

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

May 8, 2012  
**5:00 p.m.**

Banning Civic Center  
Council Chambers

*The following information comprises the agenda for a regular meeting of the City Council and the City Council Sitting in Its Capacity of a Successor Agency.*

*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 Richard Szydlouski, Mountain Avenue Baptist Church
- Pledge of Allegiance
- Roll Call – Council Members Botts, Franklin, Hanna, Machisic, Mayor Robinson

**II. REPORT ON CLOSED SESSION**

**III. PUBLIC COMMENTS/CORRESPONSENCE/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 the category may be received and filed or referred to staff for future research or a future agenda.

**PRESENTATIONS:**

1. Mt. San Jacinto College Update – President Dr. Roger Schultz (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 a member of the City Council wishes to remove an item for separate consideration.)*

**Motion: That the City Council approve Consent Item 1 through 16**

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

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

1.	Approval of Minutes – Special Meeting – 04/24/12 (Closed Session) .....	1
2.	Approval of Minutes – Regular Meeting – 04/24/12 .....	2
3.	Ordinance No. 1448 – 2 <sup>nd</sup> Reading: An Ordinance of the City Council of the City of Banning, California, Approving Zoning Text Amendment No. 12-97501 Amending Various Sections of the Zoning Ordinance (Title 17 of the Banning Municipal Code) to Facilitate Business Development. ....	16
4.	Ordinance No. 1449 – 2 <sup>nd</sup> Reading: An Ordinance of the City of Banning, California, Re-Establishing and Declaring Prima Facie Speed Limits Within Specified Speed Zones Throughout the City of Banning to Include Speed Zones 28, 37, 38 & 46 .....	23
5.	Resolution No. 2012-32, Awarding the Bid for the Professional Tree Trimming Service Contract .....	27
6.	Resolution No. 2012-35, Declaring the Intention to Levy and Collect Assessments, Approving the Engineer’s Report and Setting the Date for the Public Hearing for Landscape Maintenance District No. 1 .....	31
7.	Resolution No. 2012-38, Authorizing the Purchase of Camera Surveillance System from Leverage Information Systems in the Amount of \$217,442 .....	40
8.	Resolution No. 2012-40, Awarding the Custodial Services Contract to Custom Service Systems for the City of Banning’s Civic Center and Municipal Facilities. ....	44
9.	Notice of Completion for Project No. 2011-06, Rubberized Asphalt Concrete (RCA) Overlay and Street Improvements along Wilson Street, from Stargaze Way to Mountain Avenue .....	48
10.	Amend the Existing Contract with J.B. Paving & Engineering .....	53
11.	Report of Investments for February 2012. ....	58
12.	Report of Investments for March .....	68
13.	Approval of Accounts Payable and Payroll Warrants for Month of January 2012. ....	78
14.	Approval of Accounts Payable and Payroll Warrants for Month of February 2012 .....	81
15.	Approval of Accounts Payable and Payroll Warrants for Month of March 2012 .....	84
16.	Resolution No. 2012-41, Affirming That All Sale Proceeds To Be Received From the City Pursuant to That Purchase and Sale Agreement Approved by the City on January 10, 2012, Via Resolution No. 2012-03, Will Be Assigned to the Successor Agency for Benefit of the Applicable Taxing Entities Under AB1x26. ....	87

- Open for Public Comments
- Make Motion

## **SUCCESSOR AGENCY**

### **V. CONSENT ITEM**

1. Resolution No. 2012-07 SA, Affirming That All Sale Proceeds to Be Received Pursuant to That Purchase and Sale Agreement Approved by the City on January 10, 2012, Via Resolution No. 2012-03, Will Be Held by the Successor Agency for the Ultimate Benefit of the Applicable Taxing Entities Under AB1x26 . . . . .	92
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### **VI. REPORTS OF OFFICERS**

1. Resolution No. 2012-37, Awarding the Bid for the Photovoltaic System at the Police Department Facilities . . . . .	97
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**Recommendation: That the City Council adopt Resolution No. 2012-37, Awarding the bid for the Photovoltaic System at the Police Department Facilities Contract to Metro R.F. Services, Inc. of Ontario, CA, in the Amount Not-to-Exceed \$163,835.00 including taxes.**

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

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

### **VIII. ITEMS FOR FUTURE AGENDAS**

#### New Items –

#### Pending Items – City Council

1. Schedule Meetings with Our State and County Elected Officials
2. Polices & Procedures (fingerprinting) for Applicant re. Projects and Applicants for Commissions & Committees (*Commissions & Committees*)

#### Successor Agency

1. Proposal from Owners of Oddfellows Building - 42 W. Ramsey Street.

### **IX. ADJOURNMENT**

The Banning City Council regular meeting scheduled for May 22, 2012 is cancelled. The next regular meeting of the City Council will be held on Tuesday, June 12, 2012.

*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

04/24/2012  
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Robinson on April 24, 2012 at 4:14 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  
June Overholt, Administrative Services Director  
David J. Aleshire, City Attorney/Agency Counsel  
Duane Burk, Public Works Director  
Marie A. Calderon, City Clerk/Secretary

**CLOSED SESSION**

City Attorney stated the closed session involves a litigation matter pursuant to the provisions of Government Code Section 54956.9 regarding Mascaro, et al. v. City of Banning, et al.; San Bernardino County Court Case No. CIVDS 1104447 and he will give a status report on that item. Also we have listed potential litigation in one matter pursuant to the provisions of Government Code Section 54956.9. Additional things have come up and we would like to add potential litigation in four other matters and these have all come up subsequent to posting of the agenda and also wanted to add the Oil Spill Case matter which is Banning v. Dureau.

**Motion Machisic/Franklin to add those matters mentioned by the City Attorney to the agenda.**

Councilmember Botts asked if one of those matters include the discussion of the Oversight Board. City Attorney said yes. **Motion carried, all in favor.**

Mayor Robinson opened the item for public comments. There were none. Meeting went into closed session at 4:16 p.m. and reconvened at 4:55 p.m.

**ADJOURNMENT**

By common consent the meeting adjourned at 4:55 p.m.

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Marie A. Calderon, City Clerk

MINUTES  
CITY COUNCIL  
BANNING, CALIFORNIA

04/24/12  
REGULAR MEETING

A regular meeting of the Banning City Council and a Joint Meeting of the City Council and the Banning Utility Authority was called to order by Mayor Robinson on April 24, 2012 at 5:05 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

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

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Andrew J. Takata, City Manager  
June Overholt, Administrative Services Director  
David J. Aleshire, City Attorney  
Zai Abu Bakar, Community Development Director  
Duane Burk, Public Works Director  
Leonard Purvis, Police Chief  
Bill Manis, Economic Development/Redevelopment Director  
Fred Mason, Electric Utility Director  
Doug Clarke, Assistant Fire Marshall  
Art Chacon, Code Compliance Officer  
Sandra Calderon, Office Specialist  
John McQuown, City Treasurer  
Marie A. Calderon, City Clerk

The invocation was given David Marshall Kealy, Reaching People Far from God Foundation. Council Member Botts invited the audience to join him in the Pledge of Allegiance to the Flag.

## REPORT ON CLOSED SESSION

City Attorney reported that the Council met in closed session to consider a matter of litigation Mascaro v. City of Banning and a status report was given and no action was taken. They also added to the agenda another litigation matter which is Banning V. Dureau. A status report was given on that litigation matter and no reportable action was taken. They also reported on one potential case of litigation and four other potential litigation matters were added to the agenda and a report was given on all of those matters and no action was taken.

## PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS/ANNOUNCEMENTS

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

Inge Schuler, resident of Banning addressed the Council regarding a Public Hearing Notice she received on Friday along with many other people on the south side from the Planning Department indicating proposal for General Plan Amendment. She stated that the mailing received does not address the reason behind the proposed General Plan Amendment. If the density change is "required by the State", this needs to be specifically referenced in the letter to the people who receive these supplements by registration, identification date, etc. She is sure that there is some documentation that is available that specifies why the State is suddenly requiring this or is it an old requirement and they are just being alerted to it. The mailing was done to individuals. It did not indicate the intense magnitude of the proposed changes. Just shy of 75 acres many in small parcels and most in the RA Zone are to be changed to very high density up to 30 dwelling units per acre in an RA Zone. What that means is that the individual home will be 500 square feet living space per unit or we must build upward. Thirty dwelling units per acre is huge and it may look like plots of New York in RA Zoning. It is less than the traditional GI housing which was 800 square feet. There is no EIR, just a Negative Declaration. Left out of this notification to the people is the entire infrastructure that will be needed because these plots are all over in isolated areas, traffic, emergency service and the usual stuff that is done in an EIR; a Negative Declaration will not do it. The City Council professed importance to provide rooftops in order to attract high-end restaurants and other businesses to increase revenue. This proposed high density development does not meet that goal. This is a creation of future blight and she hopes the Council is going to re-examine that.

Susan Comb resident of Peacock Valley thanked the Council very much for the grant program for rebuilding neighborhoods. She shared a before and after picture of her home because it is so wonderful and if there is any way possible, please keep helping people with these grants. It has made a royal change in their neighborhood. She said that they removed a dying tree, painted her house, put in dual-pane windows and completely landscaped her front yard and it is just absolutely gorgeous.

Claudine Lizardo also thanked the Council for the grants. That really helped to rebuild the front part of her house. The corner of her house was full of weeds, the paint was coming off, part of the fence was destroyed and because of the grant she can now be proud of her house and it is the most beautiful house in the neighborhood. Now everybody is fixing there homes and the area is looking better than before.

Ronnie Henson, 344 W. Theodore Street also thanked the Council for the Block Grant Program. She has lived there for two years and she did not get to take a really hot shower until she got her new water heater from the grant program and that was wonderful. She worked with Arlene Long at the Riverside Housing Development Corporation and the whole process was so worth it. They replaced they rotting fence, broken garage door, poured concrete in the walkways next to her house and now there is no mud when it rains, curbing for flower beds, replaced the windows but most of all replaced the water heater. She also believes the program encourages pride in the community and her neighbors are all willing to fix their places now. Her house is now finally a home.

City Manager said in regards to the last three speakers this money is through the Redevelopment Agency, the Housing Authority which, as you are aware, a majority of the

Legislature and the Governor chose to eliminate. We are hoping that we can keep this up but that program could go away.

Jerry Bailey art teacher at Banning High School addressed the Council stated that he was here on behalf of the students, parents, teachers and everybody thanking the City Council Members, City Manager and everybody that has helped them prepare this venue for the display of the high school art students. This is our Third Annual Art Show and it is bigger than last year and their enrollment is up. They submitted 124 entries to the Riverside County Competition in Indio and doubled the blue ribbons and the red ribbons for 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> place and there were many, many categories to get this kind of success. This year they sent in 42 artist's work to the Press Enterprise 50<sup>th</sup> Anniversary Art Competition at the Riverside Art Museum and had amazing success. He pointed out a drawing on the wall that brought home a second place. The entire virtual art show can be viewed at [www.pe.com/student-art-show](http://www.pe.com/student-art-show). He said that Mr. Young's class provided us with a very colorful display of their paintings also. He would encourage everyone who is watching to attend the Art Hop on May 5th and spend some time in this room because this is the stuff of the good reputation of really hard working students.

Don Smith addressed the Council stating that there is currently pending legislation in the Assembly and the Senate to allow us to continue to keep all the Low-Mod funds rather than send them over to the State so if each of you haven't individually sent a letter to our legislators asking them to support that and the City as a whole, I would encourage you to do that and then the Oversight Board could then approve keeping all those funds and spend them here locally. He also reminded people that the Art Hop is Saturday, May 5<sup>th</sup> from 10 a.m. to 3 p.m. in downtown Banning. Outside the Council Chambers Waste Management will be collecting e-waste on that day. In this building, of course, is this amazing show of our high school artists. There will be art displayed by our grade school students in a contest done by Waste Management in which they are to make clothes made out of left over stuff for dolls. There will be two stages for entertainment, booths for the kids to make art including the popular cake decorating, two professional chalk artists and chalk artists from the college doing chalk art. The Dorothy Ramon Learning Center will have Indian crafts and flute making and story-telling. There will be a professional art show from the Pass Area Artists and an amazing wood display at the Women's Club with Sam Maloof Furniture including people making furniture. There will also be fine wine and beer from Hangar 24 in the beer garden. It is going to be a great day. At this time he also introduced the new Executive Director of the Banning Cultural Alliance Safi Jiroh.

Safi Jiroh addressed the Council stating that she has been on board for five weeks now with the Banning Cultural Alliance and there is a lot going on. She has been in the Inland Empire for two and half years coming from the San Francisco Bay area. Prior to coming to Southern California she worked in the arts for more than 20 years in municipal government in the City of Oakland under three mayors and one of the last ones was our current governor and she has seen how redevelopment agency funds can truly revitalize a downtown. The program that she ran with the City of Oakland was primarily a redevelopment agency project. Probably about 250 contracts a year she awarded to non-profit organizations and to individual artists and also putting artist in the schools, artists in the libraries but a real key for her as someone who is really passionate about the arts is bringing arts and community together. Arts as part of community and from the community was a really big focus of hers working in the city of

Oakland and also with the California College of the Arts. Her primary job there was to integrate the college students who were very segregated from the community in Oakland with the community in Oakland and in San Francisco. Many of the art students partnered with and mentored art students in high school. It was a service learning program that was really great. Also, she was a former dancer and loves and is passionate about what the arts do for community and for individuals and she has seen students transform because of arts. She has seen communities across this country transformed because of arts. She has been a policy reviewer and grant reviewer for the National Endowment for the Arts, and the California Arts Council. She is really happy to be here and happy to be working with the City and she looks forward to meeting and getting to know everyone.

Henri De Roule addressed the Council regarding the Banning Science and Technology Center and stated that they are progressing quite well. They have expanded their website quite considerably and he encouraged everyone to visit it at [www.TheScienceExperience.org](http://www.TheScienceExperience.org). They are finalizing the design of the building and will have that done within the next six weeks or so. They have added a number of people to their Advisory Panel including two of the directors of the Exploratorium up in San Francisco which is the second oldest science center in the United States.

Maria De Roule addressed the Council stating that the sidewalks around the Rio Market and the stores is terrible. She asked that someone please take care of it or those responsible for fixing it.

Charlene Sakurai suggested if Patrick could somehow photograph all this wonderful art here in the Council Chambers so that it could go on Channel 10 so that everyone could see it because everybody is not going to have the opportunity to come in here. She would hate to pass up that opportunity to make it available. She thinks it would be a wonderful tribute to the students, to Mr. Bailey, to the high school for having a program like this.

CORRESPONDENCE: There was none.

PRESENTATIONS:

1. Proclamation – April as National Donate Life Month

Mayor Robinson said that this proclamation will be mailed because the person who was to receive the proclamation was ill.

2. Proclamation – May as Mental Health Month

Mayor Robinson read the proclamation for the benefit of the audience and he and the City Council presented the proclamation Michelle representing the County Board of Mental Health.

Michelle addressed the Council stating that the statistics are very real and she would venture to guess that mental health affects almost all of us in some way or another with our family, our friends and co-workers and she thanked the Council and said she was proud to sponsor the County.

### 3. Introduction of New Employee

City Manager introduce Sharon Smith who is a 5<sup>th</sup> generation resident of the Pass Area living here her whole life. She has a strong sense of community and has dedicated her time at community events such as Relay for Life and various blood drives. She has three children Roberto, Jose, and Marcelina and two of her boys are currently attending college with Roberto receiving a full scholarship to Pepperdine University where he is pursuing a double major in sports medicine and criminology. Marcelina is currently a junior a Beaumont High School. Sharon's dedication to her family has been recognized by Time Warner Cable in 2008 as being one of the Desert City's Best Mother's of the Year. Because of her strong sense of community and family she believes the best way to continue to serve the Pass Area was by joining the Banning Police Department. She attended the Police Academy where she graduated top of her class at the Ben Clark Training Center receiving the recognition from the Coachella Valley Peace Officers Association. She has seven degrees in various studies and speaks three languages: Spanish, English and German and that will continue to make her a greater asset to our community. In her spare time she plays baseball and always loves to see a great movie.

### CONSENT ITEMS

#### 1. Approval of Minutes – Special Meeting – 03/26/12

Recommendation: That the minutes of the Special Meeting of March 26, 2012 be approved.

#### 2. Approval of Minutes – Special Meeting – 04/10/12

Recommendation: That the minutes of the Special Meeting of April 10, 2012 be approved.

#### 3. Approval of Minutes – Regular Meeting – 04/10/12

Recommendation: That the minutes of the Regular Meeting of April 10, 2012 be approved.

#### 4. Approve Amendment to Contract with Norman A. Traub Associates for Investigation Services for the City of Banning Police Department.

Recommendation: That the City Council amend the current limit on compensation for services (\$75,000) with Norman A. Traub Associates for Investigation Services for the City of Banning Police Department to \$105,000.

#### 5. Resolution No. 2012-34, Approving the Measure "A" Five Year Capital Improvement Plan.

Recommendation: That the City Council adopt Resolution No. 2012-34 as presented.

**Motion Botts/Machisic to approve Consent Items 1 through 5.** Mayor Robinson opened the item for public comments. There were none. **Motion carried, all in favor.**

### JOINT MEETING

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

#### CONSENT ITEM

1. Resolution No. 2012-06 UA, Awarding a Professional Services Agreement to Albert A. Webb Associates for the Banning Water Canyon Mapping and Pipeline Replacement Phasing Plan for an amount not exceed \$79,981.00.

**Motion Franklin/Hanna to approved Consent Item No. 1, Approving Resolution No. 2012-06 UA. Motion carried, all in favor.**

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

#### ORDINANCES-INTRODUCTION

1. Ordinance No. 1449, Re-establishing and Declaring Prima Facie Speed Limits Within Specified Speed Zones Throughout the City of Banning to include Speed Zones 28, 37, 38 and 46.  
(Staff Report – Duane Burk, Public Works Director)

Director Burk gave the staff report as contained in the agenda packet going over the speed zones that the Council wanted further study on. He displayed a slide that showed Zones 28, 37 and 46 that identify some speed limits of existing posted speeds and some proposed speed changes. There was a request from the Council related to when these times were conducted so staff actually went out and resurveyed with radar. The reason why this is done very five years is because it is part of the Vehicle Code so we can go out and establish radar to support citations. Besides that it brings forward the idea that we are always changing roads whether we are paving them or widening them so it brings kind of a new document before the Council every five years. He went over the chart of speed limit changes and the reasons for the changes (see Exhibit "A").

There were staff and Council comments and concerns discussed in regards to sending a letter with the Council's concerns about the statute dealing with speed to our State legislators, flexibility in setting the speed limits, changing people's behavior in regards to speed so that it is safer, Sun Lakes Blvd., Ramsey Street eastbound on Ramsey and markings in that area that don't cost a lot of money, and golf carts.

Director Burk addressed the Council's concerns in regards to the speed on Sun Lakes Blvd. and the golf cart issue.

There were some further Council comments and staff discussion in regards to this being done every five years and how it is impacted by Measure A Local Fund Programming, pushing Sun Lakes Blvd. through for use as another access to downtown and use for emergency vehicles,

the use of street legal golf carts, speeds on Sun Lakes Blvd., radar enforcement and it being defensible in court, speed survey and flexibility in speeds.

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

Charlene Sakurai gave her opinion of the varying speed limits in that area of Sun Lakes. Don Smith expressed his agreement with various comments made by the Council Members in regards to the speed limits.

Gary Hironimus, resident went over a couple of points that were made back at the January meeting and the need for clarification and encouraged the Council to go with the recommendations of the study.

Art Welch, 4952 Copper Creek addressed his concern with three different speed limits at the intersection of Highland Springs, First Street and Sun Lakes Blvd. and his concern of non-legal golf carts on streets anywhere.

Fred Sakurai, resident of Sun Lakes expressed his agreement with the speed limit of 35 mph between Gate No. 1 and Highland Springs.

Mayor Robinson seeing no one coming forward closed the item for public comments.

Councilmember Hanna said she just wants us to be able to defend a speeding vehicle in court.

Councilmember Botts said that he would like to remove Zone 46 from the motion and move to approve the rest of the recommendations.

Mayor Robinson asked the City Clerk to read the title of Ordinance No. 1449. City Clerk read: Ordinance No. 1449, An Ordinance of the City Council of the City of Banning, California, Re-establishing and Declaring Prima Facie Speed Limits Within Specified Speed Zones Throughout the City of Banning to include Speed Zones 28, 37, 38 and amending Ordinance No. 1443 and omitting Speed Zone No. 46.

**Motion Botts/Franklin to waive further reading of Ordinance No. 1449. Motion carried, all in favor.**

**Motion Franklin/Robinson that Ordinance No. 1449 pass its first reading. Motion carried, all in favor.**

**Councilmember Botts moved that Speed Zone 46 remain at 35 mph. Motion seconded by Councilmember Machisic.**

City Attorney said that he would assume that you are stipulating that you want that so the speed limit is consistent throughout the one from the street. Councilmember Botts and Mayor Robinson said yes.

Mayor Pro Tem Franklin said she is not sure about the speed limit and she understands what the answer is to Councilmember Hanna's question is that going to be defensible if we are saying that we are keeping it the way it is even though the study has shown different.

City Attorney said he was trying to help the Council with an explanation that you have done a study of the length of the street and that is consistent throughout the length of the street. We previously discussed what the recommendation was based upon material presented and it sounds like the Council wants a slightly different perspective on what the study is covering.

Councilmember Botts said that you have clarified that for us that the intent is consistent 35 mph on Sun Lakes Blvd. from Highland Springs to Highland Home. City Attorney said that from your discussion I perceive that was the intent of your motion.

**Motion Botts to amend Ordinance No. 1449 to include the recommendation for Speed Zone #46 for a consistent speed limit of 35 mph from Highland Springs to Highland Home.**

City Attorney said you can rescind your prior action and then redo it now including this amendment as part of it.

Councilmember Botts said that was what his motion was.

City Clerk asked the Council if they wanted to use the next ordinance number in line to amend Ordinance No. 1449.

City Manager said that you have a motion to amend the last ordinance so you won't have to get a new ordinance number at that point in time so you he thought he heard someone second it.

**Mayor Robinson said that Councilmember Machisic made the second. Motion carried with Councilmember Hanna voting no.**

PUBLIC HEARINGS

Mayor Robinson excused himself from this discussion and handed the meeting over to Mayor Pro Tem Franklin. Mayor Robinson said that he does own a business in town which is a pet resort that has grooming and part of this amendment does include the pet business.

1. Zone Text Amendment (ZTA) No. 12-97501 Amendment to Various Sections of the Zoning Ordinance (Title 17 of the Banning Municipal Code) to Facilitate Business Development.  
(Staff Report - Zai Abu Bakar, Community Development Director)

Director Zai gave the staff report as contained in the agenda packet. She said that basically this ordinance is to streamline the development review process to facilitate development in the city of Banning. The Council may recall that you adopted an ordinance that said you are trying to be business-friendly and be a part of cooperative efforts throughout the SCAG (Southern California Association of Governments) Region. This is one of many efforts that you will see

forthcoming. She started her power-point presentation at this time pointing out the sections of the code to be amended.

Councilmember Hanna said in regards to the downtown how does allowing a 25,000 square foot single user occupancy in the downtown promote a walkable environment. It seems like what you are suggesting for a supermarket is actually rather small because today's supermarkets are much larger than that and this wouldn't help a supermarket. We are only talking about the downtown and not anywhere else and what would be an example of something that is more than 25,000 square feet that we would want in a downtown.

Director Zai said that would be something a little bit bigger than a Fresh and Easy or a Henri's Market and their footprint is about 30,000 square feet. Director Manis said the average supermarket building is now between 40,000 and 60,000 square feet. Most supermarkets are trying to fit into downtowns now and have specialty footprints and specialty plans where they really do range anywhere between 25,000 to 40,000 square feet.

There were some further Council and staff discussion and comments in regards to limitation of size and can just anything go into the downtown, not having any controls, the vision of downtown and walkability, supporting the east side of the community, standards for Technical Staff Review and where are they in the Code, temporary signs and the enforcement of signage and also the permit fees for signs including conditional use permit fees and those kinds of things.

Mayor Pro Tem Franklin opened the public hearing for comments from the public.

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

Don Smith addressed the Council on some of the proposed amendments.

Mayor Pro Tem Franklin closed the public hearing seeing no one else coming forward.

There was some further Council comments in regards to limitation of size, walkability in the downtown, being business-friendly and giving as much flexibility as possible to businesses and making it an easier process for businesses coming in to town and thank you to staff for their hard work in bringing this forward.

Mayor Pro Tem Franklin asked the City Clerk to read the title of Ordinance No. 1448. City Clerk read: Ordinance No. 1448, An Ordinance of the City Council of the City of Banning, California, Approving Zoning Text Amendment No. 12-97501 Amending Various Sections of the Zoning Ordinance (Title 17 of the Banning Municipal Code) to Facilitate Business Development.

**Motion Machisic/Botts to waive further reading of Ordinance No. 1448. Motion carried with Councilmember Hanna voting no and Mayor Robinson not voting.**

**Motion Botts/Machisic that Ordinance No. 1448 pass its first reading. Motion carried with Councilmember Hanna voting no and Mayor Robinson not vote.**

Meeting recessed at 6:53 p.m. and returned to regular session at 7:04 p.m.

Mayor Robinson returned to the dais at this time.

#### REPORTS OF OFFICERS

1. Code Enforcement Priorities and Administrative Citation  
(Staff Report – Zai Abu Bakar, Community Development Director)

Director Zai gave her staff report as contained in the agenda packet and started her power-point presentation going on the Nuisance Code in Chapter 8.48 of the Municipal Code listing the various nuisances. Since Code Enforcement is required to enforce the municipal code and also zoning code they developed priorities 1 through 4 with 1 being the highest priority and she explained further.

City Manager said you will notice that graffiti is a Number 4 but it doesn't mean that we don't care for it in a different way through our Street Department, as well as, through our police. It just means that Code Enforcement doesn't do that. Don't think graffiti is not important. It is probably one of the more important things that we do in the city.

Director Zai said the second component is the Administrative Citation and went over the process involved along with the fine schedule and appeal process. She wants the Council to give staff the ability to hire an outside company to collect the fines and as you can see from the survey of other communities this is apparently very effective. There is also an appeal process and a hearing officer as part of the contract who would hear the appeal.

There were some Council and staff discussion in regards to the priorities listed, administrative citation process, timelines, payments, appeals and request for proposals.

Mayor Robinson opened the item for public comments.

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

Gary Hironimus commented on clarifying in writing when the administrative citations come into play and basing the contract on a lump sum as opposed to a percentage of the fine which would put the hearing officer in a conflict of interest position.

Don Smith said this is a wonderful step in the right direction and had some questions in regards to priorities, nuisances, where notices are sent to, timing process, and same concerns regarding hearing officer.

David Marshall Kealy commented on perception of the public regarding safety, and having graffiti moved to a higher priority.

There was some further Council comments thanking the staff and appreciation for what they are doing in the area of code enforcement. There were some questions and staff discussion in regards to the conflict issue of the hearing officer and also the possibility of partnering with another city to reduce costs.

**Motion Botts/Hanna that the City Council: 1) Establish Code Enforcement priorities; 2) Re- active the Administrative Citation Program and hire a collection agency that provides a hearing officer as part of the services. Motion carried, all in favor.**

2. General Plan Annual Progress Report for Calendar Year 2011.  
(Staff Report – Zai Abu Bakar, Community Development Director)

Director Zai gave the staff report as contained in the agenda packet and highlighted a few areas and progress made. She pointed out three major policy issues that are listed on page 106 of the agenda packet and those are Traffic Circulation, Density Requirements for the Certification of the Housing Element (item brought up earlier by Inge Schuler), and Residential Land Uses and Non-Conformity.

Councilmember Hanna said that on page 106, Policy Issues, it is very exciting to see the possibility of north/south road connection for Highland Home at the I-10. She is very concerned about the second policy and it was brought to her attention the idea of having what looks like to her as spot zoning. We are going to have this high density housing all across the south side of the freeway and we talked about having high density across the whole community and not just in one area and especially it is in the R-A Zone. It just seems very odd to do it that way and would appreciate getting feedback on this. Actually those homes you were talking about that had been zoned from single-family to industrial, now are being proposed as high 30-dwellings per unit.

Director Zai said in regards to the 12<sup>th</sup> Street neighborhood and Hargrave, the 5 or 6 lots, staff has met with a majority of the property owners. The proposal is to change from industrial back to residential for that neighborhood.

Mayor Robinson said on page 142 of the agenda packet, Program 25.D – The city should designate Class III bikeways only where Class I and Class II facilities are not feasible. It says that they are working on this and is not yet completed. He asked if this is a program that we are working on.

Director Zai said that this information was submitted by the Engineering Department and she knows that they are working on this based on priorities that they have in their department and this is probably one that is not yet completed.

City Manager said that we will check with Duane Burk in regards to this item.

Councilmember Hanna said in regards to encouraging Public Participation in Appreciation of the City's Cultural Heritage – Program 5 A & 5B, agenda packet pages 131 and 132, the next year certainly will be having a great deal of encouraging public participation and appreciation of the City's cultural heritage through the Centennial.

Mayor Robinson open the item for public comments. There were none.

**Motion Franklin/Botts that the City Council adopt Resolution No. 2012-33, Approving of General Plan Annual Progress Report for Calendar Year 2011. Motion carried, all in favor.**

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

City Council

Councilmember Franklin –

- Saturday, April 28<sup>th</sup> the City's 7<sup>th</sup> Annual Disaster Preparedness Expo. She did find out that there was actually an earthquake today and one over the weekend and we don't know when these will happen in our area but we do want people to be prepared. She thanked both the police and fire departments because they have given a lot of input in making sure that this is the best expo that we have had so far. Our focus is on our young people and there will be activities both inside the Community Center and outside for everyone. There are 30 exhibits already planned. Sponsors include Supervisor Marion Ashley, Lamar Advertising, Senator Bill Emmerson, Community Action Partnership of Riverside County, Waste Management, Morongo Band of Mission Indians and the Southern California Gas Company. There will be E-Waste pickup and multiple prizes and giveaways throughout the day. Information on this event is also included on the City's website.

Councilmember Hanna –

- This coming Saturday is the Disaster Survival Expo, the following Saturday, May 5<sup>th</sup> is the Art Hop. The Centennial Committee will be out there asking for volunteers and encouraging people to get involved in the Centennial. They will be selling their Centennial shirts and Centennial pins cost \$5.00.
- She said that she loves Banning and loves serving the community of Banning and she has decided not to run for re-election to the Banning City Council this November. She will focus the rest of this year on fulfilling her responsibilities as a Council Member and serving the community as Chair of the Centennial Steering Committee.

Mayor Robinson –

- He attended the Sun Lakes Volunteer affair and this was reaching out to residents from each of the non-profits in this area. They need volunteers and everybody had a table there that is involved in non-profits here in the city reaching out to get volunteers.
- Attended the Volunteer Recognition Dinner in Riverside to honor Banning's Jerry Searcy for his volunteer work with the Banning Arts Gallery. He teaches art and oversees art projects with all ages at the art gallery.
- He attended the LEAC (Law Enforcement Appreciation Committee) ceremony along with all of Banning's elected officials and the City Manager. It was a great event for the City of Banning and law enforcement.
- Attended the Banning United Methodist Annual Salad Luncheon on Friday.
- Helped with fundraising efforts on Saturday for the Fire Memories Museum's Pancake Breakfast. If you missed that one, there will be another breakfast on May 19<sup>th</sup> from 7 to 11 a.m.

- Yesterday we signed the ENA (Exclusive Negotiations Agreement) with the Banning Science Center held at the site located at 22<sup>nd</sup> Street south of the I-10 freeway.
- Last night here in the Council Chambers he attend the Adult Ed Graduation. There are some real great stories and one is of a grandmother who is raising her grandchildren and she decided to take English as a Second Language Class so that she could work with her grandkids in helping them with their homework. These are the great things that are happening at the Banning Unified School District and New Horizons. They have another graduation coming up on June 5<sup>th</sup>.

City Committee Reports -- There were none.

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

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

#### ITEMS FOR FUTURE AGENDAS

New Items – There were none.

#### Pending Items – City Council

1. Schedule Meetings with Our State and County Elected Officials
2. Polices & Procedures (fingerprinting) for Applicant re. Projects and Applicants for Commissions & Committees (*Commissions & Committees*)

#### Successor Agency

1. Proposal from Owners of Oddfellows Building - 42 W. Ramsey Street.

#### ADJOURNMENT

By common consent the meeting adjourned at 7:47 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.**

## **SPEED LIMIT CHANGES**

ZONE	Street Name	From	To	EXISTING POSTED SPEED		PROPOSED SPEED	
				EB	WB	EB	WB
28	Ramsey St	22nd St	8th St	35	35	40	40
37	Wilson St	Sunset Ave	16th	35	35	45	45
38	Wilson St	16th	San Gorgonio	35	35	35	35
46	Sun Lakes Blvd	Highland Springs Ave	Country Club Dr	35	35	30	30

*2nd Read.*

**ORDINANCE NO. 1448**

**AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF BANNING, CALIFORNIA APPROVING  
ZONING TEXT AMENDMENT NO. 12-97501  
AMENDING VARIOUS SECTIONS OF THE ZONING  
ORDINANCE (TITLE 17 OF THE BANNING  
MUNICIPAL CODE) TO FACILITATE BUSINESS  
DEVELOPMENT**

**WHEREAS**, commercial development is a critical component of most communities, as the sale of goods and services can generate significant sales tax revenue and employment opportunities; and

**WHEREAS**, the City of Banning (“City”) recognizes that zoning regulations may have an indirect effect on business development by adding additional costs and time to review project applications; and

**WHEREAS**, in light of the current economic circumstances within the State of California in general, and the City of Banning specifically, the City Council believes that the existing standards for processing project applications may not appropriately take the economy, welfare, and concerns of businesses and citizens into consideration; and

**WHEREAS**, it is a goal of the Community Development element of the City’s General Plan to enhance the quality of life for all Banning residents; more specifically Policy 2 states that “the Planning . . . staffs be closely coordinated, to assure efficient and cost effective processing of applications”; and

**WHEREAS**, the City Council desires to respond to the concerns of its citizens regarding the economic impact of processing project applications on local businesses and believes that it is in the best interest of its citizens to amend the Zoning Ordinance to encourage business development; and

**WHEREAS**, the City of Banning is proposing amending the Zoning Ordinance at various locations to streamline the applications process; and

**WHEREAS**, the City Council has authority per Chapter 17.116 of the Municipal Code to approve, approve with modifications, or disapprove amendments to the Zoning Ordinance; and

**WHEREAS**, the Planning Commission recommended adoption of Ordinance No. 1448 amending the Zoning Ordinance at various places by approving Planning Commission Resolution No. 2012-06 as stated in writing; and

**WHEREAS**, on the 13<sup>th</sup> day of April, 2012, the City gave public notice as required under Chapter 17.68 of the Zoning Ordinance by advertising in the Record Gazette newspaper of the holding of a public hearing at which the amendment to the Zoning Ordinance would be considered; and

**WHEREAS**, on the 24<sup>th</sup> day of April, 2012, the City Council held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the proposed amendment, and at which time the City Council considered Zone Text Amendment No. 12-97501; and

**WHEREAS**, at this public hearing on the 24<sup>th</sup> day of April, 2012, the City Council considered and heard public comments on the proposed Zone Text Amendment; and

**WHEREAS**, at this public hearing, the City Council has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act (“CEQA”) under Section 15061(b)(3) of the CEQA Guidelines;

**WHEREAS**, the City Council has carefully considered all pertinent documents and the staff report offered in this case as presented at the public hearing held on the 24<sup>th</sup> day of April, 2012;

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

**SECTION 1. ENVIRONMENTAL FINDINGS.**

The City Council, in light of the whole record before it, including but not limited to, the City’s Local CEQA Guidelines, the recommendation of the Community Development Director as provided in the staff report dated April 24, 2012, and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

**1. California Environmental Quality Act (CEQA):**

CEQA: The City Council has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act (“CEQA”) under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. The amendments to the Zoning Ordinance do not relate to any one physical project and will not result in any physical change to the environment. Further, projects subject to this ordinance will trigger individual analysis and documentation related to CEQA. Therefore, it

can be seen with certainty that there is no possibility that this ordinance may have a significant adverse effect on the environment, and therefore the adoption of this ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

2. Multiple Species Habitat Conservation Plan (MSHCP).

The amendments to the Zoning Ordinance do not relate to any one physical project and are not subject to the MSHCP. Further, projects subject to this ordinance will trigger individual project analysis and documentation related to the requirements of MSHCP including mitigation through payment of the MSHCP Mitigation Fee.

**SECTION 2. REQUIRED FINDINGS.**

The Zoning Ordinance requires that each Zone Text Amendment meet certain findings in Section 17.116.050 in order to be approved by the City Council. The following findings are provided for consideration:

1. The proposed Zone Text Amendment is consistent with the goals and policies of the General Plan.

**Findings of Fact:**

The proposed Zone Text Amendment is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations will not change, and the text amendments will result in clarifying the goals, policies and programs of the General Plan. The primary General Plan Land Use Goal is "*A balanced, well planned community including businesses which provides a functional pattern of land uses and enhances the quality of life for all Banning residents*". By changing the permit review process from design review, which requires a public hearing, to Technical Staff Review, which requires administrative review, the time required to review a permit application will be reduced enhancing the quality of life for residents by encouraging much needed business development.

Furthermore, Policy 2 of the Community Development element of the City's General Plan states that "*the Planning . . . staffs be closely coordinated, to assure efficient and cost effective processing of applications*"; therefore, the proposed amendments endeavor to streamline the permitting process for certain businesses thus assuring efficient and cost effective processing of applications.

2. The proposed Zone Text Amendment is internally consistent with the Zoning Ordinance.

Findings of Fact:

The Zone Text Amendment is consistent with the existing provisions of the Zoning Ordinance. The proposed amendments will modify and streamline the permitting process pertaining to business development within the present limits and development standards established by the Zoning Ordinance. No significant changes are proposed to the development standards of the Zoning Ordinance. Staff has reviewed and compared the proposed changes and finds no conflicting statements or inconsistencies.

3. That the City Council has independently reviewed and considered the requirements of the California Environmental Quality Act.

Findings of Fact:

The City Council has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act (“CEQA”) under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. The amendments to the Municipal Code do not relate to any one physical project and will not result in any physical change to the environment. Further, projects subject to this resolution will trigger individual analysis and documentation related to CEQA. Therefore, it can be seen with certainty that there is no possibility that this resolution may have a significant adverse effect on the environment, and therefore the adoption of this resolution is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

SECTION 3. Delete the following sentence from Section 17.12.020 of the Banning Municipal Code:

*“All uses proposed in the Commercial and Industrial districts are subject to Design Review.”*

SECTION 4. Section 17.12.050(D) of the Banning Municipal Code is amended to read as follows:

*“D. Automobile Sales. Technical Staff Review shall be required for all businesses selling new or used vehicles, and all dealerships must be constructed in the following manner:”*

SECTION 5. Delete the following sentence from Section 17.12.010(B)(1)(a) of the Banning Municipal Code:

*“Large single users in excess of twenty-five thousand square feet are not appropriate in this district.”*

SECTION 6. Section 17.12.050(H)(7) of the Banning Municipal Code is amended to read as follows:

*“7. Buildings identified as locally historically significant shall be renovated and expanded in historically appropriate manner. Conversion of historic homes within the District to live/work spaces, offices or retail commercial is encouraged. The provisions of subsection P of this section, Single Family/Office Conversions, below, shall apply.”*

SECTION 7. Table 17.12.020 of the Banning Municipal Code is amended to read as follows:

Zone	DC	GC	HSC	PO	I	AI	BP	IMR
Pet stores and grooming	P	P	P	X	X	X	C	X

SECTION 8. Section 17.12.040(A) of the Banning Municipal Code is amended to read as follows:

*“A. All uses other than those specified as outdoor uses shall occur in a completely enclosed structure. Outside uses (e.g. patio dining areas and nursery sales) shall be approved through Technical Staff Review.”*

SECTION 9. Section 17.36.070(B) of the Banning Municipal Code is amended to read as follows:

*“B. Special event signs shall be limited to 90 days per event from the date of erection or date of permit, whichever occurs first.”*

SECTION 10. Section 17.12.010(O) of the Banning Municipal Code is amended to read as follows:

*“O. Whenever possible, parking areas are discouraged along the street; however should parking be located along the street, a combination of walls and/or berms, and/or landscape material must be provided to screen parking areas from the adjacent street. The screening should be between 36" and 48", except when a drive-through aisle is being screened, in which case a higher screen is necessary to hide the vehicles. Lowered grades in parking lots may also be used to accomplish this.”*

## SECTION 11. SEVERABILITY.

If any section, subsection, sentence, clause, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by a decision of any court of competent jurisdiction,

such decision will not affect the validity of the remaining portions of this ordinance. The City Council of the City of Banning hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

**SECTION 12. PUBLICATION; EFFECTIVE DATE.**

The City Clerk shall certify to the passage and adoption of this ordinance, and shall make a minute of the passage and adoption thereof in the records of and the proceedings of the City Council at which the same is passed and adopted. This ordinance shall be in full force and effect thirty (30) days after its final passage and adoption, and within fifteen (15) days after its final passage, the City Clerk shall cause it to be published in a newspaper of general circulation and shall post the same at City Hall, 99 E. Ramsey Street, Banning, California.

**PASSED, APPROVED, AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

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Don Robinson, 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 Ordinance No. 1448 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 24<sup>th</sup> day of April 2012, and was duly adopted at a regular meeting of said City Council on the 8<sup>th</sup> day of May, 2012, by the following vote, to wit:

AYES:

NOES:

ABSEN:

ABSTAIN:

---

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



*2nd Read.*

**ORDINANCE NO. 1449**

**AN ORDINANCE OF THE CITY OF BANNING, CALIFORNIA, RE-ESTABLISHING AND DECLARING PRIMA FACIE SPEED LIMITS WITHIN SPECIFIED SPEED ZONES THROUGHOUT THE CITY OF BANNING TO INCLUDE SPEED ZONES 28, 37, 38, & 46.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BANNING AS FOLLOWS:**

**SECTION 1.** The prima facie speed limits within the specified speed zone limits of the following specified streets are determined and declared to be as shown herewith as Exhibit "C".

**SECTION 2.** The Mayor shall sign this ordinance and the City Clerk shall attest thereto and shall publish it or a summary of it in a newspaper printed and published within the City, and thereafter this ordinance shall be in force and effect according to law.

**PASSED, APPROVED AND ADOPTED** this 24th day of April, 2012.

---

Don Robinson, 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 Ordinance No. 1449 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 24<sup>th</sup> day of April, 2012, and was duly adopted at a regular meeting of said City Council on the 8<sup>th</sup> day of May, 2012, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

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

## EXHIBIT "C"

### SUMMARY OF SPEED ZONES

#### NORTHBOUND / SOUTHBOUND ZONES

No	Street Name	From	To	RECOMMENDED SPEED	
				NB	SB
1	8th St	Gilman St	I-10	30	30
2	22nd St	Ramsey St	Westward Ave	35	35
3	Highland Home Road	Wilson St	Ramsey St	40	40
4	Hathaway St	Hoffer St	Ramsey St	35	35
5	Hathaway St	Lincoln St	Wesley St	35	35
6	Mountain Ave	Mockingbird Lane	Wilson St	35	35
7	Highland Springs Ave (Northbound)	N. City Limit	Oak Valley Pkwy	50	Beaumont
8	Highland Springs Ave (Northbound)	Oak Valley Pkwy	Wilson St	50	Beaumont
9	Highland Springs Ave (Northbound)	Wilson St	Sun Lakes Bl	35	Beaumont
10	Highland Spring Ave (Northbound)	Sun Lakes Bl	S. City Limit	35	Beaumont
11	San Gorgonio Ave	Lombardy Lane	Wilson St	30	30
12	San Gorgonio Ave	Wilson St	Ramsey St	30	30
13	San Gorgonio Ave	Ramsey St	Lincoln St	30	30
14	Sunset Ave	Wilson St	Ramsey St	35	35
15	Sunset Ave	Ramsey St	Westward Ave	35	35
16	Hargrave St	Wilson St	Ramsey St	30	30
17	Hargrave St	Ramsey St	Wesley St	35	35
18	Omar St	Ramsey St	Wilson St	25	25
19	Alessandro St	Repllier Rd	Wilson St	30	30
20	Alessandro St	Wilson St	Ramsey St	30	30

(\*) – City of Beaumont has agreed to keep speed limits consistent with City of Banning

## EXHIBIT "C"

### SUMMARY OF SPEED ZONES

#### EASTBOUND /WESTBOUND ZONES

No	Street Name	From	To	RECOMMENDED SPEED	
				EB	WB
21	Lincoln St	Sunset Ave	22nd St	40	40
22	Lincoln St	22nd St	8th St	40	40
23	Lincoln St	8th St	San Gorgonio Ave	40	40
24	Lincoln St	San Gorgonio Ave	Hathaway St	40	40
25	Ramsey St	Highland Springs Ave	Highland Home Rd	50	50
26	Ramsey St	Highland Home Rd	Sunset Ave	50	50
27	Ramsey St	Sunset Ave	22nd St	40	40
28	Ramsey St	22nd St	8th St	40	40
29	Ramsey St	8th St	Hargrave St	25	25
30	Ramsey St	Hargrave St	I-10 Ramps	40	40
31	Nicolet St	Sunset Ave	22nd St	35	35
32	Nicolet St	22nd St	4th St	35	35
33	Nicolet St	4th St	Hargrave St	25	25
34	Nicolet St	Hargrave St	Hathaway St	25	25
35	Wilson St	Highland Springs Ave	Highland Home Rd	45	45
36	Wilson St	Highland Home Rd	Sunset Ave	45	45
37	Wilson St	Sunset Ave	16th St	45	45
38	Wilson St	16th St	San Gorgonio Ave	35	35
39	Wilson St	San Gorgonio Ave	Hargrave St	35	35
40	Sun Lakes Bl	Country Club Drive	Highland Home Rd	35	35
41	Westward Ave	Sunset Ave	San Gorgonio Ave	35	35
42	Williams St	Sunset Ave	Hathaway St	25	25
43	George St	Sunset Ave	Woodland Ave	25	25
44	George St	20th St	8th St	25	25
45	George St	8th St	San Gorgonio Ave	25	25
46	Sun Lakes Bl	Highland Springs Ave	Country Club Drive	35	35

## CITY COUNCIL AGENDA

**Date:** **May 8, 2012**

**To:** **Honorable Mayor and City Council**

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

**Subject:** **Resolution No. 2012-32, Awarding the Bid for the Professional Tree Trimming Service Contract**

**RECOMMENDATION:** Adopt Resolution No. 2012-32, awarding the bid for the Professional Tree Trimming Service contract to Asplundh Tree Expert Co. ("Asplundh"), of San Diego, California, in the amount not to exceed \$100,000.00 (One Hundred Thousand Dollars) in either of the two fiscal years 2012-13 and 2013-14 for a total of \$ 200,000.00 (Two Hundred Thousand Dollars) including taxes.

**JUSTIFICATION:** Right-of-way tree trimming is necessary to maintain reliability of the electrical system. Asplundh Tree Expert Co. is the lowest responsible bidder.

**BACKGROUND:** The Electric Utility Department started contract tree trimming service in September of 1994. There are many overgrown trees in the power lines, specifically in the northeast part of the City. Tree clearance is a requirement mandated by the Public Utilities Commission, General Order 95 of the State of California's Electrical General Orders. It is also a good practice of the utility operations to ensure the reliability of the City's electrical system. The tree trimming will provide the necessary clearance to the City of Banning's electrical distribution system that covers 34kV/12kV/4kV three-phase circuits, and the 7.2 kV and 2.4 kV single-phase circuits.

Per ANSI Z133.1, an electrical hazard exists when a worker, a tool, or any conductive object is closer than 10 feet (3 meters) from an energized conductor rated 50 kV or less. When an electrical hazard exists, minimum clearances shall be maintained, and only qualified line clearance tree trimmers or qualified line clearance tree trimmer trainees shall perform the work.

In fiscal year 2006-07 tree trimming services were suspended and the Electric Utility has been completing the work since then. With a reduction in staff and many new and upcoming projects in the near future, The Electric Utility has determined that we are once again in need of contracting out the tree trimming services.

A Request for Proposal (RFP) was sent out and two contractors responded by submitting sealed bid proposals. The names of the two contractors are as follows:

1. Asplundh Tree Expert Co., San Diego, California
2. West Coast Arborists, Anaheim, California

The proposals were evaluated by staff and it was found that Asplundh Tree Expert Co. is the lowest responsible bidder.

Asplundh Tree Expert Co. is the world's largest provider of line clearance tree trimming and has been in business for 84 years. Asplundh has provided commendable tree trimming line clearance services to City of Banning previously, and their tree trimmers have line clearance certifications. All equipment such as trim lifts, aerial buckets, dump trucks, stump grinders, log splitters, chippers and other essential equipment necessary for tree trimming shall be provided by the contractor.

Staff requests approval to enter into a two year agreement with Asplundh Tree Expert Co, for tree trimming services for fiscal year 2012-13 and fiscal year 2013-14 in the amount of \$100,000.00 (One Hundred Thousand Dollars) per fiscal year, not to exceed \$200,000.00 (Two Hundred Thousand Dollars) for the two year period. Staff also requests approval for an option of extending the contract after the initial two year term for an additional year, not to exceed two extensions.

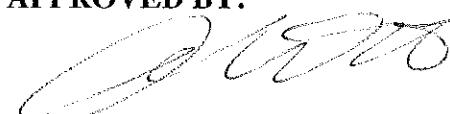
**FISCAL DATA:** Funds for the Professional Tree Trimming Service contract will be appropriated during the regular budget process in the amount of \$200,000.00 (Two Hundred Thousand Dollars) to Account 670-7000-473-2317. Contract is for time and material.

**RECOMMENDED BY:**



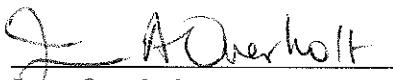
Fred Mason  
Electric Utility Director

**APPROVED BY:**



Andrew J. Takata  
City Manager

**REVIEWED BY:**



June Overholt  
Deputy City Manager/Administrative Services Director

Prepared by Carla Young

28

**RESOLUTION NO. 2012-32**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING  
AWARDING THE BID FOR THE PROFESSIONAL TREE TRIMMING SERVICE  
CONTRACT**

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

**WHEREAS**, the City of Banning requires the trimming of certain trees in its right of way to maintain tree clearances as mandated by California Electric General Order 95; and

**WHEREAS**, the trimming of these trees will reduce power outages, maintenance costs, as well as inconveniences to Utility customers; and

**WHEREAS**, Staff solicited bids and received two bid proposals for the Professional Tree Trimming Service; and

**WHEREAS**, Asplundh Tree Expert Co. of San Diego, CA is the lowest responsible bidder;

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

**SECTION 1.** Adopt Resolution No. 2012-32, approving the bid award, in the amount of \$200,000.00, for the Professional Tree Trimming Service Contract to Asplundh Tree Expert Co., and authorize the City Manager, or his designee, to execute the necessary documents to complete said agreement.

**SECTION 2.** Authorize the Administrative Services Director to complete the necessary account transfers as required for the completion of said project.

**PASSED, APPROVED AND ADOPTED** this 8<sup>th</sup> day of May 2012.

---

Don Robinson, Mayor  
City of Banning

**ATTEST:**

---

Marie A. Calderon, City Clerk  
City of Banning

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

---

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

**CERTIFICATION**

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2011-48 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 14<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

## CITY COUNCIL AGENDA

**DATE:** May 8, 2012

**TO:** City Council

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

**SUBJECT:** **Resolution No. 2012-35, “Declaring the Intention to Levy and Collect Assessments, Approving the Engineer’s Report and Setting the Date for the Public Hearing for Landscape Maintenance District No. 1”**

**RECOMMENDATION:** The City Council adopt Resolution No. 2012-35, declaring the intention to levy and collect assessments within Landscape Maintenance District No. 1 (LMD No. 1) during the Fiscal Year 2012/13, pursuant to the “Landscaping and Lighting Act of 1972”; approving the Engineer’s Report; and giving notice of the public hearing for renewal of said maintenance District.

**JUSTIFICATION:** It is essential to assess the property owners located within LMD No. 1 to provide for the funding required to maintain landscape areas located within the public right-of-way directly benefiting said property owners.

**BACKGROUND:** The City Council authorized the formation of LMD No. 1 with the adoption of Resolution No. 1990-59 on August 14, 1990. An additional five tracts and three tentative tracts were annexed (Annexation No. 1) into LMD No. 1 when the City Council approved Resolution No. 2005-36 on May 10, 2005. A map displaying the District is attached herewith as Exhibit “A.” Additionally, the City Council approved Resolution No. 2012-06, initiating proceedings for the fiscal year update of the District on January 24, 2012.

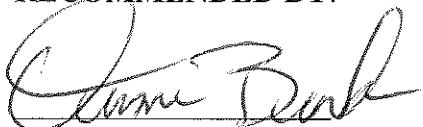
The proposed resolution basically accomplishes three goals for the fiscal year update and renewal of LMD No. 1. First, it provides the resolution of intention to levy and collect assessments; second, it permits the City Council to review and approve the Engineer’s Report; and third, it sets the date and time for a public hearing. Subsequent to the approval of Resolution No. 2012-35, the City Council will be requested to confirm the assessments for Fiscal Year 2012/13.

The Engineer’s Report, reflecting the detail of proposed assessments, was forwarded to the City Council under a separate cover. Upon approval of this resolution, the public hearing will be held at the regularly scheduled City Council meeting on June 12, 2012, at 5:00 p.m., as shown in attached Exhibit “B.” A detailed list of tracts in LMD No. 1 and their respective assessments is shown as attached Exhibit “C.”

The Engineer’s Report reflects an increase of 1.77% on the assessments based upon the average Consumer Price Index (CPI) percentage increase over the last fiscal year for the Los Angeles-Riverside-Orange County area, as reported by the U.S. Department of Labor.

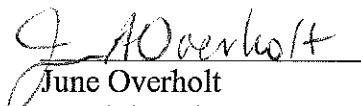
**FISCAL DATA:** Based on the proposed assessments, the estimated revenues for Fiscal Year 2012/13 for Landscape Maintenance District No. 1 will be about \$133,474.00. If approved, the annual assessment for a single-family dwelling would now range from \$96.75 to \$196.07. LMD No. 1 is managed in house by Public Works Department staff.

**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. 2012-35**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, DECLARING THE INTENTION TO LEVY AND COLLECT ASSESSMENTS WITHIN LANDSCAPE MAINTENANCE DISTRICT NO. 1, DURING THE FISCAL YEAR 2012/13, PURSUANT TO THE LANDSCAPING AND LIGHTING ACT OF 1972 FOR THE MAINTENANCE AND SERVICING OF LANDSCAPING, APPROVING THE ENGINEER'S REPORT, AND SETTING THE DATE FOR THE PUBLIC HEARING FOR THE LEVY OF SAID ASSESSMENT**

**WHEREAS**, at its regularly scheduled meeting on August 14, 1990, the City Council of the City of Banning (City Council) adopted Resolution No. 1990-59, authorizing the formation of Landscape Maintenance District No. 1 (LMD No. 1); and

**WHEREAS**, at its regularly scheduled meeting on May 10, 2005, the City Council adopted Resolution No. 2005-36, ordering the annexation of an additional five tracts and three tentative tracts to the City's LMD No. 1; and

**WHEREAS**, at its regularly scheduled meeting on January 24, 2012, the City Council adopted Resolution No. 2012-06, initiating proceedings for the fiscal year renewal of Landscape Maintenance District No. 1 pursuant to the "Landscaping and Lighting Act of 1972," Part 2 (commencing with Sec. 22500) of Division 15 of the Streets and Highways code, for the maintenance and servicing of landscape medians, parkways, perimeter strips and slopes adjacent to sidewalks, flood detention or retention basins, and the irrigation of the above facilities; and

**WHEREAS**, by said Resolution the City Council ordered the City Engineer to prepare and file a report with the City Clerk in accordance with Article 4 (commencing with Sec. 22565) of Chapter 1 of Part 2 of Division 15 of the Streets and Highways code; and

**WHEREAS**, the City Engineer has filed such report with the City Clerk, and such report has been presented to and considered by the City Council; and

**WHEREAS**, it is essential that the City Council adopt Resolution No. 2012-35, so that the City may assess and collect assessments from the property owners located within LMD No. 1; and

**WHEREAS**, the City Council hereby finds that the funding for LMD No. 1 is available through a special assessment of property owners located within the District.

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

SECTION I. That the City Council hereby declares its intention to levy and collect assessments within Landscape Maintenance District No. 1 for the Fiscal Year 2012/13 pursuant to the "Landscaping and Lighting Act of 1972." The area to be assessed is located in the City of Banning, Riverside County. The boundaries of Landscape Maintenance District No. 1 are described in Exhibit "A," and are on file in the Office of the City Clerk.

SECTION II. That the purpose of Landscape Maintenance District No. 1 is for the maintenance and servicing of landscape medians and parkways, perimeter strips and backup walls, landscaped hillsides with high visibility, side slopes adjacent to sidewalks, flood detention or retention basins, and the irrigation of the above facilities.

SECTION III. That the preliminary Engineer's Report, which is on file with the City Clerk and considered by the City Council at the meeting at which this Resolution has been adopted, is hereby approved and considered final. All interested persons are referred to that report for a full and detailed description of the work, the boundaries of the proposed assessment district, and the proposed assessments upon assessable lots and parcels of land within Landscape Maintenance District No. 1.

SECTION IV. That the City Clerk shall give notice of the time and place of said hearing by advertising a copy of the resolution once in the local newspaper and provide a posted notice not less than ten (10) days before the date of the hearing.

SECTION V. That on Tuesday, June 12, 2012, at the hour of 5:00 p.m., during the course of its regularly scheduled meeting, the City Council will conduct a public hearing on the question of the levy of the proposed annual assessment. The hearing will be held at Banning City Hall, 99 E. Ramsey Street, Banning, California.

**PASSED, APPROVED AND ADOPTED** this 8th day of May, 2012.

---

Don Robinson, Mayor  
City of Banning

**ATTEST:**

---

Marie A. Calderon, City Clerk  
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. 2012-35 was adopted by the City Council of the City of Banning at the Regular Meeting thereof held on the 8th day of May, 2012, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

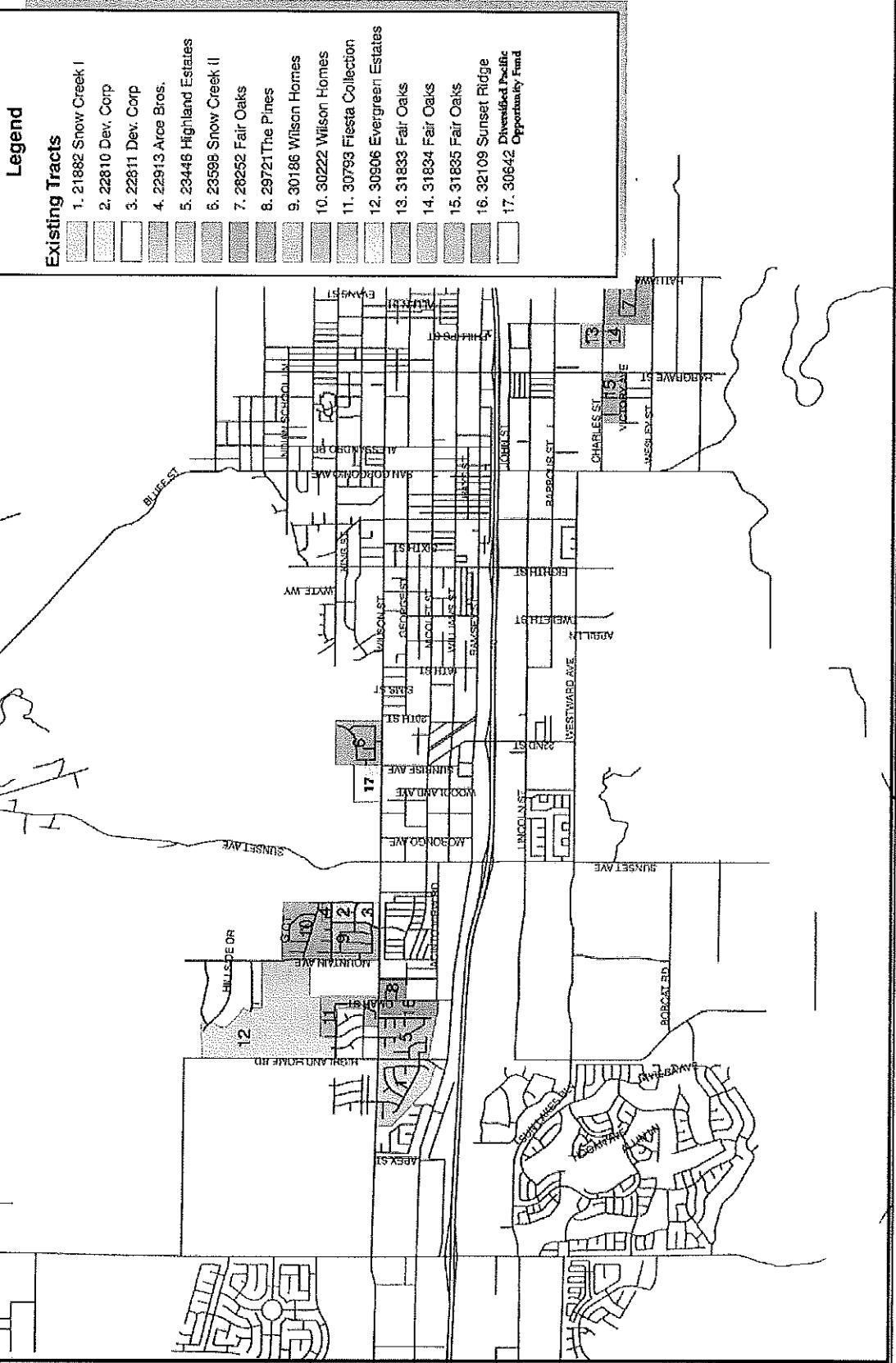
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Marie A. Calderon, City Clerk  
City of Banning, California

**EXHIBIT "A"**

**LANDSCAPE MAINTENANCE DISTRICT NO. 1  
FOR  
FISCAL YEAR 2012/13**

# Map of Landscape Maintenance District No. 1 2012/2013



## **EXHIBIT “B”**

### **TENTATIVE SCHEDULE UPDATING LANDSCAPE MAINTENANCE DISTRICT NO. 1**

<u>Item</u>	<u>Council Meeting</u>
Resolution Initiating Update	January 24, 2012
Resolution of Intention and Approve Engineer's Report	May 8, 2012 (revised)
Public Hearing and Resolution Confirming Assessment	June 12, 2012 (revised)

## EXHIBIT "C"

### LANDSCAPE MAINTENANCE DISTRICT NO. 1 TRACTS AND ASSESSMENTS FISCAL YEAR 2012/13

Tract No.	No. of AU	Zone	Current Cost/AU (FY 2011/12)	Proposed Cost/AU (FY 2012/13)
22810	43	A	\$104.67	\$106.52
22811	39	A	\$104.67	\$106.52
22913	9	A	\$104.67	\$106.52
21882	134	B	\$108.91	\$110.84
23446	137	B	\$108.91	\$110.84
29721	21	B	\$108.91	\$110.84
30186	107	B	\$108.91	\$110.84
30222	121	B	\$108.91	\$110.84
32109	38	B	\$108.91	\$110.84
23598	97	C	\$95.07	\$96.75
30642	(53)	C	\$95.07	\$96.75
28252	70	D	\$192.66	\$196.07
30793	43	D	\$192.66	\$196.07
31833	17	D	\$192.66	\$196.07
31834	18	D	\$192.66	\$196.07
31835	33	D	\$192.66	\$196.07
30906*	87	D	\$192.66	\$196.07
<b>Total</b>	<b>1,014</b>		<b>\$131,260.33</b>	<b>\$133,473.55</b>

(#) = Tract not yet completed or will not be accepted into the Landscape Maintenance District during the next Fiscal Year. Not included in total AU.

\*Tract No. 30906 has a total of 303 Assessment Units (AU); therefore, a total of 216 remain.

**CITY COUNCIL AGENDA  
CONSENT ITEM**

**Date:** **May 8, 2012**

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

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

**SUBJECT:** **Resolution No. 2012-38. Authorize the purchase of a camera surveillance system from Leverage Information Systems in the amount of \$217,442.**

**RECOMMENDATIONS:** "Adopt Resolution No. 2012-38 authorizing the purchase of a camera surveillance system from Leverage Information Systems in an amount not to exceed \$217,442.

**JUSTIFICATION:** The requested camera surveillance system is comprised of multiple cameras deployed at the intersection of Ramsey Street and San Gorgonio Avenue, as well as both Repplier and Roosevelt Williams parks. The backbone of the system will be installed at the Banning Police Department where dispatchers will have the ability to continuously monitor and record the camera system 24/7.

The purchase of the camera surveillance system will fulfill the camera purchase grant requirement under the FY10-2011 Special Distribution Fund (SDF) Grant.

**BACKGROUND:** In an effort to increase public safety in the City of Banning, the police department and Leverage Information Systems worked together to develop a camera surveillance system for the intersection of Ramsey Street and San Gorgonio Avenue and both Repplier and Roosevelt Williams parks.

Three cameras will be installed at Repplier Park to monitor the West side of the park, near the softball field, the amphitheater, and the skate park. Four cameras will be installed at Roosevelt Williams Park covering the entire park and three cameras will be installed at the intersection of Ramsey Street and San Gorgonio Avenue covering the intersection and adjacent businesses.

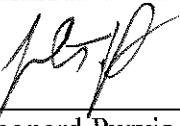
The supporting infrastructure for the system will be housed at the Banning Police Station and will be designed in such a fashion to support future expansion of the system with added cameras. Recordings of the cameras will be retained for approximately 14 days allowing ample time for officers to pull video for evidence should the need arise. Additionally, the system will include loud speakers so dispatchers can speak to anyone seen on the cameras. The system also has a detection application that alerts dispatchers when movement is identified in the parks when they are closed at night. The system, as purchased, will include a 3 year warranty and support program.

40

The police department intends on purchasing the camera surveillance system through a "Piggy Back" bid awarded to Leverage Information Systems by the Bakersfield Police Department under City of Bakersfield Agreement No. 10-114.

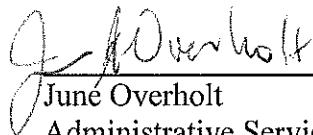
**FISCAL DATA:** The purchase of the described camera surveillance system will not require any funding from the City's General Fund. The 2010-2012 SLESF Grants and FY10-11 SDF Grant will cover the entire cost.

**RECOMMEND BY:**



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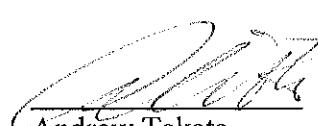
Leonard Purvis  
Chief of Police



---

June Overholt  
Administrative Services Director

**APPROVED BY:**



---

Andrew Takata  
City Manager

41

**RESOLUTION NO. 2012-38**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BANNING APPROVING THE PURCHASE OF A CAMERA SURVEILLANCE SYSTEM FROM LEVERAGE INFORMATION SYSTEMS IN THE AMOUNT OF \$217,442.**

**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**, a state-of-the-art camera surveillance system will enhance public safety in the parks and downtown area; and

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

**NOW, THEREFORE, BE IT RESOLVED**, the City Council of the City of Banning authorizes the Banning Police Department to purchase the previously described camera surveillance system from Leverage Information Systems in the amount of \$217,442 to be paid for through funds received under the 2010-2012 SLESF Grants and FY10-11 SDF Grant. Furthermore, the Banning Police Department is authorized to enter into a contract with Leverage Information Systems for the installation and maintenance warranty of the described camera surveillance system. The Finance Department is authorized to make the necessary budget adjustments related to these funds.

**PASSED, APPROVED, AND ADOPTED** this 8<sup>th</sup> day of May, 2012.

---

Don Robinson, Mayor

**ATTEST:**

---

Marie A. Calderon, City Clerk  
City of Banning

**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. 2012-38 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 8<sup>th</sup> day of May 2012, by the following to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

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

## CITY COUNCIL AGENDA

**DATE:**

**May 8, 2012**

**TO:**

**City Council**

**FROM:**

**Duane Burk, Director of Public Works**

**SUBJECT:**

**Resolution No. 2012-40, "Awarding the Custodial Services Contract to Custom Service Systems for the City of Banning's Civic Center and Municipal Facilities"**

**RECOMMENDATION:** The City Council adopt Resolution No. 2012-40, "Awarding the Custodial Services Contract to Custom Service Systems for the City of Banning's Civic Center and Municipal Facilities" in the amount of \$4,883.09 (with a Consumer Price Index (CPI) increase due on July 1, 2012) per month.

**JUSTIFICATION:** It is essential to award a new contract to Custom Service Systems of Riverside in order to continue providing complete custodial services for the Civic Center and three other municipal facilities. There have been seven amendments to the original contract.

**BACKGROUND:** On September 25, 2007, the City Council adopted Resolution No. 2007-112, awarding the contract Agreement for custodial services to Custom Service Systems of Riverside, California after an evaluation committee reviewed four sealed bids and proposals. Upon review of the proposals; it was determined that Custom Service Systems (CSS) was the most qualified firm to provide custodial services, as per the guidelines set forth in the Request for Proposals/Scope of Services. The scope of work consists of providing regularly scheduled custodial services (currently at four days per week) to effectively, efficiently and safely maintain a high level of cleanliness for four specified City facilities, in accordance with the best standard of practice. CSS is a reputable firm in the janitorial industry and has extensive experience. Additionally, CSS holds the current contract for the City of Banning's custodial services and has effectively provided services and performed the Scope of Work satisfactorily over the past eight years.

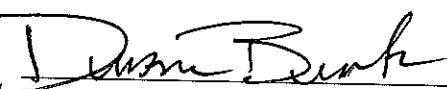
Currently, the City and CSS have seven amendments to the original contract dated July 20, 2007 and thus it is prudent to issue a new contract Agreement. The current custodial services contract, (the seventh amendment) with Custom Service Systems, expires on June 30, 2012. The proposed contract is for twelve (12) months beginning July 1, 2012 and ending June 30, 2013 with the same thirty (30) day termination clause and with the same provision to extend the contract for an additional four single years based upon an annual review of the provided services and subject to a Consumer Price Index (CPI) increase. The scope of services and specifications include thorough cleaning of the following four (4) city-owned facilities: Banning Civic Center, Banning Police Station, Water Shop, and the City Yard.

**FISCAL DATA:** The term of this agreement is twelve (12) months, and the monthly specified unit price for each building is as follows: Banning Civic Center, \$1,709.59; Banning Police Station,

44

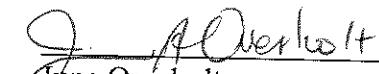
\$1,990.00; Water Shop, \$405.57; and the City Yard, \$777.93. The contract has a renewable option for up to an additional four single years. The estimated cost for the maintenance contract for Fiscal Year 2012/13 is the current annual amount of \$58,597.08, plus a CPI increase due on July 1, 2012. Compensations shall be adjusted annually on July 1<sup>st</sup> of 2012 and each year thereafter to reflect changes in the Consumer Price Index (CPI) for the Los Angeles-Riverside-Orange County area as provided by the U. S. Dept of Labor, Bureau of Labor Statistics, for the previous available twelve (12) months prior to the date of adjustment. The custodial services contract will be funded by the Building Maintenance Account No. 001-3200-412.33-18 for Fiscal Year 2102/2013.

**RECOMMENDED BY:**



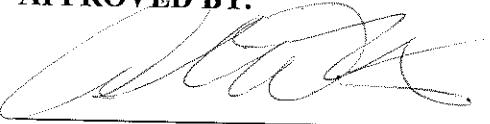
Duane Burk,  
Director of Public Works

**REVIEWED BY:**



June Overholt,  
Administrative Services Director/  
Deputy City Manager

**APPROVED BY:**



Andy Takata,  
City Manager

45

**RESOLUTION NO. 2012-40**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA,  
AWARDING THE CUSTODIAL SERVICES CONTRACT TO CUSTOM SERVICE  
SYSTEMS FOR THE CITY OF BANNING'S CIVIC CENTER AND MUNICIPAL  
FACILITIES**

**WHEREAS**, it is essential to hire a professional custodial firm to provide complete custodial services in a cost effective manner to ensure the cleanliness of the following four city-owned facilities: Banning Civic Center, Banning Police Station, Water Shop, and the City Yard; and

**WHEREAS**, at its regularly scheduled meeting on September 25, 2007, the City Council adopted Resolution No. 2007-112, awarding the contract Agreement for custodial services to Custom Service Systems of Riverside, California; and

**WHEREAS**, the City has renewed the custodial services contract with Custom Service Systems each year from 2008 through 2012 due to satisfactory work and reasonable costs, and the original contract now has seven amendments; and

**WHEREAS**, the proposed contract is for twelve (12) months, from July 1, 2012 to June 30, 2013 with a thirty (30) day termination clause and with the provision to extend the contract for a period of up to four (4) additional single years, subject to an annual review of the services provided and a Consumer Price Index (CPI) increase; and

**WHEREAS**, the funding for the custodial services contract is available in the Building Maintenance Account No. 001-3200-412.33-18, for Fiscal Year 2012/2013.

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

**SECTION I.** Award the Professional Custodial Services Contract for the City of Banning's Civic Center and Municipal Facilities to Custom Service Systems of Riverside, California in an annual amount of \$58,597.08 with a CPI increase due on July 1, 2012.

**SECTION II.** Authorize the City Manager to execute the Agreement with Custom Service Systems for Custodial Services for the City of Banning's Civic Center and Municipal Facilities. 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 8<sup>th</sup> day of May, 2012.

---

Don Robinson, Mayor  
City of Banning

**ATTEST:**

---

Marie A. Calderon, City Clerk  
City of Banning

**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. 2012-40 was adopted by the City Council of the City of Banning at the regular meeting thereof held on the 8<sup>th</sup> day of May, 2012, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

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

## CITY COUNCIL AGENDA

**DATE:** May 8, 2012

**TO:** City Council

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

**SUBJECT:** Notice of Completion for Project No. 2011-06 "Rubberized Asphalt Concrete (RAC) Overlay and Street Improvements along Wilson Street, from Stargaze Way to Mountain Avenue"

**RECOMMENDATION:** That the City Council accepts Project No. 2011-06, "Rubberized Asphalt Concrete (RAC) Overlay and Street Improvements along Wilson Street, from Stargaze Way to Mountain Avenue" as complete and direct the City Clerk to record the Notice of Completion.

**JUSTIFICATION:** Staff has determined that the project has been completed per the City of Banning plans and specifications.

**BACKGROUND:** The California Integrated Waste Management Board (CIWMB) receives an annual appropriation from the California Tire Recycling Management Fund to administer the Tire Recycling Act (Act), per the terms of Senate Bill 937 and related legislation. As part of the Act, the CIWMB offers the Targeted Rubberized Asphalt Concrete Incentive Grant Program to encourage the use of waste tire rubber in order to reduce landfill disposal and stockpiling of California Waste Tires. In late February of 2011, the Public Works Department's Engineering Division submitted a grant request to the CIWMB for a street improvement project along Wilson Street, from Stargaze Way to Mountain Avenue, utilizing Rubberized Asphalt Concrete. The CIWMB staff evaluated the proposed project and approved the grant application. The grant stipulated that the City would be reimbursed 70% of the differential between RAC and conventional asphalt unit prices. The maximum reimbursement for this grant is equal to \$250,000.00

On December 13, 2011, the City Council adopted Resolution No. 2011-95, "Awarding the Construction Contract for Project No. 2011-06, 'Rubberized Asphalt Concrete (RAC) Overlay and Street Improvements along Wilson Street, from Stargaze Way to Mountain Avenue,' to Matich Corporation Inc. of San Bernardino, California."

The scope of work included: grinding/cold planing of existing asphalt; placing 1-1/2" to 2" of Asphaltic Rubber Hot Mix (ARHM) overlay per the City Engineer's recommendations; Cold-in-Place Recycling; constructing sidewalks, curbs, gutters, cross gutters, spandrels and handicap ramps; adjusting manholes, water meters, and water valve covers to grade; striping improvements; signage installation; and cleaning all in accordance with the City of Banning and CALTRANS Standard Specifications.

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**FISCAL DATA:** The original contract amount for this project was \$1,464,100.00 which included a 10% construction contingency. The completion of the project resulted in a final contract amount of \$1,250,286.13, approximately \$213,813.87 under the approved budget.

**RECOMMENDED BY:**



Duane Burk,  
Director of Public Works

**REVIEWED BY:**



June Overholt,  
Administrative Services Director  
Deputy City Manager

**APPROVED BY:**



Andy Takata  
City Manager

1 WHEN RECORDED MAIL TO:

2  
3 The Office of the City Clerk  
4 City of Banning  
5 P.O. Box 998  
6 Banning, California 92220  
7

8 FREE RECORDING:

9 Exempt Pursuant to  
10 Government Code §6103  
11

---

13 NOTICE OF COMPLETION

14 PROJECT NO. 2011-06

15 RUBBERIZED ASPHALT CONCRETE (RAC) OVERLAY AND STREET  
16 IMPROVEMENT ALONG WILSON STREET FROM STARGAZE WAY TO  
17 MOUNTAIN AVENUE

18  
19 THIS NOTICE OF COMPLETION IS HEREBY GIVEN by the OWNER, the  
20 City of Banning, a municipal corporation, pursuant to the provisions of Section 3093 of  
21 the Civil Code of the State of California, and is hereby accepted by the City of Banning,  
22 pursuant to authority conferred by the City Council this May 8, 2012 , and the grantees  
23 consent to recordation thereof by its duly authorized agent.

24  
25 That the OWNER, the City of Banning, and Matich Corporation of San Bernardino,  
26 California, the vendee, entered into an agreement dated December 21, 2011, for  
27 Construction of Project No. 2011-06, "Rubberized Asphalt Concrete (RAC) Overlay and  
28 Street Improvements along Wilson Street, from Stargaze Way to Mountain Avenue." The  
29 scope of work for Project No. 2011-06 included: grinding/cold planing of existing  
30 asphalt; placing 1-1/2" to 2" of Asphaltic Rubber Hot Mix (ARHM) overlay per the City  
31 Engineer's recommendations; Cold-in-Place Recycling; constructing sidewalks, curbs,  
32 gutters, cross gutters, spandrels and handicap ramps; adjusting manholes, water meters,  
33 and water valve covers to grade; striping improvements; signage installation; and  
34 cleaning; all in accordance with the City of Banning and CALTRANS Standard  
35 Specifications.

50

(1) That the work of improvement was completed on March 31, 2012, for Project No. 2011-06, "Rubberized Asphalt Concrete (RAC) Overlay and Street Improvements along Wilson Street, from Stargaze Way to Mountain Avenue."

(2) That the City of Banning, a municipal corporation, whose address is Banning City Hall, 99 E. Ramsey Street, Banning, California 92220, is completing work of improvement.

(3) That said work of improvement was performed at various locations on Wilson Street and Sunset Avenue throughout Banning, California 92220.

(4) That the original contractor for said improvement was Matich Corporation, State Contractor's License No. 149783.

(5) That Performance and Payment bonds were required for this project.

(6) The nature of interest is in fee.

Dated: May 8, 2012

CITY OF BANNING  
A Municipal Corporation

APPROVED AS TO FORM:

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

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## JURAT

State of California  
County of Riverside

Subscribed and sworn to (or affirmed) before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2012 by \_\_\_\_\_ proved to me on this basis of satisfactory evidence to be the person(s) who appeared before me.

(Seal)

Notary Public in and for said County  
and State

STATE OF CALIFORNIA)

) ss

**COUNTY OF RIVERSIDE)**

MARIE A. CALDERON, being duly sworn, deposes and says:

That I am the City Clerk of the City of Banning, which City caused the work to be performed on the real property hereinabove described, and is authorized to execute this Notice of Completion on behalf of said City; that I have read the foregoing Notice and know the contents thereof, and that the facts stated therein are true based upon information available to the City of Banning, and that I make this verification on behalf of said City of Banning. I declare under perjury that the forgoing is true and correct.

Executed on \_\_\_\_\_, 2012 at Banning, California.

## City Clerk of the City of Banning

52

## CITY COUNCIL AGENDA

**Date:** May 8, 2012

**TO:** City Council

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

**SUBJECT:** Amend the Existing Contract with J.B. Paving & Engineering

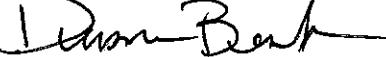
**RECOMMENDATION:** Approve the Amendment to the existing Contract with J.B. Paving and Engineering in the amount of \$10,000.00,

**JUSTIFICATION:** To continue to provide timely asphalt/concrete paving and patching repairs to temporary patches as a result of water leak repairs during Fiscal Year 2011-12.

**BACKGROUND:** J.B. Paving & Engineering has been providing asphalt/concrete paving repairs throughout the City of Banning for the past four years through an annual contract in an amount not-to-exceed \$25,000.00. However, this year the Water Division has experienced an increase in patches to be paved and Staff is requesting the additional amount of \$10,000.00 to complete the paving under this fiscal year.

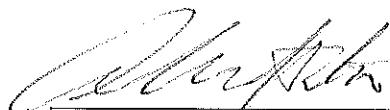
**FISCAL DATA:** Funding of this amendment in the amount of \$10,000.00 is available in the FY 11-12 Water Operations Budget Account No. 660-6300-471-3311.

**RECOMMENDED BY:**



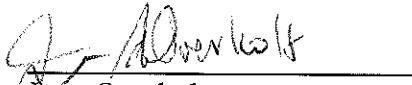
Duane Burk  
Director of Public Works

**APPROVED BY:**



Andy Takata  
City Manager

**RECOMMENDED BY:**

  
June Overholt  
Administrative Services Director/  
Deputy City Manager



**PUBLIC WORKS DEPARTMENT**

**P.O. Box 998**

**Banning, CA 92220**

**FIRST AMENDMENT  
TO  
PROFESSIONAL SERVICES AGREEMENT  
BETWEEN THE CITY OF BANNING  
AND  
J.B. PAVING & ENGINEERING**

**ARTICLE 1. PARTIES AND DATE**

This First Amendment to the Professional Services Agreement ("Amendment") dated as of the 8th day of May, 2012 is entered into by and between the City of Banning ("City") and J.B. Paving & Engineering.

**ARTICLE 2. RECITALS**

**2.1** City and J.B. Paving & Engineering entered into that certain Agreement for Services dated the 1<sup>st</sup> of July 2012 ("Agreement"), whereby J.B. Paving & Engineering agreed to provide Asphalt/Concrete Paving Services as requested by the Water Division.

**2.2** City and J.B. Paving & Engineering now desire to amend the Agreement to include additional services and compensation to the original Agreement.

**ARTICLE 3. TERMS**

**3.1** A new Exhibit "A" attached to this amendment is hereby added to the Agreement to reflect the additional services to be provided for the additional compensation of \$10,000.00 for the Asphalt/Concrete Paving Services.

**3.2 Continuing Effect of Agreement.** Except as amended by this First Amendment, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this First Amendment, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement as amended by this First Amendment.

**3.3 Affirmation of Agreement; Warranty Re Absence of Defaults.** City and J.B. Paving & Engineering each ratify and reaffirm each and every one of their respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement. Each party represents and warrants to the other that the Agreement is currently an effective, valid and binding obligation.

J.B. Paving & Engineering Represents and warrants to City that, as of the date of this First Amendment, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to J.B. Paving & Engineering that, as of the date of this First Amendment, J.B. Paving & Engineering is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

**3.4 Adequate Consideration.** The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this FIRST Amendment.

**3.5 Counterparts.** This FIRST Amendment may be executed in triplicate originals, each of which is deemed to be an original, but when taken together shall constitute but one and the same instrument.

Signatures on Next Page

CITY OF BANNING

By: \_\_\_\_\_  
Andrew J. Takata  
City Manager

Date: \_\_\_\_\_

J.B. Paving & Engineering

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

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

Date: \_\_\_\_\_

2<sup>nd</sup> Signature Required if a Corporation:

Name: \_\_\_\_\_

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

APPROVED AS TO FORM:

Aleshire & Wynder, LLP

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

Exhibit "A"  
Compensation & Scope of work

**The scope of additional work is described are as follows:**

Task 1

- 1.1 Remove and replace damaged asphalt/concrete due to water repairs, such as street, Sidewalk & gutter, as requested by Water Division. Fine Tune and compact existing class 2 base or concrete to locations provided and approved by the Public Works Director and/or designated representative. Each assignment shall be indicated by a written request produced by the Director with a description of the work to be performed (the "Project"), the cost, and the time for completion of the Project. All Projects shall be carried out in conformity with all provisions of this Agreement.

**1.2 As part of the Services, Contractor will complete.**

J.B. Paving agrees to complete the above mentioned additional tasks for an additional amount of not-to-exceed \$10,000.00 to be added to the original contract amount of \$25,000.00 for a grand total of \$35,000.00.

## CITY COUNCIL AGENDA

**Date:** May 8, 2012

**TO:** City Council

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

**SUBJECT:** Report of Investments for February 2012

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

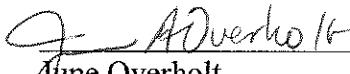
**JUSTIFICATION:** State law requires that a monthly report of investments be submitted to the Chief Executive Officer and the Legislative Body.

**BACKGROUND:** This report includes investments on hand at the end of February 2012. As of February 29, 2012, the City's operating funds totaled \$65,454,303. Included in operating funds is \$1,481,901 of restricted CRA bond proceeds that are on deposit with LAIF and reflected separately on the Treasurer's Report. As of February 29, 2012 approximately 45% of the City's unrestricted cash balances were invested in investments other than LAIF.

Presented are three months of Investment Reports. February is a first issue, while December and January 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 0.389% in February. The average rate for all investments in February was 0.397%.

**RECOMMENDED BY:**

  
June Overholt  
Administrative Services Director/  
Deputy City Manager

**APPROVED BY:**

  
Andy Takata  
City Manager

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

2,305

Bank Accounts**Interest**

	Rate	Amount
Wells Fargo Bank	0.000%	69,338
Wells Fargo Bank-Investment Account	0.100%	3,170,135
Bank of America-Airport	0.300%	3,069
Bank of America-Parking Citations	0.300%	3,735
Bank of America-CNG Station	0.300%	3,084

*Money Market and Bank Account Sub-Total*

3,249,361

Government Pools

Account #1 Operating Amount	34,036,237
Account #1 CRA Bond Cash Bal.	1,481,901
Local Agency Investment Fund: Account #1	0.389% 35,518,138

*Government Pool Sub-Total*35,518,138**Operating Cash Balance****38,769,804**Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund	0.000%	1,080,108
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Other Investments

Investments-US Bank/Piper Jaffray - See Page 2	0.446%	25,604,391
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**Operating Funds Total**65,454,303**Fiscal Agent****Amount**

US Bank

43,555,922

**Fiscal Agent Total**43,555,922

Operational Portfolio Individual Investments

Average Rate All= 0.397%

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 August 23, 2011. 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 212 days and does not include Bond Reserve Fund Investments.

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# City of Banning Investment Report

February 29, 2012

## Individual Investments with Fiscal Agent

Bond Issue Description	Bond Maturity Date	Investment Description	Current Yield	Bond Maturity Date	Minimum Reserve Requirement	Interest Feb-12	Market Value
<b>COB IMPROVEMENT DISTRICT LIMITED OBLIGATION BONDS SERIES 2005A</b>							
2005 Fair Oaks Ranch Estates	2035	US Bank Mmkt 4-Ct	0.040%	daily	188,943	6.37	188,065
<b>COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION, SERIES 2003</b>							
2003 CRA Tax Allocation Bonds	2028	US Treasury Bill	4.54%	7/28/2011	971,763		988,148
		US Bank Mmkt 4-Ct	0.040%	daily			19,920
		US Bank Mmkt 4-Ct	0.000%	daily			
		US Bank Mmkt 4-Ct	0.000%	daily			
<b>COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007</b>							
Redevelop Fund	2037	US Bank Mmkt 4-Ct	0.040%	daily	404.28	11,933,243	
Reserve Fund		US Bank Mmkt 4-Ct	0.040%	daily	63.55	1,875,241	
Special Fund		US Bank Mmkt 4-Ct	0.060%	daily	17.70	18	
Surplus Fund		US Bank Mmkt 4-Ct	0.000%	daily			
<b>BUA - WASTEWATER ENTERPRISE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES</b>							
Interest Account		US Bank Mmkt 4-Ct	0.000%	daily			
Principal Account		US Bank Mmkt 4-Ct	0.000%	daily			
		US Bank Mmkt 4-Ct	0.040%	daily			
<b>BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES</b>							
Interest Account		US Bank Mmkt 4-Ct	0.040%	daily			
Principal Account		US Bank Mmkt 4-Ct	0.030%	daily			
Reserve Fund		US Bank Mmkt 4-Ct	0.040%	daily			
Project Fund		US Bank Mmkt 4-Ct	0.040%	daily			
<b>BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES</b>							
		US Bank Mmkt 4-Ct	0.050%	daily	19.15	19	
		US Bank Mmkt 4-Ct	0.040%	daily	2,672,050	100.71	2,972,817
		US Bank Mmkt 4-Ct	0.400%	daily	521.07	15,380,508	
<b>Total</b>						<b>18,235.58</b>	<b>43,555,922</b>
*Paid Semi-Annually-Deposited into Money Mkt Account							

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

	<u>Amount</u>
<i>Petty Cash</i>	2,305

**Bank Accounts**

	Interest	
	Rate	<u>Amount</u>
Wells Fargo Bank	0.000%	70,869
Wells Fargo Bank-Investment Account	0.100%	4,602,220
Bank of America-Airport	0.300%	7,917
Bank of America-Parking Citations	0.300%	4,094
Bank of America-CNG Station	0.300%	<u>6,012</u>

<i>Money Market and Bank Account Sub-Total</i>	4,691,111
--	-----------

**Government Pools**

Account #1 Operating Amount	31,011,337
Account #1 CRA Bond Cash Bal.	1,506,801
Local Agency Investment Fund: Account #1	0.385% 32,518,138
Account #2 Operating Amount	0
Account #2 CRA Bond Cash Bal	0
Local Agency Investment Fund: Account #2	0.385% <u>-</u>

<i>Government Pool Sub-Total</i>	<u>32,518,138</u>
----------------------------------	-------------------

<b>Operating Cash Balance</b>	<b>37,211,554</b>
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**Restricted Operating Funds at Riverside Public Utilities**

Highmark U.S. Government Money Market Fund	0.000%	1,800,128
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**Other Investments**

Investments-US Bank/Piper Jaffray - See Page 2	0.446%	25,605,961
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<b><i>Operating Funds Total</i></b>	<b><u>64,617,644</u></b>
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**Fiscal Agent**

US Bank	<u>Amount</u>
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	44,402,661
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<b><i>Fiscal Agent Total</i></b>	<b><u>44,402,661</u></b>
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City of Banning Investment Report

January 31, 2012

## Operational Portfolio Individual Investments

Average Rate All = 0.388%

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 August 23, 2011. 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 226 days and does not include Bond Reserve Fund Investments.

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City of Banning Investment Report

January, 2012

## Individual Investments with Fiscal Agent

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

2,305

Bank Accounts

Wells Fargo Bank

InterestRateAmount

0.000% 4,620

Wells Fargo Bank-Investment Account

0.100% 2,947,287

Bank of America-Airport

0.300% 4,666

Bank of America-Parking Citations

0.300% 3,244

Bank of America-CNG Station

0.300% 3,726*Money Market and Bank Account Sub-Total*

2,963,544

Government Pools

Account #1 Operating Amount 31,216,326.48

Account #1 CRA Bond Cash Bal. 297,412

Local Agency Investment Fund: Account #1 0.382% 31,513,738

Account #2 Operating Amount

Account #2 CRA Bond Cash Bal. 1,272,335

Local Agency Investment Fund: Account #2 0.382% 1,272,335*Government Pool Sub-Total*32,786,074**Operating Cash Balance****35,751,923**Restricted Operating Funds at Riverside Public UtilitiesHighmark U.S. Government Money Market Fund 0.000% **1,244,500**Other InvestmentsInvestments-US Bank/Piper Jaffray - See Page 2 0.623% **25,586,516*****Operating Funds Total*****62,582,938****Fiscal Agent**

US Bank

Amount

43,554,793

***Fiscal Agent Total*****43,554,793**

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City of Banning Investment Report

## Operational Portfolio Individual Investments

December 31, 2011

Average Rate All= 0.469%

It has been verified that this investment portfolio is in conformity with the City Council on August 23, 2011. 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 305 days and does not include Bond Reserve Fund Investments.

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III

# City of Banning Investment Report

December 31, 2011

## Individual Investments with Fiscal Agent

Bond	Maturity	Investment Description	Current Yield	Bond Maturity Date	Minimum Reserve Requirement	Interest Dec-11	Market Value	12/31/2011
<b>Bond Issue Description</b>								
<b>COB IMPROVEMENT DISTRICT LIMITED OBLIGATION BONDS SERIES 2005A</b>								
2005 Fair Oaks Ranch Estates	2035	US Bank Mmkt 4-Ct	0.050%	daily	188,943	7.73	188,057	
<b>COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION, SERIES 2003</b>								
2003 CRA Tax Allocation Bonds	2028	U S Treasury Bill	0.75%	7/28/2011	971,763	0.00	987,622	
		US Bank Mmkt 4-Ct	0.050%	daily			21,837	
		US Bank Mmkt 4-Ct	0.030%	daily			29	
		US Bank Mmkt 4-Ct	0.000%	daily			8	
<b>COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007</b>								
Redevelop Fund	2037	US Bank Mmkt 4-Ct	0.050%	daily			11,932,348	
Reserve Fund		US Bank Mmkt 4-Ct	0.050%	daily			1,875,570	
Special Fund		US Bank Mmkt 4-Ct	0.040%	daily			47	
Surplus Fund		US Bank Mmkt 4-Ct	0.000%	daily			9	
<b>BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES</b>								
Interest Account		US Bank Mmkt 4-Ct	0.000%	daily			4	
Principal Account		US Bank Mmkt 4-Ct	0.000%	daily			6	
		US Bank Mmkt 4-Ct	0.050%	daily				
<b>BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES</b>								
Interest Account		US Bank Mmkt 4-Ct	0.040%	daily			24	
Principal Account		US Bank Mmkt 4-Ct	0.050%	daily			30	
Reserve Fund		US Bank Mmkt 4-Ct	0.050%	daily			2,311,026	
Project Fund		US Bank Mmkt 4-Ct	0.050%	daily			4,197,800	
					151.57		3,688,408	
<b>BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES</b>								
Acquisition & Construction		US Bank Mmkt 4-Ct	0.050%	daily			19	
		US Bank Mmkt 4-Ct	0.050%	daily			2,972,594	
		US Bank Mmkt 4-Ct	0.050%	daily			15,379,355	
<b>Total</b>							<b>1,701.33</b>	<b>43,554,793</b>
<i>*Paid Semi-Annually-Deposited into Money Mkt Account</i>								

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## CITY COUNCIL AGENDA

**Date:** May 8, 2012

**TO:** City Council

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

**SUBJECT:** Report of Investments for March 2012

**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 March 2012. As of March 31, 2012, the City's operating funds totaled \$65,234,280. Included in operating funds is \$1,406,900 of restricted CRA bond proceeds that are on deposit with LAIF and reflected separately on the Treasurer's Report. As of March 31, 2012 approximately 44% of the City's unrestricted cash balances were invested in investments other than LAIF.

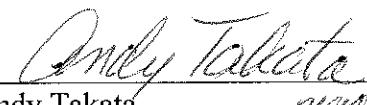
Presented are three months of Investment Reports. March is a first issue, while January and February are included to provide multiple months of statements for comparison.

**FISCAL DATA:** The latest reports from the State indicate that the average interest achieved by the Local Agency Investment Fund (LAIF) decreased to 0.383% in March. The average rate for all investments in March was 0.302%.

**RECOMMENDED BY:**

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

**APPROVED BY:**

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

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

	Amount
--	--------

Bank Accounts

Wells Fargo Bank

## Interest

Rate	Amount
------	--------

0.000% 132,347

Wells Fargo Bank-Investment Account

0.100% 2,678,158

Bank of America-Airport

0.300% 9,056

Bank of America-Parking Citations

0.300% 8,106

Bank of America-CNG Station

0.300% 5,542

*Money Market and Bank Account Sub-Total***2,833,210**Government Pools

Account #1 Operating Amount

**34,111,238**

Account #1 CRA Bond Cash Bal.

**1,406,900**

Local Agency Investment Fund: Account #1

0.383% **35,518,138***Government Pool Sub-Total***35,518,138****Operating Cash Balance****38,353,653**Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund

0.000%

**1,244,500**Other Investments

Investments-US Bank/Piper Jaffray - See Page 2

0.212%

**25,636,128***Operating Funds Total***65,234,280****Fiscal Agent**

US Bank

	Amount
--	--------

**43,583,577***Fiscal Agent Total***43,583,577**

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## Operational Portfolio Individual Investments

Government Pools

- 35,518,138 L.A.I.F. account #1
- L.A.I.F. account #2

1,000,000	Federal Home Loan Banks	n/a	1.000%	6/27/2014	6/16/2011	1,000,000	1,001,720
5,000,000	FHLMC MTN	n/a	0.450%	9/6/2013	12/2/2011	5,000,000	5,002,000
3,000,000	Federal Farm Bank Credit Blks	n/a	0.620%	5/1/2014	12/2/2011	3,000,000	2,999,310
16,633,098	Money Market	n/a	0.020%	daily	varies	16,633,098	0
							16,633,098

Average Rate All = 0.302%

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 August 23, 2011. 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 93 days and does not include Bond Reserve Fund Investments.

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## City of Banning Investment Report

March 31, 2012

### Individual Investments with Fiscal Agent

Bond Issue Description	Bond	Maturity Date	Investment Description	Current Yield	Bond Maturity Date	Bond Reserve	Minimum Reserve	Interest Requirement	Mar.12	Market Value	3/31/2012
<b>COB IMPROVEMENT DISTRICT LIMITED OBLIGATION BONDS SERIES 2005A</b>											
2005 Fair Oaks Ranch Estates											
	2035	US Bank Mmkt 4-Ct		0.040%	daily	188,943	5.96			218,030	
<b>COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION, SERIES 2003</b>											
2003 CRA Tax Allocation Bonds											
	2028	U S Treasury Bill	4.54%	7/28/2011	971,763					984,356	
		US Bank Mmkt 4-Ct	0.040%	daily						19,921	
		US Bank Mmkt 4-Ct	0.000%	daily						7	
		US Bank Mmkt 4-Ct	0.000%	daily						8	
<b>COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007</b>											
Redevelop Fund											
	2037	US Bank Mmkt 4-Ct	0.040%	daily	1,880,751	378.21	11,933,621				
		US Bank Mmkt 4-Ct	0.040%	daily		59.43	1,875,300				
		US Bank Mmkt 4-Ct	0.060%	daily		17.70				18	
		US Bank Mmkt 4-Ct	0.000%	daily						18	
<b>BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES</b>											
Interest Account											
		US Bank Mmkt 4-Ct	0.000%	daily						4	
Reserve Fund											
		US Bank Mmkt 4-Ct	0.000%	daily						6	
Special Fund											
		US Bank Mmkt 4-Ct	0.040%	daily						6	
Surplus Fund											
<b>BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES</b>											
Interest Account											
		US Bank Mmkt 4-Ct	0.040%	daily						24	
Principal Account											
		US Bank Mmkt 4-Ct	0.030%	daily						30	
Reserve Fund											
		US Bank Mmkt 4-Ct	0.040%	daily	2,310,710	73.25	2,311,272				
Project Fund											
		US Bank Mmkt 4-Ct	0.040%	daily	133.05	133.05	4,198,243				
<b>BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES</b>											
Acquisition & Construction											
		US Bank Mmkt 4-Ct	0.050%	daily	2,672,050	94.22	2,972,912			19	
		US Bank Mmkt 4-Ct	0.040%	daily		487.47	15,380,995				
		US Bank Mmkt 4-Ct	0.400%	daily							
Total											
									1,373.99	43,583,577	

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

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

	Rate	Amount
Wells Fargo Bank	0.000%	69,338
Wells Fargo Bank-Investment Account	0.100%	3,170,135
Bank of America-Airport	0.300%	3,069
Bank of America-Parking Citations	0.300%	3,735
Bank of America-CNG Station	0.300%	<u>3,084</u>

*Money Market and Bank Account Sub-Total*3,249,361**Government Pools**

Account #1 Operating Amount	34,036,237
Account #1 CRA Bond Cash Bal.	1,481,901
Local Agency Investment Fund: Account #1	0.389% 35,518,138

*Government Pool Sub-Total*35,518,138**Operating Cash Balance****38,769,804****Restricted Operating Funds at Riverside Public Utilities**

Highmark U.S. Government Money Market Fund	0.000%	<b><u>1,080,108</u></b>
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**Other Investments**

Investments-US Bank/Piper Jaffray - See Page 2	0.446%	<b><u>25,604,391</u></b>
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*Operating Funds Total***65,454,303****Fiscal Agent****US Bank**

	Amount
US Bank	<u>43,555,922</u>

*Fiscal Agent Total***43,555,922**

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City of Banning Investment Report

February 29, 2012

## Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase 40,695	Discount or Premium)	Market Value
<u><b>Bank Accounts</b></u>								
69,338	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	69,338	n/a	69,338
3,170,135	Wells Fargo Bank-Investment Acct	n/a	0.10%	daily	varies	3,170,135	n/a	3,170,135
3,069	Bank of America-Airport	n/a	0.30%	daily	varies	3,069	n/a	3,069
3,735	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,735	n/a	3,735
3,084	Bank of America-Parking Citations	n/a	0.30%	daily	varies	3,084	n/a	3,084
							Sub-total	3,249,361

*Government Pools*  
35,518,138 L.A.I.F. account #1  
- L.A.I.F. account #2

US Bank/Piper Jaffray Average Rate= 0.446% 25,604,391

Average Rate All= 0.397%

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 August 23, 2011. 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 212 days and does not include Bond Reserve Fund Investments.

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# City of Banning Investment Report

February 29, 2012

## Individual Investments with Fiscal Agent

TRUSTEE	Bond Issue Description	Bond Maturity Date	Investment Description	Current Yield	Bond Maturity Date	Bond Reserve	Minimum Reserve	Interest Feb-12	Market Value
<b>COB IMPROVEMENT DISTRICT LIMITED OBLIGATION BONDS SERIES 2005A</b>									
2005 Fair Oaks Ranch Estates	2035	US Bank Mmkt 4-Ct		0.040%	daily	188,943	6.37		188,065
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION, SERIES 2003				4.54%	7/28/2011	971,763			
2003 CRA Tax Allocation Bonds	2028	U S Treasury Bill		0.040%	daily				988,148
		US Bank Mmkt 4-Ct		0.000%	daily				19,920
		US Bank Mmkt 4-Ct		0.000%	daily				7
		US Bank Mmkt 4-Ct		0.000%	daily				8
<b>COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007</b>									
Redevelop Fund	2037	US Bank Mmkt 4-Ct		0.040%	daily			404.28	11,933,243
Reserve Fund		US Bank Mmkt 4-Ct		0.040%	daily			63.55	1,875,241
Special Fund		US Bank Mmkt 4-Ct		0.060%	daily			17.70	18
Surplus Fund		US Bank Mmkt 4-Ct		0.000%	daily				9
<b>BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES</b>									
Interest Account		US Bank Mmkt 4-Ct		0.000%	daily				4
Principal Account		US Bank Mmkt 4-Ct		0.000%	daily				6
		US Bank Mmkt 4-Ct		0.040%	daily				
		US Bank Mmkt 4-Ct		0.040%	daily				
<b>BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES</b>									
Interest Account		US Bank Mmkt 4-Ct		0.040%	daily				24
Principal Account		US Bank Mmkt 4-Ct		0.030%	daily				30
Reserve Fund		US Bank Mmkt 4-Ct		0.040%	daily				2,311,199
Project Fund		US Bank Mmkt 4-Ct		0.040%	daily				4,197,973
<b>BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES</b>									
		US Bank Mmkt 4-Ct		0.050%	daily			19.15	19
		US Bank Mmkt 4-Ct		0.040%	daily			100.71	2,972,817
		US Bank Mmkt 4-Ct		0.400%	daily			521.07	15,380,508
<b>Total</b>									
<b>18,235.58</b>									
<b>43,555,922</b>									

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

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

	Amount
<i>Petty Cash</i>	2,305

**Bank Accounts**

	Interest	Rate	Amount
Wells Fargo Bank		0.000%	70,869
Wells Fargo Bank-Investment Account		0.100%	4,602,220
Bank of America-Airport		0.300%	7,917
Bank of America-Parking Citations		0.300%	4,094
Bank of America-CNG Station		0.300%	<u>6,012</u>

<i>Money Market and Bank Account Sub-Total</i>	4,691,111
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**Government Pools**

Account #1 Operating Amount	31,011,337	
Account #1 CRA Bond Cash Bal.	1,506,801	
Local Agency Investment Fund: Account #1		0.385% 32,518,138
Account #2 Operating Amount		
Account #2 CRA Bond Cash Bal	0	
Local Agency Investment Fund: Account #2		0.385% <u>-</u>

<i>Government Pool Sub-Total</i>	<u>32,518,138</u>
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<b>Operating Cash Balance</b>	<b>37,211,554</b>
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**Restricted Operating Funds at Riverside Public Utilities**

Highmark U.S. Government Money Market Fund	0.000%	1,800,128
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**Other Investments**

Investments-US Bank/Piper Jaffray - See Page 2	0.446%	25,605,961
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<b><i>Operating Funds Total</i></b>	<b><u>64,617,644</u></b>
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**Fiscal Agent**

	Amount
US Bank	<u>44,402,661</u>

<b><i>Fiscal Agent Total</i></b>	<b><u>44,402,661</u></b>
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City of Banning Investment Report

January 31, 2012

## Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase 40,695	(Premium) Amortization	Market Value
<b><u>Bank Accounts</u></b>								
70,869	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	70,869	n/a	70,869
4,602,220	Wells Fargo Bank-Investment Acct	n/a	0.10%	daily	varies	4,602,220	n/a	4,602,220
7,917	Bank of America-Airport	n/a	0.30%	daily	varies	7,917	n/a	7,917
4,094	Bank of America-Parking Citations	n/a	0.30%	daily	varies	4,094	n/a	4,094
6,012	Bank of America-Parking Citations	n/a	0.30%	daily	varies	6,012	n/a	6,012
	Sub-total							4,691,111
<i>Government Pools</i>								
32,518,138	L.A.I.F. account #1	n/a	0.385%	daily	varies	32,518,138	n/a	32,518,138
	- L.A.I.F. account #2	n/a	0.385%	daily	varies	-	n/a	-
								32,518,138
<i>Investments US Bank/Piper Jaffray</i>								
1,000,000	Federal Home Loan Banks	n/a	1.000%	6/27/2014	6/16/2011	1,000,000		1,002,760
5,000,000	FHLMC MTN	n/a	0.500%	9/6/2013	12/2/2011	5,000,000		4,998,050
5,000,000	FHLMC MTN	n/a	0.450%	9/6/2013	12/2/2011	5,000,000		5,002,800
3,000,000	Federal Farm Bank Credit Bks	n/a	0.620%	5/1/2014	12/2/2011	3,000,000		3,000,150
5,500,000	Federal Farm Bank Credit Bks	n/a	0.690%	6/12/2014	12/28/2011	5,500,000		5,502,365
6,099,836	Money Market	n/a	0.000%	daily	varies	6,099,836	0	6,099,836
								25,605,961
								US Bank/Piper Jaffray Average Rate= 0.446%

Average Rate All = 0.3888%

It has been verified that this investment portfolio is in conformity with the City Council on August 23, 2011. 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 226 days and does not include Bond Reserve Fund Investments.

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# City of Banning Investment Report

January, 2012

## Individual Investments with Fiscal Agent

Bond Issue Description	Bond Maturity Date	Investment Description	Current Yield	Bond Maturity Date	Bond Reserve Requirement	Minimum Reserve Requirement	Interest Jan-12	Market Value	1/31/2012
<b>COB IMPROVEMENT DISTRICT LIMITED OBLIGATION BONDS SERIES 2005A</b>									
2005 Fair Oaks Ranch Estates	2035	US Bank Mrkt 4-Ct	0.050%	daily	188,943	7.73			188,065
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION, SERIES 2003			0.00%	7/28/2011	971,763	4,318.13			
2003 CRA Tax Allocation Bonds	2028	U S Treasury Bill	0.050%	daily			0.90		1,013,156
		US Bank Mrkt 4-Ct	0.050%	daily					242,761
		US Bank Mrkt 4-Ct	0.050%	daily					8
		US Bank Mrkt 4-Ct	0.000%	daily					
<b>COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007</b>									
Redevelop Fund	2037	US Bank Mrkt 4-Ct	0.050%	daily			490.37		11,932,838
Reserve Fund		US Bank Mrkt 4-Ct	0.050%	daily			77.08		1,875,647
Special Fund		US Bank Mrkt 4-Ct	0.050%	daily					599,738
Surplus Fund		US Bank Mrkt 4-Ct	0.000%	daily					9
<b>BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES</b>									
Interest Account		US Bank Mrkt 4-Ct	0.000%	daily					
Principal Account		US Bank Mrkt 4-Ct	0.000%	daily					
		US Bank Mrkt 4-Ct	0.050%	daily					
<b>BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES</b>									
Interest Account		US Bank Mrkt 4-Ct	0.040%	daily					
Principal Account		US Bank Mrkt 4-Ct	0.030%	daily					
Reserve Fund		US Bank Mrkt 4-Ct	0.050%	daily					
Project Fund		US Bank Mrkt 4-Ct	0.050%	daily					
<b>BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES</b>									
Acquisition & Construction		US Bank Mrkt 4-Ct	0.050%	daily			19.15		19
		US Bank Mrkt 4-Ct	0.050%	daily			122.16		2,972,716
		US Bank Mrkt 4-Ct	0.500%	daily			632.03		15,379,987
<b>Total</b>								<b>6,086.61</b>	<b>44,402,661</b>

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

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## CITY COUNCIL AGENDA

**Date:** May 8, 2012

**TO:** City Council

**FROM:** June Overholt, Administrative Services Director

**SUBJECT:** Approval of Accounts Payable and Payroll Warrants for Month of January 2012

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

**FISCAL DATA:** The reports in your agenda packet cover "Expenditure Disbursements" and "Payroll Expenses" for the month of January 2012.

The reports are:

Expenditure approval lists

January 5, 2012	81,103.96
January 12, 2012	809,307.57
January 18, 2012	358,969.14
January 26, 2012	340,422.46
January 31, 2012	98,929.61

May 3, 2012 2,802,217.20 (January Month End)

Payroll check registers

January 13, 2012	4,808.19
January 27, 2012	4,534.48

Payroll direct deposits\*

January 13, 2012	288,619.24
January 27, 2012	291,937.62

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

Report Prepared by: Jenna Harrell, Accounts Payable

**RECOMMENDED BY:**



June Overholt

Administrative Services Director

**APPROVED BY:**



Andy Takata

City Manager

**Fund/Department Legend:**

**General Fund – 001**

**Departments**

0001 – General  
1000 – City Council  
1200 – City Manager  
1300 – Human Resources  
1400 – City Clerk  
1500 – Elections  
1800 – City Attorney  
1900 – Fiscal Services  
1910 – Purchasing & A/P  
2060 – TV Government Access  
2200 – Police  
2210 – Dispatch  
2279 - TASIN - SB621  
2300 – Animal Control

2400 – Fire  
2700 – Building Safety  
2740 - Code Enforcement  
2800 – Planning  
3000 – Engineering  
3200 – Building Maintenance  
3600 – Parks  
4000 – Recreation  
4010 – Aquatics  
4050 – Senior Center  
4060 – Sr. Center Advisory Board  
4500 – Central Services  
4800 – Debt Service  
5400 – Community Enhancement

**All Other Funds**

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

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

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## CITY COUNCIL AGENDA

**Date:** May 8, 2012

**TO:** City Council

**FROM:** June Overholt, Administrative Services Director

**SUBJECT:** Approval of Accounts Payable and Payroll Warrants for Month of February 2012

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

**FISCAL DATA:** The reports in your agenda packet cover "Expenditure Disbursements" and "Payroll Expenses" for the month of February 2012.

The reports are:

Expenditure approval lists

February 2, 2012	699,861.48
February 9, 2012	332,759.56
February 15, 2012	419,367.29
February 23, 2012	280,608.71
February 29, 2012	280,506.86

May 3, 2012	1,322,378.67 (February Month End)
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Payroll check registers

February 10, 2012	4,916.59
February 15, 2012	731.99
February 24, 2012	4,862.77

Payroll direct deposits\*

February 10, 2012	307,145.39
February 24, 2012	275,895.07

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

Report Prepared by: Jenna Harrell, Accounts Payable

**RECOMMENDED BY:**

  
June Overholt  
Administrative Services Director

**APPROVED BY:**

  
Andy Takata  
City Manager



**Fund/Department Legend:**

**General Fund – 001**

**Departments**

0001 – General  
1000 – City Council  
1200 – City Manager  
1300 – Human Resources  
1400 – City Clerk  
1500 – Elections  
1800 – City Attorney  
1900 – Fiscal Services  
1910 – Purchasing & A/P  
2060 – TV Government Access  
2200 – Police  
2210 – Dispatch  
2279 - TASIN - SB621  
2300 – Animal Control

2400 – Fire  
2700 – Building Safety  
2740 - Code Enforcement  
2800 – Planning  
3000 – Engineering  
3200 – Building Maintenance  
3600 – Parks  
4000 – Recreation  
4010 – Aquatics  
4050 – Senior Center  
4060 – Sr. Center Advisory Board  
4500 – Central Services  
4800 – Debt Service  
5400 – Community Enhancement

**All Other Funds**

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

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

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## CITY COUNCIL AGENDA

**Date:** May 8, 2012  
**TO:** City Council  
**FROM:** June Overholt, Administrative Services Director  
**SUBJECT:** Approval of Accounts Payable and Payroll Warrants for Month of March 2012

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

**FISCAL DATA:** The reports in your agenda packet cover "Expenditure Disbursements" and "Payroll Expenses" for the month of March 2012.

The reports are:

Expenditure approval lists	
March 8, 2012	479,941.19
March 15, 2012	1,160,012.20
March 22, 2012	373,430.46
March 29, 2012	455,448.99
May 3, 2012	2,659,333.42 (March Month End)
Payroll check registers	
March 9, 2012	8,133.92
March 23, 2012	8,443.89
Payroll direct deposits*	
March 9, 2012	282,244.05
March 23, 2012	283,902.80

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

Report Prepared by: Jenna Harrell, Accounts Payable

**RECOMMENDED BY:**

  
\_\_\_\_\_  
June Overholt  
Administrative Services Director

**APPROVED BY:**

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

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**Fund/Department Legend:**

**General Fund – 001**

**Departments**

0001 – General	2400 – Fire
1000 – City Council	2700 – Building Safety
1200 – City Manager	2740 - Code Enforcement
1300 – Human Resources	2800 – Planning
1400 – City Clerk	3000 – Engineering
1500 – Elections	3200 – Building Maintenance
1800 – City Attorney	3600 – Parks
1900 – Fiscal Services	4000 – Recreation
1910 – Purchasing & A/P	4010 – Aquatics
2060 – TV Government Access	4050 – Senior Center
2200 – Police	4060 – Sr. Center Advisory Board
2210 – Dispatch	4500 – Central Services
2279 - TASIN - SB621	4800 – Debt Service
2300 – Animal Control	5400 – Community Enhancement

**All Other Funds**

003 - Riverside County MOU	470 – Capital Improvement Fund
100 – Gas Tax Street Fund	475 – Fair Oaks #2004-01 Assessment District
101 – Measure A Street Fund	600 – Airport Fund
103 – SB 300 Street Fund	610 – Transit Fund
104 – Article 3 Sidewalk Fund	660 – Water Fund
110 – CDBG Fund	661 – Water Capital Facilities
111 – Landscape Maintenance	662 – Irrigation Water Fund
115 - E.E.C.B.G. Fund	663 – BUA Water Capital Project Fund
132 – Air Quality Improvement Fund	669 – BUA - Water Debt Service
140 – Asset Forfeiture-Police Fund	670 – Electric Fund
146 – San Gorgonio Gang Task Force	672 – Rate Stability Fund
148 – Supplemental Law Enforcement	673 – Electric Improvement Fund
149 – Public Safety Sales Tax Fund	674 - '07 Elec Revenue Bond Project Fund
150 - State Park Bond Fund	675 – Public Benefit Fund
200 – Special Donation Fund	678 - '07 Elec Revenue Bond Debt Service Fund
201 – Sr. Center Activities Fund	680 – Wastewater Fund
202 – Animal Control Reserve Fund	681 – Wastewater Capital Facility Fund
203 – Police Volunteer Fund	683 – BUA Wastewater Capital Project Fund
204 – D.A.R.E. Donation Fund	685 – State Revolving Loan Fund
300 – City Administration COP Debt Service	689 – BUA Wastewater Debt Service Fund
360 – Sun Lakes CFD #86-1	690 – Refuse Fund
365 – Wilson Street #91-1 Assessment Debt	700 – Insurance Fund
370 – Area Police Computer Fund	702 – Fleet Maintenance
375 – Fair Oaks #2004-01 Assessment Debt	703 – Information Systems Services
376 – Cameo Homes	761 – Utility Billing Administration
400 – Police Facilities Development	810 – CRA – Low/Mod Fund
410 – Fire Facility Development	830 – CRA – Debt Service Fund
420 – Traffic Control Facility Fund	850 – CRA - Administration Fund
421 – Ramsey/Highland Home Road Signal	854 – CRA Low/Mod Bond Fund
430 – General Facilities Fund	855 - 2007 TABS Bond Proceeds
441 - Sunset Grade Separation Fund	856 – 2003 TABS Bond Proceeds
444 - Wilson Median Fund	857 – 2003 TABS Bond Proceeds Low/Mod
451 – Park Development Fund	860 – CRA - Project Fund

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## RESOLUTION NO. 2012-41

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AFFIRMING THAT ALL SALE PROCEEDS TO BE RECEIVED FROM THE CITY PURSUANT TO THAT PURCHASE AND SALE AGREEMENT APPROVED BY THE CITY ON JANUARY 10, 2012, VIA RESOLUTION NO 2012-03, WILL BE ASSIGNED TO THE SUCCESSOR AGENCY FOR BENEFIT OF THE APPLICABLE TAXING ENTITIES UNDER AB1x26

**WHEREAS**, on March 8, 2011, the former Banning Community Redevelopment Agency ("Agency") transferred all the Agency's rights, title and interests to certain properties owned by the Agency to the City of Banning ("City") on March 8, 2011. The transfer of former Agency properties to the City was achieved through a transfer agreement (the "Transfer Agreement") that permitted the City to transfer former Agency parcels to third parties, provided that the City complied with certain aspects of the Community Redevelopment Law, Health & Safety Code §§ 33000 *et seq.*, to the greatest extent possible.

**WHEREAS**, those certain parcels of vacant real property consisting of a total of 5.25 acres, or 228,690 square feet, in the City of Banning, bounded on the west by San Gorgonio Avenue, on the north by Ramsey Street, to the east by Martin Street and to the south by Livingston Street (collectively the "Site"), were formerly owned by the Agency and transferred to the City on March 8, 2011, pursuant to the Transfer Agreement. In short, the Transfer Agreement purported to transfer the Site from the former Agency to the City on March 8, 2011.

**WHEREAS**, on June 29, 2012, AB1x26, which legislation provides for the wind-up and dissolution of all California redevelopment agencies, went into effect. Pursuant to AB1x 26, the Agency was dissolved on February 1, 2012, by operation of law, with all interests, enforceable obligations and assets of the former Agency being assumed by the Banning Successor Agency (the "Successor Agency").

**WHEREAS**, one provision of AB1x26, Health & Safety Code § 34167.5, purports to void all Agency/City asset transfers that occurred after January 1, 2011 (the "Clawback Provision"). The Clawback Provision, however, does contain language suggesting that City/Agency transfers may become vested and thus are not subject to the Clawback Provision to the extent the transferred asset was subsequently "contractually committed to a third party."

**WHEREAS**, on January 10, 2012, the City, under color of the Transfer Agreement, consummated a Purchase and Sale Agreement (the "Agreement") to sell the Site to JMA Village, LLC, a California limited liability company ("Developer"). At the time, it appeared that the Clawback Provision (which would otherwise void the

Transfer Agreement) was inapplicable to the subject transactions because the City's Agreement with Developer "contractually committed [the Site] to a third party" and thus could be construed as exempt from the Clawback Provision. Also, at the time, AB1x26 was being challenged on constitutional grounds in the California Supreme Court case of *Community Redevelopment Association v. Matosantos* (No. S194861). Thus, when the City entered into the Agreement with Developer, the law was significantly unsettled as to the validity of either the Transfer Agreement and/or the City's power to execute the Agreement with Developer.

**WHEREAS**, the unwinding of the Agreement would irreparably harm development of a \$63.2 Million State Justice Center in downtown Banning. The City has been working cooperatively with the State of California for over four (4) years to develop the Justice Center in downtown Banning. The Center will be a regional facility with six-courtrooms in a 68,000 square foot building on a 4.66-acre parcel; the Center is now funded and under construction and ground breaking was celebrated on February 21, 2012. The Justice Center required \$6.68 from the Agency, including a subsidized purchase price for the Site (i.e., the Agency acquired the Site for \$3.1 Million and sold it to the State for \$1.98 Million, and assistance with development of infrastructure (the Agency paid \$2.6 Million for sewer, water and street improvements). Thus, the total Agency assistance amounted to \$6.68 Million. The City entered into a Memorandum of Understanding with the State on February 2, 2009 and the title of the property was transferred on September 21, 2009.

**WHEREAS**, the Site's sale to Developer is proposed for purposes of Developer's construction of a mixed-use, downtown commercial hub to specifically compliment and serve the State's Justice Center. The Site's development will consist of approximately 13,500 square feet of multi-tenant office space, approximately 13,500 square feet of multi-tenant mixed retail space, an approximate 29,955 square foot hotel building, and an approximately 12,000 square foot multi-tenant restaurant building with a mix of food types (the "Project"). The Project is a key component of the State's Justice Center and delays in the Project could imperil the range of services and compatible uses intended to be developed in conjunction with the Justice Center.

**WHEREAS**, despite any technical legal complications posed by AB1x 26 with respect to the City's sale of the Site to Developer, the City chose to continue with the Agreement given (i) its connection with the Justice Center, and (ii) with the understanding that the Agreement achieves the larger goals and purposes of AB1x 26, namely:

- i. That the sale will generate a fair market price for the property. And, with a continuing decline in property values in Banning's downtown area, the proposed sale price under the Agreement may be even greater than today's fair market value. This is maximally consistent with AB1x 26's proviso that properties be disposed of expeditiously for a reasonable price. (Health & Safety Code § 34181(a).)

- ii. The City and Successor Agency intend to treat the proceeds as assets of its former Agency, thus maximizing benefits to other taxing entities under AB1x 26.
- iii. Given property vacancies and foreclosures in Banning's downtown core, it is highly unlikely that another developer would proceed with this Project—or indeed any project—at this time; and, if there were any development interest, it could be several years before a new developer could become as knowledgeable about the Site and its relationship to the State's Justice Center. Accordingly, this transaction is the best (if not only) possibility for fulfilling the objective of expeditiously selling lands for a reasonable price under ABx1 26.
- iv. The Project will provide uses which will serve and be compatible with the State Justice Center and benefit employees and visitors to the Justice Center, and thus will enhance the success of the Justice Center.
- v. Any delays in proceeding at this point will imperil the Developer's financing and potentially cause years of delay in undertaking this Project.

**WHEREAS**, on April 20, 2012, the State Auditor Controller issued a letter purporting to be an "Order to Reverse RDA Asset Transfer" (the "Order") pursuant to the Clawback Provision. That Order raised the question of whether the Agreement met the technical requirements of AB1x 26 given that the City's sale of the Site was under color of the Transfer Agreement, which transfer the State Controller, under his interpretation, deemed to be invalid under the Clawback Provision.

**WHEREAS**, on April 26, 2012, the City sent to the State Auditor Controller a detailed letter describing (i) how potential delays in the Project would detrimentally impact the State Justice Center, and (ii) why continuing with the Agreement and Project were the best means of implementing the purposes and intent of AB1x 26.

**WHEREAS**, upon review of the City's justifications for continuing with the Project, the State Auditor Controller issued a letter to the City on May 2, 2012 and agreed that the closing of escrow on the Site pursuant to the Agreement would best meet the purposes and intent of AB1x 26, with the caveat that the State Auditor Controller requested a clear commitment from the City that the proceeds of sale under the Agreement would go to the benefit of "taxing entities" as applicable under the terms of AB1x 26.

**WHEREAS**, this Resolution is intended to affirm that all proceeds from the sale of the Site pursuant to the Agreement will be allocated towards the benefit of the taxing entities as applicable under AB1x 26. To this end, the City shall assign all proceeds from the sale to the Successor Agency. The Successor Agency shall hold and/or process such Agreement proceeds for the benefit of the taxing entities applicable under AB1x 26.

**NOW THEREFORE**, the City of Banning does hereby resolve, determine, find, and order as follows:

**SECTION 1. RECITALS ADOPTED AS FINDINGS OF FACT**

The foregoing Recitals are hereby adopted by the City Council as findings of fact and incorporated in to the actions of this Resolution by this reference.

**SECTION 2. ASSIGNMENT OF PROCEEDS TO BENEFIT TAXING ENTITIES**

The City Council hereby assigns all proceeds of the sale of the Site pursuant to the Agreement to the Successor Agency. The City Council directs the Successor Agency to retain such proceeds for the benefit of "taxing entities" as applicable under the terms of AB1x 26. Said proceeds shall be maintained and ultimately tendered to the County of Riverside for distribution to the taxing entities all as required by AB1x 26. The assignment of proceeds directed herein is made pursuant to the direction of the State Controller as applicable to the particular facts of this Project and this Agreement and the understanding of the State and City that the implementation of the Agreement best meets the purposes and goals of AB1x 26.

**SECTION 3. NO ENVIRONMENTAL IMPACT**

This Resolution is exempt from review under the California Environmental Quality Act (CEQA) because it can be seen with certainty that there is no possibility that such adoption may have a significant effect on the environment and because such adoption will not cause any direct or reasonably foreseeable indirect physical change to the environment. (Title 14 California Code of Regulations Sections 15060(c)(2) and 15601(b)(3).)

**SECTION 4. SEVERABILITY**

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

**PASSED, APPROVED AND ADOPTED** this 8th day of May, 2012.

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Don Robinson, Mayor

**ATTEST:**

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Marie Calderon, City Clerk

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**APPROVED AS TO FORM:**

David J. Aleshire, City Attorney

**CERTIFICATION:**

I, Marie A. Calderon, City Clerk of the City of Banning, California, hereby certify that Resolution No. 2012-41 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 8<sup>th</sup> day of May 2012, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

**RESOLUTION NO. 2012-07 SA**

**A RESOLUTION OF THE SUCCESSOR AGENCY  
TO THE FORMER BANNING COMMUNITY  
REDEVELOPMENT AGENCY AFFIRMING THAT  
ALL SALE PROCEEDS TO BE RECEIVED  
PURSUANT TO THAT PURCHASE AND SALE  
AGREEMENT APPROVED BY THE CITY ON  
JANUARY 10, 2012, VIA RESOLUTION NO 2012-  
03, WILL BE HELD BY THE SUCCESSOR  
AGENCY FOR THE ULTIMATE BENEFIT OF THE  
APPLICABLE TAXING ENTITIES UNDER AB1x26**

**WHEREAS**, on March 8, 2011, the former Banning Community Redevelopment Agency ("Agency") transferred all the Agency's rights, title and interests to certain properties owned by the Agency to the City of Banning ("City") on March 8, 2011. The transfer of former Agency properties to the City was achieved through a transfer agreement (the "Transfer Agreement") that permitted the City to transfer former Agency parcels to third parties, provided that the City complied with certain aspects of the Community Redevelopment Law, Health & Safety Code §§ 33000 *et seq.*, to the greatest extent possible.

**WHEREAS**, those certain parcels of vacant real property consisting of a total of 5.25 acres, or 228,690 square feet, in the City of Banning, bounded on the west by San Gorgonio Avenue, on the north by Ramsey Street, to the east by Martin Street and to the south by Livingston Street (collectively the "Site"), were formerly owned by the Agency and transferred to the City on March 8, 2011, pursuant to the Transfer Agreement. In short, the Transfer Agreement purported to transfer the Site from the former Agency to the City on March 8, 2011.

**WHEREAS**, on June 29, 2012, AB1x26, which legislation provides for the wind-up and dissolution of all California redevelopment agencies, went into effect. Pursuant to AB1x 26, the Agency was dissolved on February 1, 2012, by operation of law, with all interests, enforceable obligations and assets of the former Agency being assumed by the Banning Successor Agency (the "Successor Agency").

**WHEREAS**, one provision of AB1x26, Health & Safety Code § 34167.5, purports to void all Agency/City asset transfers that occurred after January 1, 2011 (the "Clawback Provision"). The Clawback Provision, however, does contain language suggesting that City/Agency transfers may become vested and thus are not subject to the Clawback Provision to the extent the transferred asset was subsequently "contractually committed to a third party."

**WHEREAS**, on January 10, 2012, the City, under color of the Transfer Agreement, consummated a Purchase and Sale Agreement (the "Agreement") to sell the Site to JMA Village, LLC, a California limited liability company ("Developer"). At the time, it appeared that the Clawback Provision (which would otherwise void the

Transfer Agreement) was inapplicable to the subject transactions because the City's Agreement with Developer "contractually committed [the Site] to a third party" and thus could be construed as exempt from the Clawback Provision. Also, at the time, AB1x26 was being challenged on constitutional grounds in the California Supreme Court case of *Community Redevelopment Association v. Matosantos* (No. S194861). Thus, when the City entered into the Agreement with Developer, the law was significantly unsettled as to the validity of either the Transfer Agreement and/or the City's power to execute the Agreement with Developer.

**WHEREAS**, the unwinding of the Agreement would irreparably harm development of a \$63.2 Million State Justice Center in downtown Banning. The City has been working cooperatively with the State of California for over four (4) years to develop the Justice Center in downtown Banning. The Center will be a regional facility with six-courtrooms in a 68,000 square foot building on a 4.66-acre parcel; the Center is now funded and under construction and ground breaking was celebrated on February 21, 2012. The Justice Center required \$6.68 from the Agency, including a subsidized purchase price for the Site (i.e., the Agency acquired the Site for \$3.1 Million and sold it to the State for \$1.98 Million, and assistance with development of infrastructure (the Agency paid \$2.6 Million for sewer, water and street improvements). Thus, the total Agency assistance amounted to \$6.68 Million. The City entered into a Memorandum of Understanding with the State on February 2, 2009 and the title of the property was transferred on September 21, 2009.

**WHEREAS**, the Site's sale to Developer is proposed for purposes of Developer's construction of a mixed-use, downtown commercial hub to specifically compliment and serve the State's Justice Center. The Site's development will consist of approximately 13,500 square feet of multi-tenant office space, approximately 13,500 square feet of multi-tenant mixed retail space, an approximate 29,955 square foot hotel building, and an approximately 12,000 square foot multi-tenant restaurant building with a mix of food types (the "Project"). The Project is a key component of the State's Justice Center and delays in the Project could imperil the range of services and compatible uses intended to be developed in conjunction with the Justice Center.

**WHEREAS**, despite any technical legal complications posed by AB1x 26 with respect to the City's sale of the Site to Developer, the City chose to continue with the Agreement given (i) its connection with the Justice Center, and (ii) with the understanding that the Agreement achieves the larger goals and purposes of AB1x 26, namely:

- i. That the sale will generate a fair market price for the property. And, with a continuing decline in property values in Banning's downtown area, the proposed sale price under the Agreement may be even greater than today's fair market value. This is maximally consistent with AB1x 26's proviso that properties be disposed of expeditiously for a reasonable price. (Health & Safety Code § 34181(a).)

- ii. The City and Successor Agency intend to treat the proceeds as assets of its former Agency, thus maximizing benefits to other taxing entities under AB1x 26.
- iii. Given property vacancies and foreclosures in Banning's downtown core, it is highly unlikely that another developer would proceed with this Project—or indeed any project—at this time; and, if there were any development interest, it could be several years before a new developer could become as knowledgeable about the Site and its relationship to the State's Justice Center. Accordingly, this transaction is the best (if not only) possibility for fulfilling the objective of expeditiously selling lands for a reasonable price under ABx1 26.
- iv. The Project will provide uses which will serve and be compatible with the State Justice Center and benefit employees and visitors to the Justice Center, and thus will enhance the success of the Justice Center.
- v. Any delays in proceeding at this point will imperil the Developer's financing and potentially cause years of delay in undertaking this Project.

**WHEREAS**, on April 20, 2012, the State Auditor Controller issued a letter purporting to be an "Order to Reverse RDA Asset Transfer" (the "Order") pursuant to the Clawback Provision. That Order raised the question of whether the Agreement met the technical requirements of AB1x 26 given that the City's sale of the Site was under color of the Transfer Agreement, which transfer the State Controller, under his interpretation, deemed to be invalid under the Clawback Provision.

**WHEREAS**, on April 26, 2012, the City sent to the State Auditor Controller a detailed letter describing (i) how potential delays in the Project would detrimentally impact the State Justice Center, and (ii) why continuing with the Agreement and Project were the best means of implementing the purposes and intent of AB1x 26.

**WHEREAS**, upon review of the City's justifications for continuing with the Project, the State Auditor Controller issued a letter to the City on May 2, 2012 and agreed that the closing of escrow on the Site pursuant to the Agreement would best meet the purposes and intent of AB1x 26, with the caveat that the State Auditor Controller requested a clear commitment from the City that the proceeds of sale under the Agreement would go to the benefit of "taxing entities" as applicable under the terms of AB1x 26.

**WHEREAS**, this Resolution is intended to affirm that all proceeds from the sale of the Site pursuant to the Agreement will be allocated towards the benefit of the taxing entities as applicable under AB1x 26. To this end, the City has, prior to or concurrent with this Resolution, assigned all proceeds from the sale to the Successor

Agency. The Successor Agency shall hereby accept such assignment of funds and shall hold and/or process such Agreement proceeds for the benefit of the taxing entities applicable under AB1x 26.

**NOW THEREFORE**, the Banning Successor Agency does hereby resolve, determine, find, and order as follows:

#### **SECTION 1. RECITALS ADOPTED AS FINDINGS OF FACT**

The foregoing Recitals are hereby adopted by the Successor Agency as findings of fact and incorporated in to the actions of this Resolution by this reference.

#### **SECTION 2. PROCEEDS TO BENEFIT TAXING ENTITIES**

The Successor Agency hereby accepts all proceeds of the sale of the Site pursuant to the Agreement and shall retain such proceeds for the benefit of "taxing entities" as applicable under the terms of AB1x 26. Said proceeds shall be maintained and ultimately tendered to the County of Riverside for distribution to the taxing entities all as required by AB1x 26. The assignment of proceeds directed herein is made pursuant to the direction of the State Controller as applicable to the particular facts of this Project and this Agreement and the understanding of the State and Successor Agency that the implementation of the Agreement best meets the purposes and goals of AB1x 26.

#### **SECTION 3. NO ENVIRONMENTAL IMPACT**

This Resolution is exempt from review under the California Environmental Quality Act (CEQA) because it can be seen with certainty that there is no possibility that such adoption may have a significant effect on the environment and because such adoption will not cause any direct or reasonably foreseeable indirect physical change to the environment. (Title 14 CCR Sections 15060(c)(2) and 15601(b)(3).)

#### **SECTION 4. SEVERABILITY**

If any section, subsection, clause or phrase of this Resolution is for any reason, held to be unconstitutional, or otherwise invalid, such decision shall not affect the validity of the remaining sections of this Resolution. The Successor Agency hereby finds that it would have passed this Resolution and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

**PASSED, APPROVED AND ADOPTED** this 8th day of May, 2012.

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Don Robinson, Chair

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**ATTEST:**

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Marie Calderon, Secretary

**APPROVED AS TO FORM:**

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David J. Aleshire, Successor Agency Counsel  
Aleshire & Wynder, LLP

**CERTIFICATION:**

I, Marie A. Calderon, Secretary of the Successor Agency do hereby certify that the foregoing Resolution No. 2012-07 SA was duly adopted by the Successor Agency Board at a joint meeting thereof held on the 8<sup>th</sup> day of May, 2012, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Marie A. Calderon, Secretary  
Successor Agency  
City of Banning, California

## CITY COUNCIL AGENDA

**Date:** **May 8, 2012**

**To:** **Honorable Mayor and City Council**

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

**Subject:** **Resolution No. 2012-37, Awarding the Bid for the Photovoltaic System at the Police Department Facilities**

**RECOMMENDATION:** Adopt Resolution No. 2012-37, awarding the bid for the Photovoltaic System at the Police Department Facilities contract to Metro R.F. Services, Inc. (“Metro”), of Ontario, California, in the amount not to exceed \$163,835.00 (One Hundred Sixty Three Thousand Eight Hundred Thirty Five Dollars) including taxes.

**JUSTIFICATION:** The photovoltaic system will reduce the Police Department’s electricity bills, while replacing a portion of the Police Department’s energy requirements with clean, renewable solar energy.

**BACKGROUND:** The Police Department facilities were designed to be clean, renewable energy facilities. As such, the tops of the car ports were designed to accommodate a photovoltaic system. Additionally, the Police Department building was engineered and wired to eventually be connected to a photovoltaic system.

Since the technology for photovoltaic systems has improved significantly in the last several years, and prices for these systems have come down, staff believes that now is an optimal time to install the anticipated system. In addition to reducing the Police Department’s electricity bills, the photovoltaic system will function as an example of the City’s efforts to “go green” and to do our share to help preserve the environment.

Staff solicited bids for the Photovoltaic System at the Police Department Facilities and received three bid proposals. The three proposals were submitted by:

1. C.I. Services, Inc., Mission Viejo, CA at \$299,300.00
2. Metro R.F. Services, Inc., Ontario, CA at \$163,835.00
3. Solex Electronics Inc., Los Angeles, CA at \$246,859.00

The proposals were evaluated by staff and it was determined that Metro’s proposal best meets the requirements of the City and is the lowest responsible bidder.

**FISCAL DATA:** Funds for the Photovoltaic System at the Police Department Facilities contract will be appropriated from the Electric Improvement Fund to Account 673-7000-473-96-30, PD Solar Project.

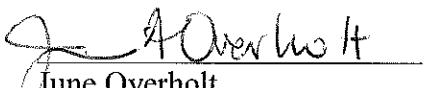
**RECOMMENDED BY:**

  
Fred Mason  
Electric Utility Director

**APPROVED BY:**

  
Andrew J. Takata  
City Manager

**REVIEWED BY:**

  
June Overholt  
Deputy City Manager/Administrative Services Director

Prepared by Jim Steffens

**RESOLUTION NO. 2012-37**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING  
AWARDING THE BID FOR THE PHOTOVOLTAIC SYSTEM AT THE POLICE  
DEPARTMENT FACILITIES CONTRACT**

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

**WHEREAS**, it is essential that the City of Banning continues to implement energy efficiency conservation within its facilities; and

**WHEREAS**, the Police Department facilities were designed for a photovoltaic system to be installed, and the City has determined that it is now an optimal time to install such system; and

**WHEREAS**, Staff solicited bids and received three bid proposals for the Photovoltaic System at the Police Department Facilities; and

**WHEREAS**, Metro R.F. Services, Inc. of Ontario, CA is the lowest responsible bidder.

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

**SECTION 1.** Adopt Resolution No. 2012-37, approving the bid award, in the amount of \$163,835.00, for the Photovoltaic System at the Police Department Facilities contract to Metro R.F. Services, Inc., and authorize the City Manager, or his designee, to execute the necessary documents to complete said agreement.

**SECTION 2.** Authorize the Administrative Services Director to complete the necessary account transfers as required for the completion of said project.

**PASSED, APPROVED AND ADOPTED** this 8<sup>th</sup> day of May 2012.

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Don Robinson, 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 and Wynder, LLP

**CERTIFICATION**

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2012-37 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 8<sup>th</sup> day of May 2012 by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

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