and said budget has been considered and, is in form and substance satisfactory to this Council; and

**WHEREAS**, the City departments may not exceed their appropriations by character of expense, with character of expense being defined as personnel services, services and supplies, capital outlay, debt service and interfund transfers, without the consent of the City Manager; and

**WHEREAS**, the City may transfer appropriations, between departments and within their respective funds, as long as those appropriations do not exceed their fund total unless approved by Council; and

**WHEREAS**, the City Departments may not hire in excess of the approved number of positions in job classification as indicated by the budget detail without the consent of the City Council; and

**WHEREAS**, certain capital projects, programs and commitments have been approved for appropriation in fiscal year 2010-11, the Administrative Services Director shall be authorized to carry over appropriation budgets for these items as approved by the City Manager; and

**WHEREAS**, it is essential that the City of Banning adopt a budget plan establishing the revenues and expenditures for all of its governmental, proprietary and fiduciary funds;

**NOW, THEREFORE, BE IT RESOLVED** as follows:

**SECTION 1.** The Annual Budget for the City of Banning for fiscal period July 1<sup>st</sup>, 2011 through June 30<sup>th</sup>, 2012 is hereby approved and adopted in the form on file with the City Clerk.

**SECTION 2.** That specific appropriations for each fund and each operating department are hereby made as set forth in the budget plan which is incorporated herein by this reference, for fiscal year 2011-12 and shall be expended in accordance with all applicable laws.

SECTION 3. The Budgetary and Fiscal Policies as incorporated, are hereby approved and adopted.

**PASSED, APPROVED AND ADOPTED** this 28<sup>th</sup> day of June 2011.

---

Barbara Hannah, Mayor  
City of Banning

**ATTEST:**

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Marie A. Calderon, City Clerk

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

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

**CERTIFICATION**

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2011-54 was duly adopted by the City Council of the City of Banning, California, at a special meeting thereof held on the 28<sup>th</sup> day of June, 2011, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

---

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

**RESOLUTION NO. 2011-10UA**

**A RESOLUTION OF THE BANNING UTILITY AUTHORITY OF THE CITY OF BANNING ADOPTING THE BUDGET PLAN FOR THE FISCAL PERIOD JULY 1, 2011 THROUGH JUNE 30, 2012 AND MAKING APPROPRIATIONS TO MEET EXPENSES APPROVED THEREIN**

**WHEREAS**, the Executive Director prepared the budget plan for fiscal year 2011-12 which set forth all of the expected revenues of the City of Banning Utility Authority (Authority), and the recommended appropriations to meet the operating and capital expenses for all Authority funds; and

**WHEREAS**, the Authority has considered the recommendations and approved or modified them so as to best serve the interest of the citizens of the City of Banning; and

**WHEREAS**, the proposed budget for fiscal year 2011-12 of the City of Banning Utility Authority has been submitted to this Board, and said budget has been considered and, is in form and substance satisfactory to this Board; and

**WHEREAS**, the Authority departments may not exceed their appropriations by character of expense, with character of expense being defined as personnel services, services and supplies, capital outlay, debt service and interfund transfers, without the consent of the Executive Director; and

**WHEREAS**, the Authority may transfer appropriations, between departments and within their respective funds, as long as those appropriations do not exceed their fund total unless approved by this Board; and

**WHEREAS**, the Authority departments may not hire in excess of the approved number of positions in job classification as indicated by the budget detail without the consent of this Board; and

**WHEREAS**, certain capital projects, programs and commitments have been approved for appropriation in fiscal year 2010-11, the Administrative Services Director shall be authorized to carry over appropriation budgets for these items as approved by the Executive Director; and

**WHEREAS**, it is essential that the City's Utility Authority adopt a budget plan establishing the revenues and expenditures for all of its funds;

**NOW, THEREFORE, BE IT RESOLVED BY THE BANNING UTILITY AUTHORITY BOARD:**

**SECTION 1.** The Annual Budget for the City of Banning for fiscal period July 1<sup>st</sup>, 2011 through June 30<sup>th</sup>, 2012 is hereby approved and adopted in the form on file with the City Clerk.

SECTION 2. That specific appropriations for each fund and each operating department are hereby made as set forth in the budget plan which is incorporated herein by this reference, for fiscal year 2011-12 and shall be expended in accordance with all applicable laws.

SECTION 3. The Budgetary and Fiscal Policies as incorporated, are hereby approved and adopted.

**PASSED, APPROVED AND ADOPTED** this 28th day of June, 2011.

---

Barbara Hanna, Chairman  
Banning Utility Authority

**ATTEST:**

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Marie A. Calderon, Secretary  
Banning Utility Authority

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

---

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

**CERTIFICATION:**

I, Marie A. Calderon, Secretary to the Utility Authority of the City of Banning, California, do hereby certify that the foregoing Resolution 2011-10UA was adopted by the Banning Utility Authority of the City of Banning, at a special meeting thereof held on the 28th day of June 2011, by the following vote, to wit:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

---

Marie A. Calderon, Secretary  
Banning Utility Authority  
City of Banning, California

**CRA RESOLUTION NO. 2011-24**

**A RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING ADOPTING THE BUDGET PLAN FOR THE FISCAL PERIOD JULY 1, 2011 THROUGH JUNE 30, 2012 AND MAKING APPROPRIATIONS TO MEET EXPENSES APPROVED THEREIN**

**WHEREAS**, the Executive Director prepared the 2<sup>nd</sup> year of the two year budget plan for the Fiscal Years 2011-12 which set forth all of the expected revenues of the City of Banning Community Redevelopment Agency (Agency), and the recommended appropriations to meet the operating and capital expenses for all Agency funds; and

**WHEREAS**, the proposed budget for fiscal year 2011-12 of the Community Redevelopment Agency has been submitted to this Board, and said budget has been considered and, is in form and substance satisfactory to this Board; and

**WHEREAS**, the Agency departments may not exceed their appropriations by character of expense, with character of expense being defined as personnel services, services and supplies, capital outlay, debt service and interfund transfers, without the consent of the City Manager; and

**WHEREAS**, the Agency may transfer appropriations, between departments and within their respective funds, as long as those appropriations do not exceed their fund total unless approved by this Board; and

**WHEREAS**, the Agency departments may not hire in excess of the approved number of positions in job classification as indicated by the budget detail without the consent of this Board; and

**WHEREAS**, certain capital projects, programs and commitments have been approved for appropriation in fiscal year 2010-11, the Administrative Services Director shall be authorized to carry over appropriation budgets for these items as approved by the Executive Director; and

**WHEREAS**, per Health and Safety Code section 33334.3 (d), the Agency determines annually that the planning and administrative expenses are necessary for the production, improvement, or preservation of low- and moderate-income housing; and

**WHEREAS**, it is essential that the Agency adopt a budget plan establishing the revenues and expenditures for all of its funds;

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMUNITY REDEVELOPMENT AGENCY BOARD:**

**SECTION 1.** The Annual Budget for the City of Banning for fiscal period July 1<sup>st</sup>, 2011 through June 30<sup>th</sup>, 2012 is hereby approved and adopted in the form on file with the City Clerk.

**SECTION 2.** That specific appropriations for each fund and each operating department are hereby made as set forth in the budget plan which is incorporated herein by this reference, for fiscal year 2011-12 and shall be expended in accordance with all applicable laws.

**SECTION 3.** The Budgetary and Fiscal Policies as incorporated, are hereby approved and adopted.

**PASSED, APPROVED AND ADOPTED** this 28<sup>th</sup> day of June, 2011.

---

Don Robinson, Chairman  
Community Redevelopment Agency

**ATTEST:**

---

Marie A. Calderon, Secretary  
Community Redevelopment Agency

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

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

**CERTIFICATION**

I, Marie A. Calderon, Secretary to the Community Redevelopment Agency of the City of Banning, California, do hereby certify that the foregoing CRA Resolution 2011-24 was adopted by the CRA of the City of Banning, at a special meeting thereof held on the 28<sup>th</sup> day of June 2011, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Marie A. Calderon, Secretary  
Community Redevelopment Agency

**RESOLUTION NO. 2011-55**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING,  
CALIFORNIA ESTABLISHING AN APPROPRIATIONS LIMIT FOR THE FISCAL  
YEAR 2010-11, PURSUANT TO ARTICLE XIIIIB OF THE CALIFORNIA  
CONSTITUTION**

**WHEREAS**, Article XIIIIB of the California Constitution provides that the total annual appropriations subject to limitation of each governmental entity, including this City, shall not exceed the appropriation limit of such entity of government for the prior year adjusted for changes in the cost of living or personal income and population, except as otherwise provided for in said Article XIIIIB and implementing State statutes; and

**WHEREAS**, pursuant to said Article XIIIIB of said California Constitution, and Section 7900 et seq. of the California Government Code, the City is required to set its appropriation limit for each fiscal year; and

**WHEREAS**, the Finance Department of the City of Banning has interpreted the technical provisions of said Article XIIIIB and Section 7900 et seq., performed computations and a technical review of the documentation for the City's said appropriation limitation, and has caused the numbers upon which the City's appropriation limit was and is based; and

**WHEREAS**, based on such calculations the Finance Department has determined the said appropriation limit and, pursuant to Section 7910 of said California Government Code, has made available to the public the documentation used in the determination of said appropriation limit;

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF BANNING**, that said appropriation limit for Fiscal Year 2011-12 is set in the amount of \$31,909,447 for said fiscal year as incorporated in the budget document.

**PASSED, APPROVED AND ADOPTED** this 28<sup>th</sup> day of June, 2011.

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Barbara Hanna, Mayor  
City of Banning

**ATTEST:**

---

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

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

---

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

**CERTIFICATION**

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2011-55 was duly adopted by the City Council of the City of Banning at a special meeting thereof held on the 28<sup>th</sup> day of June, 2011, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

---

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

**RESOLUTION 2011-59**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING  
AMENDING THE CLASSIFICATION & COMPENSATION PLAN FOR THE  
CITY OF BANNING**

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

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

**SECTION 1:** That the City Council adopts the following classifications and salary ranges as set forth on the attached classification and compensation plan – Schedule "A" (Exhibit "A"):

Police Corporal - Salary Range 68  
Police Assistant II - Salary Range 46  
Police Assistant I - Salary Range 42

**SECTION 2:** That the City Council approve the job description for Police Corporal (Job Code 2040), Police Assistant II (Job Code 2151) and Police Assistant I (Job Code 2152) as Exhibit "B".

**PASSED, APPROVED, AND ADOPTED** this 28th day of June, 2011.

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Barbara Hanna, Mayor  
City of Banning, California

**ATTEST:**

---

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

APPROVED AS TO FORM  
AND LEGAL CONTENT:

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

**CERTIFICATION:**

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2011-59 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 28th day of June, 2011, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

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

# EXHIBIT “A”

**CITY OF BANNING**  
**CLASSIFICATION & COMPENSATION PLAN**  
**REVISED JUNE 28, 2011**  
**RESOLUTION NO. 2011- 59 (AMENDING RESOLUTION NO. 2011-38)**

**MATRIX BY CLASS SERIES/JOB CODE**

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

Schedule "A"

2000 – POLICE SERIES	
Police Group	2010      Police Chief
	2025      Police Lieutenant
2030A      Police Staff/Master Sergeant	75      POA
2040      Police Corporal	68      POA
2050      Police Officer	64      POA
2060      Police Recruit/Trainee	N/A      At-Will
Police Support Group	2143      Lead Public Safety Dispatcher
	2110      Public Safety Dispatcher
2151      Police Assistant II	46      IBEW-G
2152      Police Assistant I	42      IBEW-G

3000-COMMUNITY DEVELOPMENT SERIES

Community Development Group	3010      Community Development Director	88      Contract
	3026      Development Project Coordinator	56      IBEW-G
3015      Assistant Planner		59      CBAM
Economic/Redevelopment Group	3110      Economic Development/Redevelopment Director	88      Contract
Development Services Group	3210      Development Services Manager (Building Official)	80      CBAM
3215      Senior Building Inspector		65      IBEW-G
3230      Code Compliance Officer		56      IBEW-G
3240      Building Permit Specialist		53      IBEW-G

3300-COMMUNITY SERVICES GROUP

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

4000-PUBLIC WORKS SERIES

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

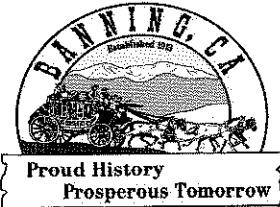
**Schedule "A"**

<b>Engineering Group</b>	4300	City Engineer	<b>81</b>	CBAM
	4350	Senior Civil Engineer	<b>78</b>	CBAM
	4320	Associate Civil Engineer	<b>72</b>	CBAM
	4325	Assistant Civil Engineer	<b>64</b>	CBAM
	4330	Public Works Inspector	<b>60</b>	IBEW-G
	4340	Engineering Services Assistant	<b>46</b>	IBEW-G
<b>General Maintenance and Support Group</b>	<b>4420</b>	<b>Fleet Maintenance Mechanic</b>	<b>51</b>	IBEW-G
	4430	Building Maintenance Specialist	<b>47</b>	IBEW-G
	4450	Warehouse Services Specialist	<b>50</b>	IBEW-G
<b>Water/Wastewater Group</b>	<b>4115</b>	<b>Water/Wastewater Superintendent</b>	<b>77</b>	CBAM
	4130	Water Crew Supervisor	<b>58</b>	IBEW-U
	4140	Water Services Worker	<b>50</b>	IBEW-U
	4155	Wastewater Collection System Supervisor	<b>58</b>	IBEW-U
	4145	Wastewater Collection System Technician	<b>50</b>	IBEW-U
	4132	Water Valve Flushing Crew Lead	<b>54</b>	IBEW-U
	4133	Water Construction Crew Lead	<b>54</b>	IBEW-U
	4131	Water Meter Crew Lead	<b>54</b>	IBEW-U

**5000 ELECTRIC UTILITIES SERIES**

<b>Electric Services &amp; Operations Group</b>	<b>5001</b>	<b>Electric Utility Director</b>	<b>96</b>	Contract
	<b>5021</b>	<b>Power Contracts &amp; Revenue Administrator</b>	<b>81</b>	CBAM
	5025	Associate Electrical Engineer	<b>72</b>	CBAM
	5028	Utility Financial Analyst	<b>72</b>	CBAM
	5030	Electric Service Planner	<b>75</b>	IBEW-U
	5050	Public Benefits Coordinator	<b>53</b>	IBEW-U
	5055	Utility Services Assistant	<b>46</b>	IBEW-U
	5110	Electric Operations & Maintenance Manager	<b>81</b>	CBAM
	5120	Powerline Crew Supervisor	<b>77</b>	IBEW-U
	5130	Powerline Technician	<b>73</b>	IBEW-U
	5140	Powerline Apprentice	<b>65 / 71</b>	IBEW-U
	1340	Lead Field Service Representative	<b>53</b>	IBEW-U
	1325	Field Service Representative	<b>49</b>	IBEW-U
	5160	Electric Meter Test Technician	<b>73</b>	IBEW-U
	5170	Apprentice Electric Meter Test Technician	<b>65 / 71</b>	IBEW-U

# EXHIBIT “B”



# CITY OF BANNING, CALIFORNIA

## Police Assistant II

Job Code: 2151

FLSA

Exempt

Non-Exempt

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**JOB DEFINITION:** Under general supervision, perform a variety of support services for the Banning Police Department, including maintenance tasks, supply duties, perform duties associated with maintaining police records, perform duties associated with maintaining property, and to do other work as required.

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

**REPRESENTATIVE DUTIES:** Depending on the area of the assignment, duties may include, but are not limited to the following:

Perform all duties, responsibilities and necessary functions of the Custodian of Records for the Banning Police Department. Supervises and purges reports according to mandates by the State of California.

Train new personnel in the essential duties and responsibilities associated with the proper maintenance, storage, and handling of police department records and evidence.

Take phone calls concerning civil and criminal issues, furnish information to the public and authorized law enforcement personnel over the telephone or at a counter in accordance with established departmental policy; write documenting reports; perform front counter duties as needed.

Perform preliminary background checks/investigations for permits and licenses; fingerprint the public; fingerprint, photograph, process and register identified members of the public such as drug, sex and arson registrants and suspects as mandated by law.

Process a variety of police reports by reviewing for complete and correct information, resolving errors, or obtaining missing information from officers; gather background information on persons or property such as arrest record, outstanding warrants, stolen or recovered property, etc. for use in further investigations. Maintain, monitor, distribute and verify accurate police reports. Post and maintain police records in a computerized records management system.

Retrieve and report crimes and statistics to the Department of Justice and Federal Bureau of Investigation. Copy and deliver police reports and records to proper court and outside agencies. Release information according to state and Federal laws under the Public Records Act. Process and serve subpoenas from the courts and outside entities.

Receives, prepares, inputs, files and maintains police documents including complaints, citations, declarations, court orders, crime/arrest and traffic reports. Summarize police record data including crimes and booking information. Prepares and files documents for purge, retention, sorting and classification. Reviews archived documents for accuracy and legibility prior to hard copy destruction.

(continued on reverse side)

# CITY OF BANNING, CALIFORNIA

## Police Assistant II

Job Code: 2151

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Provides customer service by responding to counter, telephone and facsimile requests. Balances cash received, completes deposit slip and delivers to City Hall cashiers.

Enter and retrieve online confidential law enforcement information; send messages over law enforcement data systems by computer terminal; process traffic citations and vehicular traffic incident reports; sort citations to appropriate courts; review citations for correct reporting code, vehicle code section, court date and time; obtain driver's license and driving record history from Department of Motor Vehicles.

Transport vehicles, case files, laboratory specimens, supplies and equipment; transport evidence as required to various locations including the District Attorney's Office, Department of Justice and forensic service providers.

Document and enter evidence information into law enforcement databases. Generate reports of movement and handling of department evidence. Operate and maintain evidence storage rooms containing highly confidential records, evidence, firearms, narcotics, cash and property. Receives, preserves, classifies, logs, and maintains items used in criminal cases or investigations. Submits and processes evidence for testing. Distribute and maintain final lab or forensic reports from crime labs. Dispose of property and evidence accordance with Federal, state, and local laws, Department policy, and court mandates.

Maintain inventory for facilities, vehicles, and equipment; order, pick up and stock assigned forms, supplies and other necessary items such as keys, license tags and plates; arranges vehicle maintenance; maintain records on vehicles, registration, repairs, and related requirements; ensure vehicles have necessary supplies and equipment.

### **KNOWLEDGE AND SKILLS:**

- Knowledge of applicable city, county, state and Federal statutes, rules, regulations, ordinances, codes, administrative orders and other operational guidelines and directives.
- Knowledge of the City's and the Department's policies and procedures.
- Knowledge of file and records management principles and police records and recordkeeping procedures.
- Knowledge of customer service techniques and concepts.
- Knowledge of Federal, state and local laws related to the entry, storage, transfer and disposal of evidence and property.
- Skill in reading, understanding, interpreting and applying relevant city, county, state and Federal statutes, rules, regulations, ordinances, codes, administrative orders, policies and procedures and other operational guidelines and directives.
- Skill in assessing and prioritizing multiple tasks, projects and/or demands.
- Skill in assessing, analyzing, identifying and implementing solutions to complex problems.
- Skill in operating a personal computer utilizing a variety of software applications.

(continued on reverse side)

# CITY OF BANNING, CALIFORNIA

## Police Assistant II

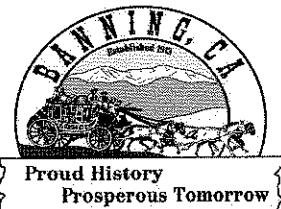
Job Code: 2151

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- Skill in working within deadlines to complete projects and assignments.
- Skill in assessing, analyzing, identifying and implementing crime scene and criminal evidence.
- Skill in establishing and maintaining effective working relations with co-workers, staff, vendors, contractors, visitors, the general public and others having business with the City of Banning.

**MINIMUM QUALIFICATIONS:** A high school diploma or GED and two (2) years of customer service, administrative support, or records maintenance experience; including supervisory experience.

**ADDITIONAL REQUIREMENTS:** Must have at the time of application or earn within one year of employment, a Peace Officer's Standards and Training (POST) Records Certificate, Public Records Act Certificate, and Records Management Certificate and must maintain them while employed in the position. Must have and maintain a valid California Class C Driver's License. Must be willing to work varying hours, rotating shifts and be willing to work weekends and holiday shifts. Must be able to pass a comprehensive background investigation. May be exposed to potential physical harm, infectious diseases, hazardous chemicals and/or dangerous machinery.



# CITY OF BANNING, CALIFORNIA

## Police Assistant I

Job Code: 2152

FLSA

[ ] Exempt

[ X ] Non-Exempt

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**JOB DEFINITION:** Under general supervision, perform a variety of support services for the Banning Police Department, including maintenance tasks, supply duties, perform duties associated with maintaining police records, perform duties associated with maintaining property, and to do other work as required.

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(continued on reverse side)

# CITY OF BANNING, CALIFORNIA

## Police Assistant I

Job Code: 2152

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- Knowledge of customer service techniques and concepts.
- Knowledge of Federal, state and local laws related to the entry, storage, transfer and disposal of evidence and property.
- Skill in reading, understanding, interpreting and applying relevant city, county, state and Federal statutes, rules, regulations, ordinances, codes, administrative orders, policies and procedures and other operational guidelines and directives.
- Skill in assessing and prioritizing multiple tasks, projects and/or demands.
- Skill in assessing, analyzing, identifying and implementing solutions to complex problems.
- Skill in operating a personal computer utilizing a variety of software applications.
- Skill in working within deadlines to complete projects and assignments.
- Skill in assessing, analyzing, identifying and implementing crime scene and criminal evidence.
- Skill in establishing and maintaining effective working relations with co-workers, staff, vendors, contractors, visitors, the general public and others having business with the City of Banning.

(continued on reverse side)

# CITY OF BANNING, CALIFORNIA

## Police Assistant I

Job Code: 2152

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**MINIMUM QUALIFICATIONS:** A high school diploma or GED and two (2) years of customer service, administrative support, or records maintenance experience.

**ADDITIONAL REQUIREMENTS:** Must have at the time of application or earn within one year of employment, a Peace Officer's Standards and Training (POST) Records Certificate, Public Records Act Certificate, and Records Management Certificate and must maintain them while employed in the position. Must have and maintain a valid California Class C Driver's License. Must be willing to work varying hours, rotating shifts and be willing to work weekends and holiday shifts. Must be able to pass a comprehensive background investigation. May be exposed to potential physical harm, infectious diseases, hazardous chemicals and/or dangerous machinery.

**CITY COUNCIL / BANNING UTILITY AUTHORITY JOINT MEETING  
PUBLIC HEARING**

**DATE:** **June 28, 2011**

**TO:** **Banning Utility Authority**

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

**SUBJECT:** **Utility Authority Resolution No. 2011-09 UA, "Adopting the 2010 Urban Water Management Plan and Approving the Submittal to the California Department of Water Resources"**

**RECOMMENDATION:** Adopt Utility Authority Resolution No. 2011-09 UA, "Adopting the 2010 Urban Water Management Plan and Approving the Submittal to the California Department of Water Resources."

**JUSTIFICATION:** In order to remain in compliance with the Urban Water Management Planning Act (UWMPA) of 1983 and the subsequent amendments to the Act, the City of Banning is required to prepare, adopt and submit to the California Department of Water Resources an Urban Water Management Plan (UWMP).

**BACKGROUND:** According to the UWMPA, an urban water supplier is defined as a supplier, publicly or privately owned, that either provides over 3,000 acre-feet of water annually for municipal purposes or serves more than 3,000 customers. The urban water supplier is required to assess the reliability of its water sources over a 20 year planning horizon considering normal and dry years and include said assessment in the UWMP. The City is the Urban Water Supplier for the water service area of the City of Banning. The City of Banning has, in the past, complied with California state law as set forth in the UWMPA by submitting an UWMP in 1998 and an updated UWMP in 2005. On December 8, 2009 City Council adopted Resolution No. 2009-106, "Awarding a Professional Services Agreement for the (2010) Urban Water Management Plan Update for the City's Water Utility to GEOSCIENCE Support Services, Inc."

The Scope of Work for the 2010 UWMP Update included the following as required by California Water Code Sections 10610 through 10657:

- a) Conservation and efficient use of urban water supplies.
- b) A long-term, reliable supply of water to the area.
- c) Ensure the appropriate level of reliability water service to meet the needs of the City's various categories of customers during normal, dry, and multiple dry water years.
- d) Public health issues as related to contaminants identified in certain local and imported water supplies.
- e) Implementing effective water management strategies, including groundwater storage projects and recycled projects meeting water quality and salinity targets for groundwater basins water quality objectives and promoting beneficial use of recycled water.
- f) Water quality regulations relating to the water agency selection of raw water sources, treatment alternatives, and modification to existing treatment.

- g) Changes in drinking water quality standards, which may impact the usefulness of water supplies and may ultimately impact supply reliability.
- h) Review the quality of source supplies, which can have a significant impact on water management strategies and supply reliability.

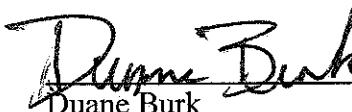
On May 16, 2011 staff circulated for comments an administrative draft to local agencies and water suppliers such as the Cabazon Water District, Morongo Band of Mission Indians, Beaumont Cherry Valley Water District, San Gorgonio Pass Water Agency, Beaumont Basin Watermaster, City of Beaumont, Banning Heights Mutual Water Compnay, High Valley Water District, Yucaipa Valley Water District, Riverside County Planning Department and the South Mesa Water Company. The draft was also made available to the public by providing a copy at the Engineering counter as well as the City of Banning website. The draft has been amended per the comments received and will be included within the Final UWMP submitted to the California Department of Water Resources.

In advance of the public hearing held this day, the notice of public hearing for the adoption of the 2010 Urban Water Management Plan was advertised in the Press Enterprise on April 28, 2011 and May 5, 2011 as shown in Exhibit "A".

**STRATEGIC PLANNING:** City Council adoption of Utility Authority Resolution No. 2011-09UA, "Adopting the 2010 Urban Water Management Plan and Approving the Submittal to the California Department of Water Resources" will allow the City to meet its goal of providing a reliable delivery of water supply to the present and future customers of the Banning Water Utility as well as the ability of obtaining future grant funding from the State.

**FISCAL DATA:** N/A

**RECOMMENDED BY:**

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

**REVIEWED BY:**

  
\_\_\_\_\_  
June Overholt  
Administrative Services Director/  
Deputy City Manager

**APPROVED BY:**

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

**RESOLUTION NO. 2011-09 UA**

**A RESOLUTION OF THE BANNING UTILITY AUTHORITY OF THE CITY OF BANNING, CALIFORNIA, ADOPTING THE 2010 URBAN WATER MANAGEMENT PLAN AND APPROVING THE SUBMITTAL TO THE CALIFORNIA DEPARTMENT OF WATER RESOURCES**

**WHEREAS**, according to the Urban Water Management Planning Act, an urban water supplier is defined as a supplier, publicly or privately owned, that either provides over 3,000 acre-feet of water annually for municipal purposes or serves more than 3,000 customers; and

**WHEREAS**, urban water suppliers are required to assess the reliability of its water sources over a 20 year planning horizon considering normal and dry years and include said assessment in a Urban Water Management Plan; and

**WHEREAS**, the Urban Water Management Plan must be adopted, after public review and hearing, and filed with the California Department of Water Resources; and

**WHEREAS**, the City of Banning is a urban water supplier; and

**WHEREAS**, the City of Banning has prepared an Urban Water Management Plan in compliance with California Water Code Section 10610 through 10657 and circulated for public review; and

**WHEREAS**, on June 28, 2011 the City Council/Banning Utility Authority held a noticed public hearing at which time interested persons had the opportunity to testify in support of, or opposition to the adoption of the 2010 Urban Water Management Plan.

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

**SECTION 1.** The 2010 Urban Water Management Plan is hereby adopted and ordered filed with the City Clerk.

**SECTION 2.** The Public Works Director is hereby authorized and directed to file the 2010 Urban Water Management Plan with the California Department of Water Resources within 30 days of this Resolution.

**PASSED, ADOPTED AND APPROVED** this 28th day June, 2011.

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Barbara Hanna, Chairman  
Banning Utility Authority

**ATTEST:**

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Marie A. Calderon, Secretary

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

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

**CERTIFICATION:**

I, Marie A. Calderon, Secretary of the Banning Utility Authority of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2011-09 UA was adopted by the Utility Authority of the City of Banning at a Regular Meeting thereof held on the 28th day of June, 2011.

AYES:

NOES:

ABSENT:

ABSTAIN:

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Marie A. Calderon, Secretary  
Banning Utility Authority  
City of Banning, California

**EXHIBIT “A”**

**PRESS ENTERPRISE  
APRIL 28, 2011 & MAY 5, 2011**

THE PRESS-ENTERPRISE

THURSDAY, APRIL 28, 2011

## PUBLIC NOTICES

**NOTICE OF  
PUBLIC HEARING**

PURSUANT TO LAW, notice is hereby given of a Public Hearing before the City Council and the Banning Utility Authority of the City of Banning, to be heard June 28, 2011 at 5:00 p.m. of the Banning Civic Center Council Chambers, 99 E. Ramsey St., Banning, California, to consider adopting the City of Banning 2010 Urban Water Management Plan. An informational presentation regarding the Urban Water Management Plan will be provided of the same location on June 14, 2011 at 5:00 p.m.

ALL INTERESTED PARTIES are invited to attend said hearing and present oral or written testimony on the matter or to send written comments to the City Clerk, P.O. Box 998, Banning, CA 92220. The City anticipates the draft 2010 Urban Water Management Plan will be available for public review beginning May 16, 2011 at the office of the City Clerk or of the Engineering Division of the Public Works Department, located at 99 E. Ramsey Street. This document may also be viewed on-line at [www.ci.banning.ca.us/draft2010uwmpl](http://www.ci.banning.ca.us/draft2010uwmpl).

Note: If you challenge this matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City Clerk prior to the public hearing.

Questions regarding this matter should be directed to City of Banning Public Works Department at (951) 922-3130.

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

Date: April 26, 2011

Publish: Press Enterprise

April 28, 2011  
May 5, 2011

S/ Marie A. Calderon  
City Clerk 4/28, 5/5

209

THE PRESS-ENTERPRISE

THURSDAY, MAY 5, 2011

## PUBLIC NOTICES

**NOTICE OF**

**PUBLIC HEARING**  
PURSUANT TO LAW, notice is hereby given of a Public Hearing before the City Council and the Bonning Utility Authority of the City of Bonning, to be heard June 28, 2011 at 5:00 p.m. in the Bonning Civic Center Council Chambers, 99 E. Ramsey St., Bonning, California, to consider adopting the City of Bonning 2010 Urban Water Management Plan. An informational presentation regarding the Urban Water Management Plan will be provided at the same location on June 14, 2011 at 5:00 p.m.

ALL INTERESTED PARTIES are invited to attend said hearing and present oral or written testimony on the matter or to send written comments to the City Clerk, P.O. Box 998, Bonning, CA 92220. The City anticipates the draft 2010 Urban Water Management Plan will be available for public review beginning May 16, 2011 at the office of the City Clerk or at the Engineering Division of the Public Works Department, located at 99 E. Ramsey Street. This document may also be viewed online at [www.ci.bonning.ca.us/draft2010UWMP](http://www.ci.bonning.ca.us/draft2010UWMP).

Note: If you challenge this matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Bonning at or prior to the public hearing. Questions regarding this matter should be directed to City of Bonning, Public Works Department, at (951) 922-3130.

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

Date: April 26, 2011

Publish: Press Enterprise

April 26, 2011

May 5, 2011

S/ Marie A. Calderon  
City Clerk

4/26 5/5

210