AGENDA
REGULAR MEETING
CITY OF BANNING
BANNING, CALIFORNIA

July 22, 2008
6:30 p.m.

Per City Council Resolution No. 1997-33 matters taken up by the Council before 10:00 p.m. may be concluded, but no new matters shall be taken up after 10:00 p.m. except upon a unanimous vote of the councilmembers present and voting.

I. CALL TO ORDER
   . Pledge of Allegiance
   . Invocation
   . Roll Call – Councilmembers Botts, Franklin, Hanna, Machisic, Mayor Salas

II. PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS
    ANNOUNCEMENTS/APPOINTMENTS

Report by City Attorney

Report by City Manager

PUBLIC COMMENTS – On Items Not on the Agenda

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

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

Our Mission as a City is to provide a safe, pleasant and prosperous community in which to live, work and play. We will achieve this in a cost effective, citizen friendly and open manner.
PRESENTATIONS

1. Presentations to B.P.A.L and the Boys and Girls Club (Oral)
2. Presentation to Riverside County Volunteers of the Year by Riverside County Dept. of Animal Services (Oral)

ANNOUNCEMENTS/COUNCIL REPORTS:
(Upcoming Events/Other Items and Reports if any) (ORAL)

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

Motion: That the City Council approve Consent Item 1 through 9 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 – 05/30/08 ................. 1A
2. Approval of Minutes – Special Meeting – 06/10/08 ................. 1B
3. Approval of Minutes – Special Jt. Meeting – 06/30/08 .......... 1C
4. Approval of Minutes – Regular Meeting – 07/08/08. .............. 1
5. Ordinance No. 1390 – 2nd Reading: An Ordinance of the City Council of the City of Banning, California, Amending Title 10 Vehicles and Traffic; Chapter 10.16 Vehicle Weight Limits of the City of Banning Municipal Code Relating to the Parking of Commercial and Other Vehicles Within the City of Banning; Providing a Penalty; Providing for Severability; and Providing an Effective Date .............................................................. 28
6. Ordinance No. 1392 – 2nd Reading: An Ordinance of the City Council of the city of Banning, California An Ordinance of the City Council of the City of Banning, California, Approving Zone Text Amendment No. 08-97504 Amending Sections 17.04.070, 17.08.020, 17.12.020 and 17.28.040, and Adding Sections 17.08.201 and 17.12.050(Q) to the Banning Municipal Code to Regulate Boarding Houses and Residential Care Facilities .............................................. 45
7. Resolution No. 2008-89, Approving a Memorandum of Understanding Between the City of Banning and the City of Banning Association of Managers (CBAM) .................................................... 62
8. Resolution No. 2008-90, Authorizing the Submittal of the FY 2008-09 Local Transportation Fund (LTF) and State Transit Assistance Fund (STA) Public Transit Claims and Approving the FY 2008/09-2010/11 Short Range Transit Plan (SRTP) ............. 98
9. Performance/Labor and Material, and Monumentation Bond Releases for Tract No. 30774 (located between Westward Avenue and Bobcat Avenue; and between 16th Street and Sunset Avenue) . . . 170
- Open for Public Comments
- Make Motion

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

1. Zone Text Amendment #08-97503 – Amendment to Table 17.40.030 to Clarify the Number of Animals Permitted in Certain Residential Zoning Districts.

Staff Report ................................................................. 208
Recommendation: That the City Council approve Ordinance No. 1393

Mayor asks the City Clerk to read the title of Ordinance No. 1393
“An Ordinance of the City Council of the City of Banning, California, Amending the Municipal Code by Revising Table 17.40.030 in Order to Clarify the Number of Animals Permitted in Certain Residential Zoning Districts.”

Motion: I move to waive further reading of Ordinance No. 1393.
(Requires a majority vote of Council)

Motion: I move that Ordinance No. 1393 pass its first reading.
(A minimum of three votes required)

V. DIRECTOR’S REPORT

1. Brian Nakamura, Executive Director
   A. City of Banning License to Use and Maintain Premises Agreement granted to Banning Chamber of Commerce for use of the facilities described as bus shelters and bus benches with signs located throughout the City of Banning. ................. 214

Recommendation: That the City Council enter into a License to Use and Maintain Premises Agreement granted to the Banning Chamber of Commerce for use of the facilities described as bus shelters and bus benches with signs located throughout the city of Banning, as more particularly described in attached Agreement Exhibit “A” and that the Chamber of Commerce be required to follow the attached marketing and advertising guidelines, Exhibit “B.”

Prior to transfer of entering into the Agreement that the City be able to utilize its RCTC funds to bring the bus shelters to an acceptable baseline standard for transfer to the Banning Chamber of Commerce.
VI. ITEMS FOR FUTURE AGENDAS

New Items –

Pending Items –

1. Annual Review of General Plan (Hanna–10/9/07) (Comm. Dev.) (ETA 7/22/08)
2. Schedule Meeting with the Beaumont City Council (Salas–11/27/07) (City Mgr.)
   (Botts – 11/27/07) (City Mgr.)
4. Schedule Special Jr. Meetings with the City’s Various Committees (Planning
   Commission, Economic Development Committee, Parks & Recreation) –
   (Franklin – 11/27/07)
5. Review of Development Fees (Hanna – 12/11/07) (Johnson) (ETA 8/08)
6. Ordinance regarding foreclosed housing and bank owned property (Salas – 6/10/08)
7. Review of Ordinance regarding the selling of cars in shopping center parking
   lots – (Salas – 6/10/08)
8. Ordinance regarding smoke free parks (Hanna – 6/24/08)

FUTURE MEETINGS

1. Special City Council/RDA Meeting Workshop to be held on August 2, 2008 at
   9:00 a.m. to finish vision statement and RDA funding opportunities.

VII. CLOSED SESSION

1. The City Council will meet in Closed Session pursuant to Government Code
   Section 54957 with regard to City Manager evaluation.

   A. Opportunity for Public to address closed session items.
   B. Convene to Closed Session

VIII. ADJOURNMENT

Pursuant to amended Government Code Section 54957.5(b) staff reports and other public records related
to open session agenda items are available at City Hall, 99 E. Ramsey St., at the office of the City Clerk
during regular business hours, Monday through Friday, 8 a.m. to 5 p.m.
NOTICE: Any member of the public may address this meeting of the Mayor and Council on any item appearing on the agenda by approaching the microphone in the Council Chambers and asking to be recognized, either before the item about which the member desires to speak is called, or at any time during consideration of the item. A five-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor and Council. No member of the public shall be permitted to "share" his/her five minutes with any other member of the public.

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

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

05/30/08
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Salas on May 30, 2008 at 6:23 p.m. at the Banning Civic Center Small Conference Room, 99 E. Ramsey Street, Banning, California.

BOARD MEMBERS PRESENT: Councilmember Botts
Councilmember Franklin
Councilmember Hanna
Councilmember Machisic
Mayor Salas

BOARD MEMBERS ABSENT: None

OTHERS PRESENT: Brian Nakamura, City Manager
Julie Hayward Biggs, Agency Counsel
Matt Bassi, Interim Community Development Director
Marie A. Calderon, City Clerk

CLOSED SESSION

1. Pending Litigation

City Attorney said that the City Council will meet in closed session to confer with legal counsel pursuant to the provisions of Government Code Section 54956.9(a) with regard to the following matters of pending litigation:

- Highland Springs Conference and Training Center v. City of Banning
  - (RIC 460950)
- Center for Biological Diversity v. City of Banning – (RIC 460967)
- Cherry Valley Pass Acres and Neighbors, and Cherry Valley Environmental Planning Group v. City of Banning – (RIC 461035)
- Banning Bench Community of Interest Association, Inc. v. City of Banning – (RIC 461069)

Mayor Salas opened the item for comments from the public. There were none. Meeting went into closed session at 6:26 p.m. and returned to regular session at 6:47 p.m. with no reportable action.

ADJOURNMENT

By common consent the meeting adjourned at 6:03 p.m.

Marie A. Calderon, City Clerk
MINUTES  
CITY COUNCIL  
BANNING, CALIFORNIA

06/10/08  
SPECIAL MEETING

A special meeting of the Banning City Council was called to order by Mayor Salas on June 10, 2008 at 5:33 p.m. at the Banning Civic Center Small Conference Room, 99 E. Ramsey Street, Banning, California.

BOARD MEMBERS PRESENT:  
Councilmember Botts  
Councilmember Franklin  
Councilmember Hanna  
Councilmember Machisic  
Mayor Salas

BOARD MEMBERS ABSENT:  
None

OTHERS PRESENT:  
Brian Nakamura, City Manager  
Julie Hayward Biggs, Agency Counsel  
Matt Bassi, Interim Community Development Director  
Marie A. Calderon, City Clerk

CLOSED SESSION

1. Pending Litigation  
The City Council will meet in closed session to confer with legal counsel pursuant to the provisions of Government Code Section 54956.9(a) with regard to the following matters of pending litigation:  
■ Highland Springs Conference and Training Center v. City of Banning  
  - (RIC 460950)  
■ Center for Biological Diversity v. City of Banning – (RIC 460967)  
■ Cherry Valley Pass Acres and Neighbors, and Cherry Valley Environmental Planning Group v. City of Banning – (RIC 461035)  
■ Banning Bench Community of Interest Association, Inc. v. City of Banning – (RIC 461069)

Mayor Salas opened the item for comments from the public. There were none. Meeting went into closed session at 5:34 p.m. and returned to regular session at 6:03 p.m. with no reportable action.

ADJOURNMENT

By common consent the meeting adjourned at 6:03 p.m.

Marie A. Calderon, City Clerk
MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

06/30/08

SPECIAL JOINT MEETING

A special joint meeting of the Banning City Council and the Morongo Band of Mission Indians Tribal Council was called to order by Mayor Salas and Chairman Martin on June 30, 2008 at 5:30 p.m. at the Cielo Restaurant at Casino Morongo, Spa and Resort, 49500 Seminole Drive, Cabazon, California.

COUNCILMEMBERS PRESENT:
- Councilmember Botts
- Councilmember Franklin
- Councilmember Hanna
- Councilmember Machisic
- Mayor Salas

COUNCILMEMBERS ABSENT:
- Councilmember Botts

TRIBAL COUNCILMEMBERS PRESENT:
- Councilmember Mathews
- Councilmember Miguel
- Councilmember Miller
- Chairman Martin

TRIBAL COUNCILMEMBER ABSENT:
- Councilmember Briones
- Councilmember Sandoval
- Vice Chairwoman Andreas

OTHERS PRESENT:
- Brian Nakamura, City Manager/Deputy City Clerk
- Michael Milhiser, Chief Administrative Officer
- Roger Meyer, Chief Executive Officer
- Charles Martin, Tribal Council Member Elect

PUBLIC COMMENTS

There were none.

MEET AND GREET

The social meeting resulted in the Council’s agreeing to place on a future agenda for discussion the Airport Master Plan and FBO, Joint Development within the Airport Industrial Area, and other future development that will benefit both the Morongo Reservation and City of Banning.

ADJOURNMENT

By common consent the meeting adjourned at 8:45 p.m.

Brian S. Nakamura, Deputy City Clerk
MINUTES
CITY COUNCIL
BANNING, CALIFORNIA

A regular meeting of the Banning City Council was called to order by Mayor Salas on July 8, 2008 at 6:42 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 Salas

COUNCIL MEMBERS ABSENT:  None

OTHERS PRESENT:  Brian Nakamura, City Manager
                  Julie Hayward Biggs, City Attorney
                  Duane Burk, Public Works Director
                  Jim Earhart, Public Utility Director
                  Leonard Purvis, Police Chief
                  Matthew Bassi, Interim Community Development Dir.
                  Leonard Purvis, Police Chief
                  Ted Yarbrough, Fire Marshal/Emergency Services Coordinator
                  Jeff Stowells, Battalion Chief
                  Tim Steenson, Chief Building Official
                  Marie A. Calderon, City Clerk

Mayor Salas invited the audience to join her in the Pledge of Allegiance to the Flag. The invocation was given by Muriel Woods, Praise Tabernacle Church.

PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS
ANNOUNCEMENTS/APPOINTMENTS

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

Report by City Manager

City Manager gave an update on the new projects moving forward and they are: Holiday Inn Express near Grandma’s Country Kitchen, Western Dental and the new Rite Aid at the corner of 8th and Ramsey Streets, the Industrial Park - Phase 1 on Barbour Street and the Sunset Substation Project is moving forward quickly.

PUBLIC COMMENTS – On Items Not on the Agenda
Jim Guerra said he was here on behalf of Marco Viguera, owner of the NAX (National Auto Exchange) located at 4894 W. Ramsey Street. He said the request is to advance Item No. 7 under Pending Items on page 4 up to the next City Council agenda. Mr. Viguera is looking for some action from the Council to resolve a serious problem. The problem is that this request has been made at least four times if not more over the past two years and the problem is still here. The problem is basically the illegal sale of cars predominately on the corner of Sunset and Ramsey in front of Rite Aid. Now it has gone from a weekend only to everyday of the week. It is very frustrating for a person to have a business to meet all of the financial burdens and to stay in business when they have to compete with illegal car sales that could be resolved. They are suggesting that the City post the lot with a sign that says “auto sales prohibited per City of Banning Ordinance” and that the autos for sale be subject to tow away and fines. Apparently there is no code enforcement on the weekend. This is an on-going problem. When people are going to these lots the sales that they are making are the taxes you are not getting.

Mayor Salas asked the Police Chief to take a good look at the ordinance and see how we can put more into the ordinance so that something can be done.

Mike Bracken, Project Manager and investment partner for Liberty Energy located at 1795 W. Ramsey Street addressed the Council stating that currently the draft environmental impact report that was commissioned by the City of Banning and prepared by Aspen Environmental Group is out for public review and comment. On June 26, 2008 Aspen and the City held two public comment forums, described the project in detail and provided the finding in the draft EIR. Subsequent to this meeting the news media, Record Gazette, has run some articles about the proposed project and the technology involved. He thanked the Record Gazette for spending the time that they have in understanding the project and working to communicate the project to the residents of Banning. Although they have been working with residents, groups and businesses here in Banning for over two years they recognize that many residents are now just learning about the project. The learning process means that there are questions and concerns. Between now and July 21st which is the end of the CEQA mandated comment period he would request that residents continue to articulate their questions, comments and concerns in writing and address them to Jim Earhart, Public Works Director at the City Hall or you can call him at 951-922-3266. At the conclusion of the public comment period, after July 21st, Aspen Environmental Group working for the City will work on formal responses to the said concerns and many may have already been answered in the EIR itself. In additional to the legally required comment period Liberty Energy would also like to work directly with the City of Banning to host two additional public comment forums whereas Liberty would make an approximate 20-minute presentation about the project and then allow the City to run whatever forum process they determine would be valid. They would propose that the first meeting be held on August 7, 2008 at 6:00 p.m. and a second meeting on September 4, 2008 at 6:00 p.m. Both meetings are on a Thursday evening and would be held in the City Hall Council Chambers. He said that their project is the largest commercial project ever proposed in Banning. They understand that there are a number of concerns from residents and citizens about traffic, aesthetics,
air quality, noise, odor and other items but believe that the EIR has addressed these items from both a scientific and technical perspective. They look forward to working with the community to help them understand the benefits of their proposed project. Mr. Bracken said that you could also access the website at bracken@libery23.com

Mayor Pro Tem Franklin suggested getting these dates for the meeting into the utility bills and Channel 10.

Charlene Sakurai, 43000 Dillon Road addressed the Council giving an update on the PASSCOM meeting recently held and the speaker was Jeff Davis, SGFWA in regards to an earthquake happening in the area on the San Andreas Fault and he then narrowed the issue down to water. She said that she was informed that the Pass Area gets an annual allotment from the State and we don’t always get the allotment because of availability and because this has been the driest Spring ever in California history and last Winter was very dry and all the reservoirs were down he figures that the allotment for 2009 will be between 5% and 10% of what our normal allotment will be. It is time for all of us to be thinking about water conservation and how we can do this more effective. The next PASSCOM meeting will be held on August 12th and the speaker will be from the Metropolitan Water District speaking on regional water issues in an emergency situation. She is hoping that representatives from the cities in the Pass Area would attend. Meeting starts at 8:30 a.m. in the modular building next to the hospital. She reminded everyone about the Cool Summer Nights Marketplace starting up again on Friday and B.P.A.L is participating in this event.

Doug Monte addressed the Council on behalf of the Police Department and introduced Jessica, Joslyn, Jasmine Josephina and Jasmine participants of the G.R.E.A.T Summer Camp program. The Summer Camp is held at Nicolet Middle School from 9 a.m. to 1 p.m. He spoke on the events that are happening with this group. He will also be attending the National G.R.E.A.T. Convention in St. Louis and they will do a powerpoint presentation on the Title Mural Project being done at Coombs Middle School. He said that the CHP will run the safety program on Friday at the Cool Summer Nights Marketplace from 6 to 9 p.m. and they will be assisting them to raise the level of safety. Also will be having a field trip here to City Hall with the Council to see how government works and that will be held on July 30th.

Mayor Salas would like certificates for that day (July 30th) to give to the kids that participate.

Chris McCallum addressed the Council in regards to Beaumont residents coming to the movies in Banning and they expressed that they had an enjoyable and safe evening.

Mr. Benhar, 112 N. Hargrave addressed the Council thanking those responsible for the events being held downtown and those things have really turned around downtown. There are many changes going on and the Council has made a difference.
CORRESPONDENCE: There was none.

APPOINTMENTS


Mayor Salas appointed Mayor Pro Tem Franklin as voting delegate and Councilman Machisic as alternate.

PRESENTATIONS

1. Kosmont Report and Presentation of Findings

City Manager said that the Council will recall at the May 27th meeting the Council asked that he come to provide some detailed information and answer questions related to the study that was provided regarding our City and warehousing distribution and those types of developments within the city.

Larry Kosmont, President and CEO of Kosmont Companies addressed the Council stating that for 25 years they have been working with cities and counties on matters of economic development, redevelopment and public/private projects. They had the pleasure of being retained some time ago to put together an Industrial and Commercial Market Study which they did and then they brought that in a little bit because the fit for the analysis was more important than just having an commercial/industrial snapshot to try to give the city a head start and a next start on really determining what would be the best economic strategy in terms of what kind of industry to induce, whether or not a tax or infrastructure analysis is required and how to go about getting that done. They really bridged this study from a foundation of a market analysis to something that was more strategic. Mr. Kosmont presented his summary of the report (see attached Exhibit “A”).

There was some discussion in regards to having a workshop with the Economic Development Committee on this issue, the necessary infrastructure needed throughout the city such as roadway and circulation, wet and dry utilities, grade separations, need to follow through with what is said in the report and see where we are spending money. There was some discussion regarding access to the 47 acres and developments that may have been approved within the core area of the airport.

CONSENT ITEMS

City Attorney said that there was a matter to add to the agenda from the Redevelopment Agency meeting in regards to Resolution No. 2008-79, Awarding the Construction for Project No. 2008-03.

Motion Hanna/Botts to add Resolution No. 2008-79, Awarding the Construction for Project No. 2008-03, Construction of Parking Lot Improvements and Landscape
Improvements at City Hall and Replier Park to the agenda. Motion carried, with Franklin voting no.

City Attorney asked that Consent Item No. 3 be pulled to be acted upon after the Closed Session item. **There was Council consensus to move this item until after the Closed Session.**

1. Approval of Minutes – Regular Meeting – 06/10/08

Recommendation: That the City Council approve the minutes of the Regular Meeting of June 10, 2008.

2. Approval of Minutes – Special Meeting – 06/24/08

Recommendation: That the City Council approve the minutes of the Special Meeting of June 24, 2008.

4. Accept the Grant of Easement Dedication from Pastor Richard S. Szydlowski of the Mountain Avenue Baptist Church, located on Parcel No. 1, Parcel Map No. 76-4 as per Map Recorded in Book 27, Page 61 Parcel Maps in the Office of the Riverside County Recorder, State of California.

Recommendation: Accept the Grant of Easement from Pastor Richard S. Szydlowski of the Mountain Avenue Baptist Church, located on Parcel No. 1 of Parcel Map No. 76-4, as per map Recorded in Book 27, Page 61 of Parcel Maps in the Office of Riverside County Recorder. The said easement is for electrical apparatus and cable as shown on attached Exhibits “A” and “B”, and direct the City Clerk to accept and record said easement.


Recommendation: That the City Council receive and place these required monthly Report of Investment on file.

6. Resolution No. 2008-88, a Resolution of the City Council of the City of Banning Adopting a Statement of Investment

Recommendation: That the City Council adopt Resolution No. 2008-88.

7. Approval of Accounts Payable and Payroll Warrants for Month of April 2008

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

8. Approval of Accounts Payable and Payroll Warrants for Month of May 2008
Recommendation: That the City Council review and ratify the following reports per the California Government Code.


Recommendation: That the City Council adopt Resolution No. 2008-79.

Motion Hanna/Botts to approve Consent Items 1 through 9 except Item No. 3. Mayor Salas opened the item for public comments. There were none. Motion carried, all in favor.

ANNOUNCEMENTS/COUNCIL REPORTS:
(Upcoming Events/Other Items and Reports if any) (ORAL)

Mayor Pro Tem Franklin -
- Thanked staff on the 4th of July event and said that they did a good job. It was truly a family event.
- In regards to the community college there will be classes definitely this Fall here in Banning. Banning will have four classes and Beaumont will have eight classes and people can go over to the Mt. San Jacinto College Office located behind Wells Fargo Bank on Ramsey to sign up for classes, take testing and pay fees. Classes will be offered Monday through Thursday from 6 to 9 p.m.
- There will be a series of public hearings planned for proposed route changes through RTA. The one route that may affect people here has to do with Route 36 which goes K-Mart over to Yucaipa and Calimesa. They are looking at discontinuing that route. The public hearing will be held on July 28th at 1 p.m. and 6 p.m. in Calimesa.
- In regards to PASSCOM, CERT classes will be offered in Oct. 23, 25 and the following weekend to be held in Beaumont at the City Hall.
- Cool Center is available at the Senior Center from 8 a.m. to 5 p.m. July 8 through July 11 and if they need transportation they can call Transit at 922-3243.

Councilmember Machisic –
- The City Council met with the Tribal Council and has a very fine dinner and had good communication and the meeting was quite productive. He feels that it is important to maintain contact with our neighbors.
- He complimented staff on the 4th of July event. It provided real activities for families in our community.

Councilmember Hanna –
- The Beaumont/Banning Women’s Connection is having a “Hooray for the Red, White and Blue” Luncheon on Tuesday, July 22nd at 11:30 a.m. at the Holiday Inn Express in Beaumont. The program features a presentation regarding An American in Love with His Country.
- Evenings in the Park Playhouse Bowl Concert Series will be held in Banning every Thursday in August just south of Wilson on San Gorgonio Avenue and the first concert is August 7th and feature a tribute band for Chicago. Also that evening the Banning Rotary Club and the San Gorgonio Pass Habitat for Humanity will be working together to provide a Fish Fry at the Community Center. Dinner will start at 4 p.m. to 7:30 p.m.

Mayor Salas –
- Said the Disaster Council will be meeting at Banning City Hall on Friday, July 11th at 10:30 a.m.
- Groundbreaking for the police building will be held on Friday, August 8th at 11:00 a.m. next door to City Hall.
- On Friday, August 8th the Council will be attending the Moonlight Amphitheater in Vista and also a tour will be given on the history and how they made their park house bowl a theater. They will be leaving City Hall sometime after the groundbreaking.

REPORTS OF OFFICERS

1. Fire Hazard Severity Zone Determinations for the City of Banning
   (Staff Report - Ted Yarbrough, Fire Marshal/Emergency Services Coordinator)

Fire Marshal gave his report as contained in the agenda packet regarding the development of fire hazard severity zones within the State and what that means to the City. He displayed a map of these zones.

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

PUBLIC HEARINGS

1. City Business Permit for County Rescue Ambulance
   (Staff Report – Lieutenant Phil Holder)

Lt. Holder gave the report as contained in the agenda packet. There was some discussion.

Mayor Salas opened the public hearing for comments from the public. There were none. Mayor Salas closed the public hearing.

Motion Machisic/Franklin that the City Council approve a City Business Permit for County Rescue Ambulance permitting the company to transport patients within the City Limits of Banning. Motion carried, all in favor.

2. Request to Vacate Juarez Street from Barbour Street to Westward Avenue.
   (Staff Report – Duane Burk, Public Works Director)

Public Works Director gave the staff report on this item as contained in the agenda packet.
Mayor Salas opened the public hearing for comments from the public. There were none.

There was some discussion as to who owned the street and the need for this papered street. Mayor Salas closed the public hearing.

Motion Franklin/Hanna that the City Council adopt Resolution No. 2008-86, Vacating the Street Commonly Known as Juarez Street from Barbour Street to future Westward Avenue. Motion carried, all in favor.

   (Staff Report - Tim Steenson, Building Official)

Mr. Steenson gave the staff report as contained in the agenda packet. He said this ordinance will address a lot of the problems that both the Police Department and the Code Enforcement Division of the Development Department receive on a weekly basis concerning the parking of big rigs.

Mr. Steenson said that on page 161 of the agenda staff is recommending the deletion of Item No. 3 under Section 10.16.020, Parking prohibitions or restrictions. He said that this was to be deleted from the draft and it didn’t get done and it was not their intention to regulate those items in this ordinance.

There was some discussion in regards to where trucks could park in the city. Also there was some question in regards to cars being sold on private property.

Mr. Steenson explained that currently our zoning code precludes using your private property, unless it is designated for such use, precludes you using it for car sales. So in the case of the shopping center at Ramsey and Sunset the violator currently under our code is the property owner. If we seek to regulate that as well, there would probably be a similar code change like this one which would make the vehicle owner the offending party instead of the property owner. There was some further discussion regarding this issue.

Matthew Bassi, Interim Community Development Director addressed the Council stating that they are currently working on this ordinance and have a draft already drafted and will be meeting with the Police Department next week and will hopefully bringing back to the Council in August for review.

There was some further discussion in regards to parking the trucks on Bryant Street and other areas designated as truck routes and those that live in the city that have vehicles of this type.

Mayor Salas opened the public hearing for comments from the public. There were none. Mayor Salas closed the public hearing.
Mayor Salas asked the City Clerk to read the title of Ordinance No. 1390. City Clerk read:
An Ordinance of the City Council of the City of Banning, California, Amending Title 10 Vehicles and Traffic; Chapter 10.16 Vehicle Weight Limits of the City of Banning Municipal Code Relating to the Parking of Commercial and Other Vehicles Within the City of Banning; Providing a Penalty; Providing for Severability; and Providing an Effective Date.

Motion Machicic/Hanna to waive further reading of Ordinance No. 1390 as amended with the deletion of No. 3 under Section 10.16.020. Motion carried, all in favor.

Motion Hanna/Machicic that Ordinance No. 1390 pass its first reading as amended with the deletion of No. 3 under Section 10.16.020. Motion carried, all in favor.

4. Ordinance No. 1392 – An Ordinance Establishing Regulations for Boarding Houses and Residential Care Facilities in the City of Banning.
(Staff Report – Matthew Bassi, Interim Community Development Director)

Mr. Bassi addressed the staff report as contained in the agenda packet and specifically addressed the issues in regards to distance requirement and the idea of “prioritization” of parolees and probationers.

Mayor Pro Tem Franklin said she wanted to clarify and she has brought it up before and are they able to say that even though we are not talking about who can go into the group homes but can they be regulated in terms of they are Category 1, 2, 3, or 4 depending on the reasons why the children are in the group homes.

City Attorney Biggs said the issue that they are concerned with here is the equal protection clause in that this area is very much regulated by the State and those categorizations simply have not fallen out for testing if you will to the extent will that you make those distinctions you run the risk of creating a cause of action if you will for discriminatory action by the City against particular groups. So it was our conclusion that the wisest step at this point was not to do the prioritization.

Mayor Pro Tem Franklin asked if there was anything that they could do to prevent something happening like what happened recently in Yucaipa/Calimesa where San Francisco shipped their group home children down to the Southern California Area but they all escaped.

City Attorney said that it was certainly a reprehensible kind of event that occurred. Not only where they drug dealers but they were not legal residents of the United States and rather than dealing with that issue in San Francisco they decided that San Bernardino County and Yucaipa in particular, was a great place to send them. Obviously, those things are difficult to control and is an issue that has happened in the past with some of the areas in Los Angeles doing the same kind of thing out here. There are really no tools at this point although they will certainly look and see what they can come up with but a lot of it happens because we are not even aware that there is a policy in another community as to where they are going to drop off these kids or ship them or where there is an opening. All of this really
relates to the intergovernmental relations of the various communities to know what is going on and to take care of their own problems as opposed to trying to hoist it off on someone else. The short answer is that she doesn’t have an answer at this point.

Councilmember Botts said he is reading this ordinance and wanted help in understanding that this ordinance does not deal with six or under group homes whether licensed or unlicensed. He said this was in the ordinance from Norco.

Mr. Bassi said it does for unlicensed facilities. We require conditional use permit and they have restricted them to certain zones but not license facilities because those are regulated by the State.

City Attorney said that the law is unsettled as to unlicensed homes. But the law is clear and it is statutory as to license homes. The statutory limitation is the legislative enactment precludes that regulation and some jurisdictions have attempted to do that and it remains to be seen if they would be challenged but Norco does not do that in their ordinance either. They do not regulate the licensed six and under. They do regulate as this one does the unlicensed six and under.

Mayor Salas opened the public hearing for comments from the public. There were none. Mayor Salas closed the public hearing.

Motion Hanna/Machisic that the City Council approves a Categorical Exemption for Zone Text Amendment No. 08-97504 (Ord. No. 1392) under CEQA Guidelines Section 15061(b)(3) and directs the Interim Community Development Director to prepare and file with the Clerk for the County of Riverside a Notice of Exemption as provided under Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062. Motion carried, all in favor.

Mayor Salas asked the City Clerk to read the title of Ordinance No. 1392. City Clerk read: An Ordinance of the City Council of the City of Banning, California, Approving Zone Text Amendment No. 08-97504 Amending Sections 17.04.070, 17.08.020, 17.12.020 and 17.28.040, and Adding Sections 17.08.201 and 17.12.050(Q) to the Banning Municipal Code to Regulate Boarding Houses and Residential Care Facilities.

Motion Botts/Franklin to waive further reading of Ordinance No. 1392. Motion carried, all in favor.

Motion Hanna/Franklin that Ordinance No. 1392 pass its first reading. Motion carried, all in favor.

ITEMS FOR FUTURE AGENDAS

New Items --
Councilmember Machisic said that when the new heliport was built one of the driveways was eliminated because as he understands it in the ordinance it is not legal to have two driveways parallel and as a result the road was directly to the heliport and the entrance to the Beaver building was sealed off and we have put up some red markers marking off the left turn lane into the former Beaver building. If you want to go to Beaver building, you have to drive down the street about 400 yards and make a u-turn on the street and that street is geared for 50 mph. His understanding is that people are working on a ramp on Highland Springs that would have a traffic signal there and he would like to have a report back at the next meeting on what is happening on that ramp, as well as, the affect it might have on that Beaver entrance. **There was some Council discussion and there was Council consensus to getting a report back on this issue.**

Councilmember Hanna said she would like to see Banning become more bicycle friendly and if you look at our General Plan, we actually have programs to actually have bike lane paths throughout the city. Also with the price of gasoline people may be thinking about using bicycles, electric bikes, etc. but we don’t have bike racks at City Hall or other City facilities and it would seem to her that this would be a project that service clubs might be interested in and wondered whether the City has any standards for bike racks or if something could be put together in regards to standards for bike racks. **There was Council consensus on this issue.**

Mayor Pro Tem Franklin said one of the residents here in Banning provided some information from other cities about their golf cart plans and that has been passed on to staff so they can work on it. What was also shared was that Beaumont is also working on a plan and wanted to know if City wanted to work in conjunction with them on some kind of a golf cart plan for our area. **There was some Council discussion and there was Council consensus on this item.**

Councilmember Hanna said she would like to propose a small study group if there is interest in the community. There are at least three possible transmission lines and she would like to offer the opportunity to any interested citizens who would like to get together with the Public Utility Director and investigate these lines and see whether they have any thoughts or recommendations to the Council and if there is no interest it would be dropped. This would be a short term group. **There was Council consensus to this small study group.**

Councilmember Hanna said she asked the City Manager to put the City Attorney evaluation on the agenda as a closed session item and he chose not to do that because it was not a Council decision to have it on the agenda. She thought that was already done. **There was Council discussion on this item and it was decided to have the City Attorney evaluation done on July 18th at 3:00 p.m.**

Councilmember Hanna said she asked about questions for the City Attorney interviews whether staff was going to prepare something to work from. City Manager said that staff would assist the Council in preparing questions but will ultimately be up to the Council.
Pending Items –

1. Annual Review of General Plan (Hanna-10/9/07) (Comm. Dev.) (ETA 7/22/08)
2. Schedule Meeting with the Beaumont City Council (Salas-11/27/07) (City Mgr.)
   (Botts – 11/27/07) (City Mgr.)
4. Schedule Special Jt. Meetings with the City’s Various Committees (Planning
   Commission, Economic Development Committee, Parks & Recreation) –
   (Franklin – 11/27/07)
5. Review of Development Fees (Hanna – 12/11/07) (Johnson) (ETA 8/08)
6. Ordinance regarding foreclosed housing and bank owned property (Salas – 6/10/08)
7. Review of Ordinance regarding the selling of cars in shopping center parking
   lots – (Salas – 6/10/08)
8. Ordinance regarding smoke free parks (Hanna – 6/24/08)

FUTURE MEETINGS

1. Special Council Meeting – July 18, 2008 at 4:00 p.m. – City Attorney Interviews
2. Special City Council/RDA Meeting Workshop to be held on August 2, 2008 at
   9:00 a.m. to finish vision statement and RDA funding opportunities.

Chairman Botts reconvened the meeting of the Community Redevelopment Agency.

CLOSED SESSION

Agency Counsel said that the Agency Board will meet in closed session pursuant to the
provisions of Government Code Section 54956.8 to confer with its real property
negotiator Brian Nakamura on the price and terms of the acquisition of property for
located at: 1) 255 E. Ramsey Street; and 2) APN Numbers 541-181-024, -026, -027 and
-028. (150 E. Ramsey Street)

City Attorney said that City Council will meeting in closed session with regard to two
matters: 1) Existing Litigation: Council will meet to confer with legal counsel pursuant
to the provisions of Government Code Section 54956.9(a) with regard to the following
matters of pending litigation:
   • Highland Springs Conference and Training Center v. City of Banning
     - (RIC 460950)
   • Center for Biological Diversity v. City of Banning – (RIC 460967)
   • Cherry Valley Pass Acres and Neighbors, and Cherry Valley
     Environmental Planning Group v. City of Banning – (RIC 461035)
   • Banning Bench Community of Interest Association, Inc. v. City of
     Banning – (RIC 461069)
2) City Council will meet in Closed Session pursuant to Government Code Section
54957 with regard to City Manager evaluation.

Mayor Salas opened the item for public comments. There were none.
Meeting went into closed session at 8:50 p.m. and returned to regular session at 9:45 p.m.

City Attorney said that the Agency Board met in closed session pursuant to Government Code Section 54956.8 to confer with its real property negotiator Brian Nakamura on the property at 255 E. Ramsey Street and also 150 E. Ramsey Street and there was not reportable action taken.

The City Council met in closed session with regard to four matters of existing litigation under the provisions of Government Code Section 54956.9(a) regarding Highland Springs v. Banning, Center for Biological Diversity v. Banning; Cherry Valley Pass Acres and Neighbors v. Banning, and Banning Bench of Community Interest v. Banning and there was no reportable action on that matter. The City Council did not meet with regard to the City Manager Evaluation but will meet following this item.

City Attorney said we still have Item No. 3 on the Consent Agenda to consider which is Ordinance No. 1389 – 2nd Reading: An Ordinance of the City Council of the City of Banning, California, Vacating and Repealing Ordinance No. 1353, Approving Specific Plan #04-209, to Establish the Development Standards and Guidelines to Allow the Development of Up to 1,500 Residential Units, A 13.1 Acre School Site, 81.2 Acres of Parks, and 869 Acres of Open Space on a 1,488 Acre Site Generally Located North of Wilson Street, West of Bluff Street, Between Sunset Avenue and Highland Springs Avenue.

Mayor Salas asked for public comments on that item. There were none.

City Attorney said this is the second reading of Ordinance No. 1389, An Ordinance of the City Council Vacating and Repealing Ordinance No. 1353, which was a Specific Plan for the Black Bench Project. First reading was at the last meeting and at this point it would be appropriate for a motion to either approve or to approve it conditionally or do something with this particular matter. She said the motion that the Council would be interested in considering is approval of Ordinance No. 1389 to take effect no earlier than July 14, 2008 and to only take effect in the event that SunCal does not adequately address and comply with the demand letter presented to SunCal on June 11, 2008. That letter requires SunCal to pay the City’s legal fees that have been incurred to date with regard to the Black Bench litigation and also to supply security acceptable to the City for approximately $1.5 million dollars worth of potential exposure to legal fees for opposing counsel in those actions, the four cases.

Motion Botts/Machisic to approve the motion as stated by the City Attorney. Motion carried, all in favor.
Meeting returned to closed session at 9:50 p.m. and reconvened at 10:54 p.m. with no reportable action.

ADJOURNMENT

By common consent the meeting adjourned at 10:54 p.m.

Marie A. Calderon, City Clerk

THE ACTION MINUTES ARE A SUMMARY OF 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.
Summary of Conclusions

July 8, 2008
City Council Meeting

Larry Kosmont
Presentation Outline

1. Project Summary
   - Project Description
   - Kosmont Review

2. Study Conclusions
   - Creating Target Opportunities
   - Performing an Infrastructure and Tax Analyses
   - Solving the Infrastructure Gap

3. Market Updates
   - Insights on Recent Market Developments

4. Questions
April of 2008, Kosmont Companies delivered the Banning Industrial and Commercial Market Study

- Developed a baseline of current conditions of the Industrial and Commercial Office Markets
- Highlighted key issues to be incorporated as part of the City’s strategic economic development plan
- Analyzed the Banning markets in comparison to its neighboring cities, marking significant trends and identifying economic movements of capital and its possible impact on the City
- Addressed existing zoning and land use conditions especially as related to infrastructure and code compliance

The project areas studied
- Industrial areas immediately south of I-10 not including the airport plan
- Industrial area immediately north of the I-10 in East Banning
- Area referred to as "behind the Albertsons Shopping Center"
The Kosmont Team used a variety of sources and approaches for the study

- Gathered economic data and financial projections
- Conducted analysis of the current commercial market conditions
- Highlighted case studies and examples in each area denoting both successes and failures of neighboring cities
- Reviewed real estate market conditions including current rents and uses in Banning and in the greater Inland Empire
Study Conclusions

- City can use the downturn in the market to its advantage, by getting its “house in order” to take advantage of the future upswing.

- Performing an infrastructure and tax analyses will help the City select the most impactful mix of asset class and tenants, and the best areas to emphasize to maximize achievable benefits going forward.

- Moratoriums send a negative message to the investment community:
  - Cities do better by inducing investment while attempting to productively manage the end result.
  - Based on study results Banning lifted the moratorium.
Banning Can Create Targeted Opportunities

- City has opportunity to induce growth with a mix of warehousing, industrial, and commercial projects

- Opportunities should be targeted in terms of selecting uses that are appropriate for specific sites or areas

- Project targets include:
  - Retail Uses in West Banning
    - Along I-10, behind the Albertsons Shopping Center and the Lennar and Pardee sites
    - Desirability of these sites are linked to infrastructure improvements
  - Industrial and Manufacturing Tenants in East Banning
    - Capitalize on the benefits of the existing airport
    - Utilizing area to create strong hubs of complimentary uses
    - Upgrade in infrastructure and continued code enforcement should better enable the City to achieve its development goals
Implementing a Tax is a Calculated Decision

- Banning needs to be assertive in striking an appropriate balance of industrial/warehouse projects and tenants

- Banning may be able to install a relatively nominal warehouse tax:
  - A tax analysis is needed to:
    - Enable a thorough understanding of the likely financial and market impacts
    - Determine the procedural and legal process to follow

- A warehouse tax analysis should include:
  - A comparison of tax generation by development type (e.g. retail, industrial, warehouse)
  - The evaluation should gauge how much each project could contribute to infrastructure that is required to induce or support each development product type considered
  - A collateral engineering assessment to enhance the relevance of the analysis
Insights on Current Market Updates

- Inland Empire INDUSTRIAL Overview
  - 6.5% Vacancy
    - Up 170 basis points from 3 months ago
    - Up 210 basis points from 1 year ago
  - 3.5 million SF in quarterly sale and leasing activity
    - Down 48% from year-end 2007

- East Inland Empire VS. West Inland Empire
  - “tug of war” between East and West regions
  - Submarkets west of I-15
    - Rent increases, rapid lease-up times and longer term committals (avg. 8-10 years in length)
  - Existing inland tenants
    - Will find refuge in cities near I-215
  - Tenants requiring large amounts of space (500,000 SF & above) near I-15 will be pushed East

Source: Grubb & Ellis

This analysis is for illustrative purposes and is not a guarantee of actual and/or future results. Projections are projections only. Actual results may differ materially from those expressed in this analysis.
Insights on Current Market Updates

- **WEST Inland Empire INDUSTRIAL**
  - Rancho Cucamonga, Ontario, Fontana, Chino, Mira Loma
  - Vacancy
    - Total Vacancy: 3.9%
    - Was 2.9% previous Quarter
    - Was 3.3% a year ago

- **Sales & Leasing**
  - 2.9 million SF - 1st Quarter 2008
    - 4.8 million SF - 1st Quarter 2007

- **Net Absorption**
  - -621,200 SF – 1st Quarter 2008
    - Negative is rare occurrence in this market
    - Previous quarter: -86,300

*Source: Colliers International*
**WEST Inland Empire INDUSTRIAL**

- **Market Indicators**

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*Source: Colliers International*
Insights on Current Market Updates

❖ EAST Inland Empire INDUSTRIAL

❖ Banning, Corona, Riverside, Moreno Valley, San Bernardino, Rialto, Colton, Redlands/Loma Linda, Perris

❖ Vacancy
  - Total Vacancy: 15.8%
  - Same as previous Quarter
  - Was 6.8% a year ago

❖ Sales & Leasing
  - 5.0 million SF - 1st Quarter 2008
  - 1.9 million SF previous Quarter

❖ Net Absorption
  - 2.82 million SF - 1st Quarter 2008

❖ Additional 32.2 million SF planned

Source: Colliers International
Insights on Current Market Updates

- EAST Inland Empire INDUSTRIAL
  - Market Indicators

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Source: Colliers International
Summary/Next Steps

- Banning lacks certain necessary infrastructure throughout the City
  - This is a market, financial, physical and strategic problem
- The time to analyze and solve the infrastructure issue(s) is now
  - The City would be best served in using the current market slowdown to plan for, and to the extent possible, achieve funding, and implement essential infrastructure
  - Target a single area for the greatest and highest impact
    - Target area determined by the aforementioned tax generation and preliminary engineering analysis
  - Recommend analyzing the infrastructure demands based on comparing
    - Product type
    - Taxes generated by type both existing and imposed
    - Infrastructure requirement costs and timeliness
    - Other characteristics, including subjective qualities such as aligning with and unifying the City’s vision
- Next step: initiate infrastructure strategic plan & warehouse tax study

This analysis is illustrative in nature and not a guarantee of actual and/or future results. Project pro forma and tax analyses are projections only. Actual results may differ materially from those expressed in this analysis.
ORDINANCE NO. 1390

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AMENDING TITLE 10 VEHICLES AND TRAFFIC; CHAPTER 10.16 VEHICLE WEIGHT LIMITS OF THE CITY OF BANNING MUNICIPAL CODE RELATING TO THE PARKING OF COMMERCIAL AND OTHER VEHICLES WITHIN THE CITY OF BANNING; PROVIDING A PENALTY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City has considered amending regulations related to the parking of commercial and other vehicles upon certain streets located within the city; and

WHEREAS, public response to the issue demonstrated a strong desire on the part of citizens in neighborhoods throughout the city for such regulations to regulate such conduct; and

WHEREAS, the City has recommended the adoption of restrictions on the parking of commercial vehicles within residentially zoned districts to address the following concern of public interest, namely the diminution of property values in neighborhoods where the unregulated parking of commercial vehicles and other vehicles within residentially zoned districts is prevalent; and

WHEREAS, the City desires to enact restrictions to mitigate the negative effects set forth in the preceding recital in affected neighborhoods resulting from the conduct of those who park commercial vehicles and other vehicles on their residential properties in violation of such restrictions; and

WHEREAS, the City has recommended passage of such restrictions to the City Council to protect the public health, safety and welfare:

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA:

SECTION 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

SECTION 2. That existing Chapter 10.16 “Vehicle Weight Limits” is hereby repealed in its entirety.

SECTION 3. That Chapter 10.16 of the City of Banning Municipal Code is hereby amended to read as follows:
CHAPTER 10.16 PARKING RESTRICTIONS ON COMMERCIAL AND OTHER VEHICLES

10.16.010 Definitions.

As used in this chapter, the following terms are defined in this section:

“Abut” means to border on; touch.

“Alley” means a secondary means of access to property and is located at the rear or side of the property. Minimum right-of-way width shall be twenty (20) feet.

“Commercial vehicle” means a vehicle of a type required to be registered under the California Vehicle Code used or maintained for the transportation of persons for hire, compensation or profit or designed, used or maintained primarily for the transportation of property having a manufacturer’s gross vehicle weight rating of ten thousand (10,000) pounds or more.

“Exceptions” means the provisions of this chapter shall not apply to the following.

“Highway or street” is a right-of-way within which improvements are constructed for conveyance of vehicular, pedestrian and other permitted traffic and includes all streets, roads, and alleys. Such rights-of-way and improvements shall be in conformance with the City of Banning standards and specifications.

“Nonresidential” means any area in the City zoned for office/commercial, industrial, open space or agricultural use.

“Parkway” means the area adjoining the outer edge of the roadbed, extending to right-of-way line in which sidewalks, plantings, utilities, banked slopes and related facilities may be located.

“Residential district” means any area in the City zoned for residential purposes.

“Restricted parking” means no on-street parking is permitted along the street frontage, or where on-street parking is prohibited during specified hours on certain days or on all days.

“Traffic control device” means any sign, signal, marking or device placed or erected by the City for the purpose of regulating, warning or guiding traffic.


“Vacant lot” means any unimproved, unoccupied property.
“Vehicle” means a device by which any person or property may be propelled, moved or drawn upon a highway, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks.

10.16.020 Parking prohibitions or restrictions.

A. It is unlawful to park or leave standing any of the following:

1. Any vehicle or trailer which is used to transport animals or which harbors vermin or pestilence or which emits noxious or nuisance odors on any highway, street, road, alley or on any public or private property within the City;

2. Any vehicle or trailer which contains any hazardous substance as defined in Section 2452 of the California Vehicle Code on any highway, street, road, alley or on any public or private property within the city;

3. Any vehicle on any highway, street, road or alley within the City for the purpose of servicing or repairing such vehicle except when necessitated by an emergency.

B. It is unlawful to park or leave standing any commercial vehicle, truck, trailer or semi-trailer having a manufacturer’s gross vehicle weight rating (Vehicle Code Section 390) of ten thousand (10,000) pounds or more as described in the following:

1. On any highway, street, road, alley or private property within any residential district within the City;

2. On any vacant lot or unimproved nonresidential property in the city;

3. On any nonresidential property so that any part of such vehicle is within one hundred (100) feet of any human dwelling;

4. Within one hundred fifty (150) feet of any driveway opening;

5. Within any commercially zoned property for the purpose other than doing business at the site, or for the purpose not related to such business operation, or remaining parked or standing for longer than reasonably appropriate to do such business or acts related to such business operations;

6. On any nonresidential property so that any part of such vehicle is within fifteen (15) feet of the property line, a public sidewalk, or of a public or private roadway edge;

7. On any alley within the City;

8. On any highway, street or road which is adjacent to a parcel upon which there exists a public facility. Within the meaning of this subsection, “public facility” includes, but is not limited to, parks, schools and civic buildings;
9. Any unattached semi-trailer on a public highway, street, road or alley within the City.

C. While adjacent to a developed residential area within the city, the operator shall not idle the vehicle’s engine for longer than fifteen (15) minutes.

10.16.030 Exceptions.

A. The provisions of this chapter shall not apply to the following:

1. Any vehicle making pickups or deliveries of goods, wares or merchandise from or to any building or structure located on the restricted highway, street, road or alley, or for the purpose of delivering materials to be used in the actual and bona fide repair, alteration, remodeling or construction of any building or structure upon the restricted streets or highways for which a building permit has previously been obtained, or parking for the purpose of lodging at a motel or hotel;

2. Any vehicle parked in connection with and in the aid of the performance of a service to or on a property in the block in which such vehicle is parked;

3. Any school or passenger bus under the jurisdiction of the Public Utilities Commission;

4. Any vehicle owned by the City, county, state, public utility or licensed contractor engaged in the installation, maintenance or repair of any public property, utility or highway;

5. Any authorized emergency vehicle as defined by the California Vehicle Code;

6. Any commercial vehicle which is lawfully parked on a public highway or street designated for commercial vehicle parking;

7. Any attached or unattached trailer parked on improved commercially or industrially zoned property and in conjunction with loading or unloading activity related to the business location or at a commercial vehicle storage facility which complies with City land use and zoning requirements.

8. Notwithstanding the provisions of this section, the following tow truck vehicles shall be exempt from enforcement only if all of the following are met:

   1. The tow truck vehicle is employed by a towing contractor under contract with the City of Banning; and
   2. The tow truck vehicle is only exempt during the hours in which it has been designated as the “on-call” tow truck vehicle for the City of Banning; and
   3. The tow truck driver resides in the City of Banning.
10.16.040 Penalty.

1. Any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of an infraction and upon conviction thereof shall be punishable by:

a. A fine not exceeding one hundred dollars for a first violation;
   b. A fine not exceeding two hundred dollars for a second violation; or
   c. A fine not exceeding five hundred dollars for a third violation.

2. A fourth violation of the same offense within one calendar year from the date of the first offense shall constitute a misdemeanor. Upon conviction thereof, the person, firm or corporation shall be subject to a fine not to exceed one thousand dollars and/or imprisonment for a period not to exceed six months.

3. Nothing within this ordinance shall preclude the issuance of a parking citation which may be issued concurrently with any other remedial action, penalty or process.

10.16.050 Removal of vehicles.

A. No person who owns or who has possession, custody or control of any vehicle shall park such vehicle upon any highway, street, road or alley for a consecutive period of longer than seventy-two (72) hours.

B. In the event that any vehicle is parked upon a highway, street, road or alley for longer than a consecutive period of seventy-two (72) hours in violation of subsection A of this section, any member of the police department authorized by the chief of police or any employee authorized to enforce parking requirements may remove such vehicle from the highway, street, road or alley in the manner prescribed by the California Vehicle Code.

C. Whenever a vehicle is illegally parked on a highway, street, road or alley in violation of this code, any regularly employed and salaried police officer of the City, or deputy of the sheriff of Riverside County, or member of the California Highway Patrol, Code Enforcement Officer or any regularly employed City employee engaged in directing traffic or enforcing parking laws may cause such vehicle to be impounded, driven or towed away and stored. The costs of such impoundment, towing and storage shall be charged to the owner of the vehicle and to the operator who committed the violation, if different from the owner of the vehicle.

10.16.060 Parking restriction signs.

Whenever this or any other chapter of this code imposes any parking or standing prohibition or restriction on commercial or other vehicles, the City traffic engineer shall erect and maintain appropriate signs as may be necessary to implement the provisions thereof.
10.16.070 Severability.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by a final determination of a court of competent jurisdiction, such determination shall not affect the validity of the remaining portions of this chapter. The City Council declares it would have enacted this chapter, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases might be declared invalid or unconstitutional.

10.16.080 Enforcement.

The provisions of this article may be enforced by any police officer, code enforcement officer, parking enforcement officer, or other City employee who has been designated the duty of enforcing parking regulations within the territorial limits of the City of Banning.

SECTION 4. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidance or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

SECTION 5. Effective Date

This Ordinance shall take effect thirty (30) days after its enactment in accord with California law.

SECTION 6. Publication. The City Clerk is directed to cause this Ordinance to be published within 15 days of its passage in a newspaper of general circulation published and circulated within the City of Banning.

PASSED, APPROVED, AND ADOPTED this 22nd day of July, 2008.

__________________________
Brenda Salas, Mayor
City of Banning

APPROVED AS TO FORM
AND LEGAL CONTENT:

__________________________________________
Burke, Williams & Sorensen LLP
City Attorney

Ord. No. 1390
ATTEST:

Marie A. Calderon, City Clerk

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1390 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 8th day of July, 2008, and was duly adopted at a regular meeting of said City Council on the 22nd day of July, 2008, by the following vote, to wit:

AYES:

NOES:

ABSEN:

ABSTAIN:

Marie A. Calderon, City Clerk
City of Banning, California
ORDINANCE NO. 1392

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING ZONE TEXT AMENDMENT NO. 08-97504 AMENDING SECTIONS 17.04.070, 17.08.020, 17.12.020 AND 17.28.040, AND ADDING SECTIONS 17.08.201 AND 17.12.050(Q) TO THE BANNING MUNICIPAL CODE TO REGULATE BOARDING HOUSES AND RESIDENTIAL CARE FACILITIES

WHEREAS, the City Council has the authority to review and approve Zone Text Amendment No. 08-97504 (Ordinance No. 1392) to establish regulations for Boarding Houses and Residential Care Facilities; and

WHEREAS, in accordance with Government Code Sections 65353, 65355 and 65090, on June 26, 2008, the City published a public notice in the Record Gazette of the holding of a public hearing at which time Zone Text Amendment No. 08-97504 would be considered by the City Council; and

WHEREAS, in accordance with Government Code Section 65353, on July 8, 2008 the City Council held the noticed public hearing at which time interested persons had an opportunity to testify in support of, or opposition to Zone Text Amendment No. 08-97504 and at which time the City Council considered Zone Text Amendment No. 08-97504; and

WHEREAS, in accordance with Government Code Section 65353, on June 3, 2008 the Planning Commission held a duly noticed public hearing at which time interested persons had an opportunity to testify in support of, or opposition to Zone Text Amendment No. 08-97504 and at which time the Planning Commission made a recommendation to the City Council to approve Zone Text Amendment No. 08-97504; and

WHEREAS, the Community Development Director has reviewed the project’s potential effects on the environment and has recommended that the project is Categorically Exempt from the California Environmental Quality Act (“CEQA”) under CEQA Guidelines Section 15061(b)(3).

NOW THEREFORE, the City Council of the City of Banning does Ordain as follows:

SECTION 1. ENVIRONMENTAL FINDINGS.

The City Council, in light of the whole record before it, including but not limited to, the City’s Local CEQA Guidelines and Thresholds of Significance, the recommendation of the Planning Commission as provided in the Council Staff Report dated July 8, 2008 and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and § 21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

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

SECTION 2. CITY COUNCIL ACTION

The City Council hereby takes the following actions:

A. Notice of Exemption - In accordance with Public Resources Code Section 21552(b) and CEQA Guidelines Section 15062 the City Council hereby recommends to the City Council approval of a Categorical Exemption for the project under CEQA Guidelines Section 15061(b)(3) and directs the Community Development Director to prepare and file with the Clerk for the County of Riverside a Notice of Exemption as provided under Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062.

B. The City Council hereby adopts Ordinance No. 1392 (Zone Text Amendment No. 08-97504) to read as follows:

SECTION 1. Section 17.04.070 (Definitions) of the Banning Municipal Code is hereby amended as follows:

1. Amend the definition of “Family” to read as follows:

   “Family is a Single Housekeeping Unit.”

2. Add the following definition of “Single Housekeeping Unit.”

   “Single Housekeeping Unit is one or more individuals, whether related by blood, marriage, legal adoption or not, jointly occupying a dwelling unit, including the joint use of and responsibility for common areas, and sharing household activities and responsibilities such as meals, chores, household maintenance, and expenses, and where, if the unit is rented, all adult residents have chosen to jointly occupy the entire premises of the dwelling unit, under a single written lease with joint use and responsibility for the premises, and the makeup of the household occupying the unit is determined by the residents of the unit rather than the landlord or property manager.”

3. Amend the definition of “Boarding House” to read as follows:

   “Boarding House is a dwelling unit, or part thereof, wherein a room or rooms, with or without individual or group cooking facilities, are rented, leased or subleased under two
or more separate written or oral rental agreements, leases or subleases, whether or not
the owner, agent or rental manager resides within the dwelling unit.”

4. Amend the definition of “Residential Care Facility” to read as follows:

“Residential Care Facility is a building or group of buildings that provide temporary
or permanent housing to children or individuals with a disability, as defined by State or
Federal law, where the residents do not live together as a single housekeeping unit, and
where every person residing in the facility (excluding the operator of the facility, the
operator’s family, and the facility’s staff) is a child or an individual with a disability. A
residential care facility shall not be considered a boarding house.

Residential Care Facility, Large, is a residential care facility in which seven (7) or
more children or individuals with a disability reside, which is either licensed by the
State or unlicensed and not required by law to be licensed by the State.

Residential Care Facility, Small, Licensed, is a State-licensed residential care facility
in which six (6) or fewer children or individuals with a disability reside, and which is
required by State law to be treated as a residential use of property for zoning purposes.
Licensed small residential care facilities that are required by State law to be treated as a
residential use of property include, without limitation: Intermediate care facilities for
the developmentally disabled (Health & Safety Code § 1267.8(c)); Congregate living
health facilities (Health & Safety Code §§ 1267.8(c); 1267.16(a)); Residential
community care facilities, including foster family homes, small family homes, social
rehabilitation facilities, community treatment facilities, and transitional shelter care
facilities (Health & Safety Code §§ 1502, 1566.3); Residential care facilities for persons
with chronic life-threatening illness (Health & Safety Code § 1568.0831); Residential
care facilities for the elderly (Health & Safety Code § 1569.85); Pediatric day health
and respite care facilities (Health & Safety Code § 1761.4).

Residential Care Facility, Small, Unlicensed, is a residential care facility in which six
(6) or fewer children or individuals with a disability reside, and which is not licensed by
the State and is not required by law to be licensed by the State.”

5. Amend the definition of “Multi-Family” to read as follows:

“Multi-Family Dwelling is a building containing two or more dwelling units.”

6. Add a definition of “Single-Family Dwelling” to read as follows:

“Single-Family Dwelling is a building containing one dwelling unit.”

7. Amend the definition of “Apartment” to read as follows:

“Apartment is a dwelling unit in a multi-family building.”
8. Amend the definition of “Bed and Breakfast” to read as follows:
   “Bed and Breakfast is a lodging establishment in which no more than ten (10) rooms are provided to the general public for lodging on a transient basis, and which may provide meals to the extent otherwise permitted by law.”

9. Delete the definition of “Special Needs Housing.”

10. Delete the definition of “Convalescent Center.”

11. Amend the definition of “Day Care Center, Children” to read as follows:

   “Day Care Center is a facility which provides non-residential, non-medical care to twelve (12) or more children under eighteen (18) years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a twenty-four (24) hour basis. The definition of day care center includes infant centers, pre-schools, and extended day care facilities, but does not include day care homes.”

12. Amend the definition of “Day Care Home, Children” to read as follows:

   “Day Care Home is a single-family dwelling where an occupant of the residence provides non-residential, non-medical care to children that are under eighteen (18) years of age and in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a twenty-four (24) hour basis.

   Day Care Home, Large is a day care home where care is provided to up to twelve (12) children, or up to fourteen (14) children if allowed by State law, and which is not a small day care home.

   Day Care Home, Small is a day care home where care is provided to up to six (6) children, or up to eight (8) children if allowed by State law.”

13. Amend the definition of “Dormitory” to read as follows:

   “Dormitory is a building owned or operated by a public or educational institution which provides private or semi-private sleeping quarters, common cooking facilities and common restrooms for its residents.”

14. Add a definition of “Single Room Occupancy Residential Hotel” to read as follows:

   “Single Room Occupancy Facility is a building or group of buildings with one or more guest rooms without kitchen and/or sanitary facilities in individual guest rooms, and which is also the primary residence of the guests.”
SECTION 2. Section 17.08.020 of the Banning Municipal Code is hereby amended to read as follows:

<table>
<thead>
<tr>
<th>ZONE</th>
<th>R/A</th>
<th>R/A/H</th>
<th>RR</th>
<th>RR/H</th>
<th>VLDR</th>
<th>LDR</th>
<th>MDR</th>
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<td>Condominiums &amp; Townhomes</td>
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<td>Day Care Center</td>
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<td>X</td>
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<td>C</td>
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<td>Mobile Home Parks or Subdivisions</td>
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<td>X</td>
<td>C</td>
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</table>

Equestrian Uses

| Stables, Private                  | P   | P     | P  | P    | P    | X   | X   | X   | X   |
| Stables, Commercial               | P   | C     | P  | C    | C    | X   | X   | X   | X   |
| Tack & Feed Stores                | C   | C     | C  | X    | X    | X   | X   | X   | X   |
| Veterinary Offices and Hospitals  | C   | X     | C  | X    | C    | X   | X   | X   | X   |

Agricultural Uses

| Grazing of Animals                | P   | P     | P  | P    | P    | P   | X   | X   | X   |
| Kennels and Catteries, commercial | C   | C     | C  | C    | C    | C   | X   | X   | X   |
| Locally Adaptive Farming          | P   | P     | C  | C    | X    | X   | X   | X   | X   |

Ordinance No. 1392
Residential Care Facilities

5
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<th>ZONE</th>
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<td><strong>Recreational Uses</strong></td>
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<td>Garages(for storage of vehicles only, in excess to that required under Chapter 17.28 (Parking Regulations)</td>
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<td>X</td>
<td>C</td>
<td>X</td>
<td>C</td>
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<td>X</td>
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<td>Bed &amp; Breakfast</td>
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<td>Cemeteries</td>
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</tr>
</tbody>
</table>

1 Small family day care homes are permitted by right in single-family residences located in any residential zone. Small family day care homes are not permitted in multiple-family residences.

2 Large family day care homes are conditionally permitted in single-family residences located in any residential zone. Large family day care homes are not permitted in multiple-family residences.

3 Neighborhood-oriented retail stores, as defined in the General Plan, consist of “corner store” type development such as convenience stores, grocery or green grocer, video rental, drug stores, sit down restaurants, coffee shops or coffee bars or similar uses, less than 5,000 square feet in total square footage.

4 Temporary Uses require Temporary Use Permit. See Chapter 17.108 for provisions.
SECTION 3. Section 17.12.020 of the Banning Municipal Code is hereby amended to read as follows:

<table>
<thead>
<tr>
<th>ZONE</th>
<th>DC</th>
<th>GC</th>
<th>HSC</th>
<th>PO</th>
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<th>AI</th>
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<tr>
<td>Resource and Open Space Uses</td>
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<tr>
<td>Plant nurseries, with on-site sales</td>
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<td>X</td>
<td>X</td>
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<td>X</td>
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<tr>
<td>Plant nurseries, without on-site sales</td>
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<td>C</td>
<td>X</td>
<td>X</td>
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<td>Surface Mining¹</td>
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<td>Cargo/Storage Containers²</td>
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<td>Recreation, Education and Public Assembly</td>
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Ordinance No. 1392
Residential Care Facilities
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<td>Hardware/lumber stores</td>
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<td>Liquor stores (off-site consumption)</td>
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Ordinance No. 1392
Residential Care Facilities
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<td>Pet stores and grooming</td>
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<td>Restaurants, no beer, wine or liquor sales</td>
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<td>P</td>
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<td>X</td>
<td>X</td>
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**Services**

| Automatic teller machine (ATM), not at a bank                         | P  | P  | P   | P  | X | P  | P   | X   |
| Banks and financial establishments/services                            | P  | P  | P   | P  | X | X  | P   | X   |
| Barber Shops and Beauty Shops                                         | P  | P  | P   | X  | X | X  | P   | X   |
| Bed and breakfast establishments                                      | P  | C  | C   | X  | X | X  | X   | X   |

**Boarding House**

<p>| Business support/secretarial services                                 | X  | X  | C   | X  | X | X  | X   | X   |
| Car wash                                                              | X  | P  | P   | X  | X | X  | C   | X   |
| Columbarium’s and mortuaries                                          | X  | C  | C   | X  | X | X  | C   | X   |
| Construction storage (indoor and/or outdoor)                          | X  | X  | X   | X  | P | X  | C   | C   |
| Drive-in and drive-through                                            | X  | P  | P   | C  | X | X  | C   | X   |</p>
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<td>Dry cleaning, retail</td>
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<td>Equipment rental yards</td>
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<td>Government offices</td>
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<td>Hotels and motels</td>
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<td>Laundry, coin operated</td>
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<td>Massage Parlors</td>
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<td>Medical services, clinics and labs</td>
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<td>P</td>
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<td>Repair and maintenance of consumer products</td>
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**Manufacturing and Processing Uses**

| Assembly from prefabricated parts or products                       | X  | 4 | X   | X  | P | P  | P  | X   |
| Auto wrecking/parts salvaging                                      | X  | X  | X   | X  | C | X  | X  | X   |
| Bakeries, wholesale                                                | X  | X  | X   | X  | P | X  | P  | X   |
| Breweries and distilleries                                         | C  | C  | C   | X  | C | X  | C  | X   |
| Breweries and distilleries, ancillary to a bar or                  | C  | C  | C   | X  | P | C  | X  | X   |

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Residential Care Facilities
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<td>X</td>
<td>P</td>
<td>X</td>
<td>P</td>
<td>X</td>
</tr>
<tr>
<td>Cabinet shops, carpentry,</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>X</td>
<td>P</td>
<td>X</td>
</tr>
<tr>
<td>furniture manufacturing &amp; assembly</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ceramics manufacturing &amp; assembly</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>X</td>
<td>P</td>
<td>X</td>
</tr>
<tr>
<td>Cleaning and dyeing plants</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Contractor's storage yards</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>C</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Creameries and dairies</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>C</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Distribution</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>X</td>
</tr>
<tr>
<td>Food products manufacturing</td>
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<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>X</td>
<td>C</td>
<td>X</td>
</tr>
<tr>
<td>Furniture and fixtures</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>X</td>
<td>P</td>
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</tr>
<tr>
<td>Garment and shoe manufacturing</td>
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<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>X</td>
<td>P</td>
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</tr>
<tr>
<td>Ice and cold storage</td>
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<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>X</td>
</tr>
<tr>
<td>Laundries and dry cleaning plants</td>
<td>X</td>
<td>C</td>
<td>C</td>
<td>X</td>
<td>P</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Lumber yards</td>
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<td>X</td>
<td>X</td>
<td>P</td>
<td>X</td>
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</tr>
<tr>
<td>Machining, welding and blacksmithing</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>P</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Manufacturing facilities, Light</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>C</td>
<td>P</td>
<td>X</td>
</tr>
<tr>
<td>Manufacturing facilities, Heavy</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>C</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Metal Plating shops</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>C</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Mixed use office/industrial</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>C</td>
<td>P</td>
<td>C</td>
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<tr>
<td>Mixed use industrial/commercial</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>X</td>
<td>C</td>
<td>X</td>
</tr>
<tr>
<td>Packing plant</td>
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<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>X</td>
<td>P</td>
<td>X</td>
</tr>
<tr>
<td>Printing/publishing</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>P</td>
<td>X</td>
<td>P</td>
<td>X</td>
</tr>
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<td>Recycling facilities</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>X</td>
<td>C</td>
<td>X</td>
</tr>
<tr>
<td>Recycling - reverse vending machines</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>X</td>
<td>P</td>
<td>X</td>
<td>P</td>
<td>X</td>
</tr>
<tr>
<td>Sheet metal shops</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>P</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Stone and granite storage and sales</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>X</td>
<td>C</td>
<td>P</td>
</tr>
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Ordinance No. 1392
Residential Care Facilities
11
<table>
<thead>
<tr>
<th>ZONE</th>
<th>DC</th>
<th>GC</th>
<th>HSC</th>
<th>PO</th>
<th>I</th>
<th>AI</th>
<th>BP</th>
<th>IMR</th>
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</thead>
<tbody>
<tr>
<td>Storage Yard</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>C</td>
<td>C</td>
<td>P</td>
</tr>
<tr>
<td>Tire recapping, retreading and storage</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>X</td>
</tr>
<tr>
<td>Truck (commercial) repair, towing, storage and service</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>P</td>
<td>C</td>
<td>C</td>
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<tr>
<td>Trucking yard or terminal</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>X</td>
</tr>
<tr>
<td>Warehousing</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>C</td>
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<tr>
<td>Wholesaling</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>P</td>
<td>C</td>
<td>P</td>
<td>X</td>
</tr>
<tr>
<td><strong>Residential Uses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Caretaker/watchperson’s dwelling</td>
<td>C</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Guest house</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td>Home occupations</td>
<td>P</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td>Mixed Use, residential/commercial</td>
<td>P</td>
<td>P</td>
<td>C</td>
<td>C</td>
<td>X</td>
<td>X</td>
<td>C</td>
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<tr>
<td>Residential accessory uses and structures</td>
<td>C</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td><strong>Residential care facility, large</strong></td>
<td>X</td>
<td>X</td>
<td>C</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td><strong>Residential care facility, small, licensed</strong></td>
<td>X</td>
<td>X</td>
<td>C</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td><strong>Residential care facility, small, unlicensed</strong></td>
<td>X</td>
<td>X</td>
<td>C</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Congregate Care Housing</td>
<td>C</td>
<td>X</td>
<td>X</td>
<td>C</td>
<td>X</td>
<td>X</td>
<td>C</td>
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<tr>
<td>Single room occupancy facility</td>
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<td>X</td>
<td>C</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Single family dwellings, existing</td>
<td>C</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td>Single family dwellings, new</td>
<td>X</td>
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<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td><strong>Other Uses</strong></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commercial or Telecommunications Antennae</td>
<td>X</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Public utility facilities</td>
<td>X</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
</tbody>
</table>
### SECTION 4. Table 17.28.040C (“Institutional Parking Requirements”) of Section 17.28.040 of the Banning Municipal Code is hereby amended to read as follows:

<table>
<thead>
<tr>
<th>USE</th>
<th>NUMBER OF REQUIRED PARKING SPACES</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Boarding houses, dormitories, single room occupations and similar facilities</strong></td>
<td>One (1) space per room, or one (1) space per two (2) beds, whichever is greater.</td>
</tr>
<tr>
<td>Churches, conference/meeting facilities, mortuaries, theaters, auditoriums</td>
<td>One (1) space for each four (4) fixed seats, or one space for each thirty-five (35) square feet of non-fixed seating area in the principal sanctuary, conference space or auditorium, whichever is greater.</td>
</tr>
<tr>
<td>Community college/university</td>
<td>Twelve (12) spaces for each classroom</td>
</tr>
<tr>
<td>Day care centers</td>
<td>One (1) space for each staff member, plus one (1) space for each eight (8) children</td>
</tr>
<tr>
<td>Elementary school/junior high</td>
<td>Three (3) spaces for each classroom</td>
</tr>
<tr>
<td>High school</td>
<td>Eight (8) spaces for each classroom</td>
</tr>
<tr>
<td>Hospitals</td>
<td>Three (3) spaces for each two (2) patient beds, or as determined in the development review process.</td>
</tr>
<tr>
<td>Libraries, Museums, art galleries</td>
<td>One (1) space for each three hundred (300) sq ft of gross floor area, or as determined in the development review process.</td>
</tr>
<tr>
<td>Sanitariums/nursing homes</td>
<td>One (1) space for each five (5) beds, plus one (1) space for each employee on the largest shift, plus one (1) space for each staff doctor</td>
</tr>
<tr>
<td>Senior Congregate Care Housing</td>
<td>Two (2) spaces for each three (3) living units.</td>
</tr>
</tbody>
</table>

### SECTION 5. Section 17.08.201 is hereby added to the Banning Municipal Code, and shall read as follows:

“17.08.201. **Boarding Houses, Single Room Occupancies and Residential Care Facilities.**

Any person who seeks to own, manage, or operate a boarding house, single room occupancy, a large residential care facility or a small, unlicensed residential care facility shall obtain a conditional use permit from the City. A boarding house, single room occupancy, large residential care facility or small, unlicensed residential care facility may only be allowed to operate with a conditional use permit in the zones indicated in sections 17.08.020 and 17.12.020 of this Zoning Ordinance. No person shall
own, manage, or operate a boarding house, single room occupancy, large residential care facility or small, unlicensed residential care facility without a valid conditional use permit.

A. Application for a Conditional Use Permit

In addition to the findings for a conditional use permit required by section 17.52.050 of this Zoning Ordinance, no conditional use permit for a boarding house, single room occupancy, large residential care facility or small, unlicensed residential care facility shall be granted unless the following findings are made:

1. The Fire Chief and Building Official have determined that the premises complies with all applicable laws, ordinances and regulations.

2. All persons directly or indirectly interested in use as an owner, partner officer, manager, employee or other person to be in charge of the use have not been convicted of a felony or any crime of moral turpitude.

B. Operational Standards

The following standards shall apply to boarding houses, single room occupancies, large residential care facilities and small, unlicensed residential care facilities:

1. The use shall not result in adverse effects to the health, welfare, peace, or safety of persons in the surrounding area;

2. The use shall not jeopardize or endanger the public health, safety, or welfare of persons in the surrounding area;

3. The use shall not adversely affect the livability of the surrounding neighborhood as a result of inadequate maintenance, prohibited activities, and/or operating characteristics;

4. The use shall not result in nuisance activities, including, without limitation, disturbance of the peace, illegal drug activity, public drunkenness, public consumption of alcohol, harassment of passers-by, gambling, public urination, theft, assault, battery, vandalism, littering, loitering, illegal parking, loud noises, lewd conduct, or police detentions and/or arrests;

5. The use shall not result in violation of any applicable provision of any other city, state, or federal law;

6. The use shall not be located within three hundred (300) feet, measured from the property lines, of any other boarding house, single room occupancy, large residential care facility or small, unlicensed residential care facility, or within three hundred (300) feet of any elementary or secondary school, or any day care center. However, Boarding Houses and unlicensed residential care facilities shall not be located with one thousand (1,000 feet), measured from the property lines, of any other boarding house, single room occupancy, large residential care facility or small, unlicensed residential care facility, or within one thousand (1,000) feet of any elementary or secondary school, or any day care center.
7. The use shall comply with the parking requirements in Section 17.28.040(A)-(C);

C. Revocation of Conditional Use Permit

Violations of any of the provisions of this section shall be grounds for revocation of the Conditional Use Permit authorizing the use. Violation of any local, state or federal laws by individual boarder, tenant or occupant while on the premises of the boarding house, single room occupancy or residential care facility shall be grounds for revocation of the permit. The revocation procedures contained in Section 17.52.100 of this Zoning Ordinance shall be followed.

D. Non-conforming uses

All boarding houses, single room occupancies, large residential care facilities and small, unlicensed residential care facilities existing illegally prior to the effective date of the ordinance creating this section shall be required to comply with the requirements of this section within six (6) months of the effective date. All boarding houses, single room occupancies, large residential care facilities and small, unlicensed residential care facilities existing legally prior to the effective date of the ordinance creating this section shall comply with Chapter 17.88 of the Zoning Ordinance.

E. Reasonable Accommodation.

Any person who seeks to operate a residential care facility in a zone where such use is not permitted, either by right or subject to conditional use permit pursuant to sections 17.08.020 and 17.12.020 of this Zoning Ordinance, may request that the City allow the residential care facility to locate in such a zone as a reasonable accommodation under the federal Fair Housing Act by applying for a Conditional Use Permit. The City shall grant the Conditional Use Permit as a reasonable accommodation if it finds:

1. The request for a reasonable accommodation will not impose an undue burden or expense on the City, and

2. The proposed use will not create a fundamental alteration in the City’s zoning scheme. The factors that shall be considered in making this determination include, but are not limited to, the following:
   (i) Whether the proposed use is in accord with the operational standards identified in subsection B of this section.

   (ii) Whether the proposed location of the use is in accord with the requirements of the zone in which the site is located and complies with other relevant City regulations, policies, and guidelines.

   (iii) Whether the proposed location of the use and the conditions under which it will be operated and maintained will not be detrimental to the public health, safety or welfare, or to existing land uses, the operation of established sensitive land uses as defined in this chapter,
the character of established neighborhood, or planned residential development in the vicinity.

(iv) Whether the proposed use is consistent with the General Plan.

(v) Whether the type, intensity, sensitivity, and operating characteristics of the proposed use, and the manner in which it is located on its site, are compatible with existing land uses, the character of established neighborhoods, or planned residential development in the vicinity.

(vi) Whether the site is physically suitable for the type, sensitivity, and intensity of the use as proposed, including access, utilities and absence of physical constraints.

SECTION 6. Section 17.12.050(Q) is hereby added to the Banning Municipal Code, and shall read as follows:

“Q. Boarding Houses and Single Room Occupancies  
1. All requirements outlined in Section 17.08.201 shall be complied with.”

SECTION 3. Severability.

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. Non-exclusivity.

Nothing in this Ordinance shall limited or preclude the enforcement of other applicable laws.

SECTION 5. Effective Date.

This Ordinance shall take effect thirty (30) days after its enactment in accord with California law.

SECTION 6. Publication.

The City Clerk is directed to cause this Ordinance to be published within 15 days of its passage in a newspaper of general circulation published and circulated within the City of Banning.

PASSED, APPROVED, AND ADOPTED this 22nd day of July, 2008.
APPROVED AS TO FORM AND LEGAL CONTENT:

Burke, Williams & Sorensen LLP
City Attorney

ATTEST:

Marie A. Calderon, City Clerk

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1392 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 8th day of July, 2008, and was duly adopted at a regular meeting of said City Council on the 22nd day of July, 2008, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

Ordinance No. 1392
Residential Care Facilities
17
CITY COUNCIL AGENDA
CONSENT FORM

DATE: JULY 22, 2008

TO: Honorable Mayor and City Council

FROM: John Ruiz, Interim Human Resources Director

SUBJECT: City of Banning Association of Managers (CBAM)
Memorandum of Understanding

RECOMMENDATION:

I. Adopt Resolution No. 2008-89 approving a Memorandum of Understanding (MOU) with the City of Banning Association of Managers (CBAM) Unit.

II. Amending the 2008-09 budget to incorporate necessary changes

JUSTIFICATION: The City’s most recent MOU with the CBAM expired on June 30, 2008. A new MOU has been negotiated.

BACKGROUND: With the expiration of its MOU with the CBAM on June 30, 2008, the City entered into negotiations with CBAM. After completion of negotiations under the provisions of the Myers-Milias-Brown Act and the City’s Employer – Employee Relations Ordinance, a new two (2) year agreement has been reached. On March 11, 2008, the City Council approved a Resolution which amended the previous MOU with CBAM that provided for an increase to health insurance contributions under the City’s cafeteria plan.

The proposed Resolution will be a new MOU for a two year period. The new MOU provides for the Management Incentive Pay shall be considered as salary for the purposes of CalPERS contributions, improvements for Education Incentives, a Voluntary Employee Beneficiary Association Plan (VEBA), an allowance toward safety shoes for designated employees,
extends probationary from 6 months to one year for newly hired employees, and makes other various changes to exiting language.

**FISCAL IMPACT:** The fiscal impact of this agreement is approximately $8,081.64 per fiscal year and will come from the General and Utility funds.

**RECOMMENDED BY:**

John Ruiz  
Interim Director of Human Resources

**APPROVED BY:**

Bonnie Johnson  
Finance Director

**APPROVED BY:**

Brian Nakamura  
City Manager
RESOLUTION 2008-89

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING
APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE
CITY OF BANNING AND THE CITY OF BANNING ASSOCIATION OF
MANAGERS

WHEREAS, the City of Banning has recognized the City of Banning Association of Managers (CBAM) as the bargaining unit representing a group of its employees; and,

WHEREAS, the prior Memorandum of Understanding (MOU) between the City and CBAM expires on June 30, 2008; and,

WHEREAS, the City and CBAM have successfully met and conferred under the Meyers- Milius- Brown Act (MMBA) and the City’s Employer-Employee Relations Resolution to negotiate a new MOU for the period of July 1, 2008 through June 30, 2010;

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

1. The City Council approves the MOU, a copy which is attached hereto and by this reference made part hereof.

2. The Mayor is authorized to execute the original document.

PASSED, APPROVED, AND ADOPTED this 22nd day of July

Brenda Salas, Mayor
City of Banning

APPROVED AS TO FORM
AND LEGAL CONTENT:

Burke, Williams & Sorensen, LLP
City Attorney

Reso. 2008-89
ATTEST:

__________________________________
Marie Calderon, City Clerk

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2008-89 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 22nd day of July, 2008, by the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

__________________________________
Brenda Salas, Mayor
City of Banning
MEMORANDUM OF UNDERSTANDING BETWEEN

THE CITY OF BANNING

AND

THE CITY OF BANNING ASSOCIATION OF MANAGERS (CBAM)

THE SAN BERNARDINO PUBLIC EMPLOYEES ASSOCIATION

JULY 1, 2008 – JUNE 30, 2010
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CBAM MOU 2008
ARTICLE 1 - PREAMBLE

1.1 - This agreement is entered into between The City of Banning, a Municipal Corporation, hereinafter known as “the City” or “City” and the San Bernardino Public Employees Association, the recognized employee organization for the City of Banning Association of Managers, the mid-management and professional unit of representation, hereinafter known as “the Association” or “Association”, relative to wages, hours, and other terms and conditions of employment as provided by Sections 3500 - 3510 of the California Government Code, otherwise known as the Meyers-Milias-Brown Act.

1.2 - The City hereby formally recognizes the San Bernardino Public Employees Association as the only Recognized Employee Organization representing employees in the unit of representation presently or hereafter employed by the City and eligible for inclusion in the Association. It is understood that this Agreement shall constitute a bar to any petition or request for recognition of any unit which includes classifications of employees covered by this Agreement or such petitions to represent such employees at any time during the term hereof. This provision shall not preclude employees from exercising their rights as may be provided by the Meyers-Milias-Brown Act or the Employer-Employee Relations Resolution of the City.

1.3 - Except as otherwise provided herein, this agreement between the City and the Association relative to wages, hours, and other terms and conditions of employment, shall become effective on July 1, 2008 and shall remain in full force and effect until June 30, 2010 and thereafter shall remain in full force and effect and continue year-by-year unless one (1) of the parties notifies the other no later than March 1, 2010 of its request to modify, amend or terminate this MOU or no later than March 1st of any year after 2010. Upon receipt of such written notice, the parties agree that negotiations shall begin no later than March 15th unless otherwise mutually agreed by the parties or until a new agreement has been executed by the parties or the City Council acts in accordance with the terms of Article IV of the City's Employer-Employee Resolution No. 2007-41.

1.4 - This agreement covers employees in the following classifications:

Assistant Civil Engineer
Assistant Planner
Assistant Director Water/Wastewater
Associate Civil Engineer
Associate Planner
City Engineer
Customer Services Manager
Development Service Manager CBO
Electric Operations Manager
Fleet Maintenance Manager
Information Technology Manager
Parks/Streets Maintenance Manager
Planning Engineer
Power Resource and Revenue Administrator
Principal Civil Engineer
Public Works Superintendent
Purchasing Manager
Recreation Manager
Redevelopment Manager
Risk Management Analyst
Senior Planner
Senior Civil Engineer
Water/Wastewater Superintendent
The classification of Electric Systems Engineer is an approved classification in the City's Classification Plan. At such time as the City determines to conduct a recruitment to fill the position, the City agrees to only meet and confer with the CBAM bargaining unit prior to recruitment regarding the appropriateness of adding the classification to the CBAM bargaining unit.

ARTICLE 2 - CONTINUATION OF RULES & POLICIES

2.1 - Subject to the terms of this Memorandum of Understanding ("MOU" or "Agreement") all City Ordinances, Policies, Resolutions, Rules and Regulations, including the Personnel Rules and Regulations of the City of Banning, the Employer-Employee Relations Resolution (Resolution No. 2007-41); and the Administrative Policies of the City of Banning, or successor rules, shall remain in effect during the course of this Agreement.

2.2 - Association and City agree to meet and confer during the term of this Memorandum over the adoption or revision of City Ordinances, Policies, Rules, Regulations, Administrative and/or Personnel Policies regarding mandatory subjects of negotiation pursuant to the Meyers-Milias-Brown Act.

2.3 - The Association recognizes the right of the City to adopt new or revised departmental rules and regulations which are not in conflict with this MOU and which are not regarding mandatory subjects of negotiation. In adopting such new or revised departmental rules and regulations, the City shall receive and consider input, if any, submitted by unit employees. The process of making such input shall not delay the timely implementation of such rule. Such input shall generally be solicited as follows:

(a) The City shall provide a draft of the proposed change to the President of the Association or his/her designee. At the time of providing the draft, a time shall be set to meet and confer on the proposed change. Such date shall be no less than twenty-five (25) and no more than thirty-five (35) calendar days following date of presentation of the draft.

(b) Within twenty (20) days following date of presentation, the Association shall provide copies of its comments to the Human Resource Director in writing. Failure to provide written comments within the twenty (20) day time period shall be deemed to be acceptance of the proposal as presented and termination of the requirement for further meet and confer.

(c) If agreement is not reached on the proposal at the first meeting, a second meeting shall be held within fifteen (15) days thereafter. If an agreement is not reached at the second meeting as to a matter which is not a mandatory subject of meet and confer, the City may proceed with the adoption of the policy without further meetings.

(d) The time limits set forth herein may be modified by the written agreement of the parties.

Amended July 2008
ARTICLE 3 - EMPLOYEE RIGHTS

3.1 - The provisions of this MOU shall apply to all persons covered by this MOU without discrimination on account of race, sexual orientation, color, age, ancestry, sex (including pregnancy, childbirth and related medical conditions), national origin, religion, creed, marital status, physical or mental disability, medical condition, citizenship status or any other basis protected by applicable law, nor will there be any discrimination with respect to hiring, retention or any condition of employment because of membership or activities on behalf of the Association.

3.2 - The Association will accept into membership all eligible persons of the bargaining unit without regard to race, sexual orientation, color, age, ancestry, sex (including pregnancy, childbirth and related medical conditions) national origin, religion, creed, marital status, physical or mental disability, medical condition, citizenship status, or any other basis protected by applicable law.

3.3 - Except as otherwise provided in this MOU, the employees covered by this Agreement shall have all rights which may be exercised in accordance with State Law, and applicable ordinances, resolutions, rules and regulations. However, employees covered by this Agreement shall not have the right to file a grievance for violation of any such law, ordinance, or resolution, except as specifically set forth herein.

3.4 - Employees shall also have:

(a) The right to form, join, and participate in activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations.

(b) The right to refuse, join, or participate in the activities of employee organizations.

(c) The right to be free from interference, intimidation, restraint, coercion, discrimination, or reprisal by other employees, employee organizations, management or supervisors, as a result of their exercise of rights indicated in (a) and (b) above.

ARTICLE 4 - MANAGEMENT RIGHTS

4.1 - The Association recognizes and agrees that the City and its representatives have the responsibility and the authority to manage and direct all operations and activities of the City including, but not limited to the exclusive right to determine the mission of its constituent departments, commissions and boards and the processes and the materials to be employed; the right to subcontract any work or operation; to expand or diminish services; to determine the procedures and standards of selection for employment and promotion; determine classifications; direct its employees; take disciplinary action; relieve its employees of duty because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted.

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and to assign work to employees; take all necessary actions to carry out its mission in emergencies; and, exercise complete control and discretion over its organization and work performance technology.

4.2 - When the decision to make the change is non-negotiable, but the effects of the decision are negotiable, the duty to provide notice and an opportunity to bargain arises at the time the decision is made and prior to taking action to implement the decision.

ARTICLE 5 - DUES DEDUCTION

5.1 - The City shall deduct one (1) month's current and periodic Association dues from the wages and/or Sick Leave benefits of each employee who voluntarily executes and delivers to the City a payroll deduction authorization form.

5.2 - The employee's earnings must be regularly sufficient after other legal and required deductions are made to cover the amount of the dues deduction authorized. When an employee is in a non-pay status for an entire pay period, no withholding will be made to cover that pay period from future earnings.

5.3 - In the case of an employee who is in a non-pay status during only part of the pay period, and the salary is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all other legal and required deductions have priority over Association dues.

5.4 - An employee's authorization for deduction of dues may be canceled at any time by written notice from the employee to the City, with a copy to the Association. An employee's deduction authorization shall automatically be canceled if the employee leaves the employ of the City or is transferred out of the representation unit.

5.5 - The aggregate amount of such deductions by the City shall be transmitted monthly to the San Bernardino Public Employees Association. The City shall provide the Association with a list each month indicating the dues deducted from the pay of any represented unit employee and those employees for whom no deduction was made pursuant to the provisions of Sections 5.2, 5.3 and 5.4.

5.6 - The Association shall indemnify, defend, and hold the City harmless against any claims made, and against any suit instituted against the City on account of deduction of employee organization dues. In addition, the Association shall refund to the City any amounts paid to it in error upon presentation of supporting evidence.

ARTICLE 6 - ASSOCIATION REPRESENTATIVES

6.1 - Three (3) employees selected by the Association may attend scheduled meetings with City management during regular hours without loss of pay, provided that such employees shall not leave their work station or assignment without first providing adequate notice to their supervisor and the City Manager. Additional employees who are not on duty may participate at no additional cost to the City. Such meetings shall be scheduled in a manner consistent with the City's operating requirements and work

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schedules. Nothing herein shall be deemed to preclude the scheduling of such meetings at hours other than such employee's regular working hours, in which event attendance shall be without pay.

**ARTICLE 7 - BULLETIN BOARDS**

7.1 - The City will furnish adequate bulletin board space where currently available. Only areas designated by the Human Resource Department may be used for posting notices. Bulletin boards may be used for the following notices:

(a) Scheduled Association Meetings, Agenda and Minutes.

(b) Information on Association Elections and the Results.

(c) Information Regarding Association Special, Credit Association, Recreational, and Related Bulletins.

(d) Reports of Official Business of Association Including Reports of Committees or the Board of Directors.

(e) MOU, Pay Scales, Job Announcements, Promotion Lists, Etc.

(f) Such other items as may be approved by the Human Resource Director upon request of the Association.

7.2 - Posted notices shall not be defamatory or violate any of the City's policies, nor shall they advocate election or defeat of candidates for public office. All notices to be posted may be dated and signed by an authorized representative of the Association. Association may give notices to the represented employees through the use of the City mail system and/or the City computer e-mail system.

**ARTICLE 8 - MEMORANDUM OF UNDERSTANDING COPIES**

8.1 - After it has been executed by the parties, the City shall provide the Association with twenty-three (23) executed copies of this MOU. Association shall be responsible for providing copies of this MOU to represented employees at Association's expense. City shall also provide a copy of the executed MOU to any represented employee hired or promoted into the represented unit after the effective date of the MOU. City may charge for any additional copies.

**ARTICLE 9 - MEETINGS**

9.1 - Upon mutual agreement of both the City and the Association, the parties may meet to discuss items of mutual concern. A meeting conducted under this section shall not constitute a meet and confer or hearing under any grievance procedure.

9.2 - The Association may be granted permission to use City facilities for the purpose of meeting with employees to conduct its internal affairs provided space for such
meetings can be made available without interfering with City needs. Permission to use facilities must be obtained by the Association from the City Manager. The Association shall be held fully responsible for any damages to and security of any facility that is used by the Association.

9.3 - The City agrees to the creation of a Budget Oversight Committee, with the Association entitled to appoint one (1) member. Said Committee shall have an equal number of members appointed by the City's recognized Employee Associations and the City. Said Committee shall be advisory only to the City Manager. City shall determine the necessity of meetings.

9.4 - The City shall notify the Association President of its intention to subcontract work performed by employees covered by this agreement no later than the date bids are requested for said contract work. Association may comment on the proposed subcontracting and may request a meeting under Article 9 to discuss it or if applicable may ask for a meet and confer on the effects.

ARTICLE 10 - HOURS OF WORK

10.1 - The City and the Association agree that all unit members will work pursuant to an Alternative Work Schedule as set forth in the City's Administrative Policy No. 30. The effective date of the implementation of the Alternative Work Schedule will be October 8, 2004.

ARTICLE 11 - INTENTIONALLY LEFT BLANK

Amended July 2008
ARTICLE 12 - REGULATION OF FLSA ISSUES

12.1 - CBAM and the City shall endeavor and resolve to meet and confer on a case by case basis as may arise during the term of this Agreement on issues related to employee’s current and past status under the FLSA.

ARTICLE 13 - SALARIES, PERFORMANCE EVALUATIONS, RETIREMENT BENEFITS, AND EDUCATION INCENTIVE

13.1 -

(a) In October 2009, the City will initiate a salary survey of the agreed upon cities and counties for all appropriate CBAM classifications to determine whether the salary schedules for all unit classifications should be increased. No later than September 1, 2009, the City and Association will meet to determine appropriate agencies to be surveyed and benchmarking standards. No salary ranges for any classification will be lowered as a result of the survey. The City is required to complete this study by March 1, 2010 and initiate meet and confer with the Association regarding applicable salary range changes in conjunction with the MOU negotiations, in accordance with Article 1.3. The City agrees that the methodology for the salary survey will be used for all represented classifications.

(b) The City will obtain the salary ranges from each of the agreed upon entities for the classifications that are comparable with each CBAM classification. If an entity does not have a comparable classification for a specific CBAM classification, the City shall enter a N/A next to that city/county. The City will provide CBAM a detailed description of the methodology used to calculate new salary ranges for a proposed change to any CBAM classification and provide unedited source data for all surveyed cities and counties no later than April 14, 2010.

(c) Effective July 1, 2008 represented classifications will be assigned to salary ranges, as set forth below in accordance with the City’s adopted Salary Table. Employees will be able to progress through the salary range as set forth in section 13.2.

<table>
<thead>
<tr>
<th>Classification</th>
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</thead>
<tbody>
<tr>
<td>Assistant Director Water/Wastewater</td>
<td>81</td>
</tr>
<tr>
<td>City Engineer</td>
<td>81</td>
</tr>
<tr>
<td>Electric Operations &amp; Maintenance Manager</td>
<td>81</td>
</tr>
<tr>
<td>Development Services Manager (Building Official)</td>
<td>80</td>
</tr>
<tr>
<td>Power Resource &amp; Revenue Administrator</td>
<td>81</td>
</tr>
<tr>
<td>Redevelopment Manager</td>
<td>81</td>
</tr>
<tr>
<td>Senior Civil Engineer</td>
<td>78</td>
</tr>
<tr>
<td>Water/Wastewater Superintendent</td>
<td>77</td>
</tr>
</tbody>
</table>

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<table>
<thead>
<tr>
<th>Classification</th>
<th>New Salary Range</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Works Superintendent</td>
<td>77</td>
</tr>
<tr>
<td>Senior Planner</td>
<td>75</td>
</tr>
<tr>
<td>Information Technology Manager</td>
<td>73</td>
</tr>
<tr>
<td>Purchasing Manager</td>
<td>73</td>
</tr>
<tr>
<td>Planning Engineer</td>
<td>72</td>
</tr>
<tr>
<td>Associate Civil Engineer</td>
<td>72</td>
</tr>
<tr>
<td>Fleet Maintenance Manager</td>
<td>71</td>
</tr>
<tr>
<td>Customer Services Manager</td>
<td>67</td>
</tr>
<tr>
<td>Streets/Parks Maintenance Manager</td>
<td>64</td>
</tr>
<tr>
<td>Assistant Civil Engineer</td>
<td>64</td>
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<tr>
<td>Associate Planner</td>
<td>64</td>
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<tr>
<td>Risk Management Analyst</td>
<td>60</td>
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<td>Assistant Planner</td>
<td>59</td>
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<tr>
<td>Recreation Manager</td>
<td>58</td>
</tr>
<tr>
<td>Principal Civil Engineer</td>
<td>N/A</td>
</tr>
</tbody>
</table>

The City and CBAM agree to meet and confer regarding the job description and salary range for the classification of Principal Civil Engineer at such time as the City desires to fund a position in that classification. The City reserves the right to fill the position with the current incumbent in the classification of Career Part-Time Associate Civil Engineer, or with any other qualified applicant, whichever best meets its needs at that time.

13.2 – PAY FOR PERFORMANCE

(a) Salary increases are to be based upon performance, rather than market increases. All employees shall have their performance evaluated annually on the City's Achievement Evaluation Forms in accordance with their salary anniversary date. Employees may only receive increases in accordance with Sections (b) through (f) below.

(b) Effective July 1, 2006, whenever classifications are allocated to higher salary ranges, based upon the City's biennial salary survey or otherwise, subsequent salary increases for incumbents in the represented classifications shall be calculated according to the following methodology.

The prior range maximum amount shall be deducted from the new range maximum amount and that portion of the new salary range represented by such difference shall only be available to the incumbent employee upon achievement of a performance rating of 3.5 or above.

In other words, the prior range maximum amount, i.e. the highlighted area in the example graph below, shall serve as a performance based control point on the amount of the new salary range which is available to the incumbent.
Current Salary Range = 70

Min = $58,858  Mid = $69,245  Max = $79,631

Recommended Salary Range = 73

Min = $63.384  Mid = $74,569  Max = $85,754

2.5-2.99 = 4%  2.5-2.99 = 3%  2.5-2.99 = 0%
3.0-3.49 = 5%  3.0-3.49 = 3.5%  3.0-3.49 = 0%
3.5-3.99 = 6%  3.5-3.99 = 4%  3.5-3.99 = 4%
4.0-4.49 = 7%  4.0-4.49 = 4.5%  4.0-4.49 = 4.5%
4.5-5.00 = 9%  4.5-5.00 = 5%  4.5-5.00 = 5%

An exception to this method shall occur whenever the midpoint of the new range is above the maximum of the old range in that there shall be no constraint on the incumbent's ability to achieve any portion of the available salary range, i.e., any performance rating which equates with a salary increase in accordance with Section (c), (d) and (e), below.

(c) Pursuant to the Levels of Achievement on their Achievement Evaluation Form, employees who have reached within two (2) percent or above the midpoint, but less than the control point defined in paragraph (b) shall receive the following salary percentage increase corresponding with their annual Achievement Evaluation Form rating, up to the maximum of their range.

Achievement Rating of 2.50 – 2.99 = 3% salary increase
Achievement Rating of 3.00 – 3.49 = 3.5% salary increase
Achievement Rating of 3.50 – 3.99 = 4% salary increase
Achievement Rating of 4.00 – 4.49 = 4.5% salary increase
Achievement Rating of 4.50 – 5.00 = 5% salary increase

(d) Pursuant to the Levels of Achievement on their Achievement Evaluation Form, employees who have reached within two (2) percent or above the midpoint, but less than the control point defined in paragraph (b) shall receive the following salary percentage increase corresponding with their annual achievement Evaluation Form rating, up to the maximum of their range:

Achievement Rating of 2.50 – 2.99 = 3% salary increase
Achievement Rating of 3.00 – 3.49 = 3.5% salary increase
Achievement Rating of 3.50 – 3.99 = 4% salary increase
Achievement Rating of 4.00 – 4.49 = 4.5% salary increase
Achievement Rating of 4.50 – 5.00 = 5% salary increase

If any percentage increase set forth above, causes an employee's base salary to exceed the maximum of their salary range as shown, only the percentage increase up to the maximum of their salary range will be applied.
to their base salary and the remaining percentage increase will be paid as a one time bonus.

(e) Employees who have attained the maximum of their respective salary ranges may continue to receive performance pay in the form of a one-time annual bonus, which is PERS reportable income. These bonuses do not become part of the employee's base salary.

Achievement Rating of 3.50 – 4.49 = 2% one-time annual bonus
Achievement Rating of 4.50 – 5.00 = 3% one-time annual bonus

(f) Effective July 1, 2008, an Achievement Evaluation Review Committee will be established to review all annual ratings of 4.00, or above, and to review employee complaints of inappropriate ratings, which are 2.00 or below. The Human Resource Director, non-evaluating Department Head (or City Manager) and a CBAM representative will serve as the Achievement Evaluation Review Committee. Employees who have reached the maximum of their salary range are not entitled to request a review.

i. The purpose of the review of all overall ratings of 4.00 or above is to ensure that the varying departmental cultures are reconciled, that consistency and fairness occurs throughout the organization, and to make sure that organizational values are promoted through the evaluation process. Before an employee is authorized to receive a pay increase as a result of an overall rating of 4.00 or above, the Achievement Evaluation Review Committee must review and approve the rating in the Achievement Evaluation Form. The review and response of the Achievement Evaluation Review Committee must be done within fifteen (15) business days of receipt of the Achievement Evaluation Form from the evaluating department to the Department of Human Resources. The Achievement Evaluation Review Committee's decision on the overall rating will be the final decision.

ii. Employees have fifteen (15) business days after receiving their Achievement Evaluation Form with an overall rating of 2.49 or below to request a review with the Achievement Evaluation Review Committee. An employee shall not be given an overall performance rating of less than 2.50 or below, unless they have received some form of written communication during the previous twelve (12) month evaluation period outlining the supervisor’s expectations for performance improvement. The employee’s signature is not required to trigger the fifteen (15) business day period and if the employee refuses to sign the document, the Department Head will note and date the employee’s refusal to sign. The employee must submit a written request to the Human Resources Director which details their position and must state the specific reasons for disagreement on all sections on the

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Achievement Evaluation Form that the employee believes are inaccurate and attach all documents that it contends the Achievement Evaluation Review Committee should consider. An employee’s failure to timely submit such a written request to the Human Resources Director waives the employee’s right to a review. Within fifteen (15) business days of receipt of the employee’s written request, the Achievement Evaluation Review Committee will meet with the employee and provide the employee the opportunity to discuss any and all items set forth in the employee’s written request for the review. The review request may be processed longer than fifteen (15) business days provided there is mutual agreement between the employee and the Achievement Evaluation Review Committee and that the CBAM representative who serves on Achievement Evaluation Review Committee can coordinate a date that is acceptable to all members and the employee. The Achievement Evaluation Review Committee only has the authority to increase any rating identified by the employee in the review request or affirm the rating in the evaluation, but it has no authority to decrease any rating. The Achievement Evaluation Review Committee will, among other things, review the evaluation, the employee’s position on the evaluation, and whether the employee received formal written and/or oral counseling from the evaluator during the previous twelve (12) month evaluation period. The Achievement Evaluation Review Committee shall notify the employee in writing of its decision within fifteen (15) business days of its meeting with the employee and its decision shall be final.

iii. If during the course of administering Pay for Performance, there is mutual agreement by CBAM and the City that meet and confer is necessary, CBAM and the City shall commence the meet and confer process, pursuant to the identified Pay for Performance deficiencies.

13.3 – PERS

(a) Effective July 5, 2004, the City shall pay eight percent (8%) of the miscellaneous employees’ regular and special compensation as defined by PERS as of the date of this Agreement as employee’s contribution to PERS. The amount paid under this section shall be treated as employee contributions pursuant to Section 141(h)(2) of the Internal Revenue Code or successor Section.

(b) The City agrees to pay the employer’s portion of the One (1) Year Final Compensation and Full Formula PERS plus Social Security Retirement Plan for represented miscellaneous employees.

(c) The City shall continue to provide the One (1) Year Final Compensation and Full Formula PERS plus Social Security retirement plan for members of the bargaining unit designated as miscellaneous employees by PERS.

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13.4 – F.I.C.A. – Unit members shall pay the employee’s portion of FICA and the City shall be responsible for payment of the employer’s portion.

13.5 – DISABILITY – Each employee shall pay the cost of membership in the State Disability Insurance or other long term disability insurance selected by the City.

13.6 – DIRECT DEPOSIT – All employees shall be paid by direct deposit of their payroll check into an account of their choice, except those employees who either do not hold an account with a financial institution that offers direct deposit or who do not hold an account of any type. It shall be the responsibility of the employee to establish and maintain such account. When separation from the City is caused by death, payment of all outstanding compensation, including Salary and all remaining Sick Leave, Vacation, Comp Time or Holiday Time accruals shall be paid into the employee’s direct deposit account the same as regular payroll.

13.7 – RESIDENCY CREDIT. – All employees who reside within City limits shall receive $150 per month as a discount against the cost of electric and water service during the period of such residence.

13.8 – EDUCATION INCENTIVE. – Effective July 1, 2008, represented employees whose job specification does not require a bachelor’s degree as a minimum requirement shall receive additional compensation of $200.00 per month for a Bachelor’s Degree; employees who possess a Bachelor’s Degree and a job related certificate shall receive $225.00 per month; employees who possess a Bachelor’s Degree and a certification through a professional designation of official competency after taking a test or meeting established criteria by a universally recognized authority or association will receive $250.00 per month; employees who possess a Master’s Degree will receive $275.00 per month; those employees who possess a Master’s Degree and a certification through a professional designation of official competency after taking a test or meeting criteria established by a universally recognized authority of association shall receive $300.00 per month.

ARTICLE 14 - COMPENSATORY TIME, OVERTIME AND ON-CALL PAY

14.1 - EXEMPT EMPLOYEES:

(a) Except as outlined in Article 14.7, the following listed represented classifications shall not receive overtime pay:

Assistant Director Water/Wastewater
Associate Civil Engineer
City Engineer
Customer Services Manager
Development Services Manager (Building Official)
Electric Operations & Maintenance Manager
Fleet Maintenance Manager

Amended July 2008
Information Technology Manager
Parks/Streets Maintenance Manager
Planning Engineer
Public Works Superintendent
Power Resource & Revenue Administrator
Principal Civil Engineer
Public Works Superintendent
Purchasing Manager
Recreation Manager
Redevelopment Manager
Risk Management Analyst
Senior Civil Engineer
Senior Planner
Water/Wastewater Superintendent

14.2 - Compensated time off for employees listed in Article 14.1:

(a) The employees listed in Article 14.1 ("Exempt Employees") shall receive eighty (80) hours of compensatory time off per year which shall be credited July 1 of each year, to compensate for time spent in excess of normal working hours in completing their responsibilities.

(b) Compensatory time may be accrued without limit. In the event an employee terminates his or her employment with the City, the employee shall be compensated for all compensatory time at his or her then current rate of pay.

(c) Employees may exercise the option to cash out a maximum of sixty (60) hours per fiscal year.

14.3 - NON-EXEMPT EMPLOYEES:

(a) The following represented employees are entitled to receive overtime pay:

   Assistant Planner
   Associate Planner
   Assistant Civil Engineer

14.4 - Compensated time off for Non-Exempt employees listed in Article 14.3:

(a) Non-Exempt employees shall be paid for all overtime at the rate of time and one-half (1-1/2) for each hour worked, or they shall accrue compensatory time off hours at the rate of one and one-half hour (1-1/2) for each hour worked up to a maximum of two-hundred forty (240) hours.

(b) Employees may exercise the option to cash out a maximum of sixty (60) hours of compensatory time off per fiscal year.

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14.5 - For purposes of overtime calculation, "hours worked" for non-exempt unit members shall include time spent in required court appearances as set forth in Article 16. All other hours paid for but not worked, including, but not limited to vacation, holiday, sick leave, on call time and compensatory time off shall not be counted as hours worked for overtime calculation.

14.6 - All work performed by represented employees listed in Article 14.3 in excess of forty (40) hours per week shall be paid at the rate of one and one half times (1-1/2) the employee's regular hourly base rate of pay, except for employees who choose to be compensated in additional compensatory time as outlined in Article 14.3. All overtime worked shall be authorized by a supervisor in advance of working overtime hours, if possible. Otherwise, the claim for overtime shall be subject to review by the Human Resource Director.

14.7 - Only the employees listed in Article 14.3, the non-FLSA exempt members of the Association shall be entitled to additional compensation for on call status. Employees required to remain in an on call status shall, at employee’s option, receive an additional eight (8) hours of compensatory time or pay at his/her regular rate for each week for such duty plus and additional one (1) hour for any week in which a holiday occurs. Employees shall be entitled to receive the pro rata equivalent for any partial week.

(a) When required to respond, such employee shall receive, at employee's option, a minimum of two (2) hours of compensatory time or pay at his/her regular rate for any time worked during the first one (1) hour and compensatory time or pay at time and one-half (1-1/2) for each hour worked thereafter.

(b) For purposes of this Article, an employee shall be deemed to be in on call status only when all of the following conditions are met:

(1) The appropriate Director has placed the employee in on call status by a notice in writing;

(2) The employee is required to respond to the City Yard or other designated location within a specified time not to exceed thirty (30) minutes; and,

(3) While on call the employee is prohibited from engaging in any activity which may interfere with the employee's ability to respond to an emergency call and immediately commence the required job performance.

14.8 - CTO CASH OUT:

(a) In the event an employee terminates his or her employment the City shall "cash out" the employee's accrued compensatory time. The employee shall be compensated for all such compensatory time at his/her then current, straight time rate of pay.

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14.9 - CONTRACT OVERTIME FOR NON-EXEMPT EMPLOYEES. In assessing costs against such other agency for work performed by these employees, the City shall assess compensation for such employee at the rate of one and one-half (1-1/2) times the regular rate of compensation. Represented employees shall receive in compensation the greater of that received from the third party agency for the employee's services or such compensation as he/she shall be otherwise entitled to under law and this MOU.

14.10 - PERSONAL LEAVE – Effective July 1, 2005, represented employees, who have completed the requisite probationary period, shall be credited with two (2) days of personal leave, i.e., eighteen (18) hours, effective July 1st of each year. Such personal leave must be used in nine (9) hour increments and may be used in lieu of, or in conjunction with, vacation, holiday or compensatory time off and any unused amounts may be carried over to subsequent fiscal years. Further, such personal leave is not subject to any payoff upon termination. This leave is subject to the same notice requirement as for vacation, holiday or compensatory time off.

ARTICLE 15 - ACTING PAY AND PROMOTION PAY

15.1 - A represented employee temporarily assigned by management to fill a vacancy in a higher classification, when the vacancy is created by a departure, or when the incumbent is absent in excess of twenty (20) work days, shall be compensated from the first day working such assignment, and consecutive days worked thereafter, at the lowest pay range of the incumbent which is at least five percent (5%) above the acting employee's normal rate of compensation while working in the higher classification. The conditions of this subsection are a prerequisite to the receipt of any higher acting pay. At such time as an employee is no longer performing work out of his permanent classification, he/she shall be compensated at his/her regular rate of pay for his/her permanent classification.

15.2 - Represented employees promoted to work in a higher classification shall be paid five percent (5%) more than the employee received in the lower classification.

15.3 - Temporary assignments to perform work out of an employee's permanent classification shall be limited in duration to six (6) months in any one (1) year. A time extension to the temporary assignment beyond the initial six months may be made with the concurrence of CBAM in writing.

ARTICLE 16 - PAY FOR JURY DUTY & COURT APPEARANCES

16.1 - Any employee who shall be summoned for attendance to any court for jury duty during his/her normal working hours shall be deemed to be on duty and there shall be no loss of salary, but any jury fees received by him/her shall be paid into the City treasury. Any employee, who shall be called as a witness arising out of and in the course of his/her City employment, shall be deemed to be on duty and there shall be no loss of salary, but any witness fees received by him/her shall be paid into the City treasury. An employee absent as a witness in a private matter shall not be entitled to

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be paid during such absence, but he/she may, however, use vacation leave, holiday leave, personal leave or compensatory leave for such absence.

ARTICLE 17 - SAFETY, EQUIPMENT, AND TRAINING

17.1 - The City will provide covered employees safety equipment in accordance with California State Law. Effective the first full pay period in January 2009 and annually thereafter, the City shall provide a yearly boot/safety shoe allowance of $200 to each employee who is required, by nature of his/her work to wear a specific type/style of she or boot. An approved shoe/boot is one which meets the minimum standards as determined by the Department Head. Departmental standards shall not be less than those which may be required by CAL/OSHA. Employees shall wear approved shoes/boots during working hours where required by work conditions.

17.2 - The City shall reimburse represented employees the reasonable replacement value of personal property destroyed in the course and scope of their employment. The employee shall make application for reimbursement by presenting to the appropriate supervisor the damaged or destroyed article. Personal property subject to this provision consists of personal property necessary to fulfill the employee’s job duties and that is approved in advance for use on the job. Replacement for prescription eyewear is limited to $200 per pair per year. Replacement for watches is limited to $100 per year. Replacement of items will be secondary to any applicable insurance.

17.3 - A Joint Safety and Training Committee shall be continued.

(a) Joint Safety and Training Committee. The Committee shall consist of an equal number of members appointed by the City and the Association. The Committee shall be advisory only. The Committee shall meet on a regular basis, but not less than once (1) per quarter. The Association and City may agree to meet more frequently on a regular or special basis. The Committee may review work practices, training, procedures and rules and may recommend changes in the interest of health and safety. The Committee may review all serious accidents, injuries or fatalities, and include recommendations resulting from its review in the Committee’s minutes.

(b) Reporting. Minutes of all Committee meetings shall be posted on Association bulletin boards, with copies to the Human Resource Director and to the President of the Association, within five (5) working days after the Committee meeting. Specific questions submitted either to the Committees or by the Committees to Management will be responded to within a reasonable time and the answers posted on Association bulletin boards.

(c) Proceedings of the Committee shall be completely independent of any disciplinary action and the Committee’s findings shall not be entered into the record of any such disciplinary proceedings.
ARTICLE 18 - MILEAGE, MEALS AND OTHER REIMBURSEMENTS

18.1 - Effective July 1, 2008, the following listed classifications, shall be provided with a $250 per month vehicle allowance under this section. The City will also provide employees with mileage reimbursements as provided in the Administrative Policy E-1 dated September 1, 2001, except that AP E-1 item C.4 is amended as follows: mileage for trips exceeding forty (40) miles round trip shall be reimbursable at the current IRS rate for total trip mileage that exceeds forty (40) miles, an employee may only request reimbursement for expenses equal to or greater than $20.00 and an employee must keep record of the mileage or aggregate from multiple trips to establish the $20.00 minimum.

Associate Civil Engineer
Associate Planner
Assistant Civil Engineer
Assistant Planner
Customer Services Manager
Information Technology Manager
Planning Engineer
Power Resource & Revenue Administrator
Principal Civil Engineer
Purchasing Manager
Recreation Manager
Redevelopment Manager
Risk Management Analyst
Senior Planner
Senior Civil Engineer

18.2 - The following listed classifications shall be provided with a City Vehicle for performing City business and travel to and from work:

Assistant Director Water/Wastewater
City Engineer
Development Services Manager (CBO)
Fleet Maintenance Manager
Public Works Superintendent
Streets/Parks Maintenance Manager
Electric Operations & Maintenance Manager
Public Utilities Superintendent

In the event the City vehicle is unavailable, the employee shall receive a vehicle allowance or mileage, consistent with City policy.

18.3 - All employees receiving such vehicle allowance shall name the City as an additional named insured on any policy of insurance providing coverage for the vehicle used by the employee for the purposes set forth herein. Proof of current insurance shall be maintained on file with the City.

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18.4 - Employees not receiving compensation pursuant to Section 18.1, 18.2 or 18.3 above shall be reimbursed for use of their own vehicle for authorized City business at the rate set by the Internal Revenue Service.

18.5 - Employees shall be reimbursed for meals as per the administrative policies of the City.

18.6 - The City shall bear the full cost of any fidelity or other bonds required of the represented employee under any law or ordinance.

18.7 - Members who are certified under the State of California Department of Motor Vehicles Employer Testing Program to train and test for Class "A" driver's license (truck portion) will receive a $50.00 stipend each time such training is done. Payment will be authorized by the Human Resources Department only upon receipt of proper documentation that the City remains in compliance with the Employer Testing Program.

ARTICLE 19 - TUITION, BOOK REIMBURSEMENT AND PROFESSIONAL TRAINING AND TRAVEL

19.1 - QUALIFICATIONS - Tuition reimbursement is limited to $3,500 per year and cost of books actually paid will be reimbursed to all permanent employees for professional and technical courses approved by the Human Resource Director and taken in an accredited educational institution provided that:

(a) The subject matter of the course relates directly to and contributes toward the employee's position with the City.

(b) The employee has received at least a competent proficiency rating on the last evaluation report.

(c) The employee has furnished evidence that the course has been completed with at least a 'C' grade.

(d) Textbooks paid for by the City shall be returned to the City upon request and shall become the property of the City.

(e) However, for employees who are enrolled in an approved Master Degree Program as of September 14, 2004, the City will provide payment of tuition in an amount equivalent to the cost of obtaining the education at a California State University or University of California. All other provisions will apply to such employees, except the $3,500 cap on tuition reimbursement. Unit members who are subject to this provision will only continue to receive this benefit provided they do not have an absence in their enrollment beyond one eighty (180) days.

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19.2 - REIMBURSEMENT

(a) Requests for reimbursement must be completed and returned to the Human Resources Department within three (3) weeks after receipt of course completion documentation. (No reimbursement will be made without bona fide receipts or documentation).

(b) Reimbursement for textbooks will be approved only if the textbooks were not made available at no cost to the employee by the City.

(c) Reimbursements will be made only after proof of completion of course with 'C' average or better and satisfactory receipts of payment for books and tuition are approved by the Human Resources Department.

19.3 - TRAINING - Employer hereby agrees to pay, as outlined in Article 18, the travel and subsistence expenses of represented employees for professional and official travel, meetings, and occasions required to continue the professional development of Employee and to adequately pursue necessary official and other functions of Employer, including but not limited to annual state conference of the California League of Cities, and such other national, regional, state and local governmental groups provided it is budgeted in the annual operations budget. Time spent in City required and approved training or conferences, including travel time shall be included as time worked in accordance with FLSA standards. The City shall not pay for the costs incurred to meet minimum job requirements.

19.4 - TOOLS - The City hereby agrees to finance at no interest the purchase of any job-related tools or equipment that serve the professional development of any represented employee over the term of this Memorandum of Understanding. Such tools and equipment shall be approved in advance by the Human Resource Director. Repayment to the City by the represented employee shall be made by payroll deductions until the amount loaned is completely repaid. The maximum period for repayment shall be two (2) years.

ARTICLE 20 - SICK LEAVE

20.1 - Represented employees shall accrue three and sixty-nine hundredth (3.69) hours of sick leave per pay period. Sick leave shall accrue without limit.

20.2 - Sick leave shall be granted only where consistent with the City's sick leave policy (currently AP-1), except as otherwise provided in the Family Medical Leave Act and Pregnancy Leave policies of the City (currently AP-02).

20.3 - All sick leave shall hereafter accrue in a "Bank". Any employee may cash in the "Bank", to a maximum of ninety-six (96) hours, at straight time at the current rate of pay, but will not be allowed to cash out the "Bank" below forty (40) hours. This request
must be made no later than Nov. 1st of each year and the payment shall be made in the last check issued in November of each year.

(a) Upon separation, service retirement, disability retirement, or termination, an employee shall be eligible to receive a cash payment for accrued sick leave in the "Bank" in an amount equivalent to straight time, to a maximum of ninety-six (96) hours.

(b) After ten (10) years of continuous City service, all hours accrued in the "Bank" less the total hours cashed out in 20.4 A, shall be eligible for conversion to cash in an amount equivalent to thirty percent (30%) of such unused sick Leave. Such reimbursement to be computed based upon the employees' final compensation rate. (See AP-01). Beginning with the eleventh (11) of City service, unit members may convert the value of the total amount of their sick leave bank minus forty (40) hours to either Deferred Compensation or the Retiree Health Savings. Thereafter, the unit member may contribute one hundred percent (100%) of the value of unused sick leave minus forty (40) hours for such purposes.

20.4 – All Employees covered by this Agreement who have passed their probation are granted bereavement leave. In the event of the death of a member of their family, including mother, father, brother, sister, child, grandchild, or grandparent of the employee or any one of the same relatives of the employee's spouse, the employee shall be allowed twenty-four (24) hours of bereavement leave for each death of a family member. In the event of the death of a spouse or multiple family deaths occurring within a twenty-four (24) hour period, the employee shall be allowed forty (40) hours of bereavement leave.

20.5 - In addition to the foregoing bereavement leave, the employee may also utilize up to sixteen (16) hours from accrued sick leave, if there is a death of a family member and up to forty (40) hours from accrued sick leave in the event of the death of a spouse or multiple family deaths. If the employee has insufficient accumulated sick leave to exercise this option, the employee may utilize accrued vacation, or compensated time off for the additional bereavement leave.

ARTICLE 21 - VACATION AND HOLIDAY LEAVE

21.1 - For members of the Association effective July 5, 2004, vacation leave shall accrue in accordance with the following schedules:

(a) One (1) through four (4) years service:
Ten (10) eight (8) hour days per year = three and eight hundredth (3.08) hours per pay period

(b) Beginning the fifth (5th) year through the ninth (9th) year:
fifteen (15) eight (8) hour days per year = four and sixty-two hundredth (4.62) hours per pay period

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(c) Beginning the tenth (10th) year & thereafter:
   twenty (20) eight (8) hour days per year = six and fifteen hundredth (6.15) hours per pay period

Vacation leave may be accrued to a maximum of three-hundred twenty (320) hours. If an employee has accumulated the maximum allowed under this Article, said employee will receive no further vacation leave accruals until said employees uses a portion of his/her vacation leave and his/her vacation leave accruals have been reduced below the maximum. There shall be no retroactive receipt of any vacation leave lost as a result of this Article.

21.2 - Vacation leave may be taken with approval of the employee’s supervisor, and as otherwise consistent with the policies of the City. Vacation leave may be taken at any time following the completion of the six (6) month probationary period. Vacation leave taken shall not be in excess of that actually accrued at the time such vacation leave is taken. Vacation leave must be approved a minimum of fourteen (14) days in advance of the first (1st) day of such vacation. Exceptions may be made to the fourteen (14) day notice requirement for emergencies or at the discretion of the employee’s supervisor.

21.3 - Any employee, who has been in continuous full-time service of the City for a period of six (6) months or more, who is about to terminate his or her employment, and has earned vacation leave to his/her credit, shall be paid for such vacation leave on the effective date of such termination at the current rate of pay.

21.4 - Employees with greater than two hundred fifty (250) hours of accrued vacation time may request a one-time cash out of fifty percent (50%) of the total available hours to be paid at their current pay rate. Unused vacation accrual in excess of eighty (80) hours may be paid off at the option of the employee up to a maximum of eighty (80) hours per fiscal year.

21.5 - Holiday time off shall accrue for members of the bargaining unit at the rate of three and sixty-nine hundredth (3.69) hours per pay period.

21.6 - Holiday leave other than City recognized holidays (City Hall closed) must be approved a minimum of fourteen (14) days in advance of the first day of such leave. Exceptions may be made to the fourteen (14) day notice requirement for emergencies or at the discretion of the employee’s supervisor.

21.7 - Any employee, who is about to terminate his/her employment, and has earned holiday leave to his/her credit, shall be paid for such holiday leave on the effective date of such termination at the employee’s then current rate of pay.

21.8 - If, during the term of this MOU, the City Council recognizes an additional Holiday for City employees the accrual rate shall be adjusted accordingly.

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ARTICLE 22 - CAFETERIA PLAN

22.1 - For the period July 1, 2008 through June 30, 2009, the City shall contribute $817.00 per month to each represented employee for the cafeteria benefits plan detailed in this section. For the period July 1, 2009 through June 30, 2010, the City shall contribute $947.00 per month to each represented employee for the cafeteria benefits plan detailed in this section.

(a) Said contribution shall first be used to provide for health insurance for the employee. Employee shall be covered by health insurance with a City approved health plan unless the employee provides proof to the City that employee is covered by another acceptable health plan as determined by the City's Human Resource Director.

(b) The balance may be used for any of the following or any combination thereof:

1. Health insurance for employee's spouse and/or dependents.
2. Dental Plan for employee, spouse and/or dependents.
3. Eye care plan for employee, spouse and/or dependents
4. Term life insurance on employee's life.
5. Deferred compensation programs.

(c) Employee may elect to receive ninety-two and five-tenth percent (92.5%) of the balance in cash as PERS non-includable taxable income.

(d) The City will pay for life insurance in the amount of $150,000 and the employee will pay the taxes on the portion of the premium attributable to coverage above $50,000.

22.2 - During the term of this Agreement, the City shall maintain an Internal Revenue Section 125 program which will allow employees to allocate specified amounts of monthly pre-tax salary or wages for the reimbursement of medical care expenses or dependent care expenses or both, as well as health and welfare insurance premiums, with the exception of disability insurance premiums.

22.3 - Effective July 1, 2005, the City will reimburse employee and employee's dependents a maximum of $250 for eyewear every two (2) years.

ARTICLE 23 - MANAGEMENT INCENTIVE PAY

23.1 - Commencing July 1, 2008, the additional two percent (2%) of the employee's gross annual salary previously provided as part of the cafeteria benefit will be discontinued and represented employees shall instead receive two percent (2%) of the employee's gross annual salary as management incentive pay. This management incentive pay shall be considered as salary for the purposes of PERS contributions.

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ARTICLE 24 - VOLUNTARY EMPLOYEE BENEFICIARY ASSOCIATION PLAN

(VEBA)

24.1 **VEBA** - The City of Banning has adopted the City of Banning California Government VEBA Plan. This plan is established pursuant to the provisions of IRS Code Section 501(c)(9). The purpose of the Voluntary Employee Benefit Association (VEBA) is to provide employees with the ability to plan for future as well as current health care expenses. Expenses such as Long Term Care, un-reimbursed medical premiums, co-pays and pharmacy charges are all eligible expenses under a VEBA Trust arrangement. Employees will realize a significant benefit since eligible contributions to a VEBA Trust are tax exempt and the reimbursed expenses from the VEBA Trust are also tax exempt.

24.2 **Effective Date** - Represented CBAM Employees are hereby approved to participate in the California Government VEBA Plan per City Council Resolution #2008-06. The participation level for such employees has been determined by the members of CBAM and is attached here as Exhibit A. Such participation of the group shall become effective July 1, 2008, and shall continue until such time as participation is no longer available in the City of Banning. All participation shall be mandatory and in accordance with IRS provisions and the attached Exhibit. Employees may elect to contribute or modify contributions to the VEBA in accordance with the participation options provided in said Exhibit.

24.3 **Eligible Contributions** - All employee contributions made to a VEBA account shall comply with federal law and IRS provisions as may be amended. The eligible contributions are contained in the attached Exhibit. The contribution levels are also contained in the attached Exhibit.

The following types of contributions may be made to a VEBA:

**Final Pays Such as Sick Leave, Vacation and Management Leave Balances** – Such annual and final pays may be directed to an employee VEBA account on an annual basis and/or upon separation of employment as described in the attached Exhibit. Separation from employment is defined as retirement, resignation or termination from employment with the City of Banning.

**Salary Reduction** – An employee is required to make a mandatory contribution via payroll deduction to his/her individual VEBA account. Such contribution shall be made in accordance with the negotiated contribution amount contained in Exhibit A.

ARTICLE 25 - LAYOFFS AND RE-EMPLOYMENT

25.1 **PURPOSE**. The purpose of this Article is to provide a fair and equitable basis for the reduction of full-time classified personnel due to insufficient work or funds.

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25.2 - REASONS FOR LAYOFF. The City retains the right to determine when a lack of work or lack of funds condition exists. Lack of work means that a category of work effort within the City can be fulfilled with fewer employees at an acceptable level of service. Lack of funds means that the City cannot sustain operations at the current level of employment within the funding available.

25.3 - NOTICE OF LAYOFF. Any layoff initiated under the provisions of this document can take place at any time during the year. The City shall notify the affected employees in writing at least sixty (60) calendar days prior to the employee's last day of work. The City reserves the right to pay the employee for such sixty (60) day period or any remaining portion thereof, and to require the employee to immediately vacate City property. A copy of any notice will be forwarded to the appropriate bargaining unit representative. Any notice of layoff shall specify the reason for the layoff and effective date. The form and timing of such notice shall be subject to the established Grievance Procedure provided however, that the City's decision to layoff is not subject to the grievance procedure. The date of layoff shall not be delayed by the pendency of a grievance.

25.4 - ORDER OF LAYOFF. Any layoff shall be effective within classes determined by the City. The order of layoff shall be based on the City Manager's evaluation of critical position function and seniority measured as the length of uninterrupted service within the class as measured to the date of the layoff notice.

25.5 - EQUAL SENIORITY. If two (2) or more employees subject to layoff have equal class seniority, then the determination as to who has seniority shall be based upon total length of uninterrupted service with the City.

25.6 - RE-EMPLOYMENT RIGHTS.

(a) Any Association member who has been given a written notice of layoff may compete for any open position for which he or she is qualified. The City will make reasonable efforts to notify the affected employee of any position that is open or any future position that is opening for the Association member's consideration. The Human Resource Manager shall receive and date the resume/application and set up testing for the member who is qualified for that position. The Association member shall compete with any other laid off employee who also qualifies for that position. An Association employee that has been laid off and is qualified shall compete for the position that has opened or that is opening prior to it being open to present employees or to the public.

(b) Employees who have been laid off or reduced in classification under the provisions of this Article shall be placed upon reemployment lists for a period of two (2) years, or until they are re-employed with the City, whichever occurs first. For purposes of this section, "reemployment" means any full-time employment with the City. Employees on a reemployment list shall have hiring preference for vacancies in their original classifications in order of their
respective seniorities within those classifications, with the most senior employees having first preference. Employees on such reemployment lists shall also have preference over new hires in applying for vacancies in bargaining unit classifications other than those from which they were laid off, and according to the City's usual and customary hiring practices.

(c) This article shall be implemented consistent with the provisions of Administrative Policy AP-10.

ARTICLE 26 - GRIEVANCE PROCEDURE

26.1 - As to all employees listed in Section 1.4, no discipline may be imposed except as consistent with FLSA rules for the applicable class of exempt employee.

26.2 - Any permanent employee in the bargaining unit who has a grievance based upon his/her demotion, dismissal, reduction in pay, improper treatment, violation of the personnel ordinance or salary resolution, shall be entitled to have the matter reviewed through the following grievance procedure outlined in this article. This right shall not extend to complaints concerning Achievement Evaluation Forms.

26.3 - Informal Step. An attempt shall be made to ascertain all facts and adjust such grievance on an informal basis between the employee and, if he/she desires, his/her representative, and the immediate supervisor. Presentation of such grievance shall be made within fourteen (14) calendar days of the incident causing the grievance, or the date on which the employee first became aware of it.

26.4 - Step One. If the grievance is not adjusted to the satisfaction of the employee under the procedures set forth in Sections 24.3 above, the employee or his/her representative may submit the grievance, in writing, to the City Manager, within fourteen (14) calendar days after the completion of the last step under paragraph 24.3 above. The City Manager shall meet with the employee, and his/her representative if applicable, within fourteen (14) calendar days of receipt of such written grievance, and shall deliver his decision in writing, to the employee, along with the reasons for such decision, within fourteen (14) calendar days after the meeting.

26.5 - Step Two. If the grievance is not adjusted to the satisfaction of the employee under the procedures set forth in Sections 24.3 and 24.4 above, the employee or his/her steward or business representative, as appropriate, may submit the grievance, in writing, to the Human Resource Director, within fourteen (14) calendar days after the last step under paragraph 24.4, above. The Human Resource Director shall meet with the employee, and his/her steward or business representative, as appropriate, within fourteen (14) calendar days of receipt of such written grievance, and within the next fourteen (14) calendar days after such meeting shall deliver his/her decision in writing, to the employee, along with the reasons for such decision.

26.6 - Step Three. If the grievance is not adjusted to the satisfaction of the employee under the procedure set forth in Section 24.5 above, the employee or his/her representative may submit written notice to the City Manager within fourteen (14)
calendar days after the completion of the last step under paragraph 24.5 above of his/her intent to submit the matter to advisory arbitration. The procedures set forth below shall be followed.

(a) Within seven (7) calendar days of receipt of the written notice, the parties shall request a list of seven (7) arbitrators from the Federal Mediation and Conciliation Service.

(b) Within fourteen (14) calendar days of receipt of the list of arbitrators the City and the Association shall attempt to reach an agreement on an arbitrator. Failing to agree on an arbitrator, the Association and the City shall take turns striking the names or arbitrators from the FMCS list until one (1) name remains. The Association shall strike the first name.

(c) The parties shall contact the arbitrator to arrange for a mutually convenient time and date for the advisory arbitration hearing.

(d) The cost of the arbitrator shall be split equally by the City and the Association.

(e) All arbitration proceedings shall be recorded. The arbitrator shall be required to provide both parties with a decision and with written findings of fact in support of the decision. The arbitrator’s decision shall be consistent with and supported by the substantive law.

26.7 - **Step Four.** Within seven (7) calendar days after the Association and City receive the advisory arbitrator’s recommendation, either party may submit written argument whether the arbitrator’s opinion should be accepted, rejected or modified. Within fourteen (14) calendar days after the seven (7) day period above has expired, the City Manager shall advise the Association and the Department Head whether the City Manager is accepting, rejecting, or modifying the recommended decision. The decision of the City Manager shall be final and binding.

26.8 - The above time limits may be changed by mutual agreement.

**ARTICLE 27 - MISCELLANEOUS**

Effective July 1, 2008 CBAM/SBPEA agrees that the probationary period for newly hired represented employees will be one year. The probationary period for promotions will remain at six (6) months.

The City agrees that as soon as practicable, job specifications will be reviewed to determine any necessary changes in minimum education requirements.

**ARTICLE 28 - SAVINGS CLAUSE**

If any of the provisions contained in this Memorandum of Understanding are determined to be unlawful, then only such provision(s) shall be deleted from this Memorandum of Understanding with the remainder of this Memorandum of Understanding remaining in
full force and effect. Upon the issuance of a decision by a Court of Competent Jurisdiction declaring any section of this Memorandum to be unlawful, unenforceable, unconstitutional, or not applicable, the parties agree to meet and confer as soon as possible concerning only those sections.

**ARTICLE 29 - COMPLETE AGREEMENT**

Anything contained herein to the contrary notwithstanding, during the meeting and conferring resulting in this Memorandum of Understanding, the City and the Association each had the unlimited right and opportunity to make demands and proposals with respect to any subject matter as to which the Meyers-Miliaris-Brown Act imposes an obligation to meet and confer. Except as specifically set forth elsewhere in this Memorandum of Understanding, the City expressly waives its right to require the Association meet and confer, and the Association expressly waives its right to require the City to meet and confer, over all matters as to which the Meyers-Miliaris-Brown Act imposes an obligation to meet and confer, whether or not: (a) such matters are specifically referred to in this Memorandum of Understanding; (b) such matters were discussed between the City and the Association during the negotiations which resulted in this Memorandum of Understanding; (c) such matters were within the contemplation of or knowledge of the City or the Association at the time this Memorandum of Understanding was negotiated and executed. This Memorandum of Understanding contains the entire understanding, undertaking, and agreement of the City and the Association, after exercise of the right and opportunity referred to in the first sentence of this Article, and finally determines all matters of meeting and conferring for its term. Changes in this Memorandum of Understanding, whether by addition, waiver, deletion, amendment, or modification, must be reduced to writing and executed by both the City and the Association.

**IN WITNESS WHEREOF THE PARTIES HAVE CAUSED THEIR SIGNATURES TO BE AFFIXED THIS 22nd DAY OF July 2008**

**FOR THE CITY OF BANNING**

Brenda Salas, Mayor

Fred Mason, President

**FOR THE CITY OF BANNING**

Art Welch
Chair

Dan Seward
Association Representative

Amended July 2008
EXHIBIT A

CITY OF BANNING
VOLUNTARY EMPLOYEE BENEFIT ASSOCIATION (VEBA)
SIDELETTER AGREEMENT

PURPOSE OF A VEBA:
The purpose of the VEBA is to provide employees with the ability to plan for future health care expenses. Expenses such as Long Term Care, un-reimbursed medical premiums, co-pays and pharmacy charges are all eligible expenses under a VEBA Trust arrangement. Employees will realize a significant benefit since eligible contributions to a VEBA Trust are tax exempt and the reimbursed expenses from the VEBA Trust are also tax exempt.

EFFECTIVE DATE:
City of Banning Association of Managers (CBAM) employees are hereby approved to participate in the California Government VEBA per City Council Resolution #2008-06. The participation level for such employees have been determined by the CBAM group and is attached here as Exhibit A. Such participation of the group shall become effective July 1, 2008, and shall continue until such time as participation is no longer available in the City of Banning. All participation shall be mandatory, in accordance with IRS provisions and the attached Exhibit A. Employees may elect to contribute or modify contributions to the VEBA in accordance with the negotiated participation options provided in said Exhibit.

ELIGIBLE CONTRIBUTIONS:
The eligible contributions are contained in the attached Exhibit. The contribution levels are also contained in the attached Exhibit.

The following types of contributions may be made to a VEBA:

- **Final pays such as sick leave, vacation and management leave balances** – Such annual and final pays may be directed to an employee VEBA account on an annual basis and/or upon separation of employment as described in the attached Exhibit. Separation from employment is defined as retirement, resignation or termination from employment with the City of Banning.
- **Salary Reduction** – An employee is required to make a mandatory contribution via payroll deduction to his/her individual VEBA account. Such contribution shall be made in accordance with the negotiated contribution amount contained in Exhibit A.

All employee contributions made to a VEBA account shall comply with Federal Law and IRS provisions as may be amended.

For The City For The CBAM Group

| City Manager | Date | | Fred Mason | Date |

CBAM MOU 2008

1
CITY OF BANNING
VOLUNTARY EMPLOYEE BENEFIT ASSOCIATION (VEBA) PLAN
CBAM Management Group

Contribution Agreement

As a participant in the City of Banning’s VEBA plan I understand that I am required to select a level of participation in the plan. I also understand that I may make a salary reduction contribution (payroll deduction) and/or an optional contribution of all or a portion of my annual leave pay outs and/or all or a portion of my terminal leave pay outs. I also understand that my elections may be changed annually.

My contribution election(s) is/are as follows:

<table>
<thead>
<tr>
<th>Salary reduction:</th>
<th>Annual Leave Pay Out (Option):</th>
<th>Cafeteria Dollars (Option)</th>
</tr>
</thead>
<tbody>
<tr>
<td>$20 per p/p</td>
<td>Sick Leave 10%</td>
<td>10%</td>
</tr>
<tr>
<td>1% per p/p</td>
<td>Vacation Leave 10%</td>
<td>10%</td>
</tr>
<tr>
<td>2% per p/p</td>
<td>25%</td>
<td>25%</td>
</tr>
<tr>
<td>3% per p/p</td>
<td>50%</td>
<td>50%</td>
</tr>
<tr>
<td>4% per p/p</td>
<td>75%</td>
<td>75%</td>
</tr>
<tr>
<td>Other</td>
<td>75%</td>
<td>75%</td>
</tr>
<tr>
<td></td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Terminal Leave Pay Out (Option):

<table>
<thead>
<tr>
<th>Management Leave</th>
<th>Sick Leave 10%</th>
<th>Vacation Leave 10%</th>
</tr>
</thead>
<tbody>
<tr>
<td>10%</td>
<td>10%</td>
<td>10%</td>
</tr>
<tr>
<td>25%</td>
<td>25%</td>
<td>25%</td>
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<tr>
<td>50%</td>
<td>50%</td>
<td>50%</td>
</tr>
<tr>
<td>75%</td>
<td>75%</td>
<td>75%</td>
</tr>
<tr>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Note: Selection of terminal leave or annual leave pay out option must be made 2 weeks prior to annual pay out or separation from service.

By my signature below, I authorize the City of Banning to make the transactions listed above.

Signature ________________________ Date ________________________

Amended July 2008
DATE:       July 22, 2008

TO:         City Council

FROM:       Bonnie J. Johnson, Finance Director

SUBJECT:    Resolution 2008-90 A Resolution of the City Council of the City of Banning
            Authorizing the Submittal of the FY 2008-09 Local Transportation Fund (LTF)
            and State Transit Assistance Fund (STA) Public Transit Claims and approving
            the FY 2008/09 – 2010/11 Short Range Transit Plan (SRTP)

RECOMMENDATION: “The City Council approve Resolution No. 2008-90, authorizing the
submittal of the FY 2008-09 Local Transportation Fund (LTF) and State Transit Assistance Fund
(STA) Public Transit Claims in the amounts of $1,138,537 and $849,298, respectively, and
approving the FY 2008/09 – 2010/11 Short Range Transit Plan (SRTP)”.

JUSTIFICATION: LTF dollars are needed to fund the operation of the City’s fixed route and dial-
a-ride services. STA funding is required for the purchase of capital items needed by the transit
system. Some of the items that will be purchased with the funds from this STA claim include two
dial-a-ride replacement vehicles, bus stop amenities, electronic fare boxes, automated enunciator
and display equipment and computer equipment.

The SRTP is prepared annually and justifies the amount of funding being requested from the
Riverside County Transportation Commission (RCTC). The plan, as well as the required funding
sources, has already been approved by RCTC.

BACKGROUND: The City operates three fixed routes and a dial-a-ride service. The Riverside
County Transportation Commission (RCTC) allocates LTF and STA dollars to the City each year to
cover the transit system’s operating and capital costs. A claim form must be submitted annually to
RCTC in order for the funds to be released to the City. The SRTP should be approved by the
Council as part of the claim submittal process.

FISCAL DATA: The Fiscal Year 2008-09 LTF transit claim total of $1,138,537, along with fare
box recovery, will fund the operating expenditures for the City’s transit and dial-a-ride services. The
Fiscal Year 2008-09 STA transit claim total of $849,298 will fund the capital expenditures for the
City’s transit and dial-a-ride services as shown in the SRTP.

RECOMMENDED BY:                                    APPROVED BY:

Bonnie J. Johnson                                    Brian Nakamura
Finance Director                                    City Manager

Report Prepared By: Michelle Green, Accounting Manager
RESOLUTION NO. 2008-90


WHEREAS, the City of Banning annually receives an allocation of Local Transportation Funds to operate the City’s transit and dial-a-ride services; and

WHEREAS, the City of Banning annually receives an allocation of State Transit Assistance (STA) Funds for the purchase of capital items for the City’s transit and dial-a-ride services; and

WHEREAS, a claim form and standard assurances must be submitted to the Riverside County Transportation Commission in order to receive the allocated LTF and STA funds; and

WHEREAS, the Short Range Transit Plan is prepared annually as justification for the LTF and STA funding requests; and

WHEREAS, the SRTP should be approved as part of the claim submittal process;

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

Section I. The City Council of the City of Banning hereby authorizes the Finance Director to execute and submit the Fiscal Year 2008-09 LTF Public Transit Claim in the amount of $1,138,537 and the 2008-09 STA Public Transit Claim in the amount of $849,298 on behalf of the City of Banning.

Section II. The City Council approve the FY 2008/09-2010/11 Short Range Transit Plan.

PASSED, APPROVED AND ADOPTED this 22nd day of July 2008.

Brenda Salas, Mayor
City of Banning

APPROVED AS TO FORM
AND LEGAL CONTENT:

Burke, Williams & Sorensen, LLP
City Attorney

Reso. No. 2008-90
ATTEST:

__________________________
Marie A. Calderon, City Clerk
City of Banning

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California do hereby certify that the foregoing Resolution No. 2008-90, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 22nd day of July 2008.

AYES:

NOES:

ABSTAIN:

ABSENT:

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

Reso. No. 2008-90
RIVERSIDE COUNTY TRANSPORTATION COMMISSION
TDA: LOCAL TRANSPORTATION CLAIM FORM
FY 2008/09

CLAIMANT: City of Banning
COUNTY: RIVERSIDE

ADDRESS: 99 E. Ramsey St., P.O. Box 998
Banning, CA 92220

CONTACT PERSON: Michelle Green
TITLE: Accounting Manager

TELEPHONE NUMBER: 951) 922-3118
EMAIL ADDRESS: mgreen@ci.banning.ca.us

I verify that the information on this Claim Form is true and accurate to the best of my knowledge. Additionally, I verify that the FY 2008/09 SRTP has been approved by my agency's governing body and a copy of the minutes approving the FY2008/09 SRTP is attached.

SIGNED: ________________________________ DATE: ________________

Purpose: Article 4
PUC 99260a

REQUESTED PAYMENT
Payment for Operations
(From page 3, Line 11) 1,138,537

PAYMENT FOR CAPITAL
(From page 3, Line 11)

PAYMENT FOR CAPITAL
Prior Year Reserves
(From Page 3, Line 12)

TOTAL PAYMENT REQUESTED: $ 1,138,537

CONDITION OF APPROVAL: Approval of this claim and payment by the County Auditor to the claimant are subject to the monies being available and to the provision that such monies will be used only in accordance with the terms and conditions set forth in this claim.

FOR RRTC USE ONLY

FUNDS FOR OPERATING ASSISTANCE WILL BE DISBURSED BASED ON RRTC'S APPROVED POLICY.

FUNDS FOR CAPITAL WILL BE DISBURSED BASED ON INFORMATION CONTAINED ON PAGE 2 CONTINGENT UPON OPERATOR SUBMISSION OF ACCEPTABLE PROOF OF PURCHASE (P.O.s, Contract Award or Paid Invoice).

July $ - August $ - September $ - 
October $ - November $ - December $ - 
January $ - February $ - March $ - 
April $ - May $ - June $ - 

7/11/2008
LTF claim form 1
RIVERSIDE COUNTY TRANSPORTATION COMMISSION
TDA: LOCAL TRANSPORTATION CLAIM FORM
FY 2008/09

CAPITAL PROJECT PAYMENTS

<table>
<thead>
<tr>
<th>Part 1: Payments from Current Fiscal Year Allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Project Description</strong></td>
</tr>
<tr>
<td>1</td>
</tr>
<tr>
<td>2</td>
</tr>
<tr>
<td>3</td>
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<tr>
<td>4</td>
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<tr>
<td>5</td>
</tr>
<tr>
<td>6</td>
</tr>
<tr>
<td>7</td>
</tr>
<tr>
<td>8</td>
</tr>
</tbody>
</table>

**TOTAL:** (Enter on line 11, Page 3)  
$ - $ - $ -

<table>
<thead>
<tr>
<th>Part 2: Payments from Reserves (Funds Allocated in Prior Years but not Claimed)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Project Description</strong></td>
</tr>
<tr>
<td>1</td>
</tr>
<tr>
<td>2</td>
</tr>
<tr>
<td>3</td>
</tr>
<tr>
<td>4</td>
</tr>
<tr>
<td>5</td>
</tr>
</tbody>
</table>

**TOTAL:** (Enter on line 12, Page 3)  
$ - $ - $ -

ALL CAPITAL PROJECTS LISTED ABOVE MUST BE INCLUDED IN THE SHORT RANGE TRANSIT PLAN AND APPROVED REGIONAL TRANSPORTATION IMPROVEMENT PROGRAM (RTIP).
# RIVERSIDE COUNTY TRANSPORTATION COMMISSION
## TDA: LOCAL TRANSPORTATION CLAIM FORM
### FY 2008/09

<table>
<thead>
<tr>
<th>REVENUES</th>
<th>OPERATING ASSISTANCE</th>
<th>CAPITAL ASSISTANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ESTIMATED FY 2007/08</td>
<td>ESTIMATED FY 2008/09</td>
</tr>
<tr>
<td>1) Prior Year Carryover (Note 1)</td>
<td>$122,833</td>
<td>$155,903</td>
</tr>
<tr>
<td>2) Passenger and Special Fares</td>
<td>119,550</td>
<td></td>
</tr>
<tr>
<td>3) Other Operator Revenues</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4) Other Local (Interest)</td>
<td>7,000</td>
<td></td>
</tr>
<tr>
<td>5) FTA Section 5307</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6) FTA Section 5309</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7) FTA Section 5311</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8) Other (Specify)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9) Other Federal</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10) State Transit Assistance</td>
<td></td>
<td>915,000</td>
</tr>
<tr>
<td>11) LTF (Current Year Allocation)</td>
<td>1,058,494</td>
<td>1,138,537</td>
</tr>
<tr>
<td>12) LTF (Reserves)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>COA Expense (Paid by RCTC)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>13) TOTAL REVENUES</td>
<td>$1,181,327</td>
<td>$1,420,990</td>
</tr>
<tr>
<td>14) Expenses (Note 2)</td>
<td>1,025,424</td>
<td>1,265,087</td>
</tr>
<tr>
<td>15) Surplus (Deficit)</td>
<td>$155,903</td>
<td>$155,903</td>
</tr>
<tr>
<td>(Line 14 less Line 13)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Transfer to Line 1, for next FY)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Notes:
1) Prior Year Carryover from Audited Financial Statement
2) Expenses exclude Depreciation and Amortization
RIVERSIDE COUNTY TRANSPORTATION COMMISSION
TDA: STATE TRANSIT ASSISTANCE CLAIM FORM
FY 2008/09

CLAIMANT: City of Banning
COUNTY: RIVERSIDE
ADDRESS: 99 E. Ramsey St., P.O. Box 998
Banning, CA 92220
CONTACT PERSON: Michelle Green
TITLE: Accounting Manager
TELEPHONE NUMBER: (951) 922-3118
EMAIL ADDRESS: mgreen@ci.banning.ca.us

I verify that the information on this Claim Form is true and accurate to the best of my knowledge. Additionally, I verify that the FY 2008/09 SRTP has been approved by my agency's governing body and a copy of the minutes approving the FY2008/09 SRTP is attached.

SIGNED: ____________________________ DATE: ________________

Purpose: Article 4
PUC 99260a

REQUESTED PAYMENT

Payment for Operations
(From page 3, Line 11)

PAYMENT FOR CAPITAL $ 840,298
(From page 3, Line 11)

PAYMENT FOR CAPITAL $ 915,000
Prior Year Reserves
(From Page 3, Line 12)

TOTAL PAYMENT REQUESTED: $ 1,764,298

CONDITION OF APPROVAL: Approval of this claim and payment by the County Auditor to the claimant are subject to the monies being available and to the provision that such monies will be used only in accordance with the terms and conditions set forth in this claim.

FOR RRTC USE ONLY

Funds for operating assistance will be disbursed based on RRTC's approved policy.

Funds for capital will be disbursed based on information contained on page 2 contingent upon operator submission of acceptable proof of purchase (P.O.s, Contract Award or Paid Invoice).

July $ - August $ - September $ -
October $ - November $ - December $ -
January $ - February $ - March $ -
April $ - May $ - June $ -

7/1/2008
STA claim form

H:\YEARENDD\Transit\STA CLAIM FORM 0809.xls
### Part 1: Payments from Current Fiscal Year Allocation

<table>
<thead>
<tr>
<th>Project Description</th>
<th>STA Amount</th>
<th>Amount Claimed</th>
<th>Date Required</th>
<th>Hold at RRTC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proj #09-1  Bus Stop Amenities</td>
<td>150,000</td>
<td></td>
<td>12/31/08</td>
<td>150,000</td>
</tr>
<tr>
<td>Proj #09-2  Shop Equipment</td>
<td>25,000</td>
<td></td>
<td>12/31/08</td>
<td>25,000</td>
</tr>
<tr>
<td>Proj #09-3  Two Dial-a-Ride Vehicles</td>
<td>158,180</td>
<td></td>
<td>03/31/09</td>
<td>158,180</td>
</tr>
<tr>
<td>Proj #09-4  Decaling</td>
<td>20,000</td>
<td></td>
<td>03/31/09</td>
<td>20,000</td>
</tr>
<tr>
<td>Proj #09-5  Admin Hybrid Car</td>
<td>30,000</td>
<td></td>
<td>12/31/08</td>
<td>30,000</td>
</tr>
<tr>
<td>Proj #09-6  ADA Accessible Van</td>
<td>50,000</td>
<td></td>
<td>12/31/08</td>
<td>50,000</td>
</tr>
<tr>
<td>Proj #09-7  GEM Vehicle</td>
<td>12,000</td>
<td></td>
<td>12/31/08</td>
<td>12,000</td>
</tr>
<tr>
<td>Proj #09-8  Sched Holders for Stops</td>
<td>5,000</td>
<td></td>
<td>12/31/08</td>
<td>5,000</td>
</tr>
<tr>
<td>Proj #09-9  GPS for Dial-a-Ride</td>
<td>25,000</td>
<td></td>
<td>04/30/09</td>
<td>25,000</td>
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<tr>
<td>Proj #09-10 Paratransit Scheduling Soft.</td>
<td>25,000</td>
<td></td>
<td>04/30/09</td>
<td>25,000</td>
</tr>
<tr>
<td>Proj #09-11 Computer Equipment</td>
<td>60,000</td>
<td></td>
<td>03/31/09</td>
<td>60,000</td>
</tr>
<tr>
<td>Proj #09-12 Electronic Fareboxes</td>
<td>150,000</td>
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<td>04/30/09</td>
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<tr>
<td>Proj #09-13 Security Cameras</td>
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<td>48,818</td>
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<tr>
<td>Proj #09-14 On Board Schedule Holders</td>
<td>300</td>
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<td>03/31/09</td>
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<tr>
<td>Proj #09-15 Shop Truck</td>
<td>40,000</td>
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<td>12/31/08</td>
<td>40,000</td>
</tr>
<tr>
<td>Proj #09-16 Automated Enunciators</td>
<td>50,000</td>
<td></td>
<td>04/30/09</td>
<td>50,000</td>
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</tbody>
</table>

TOTAL: (Enter on line 11, Page 3) $ 849,298 $ - $ 849,298

### Part 2: Payments from Reserves (Funds Allocated in Prior Years but not Claimed)

<table>
<thead>
<tr>
<th>Project Description</th>
<th>STA Amount</th>
<th>Amount Claimed</th>
<th>Date Required</th>
<th>Hold at RRTC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proj #08-1  Dial-a-Ride Van</td>
<td>65,000</td>
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<td>12/31/08</td>
<td>65,000</td>
</tr>
<tr>
<td>Proj #08-2  (2) Fixed Route Coaches</td>
<td>800,000</td>
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<td>03/31/09</td>
<td>800,000</td>
</tr>
<tr>
<td>Proj #08-3  Automated Enunciator</td>
<td>50,000</td>
<td></td>
<td>04/30/09</td>
<td>50,000</td>
</tr>
</tbody>
</table>

TOTAL: (Enter on line 12, Page 3) $ 915,000 $ - $ 915,000

ALL CAPITAL PROJECTS LISTED ABOVE MUST BE INCLUDED IN THE SHORT RANGE TRANSIT PLAN AND APPROVED REGIONAL TRANSPORTATION IMPROVEMENT PROGRAM (RTIP).

7/11/2008

STA claim form
### Operating Assistance

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Prior Year Carryover (Note 1)</td>
<td>$122,833</td>
<td>$155,903</td>
<td>$163,828</td>
<td>$80,642</td>
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<td>2. Passenger and Special Fares</td>
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<td>119,550</td>
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<tr>
<td>3. Other Operator Revenues</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Other Local (Interest)</td>
<td></td>
<td>7,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. FTA Section 5307</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>6. FTA Section 5309</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>7. FTA Section 5311</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>8. Other (Specify)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9. Other Federal</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10. Local Transportation Funds</td>
<td>1,058,494</td>
<td>1,136,537</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11. STA (Current Year Allocation)</td>
<td></td>
<td></td>
<td></td>
<td>849,298</td>
</tr>
<tr>
<td>12. STA (Reserves)</td>
<td></td>
<td></td>
<td></td>
<td>915,000</td>
</tr>
<tr>
<td>13. Total Revenues</td>
<td>$1,181,327</td>
<td>$1,420,990</td>
<td>$163,828</td>
<td>$1,844,940</td>
</tr>
<tr>
<td>14. Expenses (Note 2)</td>
<td>1,025,424</td>
<td>1,265,087</td>
<td>83,186</td>
<td>1,826,252</td>
</tr>
<tr>
<td>15. Surplus (Deficit)</td>
<td>$155,903</td>
<td>$155,903</td>
<td>$80,642</td>
<td>$18,688</td>
</tr>
</tbody>
</table>

Notes: 1) Prior Year Carryover from Audited Financial Statement  
2) Expenses exclude Depreciation and Amortization
1. **180-DAY CERTIFIED FISCAL AUDIT** - Claimant certifies that it has submitted a satisfactory, independent fiscal audit, with required certification statement, to SCAG and to the State Controller, pursuant to PUC 99245 and CAC 6664 for the prior fiscal year (project year minus two). Claimant assures that this audit requirement will be completed for the current fiscal year (project year minus one).

2. **90-DAY ANNUAL REPORT** - Claimant certifies that it has submitted a State Controller’s report in conformance with the uniform system of accounts and reports to SCAG and to the State Controller, pursuant to PUC 99243.5, for the prior year (project year minus two). Claimant assures that this report will be completed for the current fiscal year (project year minus one).

3. **REVENUE RATIOS FOR OPERATORS IN RIVERSIDE COUNTY** - Claimant filing a claim pursuant to PUC 99268.2, 99268.3, 99268.4, or 99270.1 certifies that it will maintain for the project year a ratio of fare revenues to operating costs of: a) 20% if the claimant is serving an urbanized area; b) 10% if the claimant is serving a non-urbanized area, or an intermediate ratio established by RCTC.

4. **REVENUE RATIOS FOR EXCLUSIVE SERVICES TO ELDERLY AND HANDICAPPED** - Claimants filing a claim pursuant to PUC 99268.5 certifies that, for the purposes of that claim, it provides services using vehicles for the exclusive use of elderly and handicapped persons and that it will maintain for the project year a ratio of fare revenues to operating costs of 10%.

5. **EXTENSION OF SERVICE** - Claimant that received an allocation of LTF funds for an extension of service pursuant to PUC 99268.8 certifies that it will file a report of these services pursuant to PUC 6633.8b within 90 days after the close of the fiscal year in which that allocation was granted.

6. **RETIREMENT SYSTEM** - Claimant filing a claim pursuant to PUC 99260 certifies that: a) the current cost of its retirement system is fully funded with respect to the officers and employees of its public transportation system; or, b) the operator is implementing a plan approved by the transportation planning agency which will fully fund the retirement system for such officers and employees within 40 years; or, c) the operator has a private pension plan which sets aside and invests, on a current basis, funds sufficient to provide for the
payment of future pension benefits and which is fully in compliance with the requirements stated in PUC 99272 and PUC 99273.

7. **USE OF FEDERAL FUNDS** - Claimant filing a claim for TDA funds for capital intensive projects pursuant to PUC 99268.7 certifies that it has made every effort to obtain federal funding for any project which is funded pursuant to PUC 99268.7.

8. **CALIFORNIA HIGHWAY PATROL (CHP) CERTIFICATION** Claimant certifies compliance with Driver Pull Notice Requirements of PUC 99251 and Vehicle Code 1808.1 (attach copy of CHP certification).

9. **ANNUAL FISCAL AUDIT** Claimant agrees to follow the annual fiscal audit process established by the Riverside County Transportation Commission.

10. **TRIENNIAL PERFORMANCE AUDIT** Claimant agrees to make a reasonable effort to address all issues and recommendations made in the last Triennial Performance Audit.

11. **PRODUCTIVITY IMPROVEMENT PROGRAM** Claimant agrees to make a reasonable effort to implement the productivity improvements recommended pursuant to Public Utilities Code Section 99244.

12. **STATE TRANSIT ASSISTANCE FOR OPERATIONS** Claimant receiving funds pursuant to PUC 99314.6 certify that it meets one of the efficiency standards as described in PUC 99314.6a.

13. **STATE TRANSIT ASSISTANCE FOR OPERATION** Claimant agrees that is not precluded by any contract entered into on or after June 28, 1979, from employing part-time drivers or contacting with common carriers or persons operating under a franchise or license.

____________________________________________________________________
(Legal Name of Applicant/Claimant)

____________________________________________________________________
(Authorizing Signature)

____________________________________________________________________
(Print Name and Title)
PASS TRANSIT

BANNING TRANSIT SYSTEM

FY 2008/09 – 2010/11
SHORT RANGE TRANSIT PLAN

Pass Transit is a cooperative effort between the City of Banning and the City of Beaumont

Revised 06/13/08
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INTRODUCTION

Pass Transit is the result of a cooperative effort between the City of Banning (Banning Transit System) and the City of Beaumont (Beaumont Transit System). Pass Transit consists of two independent, but coordinated transit systems. The coordinated service area of Pass Transit includes the cities of Banning and Beaumont, the unincorporated areas of Cabazon and Cherry Valley, and the commercial area of the Morongo Band of Mission Indians Reservation. Both fixed route and dial-a-ride services are provided.

In the spring of 2000, the Pass Area cities of Banning, Beaumont and Calimesa requested a Transportation Development Act (TDA) - Local Transportation Fund (LTF) allocation from the Riverside County Transportation Commission (RCTC) to hire a consultant to conduct a study of the transit needs of Pass Area residents and businesses. The study indicated the need to design a single, seamless transit system within the Pass Area that is easy for Pass Area residents to understand and use.

The Pass Area Transit Task Force was formed to review the work of the consultant. At that time, the task force was made up of representatives from the City of Banning, City of Beaumont, City of Calimesa, County of Riverside, Riverside County Transportation Commission, Riverside Transit Agency, SunLine Transit Agency, and Morongo Band of Mission Indians.

The research phase of the study was completed in December 2001 and the task of developing a transit system plan that addresses issues raised by the study was turned over to Transit Managers of the Cities of Banning and Beaumont, which were interested in further review of a coordinated transit system. The City of Calimesa wanted to continue to utilize the Riverside Transit Agency as their transit service provider and opted out of further participation.

The final plan was approved by both the Banning and Beaumont City Councils in May 2002. Central to the plan is a greater integration of local transit services in the Pass Area. The plan also identified areas where local transit services could be improved or enhanced. The Banning Transit System Short Range Transit Plan incorporates the elements of the Pass Area Transit Plan that address service within this system’s service area.

It should be noted that even though the two cities operate their transit systems closely in providing a seamless service to the residents of the Pass Area, the transit systems are separate entities. Nothing in this document is intended to indicate anything more than a cooperative effort between the two transit systems. This plan only focuses on services provided by Banning Transit System under the name Pass Transit. For details on Pass Transit services operated by Beaumont Transit System, please refer to their Short Range Transit Plan. Pass Transit is the marketing name for Banning Transit System and Beaumont Transit System. Banning Transit System is a service of the City of Banning.
The City of Banning

The City of Banning is located in the San Gorgonio Pass, between Mt. San Gorgonio on the north and Mt. San Jacinto to the south in Riverside County, California. Various tribes of Indians, notably the Serano and Cahuilla, were well established in the region when Mexican and Spanish expeditions reached the area around 1774. It is believed that a prehistoric lake existed here since a bone fossil of a Mastodon of the Pliocene Age was discovered in 1965. By 1824, the San Gabriel Mission Fathers established a branch of the Mission at the highest point in the Pass, along the foothills northwest of Banning, where they raised cattle, sheep and pursued land cultivation. By that time, the area was known as Rancho San Gorgonio, so named by the padres after St. Gorgonio, a Latin martyr.

Banning has a rich and colorful history. The first white man to reach the area was Dr. Isaac Smith in 1853 who, according to recorded land documents, purchased from Paulino Weaver an undivided one-third interest in Rancho San Gorgonio that he had received from the Mexican Governor, Pio Pico. Dr. Smith brought his wife and seven children to the rancho to live and built a house known as Smith's Station, which later became Highland Home and subsequently called Highland Springs.

The following year, Banning's first permanent landmark, Gilman Ranch adobe, was built. It was ultimately used as a stage stop by the Colorado Stage & Express Line founded by Alexander & Co. of Los Angeles on its route to the Colorado River in 1862, where gold had been discovered. The route ran through the foothills a half-mile north of downtown Banning, then north of Cabazon and Whitewater, which was the last stop before reaching Palm Springs (Dos Palmas). The railroad replaced the stagecoach in 1876, but Banning is still known as "STAGECOACH TOWN, U.S.A." and is famous for its annual Stagecoach Days Celebration featuring a parade, carnival and rodeo.

The City is named in honor of General Phineas T. Banning, who freighted over the Mormon trail from Salt Lake to San Bernardino and Los Angeles. General Banning also figures prominently in the history of the town of Wilmington, California. He developed a shipping company there between San Pedro and Los Angeles, as well as operating the stage line from Wilmington to Yuma, Arizona through the Banning Pass.

The City of Banning is a growing Southern California community strategically located alongside Interstate 10 with connections to the Ports of Los Angeles and Long Beach, the southwestern United States, and Mexico. Banning has its own municipal airport with corporate jet operations that can easily accommodate any similarly sized aircraft. The presence of the Union Pacific rail lines offers unlimited potential for developing railroad spurs. The City of Banning was incorporated 1913.

Banning is well known for its picturesque qualities, nestled between the majestic San Gorgonio and San Jacinto mountains - the two tallest peaks in Southern California. The community enjoys a quiet rural lifestyle, nearby outdoor opportunities, an abundance of quality water, and invigorating and healthful clean air - the key ingredients that lure families to the City.

Revised 06/13/08
Business people see opportunity in Banning. They are attracted to the community because the City has prepared itself for development by controlling the sewer, water and electric facilities. These low cost services, in combination with a skilled work force, a housing supply that provides bargains for all income groups, a school district devoted to providing quality education to its students, an abundance of low-cost land, and the most favorable lease rates in all of the Inland Empire make Banning the place to locate.

The City has 28,272 residents (from the January 1, 2007 Department of Finance estimates); the elevation is 2,417 above sea level and is 18.9 square miles.

The City has adopted the following mission statement:

*Our mission as a City is to provide citizens with a safe, pleasant and prosperous community in which to live, work and play. We will achieve this in a cost effective, citizen friendly and open manner.*

This mission statement also applies to the Banning Transit System.

**History of the Banning Transit System**

Banning Transit System began as one intracity fixed route in April 1973, then expanded to two routes in September 1985. Fixed route service to Cabazon and the commercial area of the Morongo Band of Mission Indians Reservation began in July 1995, as the system’s third route. Banning Dial-A-Ride service for seniors and persons with disabilities began in October 1985. Pass Transit as a combined effort between Banning Transit System and Beaumont Transit System started in November 2004. Routes 1 and 2 were modified from the previous Banning Transit System Cabazon Route and Beaumont Transit System Route 1. Banning Northern Route was renumbered Route 5 and Banning Southern Route was renumbered Route 6. Beaumont’s existing Routes 3 and 4 remained the same. A memorandum of understanding was developed to allow each city Dial-A-Ride services to cross-jurisdictional boundary lines so that a passenger did not have to transfer. A new joint Rider’s Guide was developed, combined transfers and ten-ride ticket books were printed, buses and bus stop signs were decaled Pass Transit and fares were established to be the same for the convenience of riders.

**Administration of Banning Transit System**

The Banning Transit System functions as a department within the City. The City of Banning contracts with Professional Transit Management (PTM) to provide a Transit Manager. The transit contract is overseen by the Finance Director/Assistant City Manager. Under the Transit Manager is a team of City of Banning employees, which include a Lead Bus Driver/Trainer, six full time Bus Drivers, four part time Bus Drivers, one Office Specialist, and one full time Equipment Mechanic. This arrangement began in April 2008.

Previously, transit was managed as a service in the Community Services Department by the Community Services Director and by the Airport/Fleet Maintenance Manager in the Public Works Department with support from the Finance Director and Accounting Manager in the Finance Department.

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Services Provided By Banning Transit System

Pass Transit Fixed Routes
Pass Transit combined operates six fixed routes. Routes 1, 5 and 6 are operated by the Banning Transit System. Routes 2, 3 and 4 are operated by the Beaumont Transit System. See “Appendix A” for the system route map. This Plan only focuses on routes operated by the Banning Transit System. Routes 5 and 6 operate on a 75 minute headway. The routes had their headways increased due to increased congestion and multiple stops being made. The prior 60 minute headway caused routes to operate late. Routes 1 and 2 complement each other throughout the commercial areas of Beaumont, Banning, Cabazon, and the Morongo commercial development, with both Routes 1 and 2 operating every two hours. Route 1 is the only service that travels into eastern Cabazon, whereas Route 2 is the only service that travels into northeastern Beaumont. Approximately 75% of Routes 1 and 2 duplicates each other. Due to a recent schedule change, Route 1 trails Route 2 by 10 to 12 minutes causing a two hour frequency along this corridor.

Pass Transit service into the Cabazon is the result of a memorandum of understanding between RTA and the City of Banning in an effort to reduce duplicative transit service in the Pass Area and to satisfy an unmet transit need at the time.

A summary of the Banning Transit System operated Pass Transit routes are shown below:

**Route 1 – Beaumont/Banning/Cabazon**
This route operates on a two-hour headway and is complimented by an overlap with Route 2 along 75% of the route. Route 1 is the only service to the remote Esperanza & Elm area of eastern Cabazon. The route also provides service to the residential areas of Cabazon, Cabazon Community Center, Casino Morongo, Desert Hills Premium Outlets and Cabazon Outlets, and the commercial areas along Ramsey Street and Highland Springs Avenue in Banning, and the commercial areas along 6th Street and Beaumont Avenue in Beaumont.

**Route 5 – Northern Banning**
This route operates on a 75 minute headway and provides service to the residential areas of the City of Banning that lie north of the I-10 freeway, the Banning Municipal Library, the Coombs Intermediate School and the commercial areas along Ramsey Street and Highland Springs Avenue.

**Route 6 – Southern Banning**
The route operates on a 75 minute headway and provides service to the residential areas south of the I-10 freeway, a small residential section north of Ramsey Street at the east end of the City of Banning, the commercial areas along Ramsey Street and Highland Springs Avenue, Banning High School, apartment complexes in the south, and the Banning Municipal Airport.
Pass Transit fixed route service hours are:

- **Monday - Friday**: 6:00 a.m. to 7:00 p.m.
- **Saturday**: 8:00 a.m. to 5:00 p.m.
- **Sunday**: 9:00 a.m. to 5:00 p.m. (Pass Transit Routes 1, 5 & 6 only)

Sunday service hours (9:00 a.m. to 5:00 p.m.) is provided on Martin Luther King, Jr.'s Birthday, Presidents Day, Memorial Day, Labor Day, Veterans Day, the day after Thanksgiving Day. No service is provided on New Year's Day, Independence Day, Thanksgiving Day and Christmas Day.

**Pass Transit Dial-A-Ride**

Pass Transit Dial-A-Ride provides service to seniors, persons with disabilities, and individuals certified for complementary paratransit service under the Americans with Disabilities Act (ADA).

Service hours for Pass Transit Dial-A-Ride are:

- **Seniors (age 60 & older) and persons with disabilities without ADA certification**
  - **Monday - Friday**: 8:00 a.m. to 4:30 p.m.
  - **Saturday & Sunday**: No Service

- **Persons with ADA Complementary Paratransit Certification**
  - **Monday - Friday**: 6:00 a.m. to 7:00 p.m.
  - **Saturday**: 8:00 a.m. to 5:00 p.m.
  - **Sunday**: 9:00 a.m. to 5:00 p.m. (within a ¾ mile boundary of Routes 1, 5 & 6)

Sunday service (9:00 a.m. to 5:00 p.m.) is provided on Martin Luther King, Jr.'s Birthday, Presidents Day, Memorial Day, Labor Day, Veterans Day, the day after Thanksgiving Day. No service is provided on New Year's Day, Independence Day, Thanksgiving Day and Christmas Day.

Pass Transit Dial-A-Ride is provided within the entire city limits of Banning and Beaumont and within a ¾ mile boundary of the Routes 1 and 2 service areas in Cabazon. The City of Banning provides the ADA certification for Pass Transit Dial-A-Ride services operated by the Cities of Banning and Beaumont.

The primary uses of Pass Transit Dial-A-Ride are for transportation to medical appointments, workshop programs for persons with disabilities, shopping areas, employment, and connections with Riverside Transit Agency (RTA) and Pass Transit fixed routes.

Through a cooperative memorandum of understanding, Pass Transit Dial-A-Ride operated by the Beaumont Transit System will provide its residents with service in Banning and within a ¾ mile boundary of Route 2 in Cabazon. Pass Transit Dial-A-Ride operated by the Banning Transit System will provide its residents with service in the city limits of Beaumont (excluding Cherry Valley).

Revised 06/13/08
Pass Transit Fare Structure
The fare structure was adjusted during fiscal year FY 2005/06. The current fixed route fare is $.75/one-way trip for general fare passengers. The fare is $.50/one-way trip for senior citizens, age 60 years and older and persons with disabilities. A zone fare of $.25 exists for travel between Banning/Beaumont and Cabazon/Morongo Reservation service areas. (The route is twice the length of any other route in the system. The zone fare helps to recover operating costs for travel beyond the City limits). Ten-ride ticket books are offered for $6.75 each; senior citizens and persons with disabilities can purchase Ten-Ride ticket books at a reduced cost of $4.50.

Ten-Ride Ticket Books can be purchased at Banning Transit System Administrative Offices located at 789 North San Gorgonio Avenue and Banning City Hall Finance Department located at 99 Ramsey Avenue. The City of Beaumont also offers the same Ten-Ride Ticket Book for sale onboard Routes 2, 3 and 4 or at the Beaumont City Hall.

Transfers are offered free of charge and are valid for two hours at certain transfer points in the Pass Area. RTA accepts Pass Transit transfers. Pass Transit accepts RTA Day Pass at locations where Pass Transit routes intersect RTA routes.

Staff will evaluate potential fares changes for FY 2008/09 to ensure that the City is in compliance with achieving a 10% farebox recovery ratio. Any fare increases proposed will go through a public hearing process.

### PASS TRANSIT FIXED ROUTE FARE STRUCTURE

<table>
<thead>
<tr>
<th>Category</th>
<th>Current Fare</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full Fare in Banning or Beaumont</td>
<td>$.75</td>
</tr>
<tr>
<td>Zone Fare to/from/within Cabazon</td>
<td>$.25</td>
</tr>
<tr>
<td>Seniors (age 60 and up)</td>
<td>$.50</td>
</tr>
<tr>
<td>Persons with Disabilities</td>
<td>$.50</td>
</tr>
<tr>
<td>Student</td>
<td>$.75</td>
</tr>
<tr>
<td>Children (5 years and under) traveling w/fare paying passenger</td>
<td>Free</td>
</tr>
<tr>
<td>Transfer (within system)*</td>
<td>Free</td>
</tr>
<tr>
<td>Transfer (other operator)*</td>
<td>Free</td>
</tr>
<tr>
<td>Other Discounts</td>
<td>10 Ride Ticket Book/ $6.75</td>
</tr>
<tr>
<td></td>
<td>Seniors/ Persons With Disabilities: 10 Ride Ticket Book /$4.50</td>
</tr>
</tbody>
</table>

*Passengers may transfer between Pass Transit routes at designated locations throughout the service area, where two or more routes intersect. Transfers are valid for two hours and
can not be used on the route that it was issued on. Transfers to RTA routes can occur at Kmart off of Sun Lakes Boulevard.

A fixed route disability discount card is available from the Banning Transit System administrative office for those who have a disability, a Medicare card or is ADA certified. This card will allow the eligible user the opportunity to pay the persons with disabilities fare on Pass Transit or RTA.

Pass Transit Dial-A-Ride is restricted to persons with disabilities and seniors age 60 years old and older. The Dial-A-Ride fare is $1.00/one-way trip. Staff will evaluate potential fares changes for FY 2008/09 to ensure that the City is in compliance with achieving a 10% farebox recovery ratio.

PASS TRANSIT DIAL-A-RIDE FARE STRUCTURE

<table>
<thead>
<tr>
<th>Category</th>
<th>Current Fare</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full Fare</td>
<td>$1.00</td>
</tr>
<tr>
<td>Seniors (age 60 and up)</td>
<td>$1.00</td>
</tr>
<tr>
<td>Persons with Disabilities</td>
<td>$1.00</td>
</tr>
<tr>
<td>Transfer (within system)*</td>
<td>Free</td>
</tr>
<tr>
<td>Transfer (other operator)*</td>
<td>Free</td>
</tr>
<tr>
<td>Other Discounts</td>
<td>10 Rides/$9.00</td>
</tr>
</tbody>
</table>

*Passengers may transfer between Pass Transit Dial-A-Ride buses at designated locations throughout the service area. Transfers are valid for two hours and can not be used to go back on a Dial-A-Ride bus. Transfers to RTA routes or Dial-A-Ride can occur at Kmart off Sun Lakes Boulevard and Wal-Mart Supercenter on 2nd Street, and along 6th Street in Beaumont.

Population Served
The residential population within the Banning Transit System’s service area has grown approximately 20% since 2000. The population is anticipated to remain flat for the upcoming fiscal year. The California Department of Finance estimated that the City’s population as of January 1, 2008 was 28,348.

As of the 2000 census there were 23,562 people, 8,923 households, and 6,237 families residing in the city. The population density was 1,022 people per square mile (395/km²). There were 9,761 housing units at an average density of 423/sq mi (164/km²). The racial makeup of the city was 64.19% White, 8.55% Black or African American, 2.52% Native American, 5.38% Asian, 0.13% Pacific Islander, 14.88% from other races, and 4.36% from two or more races. 30.21% of the population was Hispanic or Latino of any race.

Banning has numerous sections where residents of a certain race/ethnicity reside, such as the Vista Serena section which is mainly African-American, Latino or Hispanic and
Southeast Asian. The western section is mostly non-Hispanic white, and has a preponderance of Irish, Scottish, German, Swiss and Italian descent, a legacy of Banning's immigrant settlers in the late 1800s. Banning has several shops run by South Asian and Middle Eastern owners. The Morongo Band of Mission Indians is prominent in city life.

There were 8,923 households out of which 26.3% had children under the age of 18, 53.2% were married couples living together, 12.5% had a female head of household, and 30.1% were non-families. 25.8% of all households were made up of individuals and 16.1% had someone living alone who was 65 years of age or older. The average household size was 2.60 and the average family size was 3.11.

In the city, the population was spread out with 26.4% under the age of 18, 7.4% from 18 to 24, 20.9% from 25 to 44, 18.4% from 45 to 64, and 26.8% who were 65 years of age or older. The median age was 41 years. For every 100 females there were 90.9 males. For every 100 females age 18 and over, there were 86.7 males.

The median income for a household in the city was $32,076, and the median income for a family was $38,995. Males had a median income of $31,300 versus $20,794 for females. The per capita income for the city was $16,231. About 14.8% of families and 19.9% of the population were below the poverty line, including 31.8% of those under age 18 and 6.5% of those ages 65 and over.

This median income is well below the national median of $49,314. This indicates the potential of a significant need for transit services. Many individuals in the service area are earning well below the national average which leads to the conclusion that there may be a significant number of transit dependent individuals.

**Fleet Characteristics**

Banning Transit System operates five fixed route vehicles (three in revenue service and two as spares), all of which are powered by compressed natural gas (CNG) and are equipped with bicycle racks for two bicycles, and in compliance with the ADA with mobility device lifts and two tie-down stations per bus. The transit system also operates three Dial-A-Ride vehicles (two in revenue service and two as spares) that are gasoline powered and in compliance with the ADA, with mobility device lifts and tie-down stations for four mobility devices. The City also has three support vehicles that are used for driver relief or administrative errands.

The City adheres to all Federal Transit Administration (FTA) and California Highway Patrol (CHP) mandated Preventive Maintenance Inspection criteria and is very proactive in maintenance efforts.

See the City of Banning Fleet Inventory Table 1 for individual vehicle characteristics.

CNG vehicles for the transit system are fueled at the City of Banning Corporation Yard. The fueling station is the only CNG station in the Pass Area large enough to meet the
transit system’s demand. Banning and Beaumont Unified School Districts and the City of Beaumont also fuel their vehicles at this facility.

Facilities
Banning Transit System functions as a department within the City and utilizes existing facilities. Transit administrative staff is housed at the City’s Community Center located at 789 North San Gorgonio Avenue. The maintenance, parking and fueling of the buses and storage of bus stop amenities are performed at the City’s Corporation Yard located at 176 East Lincoln Street. Maintenance of the vehicles is performed by the Public Works Department, Fleet Maintenance Division. City administrative staff, including Finance and Human Resources, is located at Banning City Hall, 99 East Ramsey Street. Banning Police, which provides security services for Pass Transit, is located at 321 West Ramsey Street.

Facilities also include 84 bus stops, 15 bus shelters, 47 benches, trash cans and information panels. Facilities are discussed in greater detail under passenger amenities.

Marketing
The following marketing efforts will be undertaken to promote ridership growth.

1. Development of a marketing program which includes Rider’s Guide, brochures, flyers, advertisements in local newspapers, TV and cable access channels, billboards, community transit fairs, participation in community events, website, promotional materials and “grass roots” type marketing.

2. Development of a public outreach program, which includes meeting with schools, employers, senior service programs, persons with disabilities programs, social service agencies, the general public, city departments and other organizations who would benefit from public transportation in the Pass Area.

3. Development of a mobility training program to train persons about public transportation, including those with disabilities.

4. Participation in RCTC Rideshare program to encourage employers, residents and visitors of the Pass Area to rideshare.

5. Participation in American Public Transportation Association (APTA) PT2 and Communities in Motion campaign which focus on “choice riders” who are currently not using public transportation.

6. Develop a new Shop, Save & Get Home Free program with retailers in Banning and Beaumont. This program will allow retailers to purchase one ride passes from the City and pass them out to their shoppers when they spend a certain dollar amount at their stores. This program has been very successful in Riverside and Blythe.

Revised 06/13/08
7. Conduct a demographic survey to understand the various ridership groups riding Pass Transit.

SERVICE CHARACTERISTICS

System-wide ridership on Banning Transit System in FY 2006/07 was 157,253. In FY 2007/08, ridership is estimated to decrease to approximately 132,000. Ridership in FY 2005/06 was 192,728. However, there was a dip in ridership in FY 2005/06 and FY 2006/07 due to a fare rate increase and schedule changes implemented.

Ridership for FY 2007/08 was originally anticipated to grow modestly at 5%, with the ridership having become acclimated to the new fixed routes implemented in FY 2004/05 and the fare increase implemented in FY 2005/06. However, projections show that the ridership for FY 2007/08 will be approximately 132,000, a decline of 25,253 passengers from FY 2006/07.

Pass Transit Dial-A-Ride ridership in FY 2006/07 was 11,164. Ridership was projected to increase in FY 2007/08 to 12,000. This projection reflected an anticipated increase in ADA certified passengers. Though the transit system has seen an increase in ADA-certified passengers, it was slightly more than the projected rate. Based on current data, Dial-A-Ride ridership for FY 2007/08 is projected to be 11,400. Presently there are 534 ADA certified users, of which only 234 of them are active.

With an aging population and service requests coming from older senior citizens who are no longer driving, ridership on Pass Transit Dial-A-Ride is anticipated to increase. FY 2008/09 ridership on Pass Transit Dial-A-Ride is projected to grow slightly to 12,000.

Ridership Projections

Ridership is expected to remain flat for FY 2008/09. There are no route changes planned for the upcoming fiscal year. Minor schedule changes may take place to reduce non productive hours and improve connectivity with other transit services and other Pass Transit routes. Additional marketing and outreach programs to the schools and major employers will be developed and implemented in the coming fiscal year with the goal to increase ridership.

The high percentage of senior citizens (26.8%) in Banning indicates a potential for significant growth in the demand for dial-a-ride service over the next five years.

Routes 1 and 2 (operated by Beaumont Transit System) began as complementing commercial trunk routes in fiscal year 2005. This originally allowed for a one-hour headway along the length of the commercial corridors of Banning, Beaumont, Cabazon, and the Morongo Band of Mission Indians Reservation. The fare structure was restructured to implement a zone fare for trips between the Banning/Beaumont and Cabazon areas. This resulted in the Routes 1 and 2 fares being the same for trips up and down the commercial areas of Banning and Beaumont. As such, Pass Transit – Banning Transit System has seen a shift in ridership from Route 5 - Northern Banning and Route 6
Southern Banning to both Routes 1 and 2. This indicates that the redesign was successful in making it easier for the transit customers to travel throughout the commercial area by just taking whatever bus comes, versus waiting for a specific route, however, this change resulted in lower than expected fare revenues for Banning Transit System. Additionally, with the change in schedules on Routes 1, 5 and 6 in FY 2007/08, due to need to increase running times from increased traffic congestion and frequent stops, ridership declined, since frequencies were increased to 75 minutes on Routes 5 and 6 and Route 1 now trails Route 2 by 10 to 12 minutes causing a two hour frequency along the commercial corridor through Beaumont, Banning and Cabazon.

Providing service to major employers (Duraplastics, Deusch Company, and the Arrowhead Water Bottling Plant has not provided a significant increase in ridership to Pass Transit. As a result, the tripper service was discontinued in FY 2006/07 to the Arrowhead Water Bottling Plant in order to maintain the two-hourly headways on Route 1. Service to Coombs Intermediate School has benefited Route 5 and service continues to be available to Duraplastics and Deusch Company via Route 6.

RIDERSHIP CHARACTERISTICS

Ridership Demographics
This section provides demographic information that creates a passenger profile including gender, age, ethnicity, and income of the riders. Data is from the Pass Area Transit Study (2001). Ridership demographics have not been reviewed since the 2001 Pass Area Transit Study. A passenger survey will be conducted in Spring of FY 2008/09 to understand the latest demographics on Pass Transit.

In 2001, the Pass Area Transit Study reported that more than two-thirds of the ridership (68%) is female. This number increases to 86% among riders age 62 to 79 years.

Ridership ethnicity closely parallels the population ethnicity presented earlier in this plan. Caucasian riders represent 48% of the system’s ridership. Hispanic is the next most common ethnic group (34%).

Ridership Ethnicity

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The majority of riders have very low household income. Two-thirds (66%) earn less than $15,000 per year and 37% earn less than $7,500 per year. Low household income is especially prevalent among the oldest riders. 82% of those 62 years and older have household incomes under $15,000.

**Ridership Household Income**

- 9% Under $7,500
- 4% $7,500 - $15,000
- 37% $15,000 - $34,999
- 21% $35,000 - $49,999
- 29% $50,000+

Additional ridership statistics:

- 85% of the system’s fixed route ridership uses transit services at least three times a week
- 23% of the system’s Dial-A-Ride ridership uses transit services at least three times a week
- 67% of the ridership use transit services for local trips within the Banning/Beaumont/Cabazon area
- 27% use transit for travel outside of the local service areas
- 91% of the system’s ridership do not have access to a car
- Transit services are readily available with the majority of riders walking five minutes or less to the bus stop
- The majority of rider households (87%) have English as their primary language. However, a significant minority (13%) have Spanish as their primary language.

**Major Destinations**

Major trip destinations include the commercial areas along Beaumont Avenue, 6th Street, 2nd Street, Ramsey Street and Highland Springs Avenue (including the Wal-Mart Supercenter); the Kmart transfer point; Albertsons, Rite Aid at Sunset & Ramsey; area elementary, intermediate and high schools operated by Banning and Beaumont Unified School Districts; Desert Hills Premium Outlets, Cabazon Outlets, Casino Morongo; Beaver Medical and the medical offices adjacent to the San Gorgonio Memorial Hospital; Riverside County Department of Public Social Services; Banning Mental Health and public health clinics.

The Pass Area Transit Study identified that:

- 40% of the trips made are for running errands.
- 25% of the trips made are commuting to work.
PASSENGER AMENITIES

On street TransferCenters has been developed at the Kmart Garden Center off Sun Lakes Boulevard, San Gorgonio Memorial Hospital on Highland Springs Drive, Sunset & Ramsey near Rite Aid Pharmacy, Ramsey @ North San Gorgonio Avenue near The Gas Company, Banning Post Office on Alessandro and Williams and Banning City Hall in Banning and at Wal-Mart Supercenter on 2nd Street and Beaumont City Hall on 6th Street in Beaumont. These on-street TransferCenters have a bus shelter, bench, information panel, trash receptacle and sign. At least two or more Pass Transit routes meet at each TransferCenter. At the present time, passengers can only transfer at the above mentioned locations. RTA transfers can be made at Kmart Garden Center off Sun Lakes Boulevard, Sunset & Ramsey in Banning, Wal-Mart Supercenter off 2nd Street and Beaumont City Hall on 6th Street in Beaumont.

There are bus stops located along Ramsey Street and at major points of interests in the City. Each bus stop is identified by a teal and white Pass Transit bus stop sign. In the residential areas and in Cabazon, passengers can flag the bus down by waving their hand as the bus approached. There are a total of 84 bus stops served by Pass Transit.

Some bus stop locations feature a schedule holder, bench, trash receptacle and/or a bus shelter (some with advertising panels). There are a total of 15 bus shelters and 47 benches within City limits.

Banning Transit System staff intends to work on the improvement of passenger amenities located throughout the City of Banning and Cabazon by installing bus stop signs within a reasonable distance from each other on all fixed routes, replacing and adding new advertising benches, and adding information panels and trash cans at all major bus stops.

Banning Transit System staff intends to work with City’s Community Development Department and Riverside County Planning Department to develop transit facilities such as pull outs, sidewalk pads, benches and shelters in new developments. A Transit Facilities Standard Manual has been developed by RTA and will be used as a model for the City and the County to follow as it relates to the design and placements of bus stops.

Banning Transit System staff also intends to pursue grant funding such as Community Development Block Grant funding to facilitate the addition and replacement of passenger amenities throughout the City of Banning and Cabazon.

SERVICE RELATED ISSUES

Driver recruitment and vehicle reliability continued to be an issue for the Banning Transit System through much of FY 2007/08. A Lead Bus Driver/Trainer position was created and filled in FY 2004/05, which has aided the transit system in training individuals that show promise in becoming a bus driver but lack certain certifications or endorsements. However, the transit system still has difficulty recruiting and retaining part time bus drivers.
drivers. In FY 2005/06 additional shop equipment was purchased to assist the Public Works Department, Fleet Maintenance Division in expediting vehicle repairs. With the regular updating of shop equipment, the length of time that a revenue vehicle is out of service will continue to be reduced significantly.

There is a need for increased efforts in marketing the transit system. School outreaches have been held and well received in the City of Beaumont. The same types of programs will be explored in the City of Banning in FY 2008/09. An outreach program to the employees of major employers was initiated in FY 2005/06 and will be continued through FY 2008/09. Additional marketing strategies and a plan will be developed and implemented in FY 2008/09 in an effort to increase ridership on Pass Transit. This includes the development of a new Rider’s Guide and website to promote Pass Transit services.

A result of the Pass Area Transit Study is the closer coordination of service between the Banning Transit System and the Beaumont Transit System. As the Pass Transit continues to evolve, it is anticipated that adjustments intended to improve service will continue and be reflected in future plans.

It should be noted that though efforts to date have resulted in a better designed transit system to serve the Pass Area, it is still two separate transit operators reporting to two separate and independent City Councils. In fall of 2006, the departure of the Transit Managers from both cities has delayed any plans for restructuring. In August of 2007, the Cities of Banning and Beaumont released a joint transit management services request for proposals for the combined management and operation of Banning Transit System and Beaumont Transit System on behalf of the Pass Transit Agency. After review of the proposals submitted in September of 2007, each of the cities decided to select their own transit management firms.

As a result, in April 2008, the City of Banning hired a transit management firm called PTM to manage the day to day operations of Banning Transit System and in December of 2007, the City of Beaumont hired a transit management firm called McDonald Transit Associates to manage their day to day transit operations. It is the full intent of the City of Banning’s new transit management firm to coordinate and work with the City of Beaumont’s new transit management firm to continue the coordinated relationship that created Pass Transit.

An administrative analysis will be conducted in the future to analyze the potential for the creation of a single policy board and single transit agency to operate both transit systems. Creation of a single system can help both cities meet farebox recovery ratio, allow for the sharing of vehicles and potentially achieve cost savings through the elimination of duplicative positions and functions.

With the opening of the Wal-Mart Supercenter and other large retailers in the San Gorgonio Village on 2nd Street Marketplace (Kohl’s) and the Beaumont Marketplace (Ross, Best Buy, Staples, Petco, Bed, Bath and Beyond) in the City of Beaumont, traffic

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levels along Highland Springs Avenue have significantly increased. To address this increase, traffic lanes were realigned to allow for turn pockets into the Kmart/Albertsons shopping center and onto the I-10 freeway. Unfortunately, the realignment created the need to abandon the bus stop that was used as the regional Transfer Center by RTA and Pass Transit which was near Carl’s Jr. As a result, the Transfer Center has been relocated to a court off Sun Lakes Blvd behind the Kmart Garden Center.

Banning Transit System staff will explore options on alternative locations for a possible regional Transfer Center along Highland Springs Avenue or 2nd Street in Beaumont, working in concert with RTA and the Beaumont Transit System. However, as of FY 2007/08, Pass Transit Routes 2, 3 and 4 operated by the Beaumont Transit System no longer serve the regional Transfer Center location at the Kmart Garden Center off of Sun Lakes Boulevard. As a result, passengers riding RTA or Pass Transit Routes 1, 5 and 6 operated by the Banning Transit System must transfer to their routes at Wal-Mart Supercenter on 2nd Street. This recent change of transfer location has caused passenger confusion and delays.

Additionally, recent schedule changes made to Pass Transit Route 1 has eliminated the one hour frequency that was supposed to be in effect along 75% of the alignment traveled by Route 1 and Route 2. Route 1 now trails Route 2 approximately 10 to 15 minutes after Route 2 has departed a timepoint. This change has negatively impacted riders and caused a decrease in the level of service along the commercial corridors in Banning, Beaumont and Cabazon. Due to tight running times and frequent stops, Routes 5 and 6 were switched from a 60 minute frequency to a 75 minute frequency, which has contributed to a ridership decline. Staff intends to reevaluate the schedule for all three Pass Transit routes operated by the Banning Transit System.

REGIONAL SERVICES AND ADJACENT TRANSIT SYSTEMS

A Council Member from both the City of Banning and City of Beaumont serve on the Riverside County Transportation Commission (RCTC). A City Council Member from both cities also serves on the RTA Board of Directors. The City Councils are represented at the Western Riverside County – Pass Area Transportation NOW Chapter meetings, sponsored by RTA.

The Pass Transit Agency Task Force was formed to oversee the Pass Area Transit Study and has been maintained to advise on the implementation and continued coordination of the Pass Area Transit Plan, which includes the operation of Pass Transit and to discuss transit issues specific to the Pass Area. The task force is made up of representatives from the City of Banning and City of Beaumont along with the County of Riverside, RCTC, RTA, and Morongo Band of Mission Indians. This task force meets on an as needed basis.

Various transfers are coordinated between the Pass Transit fixed routes and Dial-A-Ride, RTA Line 31 to Hemet, Line 35 to Moreno Valley, Line 36 to Calimesa and CommuterLink Line 210 to downtown Riverside, Metrolink and Moreno Valley at either the Kmart Garden Center off Sun Lakes Boulevard or Sunset & Ramsey in Banning, and

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either the Wal-Mart Supercenter off 2nd Street or Beaumont City Hall off 6th Street in Beaumont.

Banning Transit System staff will continue to participate in the RCTC Citizens Advisory Committee/Social Services Transportation Advisory Council, the RCTC Transit Policy Committee, RCTC Technical Advisory Committee and any other regional based committees that would be of interest and benefit Pass Transit.

Meetings of the transit operators in Riverside County are hosted by RCTC and provide an opportunity for the operators to discuss regional issues.

RTA has been designated as the Consolidated Transportation Services Agency (CTSA) for western Riverside County. As a result, RTA coordinates with local public and non-profit transportation providers to facilitate the delivery of coordinated transportation for seniors, persons with disabilities and transit dependent passengers, including Pass Transit.

Since SunLink and Vets Express were discontinued in 2004 by the SunLine Transit Agency due to low ridership and high operational costs, there is no direct connection between the Pass Area and the Coachella Valley on public transit. Greyhound Lines, Inc through their Crucero subsidiary provides intercity bus service between Los Angeles, Banning, Palm Springs, Imperial County and Mexicali four times each day. Caltrans Division of Rail, through Amtrak operates Amtrak California Thruway bus service between Indio, Beaumont City Hall and Bakersfield with connections to Amtrak California San Joaquins to Oakland or Sacramento via Central Valley cities.

PUBLIC PARTICIPATION

Banning Transit System staff will implement a new public outreach plan which includes the development of comment cards, a direct way to telephone, email, mail, fax a comment, complaint or suggestion to the Transit General Manager and the creation of a transit advisory committee to assist the City in monitoring transit services. Banning Transit System staff also intends to actively participate in community events with local organizations.

The City encourages public participation at City Council meetings, which are held every 2nd and 4th Tuesday of the month, Riverside County Transportation Commission (RCTC) meetings, which are held monthly in Riverside, RCTC Technical Advisory Committee meetings, which are held monthly and RCTC Transit Policy Committee meetings, which are held quarterly in Riverside and RCTC Citizens Advisory Committee/Social Services Transportation Advisory Council meetings which are held three times per year in Riverside.

Because western Riverside County uses all TDA funds for transit, there are no unmet transit needs hearing to discuss the use of these funds.

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The Pass Transit Information Center provides dial-a-ride information, reservations, cancellations, fixed route schedules and information. Hours of operation are Monday though Friday from 8:00 am to 5:00 pm. Presently the Transit Information Center is closed on weekends and on all major holidays. The Transit Information Center is located at the Banning Community Center, inside the Transit Administrative Offices, located at 789 North San Gorgonio Avenue in Banning. This center is also responsible for taking complaints and passing them to the Transit General Manager.

The City has made a commitment to provide reliable, responsive information to the public and be proactive in responding to customer comments, complaints and suggestions. The Transit General Manager will utilize transit services on a daily basis to talk with riders and drivers to obtain comments.

The City of Banning’s website at www.ci.banning.ca.us provides basic Pass Transit route and schedule information. In FY 2008/09, staff intends to add more information about Pass Transit, links to other transit providers, allow for pass sales online, add Pass Transit routes and schedules on the TranStar, Metro and Google transit trip planners, and allow customers are able to submit comments, complaints, concerns and suggestions through the website.

The City intends to reinstate Americans with Disabilities Act (ADA) Advisory Committee on a quarterly basis to review and provide input on transit services, review ADA applications and to address issues specific to ADA paratransit services.

Public participation regarding the Short Range Transit Plan adoption will be afforded at the Banning City Council Meeting, Banning City Council Budget Workshop and at the RCTC Citizens Advisory Committee/Social Services Transportation Advisory Council meeting.

Banning Transit System staff is easily accessed by the public, on the telephone by calling (951) 922-3243 or 1-800-COMMUTE, options 1, 1, 3, 4 or for the hearing impaired by calling 711 through the California Relay Service or by visiting the Transit Information Center located at 789 North San Gorgonio Avenue inside the Banning Community Center, off Pass Transit Route 5 and Pass Transit Dial-A-Ride.

KEY PERFORMANCE INDICATORS

The Riverside County Transportation Commission has adopted a Productivity Improvement Plan (PIP) for the transit and commuter rail operators of Riverside County. The PIP sets forth efficiency and effectiveness standards that the transit operators are to meet. Progress towards these standards is reported quarterly to the Commission. Below are tables of the operating performance indicators adopted in the PIP and this plan’s projections for the coming year.
Banning Transit System/Pass Transit Performance Measures

<table>
<thead>
<tr>
<th></th>
<th>FY 2006 Audited</th>
<th>FY 2007 Audited</th>
<th>FY 2008 Projected (Annualized 10 mos)</th>
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<tbody>
<tr>
<td>Unlinked Passenger Trips</td>
<td>192,728</td>
<td>157,233</td>
<td>132,000</td>
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<tr>
<td>Operating Cost per Revenue Hours</td>
<td>$69.74</td>
<td>$73.39</td>
<td>$76.32</td>
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<td>Farebox Recovery Ratio</td>
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</tr>
<tr>
<td>Subsidy per Passenger Mile</td>
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<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Subsidy per Revenue Hour</td>
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<td>$64.71</td>
<td>$67.40</td>
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<tr>
<td>Subsidy per Revenue Mile</td>
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<td>$4.101</td>
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<tr>
<td>Passengers per Revenue Hour</td>
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<td>10.8</td>
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</tr>
<tr>
<td>Passengers per Revenue Mile</td>
<td>0.79</td>
<td>0.66</td>
<td>0.56</td>
</tr>
</tbody>
</table>

While any new service may be exempt from performance standards for up to three full fiscal years, the City is required to meet several standards for the rest of its services, including the mandated 10% farebox recovery ratio.

The City was able to meet its Productivity Improvement Program (PIP) mandatory and discretionary standards in FY 2006/07.

The new projections are based upon operating data through April 2008, projected through June 2008. Since these are only estimates, the performance indicators are subject to change.

For Fiscal Year 2008, the Banning Transit System expects to be in compliance with at least 4 of the 7 performance targets.

Additional details on key indicators for demand responsive and fixed route service are shown in Table 2.

The Banning Transit System does not receive any federal funding and is not required to report to the National Transit Database.

NEW SERVICE IMPLEMENTATION AND EVALUATION

Resources in Fiscal Year 2009 will be focused on building ridership, reducing costs and increasing revenues. Existing services provided by Banning Transit System will continue to operate and be monitored by staff for efficiency. No changes in service or service hours will occur this fiscal year. Minor schedule changes will be made to improve frequency, eliminate duplication and improve service coverage within Banning and Cabazon.
The following projects will be explored by Banning Transit System administrative staff in FY 2008/09:

**Pass Transit System Administration Analysis**
Pass Transit is a single seamless transit system to the public. However, it is two independent transit systems operated by two different transit management firms and overseen by two different policy boards. When the Pass Area Transit Plan was adopted in 2002, it was anticipated that at some future date the two systems would combine into a single system (single administrator and single policy board). This merger of the transit systems was anticipated to occur at some undetermined date in the future. However, having implemented the single system, staff has found that the demands of close coordination are more burdensome than anticipated. It has become evident to staff that the system would benefit significantly from a merger of the two systems sooner rather than later. The City of Banning intends to coordinate with the City of Beaumont to study the feasibility of a single transit agency.

**Marketing Pass Transit**
Staff will continue efforts to market the Pass Transit. These efforts will include purchasing advertising on a map of the San Gorgonio Pass Area, elementary, secondary and high school assemblies on using Pass Transit, development of a new Rider’s Guide and website, distribution of promotional materials and flyers to employers and businesses in Banning and the implementation of the Shop, Save and Get Home Free program. In addition, upgrades to bus stop amenities and the posting of bus route numbers, schedules and maps at bus stops are intended to make Pass Transit more attractive and easier to use. A demographic survey will be conducted to understand passenger groups.

**Research Day Pass vs. Transfers**
Currently, transfers are issued to customers wishing to transfer between Pass Transit routes and to and from RTA routes. Pass Transit fixed routes intersect in multiple locations within Banning, Beaumont and Cabazon which create a challenge in developing and enforcing transfer policies that are fair and convenient to both the customer and to Banning Transit System, Beaumont Transit System and RTA. During FY 2008/09, the potential of adopting a day pass will be researched with the intent of eliminating the transfer, similar to what other transit operators have done in Riverside County. The day pass offers the customer the maximum amount of flexibility in using the transit system and the ability to choose the most direct route for their chosen trips. If research indicates that the adoption of a day pass system is preferable to the existing paper transfers, the change would occur in FY 2009. It is envisioned that the Day Pass will be priced at a cost of riding Pass Transit at least 3.5 trips. RTA would accept the Day Pass for one free transfer onto their routes or as a credit on their CommuterLink route.

**Development of Bus Stop Guidelines and Inventory**
Staff will conduct a detailed bus stop inventory on all Pass Transit routes operating in Banning and Cabazon. Once the inventory is complete, staff will work with the Public Works Department, Streets Division to place bus stops every 2,500 to 3,500 feet and eliminate the flag stop policy. Some stops may be consolidated as a result. Staff will
utilize RTA's Bus Stop Guidelines to assist in the formal development of Bus Stop Guidelines for Pass Transit.

Pass Transit Route Analysis
Staff will evaluate the present routes structure operated to ensure that the routes are operating in the most optimal way. This route analysis will consist of reviewing route segments, evaluating ways to develop a 60 minute or better headway on Routes 5 and 6, eliminating the duplication by Routes 1 and 2 through rescheduling Route 1, elimination of non-productive segments on each of the routes, analyzing dial-a-ride origins and destinations, analyzing the hours and days operated and analyzing vehicle utilization on each route. This analysis will set the foundation for operating an efficient transit operation that can meet the performance measures established by RCTC.

Policies and Procedures
With new transit management in place, Banning Transit System staff will begin to work on a new Transit Operations Procedure Manual, which would guide the operation of Pass Transit. This manual would help ensure consistency as it relates to day-to-day operations. Staff will also begin tracking passenger mile data and will conduct samples on an annual basis. This task will meet the finding in the Triennial Performance Review.

REGULATORY AND COMPLIANCE REQUIREMENTS

The Americans with Disabilities Act of 1990
The City of Banning submitted an Americans with Disabilities Act Paratransit Plan to the FTA on January 26, 1992. Pass Transit fixed route buses are equipped with ADA compliant mobility device lifts and are accessible to persons with disabilities. A procedure is in place to provide service to a customer in a mobility device should a fixed route bus lift fail.

Pass Transit Dial-A-Ride services provide ADA complimentary paratransit service for the fixed route services operated by Banning Transit System. Beaumont Transit System offers the same service through their operation of Pass Transit Dial-A-Ride. The system uses a self-certification process with professional verification. Banning Transit System staff will process ADA certifications for Pass Transit operations by Banning and Beaumont.

Title VI
Banning Transit System/Pass Transit does not utilize federal funds for operating expenses. As such, Title VI requirements do not currently apply to the transit system.

Alternatively Fueled Vehicles (RCTC Policy)
Pass Transit fixed-route buses are CNG powered. Pass Transit Dial-A-Ride vehicles (which are less than 33,000 lbs. GVW and 15-passerger capacity) and administrative and driver relief vehicles are gasoline powered.

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Future vehicle purchases will be in compliance with the RCTC and South Coast Air Quality Management District (AQMD) policies regarding alternative fuel transit vehicles.

The CNG Fueling station at the City of Banning Corporation Yard provides expanded CNG capacity and fast fueling capability. With increased capacity and redundant compressor units, having adequate and reliable CNG pumping capacity will not be an issue in the foreseeable future.

**State Transit Assistance Compliance**
Banning Transit System does not utilize State Transit Assistance (STA) funding for operating expenses. As such, compliance with the Public Utilities Commission (PUC) requirement is not applicable.

**Disadvantage Business Enterprise (DBE) Program**
The City of Banning has adopted a DBE plan and methodology which is compliance with the State of California’s requirements. The plan and goals will be updated on an as needed basis.

**SUMMARY OF PROPOSED SERVICE IMPROVEMENTS FOR FY2008/09**

**Route 1: Beaumont/Banning/Cabazon Intercity Route**
Pass Transit Route 1 provides service predominately along Ramsey Street & 6th Street between Beaumont City Hall, Banning and Cabazon, while serving the Casino Morongo, Cabazon neighborhoods and Cabazon shopping areas.

This route operates on a two-hour headway and is complimented by an overlap with Route 2 (operated by Beaumont Transit System) by 75% of the route. Route 1 only provides service to the remote Esperanza & Elm area of Cabazon. The route also provides service to the residential areas of Cabazon, Cabazon Community Center, Casino Morongo, Desert Hills Premium Outlets and Cabazon Outlets, and the commercial areas along Ramsey Street and Highland Springs Avenue in Banning, and the commercial areas along 6th Street and Beaumont Avenue in Beaumont.

This route provides riders access to many civic, educational and county sponsored public social service office within the City of Banning and the unincorporated community of Cabazon. Destinations on Route 1 include: Kmart, Albertsons, Wal-Mart Supercenter, Beaumont City Hall, Rite Aid Pharmacy, Greyhound/ Crucero Agency, Amtrak California Thruway bus stop, Banning City Hall, The Gas Company, San Gorgonio Memorial Hospital, Fox Cinemas, Banning Police Department, Desert Hills Premium Outlets, Cabazon Outlets, Casino Morongo and Cabazon Community Center.

Connections to Route 5 and Route 6 can be made at on street Transfer Centers located at Kmart located off Sun Lakes Boulevard, Wal-Mart Supercenter off 2nd Street, Ramsey & Sunset near Rite Aid Pharmacy and Ramsey & North San Gorgonio near Banning City Hall and the Gas Company. Connections to Greyhound/Crucero can be made on Ramsey
near 4th Street. Connections to Amtrak California can be made at Beaumont City Hall.
Connections to RTA and Pass Transit routes operated by Beaumont Transit System at
Kmart, located off Sun Lakes Boulevard (only RTA), Wal-Mart Supercenter and
Beaumont City Hall off 6th Street.

Route 1 operates in an east/west fashion providing two way service with a 120 minute
frequency with one bus, seven days a week. Route 1 operates from 6:02 am to 7:02 pm,
Monday-Friday, 8:08 am to 5:07 pm on Saturday and 9:07 am to 5:07 pm on Sunday and
some holidays. No service is provided on New Years Day, Independence Day,
Thanksgiving Day and Christmas Day. Sunday service operates on Dr. Martin Luther
King Jr. Day, President’s Day, Memorial Day, Labor Day, Veterans Day and Day after
Thanksgiving.

Proposed Service Improvements:
2009: Minor schedule changes to improve on time performance, eliminate duplication
with Route 2 through a reschedule and improve coordination with other routes.
2010: Add night service with Job Access Reverse Commute funding.
2011: The addition of another bus to operate the route hourly, if demand warrants this.

Route 5: Northern Banning
This route operates on a 75 minute headway and provides service to the residential areas of
the City of Banning that lie north of the I-10 freeway, the Banning Municipal Library, the
Coombs Intermediate School and the commercial areas along Ramsey Street and Highland
Springs Avenue.

This neighborhood feeder route provides connections to many civic, educational and
county sponsored public social service office, Banning City Hall, Fox Cinemas, Kmart,
Albertsons, Rite Aid Pharmacy, San Gorgonio Memorial Hospital, Banning Public
Library, Banning Community Center, Banning Senior Center, US Post Office, and
various other shopping and school locations within the community.

Connections to Route 1 and Route 6 can be made at on street TransferCenters located at
Kmart located off Sun Lakes Boulevard, Wal-Mart Supercenter off 2nd Street, Ramsey &
Sunset near Rite Aid Pharmacy and Ramsey & North San Gorgonio near Banning City
Hall and the Gas Company. Connections between Routes 5 and 6 can also be made at the
Banning Post Office. Connections to Greyhound/Crucero can be made on Ramsey near
4th Street. Connections to RTA and Pass Transit routes operated by Beaumont Transit
System at Kmart, located off Sun Lakes Boulevard (only RTA) and Wal-Mart
Supercenter off 2nd Street.

Route 5 operates on a counter-clockwise loop providing a 75 minute frequency with one
bus, seven days a week. Route 5 operates from 6:00 am to 7:02 pm, Monday-Friday, 8:02
am to 5:00 pm on Saturday and 9:07 am to 5:00 pm on Sunday and some holidays. No
service is provided on New Years Day, Independence Day, Thanksgiving Day and
Christmas Day. Sunday service operates on Dr. Martin Luther King Jr. Day, President’s

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Proposed Service Improvements:
2009: Minor schedule changes to improve on time performance and improve coordination with other routes.
2010: No changes this fiscal year, continue to monitor service.
2011: No changes this fiscal year, continue to monitor service.

Route 6: Southern Banning
The route operates on a 75 minute headway and provides service to the residential areas south of the I-10 freeway, a small residential section north of Ramsey Street at the east end of the City of Banning, the commercial areas along Ramsey Street and Highland Springs Avenue, Banning High School, apartment complexes in the south, and the Banning Municipal Airport.

This neighborhood feeder route provides connections to many civic, educational and county sponsored public social service office, Banning City Hall, Fox Cinemas, Kmart, Albertsons, Rite Aid Pharmacy, San Gorgonio Memorial Hospital, Banning High School Banning Municipal Airport, US Post Office, and various other shopping and school locations within the community.

Connections to Route 1 and Route 5 can be made at on street TransferCenters located at Kmart located off Sun Lakes Boulevard, Wal-Mart Supercenter off 2nd Street, Ramsey & Sunset near Rite Aid Pharmacy and Ramsey & North San Gorgonio near Banning City Hall and the Gas Company. Connections between Routes 5 and 6 can also be made at the Banning Post Office. Connections to Greyhound/Cruceo can be made on Ramsey near 4th Street. Connections to RTA and Pass Transit routes operated by Beaumont Transit System at Kmart, located off Sun Lakes Boulevard (only RTA) and Wal-Mart Supercenter off 2nd Street.

Route 6 operates on a counter-clockwise loop providing a 75 minute frequency with one bus, seven days a week. Route 6 operates from 6:07 am to 7:07 pm, Monday-Friday, 8:00 am to 5:05 pm on Saturday and 8:55 am to 5:05 pm on Sunday and some holidays. No service is provided on New Years Day, Independence Day, Thanksgiving Day and Christmas Day. Sunday service operates on Dr. Martin Luther King Jr. Day, President’s Day, Memorial Day, Labor Day, Veterans Day and Day after Thanksgiving.

Proposed Service Improvements:
2009: Minor schedule changes to improve on time performance and improve coordination with other routes.
2010: No changes this fiscal year, continue to monitor service.
2011: No changes this fiscal year, continue to monitor service.

Pass Transit Dial-A-Ride provides demand responsive service anywhere within the City of Banning, within a ½ mile boundary of Routes 1 and 2 in Cabazon and into the city.
limits of Beaumont, through a cooperative memorandum of understanding with the City of Beaumont.

Seniors (age 60 years old and older), persons with disabilities and ADA eligible passengers are eligible for dial-a-ride throughout the entire service area. Service hours vary for non ADA eligible passengers. These categories of passengers also are required to fill out certification application to determine eligibility of service. Once certified, a card is issued to the applicant. General public passengers (ages 5-59 years old) are not eligible for dial-a-ride service.

The primary uses of Pass Transit Dial-A-Ride are for transportation to medical appointments, workshop programs for persons with disabilities, shopping areas, employment, and connections with Riverside Transit Agency (RTA) and Pass Transit fixed routes.

Service hours for Pass Transit Dial-A-Ride are:
Seniors (age 60 & older) and persons with disabilities without ADA certification
Monday - Friday 8:00 a.m. to 4:30 p.m.
Saturday & Sunday No Service

Persons with ADA Complementary Paratransit Certification
Monday - Friday 6:00 a.m. to 7:00 p.m.
Saturday 8:00 a.m. to 5:00 p.m.
Sunday 9:00 a.m. to 5:00 p.m. (within a ¾ mile boundary of Routes 1, 5 & 6)

No service is provided on New Years Day, Independence Day, Thanksgiving Day and Christmas Day. Sunday service operates on Dr. Martin Luther King Jr. Day, President’s Day, Memorial Day, Labor Day, Veterans Day and Day after Thanksgiving.

After 4:30 pm on weekdays and on weekends and some holidays, ADA paratransit service is provided with a prior day reservation and will travel up to ¾ of a mile away from the same fixed route that is operating. Reservations for the ADA paratransit service would need to be made by prior day or the service will not operate. Same day reservations are allowed, if a passenger called at least one hour in advance. Reservations could be made from one to 21 days in advance.

Proposed Service Improvements:
2009: Consider allowing general public ride Pass Transit Dial-A-Ride in areas where there is no fixed route transit service only in the City limits of Banning, as long as service hours do not increase.
2010: No changes this fiscal year, continue to monitor service.
2011: No changes this fiscal year, continue to monitor service.

Revised 06/13/08
### Table 1 - Fleet Inventory

**FY 2008/09 Short Range Transit Plan**

City of Banning

#### Bus (Motorbus) / Directly Operated

<table>
<thead>
<tr>
<th>Year Built</th>
<th>Mfg. Code</th>
<th>Model Code</th>
<th>Seating Capacity</th>
<th>Lift and Ramp Equipped</th>
<th>Vehicle Length</th>
<th>Fuel Type Code</th>
<th>Ownership Type Code</th>
<th># of Active Vehicles</th>
<th># of Contingency Vehicles</th>
<th>Total Miles on Active Fleet FY 2006/07</th>
<th>Rebuild Year</th>
</tr>
</thead>
<tbody>
<tr>
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<td>EDN</td>
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<td>2</td>
<td>35 CN</td>
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<td>Transmark</td>
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<td>2</td>
<td>35 CN</td>
<td>OOPA</td>
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<td>Ranger</td>
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<td>FRD</td>
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**Totals:** 105 5 6 2

#### Demand Response / Directly Operated

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<th>Model Code</th>
<th>Seating Capacity</th>
<th>Lift and Ramp Equipped</th>
<th>Vehicle Length</th>
<th>Fuel Type Code</th>
<th>Ownership Type Code</th>
<th># of Active Vehicles</th>
<th># of Contingency Vehicles</th>
<th>Total Miles on Active Fleet FY 2006/07</th>
<th>Rebuild Year</th>
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<td>Ford</td>
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<td>2006/07</td>
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**Totals:** 48 4 3 1

*TransTrack Manager™*

5/6/2008
## Table 2 -- Banning-BUS -- SRTP Service Summary

**FY 2008/09 Short Range Transit Plan**

**All Routes**

<table>
<thead>
<tr>
<th></th>
<th>FY 2005/06 Audited</th>
<th>FY 2006/07 Audited</th>
<th>FY 2007/08 Plan</th>
<th>FY 2007/08 3rd Qtr Actual</th>
<th>FY 2008/09 Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Fleet Characteristics</strong></td>
<td></td>
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<tr>
<td>Peak-Hour Fleet</td>
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<tr>
<td><strong>Financial Data</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Operating Expenses</td>
<td>$932,894</td>
<td>$951,979</td>
<td>$1,050,841</td>
<td>$739,226</td>
<td>$1,126,507</td>
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<tr>
<td>Total Passenger Fare Revenue</td>
<td>$115,165</td>
<td>$114,134</td>
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<td>$75,663</td>
<td>$111,000</td>
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<tr>
<td>Net Operating Expenses (Subsidies)</td>
<td>$817,728</td>
<td>$837,844</td>
<td>$929,841</td>
<td>$663,562</td>
<td>$1,015,507</td>
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<tr>
<td><strong>Operating Characteristics</strong></td>
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<td></td>
<td></td>
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</tr>
<tr>
<td>Unlinked Passenger Trips</td>
<td>183,265</td>
<td>146,089</td>
<td>166,500</td>
<td>89,835</td>
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<td>Passenger Miles</td>
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<td>Total Actual Vehicle Revenue Hours (a)</td>
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<tr>
<td>Total Actual Vehicle Revenue Miles (b)</td>
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<td>193,735.9</td>
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<td>144,929.0</td>
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<td>Total Actual Vehicle Miles</td>
<td>204,403.6</td>
<td>199,395.5</td>
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<td>149,225.0</td>
<td>202,486.0</td>
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<tr>
<td><strong>Performance Characteristics</strong></td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Operating Cost per Revenue Hour</td>
<td>$73.76</td>
<td>$76.82</td>
<td>$83.22</td>
<td>$79.74</td>
<td>$89.51</td>
</tr>
<tr>
<td>Farebox Recovery Ratio</td>
<td>12.34%</td>
<td>11.98%</td>
<td>11.51%</td>
<td>10.23%</td>
<td>9.85%</td>
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<tr>
<td>Subsidy per Passenger</td>
<td>$4.46</td>
<td>$5.74</td>
<td>$5.58</td>
<td>$7.39</td>
<td>$7.52</td>
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<tr>
<td>Subsidy per Passenger Mile</td>
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<td></td>
<td></td>
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<td>$2.51</td>
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<tr>
<td>Subsidy per Revenue Hour (a)</td>
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<td>$67.61</td>
<td>$73.64</td>
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<td>Subsidy per Revenue Mile (b)</td>
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<td>$4.32</td>
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<td>$5.16</td>
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<td>Passenger per Revenue Hour (a)</td>
<td>14.5</td>
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<td>13.2</td>
<td>9.7</td>
<td>10.7</td>
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<tr>
<td>Passenger per Revenue Mile (b)</td>
<td>0.93</td>
<td>0.75</td>
<td>0.84</td>
<td>0.62</td>
<td>0.69</td>
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</table>

(a) Train Hours for Rail Modes.  (b) Car Miles for Rail Modes.
### Fleet Characteristics

- Peak-Hour Fleet: 2

### Financial Data

<table>
<thead>
<tr>
<th></th>
<th>FY 2005/06 Audited</th>
<th>FY 2006/07 Audited</th>
<th>FY 2007/08 Plan</th>
<th>FY 2007/08 3rd Qtr Actual</th>
<th>FY 2008/09 Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Operating Expenses</td>
<td>$111,423</td>
<td>$118,058</td>
<td>$138,453</td>
<td>$82,852</td>
<td>$138,580</td>
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<tr>
<td>Total Passenger Fare Revenue</td>
<td>$11,367</td>
<td>$12,437</td>
<td>$9,800</td>
<td>$11,615</td>
<td>$15,550</td>
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<tr>
<td>Net Operating Expenses (Subsidies)</td>
<td>$100,056</td>
<td>$105,620</td>
<td>$128,653</td>
<td>$71,237</td>
<td>$123,030</td>
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### Operating Characteristics

<p>| | | | | | |</p>
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<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>Unlinked Passenger Trips</td>
<td>9,463</td>
<td>11,164</td>
<td>12,000</td>
<td>8,486</td>
<td>12,000</td>
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<tr>
<td>Passenger Miles</td>
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<td></td>
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<td></td>
<td>202,979</td>
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<tr>
<td>Total Actual Vehicle Revenue Hours (a)</td>
<td>2,327.2</td>
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<td>45,499.0</td>
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<td>49,872.0</td>
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<td>Total Actual Vehicle Miles</td>
<td>49,783.0</td>
<td>50,806.0</td>
<td>61,143.0</td>
<td>35,110.0</td>
<td>58,872.0</td>
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### Performance Characteristics

<table>
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<th></th>
<th>FY 2005/06 Audited</th>
<th>FY 2006/07 Audited</th>
<th>FY 2007/08 Plan</th>
<th>FY 2007/08 3rd Qtr Actual</th>
<th>FY 2008/09 Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating Cost per Revenue Hour</td>
<td>$47.88</td>
<td>$53.98</td>
<td>$46.15</td>
<td>$56.91</td>
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<tr>
<td>Farebox Recovery Ratio</td>
<td>10.20%</td>
<td>10.53%</td>
<td>7.07%</td>
<td>14.01%</td>
<td>11.22%</td>
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<td>0.21</td>
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<td>0.24</td>
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</table>

Notes: (a) Train Hours for Rail Modes. (b) Car Miles for Rail Modes.
<table>
<thead>
<tr>
<th>FY 2005/06 Audited</th>
<th>FY 2006/07 Audited</th>
<th>FY 2007/08 Plan</th>
<th>FY 2007/08 3rd Qtr Actual</th>
<th>FY 2008/09 Plan</th>
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<tr>
<td><strong>Fleet Characteristics</strong></td>
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<tr>
<td>Peak-Hour Fleet</td>
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<tr>
<td><strong>Financial Data</strong></td>
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<td><strong>Operating Characteristics</strong></td>
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<td>Unlinked Passenger Trips</td>
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<td>Passenger Miles</td>
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<td>Total Actual Vehicle Revenue Hours (a)</td>
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<tr>
<td>Operating Cost per Revenue Hour</td>
<td>$69.74</td>
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<td>$76.64</td>
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<tr>
<td>Farebox Recovery Ratio</td>
<td>12.11%</td>
<td>11.82%</td>
<td>10.99%</td>
<td>10.61%</td>
</tr>
<tr>
<td>Subsidy per Passenger</td>
<td>$4.76</td>
<td>$6.00</td>
<td>$5.93</td>
<td>$7.47</td>
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<tr>
<td>Subsidy per Passenger Mile</td>
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<tr>
<td>Subsidy per Revenue Hour (a)</td>
<td>$61.29</td>
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<td>Subsidy per Revenue Mile (b)</td>
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<td>0.79</td>
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(a) Train Hours for Rail Modes. (b) Car Miles for Rail Modes.
# Table 3 - SRTP Route Statistics

City of Banning -- 1  
FY 2008/09  
All Routes

## Data Elements

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<th>Route #</th>
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<th>Passengers</th>
<th>Passenger</th>
<th>Revenue</th>
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<th>Revenue</th>
<th>Total</th>
<th>Operating</th>
<th>Passenger</th>
<th>Net</th>
<th>Subsidy</th>
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<td>Total</td>
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<td>$346,255</td>
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<td>BAN-5</td>
<td>Total</td>
<td>1</td>
<td>58,050</td>
<td>123,199</td>
<td>4,195.0</td>
<td>4,207.0</td>
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<table>
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<th>Route #</th>
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<th>Operating Cost</th>
<th>Cost Per</th>
<th>Farebox</th>
<th>Subsidy Per</th>
<th>Subsidy Per</th>
<th>Subsidy Per</th>
<th>Subsidy Per</th>
<th>Passengers Per</th>
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<tr>
<td></td>
<td></td>
<td>Per Revenue</td>
<td>Per Revenue</td>
<td>Passenger</td>
<td>Recovery</td>
<td>Passenger</td>
<td>Mile</td>
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<td>Total</td>
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<td>$82.54</td>
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<td>BAN-6</td>
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<td>$80.87</td>
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<td>BAN-DAR</td>
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<td>11.22%</td>
<td>$10.25</td>
<td>$0.61</td>
<td>$35.15</td>
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<td>Service Provider Totals</td>
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<td>$1.87</td>
<td>$70.78</td>
<td>$4.82</td>
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</table>
TABLE 3A:  INDIVIDUAL ROUTE DESCRIPTION

Route 1 – Beaumont/Banning/Cabazon

Pass Transit Route 1 provides service predominately along Ramsey Street & 6th Street between Beaumont City Hall, Banning and Cabazon, while serving the Casino Morongo, Cabazon neighborhoods and Cabazon shopping areas.

This route operates on a two-hour headway and is complimented by an overlap with Route 2 (operated by Beaumont Transit System) along 75% of the route. It provides service to the remote Esperanza & Elm area of Cabazon. The route also provides service to the residential areas of Cabazon, Cabazon Community Center, Casino Morongo, Desert Hills Premium Outlets and Cabazon Outlets, and the commercial areas along Ramsey Street and Highland Springs Avenue in Banning, and the commercial areas along 6th Street and Beaumont Avenue in Beaumont.

This route provides riders access to many civic, educational and county sponsored public social service office within the City of Banning and the unincorporated community of Cabazon. Destinations on Route 1 include: Kmart, Albertsons, Wal-Mart Supercenter, Beaumont City Hall, Rite Aid Pharmacy, Greyhound/ Crucero Agency, Amtrak California Thruway bus stop, Banning City Hall, The Gas Company, San Gorgonio Memorial Hospital, Fox Cinemas, Banning Police Department, Desert Hills Premium Outlets, Cabazon Outlets, Casino Morongo and Cabazon Community Center.

Route 5 – Northern Banning

This route operates on a 75 minute headway and provides service to the residential areas of the City of Banning that lie north of the I-10 freeway, the Banning Municipal Library, the Coombs Intermediate School and the commercial areas along Ramsey Street and Highland Springs Avenue.

This neighborhood feeder route provides connections to many civic, educational and county sponsored public social service office, Banning City Hall, Fox Cinemas, Kmart, Albertsons, Rite Aid Pharmacy, San Gorgonio Memorial Hospital, Banning Public Library, Banning Community Center, Banning Senior Center, US Post Office, and various other shopping and school locations within the community.

Route 6 - Southern Banning

The route operates on a 75 minute headway and provides service to the residential areas south of the I-10 freeway, a small residential section north of Ramsey Street at the east end of the City of Banning, the commercial areas along Ramsey Street and Highland Springs Avenue, Banning High School, apartment complexes in the south, and the Banning Municipal Airport.
This neighborhood feeder route provides connections to many civic, educational and county sponsored public social service office, Banning City Hall, Fox Cinemas, Kmart, Albertsons, Rite Aid Pharmacy, San Gorgonio Memorial Hospital, Banning High School Banning Municipal Airport, US Post Office, and various other shopping and school locations within the community.

**Pass Transit Dial-A-Ride**

Pass Transit Dial-A-Ride is provided within the entire city limits of Banning and Beaumont and within a 3⁄4 mile boundary of Routes 1 and 2 service in Cabazon. The City of Banning provides the ADA certification for Pass Transit Dial-A-Ride services operated by the Cities of Banning and Beaumont.

Seniors (age 60 years old and older), persons with disabilities and ADA eligible passengers are eligible for dial-a-ride throughout the entire service area. Service hours vary for non ADA eligible passengers. These categories of passengers also are required to fill out certification application to determine eligibility of service. Once certified, a card is issued to the applicant.

General public passengers (ages 5-59 years old) are not eligible for dial-a-ride service.

The primary uses of Pass Transit Dial-A-Ride are for transportation to medical appointments, workshop programs for persons with disabilities, shopping areas, employment, and connections with Riverside Transit Agency (RTA) and Pass Transit fixed routes.
### Table 4 - Summary of Funds Requested for FY 2008/09

<table>
<thead>
<tr>
<th>Project Description</th>
<th>Capital Project Number</th>
<th>Total Amount of Funds</th>
<th>PTE/LTP</th>
<th>STA</th>
<th>Total PTE/LTP</th>
<th>STA</th>
<th>Total STA</th>
<th>Total</th>
<th>Section 5307 - Transitable &amp; Non-Transitable</th>
<th>Section 5309</th>
<th>Section 5311</th>
<th>CMAQ</th>
<th>TUMF</th>
<th>Room Rent</th>
<th>Other</th>
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<tr>
<td>FY 0809 Operating Assistance</td>
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<td></td>
<td></td>
<td>$115,519</td>
<td></td>
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<tr>
<td>for Fixed Route and Dial-A-Ride</td>
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<td>$0</td>
<td></td>
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<td>Subtotal: Operating</td>
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<td>1,355,007</td>
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<td></td>
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<tr>
<td>Bus Stop Amenity</td>
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<td>$150,000</td>
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<tr>
<td>Used Equipment</td>
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<td>Two Dial-A-Ride Vehicles</td>
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<td>Administrative Hybrid Car</td>
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<td>$650,000</td>
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<td>$115,519</td>
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<td></td>
</tr>
</tbody>
</table>

(1) Numbers should tie to Table 6A - Capital Project Justification.
(2) Please identify source of "Other" funds.

$7,000 = Investment Income
Table 4A – Capital Project Justification

PROJECT NUMBER: 09-1

PROJECT NAME: Bus Stop Amenities

PROJECT DESCRIPTION:

This project will purchase replacement bus benches, bus shelters, trash cans, bus stop signs and poles to add at existing bus stop locations and at unsigned or undesignated bus stop locations. The intent is to convert the transit system from a flag-stop system to a system with bus stops every 2,500 feet in urban areas and 5,000 feet in rural areas.

There are 15 bus shelter locations that currently require replacement.

PROJECT JUSTIFICATION: (refer to Commission policy entitled “Justification Requirements for Capital Projects”)

There are 15 bus shelter locations that require replacement. The previous bus advertising shelter contract ended in early 2003 and as a result, the shelters have fallen into a state of disrepair. There are many locations that can use bus benches, cement pads and bus stop signs so that passengers know where to board the bus and for passenger convenience.

PROJECT FUNDING SOURCES (REQUESTED):

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>STA</td>
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<tr>
<td>Carryover</td>
<td>$-</td>
</tr>
<tr>
<td>Prop 1B FY 07/08 Carryover</td>
<td>$11,820.00</td>
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<tr>
<td>Total</td>
<td>$170,000.00</td>
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</tbody>
</table>

PRIOR YEAR PROJECTS OF A SIMILAR NATURE WITH UNEXPENDED BALANCE – OR PROJECTS APPROVED BUT NOT YET ORDERED – INCLUDE FTA GRANT NUMBER AND RCTC’S CAPITAL GRANT NUMBER

<table>
<thead>
<tr>
<th>FTA Grant #</th>
<th>RCTC Grant #</th>
<th>Description</th>
<th>Unexpended balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>05-02</td>
<td>Bus Stop Amenities</td>
<td>$384</td>
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</tr>
</tbody>
</table>
Table 4A – Capital Project Justification

PROJECT NUMBER: 09-2

PROJECT NAME: Shop Equipment

PROJECT DESCRIPTION:

Purchase shop related equipment to assist with the efficient maintenance of the City’s buses at the City Corporation Yard.

Shop equipment that would be purchased includes various diagnostic software for maintaining and diagnosing the various buses that the City owns, the purchase and installation of a fleet fuelminder system for the compressed natural gas station to keep track of fuel usage by vehicle, the installation of an awning next to the shop building for the purposes of drivers placing their inspection sheets, daily logs and vehicle keys in a central location that is covered from the elements and to add new equipment for the purposes of outfitting the new shop truck assigned for transit purposes.

PROJECT JUSTIFICATION: (refer to Commission policy entitled “Justification Requirements for Capital Projects”)

Purchasing this equipment will ensure the efficient maintenance of the City’s transit fleet and ensure that buses are maintained quickly.

PROJECT FUNDING SOURCES (REQUESTED):

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
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<td><strong>Total</strong></td>
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PRIOR YEAR PROJECTS OF A SIMILAR NATURE WITH UNEXPENDED BALANCE – OR PROJECTS APPROVED BUT NOT YET ORDERED – INCLUDE FTA GRANT NUMBER AND RRTC’S CAPITAL GRANT NUMBER

<table>
<thead>
<tr>
<th>FTA Grant #</th>
<th>RRTC Grant #</th>
<th>Description</th>
<th>Unexpended balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>05-04</td>
<td>Shop Equipment</td>
<td>$61</td>
<td></td>
</tr>
</tbody>
</table>
Table 4A – Capital Project Justification

PROJECT NUMBER: 09-3

PROJECT NAME: Purchase Two Replacement Dial-A-Ride Vehicles

PROJECT DESCRIPTION:
Purchase two replacement Dial-A-Ride vehicles that would replace a 1998 and 2003 El Dorado Aerotech that have exceeded their useful life and have excessive mileage.

PROJECT JUSTIFICATION: (refer to Commission policy entitled “Justification Requirements for Capital Projects”)

Cutaway vehicles for Dial-A-Ride service are replaced every 5 years or 150,000 miles, which ever comes first, since these vehicles are on a light duty chassis.

PROJECT FUNDING SOURCES (REQUESTED):

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>STA</td>
<td>$158,180.00</td>
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<tr>
<td>Carryover</td>
<td>$</td>
</tr>
<tr>
<td>Prop 1B FY 07/08 Carryover</td>
<td>$11,820.00</td>
</tr>
<tr>
<td>Total</td>
<td>$170,000.00</td>
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</tbody>
</table>

PRIOR YEAR PROJECTS OF A SIMILAR NATURE WITH UNEXPENDED BALANCE – OR PROJECTS APPROVED BUT NOT YET ORDERED – INCLUDE FTA GRANT NUMBER AND RCTC’S CAPITAL GRANT NUMBER

<table>
<thead>
<tr>
<th>FTA Grant #</th>
<th>RCTC Grant #</th>
<th>Description</th>
<th>Unexpended balance</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>
Table 4A – Capital Project Justification

PROJECT NUMBER: 09-4

PROJECT NAME: Vehicle & Sign Decaling

PROJECT DESCRIPTION:

This project would decal the new transit cutaway bus delivered in 2008 and covers any costs associated with decaling new vehicles that could not be included in the total price of the bus. Additionally, decals will be placed on each bus stop sign allowing passengers to know what bus routes serve the particular stop.

PROJECT JUSTIFICATION: (refer to Commission policy entitled “Justification Requirements for Capital Projects”)

This project will help develop a consistent image of the fleet and place route numbers on bus stop signs, which can reduce passenger confusion.

PROJECT FUNDING SOURCES (REQUESTED):

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
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<tr>
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</tbody>
</table>

PRIOR YEAR PROJECTS OF A SIMILAR NATURE WITH UNEXPENDED BALANCE – OR PROJECTS APPROVED BUT NOT YET ORDERED – INCLUDE FHA GRANT NUMBER AND RRTC’S CAPITAL GRANT NUMBER

<table>
<thead>
<tr>
<th>FTA Grant #</th>
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<th>Unexpended balance</th>
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<tr>
<td>04-03</td>
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<td>Vehicle Decaling</td>
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</tbody>
</table>
Table 4A – Capital Project Justification

PROJECT NUMBER: 09-5

PROJECT NAME: Administrative Hybrid Car

PROJECT DESCRIPTION:
This purchase will support the need for an administrative gasoline powered car that would be used by Transit administrative staff for attending meetings, traveling between City facilities and running errands.

PROJECT Justification: (refer to Commission policy entitled “Justification Requirements for Capital Projects”)

Transit staff presently does not have a vehicle available to perform these tasks and must utilize other vehicles from other City departments based on availability.

PROJECT FUNDING SOURCES (REQUESTED):

<table>
<thead>
<tr>
<th>STA</th>
<th>$ 30,000.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carryover</td>
<td>-</td>
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<tr>
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</tbody>
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PRIOR YEAR PROJECTS OF A SIMILAR NATURE WITH UNEXPENDED BALANCE – OR PROJECTS APPROVED BUT NOT YET ORDERED – INCLUDE FTA GRANT NUMBER AND RRTC’S CAPITAL GRANT NUMBER

<table>
<thead>
<tr>
<th>FTA Grant #</th>
<th>RRTC Grant #</th>
<th>Description</th>
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<tbody>
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</tbody>
</table>

39
Table 4A – Capital Project Justification

PROJECT NUMBER: 09-6

PROJECT NAME: ADA Accessible Van

PROJECT DESCRIPTION:

This purchase will provide an ADA accessible van for persons in mobility devices that may need transportation should a wheelchair lift or ramp fail on any of the City's transit vehicles. This vehicle will also be used by the Lead Bus Driver for road supervision and observations and will replace an older 1989 non-ADA accessible minivan.

PROJECT JUSTIFICATION: (refer to Commission policy entitled “Justification Requirements for Capital Projects”)

This van is needed to ensure that persons with mobility devices can be picked up if a bus has a wheelchair lift or ramp that fails and will provide transportation for the Lead Bus Driver to provide road supervision and observations.

PROJECT FUNDING SOURCES (REQUESTED):

<table>
<thead>
<tr>
<th>STA</th>
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</thead>
<tbody>
<tr>
<td>$</td>
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</tr>
<tr>
<td>Total</td>
<td>$    50,000.00</td>
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PRIOR YEAR PROJECTS OF A SIMILAR NATURE WITH UNEXPENDED BALANCE – OR PROJECTS APPROVED BUT NOT YET ORDERED – INCLUDE FTA GRANT NUMBER AND RRTC’S CAPITAL GRANT NUMBER

<table>
<thead>
<tr>
<th>FTA Grant #</th>
<th>RRTC Grant #</th>
<th>Description</th>
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</tbody>
</table>

40
Table 4A – Capital Project Justification

PROJECT NUMBER: 09-7

PROJECT NAME: Purchase GEM Vehicle

PROJECT DESCRIPTION:

Purchase a GEM vehicle for bus driver relief and running administrative errands in Downtown Banning.

PROJECT JUSTIFICATION: (refer to Commission policy entitled “Justification Requirements for Capital Projects”)

The purchase of the GEM vehicle will allow bus drivers to relieve each other at various locations in Downtown Banning for lunch and other breaks and can be used to run errands between City offices and facilities. Presently, Bus Drivers are using gasoline-powered trucks to drive a distance of 2 miles, which is inefficient.

PROJECT FUNDING SOURCES (REQUESTED):

<table>
<thead>
<tr>
<th>STA</th>
<th>$ 12,000.00</th>
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PRIOR YEAR PROJECTS OF A SIMILAR NATURE WITH UNEXPENDED BALANCE – OR PROJECTS APPROVED BUT NOT YET ORDERED – INCLUDE FTA GRANT NUMBER AND RCTC’S CAPITAL GRANT NUMBER

<table>
<thead>
<tr>
<th>FTA Grant #</th>
<th>RCTC Grant #</th>
<th>Description</th>
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</tbody>
</table>
Table 4A – Capital Project Justification

PROJECT NUMBER: 09-8

PROJECT NAME: Purchase Bus Schedule Holders

PROJECT DESCRIPTION:

Purchase bus schedule holders for all major bus stops in Banning and Beaumont which would contain information on routes, schedules and fares so that passengers know when the bus is due to arrive at the bus stop.

This project will also allow for the installation of route numbers on all bus stop signs so that passengers know which routes serve the particular stop that they are waiting at.

PROJECT JUSTIFICATION: (refer to Commission policy entitled “Justification Requirements for Capital Projects”)

This project will help provide information to passengers so that they have the necessary information needed to board the bus. This amenity can help make transit attractive, which could attribute to increased ridership.

PROJECT FUNDING SOURCES (REQUESTED):

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
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<tbody>
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PRIOR YEAR PROJECTS OF A SIMILAR NATURE WITH UNEXPENDED BALANCE – OR PROJECTS APPROVED BUT NOT YET ORDERED – INCLUDE FTA GRANT NUMBER AND RCTC’S CAPITAL GRANT NUMBER

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<th>RCTC Grant #</th>
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<td>07-05</td>
<td>Schedule Holders</td>
<td>$10,000</td>
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</table>
Table 4A – Capital Project Justification

PROJECT NUMBER: 09-9

PROJECT NAME: Purchase GPS System for Transit Vehicles

PROJECT DESCRIPTION:

This project will purchase a GPS system for all transit vehicles to allow the transit dispatcher and general public the ability to see where the buses are located online.

PROJECT JUSTIFICATION: (refer to Commission policy entitled “Justification Requirements for Capital Projects”)

This project will allow the transit dispatcher to schedule dial-a-ride trips more efficiently and provide the ability to track the on time performance of all fixed routes and help with providing information to a passenger that calls wanting to know where the bus is.

PROJECT FUNDING SOURCES (REQUESTED):

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<thead>
<tr>
<th>STA</th>
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</table>
Table 4A – Capital Project Justification

PROJECT NUMBER: 09-10

PROJECT NAME: Paratransit Scheduling Software

PROJECT DESCRIPTION:

This project will purchase scheduling software to improve the productivity of Pass Transit Dial-A-Ride and reduce denied trips for seniors and persons with disabilities that are not ADA certified.

PROJECT JUSTIFICATION: (refer to Commission policy entitled “Justification Requirements for Capital Projects”)

This project will help improve the overall productivity of the dial-a-ride service, which could reduce miles and hours.

PROJECT FUNDING SOURCES (REQUESTED):

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<th>Source</th>
<th>Amount</th>
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<tbody>
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PRIOR YEAR PROJECTS OF A SIMILAR NATURE WITH UNEXPENDED BALANCE – OR PROJECTS APPROVED BUT NOT YET ORDERED – INCLUDE FTA GRANT NUMBER AND RCTC’S CAPITAL GRANT NUMBER

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</tbody>
</table>
Table 4A – Capital Project Justification

PROJECT NUMBER: 09-11

PROJECT NAME: Computer Equipment

PROJECT DESCRIPTION:

This project will purchase new computers for the Transit administrative staff, a computerized safe for storing tickets, transfers and revenues, a cash register for selling bus passes and tickets from the transit office and a farebox download computer system for retrieving data from the electronic fareboxes.

PROJECT JUSTIFICATION: (refer to Commission policy entitled “Justification Requirements for Capital Projects”)

With the construction of a new transit administrative office inside the Banning Community Center, there is a need to provide computer equipment for transit administrative staff members and to procure a new farebox data management system, which will allow staff to retrieve information from the fareboxes for passenger data collection and revenue counting. The computerized safe will allow for the safe keeping of transit revenues and the cash register will allow for the accurate sales of transit passes and tickets.

PROJECT FUNDING SOURCES (REQUESTED):

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<thead>
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<th>STA</th>
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PRIOR YEAR PROJECTS OF A SIMILAR NATURE WITH UNEXPENDED BALANCE – OR PROJECTS APPROVED BUT NOT YET ORDERED – INCLUDE FTA GRANT NUMBER AND RRTC’S CAPITAL GRANT NUMBER

<table>
<thead>
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<th>FTA Grant #</th>
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<td>07-01</td>
<td>Computer Equipment</td>
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<td>$5,377</td>
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</table>
Table 4A – Capital Project Justification

PROJECT NUMBER: 09-12

PROJECT NAME: Electronic Fareboxes

PROJECT DESCRIPTION:

Purchase electronic fareboxes and the mobile vault unit for improving fare collections and making the process more secure. Presently, manual fareboxes are being used and the counting and transporting process of the revenue is not as secure as it could be.

PROJECT JUSTIFICATION: (refer to Commission policy entitled “Justification Requirements for Capital Projects”)

This project is needed to ensure that all revenues are being transported securely between the farebox and the City Finance Department for reconciliation and counting. This project will also ensure that all revenues are being accounted for from passengers.

PROJECT FUNDING SOURCES (REQUESTED):

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<thead>
<tr>
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PRIOR YEAR PROJECTS OF A SIMILAR NATURE WITH UNEXPENDED BALANCE – OR PROJECTS APPROVED BUT NOT YET ORDERED – INCLUDE FTA GRANT NUMBER AND RCTC’S CAPITAL GRANT NUMBER

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<th>FTA Grant #</th>
<th>RCTC Grant #</th>
<th>Description</th>
<th>Unexpended balance</th>
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</tbody>
</table>
Table 4A – Capital Project Justification

PROJECT NUMBER: 09-13

PROJECT NAME: Security Cameras on Buses

PROJECT DESCRIPTION:

This project will repair the security cameras presently on board the transit buses, purchase a viewing station to monitor activity of the buses and install security cameras on board the remainder of the fleet that does not have any.

PROJECT JUSTIFICATION: (refer to Commission policy entitled “Justification Requirements for Capital Projects”)

This project will help improve security on board transit buses, monitor suspicious activity and assist in reducing claims against the City for incidents that occur.

PROJECT FUNDING SOURCES (REQUESTED):

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<th>$ 48,818.00</th>
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<td>Prop 1B Security</td>
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<td>$ 50,000.00</td>
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PRIOR YEAR PROJECTS OF A SIMILAR NATURE WITH UNEXPENDED BALANCE – OR PROJECTS APPROVED BUT NOT YET ORDERED – INCLUDE FTA GRANT NUMBER AND RCTC’S CAPITAL GRANT NUMBER

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<thead>
<tr>
<th>FTA Grant #</th>
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</tbody>
</table>
Table 4A – Capital Project Justification

PROJECT NUMBER: 09-14

PROJECT NAME: On Board Schedule Holders

PROJECT DESCRIPTION:

This project will purchase on board schedule holders for all of the City’s buses and display stands for Banning City Hall, Wal-Mart Super Center, Beaumont City Hall, Banning Community Center, Banning Senior Center, Banning Police Department, Kmart, San Gorgonio Hospital, Cabazon Outlets, Cabazon Community Center and Morongo Casino for the purposes of displaying transit rider’s guides.

PROJECT JUSTIFICATION: (refer to Commission policy entitled “Justification Requirements for Capital Projects”)

This project will help provide a central location for passengers to receive transit information on the City’s transit system. Presently, materials are scattered on buses or hidden away at various point of interest locations served by Pass Transit.

PROJECT FUNDING SOURCES (REQUESTED):

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
<th>Total</th>
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<tbody>
<tr>
<td>STA</td>
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<td><strong>Total</strong></td>
<td><strong>$1,500.00</strong></td>
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PRIOR YEAR PROJECTS OF A SIMILAR NATURE WITH UNEXPENDED BALANCE – OR PROJECTS APPROVED BUT NOT YET ORDERED – INCLUDE FTA GRANT NUMBER AND RRTC’S CAPITAL GRANT NUMBER

<table>
<thead>
<tr>
<th>FTA Grant #</th>
<th>RRTC Grant #</th>
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<tr>
<td>06-02</td>
<td>On Board Schedule Holders</td>
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</tbody>
</table>

48
Table 4A – Capital Project Justification

PROJECT NUMBER: 09-15

PROJECT NAME: Shop Truck

PROJECT DESCRIPTION:
This project will purchase a shop truck for use by the Transit Mechanic so that he/she could respond to road calls that occur while transit buses are in route.

PROJECT JUSTIFICATION: (refer to Commission policy entitled “Justification Requirements for Capital Projects”)
This project will help improve the reliability of the fleet by providing an opportunity for the mechanic to go on site to troubleshoot and repair the bus that has been disabled. This will also reduce tow charges and driving buses that may “limp” which could further damage the components that are not working properly.

PROJECT FUNDING SOURCES (REQUESTED):

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<th>STA</th>
<th>$</th>
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PRIOR YEAR PROJECTS OF A SIMILAR NATURE WITH UNEXPENDED BALANCE – OR PROJECTS APPROVED BUT NOT YET ORDERED – INCLUDE FTA GRANT NUMBER AND RRTC’S CAPITAL GRANT NUMBER

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<thead>
<tr>
<th>FTA Grant #</th>
<th>RRTC Grant #</th>
<th>Description</th>
<th>Unexpended balance</th>
</tr>
</thead>
</table>
Table 4A – Capital Project Justification

PROJECT NUMBER: 09-16

PROJECT NAME: Purchase Automated Enunciator & Display Equipment

PROJECT DESCRIPTION:
This project will purchase a new automated enunciator and display system for all fixed route buses to announce major bus stop locations and transfer points.

PROJECT JUSTIFICATION: (refer to Commission policy entitled “Justification Requirements for Capital Projects)
This project will help ensure that the City is compliance with ADA call outs and provide a clear concise voice for announcing major stop locations and transfer points.

PROJECT FUNDING SOURCES (REQUESTED):

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<tbody>
<tr>
<td>STA</td>
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<th>FTA Grant #</th>
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<th>Unexpended balance</th>
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</thead>
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<tr>
<td>08-03</td>
<td></td>
<td>Purchase Automated Enunciator &amp; Display Equipment</td>
<td>$50,000</td>
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</table>
Table 5 - Summary of Funds Requested for FY 2009/10

<table>
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<tr>
<th>Project Description</th>
<th>Capital Project Number</th>
<th>Total Amount of Funds</th>
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<tbody>
<tr>
<td></td>
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<td>LTC</td>
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<tr>
<td>FY 09/10 Operating Assistance for Fixed Route and GSA-A-Ride</td>
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<td>$1,164,951</td>
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<tr>
<td><strong>Subtotal: Operating</strong></td>
<td>$1,259,351</td>
<td>$1,164,951</td>
</tr>
<tr>
<td>Bus Stop Amenities (FY 10-1)</td>
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<td>$50,000</td>
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<tr>
<td><strong>Subtotal: Capital</strong></td>
<td>$50,000</td>
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</tr>
<tr>
<td><strong>Total: Operating &amp; Capital</strong></td>
<td>$1,349,351</td>
<td>$1,164,951</td>
</tr>
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</table>

Table 5 - Summary of Funds Requested for FY 2010/11

<table>
<thead>
<tr>
<th>Project Description</th>
<th>Capital Project Number</th>
<th>Total Amount of Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>LTC</td>
</tr>
<tr>
<td>FY 10/11 Operating Assistance for Fixed Route and GSA-A-Ride</td>
<td>$1,309,000</td>
<td>$1,205,605</td>
</tr>
<tr>
<td><strong>Subtotal: Operating</strong></td>
<td>$1,309,000</td>
<td>$1,205,605</td>
</tr>
<tr>
<td>Bus Stop Amenities (FY 11-1)</td>
<td>$50,000</td>
<td>$50,000</td>
</tr>
<tr>
<td>Rebuild One Fixed Route Bus (FY 11-2)</td>
<td>$650,000</td>
<td>$650,000</td>
</tr>
<tr>
<td><strong>Subtotal: Capital</strong></td>
<td>$650,000</td>
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<tr>
<td><strong>Total: Operating &amp; Capital</strong></td>
<td>$1,959,000</td>
<td>$1,865,605</td>
</tr>
</tbody>
</table>

*Other Funds is Investment Income*
Table 5A – Capital Project Justification

PROJECT NUMBER: 10-1

PROJECT NAME: Bus Stop Amenities

PROJECT DESCRIPTION

This project will purchase replacement bus benches, bus shelters, trash cans, bus stop signs and poles to add at existing bus stop locations and at unsigned or undesignated bus stop locations. The intent is to convert the transit system from a flag-stop system to a system with bus stops every 2,500 feet in urban areas and 5,000 feet in rural areas.

PROJECT JUSTIFICATION: (refer to Commission policy entitled "Justification Requirements for Capital Projects")

The City anticipates ongoing maintenance of all bus stops and amenities through a regular repair/replacement program for all of our bus stop locations. Bus stops and amenities will be maintained according to standards that have been developed.

PROJECT FUNDING SOURCES (REQUESTED):

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<tr>
<td>$ 50,000.00</td>
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<td>Total</td>
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<td>$ 50,000.00</td>
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PRIOR YEAR PROJECTS OF A SIMILAR NATURE WITH UNEXPENDED BALANCE – OR PROJECTS APPROVED BUT NOT YET ORDERED – INCLUDE FTA GRANT NUMBER AND RCTC’S CAPITAL GRANT NUMBER

<table>
<thead>
<tr>
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<th>RCTC Grant #</th>
<th>Description</th>
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</tbody>
</table>
Table 5A – Capital Project Justification

PROJECT NUMBER: 11-1

PROJECT NAME: Bus Stop Amenities

PROJECT DESCRIPTION

This project will purchase replacement bus benches, bus shelters, trash cans, bus stop signs and poles to add at existing bus stop locations and at unsigned or undesignated bus stop locations. The intent is to maintain the all system bus stops and amenities according to standards set by the transit system.

PROJECT JUSTIFICATION: (refer to Commission policy entitled “Justification Requirements for Capital Projects”)

The City anticipates ongoing maintenance of all bus stops and amenities through a regular repair/replacement program for all of its bus stop locations. Bus stops and amenities will be maintained according to standards that have been developed.

PROJECT FUNDING SOURCES (REQUESTED):

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<tr>
<th>STA</th>
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<td>$ 50,000.00</td>
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</tbody>
</table>

53
Table 5A – Capital Project Justification

PROJECT NUMBER: 11-2

PROJECT NAME: One Fixed Route Bus Replacement

PROJECT DESCRIPTION:
The purpose of this project is to replace one 2001 El Dorado Transmark high floor bus that has exceeded its useful life on a medium duty chassis.

PROJECT JUSTIFICATION: (refer to Commission policy entitled “Justification Requirements for Capital Projects”)
The new bus replacement would be 35 feet in length, have a low floor for improved ADA accessibility and assist in improving the spare ratio.

PROJECT FUNDING SOURCES (REQUESTED):

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<th>STA</th>
<th>$ 400,000.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carryover</td>
<td>$ -</td>
</tr>
<tr>
<td>Total</td>
<td>$ 400,000.00</td>
</tr>
</tbody>
</table>

PRIOR YEAR PROJECTS OF A SIMILAR NATURE WITH UNEXPENDED BALANCE – OR PROJECTS APPROVED BUT NOT YET ORDERED – INCLUDE FTA GRANT NUMBER AND RCTC'S CAPITAL GRANT NUMBER

<table>
<thead>
<tr>
<th>FTA Grant #</th>
<th>RCTC Grant #</th>
<th>Description</th>
<th>Unexpended balance</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recent Audit Recommendation (Covering FY 2003/04 – FY 2005/06(^1))</td>
<td>Action(s) Taken And Results To Date(^2)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| 1. Banning Transit should implement the remaining three prior audit recommendations:  
  - Provide Passenger Mile data in TransTrak  
  - Continued Recruitment of Drivers  
  - Provide incentives for drivers to maintain longevity | The City has hired a new transit management firm to manage the day-to-day operations of the transit system. As a result, it is the intent of the City to begin tracking passenger mile data in FY 09, ensure that part time and/or full time bus operators are recruited in FY 09 and to develop an employee incentive program to improve moral and maintain longevity. |
| 2. Develop and enforce employee policies and rules specific to providing consistent transit service. | The City has hired a new transit management firm to manage the day-to-day operations of the transit system. It is the intent of the City to develop a new training program and to develop a procedures manual for the bus operators to follow and use as a guideline. This will begin in FY 09. |
| 3. Conduct daily reconciliation of farebox revenues with passenger counts | With the hiring of a new transit management firm by the City, the transit management staff will be responsible for ensuring that the fare revenues are deposited at City Finance Department and that the fares are reconciled with the passenger tally sheets. |
| 4. Considering prioritizing procurement of electronic farebox | Within the hiring of a new transit management firm, the transit management staff will evaluate the potential of electronic fareboxes and if funding is available for the purchase electronic fareboxes, the City will purchase them for all the buses, along with the computer and mobile vault. |

---

\(^1\)Triennial performance audit for FY 2003/04 through FY 2005/06 was conducted in FY 2006/07 and completed 6/30/07.

\(^2\)If no action taken, provide schedule for implementation or explanation of why the recommendation is no longer relevant.
Table 7 -- Service Provider Performance Targets Report
FY 2007/08 Short Range Transit Plan Review
City of Banning

<table>
<thead>
<tr>
<th>Data Elements</th>
<th>FY 2007/08 Plan</th>
<th>FY 2007/08 Target</th>
<th>FY 2007/08 Year to Date Through 3rd Quarter</th>
<th>Year to Date Performance Scorecard</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unlinked Passenger Trips</td>
<td>178,500</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Passenger Miles</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Actual Vehicle Revenue Hours</td>
<td>15,627.0</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Actual Vehicle Revenue Miles</td>
<td>254,158.0</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Actual Vehicle Miles</td>
<td>264,302.0</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Operating Expenses</td>
<td>$1,189,294</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Passenger Fare Revenue</td>
<td>$130,800</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net Operating Expenses</td>
<td>$1,058,494</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Performance Indicators**

**Mandatory:**
1. Farebox Recovery Ratio 10.99% >= 10.00% 10.61% Meets Target

**Discretionary:**
1. Operating Cost Per Revenue Hour $76.11 <= $76.82 $76.54 Meets Target
2. Subsidy Per Passenger $5.93 >= $4.99 and <= $6.75 $7.47 Falls to Meet Target
3. Subsidy Per Passenger Mile None
4. Subsidy Per Hour $67.73 >= $55.45 and <= $75.03 $68.51 Meets Target
5. Subsidy Per Mile $4.16 >= $3.36 and <= $4.54 $4.18 Meets Target
6. Passengers Per Revenue Hour 11.4 >= 9.4 and <= 12.8 9.2 Falls to Meet Target
7. Passengers Per Revenue Mile 0.70 >= 0.57 and <= 0.77 0.56 Falls to Meet Target

**Note:** Must meet at least 4 out of 7 Discretionary Performance Indicators

**Productivity Performance Summary:**

**Service Provider Comments:**
<table>
<thead>
<tr>
<th>Performance Indicators</th>
<th>FY 2006/07</th>
<th>FY 2007/08</th>
<th>FY 2008/09 Plan</th>
<th>FY 2008/09 Target</th>
<th>Plan Performance Scorecard (a)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>End of Year Actual</td>
<td>3rd Quarter Year-to-Date</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Passengers</td>
<td>157,253</td>
<td>98,321</td>
<td>147,000</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>Passenger Miles</td>
<td></td>
<td></td>
<td>609,070</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>Revenue Hours</td>
<td>14,579.3</td>
<td>10,725.9</td>
<td>16,085.0</td>
<td>None</td>
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</tr>
<tr>
<td>Total Hours</td>
<td>14,264.7</td>
<td>10,396.2</td>
<td>16,277.0</td>
<td>None</td>
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</tr>
<tr>
<td>Revenue Miles</td>
<td>239,234.9</td>
<td>175,781.0</td>
<td>246,618.0</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>Total Miles</td>
<td>250,201.5</td>
<td>184,335.0</td>
<td>261,358.0</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>Operating Costs</td>
<td>$1,070,036</td>
<td>$822,077</td>
<td>$1,265,067</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>Passenger Revenue</td>
<td>$126,572</td>
<td>$87,278</td>
<td>$126,550</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>Operating Subsidy</td>
<td>$943,464</td>
<td>$734,799</td>
<td>$1,138,537</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>Operating Costs Per Revenue Hour</td>
<td>$73.39</td>
<td>$76.64</td>
<td>$78.65</td>
<td>&lt;= $79.25</td>
<td>Meets Target</td>
</tr>
<tr>
<td>Operating Cost Per Revenue Mile</td>
<td>$4.47</td>
<td>$4.68</td>
<td>$5.13</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>Operating Costs Per Passenger</td>
<td>$6.80</td>
<td>$8.36</td>
<td>$8.61</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>Farebox Recovery Ratio</td>
<td>11.82%</td>
<td>10.61%</td>
<td>10.00%</td>
<td>&gt;= 10.0%</td>
<td>Meets Target</td>
</tr>
<tr>
<td>Subsidy Per Passenger</td>
<td>$6.00</td>
<td>$7.47</td>
<td>$7.75</td>
<td>&gt;= $5.35 and &lt;= $8.59</td>
<td>Meets Target</td>
</tr>
<tr>
<td>Subsidy Per Passenger Mile</td>
<td></td>
<td></td>
<td>$1.87</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>Subsidy Per Revenue Hour</td>
<td>$54.71</td>
<td>$68.51</td>
<td>$70.78</td>
<td>&gt;= $58.23 and &lt;= $78.79</td>
<td>Meets Target</td>
</tr>
<tr>
<td>Subsidy Per Revenue Mile</td>
<td>$3.94</td>
<td>$4.18</td>
<td>$4.62</td>
<td>&gt;= $3.55 and &lt;= $4.81</td>
<td>Meets Target</td>
</tr>
<tr>
<td>Passengers Per Revenue Hour</td>
<td>10.8</td>
<td>9.2</td>
<td>9.1</td>
<td>&gt;= 7.62 and &lt;= 10.58</td>
<td>Meets Target</td>
</tr>
<tr>
<td>Passengers Per Revenue Mile</td>
<td>0.66</td>
<td>0.56</td>
<td>0.60</td>
<td>&gt;= 0.48 and &lt;= 0.64</td>
<td>Meets Target</td>
</tr>
</tbody>
</table>

a) The Plan Performance Scorecard column is the result of comparing the FY 2008/09 Plan to the FY 2008/09 Primary Target.
TABLE 9 – HIGHLIGHTS OF 2008/09 – 2010/11 SHORT RANGE TRANSIT PLAN

- Sustain Current Service Levels – Resources in Fiscal Year 2009 will be focused on building ridership, reducing costs and increasing revenues. Existing services provided by Banning Transit System will continue operate and be monitored by staff for efficiency. No changes in service or service hours will occur this fiscal year. Minor schedule changes will be made to improve frequency, eliminate duplication and improve service coverage within Banning and Cabazon. Staff will evaluate the present routes structure operated to ensure that the routes are operating at the most optimal way. This analysis will set the foundation for operating an efficient transit operation that can meet the performance measures established by RCTC.

- Capital Purchases – Banning Transit System staff will focus on improved capital assets need for transit operations. This includes bus stop signs, passenger amenities, new fixed route and dial-a-ride buses, automatic announcators for ADA call outs, GPS system, new relief vehicles, brochure racks and informational panels on bus stops, office equipment, new radio system, computer equipment, electronic fareboxes, security cameras on buses and remodel of the transit administration office. Staff will also close out all outstanding capital projects from prior fiscal years.

- Policies and Procedures – With new transit management in place, Banning Transit System staff will begin to work on a new Transit Operations Procedure Manual, which would guide the operation of Pass Transit. This manual would help ensure bus operators and staff are consist as it relates to the day to day operations. Staff will also begin tracking passenger mile data and will conduct samples on an annual basis.

- Marketing Program – The following marketing efforts will be undertaken to promote ridership growth.

1. Development of a marketing program which includes Rider’s Guide, brochures, flyers, advertisements in local newspapers, TV and cable access channels, billboards, community transit fairs, participation in community events, website, promotional materials and “grass roots” type marketing.

2. Development of a public outreach program, which includes meeting with schools, employers, senior service programs, persons with disabilities programs, social service agencies, the general public, city departments and other organizations who would benefit from public transportation in the Pass Area.

3. Development of a Mobility Training travel training program to train persons about public transportation, including those with disabilities.

4. Participation in RCTC Rideshare program to encourage employers, residents and visitors of the Pass Area to rideshare.
5. Participation in American Public Transportation Association (APTA) PT2 and Communities in Motion campaign which focus on “choice riders” who are currently not using public transportation.

6. Develop a new Shop, Save & Get Home Free program with retailers in Banning and Beaumont. This program will allow retailers to purchase one ride passes from the City and pass them out to their shoppers when they spend a certain dollar amount at their stores.

7. Conduct a demographic survey to understand the various ridership groups riding Pass Transit.

- **Coordination with the City of Beaumont** - Pass Transit is a single seamless transit system to the public. However, it is two independent transit systems operated by two different transit management firms and overseen by two different policy boards. When the Pass Area Transit Plan was adopted in 2002, it was anticipated that at some future date the two systems would combine into a single system (single administrator and single policy board). This merger of the transit systems was anticipated to occur at some undetermined date in the future.

Staff will also continue to work with Beaumont Transit System staff regarding the coordination of routes, schedules, transfer locations, passenger amenities, vehicle procurement, marketing activities and fares to ensure that Pass Transit is seamless and simple to use by Pass Area residents.

- **Fares** - Staff will evaluate potential fares changes for FY 2008/09 to ensure that the City is in compliance with achieving a 10% farebox recovery ratio. Any fare increases proposed will go through a public hearing process. An across the board fare increase may need to take place. As part of the fare increase, the potential of adopting a day pass will be researched with the intent of eliminating the transfer, similar to what other transit operators have done in Riverside County. The day pass offers the customer the maximum amount of flexibility in using the transit system and the ability to choose the most direct route for their chosen trips. If research indicates that the adoption of a day pass system is preferable to the existing paper transfers, the change would occur in FY 2009. Staff will evaluate the potential for implementing electronic fare collection to improve and streamline the fare collection process.

- **Development of Bus Stop Guidelines and Inventory** - Staff will conduct a detailed bus stop inventory on all Pas Transit routes operating in Banning and Cabazon. Once the inventory is complete, staff will work with the Public Works Department, Streets Division to place bus stops every 2,500 to 3,500 feet and eliminate the flag stop policy. Some stops may be consolidated as a result. Staff will utilize RTA’s Bus Stop Guidelines to assist in the formal development of Bus Stop Guidelines for Pass Transit.
Riverside County Transportation Commission (RCTC) Productivity Improvement Program For FY 2009

- Operating cost per revenue hour – compliant
- Subsidy per passenger – compliant
- Subsidy per passenger mile – compliant
- Subsidy per hour – compliant
- Subsidy per mile – compliant
- Subsidy per revenue hour – compliant
- Subsidy per revenue mile – compliant

<table>
<thead>
<tr>
<th>Busines and Financial Data</th>
<th>FY 2006 Audited</th>
<th>FY 2007 Audited</th>
<th>FY 2008 Projected (Annualized 10 mos)</th>
<th>FY 2009 Planned</th>
</tr>
</thead>
<tbody>
<tr>
<td>Systemwide Ridership</td>
<td>192,728</td>
<td>157,253</td>
<td>132,000</td>
<td>147,000</td>
</tr>
<tr>
<td>Operating Cost per Revenue Hours</td>
<td>$69.74</td>
<td>$73.39</td>
<td>$76.32</td>
<td>$77.13</td>
</tr>
</tbody>
</table>
APPENDIX A – PASS TRANSIT SYSTEM MAP

Routes 1, 5 and 6 are operated by Banning Transit System
CITY COUNCIL AGENDA
CONSENT ITEM

DATE: July 22, 2008

TO: Honorable Mayor and City Council

FROM: Kahono Oei, City Engineer

SUBJECT: Performance/Labor and Material, and Monumentation Bond Releases for Tract No. 30774

RECOMMENDATION: Release 100% of the Performance/Labor and Material Bonds, and Monumentation Bond for Tract No. 30774.

JUSTIFICATION: Tract Map No. 30774 expired and would require resubmission for approval along with new Performance/Labor and Material Bonds, and Monumentation Bond.

BACKGROUND: Tract Map No. 30774 is located between Westward Avenue and Bobcat Avenue; and between 16th Street and Sunset Avenue. Prior to the City Council approval of each tract map, the developer is required to post Performance/Labor & Material Bonds, and Monumentation Bond.

The tentative Tract Map No. 30774 was approved by City Council on April 12, 2005. Although the final Tract Map No. 30774 was approved, the map was never recorded. According to the City’s code, a final map expires one year from the date of City Council approval if not recorded. Subsequently, on April 4, 2008, the land was foreclosed upon by the lender. Hence, the original developers are no longer the owners of this project for which these bonds relate to; therefore, they do not have the authority to perform as required by the agreement with the City.

If the new owner desires to develop this property they would be required to resubmit the tract map for approval and post new required bonds. For this reason, the original developers are requesting 100% release of the below listed Performance/Labor and Material Bonds, and Monumentation Bond.

<table>
<thead>
<tr>
<th>Bond No.</th>
<th>Bond Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>CWS70564</td>
<td>$3,439,888.00</td>
</tr>
<tr>
<td>CWS70565</td>
<td>$1,169,662.00</td>
</tr>
<tr>
<td>CWS70566</td>
<td>$2,950,030.00</td>
</tr>
<tr>
<td>CWS70567</td>
<td>$1,960,750.00</td>
</tr>
<tr>
<td>CWS70568</td>
<td>$1,604,995.00</td>
</tr>
<tr>
<td>CWS70569</td>
<td>$1,041,005.00</td>
</tr>
<tr>
<td>CWS70570</td>
<td>$20,000.00</td>
</tr>
<tr>
<td>CWS70576</td>
<td>$33,670.00</td>
</tr>
<tr>
<td>CWS70577</td>
<td>$200,000.00</td>
</tr>
</tbody>
</table>

FISCAL DATA: Not applicable.
REVIEWED BY:
Duane Burk
Director of Public Works

APPROVED BY:
Briah Nakamura
City Manager
TRUSTEE’S DEED UPON SALE


The undersigned grantor declares:

1) The Grantee herein was the foreclosing beneficiary.
2) The amount of the unpaid debt together with costs was $3,755,464.95
3) The amount paid by the grantee at the trustee sale was $2,600,000.00
4) The documentary transfer tax was $NONE.
5) Said property is in RIVERSIDE

and R.E.F.S. INC., A CALIFORNIA CORPORATION (herein called Trustee), as the duly appointed Trustee or substituted Trustee under the Deed of Trust hereinafter described, does hereby grant and convey, but without covenant or warranty, express or implied, to BANNING HOMES, LLC., A CALIFORNIA LIMITED LIABILITY COMPANY (herein called Grantor), all of its right, title and interest in and to that certain property situated in the County of RIVERSIDE, State of California, described as follows: FOR LEGAL DESCRIPTION SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

Situs: VACANT LAND, , RIVERSIDE, CA

RECITALS:

This conveyance is made pursuant to the powers conferred upon Trustee by that certain Deed of Trust dated 02-02-2005 and executed by 213 BANNING, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, as Trustor, and Recorded 02-15-2005, Book N/A, Page N/A, Instrument 2005-0124005 of official records of RIVERSIDE County, California, and after fulfillment of the conditions specified in said Deed of Trust authorizing this conveyance.

Default occurred as set forth in a Notice of Default and Election to Sell which was recorded in the Office of the Recorder of said County, and such default still existed at the time of sale.

All requirements of law regarding the mailing of copies of notices or the publication of a copy of the Notice of Default or the personal delivery of the copy of the Notice of Default and the posting and publication of copies of the Notice of a Sale have been complied with.
EXHIBIT "A"
(LEGAL DESCRIPTION)

PARCEL 1:

LOTS 1 THROUGH 16, INCLUSIVE, OF ALMCOT TRACT, IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE IN BOOK 18 PAGE 3 OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

EXCEPT FROM SAID LOT 16 THAT PORTION DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 16; THENCE SOUTH, 200.00 FEET, ON THE EAST LINE OF SAID LOT 16; THENCE WEST, 200.00 FEET, PARALLEL WITH THE NORTH LINE OF SAID LOT; THENCE NORTH 200.00 FEET, PARALLEL WITH SAID EAST LINE TO SAID NORTH LINE; THENCE EAST, 200.00 FEET ON SAID NORTH LINE TO THE POINT OF BEGINNING.

PARCEL 2:

ADJUSTED LOT 11 AS SHOWN ON LOT LINE ADJUSTMENT LLA NO. 1999-04 RECORDED AUGUST 18, 1999 AS INSTRUMENT NO. 371259 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, ALSO DESCRIBED IN THE DOCUMENT AS FOLLOWS:

THAT PORTION OF LOTS 10, 11, 12 AND 13 OF ALMCOT TRACT, AS SHOWN BY MAP ON FILE IN BOOK 18 PAGE 3 OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 10, SAID POINT BEING THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY OF VICTORY AVENUE (FORMERLY CRAWFORD AVENUE) AND THE WESTERLY RIGHT OF WAY OF TWENTY-SECOND STREET; THENCE NORTH 00° 34' 00" WEST A DISTANCE OF 166.63 FEET; THENCE NORTH 49° 31' 00" WEST A DISTANCE OF 37.53 FEET TO THE MOST NORTHERLY CORNER OF SAID LOT 10; THENCE SOUTHERLY ALONG VARIOUS COURSES OF THE WESTERLY LINE OF SAID LOT 10 DESCRIBED AS FOLLOWS:

THENCE SOUTH 33° 10' 00" WEST A DISTANCE OF 127.15 FEET; THENCE SOUTH 43° 15' 00" WEST A DISTANCE OF 200.33 FEET; THENCE SOUTH 13° 31' 00" WEST A DISTANCE OF 139.04 FEET; THENCE SOUTH 06° 31' 00" EAST A DISTANCE OF 316.07 FEET; THENCE SOUTH 15° 03' 00" WEST A DISTANCE OF 385.51 FEET; THENCE SOUTH 03° 48' 00" EAST A DISTANCE OF 222.23 FEET; THENCE SOUTH 34° 50' 00" EAST A DISTANCE OF 398.59 FEET TO THE NORTH LINE OF THE SOUTH HALF OF SECTION 17; RANGE 1 EAST, TOWNSHIP 3 SOUTH, SAN BERNARDINO BASE AND MERIDIAN, AS SHOWN ON SAID MAP; THENCE NORTH 89° 26' 00" EAST ALONG SAID LINE A DISTANCE OF 1518.59 FEET; THENCE NORTH 00° 34' 00" WEST A DISTANCE OF 668.46 FEET; THENCE SOUTH 89° 26' 00" WEST A DISTANCE OF 1360 FEET; THENCE NORTH 00° 34' 00" WEST A DISTANCE OF 641.47 FEET TO THE POINT OF BEGINNING.

PARCEL 3:

ADJUSTED LOT 14 AS SHOWN ON LOT LINE ADJUSTMENT LLA NO. 1999-04 RECORDED AUGUST 18, 1999 AS INSTRUMENT NO. 371259 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, ALSO DESCRIBED IN THE DOCUMENT AS FOLLOWS:

THAT PORTION OF LOTS 12, 13 AND 14 OF ALMCOT TRACT AS SHOWN BY MAP ON FILE IN BOOK 18 PAGE 3 OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS:
SUBDIVISION IMPROVEMENTS
PERFORMANCE BOND

KNOW ALL PEOPLE BY THESE PRESENTS:

THAT WE, ____________________________________________________________________________
(Owners)

as Principal, and ____________________________________________________________________________
(Bonding Company)

as Surety, are held and firmly bound unto the City of Banning, as Obligee, in the sum of
Three Million Four Hundred Thirty-Nine Thousand Eight Hundred Eighty-Eight & 69/100 Dollars ($3,439,888.00), to be used toward
On-Site Street Improvements; for which payment, well and truly to be made, we bind ourselves,
our heirs, executors, and successors, jointly and severally, firmly and by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH THAT:

WHEREAS, the above-named Principal, as a condition of the filing of the final subdivision map of
Tract Map No. 30774 entered into an agreement or agreements with said Obligee to complete the
improvements specified in said agreement or agreements.

NOW, THEREFORE, the condition of this obligation is such, that if the above Principal shall well and
truly perform said agreement or agreements during the original term hereof or of any extension of
said term that may be granted by the Obligee with or without notice to the Surety, this obligation shall
be void, otherwise it shall remain in full force and effect.

IN WITNESS WHEREOF, the seal and signature of said Principal is hereto affixed and the corporate
seal and the name of the said Surety is hereto affixed and attested by its duly authorized Attorney-in-
Fact on ____________________________________________________________________________.

213 Banning, LLC
Banning Tract No. 30774

By: ____________________________________________________________________________
Manager, Cameo Homes

By: ____________________________________________________________________________
James C. Gianullias, President

1105 Quail Street
Newport Beach, CA 92660

WESTERN INSURANCE COMPANY

Surety

580 E. Plum Lane
Reno, NV 89502

Address

Phone No. 775-829-6650
Fax No. 775-829-1930

Attorney-in-Fact
Caroline L. Brown

(SEAL)

Last Revised on March 27, 2006
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of Orange

On June 24th, 2006 before me, Ruth Guerrero, Notary Public

personally appeared James C. Gianulis

Name(s) of Signer(s)

☐ personally known to me
☐ proved to me on the basis of satisfactory evidence

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

WITNESS me hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and restatement of this form to another document.

Description of Attached Document

Title or Type of Document: ________________________________

Document Date: ________________________________ Number of Pages: __________________

Signer(s) Other Than Named Above: ________________________________

Capacity(ies) Claimed by Signer

☐ Individual
☐ Corporate Officer — Title(s): ________________________________
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: ________________________________

Signer is Representing: ________________________________
WESTERN INSURANCE COMPANY

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, That WESTERN INSURANCE COMPANY, a corporation organized and existing under the laws of the State of Nevada and having its principal office at the City of Reno, in the State of Nevada, do hereby constitute and appoint

Caroline L. Brown

of the City of RENO, State of NEVADA, its true and lawful Attorney(s)-in-Fact, each in their separate capacity, if more than one is named above, to sign in name as surety, to, and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof or behalf of the Company, in its business of guaranteeing the fidelity of persons; guaranteeing the performance of contracts; and executing the guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

In Witness Whereof, the said WESTERN INSURANCE COMPANY has caused this instrument to be sealed with its corporate seal, duly attested by the signatures of its President and Secretary, this 31ST day of February, 1994.

ACKNOWLEDGMENT OF CORPORATE SURETY

STATE OF Nevada
County of Clark

On this 15th day of June, 2006, before me appeared Caroline L. Brown to me personally known, who being by me duly sworn, did say that he is the aforesaid officer or attorney in fact of the WESTERN INSURANCE COMPANY a corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by the aforesaid officer, by authority of its Board of Directors; and the aforesaid officer acknowledged said instrument to be the free act and deed of said corporation.

My Commission Expires November 14, 2009

Dana L. Olsen
Notary Public

City of Las Vegas

of the Power of Attorney, sealed to them, to execute and deliver, on behalf of the Company and to attach the seal of the Company to any and all bonds and undertakings, and other writings ordinary in the nature thereof, and any such instrument executed by such Attorney(s)-in-Fact shall be binding upon the Company as if signed by an Executive Officer and sealed and attested to by the Secretary of the Company.

CAROL L. INGALLS, Secretary of the WESTERN INSURANCE COMPANY, do hereby certify that the foregoing is a true excerpt from the Resolution of the said Company as adopted by its Board of Directors on February 4, 1994 and that this Resolution is in full force and effect.

CAROL L. INGALLS, Secretary of the WESTERN INSURANCE COMPANY, do hereby certify that the foregoing Power of Attorney is in full force and effect and has not been revoked.

In testimony Whereof, I have hereunto set my hand and the seal of the WESTERN INSURANCE COMPANY on this 15th day of June, 2006.

Carol L. Ingalls
Secretary
SUBDIVISION IMPROVEMENTS
PERFORMANCE BOND

KNOW ALL PEOPLE BY THESE PRESENTS:

THAT WE, ___________________________________________,
               213 Banning, LLC
               (Owners)

as Principal, and _______________________________________,
               WESTERN INSURANCE COMPANY
               (Bonding Company)

as Surety, are held and firmly bound unto the City of Banning, as Obligee, in the sum of
One Million One Hundred Sixty-Nine Thousand Six Hundred Sixty-Two & no/100 Dollars ($1,169,662.00),
to be used toward
Off-Site Street Improvements; for which payment, well and truly to be made, we bind ourselves,
our heirs, executors, and successors, jointly and severally, firmly and by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH THAT:

WHEREAS, the above-named Principal, as a condition of the filing of the final subdivision map of
Tract Map No. 30774 entered into an agreement or agreements with said Obligee to complete the
improvements specified in said agreement or agreements.

NOW, THEREFORE, the condition of this obligation is such, that if the above Principal shall well and
truly perform said agreement or agreements during the original term hereof or of any extension of
said term that may be granted by the Obligee with or without notice to the Surety, this obligation shall
be void, otherwise it shall remain in full force and effect.

IN WITNESS WHEREOF, the seal and signature of said Principal is hereto affixed and the corporate
seal and the name of the said Surety is hereto affixed and attested by its duly authorized Attorney-in-
Fact on June 15, 2006

213 Banning, LLC
Banning Tract No. 30774
Company Name

By: ___________________________________________,
   Manager, Cameron Thomas

By: ___________________________________________,
   James C. Gianulis, President

1105 Quail Street
Newport Beach, CA 92660
Address

WESTERN INSURANCE COMPANY

Surety

580 E. Plum Lane
Reno, NV 89502
Address

Phone No. 775-829-6650
Fax No. 775-829-1930

Caroline L. Brown
Attorney-in-Fact

(SEAL)

Last Revised on March 27, 2006
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of Oranga

On June 24th, 2006 before me, Ruth Guerrero, Notary Public

personally appeared James C. Gianullas

Name(s) of Signer(s)
☐ personally known to me
☐ proved to me on the basis of satisfactory evidence

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

WITNESS my hand and official seal.

RUTH GUERRERO
COMM. #1365442
Notary Public-California
ORANGE COUNTY

OPTIONAL

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

Description of Attached Document

Title or Type of Document: ________________________________

Document Date: ________________________________ Number of Pages: __________

Signer(s) Other Than Named Above: ________________________________

Capacity(ies) Claimed by Signer

Signer's Name: ________________________________

☐ Individual
☐ Corporate Officer — Title(s): ________________________________
☐ Partner — Limited ☐ General
☐ Attorney-In-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: ________________________________

Signer Is Representing: ________________________________

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WESTERN INSURANCE COMPANY

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That WESTERN INSURANCE COMPANY, a corporation organized and existing under the laws of the State of Nevada and having its principal office at the City of Reno, in the State of Nevada, does hereby constitute and appoint

Caroline L. Brown

of the City of Reno, State of Nevada its true and lawful Attorney-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety to, and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof on behalf of the Company, in its business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts, and executing the guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

In Witness Whereof, the said WESTERN INSURANCE COMPANY has caused this instrument to be sealed with its corporate seal, duly attested by the signatures of its President and Secretary, this 3rd day of February, 1994.

ACKNOWLEDGMENT OF CORPORATE SURETY

STATE OF Nevada 

County of Clark

On this 15th day of June, 2006, before me appeared Caroline L. Brown to me personally known, who being by me duly sworn, did say that he is the aforesaid officer or attorney in fact of the WESTERN INSURANCE COMPANY a corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by the aforesaid officer, by authority of its Board of Directors; and the aforesaid officer acknowledged said instrument to be the free act and deed of said corporation.

My Commission Expires

November 14, 2009

Dana L. Olsen
Notary Public

Clark County, Nevada

of the Power of Attorney issued to them, to execute and deliver on behalf of the Company and to attach the seal of the Company to any and all bonds and undertakings, and other writings obligatory in the nature thereof, and any such instrument executed by such Attorney-in-Fact shall be binding upon the Company as if signed by an Executive Officer and sealed and attested to by the Secretary of the Company.

I, Carol L. Ingalls, Secretary of the WESTERN INSURANCE COMPANY, do hereby certify that the foregoing is a true except from the Resolution of the said Company as adopted by its Board of Directors on February 4, 1994 and that this Resolution is in full force and effect.

In Testimony Whereof, I have hereunto set my hand and the seal of the WESTERN INSURANCE COMPANY on this 15th day of June, 2006.

Carol L. Ingalls
Secretary

BE ED (3-94)
SUBDIVISION IMPROVEMENTS
PERFORMANCE BOND

KNOW ALL PEOPLE BY THESE PRESENTS:

THAT WE, 213 Banning, LLC
(Owners)
as Principal, and WESTERN INSURANCE COMPANY
(Bonding Company)
as Surety, are held and firmly bound unto the City of Banning, as Obligee, in the sum of Two Million Nine Hundred Fifty Thousand Thirty and no/100 Dollars ($2,950,030.00), to be used toward Sewer Improvements; for which payment, well and truly to be made, we bind ourselves, our heirs, executors, and successors, jointly and severally, firmly and by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH THAT:

WHEREAS, the above-named Principal, as a condition of the filing of the final subdivision map of Tract Map No. 30774 entered into an agreement or agreements with said Obligee to complete the improvements specified in said agreement or agreements.

NOW, THEREFORE, the condition of this obligation is such, that if the above Principal shall well and truly perform said agreement or agreements during the original term hereof or of any extension of said term that may be granted by the Obligee with or without notice to the Surety, this obligation shall be void, otherwise it shall remain in full force and effect.

IN WITNESS WHEREOF, the seal and signature of said Principal is hereto affixed and the corporate seal and the name of the said Surety is hereto affixed and attested by its duly authorized Attorney-in-Fact on June 15, 2006.

213 Banning, LLC
Banning Tract No. 30774

By: [Signature]
Manager, Cameo Homes

By: [Signature]
James C. Gianulis, President

WESTERN INSURANCE COMPANY

Surety

580 E. Plum Lane
Reno, NV 89502

Address

Phone No. 775-829-6650
Fax No. 775-829-1930

[Signature]
Attorney-in-Fact
Caroline L. Brown

(Seal)
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California}
} ss.

County of ____________________________

On ______________, 2006 before me, __________________, Notary Public

Date

personally appeared ______________

Ruth Guerrero, Notary Public

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

Personally known to me

☑ proved to me on the basis of satisfactory evidence

Witness my hand and official seal.

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

☐ (Signature of Notary Public)

OPTIONAL

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

Description of Attached Document

Title or Type of Document: ____________________________

Document Date: ____________________________ Number of Pages: ______________

Signer(s) Other Than Named Above: ____________________________

Capacity(ies) Claimed by Signer

Signer's Name: ____________________________

☐ Individual

☐ Corporate Officer — Title(s): ____________________________

☐ Partner — ☐ Limited ☐ General

☐ Attorney-in-Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: ____________________________

Signer Is Representing: ____________________________
WESTERN INSURANCE COMPANY

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That WESTERN INSURANCE COMPANY, a corporation organized and existing under the laws of the State of Nevada and having its principal office at the City of Reno, in the State of Nevada, does hereby constitute and appoint

Caroline L. Brown

of the City of Reno, State of Nevada, to be true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as attorney-in-fact, to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof on behalf of the Company in its business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing the guarantying bonds and undertakings required or permitted in any actions or proceedings allowed by law.

In Witness Whereof, the said WESTERN INSURANCE COMPANY has caused this instrument to be sealed with its corporate seal, duly

ACKNOWLEDGMENT OF CORPORATE SURETY

STATE OF Nevada) ) SS
County of Clark ) )

On this 15th day of June, 2006, before me

appeared Caroline L. Brown to me personally known, who being by me duly sworn, did say that he is the aforesaid officer or attorney in fact of the WESTERN INSURANCE COMPANY, a corporation, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by the aforesaid officer, by authority of its Board of Directors; and the aforesaid officer acknowledged said instrument to be the free act and deed of said corporation.

My Commission Expires November 14, 2009

Dana L. Olsen Notary Public
County, Nevada

such facsimile signature and facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is validly attached.

RESOLVED, that the aforesaid Attorney(s)-in-Fact shall have the power and authority, unless subsequently revoked and, in any case, subject to the terms and limitations of the Power of Attorney issued to them, to execute and deliver on behalf of the Company, and to attach the seal of the Company to any and all bonds and undertakings, and other writings obligatory in the nature thereof, and any such instrument executed by each Attorney(s)-in-Fact shall be as binding upon the Company as if signed by an Executive Officer and sealed and attested to by the Secretary of the Company.

L. CAROL L. INGALLS, Secretary of the WESTERN INSURANCE COMPANY, do hereby certify that the foregoing is a true excerpt from the Resolution of the said Company as adopted by its Board of Directors on February 4, 1994 and that this Resolution is in full force and effect.

I, the undersigned Secretary of the WESTERN INSURANCE COMPANY, do hereby certify that the foregoing Power of Attorney is in full force and effect and has not been revoked.

In testimony whereof, I have hereunto set my hand and the seal of the WESTERN INSURANCE COMPANY on this 15th day of June, 2006.

Carole L. Ingalls Secretary
SUBDIVISION IMPROVEMENTS PERFORMANCE BOND

KNOW ALL PEOPLE BY THESE PRESENTS:

THAT WE, 213 Banning, LLC
(Owners)
as Principal, and WESTERN INSURANCE COMPANY
(Bonding Company)
as Surety, are held and firmly bound unto the City of Banning, as Obligee, in the sum of One Million Nine Hundred Sixty Thousand Seven Hundred Fifty and no/100 Dollars ($1,960,750.00 ), to be used toward Water Improvements; for which payment, well and truly to be made, we bind ourselves, our heirs, executors, and successors, jointly and severally, firmly and by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH THAT:

WHEREAS, the above-named Principal, as a condition of the filing of the final subdivision map of Tract Map No.30774 entered into an agreement or agreements with said Obligee to complete the improvements specified in said agreement or agreements.

NOW, THEREFORE, the condition of this obligation is such, that if the above Principal shall well and truly perform said agreement or agreements during the original term hereof or of any extension of said term that may be granted by the Obligee with or without notice to the Surety, this obligation shall be void, otherwise it shall remain in full force and effect.

IN WITNESS WHEREOF, the seal and signature of said Principal is hereto affixed and the corporate seal and the name of the said Surety is hereto affixed and attested by its duly authorized Attorney-in-Fact on June 15, 2006.

213 Banning, LLC
Banning Tract No. 30774

WESTERN INSURANCE COMPANY
Surety
580 E. Plum Lane
Reno, NV 89502

By: [Signature]
Manager, Cameo Homes

By: [Signature]
James C. Gianuliass, President

1105 Quail Street
Newport Beach, CA 92660

Address

Phone No. 775-829-6650
Fax No. 775-829-1930

[Signature]
Attorney-in-Fact
Caroline L. Brown

(SEAL)

Last Revised on March 27, 2006
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of Orange

On June 24th, 2006 before me, Ruth Guerrero, Notary Public personally appeared James C. Gianulis

Name and Title of Officer (e.g., 'Jane Doe, Notary Public')

Note(s) of Signer(s)

☐ personally known to me
☐ proved to me on the basis of satisfactory evidence

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

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and restatement of this form to another document.

Description of Attached Document

Title or Type of Document: ________________________________

Document Date: ________________________________ Number of Pages: __________

Signer(s) Other Than Named Above: ________________________________

Capacity(ies) Claimed by Signer

Signer's Name: ________________________________

☐ Individual
☐ Corporate Officer — Title(a): ________________________________
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: ________________________________

Signer is Representing: ________________________________

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WESTERN INSURANCE COMPANY

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That WESTERN INSURANCE COMPANY, a corporation organized and existing under the laws of the State of Nevada and having its principal office at the City of Reno, in the State of Nevada, does hereby constitute and appoint

Caroline L. Brown

of the City of RENO, State of NEVADA its true and lawful Attorney(s)-in-Fact, each in their separate capacity, if more than one is named above, to sign its name as necessary, and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof on behalf of the Company, in its business of guaranteeing the fidelity of persons; guaranteeing the performance of contracts; and executing the guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

In Witness Whereof, the said WESTERN INSURANCE COMPANY has caused this instrument to be sealed with its corporate seal, duly attested by the signatures of its President and Secretary, this 5TH day of February, 1964.

ACKNOWLEDGMENT OF CORPORATE SURETY

STATE OF NEVADA

County of Clark

On this 15th day of June, 2006, before me appeared Caroline L. Brown to me personally known, who being by me duly sworn, did say that he is the aforesaid officer or attorney in fact of the WESTERN INSURANCE COMPANY a corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by the aforesaid officer, by authority of its Board of Directors; and the aforesaid officer acknowledged said instrument to be the free act and deed of said corporation.

My Commission Expires

November 14, 2009

Clark

County, Nevada

Dana L. Olsen
Notary Public

RESOLVED, that Attorney(s)-in-Fact shall have the power and authority, unless subsequently revoked and, in any case, subject to the terms and conditions of the Power of Attorney issued to them, to execute and deliver on behalf of the Company and to attach the seal of the Company to any and all bonds and undertakings, and other writings obligatory in the nature thereof, and any such instrument executed by such Attorney(s)-in-Fact shall be as binding upon the Company as if signed by an Executive Officer and sealed and attested to by the Secretary of the Company.

In Witness Whereof, I, CAROL B. INGALLS, Secretary of the WESTERN INSURANCE COMPANY, do hereby certify that the foregoing is a true excerpt from the Resolution of the said Company as adopted by its Board of Directors on February 4, 1964 and that this Resolution is in full force and effect.

In testimony whereof, I have hereunto set my hand and the seal of the WESTERN INSURANCE COMPANY on the 15th day of June, 2006.

indrical B. Ingalis
Secretary
SUBDIVISION IMPROVEMENTS
PERFORMANCE BOND

KNOW ALL PEOPLE BY THESE PRESENTS:

THAT WE, _______________________________ 213 Banning, LLC
(Owners)
as Principal, and _______________________________ WESTERN INSURANCE COMPANY
(Bonding Company)
as Surety, are held and firmly bound unto the City of Banning, as Obligee, in the sum of
One Million Six Hundred Four Thousand Nine Hundred Ninety-Five and no/100--- Dollars ($1,604,995.00 ), to be used toward
Off-Site Storm Drain Improvements ___; for which payment, well and truly to be made, we bind ourselves,
our heirs, executors, and successors, jointly and severally, firmly and by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH THAT:

WHEREAS, the above-named Principal, as a condition of the filing of the final subdivision map of
Tract Map No.30774 entered into an agreement or agreements with said Obligee to complete the
improvements specified in said agreement or agreements.

NOW, THEREFORE, the condition of this obligation is such, that if the above Principal shall well and
truly perform said agreement or agreements during the original term hereof or of any extension of
said term that may be granted by the Obligee with or without notice to the Surety, this obligation shall
be void, otherwise it shall remain in full force and effect.

IN WITNESS WHEREOF, the seal and signature of said Principal is hereto affixed and the corporate
seal and the name of the said Surety is hereto affixed and attested by its duly authorized Attorney-in-

213 Banning, LLC
Banning Tract No. 30774
Company Name

By: [Signature] [Title]
Manager, Cameo Homes

By: [Signature] [Title]
James C. Gianulias, President

1105 Quail Street
Newport Beach, CA 92660
Address

WESTERN INSURANCE COMPANY
Surety
580 E. Plum Lane
Reno, NV 89502
Address

Phone No. 775-829-6630
Fax No. 775-829-1930

[Signature]
Attorney-in-Fact
Caroline L. Brown

(SEAL)
Last Revised on March 27, 2006
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of Orange

On June 24th, 2006 before me, Ruth Guerrero, Notary Public

personally appeared James C. Gianulis

Name(s) of Signer(s)
[ ] personally known to me
[ ] proved to me on the basis of satisfactory evidence

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

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

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

Description of Attached Document

Title or Type of Document: __________________________________________

Document Date: ____________________________ Number of Pages: _________

Signer(s) Other Than Named Above: ____________________________________

Capacity(ies) Claimed by Signer

Signer's Name: ______________________________________________________

[ ] Individual
[ ] Corporate Officer — Title(s): ____________________________
[ ] Partner — [ ] Limited [ ] General
[ ] Attorney-in-Fact
[ ] Trustee
[ ] Guardian or Conservator
[ ] Other: __________________________________

Signer is Representing:______________________________________________

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Prod. No. 5907
Ranlett Call Toll-Free 1-800-276-6027
WESTERN INSURANCE COMPANY

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That WESTERN INSURANCE COMPANY, a corporation organized and existing under the laws of the State of Nevada and having its principal office at the City of Reno, in the State of Nevada, does hereby constitute and appoint

Caroline L. Brown

of the City of Reno, State of Nevada its true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety to, and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof on behalf of the Company in its business of guaranteeing the fidelity of persons guaranteeing the performance of contracts, and executing the guarantee bonds and undertakings required or permitted in any actions or proceedings allowed by law.

In Witness Whereof, the said WESTERN INSURANCE COMPANY has caused this instrument to be sealed with its corporate seal, duly attested by the signatures of its President and Secretary, this 15th day of February, 1994.

ACKNOWLEDGMENT OF CORPORATE SURETY

STATE OF NEVADA

County of Clark

On this 15th day of June, 2006, before me

appeared Caroline L. Brown to me personally known, who being by me duly sworn, did say that he is the aforesaid officer or attorney in fact of the WESTERN INSURANCE COMPANY a corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by, the aforesaid officer, by authority of its Board of Directors; and the aforesaid officer acknowledged said instrument to be the free act and deed of said corporation.

My Commission Expires November 14, 2009

Clark County, Nevada

Dana L. Olsen

Notary Public

of the Power of Attorney issued to them, to execute and deliver on behalf of the Company and to attach the seal of the Company to any and all bonds and undertakings, and other writings obligatory in the nature thereof, and any such instrument executed by such Attorney(s)-in-Fact shall be as binding upon the Company as if signed by an Executive Officer and sealed and attested to by the Secretary of the Company.

I, CAROL L. INGALLS, Secretary of the WESTERN INSURANCE COMPANY, do hereby certify that the foregoing is a true extract from the Resolution of the said Company as adopted by its Board of Directors on February 4, 1994 and that the Resolution is in full force and effect and has not been revoked.

In testimony whereof, I have hereunto set my hand and the seal of the WESTERN INSURANCE COMPANY on this 15th day of June, 2006.

Carol L. Ingalls

Secretary
SUBDIVISION IMPROVEMENTS
PERFORMANCE BOND

KNOW ALL PEOPLE BY THESE PRESENTS:

THAT WE, ____________________________ 213 Banning, LLC
(Owners) as Principal, and ____________________________ WESTERN INSURANCE COMPANY
(Bonding Company) as Surety, are held and firmly bound unto the City of Banning, as Obligee, in the sum of One Million Forty-One Thousand Five and no/100---- Dollars ($1,041,005.00), to be used toward On-Site Storm Drain Improvements; for which payment, well and truly to be made, we bind ourselves, our heirs, executors, and successors, jointly and severally, firmly and by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH THAT:

WHEREAS, the above-named Principal, as a condition of the filing of the final subdivision map of Tract Map No. 30774 entered into an agreement or agreements with said Obligee to complete the improvements specified in said agreement or agreements.

NOW, THEREFORE, the condition of this obligation is such, that if the above Principal shall well and truly perform said agreement or agreements during the original term hereof or of any extension of said term that may be granted by the Obligee with or without notice to the Surety, this obligation shall be void, otherwise it shall remain in full force and effect.

IN WITNESS WHEREOF, the seal and signature of said Principal is hereto affixed and the corporate seal and the name of the said Surety is hereto affixed and attested by its duly authorized Attorney-in-Fact on June 15, 2006.

213 Banning, LLC
Banning Tract No. 30774
Company Name

By: ____________________________
Manager, Cameo Homes

By: ____________________________
James Q. Gimulas, President

1105 Quail Street
Newport Beach, CA 92660
Address

WESTERN INSURANCE COMPANY
Surety

580 E. Plum Lane
Reno, NV 89502
Address

Phone No. 775-829-6650
Fax No. 775-829-1930

Caroline L. Brown
Attorney-in-Fact

(SEAL)

Last Revised on March 27, 2006
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of Orange

On June 24th, 2006 before me, Ruth Guerrero, Notary Public
personally appeared James C. Gianulis

Name(s) of Signer(s)
☐ personally known to me
☐ proved to me on the basis of satisfactory evidence

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

WITNESS my hand and official seal.

RUTH GUERRERO
COMM. #1386442
Notary Public-California
ORANGE COUNTY

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and resubmission of this form to another document.

Description of Attached Document

Title or Type of Document: __________________________________________

Document Date: ______________________ Number of Pages: __________

Signer(s) Other Than Named Above: ____________________________

Capacity(ies) Claimed by Signer

Signer's Name: ______________________________________________

☐ Individual
☐ Corporate Officer — Title(s): ________________________________
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: __________________________________________________

Signer is Representing: ________________________________________

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Prod. No. 8607

191
WESTERN INSURANCE COMPANY

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, That WESTERN INSURANCE COMPANY, a corporation organized and existing under the laws of the State of Nevada and having its principal office at the City of Reno, in the State of Nevada, does hereby constitute and appoint

Caroline L. Brown,

of the City of Reno, State of Nevada its true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as peretory to, and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof on behalf of the Company, in all business of guaranteeing the fidelity of persons; guaranteeing the performance of contracts; and executing the guaranteeing bonds and undertakings required or permitted in any action or proceedings allowed by law.

In Witness Whereof, the said WESTERN INSURANCE COMPANY has caused this instrument to be sealed with its corporate seal.

ACKNOWLEDGMENT OF CORPORATE SURETY

STATE OF NEVADA )
County of Clark )

On this 15th day of June, 2006, before me

appeared Caroline L. Brown to me personally known, who being by me duly sworn, did say that he is the aforesaid officer or attorney in fact of the WESTERN INSURANCE COMPANY a corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporaion by the aforesaid officer, by authority of its Board of Directors; and the aforesaid officer acknowledged said instrument to be the free act and deed of said corporaion.

My Commission Expires

November 14, 2009

Notary Public

Clark County, Nevada

RESOLVED, that Attorney(s)-in-Fact shall have the power and authority, unless subsequently revoked and/or in any case subject to the terms and limitations of the Power of Attorney issued to them, to execute and deliver on behalf of the Company and to attach the seal of the Company to any and all bonds and undertakings, and other writings obligatory in the nature thereof, and any such instrument executed by such Attorney(s)-in-Fact shall be as binding upon the Company as if signed by an Executive Officer and sealed and attested to by the Secretary of the Company.

I, Carol B. Ingalls, Secretary of the WESTERN INSURANCE COMPANY, do hereby certify that the foregoing is a true excerpt from the Resolution of the said Company as adopted by its Board of Directors on February 4, 1966 and that this Resolution is in full force and effect.

In Testimony Whereof, I have hereunto set my hand and the seal of the WESTERN INSURANCE COMPANY on this 15th day of June, 2006.

Carol B. Ingalls
Secretary
SUBDIVISION IMPROVEMENTS
MONUMENTATION BOND

KNOW ALL PEOPLE BY THESE PRESENTS:

THAT WE, 213 Banning, LLC of Banning Tract No. 30774, as Principal, and WESTERN INSURANCE COMPANY (Bonding Company) as Surety, are held and firmly bound unto the City of Banning, as Obligee, in the sum of Twenty Thousand and no/100-- ($20,000.00) Dollars, for which payment, well and truly to be made, we bind ourselves, our heirs, executors and successors, jointly and severally firmly by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH THAT:

WHEREAS, the above-named principal, as a condition of the filing of the final subdivision map of Tract Map No. 30774 entered into an agreement or agreements with said obligee to complete the improvements specified in said agreement or agreements.

NOW, THEREFORE, the condition of this obligation is such, that if the above Principal shall well and truly perform said agreement or agreements during the original term thereof or of any extension of said term that may be granted by the Obligee with or without notice to the Surety, this obligation shall be void, otherwise it shall remain in full force and effect.

IN WITNESS WHEREOF, the seal and signature of said Principal is hereto affixed and the corporate seal and the name of the said Surety is hereto affixed and attested by its duly authorized Attorney-in-Fact on June 15, 2006.

213 Banning, LLC
Banning Tract No. 30774

By: [Signature]
Manager, Cameo Homes

By: [Signature]
James C. Gianulias, President

1105 Quail Street
Newport Beach, CA 92660

WESTERN INSURANCE COMPANY

Surety

580 E. Plum Lane
Reno, NV 89502

Address

Phone No. 775-829-6650
Fax No. 775-829-1930

Caroline L. Brown, Attorney-in-Fact

Last Revised on March 27, 2006

(seal)
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of Orange

On June 24th, 2006 before me, Ruth Guerrero, Notary Public

personally appeared James C. Gianulias

☑ personally known to me
☐ proved to me on the basis of satisfactory evidence

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

WITNESS my hand and official seal.

Signature of notary public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and realignment of this form to another document.

Description of Attached Document

Title or Type of Document: ________________________________________________________________

Document Date: __________________________________________ Number of Pages: ____________

Signer(s) Other Than Named Above: __________________________________________________________

Capacity(ies) Claimed by Signer

Signer's Name: ________________________________________________________________

☐ Individual
☐ Corporate Officer — Title(s): _________________________________________________________
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other ________________________________________________________________

Signer is Representing: ______________________________________________________________
WESTERN INSURANCE COMPANY

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That WESTERN INSURANCE COMPANY, a corporation organized and existing under the laws of the State of Nevada and having its principal office at the City of Reno, in the State of Nevada, does hereby constitute and appoint

Caroline L. Brown

of the City of RENO, State of NEVADA its true and lawful Attorney(-)in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety to, and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof on behalf of the Company in its business of guaranteeing the fidelity of persons; guaranteeing the performance of contracts; and executing the guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

In Witness Whereof, the said WESTERN INSURANCE COMPANY has caused this instrument to be sealed with its corporate seal, duly attested by the signatures of its President and Secretary, this 5th day of February, 1994.

WESTERN INSURANCE COMPANY

ACKNOWLEDGMENT OF CORPORATE SURETY

STATE OF NEVADA )
County of Clark )

On this 15th day of June, 2006, before me appeared Caroline L. Brown, to me personally known, who being by me duly sworn, did say that he is the aforesaid officer or attorney in fact of the WESTERN INSURANCE COMPANY, a corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by the aforesaid officer, by authority of its Board of Directors; and the aforesaid officer acknowledged said instrument to be the free act and deed of said corporation.

My Commission Expires November 14, 2009

Notary Public

Clark County, Nevada

of the Power of Attorney issued to them, to execute and answer on behalf of the Company in behalf of said my name and to do all other

undertakings, and other writings obligatory in the nature thereof, and any such instrument executed by such Attorney(-)in-Fact shall be as binding upon the Company as if signed by an Executive Officer and sealed and attested to by the Secretary of the Company.

I, CAROL B. INGALLS, Secretary of the WESTERN INSURANCE COMPANY, do hereby certify that the foregoing is a true excerpt from the Resolution of the said Company as adopted by its Board of Directors on February 4, 1994 and that this Resolution is in full force and effect.

I, the undersigned Secretary of the WESTERN INSURANCE COMPANY do hereby certify that the foregoing Power of Attorney is in full force and effect and has not been revoked.

In Testimony Whereof, I have hereunto set my hand and the seal of the WESTERN INSURANCE COMPANY on this 15th day of June, 2006.

BD ED (2-94)

[Signature]
Secretary
SUBDIVISION IMPROVEMENTS
PERFORMANCE BOND

KNOW ALL PEOPLE BY THESE PRESENTS:

THAT WE, ________________________________ 213 Banning, LLC
(Owners)

as Principal, and ________________________________ WESTERN INSURANCE COMPANY
(Bonding Company)

as Surety, are held and firmly bound unto the City of Banning, as Obligee, in the sum of
Thirty Three Thousand Six Hundred Seventy and no/100 Dollars ($33,670.00), to be used toward
Landscaping; for which payment, well and truly to be made, we bind ourselves, our heirs, executors, and successors, jointly and severally, firmly and by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH THAT:

WHEREAS, the above-named Principal, as a condition of the filing of the final subdivision map of
Tract Map No. 30774 entered into an agreement or agreements with said Obligee to complete the
improvements specified in said agreement or agreements.

NOW, THEREFORE, the condition of this obligation is such, that if the above Principal shall well and
truly perform said agreement or agreements during the original term hereof or of any extension of
said term that may be granted by the Obligee with or without notice to the Surety, this obligation shall
be void, otherwise it shall remain in full force and effect.

IN WITNESS WHEREOF, the seal and signature of said Principal is hereto affixed and the corporate
seal and the name of the said Surety is hereto affixed and attested by its duly authorized Attorney-in-Fact on June 21, 2006.

213 Banning, LLC
Banning Tract No. 30774

Company Name

By: ________________________________
Manager, Cameo Homes

By: ________________________________
James C. Giansulas, President

1105 Quail Street
Newport Beach, CA 92660

Address

WESTERN INSURANCE COMPANY

Surety

580 E. Plum Lane
Reno, NV 89502

Address

Phone No. 775-829-6650
Fax No. 775-829-1930

Caroline L. Brown

Attorney-in-Fact

Last Revised on March 27, 2006
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of Orange

On June 24th, 2006 before me, Ruth Guerrero, Notary Public

personally appeared James C. Gianulis

Name(s) of Signer(s)

☐ personally known to me
☐ proved to me on the basis of satisfactory evidence

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

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

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

Description of Attached Document

Title or Type of Document:

Document Date: ___________________________ Number of Pages: ___________________________

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer

Signer's Name: ___________________________

☐ Individual
☐ Corporate Officer — Title(s): ___________________________
☐ Partner — Limited ☐ General
☐ Attorney-In-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: ___________________________

Signer is Representing: ___________________________

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WESTERN INSURANCE COMPANY
POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That WESTERN INSURANCE COMPANY, a corporation organized and existing under the laws of the State of Nevada and having its principal office at the City of Reno, in the State of Nevada, does hereby constitute and appoint

Caroline L. Brown

of the City of RENO, State of NEVADA its true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety to, and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof on behalf of the Company in its business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts, and executing the guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowable by law.

In Witness Whereof, the said WESTERN INSURANCE COMPANY has caused this instrument to be sealed with its corporate seal, duly attested by the signatures of its President and Secretary, this 15th day of February, 1994.

ACKNOWLEDGMENT OF CORPORATE SURETY

STATE OF NEVADA

County of Clark

On this 21 day of June, 2006, before me appeared Caroline L. Brown to me personally known, who being by me duly sworn, did say that he is the aforesaid officer or attorney in fact of the WESTERN INSURANCE COMPANY, affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by the aforesaid officer, by authority of its Board of Directors; and the aforesaid officer acknowledged said instrument to be the free act and deed of said corporation.

My Commission Expires

November 14, 2009

Notary Public

Clark County, Nevada

CAROL B. INGALLS
Secretary

RESOLVED, that Attorney(s)-in-Fact shall have the power and authority, unless subsequently revoked and, in any case, subject to the terms and limitations of the Power of Attorney issued to them, to execute and deliver on behalf of the Company and to attach the seal of the Company to any and all bonds and undertakings and other written instruments in the nature thereof, and any such instrument executed by such Attorney(s)-in-Fact shall be binding upon the Company if signed by an Executive Officer and sealed and attested to by the Secretary of the Company.

I, CAROL B. INGALLS, Secretary of the WESTERN INSURANCE COMPANY, do hereby certify that the foregoing is a true excerpt from the Resolution of the said Company as adopted by its Board of Directors on February 4, 1994 and that this resolution is in full force and effect.

I, the undersigned Secretary of the WESTERN INSURANCE COMPANY do hereby certify that the foregoing Power of Attorney is in full force and effect and has not been revoked.

In testimony Whereof, I have hereunto set my hand and the seal of the WESTERN INSURANCE COMPANY on this 21st day of June, 2006.
SUBDIVISION IMPROVEMENTS PERFORMANCE BOND

KNOW ALL PEOPLE BY THESE PRESENTS:

THAT WE, _____________________________

213 Banning, LLC

(Owners)

as Principal, and _____________________________

WESTERN INSURANCE COMPANY

(Bonding Company)

as Surety, are held and firmly bound unto the City of Banning, as Obligee, in the sum of Two Hundred Thousand and no/100 Dollars ($200,000.00), to be used toward Rough Grading; for which payment, well and truly to be made, we bind ourselves, our heirs, executors, and successors, jointly and severally, firmly and by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH THAT:

WHEREAS, the above-named Principal, as a condition of the filing of the final subdivision map of Tract Map No. 30774 entered into an agreement or agreements with said Obligee to complete the improvements specified in said agreement or agreements.

NOW, THEREFORE, the condition of this obligation is such, that if the above Principal shall well and truly perform said agreement or agreements during the original term hereof or of any extension of said term that may be granted by the Obligee with or without notice to the Surety, this obligation shall be void, otherwise it shall remain in full force and effect.

IN WITNESS WHEREOF, the seal and signature of said Principal is hereto affixed and the corporate seal and the name of the said Surety is hereto affixed and attested by its duly authorized Attorney-in-Fact on June 21, 2006.

213 Banning, LLC

Banning Tract No. 30774

Company Name

By: _____________________________

Manager, Cameo Homes

By: _____________________________

James C. Giamulias, President

1105 Quail Street

Newport Beach, CA 92660

Address

WESTERN INSURANCE COMPANY

Surety

580 E. Plum lane

Reno, NV 89502

Address

Phone No. 775-829-6650

Fax No. 775-829-1930

Caroline L. Brown

Attorney-in-Fact

Caroline L. Brown

(SEAL)

Last Revised on March 27, 2006
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of Orange

On June 24th, 2006 before me, Ruth Guerrero, Notary Public

personally appeared James C. Gianulas

☐ personally known to me
☐ proved to me on the basis of satisfactory evidence

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

WITNESS my hand and official seal.

RUTH GUERRERO
COMM. #1366642
Notary Public-California
ORANGE COUNTY

OPTIONAL

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

Description of Attached Document

Title or Type of Document: ____________________________

Document Date: ____________________________ Number of Pages: ____________________________

Signer(s) Other Than Named Above: ____________________________

Capacity(ies) Claimed by Signer

Signer's Name: ____________________________

☐ Individual
☐ Corporate Officer — Title(s): ____________________________
☐ Partner — ☐ Limited ☐ General
☐ Attorney-In-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: ____________________________

Signer Is Representing: ____________________________
WESTERN INSURANCE COMPANY

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That WESTERN INSURANCE COMPANY, a corporation organized and existing under the laws of the State of Nevada and having its principal office at the City of Reno, in the State of Nevada, does hereby constitute and appoint

Caroline L. Brown

of the City of RENO, State of NEVADA its true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety to, and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof on behalf of the Company in its business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts, and executing the guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

In Witness Whereof, the said WESTERN INSURANCE COMPANY has caused this instrument to be sealed with its corporate seal, duly attested by the signatures of its President and Secretary, this 5th day of February, 1994.

ACKNOWLEDGMENT OF CORPORATE SURETY

STATE OF NEVADA

County of Clark

On this 21st day of June, 2006, before me appeared Caroline L. Brown, being by me duly sworn, did say that he is the aforesaid officer or attorney in fact of the WESTERN INSURANCE COMPANY a corporation; that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by the aforesaid officer, by authority of its Board of Directors; and the aforesaid officer acknowledged said instrument to be the free act and deed of said corporation.

My Commission Expires November 14, 2009

Dana L. Olsen
Notary Public

County, Nevada

[Seal]

[Signature]

Notary Public

November 14, 2009

BD ED (2-94)
CITY OF BANNING
AGREEMENT
FOR
CONSTRUCTION OF IMPROVEMENTS
TRACT NO. 30774

WHEREAS, the undersigned, 213 Banning, LLC, whose business address is 1105 Quail St., Newport Beach, CA 92660, herein referred to as "Subdivider/Developer," has submitted to the City of Banning for its approval a Final Map of subdivision designated as Tract No. 30774 which map was prepared by Pardue Cornwell & Associates, Inc., and

WHEREAS, the Subdivider/Developer has not completed all of the work, or made all of the improvements required by Section 22 of the Banning Municipal code or such other ordinances of the City of Banning requiring construction of improvements in conjunction with land division, subdivisions, and the like, hereinafter collectively referred to as said ordinance, and

WHEREAS, Subdivider/Developer desires to enter into an agreement providing for the completion of the work and the making of the improvements and to furnish security for the performance of this agreement in accordance with the provisions of said ordinance;

NOW, THEREFORE, in consideration of the approval of said Final Map by the City, and as a condition of such approval, the Subdivider/Developer promises and agrees at his own expense to do all of the work and improvements, without limitation by enumeration, consists of:

- Street improvement plans
- Sewer improvement plans
- Landscape plans
- Water improvement plans
- Electric improvement plans
- Grading plans
- Storm Drain Plans

The above enumeration of items is understood to be only a general designation of the work and improvements, and not a binding description thereof. All of said work shall be done and improvements made and completed which are shown on and in strict compliance with applicable plans and specifications, and any subsequent alterations thereto, which alterations in said plans and specifications and the work to be performed may be accomplished without first giving prior notice thereof to the surety; provided, however, in the event the estimate cost of any changes or alterations in said work exceeds 10% of the surety shall be obtained, and absent such consent, the surety's obligations shall not then exceed the cost of improvements to be constructed under the said originally approved plans prior to said alteration; provided, further, in no event shall such charge result in exonerating the surety's obligations.

Such work shall be completed and improvements made within one year from the date of this agreement, unless such time be extended by the City upon written application of the Subdivider/Developer. Such application shall be made substantially in the form attached hereto. It is understood that by providing security for this agreement the surety consents in advance to

Last Revised on March 27, 2006
any extension of time as may be given by the City to the Subdivider/Developer and waives notices of such extension. The making of an application for an extension of time by the Subdivider/Developer shall, upon the granting of the application by the City, constitute a waiver by the Subdivider/Developer and by the surety of all defenses of laches, estoppel, statutes of limitations, and other limitations of action in any action or proceeding filed by the City within the period of four years immediately following the date to which the time of performance was extended.

The Subdivider/Developer further agrees that any and all grading done or to be done in conjunction with the development in the herein described Final Map shall conform to the requirements of the Banning Municipal Code and any other applicable ordinances regulating excavations and fills (e.g., grading regulations) and shall be completed within the period of time described above and prior to the acceptance by or on behalf of the City of the work and improvements and prior to the release by the City of the surety guaranteeing performance of this agreement, in order that said improvements will not be endangered by improper drainage or other hazards.

The Subdivider/Developer promises and agrees to maintain all of the improvements to be constructed under this contract in a state of good repair, until all of the work and improvements are completed and accepted by or on behalf of the City and until the security for the performance of this agreement is released. Said maintenance shall include, but shall not be limited to, repair of pavement, curbs, gutters, sidewalks, parkways, sewers, and removal of debris from sewers and storm drains; said maintenance shall also include, but not be limited to, by this enumeration, sweeping, repairing and maintaining in good and safe condition all streets and street improvements. It shall be the Subdivider/Developer's responsibility to initiate this work, but if he should fail to do so, he shall promptly perform such maintenance when notified to do so by the Public Works Director or his designee of the City. Upon failure of the Subdivider/Developer to properly maintain, the City may do all necessary work required by this paragraph, the cost hereof being chargeable to the Subdivider/Developer and his surety under this agreement. The Subdivider/Developer and his surety further agree under this agreement to hold the city and its officers and employees free and harmless from any claim, demand or action for damages, injury or death, and to indemnify the City for any loss, arising out of or incurred as the result of or in connection with improper maintenance or dangerous conditions or any act or omission in connection with any of the maintenance activities required under this paragraph, existing or occurring or arising out of any act or omission occurring prior to final acceptance by the City of all the work and improvements constructed under this contract.

The Subdivider/Developer shall be responsible for maintaining all improvements for a period of one year following completion of the work and acceptance by the City against any defective work or labor done, or defective materials furnished in the performance of the contract, and it is further agreed that upon completion and acceptance of the improvements by the City of Banning the liability of the surety for no less than ten percent (10%) of the face amount thereof or $300.00, whichever is greater, will continue for the purpose of guaranteeing maintenance of the improvements for a period of one year following the completion and acceptance by the City against any defective work or labor done, or defective materials furnished in the performance of this contract with the City of Banning.

Last Revised on March 27, 2006
If the Subdivider/Developer and the surety fail to install all or any part of the improvements required by this agreement within the time set forth herein, or fail to comply with any other obligation contained herein, they shall be jointly and severally liable to the City for any administrative expenses and attorney's fees incurred in obtaining compliance with this agreement and any such expenses and fees incurred in processing any action for damages or for any other remedies permitted by law.

It is further understood and agreed upon default of any obligation hereunder, and at any time after any such default, the City may make written demand upon the Subdivider/Developer or surety or both to immediately remedy the default or complete the work. If said remedial activities or completion of work are not commenced within seven days after such demand is made and are not hereafter diligently prosecuted to completion and fully completed within thirty days after the making of such demand (or such other time as may be contained in said demand), the City may then complete or arrange for completion of all remaining work or conduct such remedial activity as in the sole judgment of the City may be required, all at the expense and obligation of the Subdivider/Developer and surety and all without the necessity of giving any further notice to the Subdivider/Developer or surety before the City performs or arranges for performance of any remaining work or improvements, and whether or not the Subdivider/Developer or surety have constructed any of the required improvements at the time. In the event the City elects to complete or arrange for completion of remaining work and improvements, the Public Works Director, upon such election, may require all work by the Subdivider/Developer or surety to cease in order to permit adequate coordination by the City for completing any remaining work and improvements not yet completed.

It is agreed that all work and improvements done pursuant to this agreement shall conform to the standards applicable at the time work is actually commenced.

The Subdivider/Developer shall provide security in the amount of $ Twelve Million. Four Hundred Thousand $12,400,000.00 Dollars, including $4,700,000.00 to be used toward Rough Grading, Street Improvements and Landscaping; $5,000,000.00 to be used toward Sewer and Water Improvements; and $2,700,000.00 to be used toward Storm Drain Improvements; to guarantee the performance of this agreement. In addition, the Subdivider/Developer shall provide security in the amount of $ Twelve Million. Four Hundred Thousand $12,400,000.00 Dollars, including $4,700,000.00 to be used toward Rough Grading, Street Improvements and Landscaping; $5,000,000.00 to be used toward Sewer and Water Improvements; and $2,700,000.00 to be used toward Storm Drain Improvements; to guarantee payment to any contractors, sub-contractors, and persons furnishing labor, materials, and equipment to them for the performance of the work herein described. Said security shall be in the form of Corporate surety bonds or cash deposits, etc. The surety company that guarantees said improvement/labor shall be an admitted carrier in the State of California.

The Subdivider/Developer further acknowledges and agrees that, if at the time the Final Map is approved by the City Council, the plans for the improvements required herein have not been approved by the City, then the Subdivider/Developer agrees to install all such improvements in accordance with the plans and specifications as they are finally approved, including all changes,
modifications and corrections as may be required by the City, and any other agency having jurisdiction, and shown thereon.

The Subdivider/Developer further agrees to install all such improvements in accordance with any and all changes that may be required by field conditions that may arise during construction.

The Subdivider/Developer also agrees to make certain that each and every contractor and subcontractor intending to work on the construction of the improvements required herein, (a) is properly licensed, (b) obtain a business license from the City, (c) has proper and sufficient liability insurance, (d) has the approved plans, (e) has the approved cut sheet, when they are required, (f) has all necessary and required public works, excavation or other permits as issued by the City and required to be obtained by the contractor or sub-contractor.

The Subdivider/Developer shall also provide a Monument Bond to insure installation of all monuments in the amount of $ Twenty Thousand (20,000.00) Dollars. If any of the foregoing documents are missing or not in proper order, the contractor or sub-contractor shall not start work until such time as the documents are obtained and/or brought into proper order. The determination of whether or not the foregoing documents meet the City's requirements shall be made exclusively by the City, and the Subdivider/Developer, his contractors and sub-contractors collectively and individually agree to abide by that determination.

The Subdivider/Developer acknowledges and agrees to City regulations governing signs and advertising structures. Subdivider/Developer agrees and consents to removal by the City of all signs erected, placed, or situated in violation of any City ordinance governing size, location, or required permits. Removal shall be at the expense of the Subdivider/Developer and Subdivider/Developer shall indemnify and hold the City free and harmless from any claim or demand arising out of or incurred as a result of such removal, excepting negligent acts or omissions by the City, its agents or employees. Subdivider/Developer agrees that said signs may be erected only pursuant to a permit issued by the City upon payment of necessary fees or deposits.

For purposes of enforcing this agreement, the term "City" includes the City Council, the City Manager, the City Attorney, Public Works Director, or any of them, or any of their authorized representatives.

Last Revised on March 27, 2006
IN WITNESS WHEREOF, the Subdivider/Developer has caused this agreement to be executed this 24th day of June, 2006.

(Signatures must be the same on Surety)

213 BANNING, LLC
SUBDIVIDER/DEVELOPER

BY: [Signature] 
Manager, Cameo Homes

BY: [Signature] 
James C. Gianulias, President

CITY OF BANNING

BY: [Signature] 
Kahono Oei, City Engineer

Last Revised on March 27, 2006
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of Orange

On June 24th, 2006 before me, Ruth Guerrero, Notary Public

personally appeared James C. Gianullis

Name(s) of Signer(s):
☒ personally known to me
☐ proved to me on the basis of satisfactory evidence

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

WITNESS my hand and official seal.

RUTH GUERRERO
COMM. #1336442
Notary Public-California
ORANGE COUNTY

OPTIONAL

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

Description of Attached Document

Title or Type of Document:

Document Date: ___________________ Number of Pages: __________

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer

☐ Individual
☐ Corporate Officer — Title(s):
☐ Partner — ☐ Limited ☐ General
☐ Attorney-In-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: ___________________

Signer Is Representing: ___________________
CITY COUNCIL
PUBLIC HEARING

Date: July 22, 2008

TO: Honorable Mayor and City Council Members

FROM: Matthew Bassi, Interim Community Development Director

SUBJECT: Zone Text Amendment #08-97503 - Amendment to Table 17.40.030 to Clarify the Number of Animals Permitted in Certain Residential Zoning Districts.

RECOMMENDATION:

The Planning Commission recommends that the City Council approve Ordinance No. 1393, approving Zone Text Amendment #08-97503.

JUSTIFICATION: The proposed Zone Text Amendment is consistent with the General Plan. The Planning Commission has reviewed these amendments and after taking testimony in a noticed public hearing on June 3, 2008, adopted Resolution 2008-10 recommending approval of Zone Text Amendment #08-97503.

BACKGROUND/ANALYSIS: The Planning Commission and City Council reviewed and approved the General Plan and the Zoning Ordinance at the January 31, 2006 meeting. The General Plan and Zoning Ordinance have been in effect since March of that year. Since then, the City has requested additional modifications, and Staff continues to identify code provisions that need to be improved or clarified. Therefore, the purpose of this report is to provide certain code changes as prescribed by both the Planning Commission and City Council as well as provide modification to the Code for clarification/cleanup purposes.

The proposed modification to the Table does not change the number of dogs and cats currently permitted on a property. It only modifies the wording to be less ambiguous.
Table 17.40.030: Staff proposes to make the following modification to the Table 17.40.030 (changes are in italics).

<table>
<thead>
<tr>
<th>Animal Type</th>
<th>R/A &amp; RR/H</th>
<th>RR &amp; RR/H</th>
<th>VLDR</th>
<th>LDR</th>
<th>MDR</th>
<th>HDR &amp; MHP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dogs &amp; Cats</td>
<td>Max. 8 ea./lot</td>
<td>Max. 8 ea./lot</td>
<td>Max. 3/less than 20,000 s.f.</td>
<td>Max. 3 ea./lot</td>
<td>3/unit</td>
<td>3/unit</td>
</tr>
<tr>
<td></td>
<td>Max. 6 ea./lot</td>
<td>Max. 6 ea./lot</td>
<td>Max. 6 ea./lot</td>
<td>Max. 6 ea./lot</td>
<td>20,000 s.f.</td>
<td>and greater</td>
</tr>
<tr>
<td>Pot-Bellied Pigs</td>
<td>2/acre. Max. 8</td>
<td>2/acre. Max. 8</td>
<td>2 in lieu of 2 dogs</td>
<td>1 in lieu</td>
<td>Prohibited</td>
<td>Prohibited</td>
</tr>
<tr>
<td>Fowl</td>
<td>16/acre</td>
<td>16/acre</td>
<td>10</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Prohibited</td>
</tr>
<tr>
<td>Fowl, Male</td>
<td>1/20,000 s.f.</td>
<td>1/20,000 s.f.</td>
<td>1/20,000 s.f.</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Prohibited</td>
</tr>
<tr>
<td>Rabbits</td>
<td>20</td>
<td>20</td>
<td>10</td>
<td>5</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Large Animals</td>
<td>5/acre</td>
<td>5/acre</td>
<td>3/20,000 s.f.</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td>Prohibited</td>
</tr>
</tbody>
</table>

1 Any animal not specifically listed shall be classified by the Director.
2 Unweaned offspring shall not be counted in determining the number of dogs or cats.
3 Large animals shall include goats, sheep, horses, cattle, llamas, swine, emus and ostriches. The total number allowed is cumulative.
4 On substandard lots created prior to the adoption of this Zoning Ordinance in the VLDR district (lots of less than 20,000 s.f.), one large animal shall be permitted on lots of 12,000 s.f.-16,000 s.f., and two shall be permitted on lots of 16,001 s.f.-19,999 s.f.
5 For any lot less than 20,000 s.f. a maximum of three (3) dogs and cats, or any combination thereof, not to exceed three (3), shall be permitted.
6 For lots 20,000 s.f. and larger a maximum of six (6) dogs and cats, or any combination thereof, not to exceed six (6), shall be permitted.
7 A maximum of three (3) dogs or cats, or any combination thereof, not to exceed three (3), shall be permitted in the LDR zone district.
8 A maximum combined total of eight (8) dogs and/or cats per lot shall be permitted in the R/A, R/A/H, RR & RR/H zone district.

The purposes of the above changes are as follows:

- **R/A, R/A/H, RR and RR/H Districts**: The current table shows “8 ea./lot” of dogs and cats, which may cause the reader to interpret as “8 dogs and 8 cats per lot for a total of 16 per lot”. The revision with the inclusion of footnote 8 will clarify the intent of the City to permit a maximum combined total of eight (8) dogs and/or cats per lot.

- **VLDR District**: The current table shows “6 ea./lot” of dogs and cats, which may cause the reader to interpret as “6 dogs and 6 cats per lot for a total of 12 per lot.
permitted”. The revision with the inclusion of footnotes 5 and 6 will clarify the intent of the City to permit up to three weaned small animals total, including potbellied pigs, for a lot sized less than 20,000 s.f., and up to six weaned small animals total, including potbellied pigs, for a lot sized 20,000 s.f. or greater.

- **LDR District:** The current table shows “3 ea./lot” of dogs and cats, which may cause the reader to interpret as “3 dogs and 3 cats per lot, a total of 6 per lot permitted”. The revision with the inclusion of footnote 7 will clarify the intent of the City to permit up to three weaned small animals total per lot, including one potbellied pig.

**PLANNING COMMISSION RECOMMENDATION:** On June 3, 2008, the Planning Commission approved Resolution No. 2008-10, recommending to the City Council approval of Zone Text Amendment #08-97503. The Resolution indicates that the proposed changes to the Zoning Code are not a project as stipulated under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment.

**FISCAL DATA:** These amendments will have no fiscal impact.

**RECOMMENDED BY:**

Matthew C. Bassi,
Interim Community Development Director

**REVIEWED BY:**

Bonnie Johnson
Finance Director

**APPROVED BY:**

Brian Nakamura
City Manager

Exhibits:

1. Ordinance No.1393
ORDINANCE NO. 1393

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AMENDING THE MUNICIPAL CODE BY REVISING TABLE 17.40.030 IN ORDER TO CLARIFY THE NUMBER OF ANIMALS PERMITTED IN CERTAIN RESIDENTIAL ZONING DISTRICTS.

THE CITY COUNCIL OF THE CITY OF BANNING DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Findings. The City Council hereby finds and determines that:

1. This ordinance is internally consistent with the City’s zoning ordinance. The current zoning ordinance has been in effect since March of 2006. This purpose of this ordinance is to clarify and clean up the zoning ordinance.

2. The City Council has independently reviewed and considered the requirements of the California Environmental Quality Act (“CEQA”), and has determined that the zoning text amendment contained in Section Two of this ordinance is categorically exempt from CEQA per Section 15061(b)(3) of the CEQA Guidelines because this zoning text amendment does not have the potential for causing a significant effect on the environment.

SECTION 2. Amendment of Table 17.40.030. Table 17.40.030 in the Banning Municipal Code is hereby amended to read as follows:

<table>
<thead>
<tr>
<th>Animal Type</th>
<th>R/A &amp; RR/H</th>
<th>VLDR</th>
<th>LDR</th>
<th>MDR</th>
<th>HDR &amp; MHP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dogs &amp; Cats⁵</td>
<td>Max. 8/lot⁶</td>
<td>Max. 3/lot⁷</td>
<td>Max. 3/unit</td>
<td>Max. 3/unit</td>
<td></td>
</tr>
<tr>
<td>Pot-Bellied Pigs</td>
<td>2/acre. Max. 8</td>
<td>2 in lieu of 2 dogs</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td></td>
</tr>
<tr>
<td>Fowl</td>
<td>16/acre</td>
<td>10</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td></td>
</tr>
<tr>
<td>Fowl, Male</td>
<td>1/20,000 s.f.</td>
<td>1/20,000 s.f.</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td></td>
</tr>
<tr>
<td>Rabbits</td>
<td>20</td>
<td>10</td>
<td>5</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Large Animals⁴</td>
<td>5/acre</td>
<td>3/20,000 s.f.⁴</td>
<td>Prohibited</td>
<td>Prohibited</td>
<td></td>
</tr>
</tbody>
</table>

¹ Any animal not specifically listed shall be classified by the Director.
² Unweaned offspring shall not be counted in determining the number of dogs or cats.

Ord. No. 1393
Large animals shall include goats, sheep, horses, cattle, llamas, swine, emus and ostriches. The total number allowed is cumulative.

On substandard lots created prior to the adoption of this Zoning Ordinance in the VLDR district (lots of less than 20,000 s.f.), one large animal shall be permitted on lots of 12,000 s.f.-16,000 s.f., and two shall be permitted on lots of 16,001 s.f.-19,999 s.f.

For any lot less than 20,000 s.f. a maximum of three (3) dogs and cats, or any combination thereof, not to exceed three (3), shall be permitted.

For lot(s) 20,000 s.f. and larger a maximum of six (6) dogs and cats, or any combination thereof, not to exceed six (6), shall be permitted.

A maximum of three (3) dogs or cats, or any combination thereof, not to exceed three (3), shall be permitted in the LDR zone district.

A maximum combined total of eight (8) dogs and/or cats per lot shall be permitted in the R/A, R/A/H, RR & RR/H zone district.

SECTION 3. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. Non-Exclusivity. Nothing in this Ordinance shall limit or preclude the enforcement of other applicable laws.

SECTION 5. Effective Date. This Ordinance shall take effect thirty (30) days after its enactment in accord with California law.

SECTION 6. Publication. The City Clerk is directed to cause this Ordinance to be published within 15 days of its passage in a newspaper of general circulation published and circulated within the City of Banning.

PASSED, APPROVED, AND ADOPTED this ________ day of August, 2008.

Brenda Salas, Mayor
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Burke, Williams & Sorensen LLP
City Attorney

ATTEST:

Marie A. Calderon, City Clerk

Ord. No. 1393
CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1393 was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 22nd day of July, 2008, and was duly adopted at a regular meeting of said City Council on the ___ day of __________, 2008, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie A. Calderon, City Clerk
City of Banning, California
COUNCIL MEETING
DIRECTOR’S REPORT

DATE: July 22, 2008

TO: Honorable Mayor and Members of the Council

FROM: Brian S. Nakamura, City Manager

SUBJECT: City of Banning License to Use and Maintain Premises Agreement granted to Banning Chamber of Commerce for use of the facilities described as bus shelters and bus benches with signs located throughout the City of Banning.

RECOMMENDATION:
That the City Council enter into a License to Use and Maintain Premises Agreement granted to the Banning Chamber of Commerce for use of the facilities described as bus shelters and bus benches with signs located throughout the City of Banning, as more particularly described in attached Agreement Exhibit “A” and that the Chamber of Commerce be required to follow the attached marketing and advertising guidelines, Exhibit “B.”

Prior to transfer of entering into the Agreement that the City be able to utilize its RCTC funds to bring the bus shelters to an acceptable baseline standard for transfer to the Banning Chamber of Commerce.

BACKGROUND:
The Banning Chamber of Commerce is proposing to use and maintain ten (10) bus shelters and thirty-seven (37) bus stop benches with signs throughout the City, for a total of forty-seven (47) individual premises. The premises will be maintained with funds received through the rental of advertising space within bus shelters and on bus benches.

FISCAL DATA:
Staff believes that existing bus shelters can be repaired to an acceptable standard utilizing City applied for RCTC funds in the amount of $40,000. A comprehensive fiscal analysis will be provided to the City Council prior to initiating any work on the bus shelters and bus benches.

RECOMMENDED/APPROVED BY:

[Signature]
Brian S. Nakamura
City Manager
REVIEWS BY:

Bonnie Johnson
Finance Director
EXHIBIT A

LICENSE TO USE AND MAINTAIN PREMISES
(Bus Shelters Citywide)
EXHIBIT "A"

LICENSE TO USE AND MAINTAIN PREMISES
(Bus Shelters Citywide)

The City of Banning, a municipal corporation ("Licensor"), hereby grants a license to the Banning Chamber of Commerce, a __________ ("Licensee"), for use of the facilities described below upon the following terms and conditions:

1. **Premises.** The premises licensed hereby consist of bus shelters and bus benches with signs located throughout the City of Banning, California, as more particularly described in Exhibit "A", attached hereto and by this reference made a part of this License ("Premises"). There are ten (10) shelters and thirty-seven (37) benches with signs throughout the City, for a total of forty-seven (47) individual Premises.

2. **Use.**

2.1 The Premises are used by the public for the purpose of awaiting public transportation. The shelters provide seating and protection from the elements. The benches provide seating. Both types of Premises also denote locations at which public transportation will stop to pick up and drop off passengers.

2.2 The advertising displays on the Premises have been used by the Licensor for advertising City of Banning events as well as for raising revenue through the placement of commercial advertisements. The shelters include glass-enclosed displays in which commercial advertisements can be placed. The benches include bench backs that serve as banner-type displays that are left open to the elements.

2.3 Pursuant to this agreement, the advertising displays shall be used by Licensee primarily for the purpose of displaying commercial advertising materials, the placement of which shall be in the control of Licensee. Licensee shall contract with commercial advertisers and shall keep all of the revenue generated by the commercial advertising.

2.4 The Premises shall not be used by Licensee for any purpose other than the public display of advertising without first obtaining the written consent of Licensor, which consent shall be in the absolute discretion of Licensor.

3. **Term.** The term of this non-exclusive License shall be for _____ (__) years commencing __________, 2007 through ________, 20__.

4. **Fee.** Other and sufficient consideration being received from Licensee in the form of ongoing maintenance of the Premises, Licensee shall pay a fee of One Dollar and No Cents ($1.00) for the __________ (__) year term of this License.

5. **Custodial/Utilities/Maintenance.** Licensee shall provide for all necessary maintenance to maintain the Premises, including but not limited to structural, custodial, and
refuse services, for both the portion utilized by Licensee for advertising displays and the portion utilized by the public for awaiting public transportation.

6. **Protection of Person and Premises.** Licensor shall be responsible for the health, safety and welfare of the property and persons of its licensees, invitees and guests in connection with the continued use of the Premises for awaiting public transportation, and Licensor shall take any and all necessary precautions, steps, measures and actions in order to fully discharge such responsibility. Notwithstanding the foregoing, Licensee shall be responsible for the protection and maintenance of the commercial advertising materials placed on the Premises by Licensee.

7. **Rights of Licensee.** Licensee, through its authorized representatives, shall have full and unrestricted right to enter the Premises for the purpose of doing any and all things which it is obligated and has a right to do under this License.

8. **Signs.** Excepting the commercial advertising anticipated by this License to be placed in the glass enclosures on the shelters and on the bench backs of the open-air benches, Licensee may not erect, maintain or display signs or other forms of advertising upon the Premises without first obtaining the written approval of Licensor, which approval shall not be unreasonably withheld.

9. **Compliance with Government Regulations.** Licensee, at Licensee’s sole cost and expense, shall comply with all maintenance-related and advertising-related requirements of all local, state and federal statutes, regulations, rules, ordinances and orders now in force or which may be hereafter in force, pertaining to the Premises.

10. **Insurance.**

   10.1 Licensor is self-insured through the California Joint Powers Insurance Authority. Licensor shall maintain self-insurance throughout the term of this License. Should Licensor cease self-insurance at any time during the term of this License, Licensor shall obtain and maintain, for the mutual benefit of Licensor and Licensee, general public liability insurance against claims for personal injury, death, or property damage occurring upon, in, or about the Premises and on, or resulting from, the use by the public of the Premises for awaiting public transportation.

   10.2 Licensee shall, at Licensee's cost and expense, but for the mutual benefit of Licensor and Licensee, maintain general liability insurance against claims for personal injury, death, or property damage occurring upon, in, or about the Premises and on, or resulting from, Licensee’s use and maintenance of the Premises, such insurance to afford protection to the limit of not less than One Million Dollars ($1,000,000.00) per occurrence and Two Million Dollars ($2,000,000.00) in general aggregate limit. Licensee shall cause such policy or policies of insurance to name Licensor as an additional insured and to provide that Licensor will receive a notice from the insurer within thirty (30) days of insurer’s decision to cancel such policy, or in any other event which causes such policy(ies) to lapse.

11. **Indemnification.** In addition to, and without limiting, both parties’ other obligations under this License, each party agrees to indemnify, protect, defend (by counsel reasonably satisfactory to the other) and hold the other and its officials, officers, agents and
employees, and each of them, harmless from and against all claims, losses, liabilities, actions, judgments, costs and expenses (including reasonable attorneys’ fees and costs) which they, or any of them, may suffer or incur arising from or relating to (a) that party’s use of the Premises, (b) any negligence, act or omission of that party, its agents, employees, contractors, guests or invitees in or about the Premises or (c) any default by that party under this License.

12. **Nonassignability.** Licensee cannot assign any of its rights, duties, or obligations under this License to any person or entity without the written consent of Licensor being first obtained. This includes the ability to subcontract all or a portion of its rights, duties and obligations hereunder.

13. **Termination by Licensor.** Licensor may terminate this License upon the occurrence of any of the following events:

13.1 Licensee (or any successor in interest) assigns or attempts to assign the License or any rights in violation of this License;

13.2 Licensee (or any successor in interest) becoming insolvent or Licensee (or any successor in interest) voluntarily or involuntarily making an assignment or transfer for the benefit of creditors other than Licensor, and/or the voluntary or involuntary appointment of a receiver, custodian, liquidator or trustee of Licensee’s property;

13.3 Licensee fails to maintain the Premises as required by this License; or

13.4 Licensee is otherwise in breach or default of any term or provision of this License and fails to cure such default within thirty (30) days of being notified of such default by Licensor.

13.5 If, after the occurrence of any of the above-entitled events, Licensor elects, in its sole discretion, to terminate this License, then all rights of Licensee and any person or entity claiming by or through Licensee arising under this License or with regard to the Premises as may arise under this License shall immediately cease and be terminated, except that any obligations of the Licensee to indemnify or reimburse Licensor shall continue in full force and effect and Licensor shall have all of the remedies to enforce a breach or a default of this Agreement as may be provided hereunder and under the law.

14. **Employees and Agents of Licensee.** It is understood and agreed that all persons hired or engaged by Licensee in connection with the display and removal of the commercial advertising materials, and the maintenance of the Premises shall be considered to be employees or agents of Licensee and not of Licensor.

15. **Waiver of Performance.** No waiver by either party at any time of any of the terms and conditions of this License shall be deemed or construed as a waiver at any time thereafter of the same or of any other terms or conditions contained herein or of the strict and timely performance of such terms and conditions.

16. **Severability.** The invalidity of any provision in this License as determined by a court of competent jurisdiction shall in no way affect the validity of any other provision hereof.
17. **Venue.** Any action at law or in equity brought by either of the parties hereto for
the purpose of enforcing a right or rights provided for by this License shall be tried in a court of
competent jurisdiction in the County of Riverside, State of California, and both parties hereby
waive all provisions of law providing for a change of venue in such proceedings to any other
county.

18. **Attorneys’ Fees.** In the event of any litigation or legal or dispute resolution
between Licensor and Licensee to enforce any of the provisions of this License or any right of
either party hereto, the unsuccessful party to such litigation or proceeding agrees to pay to the
prevailing party (as defined in Code of Civil Procedure §1032) all cost and expenses, including
reasonable attorneys’ fees, incurred therein by the prevailing party, all of which shall be included
in and as a part of the judgment rendered in such litigation or arbitration.

19. **Notices.** Any notices required or desired to be served by either party upon the
other shall be addressed to the respective parties as set forth below:

**LICENSOR**

City of Banning  
Attn: City Manager  
99 East Ramsey Street  
Banning, CA 92220

**ADDITIONAL NOTICES**

City of Banning  
Attn: City Attorney  
99 East Ramsey Street  
Banning, CA 92220

**LICENSEE**

Banning Chamber of Commerce  
Attn:  
60 East Ramsey Street  
Banning, CA 92220

or to such other addresses as from time to time shall be designated by the respective parties.

20. **Paragraph Headings.** The paragraph headings herein are for the convenience of
the parties only, and shall not be deemed to govern, limit, modify or in any manner affect the
scope, meaning or intent of the provisions of language of this License.

21. ** Entire License.** This License is intended by the parties hereto as final expression
of their understanding with respect to the subject matter hereof and as a complete and exclusive
statement of the terms and conditions thereof and supersedes any and all prior and
contemporaneous licenses, therewith. This License may be changed or modified only upon the
written consent of the parties hereto.
22. **Binding.** The License shall not be binding or consummated until its execution by the Chairman of the Board of Directors.

IN WITNESS WHEREOF, the authorized representatives of the parties acknowledge and execute this License as follows:

**LICENSOR**

**CITY OF BANNING**

By: ________________________________
Brian S. Nakamura, City Manager

**ATTEST:**

By: ________________________________
Marie Calderon
City Clerk

**APPROVED AS TO FORM**

By: ________________________________
Burke, Williams & Sorensen, LLP
City Attorney

**LICENSEE:**

**BANNING CHAMBER OF COMMERCE**

By: ________________________________
[requires attestation by a Notary Public]
EXHIBIT B

MARKETING AND ADVERTISING GUIDELINES
Guidelines - Advertising Restrictions

The (Name) intends that its facilities constitute nonpublic forums that are subject to the viewpoint-neutral restrictions set forth below. The following forms of paid and unpaid advertising will not be permitted for placement or display on (Name) facilities.

1. **Demeaning or disparaging.** The advertisement contains materials that demeans or disparages an individual or group of individuals on the basis of race, color, religion, national origin, ancestry, gender, age, disability, ethnicity, or sexual orientation.

2. **Tobacco.** The advertisement promotes the sale or use of tobacco or tobacco-related products, including depicting such products.

3. **Profanity.** The advertisement contains profane language.

4. **Firearms.** The advertisement contains an image or depiction of a firearm.

5. **Violence.** The advertisement contains an image or description of graphic violence, including, but not limited to (1) depiction of human or animal bodies or body parts, or fetuses, in states of mutilation, dismemberment, decomposition, or disfigurement, and (2) the depiction of weapons or other implements or devices associated in the advertisement with an act or acts of violence or harm to a person or animal.

6. **Unlawful goods or services.** The advertisement, or any material contained in it, promotes or encourages, or appears to promote or encourage, the use or possession of unlawful or illegal goods or service.

7. **Unlawful conduct.** The advertisement, or any material contained in it, promotes or encourages, or appears to promote or encourage, unlawful or illegal behavior or activities.

8. **Obscenity or nudity.** The advertisement contains obscene material or images of nudity.

9. **Prurient sexual suggestiveness.** The advertisement contains material that describes, depicts, or represents sexual activities or aspects of the human anatomy in a way the average adult, applying contemporary community standards, would find offensive or inappropriate for viewing by minors.
10. **Political:** The advertisement, or any material contained in it, promotes, or appears to promote, any candidate for partisan office, any political party or promotes or implies position on any proposition, referendum, proposed or existing laws or other ballot measures.

11. **Endorsement:** The advertisement, or any material contained in it, implies or declares an endorsement by (Name) of any service, product, or point of view, without prior written authorization of the (Name).

12. **False, misleading, or deceptive commercial speech:** The advertisement proposes a commercial transaction, and the advertisement, or any material contained in it, is false, misleading, or deceptive.

13. **Libelous speech, copyright infringements, etc:** The advertisement, or any material contained in it, is libelous or an infringement of copyright, or is otherwise unlawful or illegal or likely to subject the (Name) to litigation.

14. **“Adult”-orientated goods or service:** The advertisement promotes or encourages, or appears to promote or encourage, a transaction related to, or uses brand names, trademarks, slogans, or other materials which are identifiable with, films rated “X”, adult book stores, adult video stores, nude dance clubs and other adult entertainment establishments, adult telephone services, adult Internet sites, and escort service.

15. **Special provisions regarding web addresses and telephone numbers:** The advertisement is such that (1) the message or sponsorship of the advertisement cannot reasonably be determined without reference to a website or telephone number that is listed in the advertisement, and (2) that website prominently contains, or that telephone number directs callers to, materials that violates the Guidelines.

**Agreement Structure**

(Name) will contract with a contractor to sell, place and administer bus shelter advertising. (Name) will lease the space to the contractor. The contractor will be responsible for selling the advertising space, maintaining all advertising agreements between the contractor and the advertisers, billing and collecting fees and producing all sales reports which will be submitted to (Name) monthly. (Name) will only be responsible for periodically auditing of the contractor’s records to
ensure proper business procedures are followed and revenue is maximized.

Contractor will be required to indemnify and defend (Name) from all legal proceedings arising from the rejection of advertisements declined on the basis of (Name) advertising guideline restrictions, or legal proceedings as a result of advertisements that appeared on (Name) bus shelters. Based on the Guidelines, the final determinations as to what advertisements will or will not be allowed on (Name) shelters will be made by the contractor. In addition, if requested by (Name), an advertiser’s poster shall be removed within 48 hours of receipt of written request. The contractor will be responsible for installing and removing all advertisements at (Name) convenience. The contractor will be responsible for any and all damage to bus shelters as a result of the advertising program.