

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

January 22, 2013  
**5:00 p.m.**

Banning Civic Center  
Council Chambers  
99 E. Ramsey St.

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

**I. CALL TO ORDER**

- . Pledge of Allegiance
- . Invocation –
- . Roll Call - Councilmembers Botts, Miller, Peterson, Welch, Mayor Franklin

**II. REPORT ON CLOSED SESSION**

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

**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. 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 for future study, research, and appropriate 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.

*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.*

## **PRESENTATIONS:**

1. Banning High School Solar Boat Team Presentation
2. San Gorgonio Memorial Hospital Update – Mark Turner, CEO

## **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 13**

**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 – 12/20/12. . . . .	1
2.	Approval of Minutes – Special Meeting (Workshop) – 01/08/13. . . . .	3
3.	Approval of Minutes – Special Meeting (Closed Session) – 01/08/13. . . . .	6
4.	Approval of Minutes – Regular Meeting – 01/08/13 . . . . .	7
5.	Report of Investments for December 2012. . . . .	14
6.	Sole Source Purchase from Versatile Information Product, Inc. for Upgrading and Expanding the Department’s Current Puma Digital Recoding System in the Amount of \$21,016.74. . . . .	24
7.	Resolution No. 2013-08, Authorizing the Appropriation of General Account Funds for the P.O.S.T. Team Building Workshop in the Amount of \$10,124, Which Shall be Reimbursed to the City of Banning Through the California Commission on Peace Officer Standards and Training Upon Completion of the Workshop . . . . .	25
8.	Resolution No. 2013-09, Approving An Amendment to the Public Entity Risk Management Authority (PERMA) Amended and Restated Joint Powers Agreement (Revised July 1, 2004) . . . . .	28
9.	Resolution No. 2013-11, Accepting the 2013 Supplemental Law Enforcement Services Fund Allocation and Authorizing the Banning Police Department to Use the Funds Towards the Purchase of Law Enforcement Equipment and Training. . . . .	51
10.	Adopt Resolution No. 2013-12, Approving Side Letter Agreement to the Memorandum of Understanding between the City of Banning and the San Bernardino Public Employees Association (SBPEA) . . . . .	54
11.	Resolution No. 2013-13, Approving an Updated Resolution for Employer Paid Member Contributions to the California Public Employee’s Retirement System . . . . .	60
12.	Review and Approve the 2011-12 Annual Report of Development Impact Fees. . . . .	63
13.	Approve the Utility Agreement between the City of Banning and Southern California Gas Company for Relocation of 6" Gas Line . . . . .	67

- **Open for Public Comments**
- **Make Motion**

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

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

**VI. ITEMS FOR FUTURE AGENDAS**

New Items –

Pending Items – City Council

1. Schedule Meetings with Our State and County Elected Officials

**VII. ADJOURNMENT**

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

**NOTICE:** Any member of the public may address this meeting of the Mayor and Council on any item appearing on the agenda by approaching the microphone in the Council Chambers and asking to be recognized, either before the item about which the member desires to speak is called, or at any time during consideration of the item. A five-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor. 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. 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

12/20/12  
REGULAR MEETING

A special meeting of the Banning City Council was called to order by Mayor Franklin on December 20, 2012 at 3:00 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilman Botts  
Councilman Peterson  
Councilman Welch  
Mayor Franklin

COUNCIL MEMBERS ABSENT: Councilman Miller

OTHERS PRESENT: Andrew J. Takata, City Manager  
Marie A. Calderon, City Clerk

Mayor Franklin stated that Councilman Miller had another engagement and this is a special meeting and he was not aware that we would have this meeting today in enough time to change his schedule. Also, this meeting was properly noticed.

PUBLIC COMMENTS – *On Items Not on the Agenda*

There was no public in attendance.

## CONSENT ITEMS

1 Resolution No. 2012-99, Approving Side Letter Agreements to the Memorandum of  
Understanding Between the City of Banning Police Management Association (BPMA),  
the Banning Police Officers Association (BPOA) Representing the Police Unit  
Employees and the City of Banning.

Recommendation: That the City Council adopt Resolution No. 2012-99.

**Motion Botts/Welch that Consent Item No. 1 be approved. Motion carried, all in favor except for Councilman Miller who was absent.**

## ORDINANCE-INTRODUCTION/ADOPTION

1. Urgency Ordinance to Amendment to CalPERS Contract for a Two Tier Plan for the Safety Employees.

Director Overholt gave the staff report as contained in the agenda packet.

Recommendation: That the City Council adopt Urgency Ordinance No. 1460, Amending the City's contract with the California Employees' Retirement System (CalPERS) to implement the lower-level retirement formula for new safety employees at 2% @50 retirement formula with the final compensation calculation based on an average 36 month period.

Mayor Franklin asked the City Clerk to read the title of Ordinance No. 1460. City Clerk read: Ordinance No. 1460, An Urgency Ordinance of the City Council of the City of Banning, California, Authorizing an Amendment to the Contract Between the City Council of the City of Banning and the Board of Administration to the California Public Employees' Retirement System.

**Motion Welch/Botts to waive further reading of Urgency Ordinance No. 1460. Motion carried, all in favor except for Councilman Miller who was absent.**

**Motion Botts/Welch that Urgency Ordinance No. 1460 be adopted. Motion carried, all in favor except for Councilman Miller who was absent.**

ADJOURNMENT

By common consent the meeting adjourned at 3:05 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.

MINUTES  
CITY COUNCIL  
BANNING, CALIFORNIA

01/08/13  
SPECIAL MEETING

A joint special meeting (workshop) of the Banning City Council and the Planning Commission was called to order by Mayor Franklin on January 8, 2013 at 3:02 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

PLANNING COMMISSION  
MEMBERS ABSENT: None

OTHERS PRESENT: Andrew J. Takata, City Manager  
David J. Aleshire, City Attorney  
June Overholt, Administrative Services Dir./Deputy City Manager  
Duane Burk, Public Works Director  
Zai Abu Bakar, Community Development Director  
Marie A. Calderon, City Clerk

## WORKSHOP ITEM

## 1. General Plan Amendment to the Circulation Element

Zai Abu Bakar, Community Development Director stated that the proposed General Plan amendment to the Circulation Element is one of the Council's programs that was included in the current Five Year Strategic Plan and this is the result of the work that they have been doing. Les Card with LSA Associates is the City's consultant working on the traffic study and the environmental impact report. Director Zai commented on the implications of Level of Service (LOS) C in regards to Highland Springs Avenue.

Duane Burk, Public Works Director said in regards to the Strategic Plan as it relates to the Council and the Commission we are always trying to identify the ability to have costs associated with what road repairs may be in the future and what is needed to build infrastructure as it relates to roads. One good example that Zai pointed out was Highland Springs. You could build that road to a LOS C however the bridge when you get to Highland Springs is going to still be your bottleneck. This is just something that we are trying to get more in to conformance with and hopefully out of this, once adopted, staff would come back and identify an impact fee that helps take care of that infrastructure in the future so everybody would pay their fair share as it relates to some future infrastructure. This would not be a huge fee but a fee identified through a bridge and thoroughfare district.

Director Burk stated that Highland Home Road interchange has been on the books for 20 plus years however, it is not on Caltrans' plans. We have been doing the Sunset Grade Separation since 1992 and one of our biggest hurdles is Caltrans in trying to get in conformance with what they want and trying to get Highland Home Road Interchange put on their plans is very difficult. If you remove it now, it doesn't mean that in the future if you want to put it back on, 25 years from now because you just need it, you could do it. However, we did spend \$60,000 on a feasibility study back in 2008 identifying that it would not be able to geometrically fit in there so the idea of having it there and not being able to fit is a problem too. He said that Les Card is going to point out what the impacts are if you don't have it. You are going to have intersections that fit in as it relates to these level-of-services and he is hoping that by doing this it clarifies exactly what the LOS D is and the meaningfulness of the impacts.

Les Card, LSA Associates addressed the Council stating that they were consultants to the City to prepare this General Plan Amendment and Environmental Impact Report to address that proposal to amend the Circulation Element to consider a LOS change from C to D, as well as, the removal of the Highland Home Interchange from your General Plan. He said that this has a long history going back to 2007 for some of their early work with the City looking at issues along Highland Springs when they first realized that we have a border between the two cities and have two different LOS and their comments at the time was that this was unusual having a LOS C criteria. Most cities are LOS D and in fact, many cities certainly in more urban areas are even going to LOS E in some selected locations but D is clearly the norm for urban conditions so they were pointing that out saying there is going to be an additional price to pay, sort of speak, to maintain this kind of LOS criteria by providing for additional mitigation and improvements at intersections in the city to accommodate that. So the work was initiated to address the two questions as pointed out on the slide to amend the circulation element from LOS C to D and to examine the question of removing the Highland Home Interchange from the Circulation Element and see what the potential ramifications of that were. The study area there is to look at the level of service change, look at the intersections along Wilson Street and on Lincoln on the south side to see what the potential impacts would be and with the interchange it was a little more focus study. With the interchange on your Circulation Element at Highland Home they looked at the impacts if you don't have that interchange and what happens on the two adjacent intersections of Highland Springs to the east. They looked at all the intersections surrounding it so they would be able to see what would occur if you don't have the intersection in the future.

At this time Mr. Card went over a graphic showing a summary of the whole package. He said if you implement the change in level of service and eliminate the interchange from the Circulation Element, that is your result and improvements that are required to maintain LOS D. Those are all relatively standard and traditional type of improvements. He said this was a quick overview and they have a comprehensive environmental document that was circulated and they had very few comments come in and they have prepared responses to those comments.

There were various questions from the Council and Commission in regards to this plan, the interchange on Highland Home Road and Caltrans, impacts, the difference between the level of service, the establishment of a fee to pay for future development, impacts on existing built streets and consideration of traffic circulation.

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

Councilman Botts said we are talking about both these events coming back together as one public hearing.

Director Zai said that was correct. There will be a public hearing before the Planning Commission and one public hearing before the City Council.

ADJOURNMENT

By common consent the meeting adjourned at 3:33 p.m.

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Marie A. Calderon, City Clerk

MINUTES  
CITY COUNCIL  
BANNING, CALIFORNIA

01/08/13  
SPECIAL MEETING

A special meeting of the Banning City Council and the City Council Sitting In Its Capacity of a Successor Agency was called to order by Mayor Franklin on January 8, 2013 at 4:01 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Botts  
Councilmember Miller  
Councilmember Peterson  
Councilmember Welch  
Mayor Franklin

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Andrew J. Takata, City Manager  
June Overholt, Administrative Services Director  
David J. Aleshire, City Attorney  
Duane Burk, Public Works Director  
Marie A. Calderon, City Clerk

CLOSED SESSION

City Attorney announced that the City Council would meet in closed session to discuss once matter of potential litigation pursuant to the provisions of Government Code Section 54956.9; one case of existing litigation Banning Redevelopment Agency vs. Huang, Superior Court Case RIC 1109186 pursuant to the provisions of Government Code Section 54956.9(a); labor negotiations involving the various bargaining units pursuant to the provisions of Government Code Section 54957.6. ; and real property negotiations concerning APN: 538:230-001 – 226 S. 22<sup>nd</sup> street pursuant to the provisions of Government Code Section 54956.8. A status reports will be given on these items.

Mayor Franklin opened the item for public comments. There were none. Meeting went into closed session at 4:03 p.m. and returned to open session at 4:56 p.m.

## ADJOURNMENT

By common consent the meeting adjourned at 4:56 p.m.

Marie A. Calderon, City Clerk

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MINUTES  
CITY COUNCIL  
BANNING, CALIFORNIA

01/08/13  
REGULAR MEETING

A regular meeting of the Banning City Council and a joint meeting of the City Council and the Banning Utility Authority and the City Council Sitting in Its Capacity of a Successor Agency was called to order by Mayor Franklin on January 8, 2013 at 5:04 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

COUNCIL MEMBERS PRESENT: Councilmember Botts  
Councilmember Miller  
Councilmember Peterson  
Councilmember Welch  
Mayor Franklin

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Andrew J. Takata, City Manager  
June Overholt, Administrative Services Dir./Deputy City Manager  
David J. Aleshire, City Attorney  
Duane Burk, Public Works Director  
Zai Abu Bakar, Community Development Director  
Heidi Meraz, Community Services Director  
Bill Manis, Economic Development Director  
Fred Mason, Public Utility Director  
Marie A. Calderon, City Clerk

The invocation was given by Pastor George Rosemier, Banning United Methodist Church. Councilmember Peterson led the audience in the Pledge of Allegiance to the Flag.

## REPORT ON CLOSED SESSION

City Attorney stated that the City Council met in closed session to discuss one matter of potential litigation and a status report was given on the matter. There was discussion regarding the litigation matter of the Banning Redevelopment Agency vs. Huang and a status report was given. A status report was given in regards to real property negotiations concerning 226 S. 22<sup>nd</sup> Street. There was no reportable action taken in those matters. There was discussion regarding the status of the labor negotiations there was no reportable action taken in that matter.

## PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS/ANNOUNCEMENTS

PUBLIC COMMENTS – On Items Not on the Agenda

Charlene Sakurai, 4985 Bermuda Dunes announced that coming up on February 9<sup>th</sup> the 6th Annual Go Red for Women Luncheon will be held from 11:30 a.m. to 1:30 p.m. at the Banning Woman's Club. This is part of the National effort by the American Heart Association to raise

awareness of heart disease and stroke. The cost is \$15.00 and includes a heart healthy lunch, speaker and door prizes. The speaker will be Ludwig Cibelli, Medical Director of the Emergency Dept. at San Gorgonio Memorial Hospital. Seating is limited to 70.

Marva Biggers resident of Banning addressed the Council stating that on Sept. 6, 2011 the City of Banning had three homicides and her niece, Natasha Biggers was one. She is here because she is a citizen of the city of Banning and grew up here and she has to defend the City of Banning every week to those that do not live here. On the website of the police department it indicates how many homicides and this city only had one last year in the month of December. She is asking the City Council, as well as, the citizens to keep in mind that when those three individuals were taken from us it affected some very young people. She has two minor nephews and that is the only reason she is here to put this in on your hearts and minds that we need to cooperate. Also the City police have an open door policy and they continue to keep that door open to those of us that have come and ask questions. Those three homicides are still unresolved and she is here to keep people talking and get those persons off the street.

Don Smith addressed the Council regarding the Centennial stating that they have had their first two events and the third event will take place on Saturday, Jan. 12<sup>th</sup> from 11:00 a.m. to 2 p.m. where the Pass Historical Society will host a forum to discuss what historical artifacts we have, where they are currently being housed and what a long-range plan should be as to where Banning's history should be kept and maintained. You can contact David Heiss at 951-849-4586, extension 26, if you are interested. Friday, Jan. 18<sup>th</sup> and Saturday, Jan. 19<sup>th</sup> there will be a quilt appraisal at the Haven and if you are interested, contact Ann Copeland at 909-273-9176. In the afternoon of Feb. 9<sup>th</sup> the Go Red for Women Luncheon will be held and that evening is the first of ten historical lectures. Banning High School graduate Patty Nelson Limerick who went on to be a professor at Harvard and is currently the Dean of History at Colorado University will be giving a lecture on "Beginning With Banning from Conquest to Civil Rights; from Stagecoaches to VW Bugs; from the Old West to New Western History" is her topic. This will open with a dinner so the dinner and the lecture tickets are \$25.00. Every month thereafter there will be a lecture and the cost is \$5.00 and hors d'oeuvres will be served. All of the lectures are very interesting.

Jim Price, President of the Board of Banning Pass Little League Baseball addressed the Council stating that last year the City went out of their way to practically reconstruct Lions Park where he spends all of his time from mid-February to Nov. 1st. This year they are adding a new division called the "Challenger Division" and it is for special needs children, as well as, adults. The adults will be temporary coaches and the children will also pay ball. He is asking for a little bit of help from the City, financially if possible. They had tremendous success last year and he expects 600 to 700 children this year; last year they had 475. Children are not turned away due to financial constraints. He would appreciate any help from the City.

Mayor Franklin said as a reminder for the public the Council cannot take action or discuss any item that is brought up during this time on the agenda but it will be referred to staff for further review.

CORRESPONDENCE: There was none.

PRESENTATIONS:

1. Riverside County Fair & National Date Festival Queen & Court

Don Smith said member of the Riverside County and National Date Festival Fair Board introduced the County's queen and court who during the 10 days of the fair act as the official voice, greeters, spokespersons, signature signers and hero to almost every young girl who enters the gate and it is also his pleasure as the Treasurer of the Magic Carpet Scholarship Scholars for Dollars to announce that they have awarded scholarships to these three young ladies of \$3,500 and \$3,000 dollars. These scholarships are available to anyone from the ages of 17 to 21 who reside in Riverside County looking for a scholarship and the scholarship applications next year will go out when school opens in early September with a turn in date of October. In addition to the scholarships the Magic Carpet Scholarships also gives away over \$15,000 dollars in scholarships to people that have entries in the junior department at the fair and also starting this year they will give out \$10,000 dollars in music scholarships. At this time he introduced Madison Givens, Queen Scheherazade; Lina El-Mahmoud, Princess Dunyazade; and Abigail Beckert, Princess Jasmine. They are judged on their scholastics, extra-curricular activities, community service, and their ability to write, give a speech and answer questions. It is a two-day judging contest where they started with 40 something girls all of whom are amazing and obviously these three are amazing. Queen Scheherazade, Princess Dunyazade and Princess Jasmine each spoke about their goals. They each gave information about the fair going over the many events, attractions, exhibits and performances that will be happening and invited everyone to attend the fair that will open on February 15<sup>th</sup> through the 24<sup>th</sup>.

2. Proclamation – Paul “Bear” Bradford

Mayor Franklin and the City Council Members presented Mr. Bradford with a proclamation acknowledging his contributions to the community and to the youth through visual arts, especially ceramics. Mr. Bradford thanked everyone for their participation especially Doug Monte when he was with the Banning Police Department.

APPOINTMENTS

1. City Council Committee Assignments

Mayor Franklin asked if there were any public comments. There were none.

**Motion Miller/Welch to approve the City Council Committee Assignments as recommended. Motion carried, all in favor.**

The assignments are as follows:

Western Riverside Council of Governments (WRCOG): Assignment – Franklin; Alt.-Peterson  
Riverside Transit Agency (RTA): Assignment Welch; Alt.-Botts  
Riverside County Transportation Commission (RCTC): Assignment – Botts; Alt.-Franklin

Pass Area Transportation NOW Committee: Assignment – Welch; Alt.-Miller  
Regional Conservation Authority: Assignment – Franklin; Alt.-Welch  
Economic Development Committee Liaisons: as needed – no appointments  
Government Access Channel Committee: Peterson and Welch  
Public Utility Advisory Committee for City: Miller and Botts  
TUMF Zone Committee: Assignment Franklin; Alt.-Peterson  
League of California Cities Contact and Executive Board Representative: Mayor Franklin  
League of California Cities (External Group): City Council  
San Gorgonio Pass Water Agency (External Group): Assignment –Franklin; Alt.-Miller  
Community Action Agency (External Group): Assignment – Peterson; Alt.-Welch

2x2 Council Working Groups

Banning Unified School District: Miller and Botts  
Morongo Band of Mission Indians: Franklin and Welch  
Mt. San Jacinto College: Peterson and Miller  
Airport: Botts and Peterson  
Inter-Governmental Lobbying: Franklin and Botts

CONSENT ITEMS

1. Approval of Minutes – Special Meeting – 12/11/12 (Closed Session)

Recommendation: That the minutes of the Special Meeting of December 11, 2012 be approved.

2. Approval of Minutes – Regular Meeting –12/11/12

Recommendation: That the minutes of the regular meeting of December 11, 2012 be approved.

3. Report of Investments for November 2012

Recommendation: That the Council receive and file.

4. Approval of Accounts Payable and Payroll Warrants for Month of October 2012

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

5. Approval of Accounts Payable and Payroll Warrants for Month of November 2012

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

6. Resolution No. 2013-01, Authorizing the Extension of the Abandoned Vehicle Abatement (AVA) Program and the Collection of Fees Until May 2014.

Recommendation: That the Council adopt Resolution No. 2013-01.

7. Resolution No. 2013-02, Approving the Professional Services Agreement with Data Ticket, Inc.

Recommendation: That the Council adopt Resolution No. 2013-02 and authorizing the Administrative Services Director to make necessary budget adjustments, appropriations and transfers related to this agreement.

8. Resolution No. 2013-03, Approving a Memorandum of Understanding Between the Banning Police Management Association and the City of Banning.

Recommendation: That the Council adopt Resolution No. 2013-03.

9. Adopt Resolution No. 2013-04 and Resolution No. 2013-05, Approving Changes to the Employer Paid Member Contribution (“EPMC) of the California Public Employees’ Retirement System (“CalPERS”) for the Banning Police Officers’ Association and Banning Police Management Association.

Recommendation: That the Council adopt Resolution No. 2013-04 and Resolution No. 2013-05.

10. Resolution No. 2013-06, Authorizing the Execution of the Grant of Easements for the Southern California Edison Company Transmission Lines.

Recommendation: That the Council adopt Resolution No. 2013-06.

11. Resolution No. 2013-07, Approving the Reprogramming of Community Development Block Grant (CDBG) Program Funding from Repplier Park Bowl Rehabilitation to Lions Park Improvements.

Recommendation: That the Council adopt Resolution No. 2013-07 and authorize staff to submit said application to the Riverside County Economic Development Agency for their review and approval.

12. Approval of City Business Permit for Premier Medical Transportation, Inc.

Recommendation: That the Council review and consider approving a City Business Permit for Premier Medical Transportation, Inc. to provide non-emergency medical transport services within the city limits of Banning.

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

**Motion Welch/Peterson that the City Council approve Consent Items 1 through 12. Motion carried, all in favor.**

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

## CONSENT ITEMS

1. Resolution No. 2013-01 UA, Awarding the Professional Services Agreement for the Whitewater Flume Restoration Project with Roy McDonald, Environmental and the Regulatory Consultant of Sacramento, CA in an Amount Not to Exceed \$56,000.00.

Recommendation: That the Council adopt Resolution No. 2013-01, and Authorize the Administrative Services Director to make necessary adjustments and appropriations in an amount of \$56,000.00 from the Water Capital Facility fund to Account No. 661-6300-471.33-11 (Professional Services).

2. Resolution No. 2013-02 UA, Approving the First Amendment to the Professional Services Agreement with Nursery Products, LLC to Include Additional Services in an Amount of \$1,300.19 for a Total Contract Amount Not to Exceed \$26,300.19.

Recommendation: That the Council adopt Resolution No. 2012-02 UA, and authorize the City Manager to execute the first amendment to the Professional Services Agreement with Nursery Products, LLC.

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

**Motion Welch/Peterson to approve Consent Items 1 and 2. Motion carried, all in favor.**

Mayor Franklin recessed the joint meeting of the Banning City Council and the Banning Utility Authority.

## ADDENDUM ITEM

Mayor Franklin called to order a meeting of the Banning City Council Sitting in Its Capacity of a Successor Agency.

## CONSENT ITEM

1. Due Diligence Review for the Other Redevelopment Agency Funds

Recommendation: That the Successor Agency to the Dissolved Community Redevelopment Agency of the City of Banning receive and file the Other Redevelopment Agency Funds Due Diligence Review.

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

**Motion Botts/Welch to approve Consent Item 1. Motion carried, all in favor.**

Mayor Franklin recessed the meeting of the Banning City Council Sitting in Its Capacity of a Successor Agency and reconvened the regular City Council meeting.

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

**City Council**

Councilmember Welch –

- Announced that the San Gorgonio Memorial Hospital will have its Open House and Dedication Ceremony on Friday, January 18<sup>th</sup> at 10:00 a.m.

Mayor Franklin –

- She attended the San Gorgonio Pass Water Agency meeting on Monday and they stated that the snow pack was at 130% so they have upped the amount of water they are giving from 30% to 40% so far this year. They also talked a little bit about where we are going to be storing water since there is so much more available so you will be hearing more about that as they have more discussion on that matter.
- Regarding jury duty at the Banning Court House there will be no jury trials until the new building is completed. The courthouse itself is still open. If you get called for jury duty your options will be to go to either Riverside, Indio or Murrieta.

**City Committee Reports** - None

**Report by City Attorney** - None

**Report by City Manager**

- Art Welch will be one of the Field Representatives for Senator Bill Emmerson.

**ITEMS FOR FUTURE AGENDAS**

**New Items** – None

**Pending Items – City Council**

1. Schedule Meetings with Our State and County Elected Officials

**ADJOURNMENT**

By common consent the meeting adjourned at 5:38 p.m.

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Marie A. Calderon, City Clerk

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

## CITY COUNCIL AGENDA

**Date:** **January 22, 2013**

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

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

**SUBJECT:** **Report of Investments for December 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 December 2012. As of December 31, 2012, the City's operating funds totaled \$67,273,547. Included in operating funds is \$746,795 of restricted CRA bond proceeds that are on deposit with LAIF and reflected separately on the Treasurer's Report. As of December 31, 2012 approximately 48% of the City's unrestricted cash balances were invested in investments other than LAIF.

Presented are three months of Investment Reports. December is a first issue, while October and November 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 0.326% in December. The average rate for all investments in December was 0.256%.

**RECOMMENDED BY:**

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

**APPROVED BY:**

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

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

	Interest	Amount
	Rate	Amount
Wells Fargo Bank	0.000%	15,123
Wells Fargo Bank-Investment Account	0.100%	5,448,074
Bank of America-Airport	0.300%	4,541
Bank of America-Parking Citations	0.300%	4,024
Bank of America-CNG Station	0.300%	<u>3,716</u>

*Money Market and Bank Account Sub-Total*5,475,478Government Pools

Account #1 Operating Amount	33,565,768
Account #1 CRA Bond Cash Bal.	746,795
Local Agency Investment Fund: Account #1	0.326% 34,312,563
Account #2 Sucessor Agency Cash Bal	348
Local Agency Investment Fund: Account #2	0.326% <u>348</u>

*Government Pool Sub-Total*34,312,911**Operating Cash Balance****39,791,194**Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund	0.000%	<u>1,785,304</u>
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Other Investments

Investments-US Bank/Piper Jaffray - See Page 2	0.197%	<u>25,697,049</u>
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*Operating Funds Total***67,273,547****Fiscal Agent**

## US Bank

	Amount
US Bank	<u>35,517,159</u>

*Fiscal Agent Total***35,517,159**

## Operational Portfolio Individual Investments

Average Rate All = 0.256%

It has been verified that this investment portfolio is in conformity with the City Council on August 28, 2012. 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 103 days and does not include Bond Reserve Fund Investments.

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# City of Banning Investment Report

December 31, 2012

## Individual Investments with Fiscal Agent

Bond Issue Description	Bond TRUSTEE	Bond Maturity Date	Investment Description	Current Yield	Bond Maturity Date	Bond Reserve Requirement	Minimum Reserve	Interest Dec-12	Market Value	12/31/2012
<b>COB IMPROVEMENT DISTRICT LIMITED OBLIGATION BONDS SERIES 2005A</b>										
2005 Fair Oaks Ranch Estates										
2003 CRA Tax Allocation Bonds	2035	US Bank Mmkt 5-Ct		0.040%	daily	188,943	6.17	188,051		
<b>COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION, SERIES 2003</b>										
2003 CRA Tax Allocation Bonds	2028	U S Treasury Bill		4.61%	7/28/2011	971,763			978,980	
		US Bank Mmkt 5-Ct		0.040%	daily				34,598	
		US Bank Mmkt 5-Ct		0.050%	daily				22	
		US Bank Mmkt 5-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 5-Ct		0.040%	daily			273.02	8,327,453	
Reserve Fund		US Bank Mmkt 5-Ct		0.040%	daily			61.49	1,875,475	
Special Fund		US Bank Mmkt 5-Ct		0.030%	daily				37	
Surplus Fund		US Bank Mmkt 5-Ct		0.000%	daily				9	
<b>BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES</b>										
Interest Account		US Bank Mmkt 5-Ct		0.000%	daily					3
Principal Account		US Bank Mmkt 5-Ct		0.000%	daily					5
		US Bank Mmkt 5-Ct		0.040%	daily					37
<b>BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES</b>										
Interest Account		US Bank Mmkt 5-Ct		0.060%	daily					18
Principal Account		US Bank Mmkt 5-Ct		0.040%	daily					25
Reserve Fund		US Bank Mmkt 5-Ct		0.040%	daily					2,310,967
Project Fund		US Bank Mmkt 5-Ct		0.040%	daily					1,601,201
<b>BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES</b>										
		US Bank Mmkt 5-Ct		0.060%	daily			16.91	17	
		US Bank Mmkt 5-Ct		0.040%	daily			87.63	2,672,228	
		US Bank Mmkt 5-Ct		0.040%	daily			473.99	14,225,085	
<b>Total</b>										<b>35,517,221</b>
<i>*Paid Semi-Annually-Deposited into Money Mkt Account</i>										

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

Amount

2,805

Bank Accounts

	Interest	
	Rate	Amount
Wells Fargo Bank	0.000%	94,804
Wells Fargo Bank-Investment Account	0.100%	3,792,089
Bank of America-Airport	0.300%	16,977
Bank of America-Parking Citations	0.300%	7,838
Bank of America-CNG Station	0.300%	5,990

*Money Market and Bank Account Sub-Total*

3,917,699

Government Pools

Account #1 Operating Amount	33,566,425
Account #1 CRA Bond Cash Bal.	746,138
Local Agency Investment Fund: Account #1	0.340% 34,312,563
Account #2 Successor Agency Cash Bal	348
Local Agency Investment Fund: Account #2	0.340% 348

*Government Pool Sub-Total*

34,312,911

**Operating Cash Balance****38,233,415**Restricted Operating Funds at Riverside Public Utilities

Highmark U.S. Government Money Market Fund	0.000%	611,282
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Other Investments

Investments-US Bank/Piper Jaffray - See Page 2	0.197%	25,673,756
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***Operating Funds Total*****64,518,453****Fiscal Agent**

	Amount
US Bank	41,442,677

***Fiscal Agent Total*****41,442,677**

## Operational Portfolio Individual Investments

Average Rate  $\Delta t \equiv 0.268\%$

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 28, 2012. 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 113 days and does not include Bond Reserve Fund Investments.

# City of Banning Investment Report

October 31, 2012

## Individual Investments with Fiscal Agent

TRUSTEE		Bond	Maturity	Current	Bond Reserve	Minimum	10/31/2012
Bond Issue Description		Date	Investment Description	Yield	Bond Maturity Date	Reserve Requirement	Interest Oct-12 Market Value
<b>COB IMPROVEMENT DISTRICT LIMITED OBLIGATION BONDS SERIES 2005A</b>							
2005 Fair Oaks Ranch Estates	2035	US Bank Mmkt 5-Ct		0.040%	daily	188,943	6.58 188,038
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION, SERIES 2003							
2003 CRA Tax Allocation Bonds	2028	US Treasury Bill	4.61%	7/28/2011	971,763		984,951
		US Bank Mmkt 5-Ct	0.040%	daily			20,707
		US Bank Mmkt 5-Ct	0.050%	daily			22
Surplus Fund		US Bank Mmkt 5-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 5-Ct	0.040%	daily	273.00		8,326,898
Reserve Fund		US Bank Mmkt 5-Ct	0.040%	daily			1,875,350
Special Fund		US Bank Mmkt 5-Ct	0.030%	daily			37
Surplus Fund		US Bank Mmkt 5-Ct	0.000%	daily			9
<b>BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES</b>							
Interest Account		US Bank Mmkt 5-Ct	0.040%	daily			196,635
Principal Account		US Bank Mmkt 5-Ct	0.040%	daily			70,012
		US Bank Mmkt 5-Ct	0.040%	daily			3,689,664
<b>BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES</b>							
Interest Account		US Bank Mmkt 5-Ct	0.040%	daily			0.00 1,152,554
Principal Account		US Bank Mmkt 5-Ct	0.040%	daily			12.13 370,062
Reserve Fund		US Bank Mmkt 5-Ct	0.040%	daily	2,310,710	75.78 2,311,278	
Project Fund		US Bank Mmkt 5-Ct	0.040%	daily	137.67	4,199,230	
<b>BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES</b>							
		US Bank Mmkt 5-Ct	0.040%	daily			25
		US Bank Mmkt 5-Ct	0.040%	daily	2,672,050	87.62 2,672,605	
Acquisition & Construction		US Bank Mmkt 5-Ct	0.040%	daily		504.39 15,384,593	
<b>Total</b>						<b>1,282.60</b>	<b>41,442,677</b>
*Paid Semi-Annually-Deposited into Money Mkt Account							

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

	Interest	Amount
	Rate	Amount
Wells Fargo Bank	0.000%	8,518
Wells Fargo Bank-Investment Account	0.100%	5,448,804
Bank of America-Airport	0.300%	14,800
Bank of America-Parking Citations	0.300%	6,164
Bank of America-CNG Station	0.300%	5,030

*Money Market and Bank Account Sub-Total***5,483,316****Government Pools**

Account #1 Operating Amount	33,565,818
Account #1 CRA Bond Cash Bal.	746,745
Local Agency Investment Fund: Account #1	0.324% 34,312,563
Account #2 Successor Agency Cash Bal	348
Local Agency Investment Fund: Account #2	0.324% <u>348</u>

*Government Pool Sub-Total***34,312,911****Operating Cash Balance****39,799,032****Restricted Operating Funds at Riverside Public Utilities**

Highmark U.S. Government Money Market Fund	0.000%	<b><u>677,394</u></b>
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**Other Investments**

Investments-US Bank/Piper Jaffray - See Page 2	0.197%	<b><u>25,691,626</u></b>
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**Operating Funds Total****66,168,052****Fiscal Agent**

	Amount
US Bank	<u>36,426,795</u>

**Fiscal Agent Total****36,426,795**

## Operational Portfolio Individual Investments

Par Value	Investment Description	Coupon Rate	Interest Rate	Maturity Date	Purchase Date	Purchase Date	Discount or (Premium) Amortization	Market Value
<i>Bank Accounts</i>								
8,518	Wells Fargo Bank-Operating	n/a	0.00%	daily	varies	8,518	n/a	8,518
5,448,804	Wells Fargo Bank-Investment Acct	n/a	0.10%	daily	varies	5,448,804	n/a	5,448,804
14,800	Bank of America-Airport	n/a	0.30%	daily	varies	14,800	n/a	14,800
6,164	Bank of America-Parking Citations	n/a	0.30%	daily	varies	6,164	n/a	6,164
5,030	Bank of America-Parking Citations	n/a	0.30%	daily	varies	5,030	n/a	5,030
	Sub-total							5,483,316
<i>Government Pools</i>								
34,312,563	L.A.I.F. account #1	n/a	0.324%	daily	varies	34,312,563	n/a	34,312,563
348	L.A.I.F. account #2	n/a	0.324%	daily	varies	348	n/a	348
								34,312,911
<i>Investments-US Bank/Piper Jaffray</i>								
3,000,000	FNMA Deb	n/a	0.600%	5/29/2015	5/16/2012	3,000,000		3,004,230
3,000,000	Federal Farm Credits Bks	n/a	0.600%	5/22/2015	5/16/2012	3,000,000		3,005,580
2,000,000	FNMA MTN	n/a	0.550%	12/4/2014	6/27/2012	2,000,000		2,002,280
17,679,536	Money Market	n/a	0.020%	daily	varies	17,679,536	0	17,679,536
	US Bank/Piper Jaffray Average Rate=		0.197%					25,691,626
	Average Rate All=					0.255%		

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 28, 2012. 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 106 days and does not include Bond Reserve Fund Investments.

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## City of Banning Investment Report

November 30, 2012

### Individual Investments with Fiscal Agent

TRUSTEE	Bond Issue Description	Bond	Maturity Date	Investment Description	Current Yield	Bond Maturity Date	Bond Reserve Requirement	Minimum Reserve	Interest Nov-12	Market Value	11/30/2012
<b>COB IMPROVEMENT DISTRICT LIMITED OBLIGATION BONDS SERIES 2005A</b>											
2005 Fair Oaks Ranch Estates 2035 US Bank Mnkt 5-Ct											
<b>COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION, SERIES 2003</b>											
2003 CRA Tax Allocation Bonds 2028 US Treasury Bill											
US Bank Mnkt 5-Ct											
US Bank Mnkt 5-Ct											
US Bank Mnkt 5-Ct											
Surplus Fund											
<b>COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING TAX ALLOCATION PARITY BONDS, SERIES 2007</b>											
2037 US Bank Mnkt 5-Ct											
US Bank Mnkt 5-Ct											
US Bank Mnkt 5-Ct											
US Bank Mnkt 5-Ct											
<b>BUA - WASTEWATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES</b>											
Redevelop Fund 0.040% daily											
Reserve Fund 0.040% daily											
Special Fund 0.030% daily											
Surplus Fund 0.000% daily											
<b>BUA - WATER ENTERPRISE REVENUE BONDS REFUNDING AND IMPROVEMENT PROJECTS 2005 SERIES</b>											
Interest Account 0.000% daily											
Principal Account 0.000% daily											
Surplus Fund 0.040% daily											
<b>BFA - ELECTRIC SYSTEM REVENUE BONDS 2007 SERIES</b>											
Interest Account 0.060% daily											
Principal Account 0.040% daily											
Reserve Fund 0.040% daily											
Project Fund 0.040% daily											
US Bank Mnkt 5-Ct											
US Bank Mnkt 5-Ct											
US Bank Mnkt 5-Ct											
US Bank Mnkt 5-Ct											
Acquisition & Construction											
Total 14,617.28											
*Paid Semi-Annually-Deposited into Money Mkt Account											

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

**CITY COUNCIL AGENDA  
CONSENT ITEM**

**Date:** January 22, 2013

**TO:** City Council

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

**SUBJECT:** Sole Source purchase from Versatile Information Products, Inc. for upgrading and expanding the department's current Puma Digital Recording System.

**RECOMMENDATION:** "Review and approve the Police Department's request to purchase upgraded Puma-4 Digital recorders and expand the recording system with the purchase of the Puma Digital Recording Management Software System through Versatile Information Products, Inc., as a sole source provider, in the amount of \$21,026.74."

**JUSTIFICATION:** Upgrading the current Puma-2 digital recorders, currently in use by our police officers, to the Puma-4 recorders will enhance the department's ability to capture critical audio evidence through enhanced storage space, expanded recording time, and better sound quality. The added management software system for recorded files will enhance the department's ability to securely manage downloaded voice recordings and maintain their integrity until such time they are no longer needed or are required for legal proceedings.

The upgraded system will allow the department to replace all the current Puma-2 Digital Recorders in use by the officers and add enough new Puma-4 Digital Recorders so that each officer will have their own assigned recorder. Subsequently, each officer will have immediate access to a recording device, regardless of their assignment, and will have the ability to download their recordings into a secure storage system maintained by the police department. Versatile Information Products, Inc. is the only company that sells these products.

**STRATEGIC PLAN INTEGRATION:** Council approval of this recommendation will help facilitate the Police Department's goal of improving its technological capabilities to better serve the community.

**FISCAL DATA:** Funds to cover the cost for the upgraded digital recorders and management software system are available through the 2010 SLESF Grant allocation, which was accepted and approved for use by the City Council under resolution 2009-96. No new funds are required for this purchase. The Finance Department is authorized to make necessary budget adjustments related to these funds.

**RECOMMENDED BY:**

  
Leonard Purvis  
Chief of Police

**REVIEWED BY:**

  
June Overholt  
Administrative Services Director

**APPROVED BY:**

  
Andrew Takata  
City Manager

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**CITY COUNCIL AGENDA  
CONSENT ITEM**

**Date:** **January 22, 2013**

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

**FROM:** **Phil Holder, Lieutenant**

**SUBJECT:** **Resolution No. 2013-08 Reimbursable Funding for a Banning Police Department Team Building Workshop**

**RECOMMENDATION:** "Adopt Resolution No. 2013-08 authorizing an appropriation of \$10,124 from the City's general fund to the police department's training account, which will be reimbursed by the California Commission on Peace Officers Standards and Training (P.O.S.T.) under the P.O.S.T. Team Building Workshop Program."

**JUSTIFICATION:** For more than 35 years the P.O.S.T. Team Building Workshop has provided specialized consultant services to assist local law enforcement management teams with planning, problem solving, goal setting, and team building. The Banning Police Department Management Team plans on using the workshop to evaluate its current operational procedures and strategic plan and to make changes as needed.

**BACKGROUND:** In October 2012, Chief Leonard Purvis applied to the California Commission on Peace Officers Standards and Training to fund the P.O.S.T. Team Building Workshop. On October 19, 2012, P.O.S.T. approved Chief Purvis' application for seventeen department employees to attend the workshop. The workshop is scheduled for May 20-22, 2013.

**STRATEGIC PLAN INTEGRATION:** Council approval of this recommendation will help facilitate the police department's goals of better serving the community and the citizens who live here through a self-evaluation of how to best meet the community's future needs.

**FISCAL DATA:** The Cost of the workshop will be reimbursed to the City upon its completion. However, costs for the workshop facilitator (\$5,500) and accommodation/food subsistence (\$4,624) must be paid prior to the workshop beginning.

**RECOMMENDED BY:** **REVIEWS BY:**

  
Phil Holder  
Lieutenant

  
June Overholt  
Administrative Services Director

**APPROVED BY:**

  
Andrew Takata  
nac  
City Manager

**RESOLUTION NO. 2013-08**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BANNING AUTHORIZING THE APPROPRIATION OF GENERAL ACCOUNT FUNDS FOR THE P.O.S.T. TEAM BUILDING WORKSHOP IN THE AMOUNT OF \$10,124, WHICH WILL BE REIMBURSED TO THE CITY OF BANNING THROUGH THE CALIFORNIA COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING UPON COMPLETION OF THE WORKSHOP.**

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

**WHEREAS**, the Police Department is proactive in its efforts to continually evaluate its performance and how it operates; and

**WHEREAS**, the Police Department is proactive in its efforts to update its strategic plan to address the ever changing needs of the community; and

**WHEREAS**, the City's procedures requires the City Council to adopt a resolution authorizing the appropriation of funds from the City's general account.

**NOW, THEREFORE, BE IT RESOLVED**, the City Council of the City of Banning authorizes the appropriation of general funds (\$10,124) to the Banning Police Department Training Account (001-2200-421-23-06), which will be reimbursed from the California Commission on Peace Officer Standards and Training, under the P.O.S.T. Team Building Workshop Program. The Finance Department is authorized to make necessary budget adjustments related to these funds.

**PASSED, APPROVED, AND ADOPTED** this 22nd day of January 2013.

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Deborah Franklin, Mayor  
City of Banning

**ATTEST:**

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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, LLC

**CERTIFICATION:**

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2013-08 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 22nd day of January 2013, by the following to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

## CITY COUNCIL AGENDA

**DATE:** January 22, 2013

**TO:** Mayor and City Council

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

**SUBJECT:** Adopt Resolution No. 2013-09 approving the Amendment to the Public Entity Risk Management Authority (PERMA) Joint Powers Agreement.

**RECOMMENDATION:** Adopt Resolution No. 2013-09 approving the Amendment to the Public Entity Risk Management Authority (PERMA) Joint Powers Agreement (JPA).

**BACKGROUND:** The City of Banning has been a member of PERMA since the inception of the JPA in 1986. PERMA is a statewide risk retention pool with approximately 30 members (cities and districts), pursuant to California Government Code section 990, et seq. providing that local public entities may make joint powers agreements to secure insurance. Its purpose is to jointly fund programs of insurance and risk. Programs include general liability, workers' compensation, property insurance, employment practices liability, special events and more. The board members of PERMA are representatives from each city/district.

**DISCUSSION:** From time to time, the PERMA board reviews and updates the Joint Powers Agreement. Once approved by the PERMA board, the agreement must be ratified by the Council or Board of the members. Any change must be approved by at least two-thirds of the members' governing bodies. The last update was in 2004 and approved by the Banning City Council through Resolutions 2004-01A and 2004-01B.

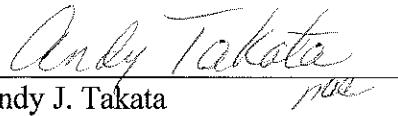
The PERMA Board of Directors has recently voted to approve the following amendment to PERMA's Joint Powers Agreement, allowing PERMA to appoint a staff member or board member as treasurer and/or auditor as an alternative to those functions being performed by a member's treasurer and auditor, as required by the current Joint Powers Agreement. This change is permitted by Government Code section 6505.6 and will allow PERMA the flexibility to appoint an officer or employee when necessary, due to a lack of availability of a members' treasurer and auditor to fulfill those roles for PERMA.

**FISCAL DATA:** No fiscal impact to the City.

**RECOMMENDED BY:**

  
June Overholt  
Administrative Services Director/  
Deputy City Manager

**APPROVED BY:**

  
Andy J. Takata  
City Manager

Attachments: Resolution No 2013 – 09

July 1,2004 - Amended and Restated Joint Powers Agreement for PERMA

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**RESOLUTION NO. 2013-09**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING  
APPROVING AN AMENDMENT TO THE PUBLIC ENTITY RISK  
MANAGEMENT AUTHORITY (PERMA) AMENDED AND RESTATED  
JOINT POWERS AGREEMENT (REVISED JULY 1, 2004)**

**WHEREAS**, Article 1, Chapter 5, Division 7, Title 1 of the California Government Code permits two or more public agencies by agreement to exercise jointly powers common to the contracting parties; and

**WHEREAS**, California Government Code Section 990.4 provides that a local public entity may self-insure, purchase insurance through an authorized carrier, or purchase insurance through a surplus line broker, or any combination of these; and

**WHEREAS**, PERMA is a statewide risk retention pool providing risk management programs and funding programs for insurance; and

**WHEREAS**, Article 24 of the PERMA agreement allows it to be amended at any time by a vote of two-thirds of the member organizations, acting through their governing boards; and

**WHEREAS**, the City of Banning is a member of the Public Entity Risk management Authority (PERMA); and

**WHEREAS**, the PERMA board is recommending changes to the Joint Powers Agreement Articles 10 and 12.

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

**SECTION 1:** That the City Council approves the amendment to the Joint Powers Agreement related to Article 10 – Officers and Article 12 – Staff as defined in Exhibit A.

**SECTION 2.** That the Mayor is authorized to execute the amendment to the Joint Powers Agreement of the Public Entity Risk management Authority incorporating the amendments set forth in Exhibit A.

**PASSED, APPROVED AND ADOPTED** this 22<sup>nd</sup> day of January, 2013.

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Deborah Franklin, Mayor  
City of Banning, California

**ATTEST:**

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Marie A. Calderon, City Clerk  
City of Banning

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

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David 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. 2013-09 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 22<sup>nd</sup> day of January, 2013, 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**

### **AMENDMENT TO PUBLIC ENTITY RISK MANAGEMENT AUTHORITY (PERMA) AMENDED AND RESTATED JOINT POWERS AGREEMENT (REVISED JULY 1, 2004)**

*Articles 10 and 12 of the Joint Powers Agreement currently state:*

#### **ARTICLE 10 OFFICERS**

The Board of Directors, either directly or through the Executive Committee, shall annually elect from its membership a President and Vice President of the Board at its regular annual meeting to service for one-year terms.

The President, or in his or her absence, the Vice President, shall preside at and conduct all meetings of the Board and chair the Executive Committee.

Said powers shall be exercised pursuant to the terms hereof and in the manner provided by law.

#### **ARTICLE 12 STAFF**

##### Principal Staff

(a) The following staff members shall be established:

(1) General Manager/Secretary. The General Manager/ Secretary shall administer the business and activities of the Authority, subject to the general supervision and policy direction of the Board of Directors and Executive Committee; shall be responsible for all minutes, notices and records of the Authority; and shall perform such other duties as are assigned by the Board and Executive Committee.

(2) Other Staff. The General Manager/Secretary may provide for such other staff as may be necessary for the administration of the Authority, subject to Board approval.

(b) Pursuant to Government Code section 6505.5, the Treasurer and Auditor shall be the treasurer and auditor of a member organization of the Authority.

(1) Treasurer. The duties of the Treasurer are set forth in Articles 14 and 15 of this Agreement.

(2) Auditor. The Auditor shall draw warrants to pay demands against the Authority when approved by the Treasurer, and shall perform the annual audit functions required under Article 14.

(c) Charges for Treasurer and Auditor Services. Pursuant to Government Code section 6505.5, the charges to the Authority for the services of the Treasurer and Auditor shall be determined by the governing Board of the member organization from which such staff members are appointed.

.....

*Articles 10 and 12 are hereby amended to state as follows:*

## **ARTICLE 10**

### **OFFICERS**

The Board of Directors, either directly or through the Executive Committee, shall annually elect from its membership a President and Vice President of the Board at its regular annual meeting to service for one-year terms.

The President, or in his or her absence, the Vice President, shall preside at and conduct all meetings of the Board and chair the Executive Committee.

Said powers shall be exercised pursuant to the terms hereof and in the manner provided by law. The Board of Directors, either directly or through the Executive Committee, shall also annually elect or appoint a Treasurer and Auditor. Pursuant to Government Code sections 6505.5 and 6505.6, the Treasurer and Auditor shall be either the treasurer and auditor of a member organization of the Authority or an officer or employee of the Authority. Such offices may be held by separate officers or employees or combined and held by one officer or employee. If the Authority designates its officers or employees as Treasurer or Auditor, or both, such officers or employees shall cause an independent audit to be made by a certified public accountant, or public accountant, in compliance with Government Code section 6505.

- (1) Treasurer. The duties of the Treasurer are set forth in Articles 15 and 16 of this Agreement.
- (2) Auditor. The Auditor shall draw warrants to pay demands against the Authority when approved by the Treasurer, and shall perform the annual audit functions required under Article 15.

Charges for Treasurer and Auditor Services. Pursuant to Government Code section 6505.5, the charges to the Authority for the services of the Treasurer and Auditor shall be determined by the governing Board of the member organization from which such staff members are appointed.

## ARTICLE 12

### STAFF

#### Principal Staff

The following staff members shall be established:

- (1) General Manager/Secretary. The General Manager/ Secretary shall administer the business and activities of the Authority, subject to the general supervision and policy direction of the Board of Directors and Executive Committee; shall be responsible for all minutes, notices and records of the Authority; and shall perform such other duties as are assigned by the Board and Executive Committee.
- (2) Other Staff. The General Manager/Secretary may provide for such other staff as may be necessary for the administration of the Authority, subject to Board approval.

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City of Banning, PERMA Member

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Date Approved by City of Banning

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City Clerk

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Date

33

**PUBLIC ENTITY RISK  
MANAGEMENT AUTHORITY  
(PERMA)**

**AMENDED AND RESTATED  
JOINT POWERS AGREEMENT**

**Revised**

**JULY 1, 2004**

AMENDED AND RESTATED  
JOINT POWERS AGREEMENT  
CREATING THE PUBLIC ENTITY RISK MANAGEMENT AUTHORITY

This Agreement is executed in the State of California by and among those local governments and special districts organized and existing under the Constitution of the State of California which are parties signatory to this Agreement. All such local public entities, hereinafter called member organizations shall be listed in Appendix A, which shall be attached hereto and made a part hereof.

RECITALS

WHEREAS, Article 1, Chapter 5, Division 7, Title 1 of the California Government Code permits two or more public agencies by agreement to exercise jointly powers common to the contracting parties; and

WHEREAS, California Government Code section 990.4 provides that a local public entity may self-insure, purchase insurance through an authorized carrier, or purchase insurance through a surplus line broker, or any combination of these; and

WHEREAS, Article 16, Section 6 of the California Constitution provides that insurance pooling arrangements under joint exercises of power agreements shall not be considered the giving or lending of credit as prohibited therein; and

WHEREAS, California Government Code section 990.8 provides that two or more local public entities may, by a joint powers agreement, provide insurance for any purpose by any one or more of the methods specified in Government Code section 990.4; and

WHEREAS, the Public Entity Risk Management Authority was created in 1985 by written agreement which has been amended on four prior occasions and which the present member organizations now desire to amend and completely restate; and

WHEREAS, the local governments and special districts executing this Agreement desire to continue to join together for the purpose of jointly funding programs of insurance for workers' compensation, comprehensive liability, and other coverages to be determined;

NOW THEREFORE, the parties agree as follows:

## ARTICLE 1 DEFINITIONS

**"Authority"** shall mean the Public Entity Risk Management Authority created by this Agreement.

**"Board of Directors"** or **"Board"** shall mean the governing body of the Authority.

**"Claim"** shall mean a claim made against a member organization arising out of a loss which is covered by an insurance program of the Authority in which the member organization is a participant.

**"Dependent District"** shall mean a special district or county service area within a member organization which is governed by the member organization's governing board.

**"Executive Committee"** shall mean the Executive Committee of the Board of Directors of the Authority, or shall mean the Board of Directors if no separate Executive Committee has been appointed.

**"Insurance Program"** shall mean a program of the Authority under which participating member organizations are protected against designated losses.

**"Fiscal Year"** shall mean that period of twelve months which is established by the Board of Directors as the fiscal year of the Authority.

**"Government Code"** shall mean the California Government Code.

**"Joint Powers Law"** shall mean Article 1, Chapter 5, Division 7, Title 1 (commencing with Section 6500) of the Government Code.

**"Loss"** shall mean a liability or potential liability of a member organization, including litigation expenses, attorney's fees and other defense costs, which is covered by an insurance program of the Authority in which the member organization is a participant.

**"Member Organization"** shall mean any local government or special district or other local public entity approved for membership in the Authority which has executed this Agreement and become a member of the Authority.

**"Participating Member Organization,"** as used in reference to an insurance program of the Authority, shall mean any member organization which has entered that program pursuant to this Agreement and has not withdrawn or been canceled therefrom pursuant to Articles 18 or 19.

**"Policy Year"** shall mean, for each insurance program of the Authority, that period of twelve months commencing upon the effective date of the program, and each twelve-month period thereafter.

## **ARTICLE 2 PURPOSES**

This Agreement is entered into by the member organizations to jointly develop and fund programs of insurance and such other coverage as may be determined by the Authority.

All such purposes shall be accomplished through a joint exercise of powers by such organizations, pursuant to this Agreement, by a separate legal entity, the Public Entity Risk Management Authority, as created herein.

## **ARTICLE 3 PARTIES TO AGREEMENT**

- (a) Each member organization, as a party to this Agreement, certifies that it intends to and does contract with all other member organizations as parties to this Agreement and, in addition, with such other organizations as may later be added as parties to this Agreement pursuant to Article 18. Each member organization also agrees that the cancellation or withdrawal of any party from this Agreement, pursuant to Article 19, shall not affect this Agreement as to those member organizations then remaining.
- (b) Any member organization may contract on behalf of, and shall be deemed to include:
  - (1) Any dependent district, from the time that the member organization provides the Authority written notice of the name and inclusion of such district.
  - (2) Any other local public entity which receives insurance coverage from the member organization, subject to the approval of the Board of Directors. Such district or other local public entity shall not be considered a separate party to this Agreement, shall not affect the member organization's representation on the Board of Directors, and shall be part of and represented by the member organization for all purposes under this Agreement.

## **ARTICLE 4 TERM**

Amendments to this Agreement shall become effective when approved, executed and returned to the Authority by two-thirds of the member organizations. This Agreement shall continue in effect until terminated as provided herein.

## **ARTICLE 5 CREATION OF THE AUTHORITY**

Pursuant to the joint powers law, a public entity separate and apart from the parties hereto was created in 1985 known as the Public Entity Risk Management Authority.

## **ARTICLE 6 POWERS OF THE AUTHORITY**

The Authority shall have all of the powers common to its member organizations in California and all additional powers set forth in the joint powers law, and Authority is hereby authorized to do all acts necessary for the exercise of said powers. Such powers include, but are not limited to, the following:

- (a) To make and enter into contracts.
- (b) To incur debts, liabilities, and obligations.
- (c) To acquire, hold, or dispose of property, funds, services, and other forms of assistance from persons, firms, corporations, and government entities.
- (d) To sue and be sued in its own name, and to settle any claim against it.
- (e) To receive and use contributions and advances from member organizations as provided in Government Code section 6504, including contributions or advances of personnel, equipment, or property.
- (f) To invest any money in its treasury that is not required for its immediate necessities, pursuant to Government Code section 6509.5.
- (g) To do such other things as are necessary to carry out all provisions of this Agreement.

Said powers shall be exercised pursuant to the terms hereof and in the manner provided by law.

## **ARTICLE 7** **BOARD OF DIRECTORS**

The Authority shall be governed by the Board of Directors, which shall be composed of one director from each member organization which maintains membership in the liability program. Each member of the Board shall be appointed by the member organization's governing body and shall serve at the pleasure of that body. Each member organization shall also appoint an alternate director who shall have the authority to attend, participate in and vote at any meeting of the Board when the director is absent. A director, or alternate director, shall be an elected official or employee of the member organization. Termination of office or employment with the member organization shall automatically terminate membership or alternate membership on the Board. Any vacancy in a director or alternate director position shall be filled by the appointing member organization's governing body, subject to the provisions of this article.

A majority of the membership of the Board of Directors shall constitute a quorum for the transaction of business. Except as otherwise provided in this Agreement, action of the Board shall require the affirmative vote of a majority of the quorum; provided, however, that any action which is restricted in effect to one of the Authority's insurance programs, as determined by the President of the Board, shall also require the affirmative vote of a majority of those members of the Board of Directors present and voting who represent member organizations participating in that program.

## **ARTICLE 8** **POWERS OF THE BOARD OF DIRECTORS**

The Board of Directors shall have the following powers and functions:

- (a) The Board shall exercise all powers and conduct all business of the Authority, either directly or by delegation of authority to other bodies or persons pursuant to this Agreement and applicable law.
- (b) The Board may form an Executive Committee from its membership, as provided in Article 11, and may delegate to that Committee such powers as it sees fit, provided that all powers of the Executive Committee shall be exercised under the direction of the Board.
- (c) The Board may form such other committees as it deems appropriate in conducting the business of the Authority.
- (d) The Board, either directly or through the Executive Committee, shall elect the officers of the Authority.

- (e) The Board shall cause to be prepared and adopt the annual operating budget of the Authority.
- (f) The Board shall develop, or cause to be developed, and shall review, modify as necessary, and adopt each insurance program of the Authority, including all provisions for reinsurance and administrative services necessary to carry out such program.
- (g) The Board shall contract or otherwise provide for necessary services to the Authority and to member organizations. These necessary services may include, but shall not be limited to, risk management consulting, loss prevention and control, centralized loss reporting, actuarial consulting, claims adjusting, and legal defense services.
- (h) The Board, either directly or through the Executive Committee, shall provide general supervision and policy direction to the General Manager of the Authority and the Secretary of the Board.
- (i) The Board shall receive and act upon reports of its committees and General Manager/Secretary, either directly or through the Executive Committee.
- (j) The Board shall establish monetary limits upon any delegation of the claims payment and settlement authority, beyond which a proposed settlement must be referred to the Board for approval.
- (k) The Board may require that the Authority review, audit, report upon, and make recommendations with regard to the safety or claims administration functions of any member organization insofar as those functions are affecting the liability or potential liability of the Authority. The Board may forward any or all such recommendations to the member organization with a request for compliance and a statement of potential consequences for noncompliance.
- (l) The Board shall receive, review and act upon periodic reports and audits of the funds of the Authority, as required under Articles 14 and 15 of this Agreement.
- (m) The Board shall have such other powers and functions as are provided for in this Agreement, in the Bylaws of the Authority, and in applicable law.

## **ARTICLE 9** **MEETINGS OF THE BOARD OF DIRECTORS**

- (a) The Board shall hold at least one regular annual meeting and shall provide for such other regular meetings as it deems necessary.

- (b) The General Manager/Secretary of the Authority shall provide for the keeping of minutes of regular and special meetings of the Board, and shall, as soon as possible after each meeting, forward a copy of the minutes to each member of the Board.
- (c) All meetings of the Board shall be called, noticed, held and conducted in accordance with the provisions of Government Code section 54950, et seq.

## **ARTICLE 10 OFFICERS**

The Board of Directors, either directly or through the Executive Committee, shall annually elect from its membership a President and Vice President of the Board at its regular annual meeting to service for one-year terms.

The President, or in his or her absence, the Vice President, shall preside at and conduct all meetings of the Board and chair the Executive Committee.

Said powers shall be exercised pursuant to the terms hereof and in the manner provided by law.

## **ARTICLE 11 EXECUTIVE COMMITTEE**

The Board of Directors may establish an Executive Committee of the Board which shall consist of seven persons: the President and Vice President of the Board, and five directors elected by the Board from its membership.

The terms of office of the seven members shall be as provided for in the Bylaws of the Authority.

The Executive Committee shall conduct the business of the Authority between meetings of the Board, exercising such powers as are delegated to it by the Board, under the direction of the Board.

## **ARTICLE 12 STAFF**

### Principal Staff

- (a) The following staff members shall be established:

(b)

- (1) General Manager/Secretary. The General Manager/ Secretary shall administer the business and activities of the Authority, subject to the general supervision and policy direction of the Board of Directors and Executive Committee; shall be responsible for all minutes, notices and records of the Authority; and shall perform such other duties as are assigned by the Board and Executive Committee.
- (2) Other Staff. The General Manager/Secretary may provide for such other staff as may be necessary for the administration of the Authority, subject to Board approval.

(b) Pursuant to Government Code section 6505.5, the Treasurer and Auditor shall be the treasurer and auditor of a member organization of the Authority.

- (1) Treasurer. The duties of the Treasurer are set forth in Articles 14 and 15 of this Agreement.
- (2) Auditor. The Auditor shall draw warrants to pay demands against the Authority when approved by the Treasurer, and shall perform the annual audit functions required under Article 14.

(c) Charges for Treasurer and Auditor Services. Pursuant to Government Code section 6505.5, the charges to the Authority for the services of the Treasurer and Auditor shall be determined by the governing Board of the member organization from which such staff members are appointed.

## ARTICLE 13

### SUPPORT OF AUTHORITY'S GENERAL EXPENSES

Costs of staffing and supporting the Authority, hereinafter called Authority general expenses, shall be equitably allocated among the various programs by the Board, and shall be funded by the member organizations developing or participating in such programs in accordance with such allocations as hereinafter provided. In addition, the Board may, at its discretion, allocate a share of such Authority general expense to those member organizations which are not developing or participating in any program, and require those member organizations to fund such share through a prescribed charge. Member organizations which are not members of the Coachella Valley Association of Governments shall pay annual in-lieu dues to the Coachella Valley Association of Governments for the fiscal year 1995/1996 in an amount equal to 100% of the amount paid as in-lieu dues for the previous fiscal year and to pay annual in-lieu dues for the fiscal year 1996/1997 in an amount equal to 50% of the amount paid as in-lieu dues for the previous fiscal year; thereafter, no in-lieu dues shall be payable to the Coachella Valley Association of Governments.

**ARTICLE 14**  
**FUNDING AND IMPLEMENTATION**  
**OF INSURANCE PROGRAMS**

(a) **Program Funding.** The member organizations developing or participating in an insurance program shall fund all costs of that program, including administrative costs, as hereinafter provided.

(1) **Development Charge.** Development costs of an insurance program shall be funded by a development charge, as fixed by this Agreement or determined by the Board of Directors. The development charge shall be paid by each member organization which wishes to join in development of the program and thereby reserve the option to participate in the program following its adoption by the Board. Development costs are those costs incurred by the Authority in developing a program for review and adoption by the Board of Directors, including, but not limited to: research, feasibility studies, information and liaison work among member organizations, preparation and review of documents, and actuarial and risk management consulting services. The development charge may also include a share of Authority general expense, as allocated to the program development function by the Board.

The development charge shall be billed by the Authority to all member organizations upon authorization of program development by the Board and shall be payable within thirty (30) days of the billing date. Upon the conclusion of program development: any deficiency in development funds shall be billed to all member organizations that have paid the development charge, on a pro-rata or other acceptable basis, as determined by the Board; and any surplus in these funds shall be billed to all member organizations that have paid the development charge, on a pro rata or other acceptable basis, as determined by the Board, and any surplus in these funds shall be transferred into the loss reserve funds for the program, or, if the program is not implemented, into the Authority's general expense funds.

(2) **Annual Premium.** Except as provided in (3) below, all post-development costs of an insurance program shall be funded by annual premiums charged to the member organizations participating in the program each policy year, and by interest earnings on the funds so accumulated. Such premiums shall be determined by the Board of Directors upon the basis of a cost proration plan and rating formula developed by the Authority with the assistance of a casualty actuary, risk management consultant, or other qualified person and described in the Bylaws. The premium for each participating member organization shall include that organization's share of expected claims costs, program reinsurance costs, and program administrative costs for the year, plus that member organization's share of Authority general expense charged to the program by the Board.

(3) Premium Surcharge. If the Authority experiences an unusually large number of losses during a policy year the funds for a given Program may become exhausted. In such case the Board may, upon consultation with an actuary, impose premium surcharges on all members who were in the Program at the time such loss or losses occurred in order to pay necessary costs. However, annual surcharges shall not exceed an amount equal to three times the member's annual premium for the policy year in which such loss occurred. Each member surcharge shall be based upon its pro rata share of premiums paid in said year. It is understood this does not limit the Authority from surcharges in future years, even losses for which a levy may have been imposed in a previous year.

(b) Late Entry Into Program. A member organization which does not elect to enter an insurance program upon its implementation or a member organization which becomes a party to this Agreement following implementation of the program, may petition the Board of Directors for late entry into the program. Such request may be granted upon a vote of two-thirds of the quorum, plus a vote of two-thirds of a quorum of those members who represent member organizations participating in the program.

As a condition of late entry, the member organization shall pay the development charge for the program, as adjusted at the conclusion of the development period, but not subject to further adjustment, and also any costs incurred by the Authority in analyzing the member organization's loss data and determining its annual premium as of the time of entry. The method of calculating premium charges to late entrants shall be specified in the Bylaws.

## ARTICLE 15 ACCOUNTS AND RECORDS

(a) Annual Budget. The Authority shall annually adopt an operating budget pursuant to Article 8 of this Agreement, which shall include a separate budget for each insurance program under development or adopted and implemented by the Authority.

(b) Funds and Accounts. The Treasurer of the Authority shall establish and maintain such funds and accounts as may be required by good accounting practices and by the Board of Directors. Separate accounts shall be established and maintained for each insurance program under development or adopted and implemented by the Authority. Books and records of the Authority in the hands of the Treasurer shall be open to inspection at all reasonable times by authorized representatives of member organizations. The Authority shall adhere to the standard of strict accountability for funds set forth in Government Code section 6505.

- (c) Treasurer's Report. The Treasurer, within one hundred and twenty (120) days after the close of each fiscal year, shall give a complete written report of all financial activities for such fiscal year to the Board and to each member organization.
- (d) Annual Audit. Pursuant to Government Code section 6505, the Auditor shall either make or contract with a certified public accountant to make an annual fiscal year audit of all accounts and records of the Authority, conforming in all respects with the requirements of that section. A report of the audit shall be filed as a public record with each member organization within six months of the end of the fiscal year under examination. Costs of the audit shall be considered a general expense of the Authority.

## ARTICLE 16 RESPONSIBILITIES FOR FUNDS AND PROPERTY

- (a) The Treasurer shall have the custody of and disburse the Authority's funds. He or she may delegate disbursing authority to such persons as may be authorized by the Board of Directors to perform that function, subject to the requirements of (b) below.
- (b) Pursuant to Government Code section 6505.5, the Treasurer shall:
  - (1) Receive and acknowledge receipt for all funds of the Authority and place them in the treasury of the Treasurer to the credit of the Authority.
  - (2) Be responsible upon his or her official bond for the safekeeping and disbursement of all Authority funds so held by him or her.
  - (3) Pay any sums due from the Authority, as approved for payment by the Board of Directors or by any body or person to whom the Board has delegated approval authority, making such payments from Authority funds upon warrants drawn by the Auditor.
  - (4) Verify and report in writing to the Authority and to member organizations, as of the first day of each quarter of the fiscal year, the amount of money then held for the Authority, the amount of receipts since the last report, and the amount paid out since the last report.
- (c) Pursuant to Government Code section 6505.1, the General Manager/Secretary, the Treasurer, and such other persons as the Board of Directors may designate shall have charge of, handle, and have access to the property of the Authority.
- (d) The Authority shall secure and pay for a fidelity bond or bonds, in an amount or amounts and in form specified by the Board of Directors, covering all officers and employees of the Authority who are authorized to hold or disburse funds of the Authority, and all officers and employees who are authorized to have charge of, handle, and have access to property of the Authority.

## **ARTICLE 17** **RESPONSIBILITIES OF MEMBER ORGANIZATIONS**

Member organizations shall have the following responsibilities under this Agreement.

- (a) The governing body of each member organization shall appoint a representative and one alternate representative to the Board of Directors, pursuant to Article 7. Such representatives and alternate representatives shall be an officer or employee of such member organization.
- (b) Each member organization shall provide the Authority such other information or assistance as may be necessary for the Authority to develop and implement insurance programs under this Agreement and shall comply with and conform to such standardized reporting, processing and administrative practices as may be established by the Authority.
- (c) Each member organization shall have such other responsibilities as are provided elsewhere in this Agreement, and as are established by the Board of Directors in order to carry out the purposes of this Agreement.

## **ARTICLE 18** **NEW MEMBERS**

Any local government entity or special district or other local public entity may become a party to this Agreement and a member of the Authority only upon an affirmative vote of a majority of the member organizations of the Authority and upon payment of such fees, charges, premiums and capital fees as may be deemed appropriate by the Authority.

## **ARTICLE 19** **CANCELLATION OR WITHDRAWAL**

- (a) A member organization may withdraw as a party to this Agreement upon thirty (30) days' advance written notice to the Authority if it has never become a participant in any insurance program pursuant to Article 14, or if it has withdrawn from all insurance programs in which it was a participant, pursuant to (c) below.
- (b) The Board of Directors may:
  - (1) Cancel, for reasonable cause, any member organization from this Agreement and membership in the Authority, on a vote of two-thirds of the quorum of the Board members. Such action shall have the effect of canceling the member organization's participation in all insurance programs of the Authority as of the date that membership is canceled, subject to the notice provisions below.

(2) Cancel any member organization's participation in an insurance program of the Authority, without canceling the member organization's membership in the Authority or participation in other programs, on a vote of two-thirds of the quorum of the Board members, plus a vote of two-thirds of the quorum of the members who represent member organizations participating in the program, subject to the notice provisions below.

The Board shall give ninety (90) days' advance written notice of the effective date of any cancellation under the foregoing provisions. Upon such effective date, the member organization shall be treated the same as if it had voluntarily withdrawn from this Agreement, or from the program, as the case may be.

(c) Any member having completed three (3) years as a party to this Agreement may withdraw from its status as a participant in a program only at the end of a policy year for the program, and only if it gives the Authority at least six (6) months advance written notice of such action.

The Authority may assess an early-withdrawal charge for any such member that withdraws from a program without providing six (6) months advance written notice. The early-withdrawal charge is to be determined in the discretion of the Executive Committee based upon all costs and damages resulting to the Authority because of the member's withdrawal on short notice. The early-withdrawal charge shall not exceed the withdrawing member's annual premium for the program from which it is withdrawing.

(d) A member organization which withdraws from all insurance programs of the Authority in which it was a participant and does not enter any program for a period of six (6) months thereafter shall be considered to have withdrawn as a party to this Agreement at the end of such period, and its membership in the Authority shall be automatically canceled as of that time, without action of the Board of Directors.

## **ARTICLE 20** **EFFECT OF CANCELLATION OR WITHDRAWAL**

(a) If a member organization withdraws from participation in an insurance program of the Authority or such participation is canceled, with or without cancellation of membership in the Authority, and such cancellation is effective before the end of the policy year for that program, the Authority shall promptly determine and return to the member organization the amount of any unearned premium payment from the member organization for the policy year, such amount to be computed on a pro rata basis from the effective date of cancellation. In addition, the Board of Directors may in its sole and absolute discretion determine and return to the member organization such fees, charges and pro rata share of assets as it may determine are due and owing to such member organization.

- (b) Except as provided in (a) above, a member organization which withdraws or is canceled from this Agreement and membership in the Authority, or from any program of the Authority, shall not be entitled to the return of any premium or other payment to the Authority, or of any property contributed to the Authority. However, in the event of termination of this Agreement, such member organization may share in the distribution of assets of the Authority to the extent provided in Article 21.
- (c) Notwithstanding withdrawal or cancellation from any insurance program of the Authority, a member organization shall pay any premium charges which the Board of Directors determines are due from the member organization for losses and costs during the period in which the member organization was a participant in such program. Such charges may include any deficiency in a premium previously paid by the member organization, any premium surcharge assessed to the member organization and any additional amount of premium which the Board determines to be due from the member organization upon final disposition of all known or future claims arising from known or potential losses under the program during the organization's period of participation. Any such premium charges shall be payable by the organization within thirty (30) days of billing by the Authority. The liability of the Authority for incurred, but not reported, claims shall be governed by the particular insurance program provisions.

## **ARTICLE 21** **TERMINATION AND DISTRIBUTION OF ASSETS**

- (a) This Agreement may be terminated at any time upon the election to terminate of three-fourths of the member organizations acting through their governing boards; provided, however, that this Agreement and the Authority shall continue to exist after such election for the purpose of disposing of all claims, distributing all assets, and performing all other functions necessary to conclude the affairs of the Authority.
- (b) Upon termination of this Agreement, all assets of the Authority in each insurance program shall be distributed among those member organizations which participated in that program in proportion to their cash contributions, including premiums paid and property contributed (at market value when contributed). The Board of Directors shall determine such distribution within six months after disposal of the last pending claim or other liability covered by the program.
- (c) Following termination of this Agreement, any member organization which was a participant in an insurance program of the Authority shall pay any additional amount of premium, determined by the Board of Directors in accordance with a loss allocation formula, which may be necessary to enable final disposition of all claims arising from losses under that program during the member organization's period of participation.

## **ARTICLE 22 BYLAWS**

As soon as practical after the effective date of this Agreement, the Bylaws will be amended to reflect this new Amended and Restated Joint Powers Agreement. The Bylaws will govern the day-to-day operations of the Authority. Upon adoption by the Board, the Bylaws shall be delivered by the Authority to each Member Organization.

## **ARTICLE 23 NOTICES**

The Authority shall address notices, billings and other communications to a member organization as directed by the organization. Member organizations shall address notices and other communications to the Authority to the General Manager/Secretary of the Authority.

## **ARTICLE 24 AMENDMENT**

This Agreement may be amended at any time by a vote of two-thirds of the member organizations, acting through their governing boards.

## **ARTICLE 25 PROHIBITION AGAINST ASSIGNMENT**

No member organization may assign any right, claim or interest it may have under this Agreement, and no creditor, assignee or third party beneficiary of any member organization shall have any right, claim or title to any party, share, interest, fund, premium or asset of the Authority.

## **ARTICLE 26 AGREEMENT COMPLETE**

The foregoing constitutes the full and complete Agreement of the parties. There are no oral understandings or agreements not set forth in writing herein.

## **ARTICLE 27 FILING WITH SECRETARY OF STATE**

The Secretary of the Authority has previously filed notice of this Agreement or any amendments to it with the office of the California Secretary of State within 30 days of its effective date, as required by Government Code section 6503.5.

## **ARTICLE 28 JOINT AND SEVERAL LIABILITY**

No member shall be jointly and severally liable for any debts, and/or obligations of the Authority or any of its members.

## **ARTICLE 29 COACHELLA VALLEY ASSOCIATION OF GOVERNMENTS**

Pursuant to the provisions of the original agreement establishing the Authority, the Coachella Valley Association of Governments provided staff members to the Authority, received revenue from some member organizations and exercised a degree of management and control over the affairs of the Authority. Except with regard to in-lieu dues as provided therein, this ceased pursuant to an amendment to the joint powers agreement which became effective May 16, 1995. It is the intent of the parties that the Coachella Valley Association of Governments shall have no rights, powers, duties or responsibilities of any kind, except that it may continue as a member organization of the Authority with voting rights upon the terms provided and subject to the provisions contained in this Agreement and except with respect to the right of the Coachella Valley Association of Governments to receive and enforce its right to receive in-lieu dues as provided in Article 13 hereof.

IN WITNESS WHEREOF, the undersigned party hereto has executed this Agreement of the date indicated below.

Date	Member Organization
	Signature
	Name & Title

**CITY COUNCIL AGENDA  
CONSENT ITEM**

**Date:** **January 22, 2013**

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

**FROM:** **Phil Holder, Lieutenant**

**SUBJECT:** **Resolution No. 2013-11, accepting the 2013 Supplemental Law Enforcement Services Fund Allocation and authorizing the Banning Police Department to use the funds towards the purchase of law enforcement related equipment and training.**

**RECOMMENDATION:** "The City Council adopt Resolution No. 2013-11 accepting the 2013 Supplemental Law Enforcement Services Fund (SLESF) allocation and authorize the Banning Police Department to apply the funds towards the purchase of law enforcement related equipment and training."

**JUSTIFICATION:** Funds from the Supplemental Law Enforcement Services Fund must be used to supplement frontline municipal police services.

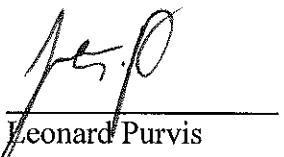
**BACKGROUND:** The Banning Police Department anticipates using funds from SLESF to purchase equipment and provide advanced officer training, which will enhance the department's ability to provide a high level of professional service to the citizens of Banning. Anticipated purchases may include but are not limited to, vehicles, technology equipment and software, evidence collection materials, communication related parts, tactical equipment, and advanced officer training.

Legislation requires the City Council to officially accept the Supplemental Law Enforcement Services Funds and approve the police department's anticipated use of the funds.

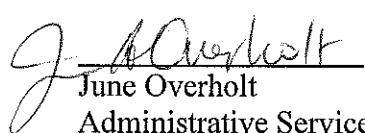
**STRATEGIC PLAN INTEGRATION:** Council approval of this resolution will meet the city's goal to protect the citizens of this community with updated technology, equipment, and well trained police officers.

**FISCAL DATA:** The Supplemental Law Enforcement Services Fund (SLESF) allocation for 2013 is \$100,000. There is no city match required for this grant. The appropriation is requested in the resolution.

**RECOMMENDED BY:**

  
Leonard Purvis  
Chief of Police

**REVIEWED BY:**

  
June Overholt  
Administrative Services Director

**APPROVED BY:**

  
Andrew Takata  
City Manager

**RESOLUTION NO. 2013-11**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BANNING ACCEPTING THE 2013 SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND ALLOCATION AND AUTHORIZING THE BANNING POLICE DEPARTMENT TO USE THE FUNDS TOWARDS THE PURCHASE OF LAW ENFORCEMENT RELATED EQUIPMENT AND TRAINING.**

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

**WHEREAS**, grants provided by State and Federal monies assist in supplementing these services; and

**WHEREAS**, the City Council is required to accept and appropriate the allocation of anticipated funds from this grant; and

**WHEREAS**, the grant funds will provide the Banning Police Department with updated technology, equipment, and training;

**NOW, THEREFORE, BE IT RESOLVED**, the City Council of the City of Banning hereby accepts the 2013 Supplemental Law Enforcement Services Fund (SLESF) allocation, appropriates funds in the amount of \$100,000, and authorizes the Finance Department to make necessary budget adjustments related to these funds.

**PASSED, APPROVED, AND ADOPTED** this 22<sup>nd</sup> day of January 22, 2013.

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Deborah Franklin, Mayor  
City of Banning

**ATTEST:**

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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 Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2013-11 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 22nd day of January 2013, by the following to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

## CITY COUNCIL AGENDA

**DATE:** January 22, 2013

**TO:** Mayor and City Council

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

**SUBJECT:** Side Letter Agreement with the San Bernardino Public Employees Association (SBPEA)

**RECOMMENDATION:** Adopt Resolution No. 2013-12- approving Side Letter Agreement with the San Bernardino Public Employees Association (SBPEA) pending adoption of a Memorandum of Understanding (MOU) setting forth the complete negotiated terms and conditions of employment for the SBPEA represented employees

**JUSTIFICATION:** Section 3505.1 of the Meyers-Milias-Brown Act ("MMBA") (Gov't Code Sections 3500-3511) provides that: "If agreement is reached by the representatives of the public agency and a recognized employee organization or recognized employee organizations, they shall jointly prepare a written memorandum of such understanding, which shall not be binding, and present it to the governing body or its statutory representative for determination." Once approved by the governing body of the local agency, a Side Letter Agreement between the City and its recognized employee organizations regarding changes in terms and conditions of employment becomes a binding agreement between the employee organizations and the local government. *Thus, City Council approval of the signed and ratified Side Letter Agreement between the parties is required by the MMBA in order to be binding on the parties.*

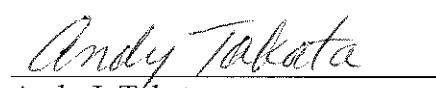
**BACKGROUND:** The mid-managers under the SBPEA have agreed to the side letter agreement setting forth deal points that are reflected as changes to prior Memorandum of Understanding (MOU) language. The adoption of the complete MOU will be presented to the Council at a later date.

**FISCAL DATA:** Implementation of the Side letter provides immediate savings in pension costs to the City. Savings will be reflected in the various funds where the employees are budgeted.

**RECOMMENDED BY:**

  
June Overholt  
Administrative Services Director/  
Deputy City Manager

**APPROVED BY:**

  
Andy J. Takata  
City Manager

**Attachments:**

1. Resolution No. 2013-12 – Approval of the Side Letter of Agreement with SBPEA
2. Side Letter Agreement - SBPEA

**RESOLUTION NO. 2013-12**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING  
APPROVING SIDE LETTER AGREEMENT TO THE MEMORANDUM OF  
UNDERSTANDING BETWEEN THE CITY OF BANNING AND THE SAN  
BERNARDINO PUBLIC EMPLOYEES ASSOCIATION (SBPEA)**

**WHEREAS**, the City of Banning has recognized the San Bernardino Public Employees Association (SBPEA) as the recognized employee organization for the mid-management unit; and

**WHEREAS**, the City and the SBPEA entered into a Memorandum of Understanding (MOU) which expired June 30, 2011; and

**WHEREAS**, the City and the Associations have successfully met and conferred to negotiate a side letter agreement pursuant to the Meyers-Milias-Brown Act ("MMBA") (Gov't Code Sections 3500-3511) and the City's Employer-Employee Relations Resolution No. 2010-45; and

**WHEREAS**, the City and the Associations have been in meet and confer sessions to negotiate an MOU, which remain in progress; and

**WHEREAS**, the City proposed a seven percent (7%) salary increase and four salary range adjustment.

**WHEREAS**, The salary increase shall only be effective and contingent upon the concurrent elimination of the City Paid Employer Member Contributions ("EPMC") to the California Public Employees Retirement System ("CalPERS"), for those hired prior to January 1, 2013 which is eight percent (8%) of regular and special compensation for non-sworn miscellaneous members; and

**WHEREAS**, the City shall concurrently eliminate the Pay for Performance program and any payments thereunder for all Unit members prospectively, which represents up to a three percent (3%) saving to the City per Unit member

**WHEREAS**, the City shall concurrently eliminate the Management Incentive Pay program and any payments thereunder for all Unit members, which represents up to a two percent (2%) savings to the City per Unit member

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

**SECTION 1:** That the City Council approves the Side Letter Agreement between the City and SBPEA.

**SECTION 2:** The Administrative Services Director is authorized to make the necessary budget adjustments as applicable.

**PASSED, APPROVED AND ADOPTED** this 22<sup>nd</sup> day of January, 2013.

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Deborah Franklin, Mayor  
City of Banning, California

**ATTEST:**

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Marie A. Calderon, City Clerk  
City of Banning

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

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David Aleshire, 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. 2013-12 was duly adopted by the City Council of the City of Banning, California, at a special meeting thereof held on the 22<sup>nd</sup> day of January, 2013 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

**SIDE LETTER AGREEMENT BETWEEN**  
**THE CITY OF BANNING,**  
**AND**  
**THE SAN BERNARDINO PUBLIC EMPLOYEES ASSOCIATION**  
  
**REGARDING COMPENSATION CHANGES**  
**(JANUARY, 2013)**

**SIDE LETTER AGREEMENT BETWEEN THE CITY OF BANNING, AND THE SAN BERNARDINO PUBLIC EMPLOYEES ASSOCIATION REGARDING COMPENSATION CHANGES**

**PREAMBLE**

The most current Memorandum of Understanding ("MOU" or "Agreement") between the City of Banning, a Municipal Corporation, hereinafter known as "City," and the authorized representatives of the San Bernardino Public Employees Association, hereinafter known as the "Union" or "SBPEA", the recognized employee organization of the mid-management and professional unit, expired June 30, 2011. Since that time, the parties have continued on and off good faith negotiations over a successor MOU. The negotiations have been delayed in large part due to successive and ongoing negative fiscal impacts to the City caused by both the local economy and statewide events beyond the City's control. The purpose of this Side Letter Agreement is to memorialize the meet and confer discussions and tentative ratified compensation deal points for a successor MOU which remains to be drafted. Thus, this Side Letter Agreement is the product of meet and confer labor negotiations between the parties pursuant to Chapter 10 (Section 3500 et. seq.) of Division 4, Title 1 of the Government Code and pursuant to Resolution No. 2010-45, the Employer-Employee Relations Resolution of the City of Banning.

The tentative ratified compensation deal points for a successor MOU are set forth below. The parties recommend City Council approval and adoption of these compensation deal points via this Side Letter Agreement in order to promptly institute the pension reform aspects of the parties' negotiated MOU deal points. The parties will then subsequently present to the City Council a comprehensive written successor SBPEA MOU covering the period from City Council adoption up through June 30, 2014.

**DEAL POINTS (REFLECTED AS CHANGES TO PRIOR MOU LANGUAGE)**

1.3 - Term - Except as otherwise provided herein, this Agreement between the City and the Union relative to wages, hours, and other terms and conditions of employment shall become effective as of adoption by the Banning City Council and continue through June 30, 2014 or until superseded by adoption of a successor SBPEA MOU.

12.1 - Salary Adjustment — Within the payroll period of adoption of this Side Letter Agreement, the following compensation changes shall be made:

- (a) All represented Unit members shall receive a seven percent (7%) salary increase and four salary range adjustment;
- (b) The above salary increase shall only be effective and contingent upon the concurrent elimination of City paid employee member contributions, commonly known as the Employer Paid Member Contribution ("EPMC"), to the California Public Employees Retirement System ("CalPERS"), which for those hired before January 1, 2013 is eight percent (8%) of regular and special compensation for non-sworn miscellaneous members as defined by CalPERS. The City shall therefore

cease all EPMC payments on behalf of all Unit members, which represents an eight percent (8%) savings to the City per Unit member.

(c) The City shall also concurrently eliminate the Pay for Performance program and any payments thereunder for all Unit members prospectively, which represents up to a three percent (3%) savings to the City per Unit member.

(d) Lastly, the City shall concurrently eliminate the Management Incentive Pay program and any payments thereunder for all Unit members, which represents up to a two percent (2%) savings to the City per Unit member.

### **ARTICLE 30 – RATIFICATION AND EXECUTION**

The Union represents that this Side Letter Agreement has been ratified by its members and therefore the City's representatives and the Union jointly recommend this Side Letter Agreement to the City Council for the City of Banning. The parties hereto acknowledge that this Side Letter Agreement shall not be in full force and effect until adoption by the Banning City Council.

In witness whereof, the parties have caused their signatures to be affixed this 17th day of January, 2012.

For: the City of Banning

For SBPEA

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Andy Takata,  
City Manager

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Michael Moore  
SBPEA Labor Relations Representative

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Colin Tanner,  
Lead Negotiator

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Art Vela  
Representative

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June Overholt,  
Administrative Services Director/  
Deputy City Manager

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Jim Steffens  
Representative

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Rita Chapparosa,  
Deputy Human Resources Director

## CITY COUNCIL AGENDA

**DATE:** January 22 2013

**TO:** Mayor and City Council

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

**SUBJECT:** Adopt Resolution No. 2013-13, Approving an Updated Resolution for Employer Paid Member Contributions to the California Public Employees' Retirement System

**RECOMMENDATION:** Adopt Resolution No. 2013-13, approving Changes to the Employer Paid Member Contribution ("EPMC") of the California Public Employees' Retirement System ("CalPERS").

**JUSTIFICATION:** The City has negotiated with the San Bernardino Public Employees Association (SBPEA) whereby they have agreed to pay all of the CalPERS employee rate thus reducing the Employer Paid Member Contribution (EPMC) in exchange for certain salary adjustments, which provide some cost savings to the City.

**BACKGROUND:** CalPERS requires employees to contribute a percentage of their income based upon their enrolled retirement formula. Employers can choose to pick up a portion or the entire amount of the required employee contribution. This is known as Employer Paid Member Contributions or EPMC. In past negotiations, the City and bargaining units agreed that the City would pay the entire employee contribution for all employees with a CalPERS retirement plan. Recent economic conditions and the resulting structural budget deficits within the City's budget have created the need to reduce expenditures. Council directed staff to meet and confer with the Associations in good faith to negotiate necessary reductions to employee benefits and/or compensation in order to reduce on going expenditure levels both now and in the future.

The SBPEA has agreed that member employees hired prior to January 1, 2013 will pay the employee rate of 8% for non-sworn miscellaneous members effective the full pay period including the adoption date by City Council on January 22 2013. Effective the first full pay period ending February 3, 2013, there will no longer be any City Employer Paid Member Contribution on behalf of SBPEA members. These changes including a concurrent seven percent (7%) salary increase and four salary range adjustment are included in the side letter agreement which is a separate staff report on this Council meeting of January 22, 2013.

**FISCAL DATA:** There will be savings to the various City Funds including the General Fund related to the CalPERS pension costs.

**RECOMMENDED BY:**

*June Overholt/ro*  
June Overholt

Administrative Services Director/Deputy City Manager

**APPROVED BY:**

*Andy Takata*  
Andy J. Takata  
City Manager

Attachments:  
Resolution No. 2013-13

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**RESOLUTION NO. 2013-13**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING APPROVING AN UPDATED RESOLUTION FOR EMPLOYER PAID MEMBER CONTRIBUTIONS TO THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**

**WHEREAS**, the governing body of the City of Banning has the authority to implement Government Code Section 20691, which allows a contracting agency to pay all or a portion of the normal contributions required by the California Public Employees' Retirement System ("CalPERS") to be paid by a member, otherwise known as Employer Paid Member Contributions ("EPMC"), and also allows a contracting agency to periodically increase, reduce, or eliminate the payment by the contracting agency of all or a portion of the normal contributions required to be paid by members;

**WHEREAS**, the governing body of the City of Banning has a written labor policy or agreement for all San Bernardino Public Employees Association ("SBPEA") represented employees in the Miscellaneous Group which specifically provides for the City as the employer to pay the normal member contributions; and

**WHEREAS**, one of the steps in the procedures to implement Section 20691 is the adoption by the governing body of the City of Banning of a Resolution to commence said Employer Paid Member Contributions (EPMC) and presumably requires additional Resolutions relative to any changes thereto; and

**WHEREAS**, the governing body of the City of Banning has identified the following conditions and/or changes for the purpose of its election to pay EPMC:

- This benefit shall apply to employees in the miscellaneous group with the following classifications hired prior to January 1, 2013:

Assistant Civil Engineer	Parks/Streets Manager
Assistant Planner	Planning Engineer
Assistant Director Water/Wastewater	Power Resource and Revenue Administrator
Associate Civil Engineer	Principal Civil Engineer
Associate Electrical Engineer	Public Works Superintendent
Associate Planner	Purchasing Manager
City Engineer	Recreation Manager
Customer Services Manager	Redevelopment Manager
Development Service Manager CBO	Risk Management Analyst
Electric Operations Manager	Senior Planner
Fleet Maintenance Manager	Senior Civil Engineer
Information Technology Manager	Utility Financial Analyst
	Water/Wastewater Superintendent

- This benefit shall consist of the City of Banning paying 0% of the normal member contribution as EPMC for all SBPEA represented employees effective for the pay period ending February 3, 2013.
- All employees in the above classifications or otherwise represented by the SBPEA will be required to pay their own member contributions.

**NOW, THEREFORE, BE IT RESOLVED** that the governing body of the City Council of the City of Banning, California no longer elects to pay EPMC, as set forth above.

**PASSED, APPROVED AND ADOPTED** this 22<sup>nd</sup> day of January, 2013.

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Deborah Franklin, Mayor  
City of Banning, California

**ATTEST:**

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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. 2013-13 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 22nd day of January, 2013, by the following vote, to wit:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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

## CITY COUNCIL AGENDA

**Date:** January 22, 2013

**TO:** Mayor and City Council

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

**SUBJECT:** 2011-12 Annual Report of Development Impact Fees

**RECOMMENDATION:** "That the City Council review and approve the 2011-12 Annual Report of Development Impact Fees as required by the Mitigation Fee Act."

**JUSTIFICATION:** The Mitigation Fee Act requires an annual report on the receipt, use and retention of development impact fees.

**BACKGROUND/ANALYSIS:** Pursuant to the Mitigation Fee Act (the Act) the City is required to report on the status of its development impact fee (DIF) balances on an annual basis. The report must contain a summary of receipts, disbursements and retention of these funds. One of the requirements under the Act is that the City expend the DIF collected within five (5) years. If the City fails to do so, the City must make certain findings or refund the monies. With respect to a 5 year accumulation of funds, the required findings are as follows:

- Identify the purpose for which funds will be spent
- Indicate that the fee was appropriately charged
- Identify all monies on hand that will go toward certain incomplete improvements
- Identify the expected dates that the City anticipates having all required funding and making the appropriate identified improvements

The City currently has 5 categories of fees that have a 5 year accumulation of funds. In each case, the attached report contains the required findings.

**FISCAL DATA:** None. The attached report contains all required findings.

RECOMMENDED BY:

  
June Overholt  
Administrative Services Director/  
Deputy City Manager

APPROVED BY:

  
Andy Takata  
City Manager

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## 2011-12 ANNUAL REPORT OF DEVELOPMENT IMPACT FEES

Pursuant to Government Code Section 66006, the following report on the receipt, use and retention of development impact fees for fiscal year 2011-12 is hereby presented to the City Council for review and approval.

**Police Facilities Development Fund** - To account for development impact fees levied for the purpose of acquisition and expansion of police facilities.

Beginning Balance at 07/01/11	\$ 24,898
Receipts	8,989
Disbursements	-
Ending Balance at 06/30/12	\$ 33,887

Receipts include \$8,898 of fees and \$91 of interest income.

The balance is committed to reimburse expenses to build police facilities and to purchase police vehicles.

Funds unexpended or uncommitted for five years or more: None

**Fire Facilities Development Fund** - To account for development impact fees levied for the purpose of acquisition and expansion of fire facilities.

Beginning Balance at 07/01/11	\$ 922,458
Receipts	8,582
Disbursements	-
Ending Balance at 06/30/12	\$ 931,040

Receipts include \$6,223 of fees and \$2,359 of interest income.

Funds unexpended or uncommitted for five years or more: \$736,989

These funds are designed for improvements or the construction to Fire stations and the purchase of related apparatus. The improvements to the Wilson Street Station are pending development plans for the west end of the City and availability of the station. The building would need to be remodeled in certain areas to restore it to a functional fire station. Although the costs associated with any remodel are expected to be significant, there is currently no certain timeframe or current cost estimate for the above. The above fees were appropriately charged and collected for the identified improvement.

**Traffic Control Facilities Fund** - To account for development impact fees levied for the purpose of constructing and installing new traffic signals.

Beginning Balance at 07/01/11	\$ 400,051
Receipts	23,257
Disbursements	-
Ending Balance at 06/30/12	\$ 423,308

Receipts include \$22,171 of fees and \$1,086 of interest income.

Funds unexpended or uncommitted for five years or more: \$263,542

These funds are designated for traffic signals. Due to the economic downturn, the strategic timing of signal projects is being reconsidered. Once development related activity increases, the above funds will be spent on eligible improvements. The above fees were appropriately charged and collected for the identified improvement.

**General Government Facilities Fund** - To account for development impact fees levied for the purpose of constructing and making improvements to City facilities that are not part of the City's enterprise fund operations.

Beginning Balance at 07/01/11	\$ 469,840
Receipts	5,417
Disbursements	-
Ending Balance at 06/30/12	\$ 475,257

Receipts include \$4,209 of fees and \$1,208 of interest income.

Funds unexpended or uncommitted for five years or more: \$378,371

The funds are designated for improvements to City facilities. The City is considering upgrades that will improve public access to the City Hall restrooms and customer service. A definitive timeline has not been established. The above fees were appropriately charged and collected for the identified improvement.

**Park Development Fund** - To account for development impact fees levied for the purpose of funding the acquisition and development of park facilities.

Beginning Balance at 07/01/11	\$ 153,868
Receipts	1,709
Disbursements	-
Ending Balance at 06/30/12	\$ 155,577

Receipts include \$1,351 of fees and \$358 of interest income.

Disbursements consisted of costs for professional services related to the parks master plan and landscape improvements at Repplier Park.

Funds unexpended or uncommitted for five years or more: \$40,941

These funds are designated for acquisition of park land and expansion improvements to community recreation facilities. The current projects include updating the City's parks master plan as well as improvements to Repplier Park. The above fees were appropriately charged and collected for the identified services and improvements.

**Water Capital Facilities Fees Fund** - To account for development impact fees levied for the purpose of funding the initial cost of new water facilities to meet the water demand of new users.

Beginning Balance at 07/01/11	\$ 5,918,723
Audit Restatement	\$ (1,300,000)
Receipts	176,883
Disbursements	(39,133)
Ending Balance at 06/30/12	\$ 4,756,473

Receipts include \$165,206 of fees and \$11,677 of interest income.

The FY11 financial statements included an audit restatement of (1,300,000). The note between the CRA and the fund has been reversed. The related expenditures have correctly been reflected in this fund.

Disbursements consisted of payments related to the relocation of the S.C.E. transmission facility as well as engineering related to replacement of water lines.

Funds unexpended or uncommitted for five years or more: None

**Wastewater Capital Facilities Fees Fund** - To account for development impact fees levied for the purpose of the initial cost of sewage capacity to meet the service demand of new users.

Beginning Balance at 07/01/11	\$ 9,244,563
Audit Restatement	\$ (1)
Receipts	1,358,302
Disbursements	(5,776)
Ending Balance at 06/30/12	\$ 10,597,088

Receipts include \$1,341,891 of fees and \$16,411 of interest income.

Funds unexpended or uncommitted for five years or more: \$7,750,435

The Utility is studying an upgrade to the wastewater treatment plant or a reclamation plant. The Utility will utilize these impact funds, available bonds proceeds, and will pursue low interest loans and grants through the State programs to assist in the funding. The above fees were appropriately charged and collected for the identified improvement.

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**CITY COUNCIL AGENDA  
CONSENT ITEM**

**Date:** **January 22, 2013**

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

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

**SUBJECT:** **Approve the Utility Agreement Between The City of Banning and Southern California Gas Company for Relocation of 6" Gas Line**

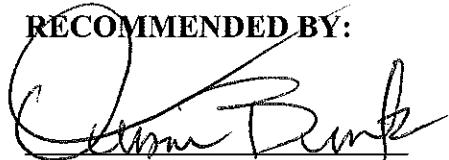
**RECOMMENDATION:** Approve the Utility Agreement for the relocation of a 6" gas line within the project area of the Sunset Avenue Grade Separation as shown attached herein as Exhibit "A."

**JUSTIFICATION:** Approval of this agreement is essential for Southern California Gas Company to relocate a 6" gas line located within the project area of the Sunset Avenue Grade Separation Project.

**BACKGROUND:** The Sunset Avenue Grade Separation design is near 100% completion. Prior to the start of construction this agreement has to be approved. Sunset Avenue Grade Separation project will create the need for relocation of a 6" gas pipeline owned by Southern California Gas Company. This agreement will allow Southern California Gas Company to relocate and operate the gas line for the City of Banning at Sunset Avenue.

**FISCAL DATA:** If the agreement is approved, the City shall pay \$42,115.00 for its share of the relocation costs. Southern California Gas Company will pay the remainder of costs for the relocation of said gas line. Funding for this relocation will be budgeted in Account 100-4900-431.26-02.

**RECOMMENDED BY:**



Duane Burk,  
Director of Public Works

**APPROVED BY:**



Andy Takata,  
City Manager

  
June Overholt,  
Administrative Services Director/  
Assistant City Manager

**EXHIBIT "A"**

**UTILITY AGREEMENT FOR RELOCATION OF 6" GAS LINE BY SOUTHERN  
CALIFORNIA GAS COMPANY FOR SUNSET AVENUE GRADE SEPARATION  
PROJECT**

City of Banning  
**UTILITY AGREEMENT**  
 Caltrans RW 13-5 (Rev. 6/2012)

DISTRICT 08	County RIV	ROUTE 10	POST MILE 11.1/11.6	Project ID 0800000600
FEDERAL AID NUMBER N/A		OWNER'S FILE NUMBER WR2060398, WR2060393, WR2066665	UTILITY FACILITY 6" Medium Pressure Gas Pipeline	
FEDERAL PARTICIPATION  On the Project <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO      On the Utilities <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				
<b>UTILITY AGREEMENT NO. 08-UT- 1001</b>			<b>DATE:</b>	

The CITY of Banning hereinafter called "CITY," proposes to construct improvements on Sunset Avenue and Route 10 consisting of the grade separation of Sunset Avenue under the existing Union Pacific Railroad crossing. A new railroad bridge structure will be constructed and Sunset Avenue will be reconstructed to maintain two existing through lanes in each direction with added sidewalks for pedestrian circulation. The existing on/off ramps at the I-10/Sunset Avenue interchange will be reconstructed to accommodate the change in elevation. The new ramps will be constructed within the same general alignment as the existing ramps, hereinafter referred to as "PROJECT."

**Southern California Gas Company**  
**1981 W. Lugonia Avenue**  
**Redlands, CA 92374-9796**

hereinafter called "OWNER," owns and maintains a 6" gas pipe line located within the project area. The facilities within the limits of CITY'S project require relocation. To accommodate CITY's project, it is hereby mutually agreed that:

#### **I. WORK TO BE DONE**

In accordance with CITY's Notice to Owner No. 1001 dated December 10, 2012 which is attached and made a part hereto, OWNER shall relocate 6" Gas pipeline. All work shall be performed substantially in accordance with the OWNER's plan for relocation, OWNER's work order numbers WR2060398, WR2060393, and WR2066665 with the final revision dated December 7, 2012, consisting of three sheets, copies of which are on file in the County of Riverside Transportation Department at 3525 14<sup>th</sup> Street, Riverside, CA 92501. Deviations from the OWNER's plan described above, initiated by either CITY or OWNER, shall be agreed upon by both parties hereto under a Revised Notice to Owner. Such Revised Notices to Owner, approved by CITY and agreed to / acknowledged by OWNER, will constitute approved revisions of the OWNER's plan described above and hereby made a part hereof. No work under said deviation shall commence prior to written execution by the OWNER of the Revised Notice to Owner. Changes in the scope of the work will require an Amendment to this Agreement in addition to the Revised Notice to Owner.

#### **II. LIABILITY FOR WORK**

The existing facilities described in Section I above will be relocated at the expense of the CITY within the Union Pacific Railroad and at the expense of the OWNER within CALTRANS right of way in accordance with Section 5b of the Master Contract dated November 1, 2004.

### **III. PERFORMANCE OF WORK**

OWNER agrees to perform the herein described work with its own forces or to cause the herein described work to be performed by the OWNER's contractor, employed by written contract on a continuing basis to perform work of this type, and to provide and furnish all necessary labor, materials, tools and equipment required therefore, and to prosecute said work diligently to completion.

Use of out-of-state personnel or (personnel requiring lodging and meal per diem expenses) will not be allowed without prior written authorization by CITY's representative. Requests for such authorization must be contained in OWNER's estimate of actual and necessary relocation costs. Accounting form FA-1301 is to be completed and submitted for all non-State personnel travel per diem. OWNER shall include an explanation why local employee or contract labor is not considered adequate for the relocation work proposed. Per Diem expenses shall not exceed the per diem expense amounts allowed under the California Transportation's Department of Personnel Administration travel expense guidelines.

Pursuant to Public Works Case No. 2001 – 059 determination by the California Department of Industrial Relations, dated October 25, 2002, work performed by OWNER's contractor is a public work under the definition of Labor Code Section 1720 (a) and is, therefore, subject to prevailing wage requirements. OWNER shall verify compliance with this requirement in the administration of its contracts referenced above.

OWNER agrees to comply and to require its contractors to comply with the "Buy America" requirements set forth in the Intermodal Surface Transportation Efficiency Act of 1991(ISTEA) Sections 1041(a) and 1048(a), 23 U.S.C.313 and C.F.R. Part 635.410, which are incorporated into this Agreement by reference, and which require that all steel and iron products, and their coatings, used in FHWA-funded projects are produced in the United States, unless a waiver has been granted by FHWA or the product is subject to a general waiver.

OWNER shall indemnify and defend CITY for any claims or liability arising out of the OWNER's failure to comply with the prevailing wage requirements.

### **IV. PAYMENT FOR WORK**

The CITY shall pay its share of the actual and necessary cost of the herein described work within 45 days after receipt of five (5) copies of OWNER's itemized bill, signed by a responsible official of the OWNER's organization and prepared on OWNER's letterhead, compiled on the basis of the actual and necessary cost and expense incurred and charged or allocated to said work in accordance with the uniform system of accounts prescribed for OWNER by the California Public Utilities Commission, Federal Energy Regulatory Commission, Communications Commission, whichever is applicable.

It is understood and agreed that the CITY will not pay for any betterment or increase in capacity of OWNER's facilities in the new location and that OWNER shall give credit to the CITY for the "used life" or accrued depreciation of the replaced facilities and for salvage value of any material or parts salvaged and retained or sold by OWNER.

Not more frequently than once a month, but at least quarterly, OWNER will prepare and submit progress bills for costs incurred not to exceed OWNER's recorded costs as of the billing date less estimated credits applicable to completed work. Payment of progress bills not to exceed the amount of this Agreement may be made under the terms of this Agreement. Payment of progress bills which exceed the amount of this Agreement may be made after receipt and approval by CITY of documentation supporting the costs increase and after an Amendment to this Agreement has been executed by the parties to this Agreement.

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The OWNER shall submit a final bill to the CITY within 360 days after the completion of the work described in Section I above. If the CITY has not received a final bill within 360 days after notification of completion of OWNER's work described in Section I of this Agreement, and CITY has delivered to OWNER fully executed Directors Deeds, Consents to Common Use or Joint Use Agreements, if required for Owner's facilities, CITY will provide written notification to OWNER of its intent to close its file within 30 days and OWNER hereby acknowledges, to the extent allowed by law, that all remaining costs will be deemed to have been abandoned. If the CITY processes a final bill for payment more than 360 days after notification of completion of OWNER's work, payment of the late bill may be subject to allocation and or approval by the California Transportation Commission.

The final billing shall be in the form of an itemized statement of the total costs charged to the project, less the credits provided for in this Agreement, and less any amounts covered by progress billings. However, the CITY shall not pay final bills which exceed the estimated costs of this Agreement without documentation of the reason for the increase of said cost from the OWNER and approval of documentation by the CITY Except, if the final bill exceeds the OWNER's estimated costs solely as the result of a revised Notice to Owner as provided for in Section I, a copy of said revised Notice to Owner shall suffice as documentation. In either case, payment of the amount over the estimated cost of this Agreement may be subject to allocation and/or approval by the California Transportation Commission.

In any event if the final bill exceeds 125% of the estimated cost of this Agreement, an Amended Agreement shall be executed by the parties to this Agreement prior to the payment of the OWNER's final bill. Any and all increases in costs that are the direct results of deviations from the work described in Section I of this Agreement shall have the prior concurrence of CITY.

Detailed records from which the billing is compiled shall be retained by the OWNER for a period of three years from the date of the final payment and will be available for audit by the CITY and/or Federal auditors. Owner agrees to comply with Contract Cost Principals and Procedures as set forth in 48 CFR, Chapter 1, Part 31, et seq., 23 CFR, Chapter 1, Part 645 and/or 18 CFR, Chapter 1, Parts 101, 201, et al. If a subsequent CITY and/or Federal audit determines payments to be unallowable, OWNER agrees to reimburse CITY upon receipt of the CITY's billing.

## **V. GENERAL CONDITIONS**

All costs accrued by OWNER as a result of CITY's request of November 24, 2009 to review, study and/or prepare relocation plans and estimates for the project associated with this Agreement may be billed pursuant to the terms and conditions of this Agreement.

All obligations of CITY under the terms of this Agreement are subject to the passage of annual Budget Act by the State legislature and the allocation of those funds by the California Transportation Commission.

If CITY's project which precipitated this Agreement is canceled or modified so as to eliminate the necessity of work by OWNER, CITY will notify OWNER in writing and CITY reserves the right to terminate this Agreement by Amendment. The Amendment shall provide mutually acceptable terms and conditions for terminating the Agreement.

It is understood that said highway is a Federal aid highway and accordingly, 23 CFR, Chapter 1, Part 645 is hereby incorporated into this Agreement by reference; provided, however, that the provisions of any agreements entered into between the STATE and the OWNER pursuant to State law for apportioning the obligations and costs to be borne by each, or the use of accounting procedures prescribed by the

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applicable Federal or State regulatory body and approved by the Federal Highway Administration, shall govern in lieu of the requirements of said 23 CFR 645.

OWNER shall submit a Notice of Completion to CITY within 30 days of the completion of the work described herein.

**THE ESTIMATED COST TO THE CITY FOR ITS SHARE OF THE ABOVE DESCRIBED WORK IS AS FOLLOWS: \$42,115.00**

IN WITNESS WHEREOF, the parties have executed this AGREEMENT as of the day and year above written.

**CITY OF BANNING:**

APPROVED

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

Name: Andy Takata

Title: City Manager

Tax ID #95-6000674

Telephone: 951-922-3100

Email Address: [atakata@ci.banning.ca.us](mailto:atakata@ci.banning.ca.us)

Billing Contact:

Name: Duane Burk, Director of Public Works

Address: P.O. Box 998 Banning, CA 92220

**SOUTHERN CALIFORNIA GAS COMPANY:**

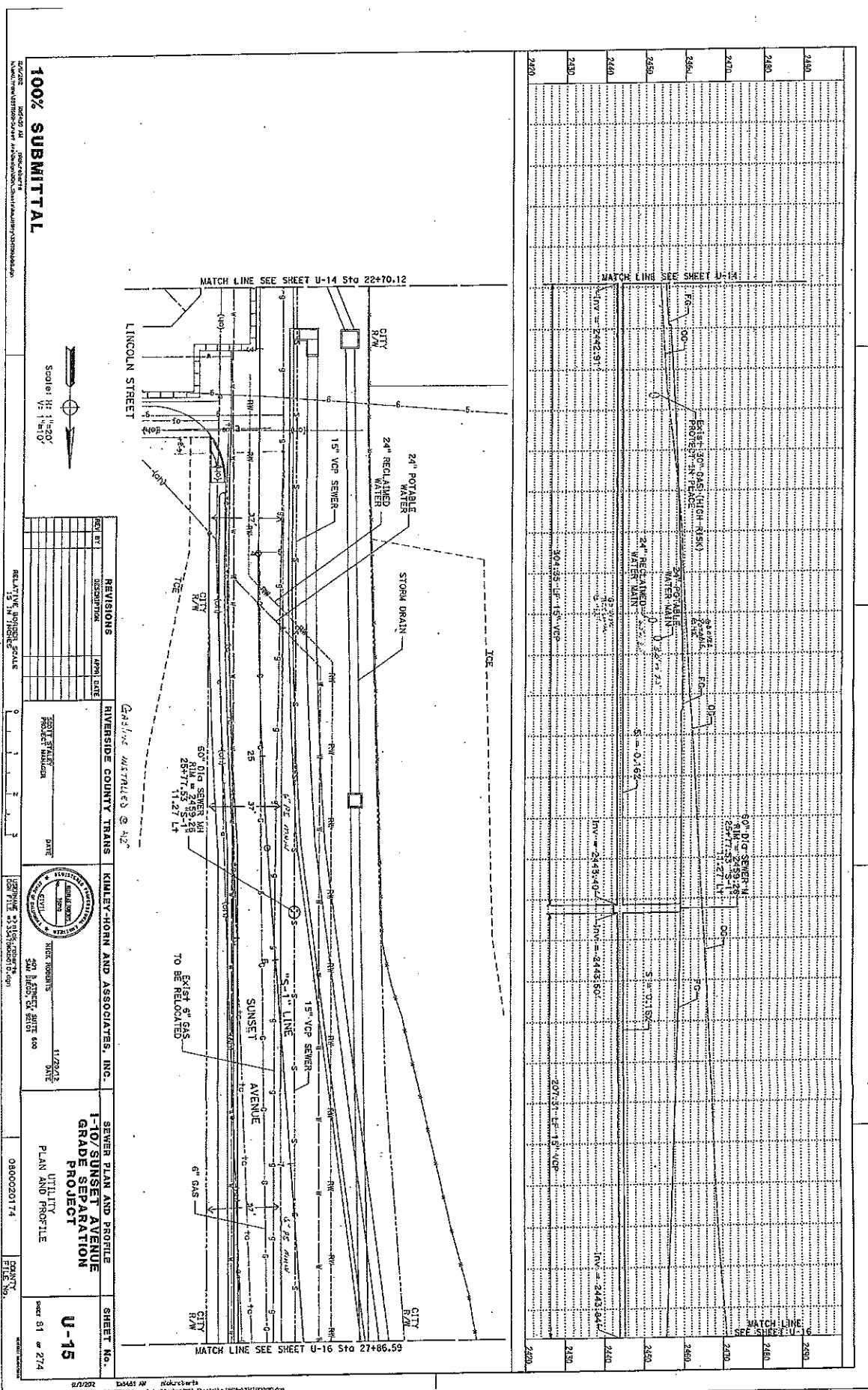
APPROVED

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

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

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

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