AGENDA
REGULAR MEETING
CITY OF BANNING
BANNING, CALIFORNIA

March 23, 2010
6:30 p.m.

Banning Civic Center
Council Chambers
99 E. Ramsey St.

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 council members present and voting.

I. CALL TO ORDER
   • Invocation
   • Pledge of Allegiance
   • Roll Call – Council Members Franklin, Hanna, Machisic, Robinson, Mayor Botts

II. PUBLIC COMMENTS/CORRESPONDENCE/PRESENTATIONS/ANNOUNCEMENTS

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 or future study, research, completion and/or future Council Action.) (See last page. PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD.)

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

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

1. WRCOG/Riverside County “Census, It Matters!” Video
2. Stagecoach Days Update – Presented by Stagecoach Days Committee (ORAL)

ANNOUNCEMENTS/COUNCIL REPORTS: (Upcoming Events/Other Items and Report if any

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

Motion: That the City Council approve Consent Item 1 through 7
Items to be pulled ___, ___, ___, ___ for discussion.
(Resolutions require a recorded majority vote of the total membership of the City Council)

1. Approval of Minutes – Regular Meeting – 3/09/10. .......................... 1
2. Authorization to Fill Positions – Seasonal Employees in the Community Services Department ......................................................... 19
3. Notice of Completion for Project 2006-07, Construction of the New Banning Police Station ............................................................. 20
4. Notice of Completion for Project No. 2009-01, Airport Drainage Improvements and Lincoln Street Improvements. ............................. 24
   Community Center Gym, and Approving the Necessary Budget
6. First Amendment to Consultant Services Agreement with Michael Bradman and Associates for an Amount Not to Exceed $11,800.00 to Complete the Preparation of an Environmental Document (Mitigated Negative Declaration) for the O’Donnell Business Park Project .................................. 50
7. Resolution No. 2010-18, Approving the Cooperative Agreement with Riverside County for the Sunset Avenue Grade Separation Improvements .................................................. 79

• 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. Resolution No. 2010-13, Request to Vacate a Portion of Val Monte Street and Adjacent Alleys.

Staff Report ................................................................. 92
Recommendation: That the City Council adopt Resolution No. 2010-13, Vacating a portion of Val Monte Street from Ramsey Street to Interstate 10 and adjacent alleys.

2. Revised Ordinance No. 1420, Approving Zone Text Amendment No. 09-97506 to Amend the Municipal Code Section 17.44.010 Pertaining to Table 17.44.101 Review Authority for Tentative Parcel Maps and Amendment to the Municipal Code Title 16 Subdivisions .................................................... 102
Recommendation: That the City Council adopt revised Ordinance No. 1420 and re-introduce its first reading.

Mayor asks the City Clerk to read the title of Ordinance No. 1420:
"An Ordinance of the City Council of the City of Banning, California, Approving Zone Text Amendment No. 09-97506, to Amend Municipal Code Section 17.44.01, Pertaining to Table 17.44.101 Review Authority of Tentative Parcel Maps and Amendments to Municipal Code Title 16 Subdivisions."

Motion: I move to waive further reading of Ordinance No. 1420
(Requires a majority vote of Council)

Motion: I move that Ordinance No. 1420 pass its first reading.

3. Temporary Suspension of Development Impact Fees for Residential and Non-Residential Development ................................................. 145
Recommendation: That the City Council adopt Resolution No. 2010-20, Approving a Temporary Fifty Percent (50%) Reduction of Development Impact Fees for Residential and Non-Residential Development for Up to 150 Permits or for the Time Period of One Year, Whichever Comes First.

V. ITEMS FOR FUTURE AGENDAS

New Items –
Pending Items –
1. Schedule Meetings with Our State and County Elected Officials
2. Set New Date for Joint Meeting with Banning School Board (6/10)
3. Massage Ordinance \( (ETA \ 4/27/10) \)
4. Information of rotation of mayor position and also direction election of the mayor \( (ETA \ 4/13/10) \)
5. Look at Council Assignments for a set term \( (ETA \ 4/13/10) \)
6. Reporting Guidelines \( (ETA \ 4/13/10) \)
7. Consider Sister City Relationship with Township in Haiti
8. Grand Jury Report
VI. CLOSED SESSION

1. City Council will meet in closed session in regards to Conference with Labor Negotiators pursuant to Government Code Section 54957.6. City is represented by City Manager, City Attorney and Human Resources Director. Negotiations are with International Brotherhood of Electrical Workers – Utility Unit; International Brotherhood of Electrical Workers’ General Unit; Banning Police Officers Association and City of Banning Association of Managers.

2. City Council will meet in closed session pursuant to Government Code Section 54956.9 (a) regarding pending litigation - Brar vs. City of Banning.

3. City Council will meet in closed session to confer with its attorney regarding threat of litigation pursuant to Government Code Section 54956.9(b) (1).

   A. Opportunity for Public to Address Closed Session Items.
   B. Convene Closed Session

VII. ADJOURNMENT

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

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

03/09/10
REGULAR MEETING

A regular meeting of the Banning City Council was called to order by Mayor Botts on March 9, 2010 at 6:36 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

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

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Andy Takata, City Manager
David J. Aleshire, City Attorney
Kirby Warner, Interim Finance Director
Duane Burk, Public Works Director
Hoyl Belt, Human Resource Director
Leonard Purvis, Chief of Police
Fred Mason, Power Contracts and Revenue Administrator
John McQuown, City Treasurer
Marie A. Calderon, City Clerk

The invocation was given Pastor George Rosemier. Councilmember Machisi invited the audience to join him in the Pledge of Allegiance to the Flag.

PUBLIC COMMENTS/CORRESPONDENCE/ANNOUNCEMENTS/PRESENTATIONS

Report by City Attorney
City Attorney said that there are two items listed on the closed session agenda and the item concerning labor negotiations will be held and the other item is being pulled from the agenda.

Report by City Manager
City Manager said that he had a conversation with Art Welch of Assemblyman Cook’s office regarding the DMV with concerns regarding the long lines and safety issues and he will follow-up with a letter in order to see if there can be some movement that way. He believes the Hemet office is being remodeled and that is one reason for the crowds but he understands that is that way lots of times. Also in regards to not having any request for proposals for the airport we currently have 50 companies that are now interested. Also, all of our Part One crimes have gone down and the reason murder has not gone down is that you cannot get any lower than zero.
PUBLIC COMMENTS – On Items Not on the Agenda

Chris McCallum, 757 W. Westward said that he has raised his family here in Banning and has lived and run a business in Banning for most of his life also he has always taken pride in his city and tried to have a positive influence on the well-being of our citizens. Recently due to his personal experience at the DMV he has noticed a serious problem here in Banning that involves the crowding at the DMV specifically, the long lines and stretch outside the building and into the parking lot. He is concerned with the safety problem involved in the long waits. During the summer, especially for the elderly and disabled citizens, the excessive heat can be potentially dangerous as people wait for extended times outside the building. He believes he can help to improve the situation in conjunction with the local charities and has arranged for a portable food and drink cart to supply people waiting outside in the lines with a snack or cold drink. He recently visited the county court building in Riverside and personally witnessed a program working successfully and has a copy of the permit process for the City of Riverside. Unfortunately, Banning does not have presently such a permit and only with the approval of the City Council can a program occur. He is here to request Council approval to begin a trial program that will last 120 days and if this temporary program is successful during that time, they can discuss future options. There are three major benefits that this program can provide to the city of Banning: 1) safety to our citizens would be dramatically improved and the negative atmosphere that surrounds the DMV could become a much more pleasant experience; 2) the local charity would gain significant funds and aid young people and 10% of the income would be donated directly to a local charity; and 3) if the trial program is successful he is sure it would be a program that could be expanded to provide employment and increase revenue, City of Banning financial benefits and a variety of community agencies. He has conducted research to determine the issues involved in such a program and he believes that he and the City working together can solve many potential problems and even though this program is small in nature the benefits can hugely be positive. He thanked the Council for their time and submitted some pictures to show what he was talking about. He thanked Zai, Brian and Eric as they were very helpful.

Mayor Botts asked the City Manager to work with Mr. McCallum on behalf of the Council.

Clarence Taylor, 190 E. Gilman Street addressed the Council stating he was a Trustee with the Banning Library District and his purpose for being here was to welcome and introduce the Council to their new Library Director, Nancy Kerr.

Ms. Kerr addressed the Council stating that she has been here for a week and had a very warm welcome and she is enjoying her new job and coming from Chicago and it is certainly not cold today.

A man in the audience addressed the Council wanting to remain anonymous and stated that he is very tired of the City Council squandering our tax money and if we had any sense at all we would vote all of them out of here.

Estelle Lewis, 642 E. Wilson Street addressed the Council stating that she thought she might be the only person who felt that sometimes the Council’s manners have been somewhat childish until she read two letters to the Editor in the local newspaper recently. Sitting in the
audience it sometimes seems as if she is in a theater watching a performance. She noticed this sniping about a year ago and it appears that each one wants to be the first to tell how many places you have visited and the first to announce what is going on here and in neighboring cities. Honestly, she would rather hear about City business and not church or other organization’s programs and activities. If you want to inform us of activities, why not list them on the access channel or print them on a flyer and make them available at Council meetings or even have them published in the newspaper. When she voted for representation in our city, she expected each of the Council to be civil to each other and for business to be conducted in a business like manner. Please take care of personal issues on your own time; don’t bring them into Council meetings. You may think she is out of order, but as a resident of Banning she is entitled to voice her concerns directly to the Council because they represent everyone who cannot sit in those Council seats at one time. Please get on with taking care of business for our city and let’s make some progress instead of this infighting.

Karen Clavelot, 5449 W. Riviera and president of the Banning Cultural Alliance addressed the Council stating that she sees many faces of those that attended the Black Heritage Celebration and it was a wonderful day and a real success for Banning and thank you for your attendance. On Saturday they will have an artist reception from 3 to 6 p.m. at the Banning Center for the Arts and Nancy Carroll will be the featured artist. Save the date for the Annual Art Hop on May 1, 2010. It will be a wonderful day and in conjunction with Waste Management they will have a recycling fair. Also in the Council Chambers there will be a Lego Builder and during the day they are going to build a Waste Management truck. Pass Area artists will be featured at the gallery and also many food vendors.

Terry Washington, 1559 Eucalyptus Drive addressed the Council stating that he is the Pass Area Coordinator for the Teen Focus Program. This is a mentor program for boys ages 8 to 18 years old that don’t have fathers in their homes. Banning will be sponsoring their first Teen Focus Mini Camp on March 20th from 9 a.m. to 3 p.m. at Crossroads Christian Center and everyone is welcome to attend. There will be speakers there to encourage the boys and teach them leadership qualities and other organizations donating their times to teach the boys different activities as far as things around the house to help their moms out. He also commented on the DMV situation.

Christa Baird resident of Banning addressed the Council stating that she has also been a victim of the DMV also and has concerns for the senior citizens standing in line. She said that on page 32 of the agenda there is an exhibit that says Press Enterprise – January 20th but when you look at the copy of the ad it says Record Gazette. She is concerned because these are bid notices. Also, she said she used to be a data base programmer but really her specialty was in process improvement and worked for UCLA in their patient billing office and she worked with millions, upon million, upon millions of dollars and her job was to work with a team of people to help improve processes so that billing was done more adequately and less infighting and things would flow more efficiently. She would really love to volunteer her services in light of the Grand Jury report to maybe help look at some of the issues and try to work them out.

Don Smith resident of Banning addressed the Council stating that he went with a problem to the Chief concerning the DMV and he had Lt. West helping him and today when he drove by
the DMV he saw people walking across the street almost getting run over and they were parking in the Western Dental parking lot, the Rite Aid parking lot and the Thunderbird Center parking lot and, in fact, they had filled every space there so the businesses in their had no parking spaces. He will be posting no parking signs for Thunderbird Center if they are going to the DMV so their cars will be towed. He knows that the DMV is a state organization and therefore the City has very little power over them other than to bring problems to their attention that maybe they don’t know. Clearly their building and their parking lot are both too small. There is an empty lot next door to them that they at a minimum can be renting and parking cars in so as to avoid the interference with other businesses. People have to wait in line for hours not being able to get into the building and need the facilities of a restroom.

Since one is not available they are availing themselves of other opportunities in the neighborhood which is also a problem. He wanted to point out how serious it is and not just to the people waiting in line which is serious and the people waiting for five hours in the sun or the cold but it is affecting the businesses within 100 yards of either direction and something needs to be done.

Inge Shuler resident of Banning addressed the Council stating that she has some concerns regarding the job situation here in town and in the general area but primarily for Banning. It seems that we need to know what the unemployment rate is in Banning and she knows that in California it is 12%. In our unemployment are we different from the previous decade. Is there a tremendous increase and which people are actually affected by the rising unemployment? The people that are looking for jobs or are out of jobs are they just young people? Are they educated people who have lost their jobs and subsequently will have the foreclosure issue here in town increasing this? In what areas of the city is unemployment highest? It can’t be in Sun Lakes because most folks of her age are retired. Are the people who are looking for jobs qualified for something? Are they skilled or unskilled? What type of job list do we actually have that we need to meet in creating jobs? How does this job knowledge of the unemployment rate and the type of employment that is needed affect our dealing with people coming before Council promising these jobs. This is always the siren song of the traveling developer and we have succumbed to their silent song often too many times. We have absolutely stunning monuments in town to these failed promises where people have left and have left us with rat traps or gaping holes, cut down trees, etc. We need to take a look at that issue. If they are going to build another business center, obviously that is not going to work. If they are putting in more motels, storage facilities, etc. that is not going to help us so we need to look at some other things. She noticed that in the Grand Jury report once again the issue was pointed out which is obvious to most of us that the east side is in dire need of development and we need to focus east of Hargrave and east of Hathaway. We are probably going to have to look at some green industries that benefit the City and do the least amount of damage. We have had several companies in here that have done damage to our city infrastructure and to our support systems, etc. A bad example of this kind of thing is as you probably know is the Ed Roski Jr. issue and his ilk that has gotten a struggling City of Industry to get that stadium built with promises of jobs and it is not apparently going to be the best decision for them to make. So let not repeat something that has been done by a bigger more struggling city government.

Victor Dominguez, PassPolitics.com addressed the Council stating that he wanted to get some points out and wanted to remind everyone that we are probably in the greatest
depression/recession of his lifetime and he is 37 years old so this is the first time that he is experiencing this type of economy. He knows that it is very easy for people and selected groups to find fault within our city government especially during these hard economic times but it is during these times when he knows that our city governments in the Pass Area are working their hardest because there is a lot of stuff that goes on behind the scenes that he is aware of that you as City Council put in that maybe the public is not aware of so during these hard economic times he thinks that if we pull together as a community and focus on solutions and focus on pulling together as a Pass Area that we can really make some major strides because the investments that this City Council has made in infrastructure, our police department and our downtown and basically the arts are all positive things that are moving in the right direction. If we all pull together and really promote the city and the Pass Area, we will be surprised with what we can do. It is easy to find fault but it is hard to find solutions. Kudos to the Council and he knows that they have been having hard times and all cities have especially in the Pass Area. Keep your heads up and shoulders back as we move forward and we are going to come out ahead. In regards to the Grand Jury report this has no meaning to him because to him this is just another form of government getting into his pocket. This is the Pass Area and we are going to come out ahead and we are going to be a gem in Riverside County.

CORRESPONDENCE: There was none.

PRESENTATIONS

1. Proclaiming March 30th as “Welcome Back Home Vietnam Veterans Day”

Mayor Botts read the proclamation for the benefit of the audience. He said that this is going to be presented to Assemblyman Cook on the 27th of March at the Four Seasons in Beaumont. The Pass Republican Women and the Lincoln Club of Palm Springs have put a luncheon together to honor Assemblyman Paul Cook and our Vietnam Veterans for California’s Welcome Home Vietnam Veterans Day. If anyone is interested in attending they can contact him to get more information.

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

Councilmember Robinson –
- Attended the RTA (Riverside Transit Agency) Board Meeting and there are route changes and you can see those by going to www.riversidetransit.com
- Attended RTA ADA Meeting where they discussed paratransit issues.
- Attended the Black Heritage Day Celebration
- On March 3, 2010 RTA had a public hearing in Beaumont that he attended to see if there were any questions of the public of our transit system and there were none.

Mayor Pro Tem Hanna –
- Took the opportunity to present a Certificate to Chief Purvis. She received a letter from the Riverside County Juvenile Justice and Delinquency Prevention Commission and every year they have a competition for best use of programs in the county to do crime prevention and build up our youth and so forth and they wanted to acknowledge our
Banning Police Activities League (BPAL) to congratulate them for their hard work and dedication to the youth and community. Personally she thinks this is one of the best City programs that we can imagine and it is so unusual that we have such fabulous police officers working with our youth weekend, week out every Saturday and we want to congratulate them and give them the Certificate of Acknowledgement.

Mayor Botts –

- The Black Heritage event by the Banning Cultural Alliance has already been talked about but he wanted to recognize Estelle Lewis and Marion Johnson two of the ladies that were honored there and they are in the audience this evening and the other surprise honoree was Debra Dukes who is president of the Banning School Board.
- In regards to the Census it is so important and so much comes back to a City from the government based upon your population and that is based upon what was your census. There are issues that some people have with our federal government but this is absolutely confidential information and he hears almost everyday what are they going to do with this personal information they are asking about me and my family and my income. The answer is that it is absolutely confidential and it is not shared with the IRS or the INS and not shared with welfare. Please complete that form and it is absolutely confidential and so important to your city. He said that he was talking to the Mayor of Beaumont and they said they are working hard and will probably do much better than the Banning in getting people to fill out that form and he quickly responded and would wager cooking your dinner that Banning is clearly going to come out the winner on this so he challenged the City of Beaumont, the Mayor and the City Council that Banning will do considerably better than Beaumont on getting people out to fill out their census forms and turn it in. The Mayor of Beaumont has accepted that challenge and if we win the Mayor and Council will fix and serve the Council dinner and this is a challenge and not a wager and if we were to lose then we will fix and serve the Beaumont Council dinner.

Councilmember Machisic –

- In regards to WRCOG (Western Riverside Council of Governments) at the last meeting he reported that there were a group of people that wanted to get a constitutional convention to change some of the things in California and that initiative has been discontinued and will not proceed. Also there is a bill, AB 1594 by Assemblyman Huber who is opposing the peripheral canal and as you know it took a long time for the legislature to come up with a plan for more water and these seems to be a bill that WRCOG will oppose. Also during the inception of the last five to six years TUMF (Transportation Unified Mitigation Fund) which is part of WRCOG where they build roads and assist freeways has collected $517 million dollars and that is important because if you have even been in other parts of the country where they have new development it seems like the roads are ignored. There is a case by WRCOG against the City of Beaumont and then venue has been changed and will now be heard in Orange Country and that was requested by the City of Beaumont.
- In regards to the Census they are providing a one minute video which we are going to have and put on our website.
- In regards to RCA (Regional Conservation Authority) this is for conservation and he thinks this is one of the finest programs in the United States where they are trying to collect land and they are trying to collect 150,000 acres and they will add that to the Bureau of Land Management which has 350,000 acres and it is only in Western Riverside
County. When they are put together we will have half a million acres for conservation. The reason he is saying this is because the RCA Board has been trying to put a brochure together and they have done this and he has some for the Council and they are a limited supply available at the back of the room. It is important that when you collect fees of this kind that you tell people what you are collecting them for and show the results.

Councilmember Franklin –

- For those that didn’t have a chance to come to the City Recognition for employees she wanted to thank all the employees who were recognized that day. About 25 employees were recognized and for all the employees and at looking at all the hard work that they have been doing through some very difficult times it is nice to take the time to really thank our employees for all of their hard work.
- On March 1st she attended a T-Now Meeting and they got a chance to see the new Dial-a-Ride buses and we have two new buses in Banning and they are really state-of-the-art and should be in use fairly soon.
- On March 1st there was a meeting for those working on veteran resources and there is a group from the Veteran’s Workshop that has been working on compiling a resource booklet and it is going to be sponsored by Assemblyman Cook. This will be a booklet with different phone numbers, website addresses for people to use to find out about their benefits not only as military people that are active and retired but also for their families or anyone that may be a dependent of their families. They should be available in about two months and put out across the Pass Area through libraries, city halls and chambers of commerce.
- Today she attended a Passcom meeting and it was really stressed by the CHP officer who made the presentation for people to be aware of the move over or slow down rule that is being enforced on our freeways. This would pertain to any emergency vehicles such as a tow truck, ambulance, or anybody. If their lights are flashing either move over one lane or slow down to a reasonable speed.
- Attended a Women’s Club presentation today and the American Association of Women have two programs for 7th and 8th grade girls interested in math and science and are looking for monetary donations or volunteers to help with these programs and can call Bessie Reese or Mary Bell Clark and they will give you more information.
- Reminder that there will be a groundbreaking at Banning High School at 10:00 a.m. tomorrow.
- On March 13th there will be a Bulky Item Drop Off Day at Dysart Park from 8 a.m. to 1 p.m. Also the Labor Union will be having a Job Fair at the Orange Show in San Bernardino from 9:30 a.m. to 12:30 p.m. and will provided information on the different trade jobs.
- On March 13th through October 17th the Morongo Band of Mission Indians will start a basket collection display at the San Bernardino Country Museum.
- On March 17th there will be a reception for our new City Manager from 6 to 8 p.m. at City Hall.
- On March 26th the Redlands Bicycle Classic will be held and they are looking for volunteers and she has some registration forms for those that are interested and this is the first time they will be coming to Banning.
The first CERT (Community Emergency Response Team) class will be offered in Banning from April 16th through the 18th and it is a free class and is full but they are still taking signups in case someone cancels.

She talked with Pastor Carlo Alée after he made the presentation regarding Haiti and she would like to see if this is something we as a City can talk about and consider being a sister city to them.

Mayor Pro Tem Hanna said perhaps we could have it as a future agenda item if agreeable and personally she is not talking about the formal sister city relationship but might find a township in Haiti similar to Banning in similar size, etc. and explore that. There was Council consensus to explore this.

CONSENT ITEMS

Councilmember Franklin pulled Consent Items 5 and 6 and Councilmember Robinson pulled Consent item No. 3 for discussion.

1. Approval of Minutes – Regular Meeting – 2/23/10

Recommendation: That the minutes of the Regular Meeting of February 23, 2010 be approved.

2. Report of Investments for January 2010

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

4. Resolution No. 2010-15, Awarding the Construction Contract for Project No. 2010-01, Phase 3 Improvements to the City of Banning’s Community Center Gym, and Approving the Necessary Budget Adjustments.

Recommendation: That the City Council adopt Resolution No. 2010-15, Awarding the Construction Contract for Project No. 2010-01, Phase 3 Improvements to the City of Banning’s Community Center Gym to Whitmore Construction, Inc. of Banning, CA for an amount not to exceed $147,809.00 and authorize the Director of Finance to make necessary budget adjustments and appropriations from the Capital Improvement fund to Account No. 470-4000-413.90-15.

7. Resolution No. 2010-19, Authorizing the purchase of three (3) 2009 Chevrolet Malibu Hybrids from Diamond Hills Auto Group in the amount of $24,382 per vehicle or $73,146 total.

Recommendation: That the City Council adopt Resolution No. 2010-19, Appropriating funds for the purchase of three (3) 2009 Chevrolet Malibu Hybrids for the City of Banning Police Department from the Diamond Hills Auto Group in the amount not to exceed $73,146.00.
Motion Machisic/Hanna to approved Consent Items 1, 2, 4 and 7. Mayor Botts opened the item for public comments. There were none. Motion carried, all in favor.


Councilmember Robinson said he wanted to get an update on the 24-hour fuel. He knows that there was somebody that came to a recent meeting that said they were interested in more information on providing that service for the City and he wanted to know if there was more information regarding this issue and is that included in what we are looking at as far as future services of the airport.

Duane Burk, Public Works Director gave the staff report as contained in the agenda packet. He said the project that Councilmember Robinson is talking about is part of the FBO (fixed based operator) and as pointed out by the City Manager. He said that there was a joint presentation with the tribe in regards to the FBO where C&S Engineers gave the presentation and reported that there was no interest. The good news is that the Council asked for a nationwide search and as a result of that there were around 50 hits of interested people for the FBO which will include that 24-hour fueling. Tonight the Council is awarding some safety issues as it relates to the airport.

Motion Robinson/Hanna that the City Council adopt Resolution No. 2010-14 to Award the Professional Services Agreement to C&S Engineers, Inc. of San Diego, CA in an amount "Not to Exceed" $79,691.37 for the design of various improvements at the Banning Municipal Airport; and authorize the Director of Finance to make the necessary budget adjustments and appropriations from the Airport fund to Account No. 600-5100-435.33-11 in an amount of $79,691.37.

Mayor Botts opened the item for public comments.

Inge Shuler resident of Banning said this is actually a comment regarding several of the items here. She said it would be nice if the agenda abstract on the website would also include the funds that are involved in this just as general information. Not everyone has time to dig through the entire packet and there are some hefty numbers involved and it would probably be of interest to the people to know what monies are going to be transferred in the interest of transparency.

Motion carried, all in favor.


Councilmember Franklin said she had some concerns in that this is redoing a prior consultant report that we had in 2006 and she knows you are talking about modifying the line but she would like the people to hear a little bit more about it.
Duane Burk, Public Works Director gave the staff report as contained in the agenda packet. He went over the issues involved and went over the sources of funding. He displayed an overhead showing the alignment of the recycled waterline.

Councilmember Franklin asked if $10 million is enough money to do this project. Mr. Burk said he believes it is and in today’s market he believes the construction costs today as it relates to six miles of 24 inch pipeline you won’t see construction costs as low as they are now but they do have some grant earmark requests out there.

Councilmember Franklin said part of that was redevelopment money and how does that eliminate blight. Mr. Burk said specifically he can’t say it would free up a specific project but freeing up potable drinking water to be able to use for another project does entice new development.

Councilmember Franklin asked about the right of way and did the city have the right of way at one time through the Five Bridges Project. Mr. Burk said no. Actually it was going to be conditioned on the developer to build a portion of this or give up that right of way when they moved forward with their project so it was kind of an agreement but the project never went through. It is similar to the grade separation and we are still moving forward with the grade separation. He said our Urban Water Management Plan in 2005 actually said we would do this to free up that potable water so we collected a fee and this project qualifies for that. The developers will pay their fair share for this as we move forward and he explained further. Councilmember Franklin asked if this includes the pumping station as part of the design. Mr. Burk said it would be considered part of the design and it is already laid out.

Mayor Pro Tem Hanna said one of the policy issues that they will have to deal with is how we are going to price the tertiary water because in fact everyone wants to think it is dirty water so it should be cheaper but actually it is more expensive because of the cost of producing it.

Councilmember Machisic said that when we put construction contracts out we always talk about 10% contingency and he is not totally in favor of something of that kind but he does go along with it. This is a design and not a construction project yet we have a 10% factor built into it. In regards to Number 3 which deals with the airport this is for a design factor and he didn’t see a contingency in that and could explain why.

Mr. Burk said the idea behind putting in the 10% contingency is by our purchasing ordinance. Staff now has the right to move the project forward with 10% if something happens in the field without coming back to Council. In this project here we are just appropriating the money if we run into an environmental issue or run into something that is unforeseen as far as design. As far as the FAA not to exceed price he can’t answer the question for the 10% and probably should have put that in there but staff did not. Councilmember Machisic said he was just interested in understanding consistency of the bidding.

There was more Council and staff discussion in regards to test pumping, this being a vital project, and the use of redevelopment funds and looking for other options.
City Attorney said if you are going to spend redevelopment money there are a whole set of findings you have to make and this is just talking about the design at this point and the accounts are not the redevelopment accounts. But when we get around to doing the project and he has spoken to Mr. Burk about this in that there are a series of findings we have to make and they would include that this will alleviate blight, that there are no other available sources of supply. He doesn’t think that this is a definitive determination at this point and that there are issues that we will have to look at in terms of ultimately justifying the money.

Mayor Botts opened the item for public comments.

Don Smith addressed the Council stating that he was involved in the financing when he was on the Council that led to the three million dollars and that they all knew at that time that it wouldn’t be enough money and would have to come up with another source for the rest of it. Like you he has waited about 17 years for this process and glad to see we are moving forward. He said the alignment makes sense to him because we had projects before that we bought property and didn’t have a right of way to get to and had to go out and buy right of ways so certainly using right of way that we already own makes a lot of sense to him. The map only goes from 22nd Street to Highland Home Road so is the rest of the pipe there from Highland Home Road to Highland Springs Road and is the $10 million just that section or all of it. Mr. Burk said all of it. Mr. Smith said this is a project 20 years in the making and let’s move forward.

Matthew Clarke, 1036 Charles Street addressed the Council stating that he doesn’t like the project and we talk about using our taxpayers redevelopment dollars originally designed for blighted areas to improve nothing more than better water for golf courses not even opened for him to play at because he is not a resident there. By the time this project gets past the Army Corps of Engineers and probably two sequences of environmental review we would have spent all of that money and still it would be two years before you see that constructed. We are talking about lets get this opened because construction will one day come. Talk to any of the developers and it will be ten years minimum before you start to see building like you did in 2004. He thinks that with the current state of affairs economically and employment wise we have better uses for our money and our taxpayer dollars. Any monies that would have been planned to be used for this that come from RDA should be kept in RDA and used for the east side of Banning. That is what it was designed for and that was the intent of the voters and the intent of past lawmakers for the use of the monies. This does not improve an area that is not blighted. Why now are we picking to do this? If our intent is to help along development, why not consider keeping the same alignment to entice the previous development. As to have that benefit come off the bookshelf and come back to the planning stages why move that? That is going to add another cost that we the taxpayers will be asked again to expand that line and we will pay for two lines. And then developers will come back and they will fight about the fees of which we will back off of because the threat will be made by developers that if they want to develop back off your fees. So they will be exempted from paying those fees that we plan on collecting; we will never see those dollars.

Dorothy McLean resident of Banning said it says once constructed the recycled waterline would serve the Sun Lakes golf course, Interstate 10 freeway landscapes, municipal parks and
other industrial commercial areas. Is this blight and is this redevelopment since we are using redevelopment monies.

Mr. Burk said those are all good questions and stated that he listed in the fiscal data just funding that was available and it is strictly at Council’s discretion whether they want to use that RDA money or keep it. If you choose not to, that is okay and maybe it is a developer. He wanted to make sure that the public knows that we started this project in 1990 and it is not just specifically for Sun Lakes. We used the golf courses for example because they are the largest demand of potable water and in 1998 and 2005 the Urban Water Management Plan said we would use recycled water to serve the greenbelt areas and our large demand on the golf courses. We do have to figure out an irrigation rate because it is not in place. However, what you are stepping forward with tonight is just the design and the money for the design is from the bond proceeds or the wastewater side. As we move the project forward we will be able to discuss the remainder of the funding. As far as the environmental document, in 2006 the engineer of record at the time, Parsons, did an environmental review and went through all the issues and Webb and Associates again reviewed that document and it was given to Community Development and it has been blessed. Mr. Burk said he intends on breaking ground on this in 2010. They are not asking to use RDA money tonight and it was just to show that there was money available there. The only way that this City can create new water is this way.

City Attorney said that there is another important point and the gentleman indicated that there will be no development coming on the road for ten years so why are you spending the money now on something there isn’t an immediate need for. The answer to that is really that although it is a devastated field out there in terms of major developers and projects we are actually fortunate to have a very live developer which is Pardee and their project is potentially 4000 units and they have not put everything on the shelf and said we are coming back in ten years; they are trying to move forward. The largest stumbling block to moving that project forward is that there has to be an adequate water supply. You have to do a water supply assessment. He has been meeting for a year with the water lawyers for Pardee trying to figure out how to deal with that problem and one of the things they keep asking about is what is going on with the recycled water and when it is going to be built. To the extent we can use recycled water to relieve the burden on the potable water the potable water becomes available for these other projects. In order to use water in your water supply assessment it has to be reliable and it can’t be we just have a plan and someday in the future we will build the plan. So the problem is that the recycled water until we get to the point where we are actually ready to go construct the facilities that water can’t be plugged into the plan. So this has the ability potentially is the equivalent of 2500 homes so doing this sort of a project and making it a real project so it is viable will make it considerably easier to try and demonstrate to do a project such as the Pardee project. This alone won’t solve their problem. This is a step towards putting together a package so that we are able to get to the point to do the EIR on the Pardee project and have a water supply assessment.

Matthew Clarke addressed the Council stating that this should be demonstrated to the public where exactly Pardee Homes project is and it is no where close to this. Also Pardee Homes project won’t come to fruition until the faulting issue is resolved. This project also only serves Sun Lakes and if the developers that come in the future are going to pay a fee to use it
how come Sun Lakes is not contributing to pay for this design. And we keep hearing the phrases “if the Council decides”, “if the Council decides not to use RDA money”. Can the citizenry get a commitment tonight that you will not commit RDA funds for this?

Mayor Pro Tem Hanna said that Sun Lakes has paid a portion of the share of this and as a resident of Banning she doesn’t think it really matters if you are a resident of Sun Lakes or not. She is not a resident of Sun Lakes. She doesn’t think it is a good thing that our potable water is being used for their golf courses. As she recalls, Sun Lakes will be required to use recycled water when it is available to them. So she thinks all the way around it is a beneficial thing to have recycled water available and valuable and we should go forward.

There were some further Council comments in regards to having a design in place because you cannot find grants or people who will put money into a project if you don’t have a design that is ready. There were also comments in regards to the deterioration of pipes that have been there for 20 years now, supporting the idea of putting recycled water into Sun Lakes and into our green beltways, etc., being able to recoup the $10 million dollars and cannot see approving it with the idea that there would be any RDA money put into financing it.

Motion Botts/Robinson that the City Council adopt Resolution No. 2010-16, Awarding a Professional Services Agreement to Albert A. Webb Associates of Riverside, CA in an amount not to exceed $152,900.00 for the Modification of the Recycled Waterline Design and authorize the Director of Finance to make necessary budget adjustments and appropriations from the Banning Utility Authority Wastewater Project Fund to Account No. 856-9500-490.95-30 (Capital Expenditures/Planning/Design) in an amount of $168,190.00 which includes a 10% contingency. Motion carried, with Councilmember Franklin voting no.

6. Authorization to Fill a Position – Financial Services Specialist

Councilmember Franklin said she wanted staff to give a bit more update about what the status is right now for that department and what this person would be doing especially if we are talking on one hand about adding a person and talking about additional layoffs as well.

Interim Finance Director Warner said this particular position is the one person who pays all the bills. It is the accounts payable person which is a full time job to get all of those things done. It is a critical position because this is the third position that is actually vacated within the last month. Two of those are purposely being kept open at this time in anticipation of potential reductions or cutbacks that may come which is the Buyers position and also one manager’s position that happened to be in purchasing and the customer services areas. This particular one which is already budgeted will have no additional impact on the budget issue and this position is not one that they can absorb and easily do without at this point and it is a critical function in the department.

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

Motion Hanna/Machisic the City Council authorizes staff to fill the position of Finance Services Specialist. Motion carried, all in favor.
PUBLIC HEARINGS

1. Resolution No. 2013, Vacating a Portion of Val Monte Street and Adjacent Alleys
   (Staff Report – Duane Burk, Public Works Director)

Public Works Director gave the staff report as contained in the agenda packet and showed a rendering of the building.

Mayor Botts opened the public hearing at this time for comments from the public.

Matthew Clarke, 1036 Charles Street addressed the Council stating in the information provided it describes that the firm wanting to build here is a medical and behavior health specialists but yet they want to build a medical and dental facility and where does the dental come from. Also it is his understanding that his will be a walk-in clinic dealing with perhaps mental health and that should get more involvement of the citizens on the east side of town if we are going to put a mental health clinic out there if in fact that is what it is going to be. Also with the proximity that close to the freeway he is curious about the drainage.

Johnny Schoonover said he resides at 1160 E. Ramsey next to this project on Val Monte and with the vacation of the street his concerns are, as well as his neighbor, is that if they take 25 feet of Val Monte and leave 25 feet for roadway is there still going to be parking allowed on the side he resides on. He doesn’t know any other solution for that because it is such a cramped street as it is and once they run their curbs and take their 25 feet on the opposite side of Val Monte it is going to leave just a small street. He read a letter from his neighbor regarding his concerns and it states, “We are a local business owner and occupant of the property located at 68 Val Monte Street, Lot #3, just north of the 10 Interstate Freeway and east of the proposed new construction site for the Inland Behavioral & Health Service, Inc. Recently, I have received a letter by mail from the developer’s engineer concerning a new proposed change to the Val Monte Street. I regret to inform you that we are not in favor, nor would allow such changes to take place according to the developer’s proposal. We are concerned that such changes would encroach upon our rights to operate our business normally. Our business model requires the street to be as such in dimension and size, without reduction and restriction. According to the developer’s Exhibit “B” submission, it would serve us with limitation for incoming and outgoing larger vehicles to be maneuvered. Furthermore, we have concerns about our rights as a business owner in terms of street parking spaces that may be taken away by the developer’s customers who may seek to park on Val Monte Street and become unsafe for all occupants operating their business nearby. Therefore, we would like to suggest that the developer seek other means to extend his/her parking spaces elsewhere, without sacrificing (our) public street at our expense. We thank you for your consideration, and we hope that you will recognize our concerns.”

Ginger Schoonover, 1160 E. Ramsey Street addressed the Council stating that she has several concerns. The drainage is a very good point because the end of their street is always flooded. Her second concern is in the beginning of this project when they came to them they stated that it would be a private road and on the exhibit it is showing an exit out of back of the cul-de-sac. The reason she is stating this is because the house has been in her husband’s family for about 50
years and they have four children and as far as living on Ramsey this is the only place where the children have a place to ride their bicycles, skateboards, etc. so this will be a busy street if this is what they are going to do with it and it won’t be a private road and is that correct.

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

Mr. Burk said he doesn’t know if there is any written appeal to the project as of yet. He can only say that they are asking the Council to vacate Val Monte Street to do the improvement. As far as parking goes they can definitely address the concerns of the property owners. This is a conceptual drawing that is being shown. The radius circle would have to accommodate fire engine turning so that is a pretty large dimension. As far as this existing radius going forward he doesn’t know if they are giving up an alignment here or if it just all of the City’s right of way now. As far as drainage goes the drainage will come as it relates during the permit process as the project moves forward. The City has adopted a new WQMP Management policy as it relates for Riverside County Flood Control and will have to manage all of their runoff and if they don’t, they will be fined. One of the things tonight is that it is a process to hear some of the concerns and they can’t be addressed tonight. He said they were not prepared this evening to address any written appeal and offer any information. We don’t want to negatively impact any businesses or residents in the area. He does know that there are some drainage issues currently.

Councilmember Franklin said when she brought this up at a prior meeting her question was what was the impact on the residents and the response was that they were okay with it. And from what we are hearing tonight it seems that they are not okay with it. So before we move forward maybe we need to get those issues resolved and maybe even continue it.

Councilmember Machisic said that this has been before the Planning Commission and would assume that these people spoke to the Planning Commission and he would assume that the Planning Commission placed some conditions concerning the project and it was pointed out it was conceptual and won’t it at some point in time have to go back to the Planning Commission to finalize the plan with all these conditions.

City Attorney said he doesn’t even know if there were any conditions and you are making assumptions that there were conditions added. The approval of the project is not at the level of detailed building plans and building plans don’t have to go back to the Planning Commission. He wasn’t at the Planning Commission Meeting and doesn’t know the details but normally a project goes to the Planning Commission once and then it is over with. So he doesn’t know whether the concerns were addressed or not. He doesn’t know if whether an appeal was filed of the Planning Commission action.

City Manager said for Council’s information the Planning Director is absent because she is out ill otherwise she would be here.

Mayor Pro Temp Hanna said we talk about blight on the east side and how we should focus redevelopment on the east side and here is a tremendous improvement to this parcel of land and it is right along the I-10 freeway and not a place that you want residential particularly so she thinks we should of course look at the issues of the residents and deal with the concerns raised and she is sure drainage must be assessed. She thinks this is a tremendously positive kind of
thing and we need to be very careful about being highly critical but we need to resolve problems. We have to be very careful about being highly critical when development does come to the east side. Redevelopment on its own can’t fund the revitalization of the east side. There are improvements we can make but we can’t revitalize it and we are dependent on developers wanting to come in or businesses that want to come in and do it. So she is excited about this and hopefully we can resolve these issues.

Motion Franklin that we continue this item so that the issues that were raised tonight can be addressed.

City Attorney said the question is that when you continue it are you interested in having people speak again on the matter or not because if you want further opportunity to speak you would reopen the public hearing and continue that and if you are not interested in further testimony and you just want a staff report then you would not reopen the public hearing.

Mayor Botts said his concern is that we need answers to the questions that have been raised and he is certainly open to what the Council wants.

Councilmember Franklin said she would open it if the report generates more questions we need to be able to hear those questions.

Mayor Botts reopened the public hearing at this time.

Councilmember Franklin restated her motion that we continue the public hearing to March 23, 2010 so that the issues that were raised tonight can be addressed. Motion seconded by Councilmember Hanna. Motion carried, all in favor.

ITEMS FOR FUTURE AGENDAS

New Items –

Councilmember Franklin said she would like to see added to the agenda the discussion regarding the Grand Jury Report be done in public session.

Mayor Botts said that has always been the intent and staff will work on it and it will be a public session by this Council.

Pending Items –

1. Schedule Meetings with Our State and County Elected Officials
2. Set New Date for Joint Meeting with Banning School Board (ETA 4/27/10)
3. Massage Ordinance (ETA 4/27/10)
4. Budget Workshop (ETA 3/23/10)
5. Information of rotation of mayor position and also direction election of the mayor. (ETA 3/23/10)
7. Reporting Guidelines (ETA 4/13/10)
Councilmember Machisic said in regards to Item No. 4 he would like to see that as a separate meeting as opposed prior to our Council meeting.

Interim Finance Director said since our new City Manager has gotten here they have been working diligently with the department heads and talking about alternatives that they have been looking at and they now have their budget worksheets but that won't all be completed in time for this particular workshop. So the intent of this workshop is twofold and first there will be a complete mid-year budget review to show all the estimations and all the things they know about and get it nailed down where they will be at June 30, 2010 and there have been some changes that have occurred and they will be discussed. Secondly, he is going to lay out what he would call budget information and baseline information that they need to talk about as we move forward and alternatives as to what it is going to take to get this budget balanced and this two year cycle done and what kind of decisions you will be looking at and he will have a presentation that will set the guidelines and baselines for that at least. And at the next meeting they will actually have the detail and some of these specific alternatives that the City Manager is working with the departments on and present that at a later time. This will be about 45 minutes to an hour maximum. He said that he is changing the title to say Midyear Budget Review and Budget Information Session. He knows that the Council is looking for a workshop per say to look at the specifics and all the proposals and those are still in development with the City Manager so those specific proposals will be back and we will be getting to those in April. This one is to give you the updated information for this fiscal year and seek some approval on some adjustments and he has some information to give to set the stage for those workshops when the alternatives come before the Council.

City Manager said that they can have a special meeting at 4:30 and have the Midyear Budget Review. City Attorney said that you can schedule the Special Meeting and the CRA Meeting to start at the same time.

City Attorney said just to clarify Councilmember Franklin's suggestion about the Grand Jury it would be staff's intention and we know what the issues are and we have some research and materials to look into and we need to track how all the payments have worked out and their intent would be in the normal course of things to come forward with the staff suggested response to these recommendations. So he thinks coming forward with that report would satisfy the request. We have 90 days and we are not planning on waiting until the 89th day but there is some effort involved in trying to go back through these records and straighten everything out. So if what he is stating is your intent then he thinks as he and the City Manager will work on this in a few weeks and they will be able to give an estimate as to when we will have a draft of what our response would be that you can then look over at your will.

City Manager said that staff would also add to the pending agenda the sister city with Haiti.

CLOSED SESSION

City Attorney said the City Council will recess to closed session in regards to Conference with Labor Negotiators pursuant to Section 54957.6. City is represented by City Manager, City Attorney and Human Resources Director. Negotiations are with International
Brotherhood of Electrical Workers – Utility Unit; International Brotherhood of Electrical Workers – General Unit; Banning Police Officers Association and City of Banning Association of Managers.

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

Meeting went into closed session at 8:25 p.m. and returned to regular session at 8:55 p.m. City Attorney said that the Council met in closed session to go through preparation for the coming around of labor negotiations and gave direction to the negotiators and no action was taken.

ADJOURNMENT

By common consent the meeting adjourned at 8:58 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.
DATE: March 23, 2010

TO: City Council

FROM: Hoyl E. Belt, Human Resources Director

SUBJECT: Authorization to Fill Positions – Seasonal Employees

Recommendation: That the City Council authorizes staff to fill the seasonal staff positions in Community Services Department – Pool Manager, Assistant Pool Manager, Lifeguards and Cashiers.

Justification: The Finance Director recommended and the Council approved new supplemental budget policies to control and define the decision making process during the next eighteen months. The policies were designed to encourage the balancing of the structural deficit that exists in the General Fund. The supplemental policy that was approved stated that a hiring freeze will be in effect until cancelled by the City Council. Also, that all hiring requests shall be submitted for City Council for approval which included new positions, filling of vacated positions, departmental reorganization and other personnel actions with the potential of increasing costs or providing for savings. The policy would allow the Council to strategically determine how best to allocate personnel and service levels.

With this new policy in effect, staff is requesting that the City Council approve the filling of seasonal staff. These positions are hired annually to run the public swimming pool and these positions are included in this year’s budget. Annually, our regular staff returns with the exception of a few positions. Human Resources recruits annually to fill these vacant positions early due to the significant amount of time for recruiting and training in order for staff to obtain the required certifications necessary for the job. If we are not authorized to fill all positions, this can cause an undue hardship and the city can be faced with liability issues.

Background: Seasonal staff is necessary to fully run a safe environment for the public pool which opens each year in May.

Fiscal Data: The filling of this position will not cause a fiscal impact. The Community Services budget for the seasonal staff is budget as full-time equivalent hours and not based on total number of positions in the FY 2009-2010 Budget.

Prepared By: 

[Signature]
Hoyl Belt
Human Resources Director

Approved By: 

[Signature]
Andy Takata
City Manager
CITY COUNCIL AGENDA

DATE: March 23, 2010

TO: City Council

FROM: Duane Burk, Director of Public Works

SUBJECT: Notice of Completion for Project No. 2006-07, “Construction of the New Banning Police Station”

RECOMMENDATION: That the City Council accept Project No. 2006-07, “Construction of the New Banning Police Station,” as complete and direct the City Clerk to record the Notice of Completion.

JUSTIFICATION: The contractor has completed the work as per the approved plans and specifications.

BACKGROUND: On June 24, 2008 the City Council adopted Resolution No. 2008-55 awarding the Construction Contract for Project No. 2006-07, “Construction of the New Banning Police Station” to Oakview Constructors, Inc. of Calimesa, California in the amount of $11,089,836.00.

The scope of work for Project No. 2006-07 included the construction of a new 30,000 square foot, masonry, steel and wood frame two story Police Department building. The project also included the installation of utility infrastructure to support the new building as well as site improvements such as a secured employee parking lot and a public parking lot, landscaping, sidewalks, a trash enclosure and site masonry walls.

FISCAL DATA: The original contract amount for this project was $11,089,836.00. Due to unforeseen conditions, two change orders were approved by the Public Works Department in the amount of $580,890.05. The final contract amount is $11,670,726.05, approximately 5.24% of an increase over the original contract amount. This project was funded by Banning Utility Authority (BUA) bonds proceeds, Account No. 470-2200-413.90-12.

RECOMMENDED BY:  
Duane Burk  
Director of Public Works

REVIEWED BY:  
Kirby Warner  
Interim Director of Finance

APPROVED BY:  
Andy Takata  
City Manager

Notice of Completion - Project No. 2006-07
NOTICE OF COMPLETION

CONSTRUCTION OF THE NEW BANNING POLICE STATION

PROJECT NO. 2006-07

THIS NOTICE OF COMPLETION IS HEREBY GIVEN by the OWNER, the City of Banning, a municipal corporation, pursuant to the provisions of Section 3093 of the Civil Code of the State of California, and is hereby accepted by the City of Banning, pursuant to authority conferred by the City Council this March 23, 2010, and the grantees consent to recordation thereof by its duly authorized agent.

That the OWNER, the City of Banning, and Oakview Constructors, Inc. of Calimesa, Calif., the vendee, entered into an agreement dated June 25, 2008, for Construction of Project No. 2006-07, “Construction of the New Police Station”. The scope of work for this project included the construction of a new 30,000 square foot, masonry, steel and wood frame two story Police Department building. The project also included the installation of utility infrastructure to support the new building as well as site improvements such as a secured employee parking lot and a public parking lot, landscaping, sidewalks, a trash enclosure and site masonry walls.
(1) That the work of improvement was completed on March 12, 2010, for Project No. 2006-07, "Construction of the New Banning Police Station" and the Nature of Interest is in fee simple owner.

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

(3) That the said work of improvement was performed at 125 East Ramsey Street, Banning, California, 92220.

(4) That the original contractor for said improvement was Oakview Constructors, Inc., State Contractor’s License No. 462847.

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

Dated: March 23, 2010

CITY OF BANNING
A Municipal Corporation

By ______________________
Duane Burk
Director of Public Works

APPROVED AS TO FORM:

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

State of California
County of Riverside

Subscribed and sworn to (or affirmed) before me on this ______ day of
__________________, 2010 by __________________ proved to me on this basis of
satisfactory evidence to be the person(s) who appeared before me.

(S e a l)  

Notary Public in and for said County
and State

STATE OF CALIFORNIA)
) ss
COUNTY OF RIVERSIDE)

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

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

Executed on _______________, 2010 at Banning, California.

______________________________
City Clerk of the City of Banning
CITY COUNCIL AGENDA

DATE: March 23, 2010

TO: City Council

FROM: Duane Burk, Director of Public Works

SUBJECT: Notice of Completion for Project No. 2009-01, “Airport Drainage Improvements and Lincoln Street Improvements”

RECOMMENDATION: That the City Council accept Project No. 2009-01, “Airport Drainage Improvements and Lincoln Street Improvements,” as complete and direct the City Clerk to record the Notice of Completion.

JUSTIFICATION: The contractor has completed the work as per the approved plans and specifications.


The scope of work for Project No. 2006-07 included the grinding/cold planning of existing asphalt; street grading, placing new asphalt concrete (A.C.) and aggregate base section, A.C. overlay per City Engineer’s recommendations; sidewalks, curb and gutters, driveways, cross gutters, spandrels and handicap ramps in accordance with the City of Banning and CALTRANS Standard Specifications; adjusting manholes and water valve covers to grade; removing and replacing water services, water meter boxes, and mailboxes when required by the Public Works Inspector; striping improvements, installation of street lights, relocation of power poles; and cleaning; etc., as shown on the approved plans.

FISCAL DATA: The original contract amount for this project was $993,399.00. Due to unforeseen conditions, one change order was approved by the Public Works Department in the amount of $29,103.21. The final contract amount is $1,022,502.21, approximately 2.93% of an increase over the original contract amount. Ninety-five percent (95%) or up to $991,229.00 of the eligible project costs are reimbursable through two Federal Aviation Administration grants awarded to the City of Banning. The total eligible project costs for Project 2009-01 are equal to $1,047,002.21, which includes construction staking. The remaining amount was paid using the Airport Fund Account.

SIGNATURES ON NEXT PAGE
RECOMMENDED BY:

Duane Burk
Director of Public Works

APPROVED BY:

Andy Takata
City Manager

REVIEWED BY:

Kirby Warner
Interim Director of Finance
WHEN RECORDED MAIL TO:

The Office of the City Clerk
of the City of Banning
P.O. Box 998
Banning, California 92220

FREE RECORDING:
Exempt Pursuant to
Government Code §6103

NOTICE OF COMPLETION
AIRPORT DRAINAGE IMPROVEMENTS AND LINCOLN STREET
IMPROVEMENTS
PROJECT NO. 2009-01

THIS NOTICE OF COMPLETION IS HEREBY GIVEN by the OWNER, the
City of Banning, a municipal corporation, pursuant to the provisions of Section 3093 of
the Civil Code of the State of California, and is hereby accepted by the City of Banning,
pursuant to authority conferred by the City Council this March 23, 2010, and the grantees
consent to recordation thereof by its duly authorized agent.

That the OWNER, the City of Banning, and Match Corporation, of San Bernardino,
Calif., the vendee, entered into an agreement dated August 28, 2009, for Construction of
Project No. 2009-01, “Airport Drainage Improvements and Lincoln Street
Improvements”. The scope of work for this project included the grinding/cold planning
of existing asphalt; street grading, placing new asphalt concrete and aggregate base
section, A.C. overlay per City Engineer’s recommendations; sidewalks, curb and gutters,
driveways, cross gutters, spandrels and handicap ramps in accordance with the City of
Banning and CALTRANS Standard Specifications; adjusting manholes and water valve
covers to grade; removing and replacing water services, water meter boxes, and
mailboxes when required by the Public Works Inspector; striping improvements,
installation of street lights, relocation of power poles; and cleaning; etc., as shown on the
approved plans.
(1) That the work of improvement was completed on March 8, 2010, for Project No. 2009-01, "Airport Drainage Improvements and Lincoln Street Improvements" and the Nature of Interest is in fee simple owner.

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

(3) That the said work of improvement was performed at the Banning Municipal Airport located at 200 South Hathaway and along Lincoln Street and Hathaway Street in Banning, California 92220

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

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

Dated: March 23, 2010

CITY OF BANNING
A Municipal Corporation

By ____________________________
Duane Burk
Director of Public Works

APPROVED AS TO FORM:

______________________________
David J. Aleshire, Aleshire & Wynder, LLP
Agency Counsel
JURAT

State of California
County of Riverside

Subscribed and sworn to (or affirmed) before me on this _______ day of
______________, 2010 by ___________________ proved to me on this basis of
satisfactory evidence to be the person(s) who appeared before me.

(S e a l)

Notary Public in and for said County
and State

STATE OF CALIFORNIA)

) ss

COUNTY OF RIVERSIDE)

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

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

Executed on_______________, 2010 at Banning, California.

_________________________________

City Clerk of the City of Banning

28
CITY COUNCIL MEETING

DATE: March 23, 2010

TO: Honorable Mayor and City Council

FROM: Duane Burk, Director of Public Works


RECOMMENDATION: Accept the Right-of-Way dedications from the following Assessor’s Parcel Numbers and direct the City Clerk to accept and record said dedications:

1. 419-081-001
2. 419-101-012
3. 419-101-011
4. 419-101-010
5. 419-101-008

Said Parcel Numbers are described in their related Exhibit “A” and Exhibit “B” (see attached).

JUSTIFICATION: It is essential to obtain the right-of-way in order to construct proposed street improvements at their ultimate location as set forth by the adopted Circulation Element.


The scope of work for Project No. 2009-04 includes the grinding/cold planing of existing pavement, construction of curb and gutter, sidewalks, handicap ramps, driveways, street lights, AC pavement, signing and striping and relocation of existing utilities.

The City of Banning must accept the right-of-way dedications in order to be able to construct the street improvements at their ultimate location, per the City of Banning General Plan.

FISCAL DATA: Not applicable.

RECOMMENDED BY: Duane Burk
Director of Public Works

APPROVED BY: Andy Takata
City Manager
APN: 419-081-001
RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

CITY CLERK
CITY OF BANNING
99 EAST RAMSEY STREET
BANNING, CA. 92220-0998

SPACED ABOVE THIS LINE FOR RECORDER'S USE

GRANT DEED
(RIGHT-OF-WAY DEDICATION)

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

REZA BIRJANDI, Trustee of Birjandi Family Trust Dated 10/13/04

hereby GRANT(S) to the City of Banning, a Municipal Corporation, for street right-of-way purposes, all that real property situated in the City of Banning, County of Riverside, California, described as follows:

SEE EXHIBITS “A” AND “B” ATTACHED HERETO AND MADE A PART HEREOF

Assessor's Parcel No. 419-081-001-002

Executed on March 1st, 2010, at Laguna Hills, California

Dated: 3-1-10

R.M. Birjandi

STATE OF CALIFORNIA
COUNTY OF CALIFORNIA

On March 2010
before me, Holly Ketchum, a notary public
personally appeared Reza Birjandi and
N/A who proved to me
on the basis of satisfactory evidence to be the person(s)
whose name(s) is/are subscribed to the within instrument
and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies) and that by his/her/their
signature(s) on the instrument the person(s), or the entity upon
behalf of which the person(s) acted, executed the instrument.

I certify under the penalty of perjury under the laws of the State
Of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal:

Signature

Printed Name: Holly Ketchum

The County of my principal business is: Orange
EXHIBIT “A”

LEGAL DESCRIPTION
(RIGHT OF WAY DEDICATION)
Portion APN: 419-081-001

THAT PORTION OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SAN BERNARDINO BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 18, GRAND VIEW RANCHO, RECORDER IN MAP BOOK 23, PAGES 19 AND 20, RECORDS OF RIVERSIDE COUNTY, STATE OF CALIFORNIA; THENCE NORTH 00°21'48" WEST, ALONG THE WESTERLY LINE THEREOF, A DISTANCE OF 150.12; THENCE SOUTH 88°06'00" EAST, A DISTANCE OF 28.02 FEET; THENCE SOUTH 00°21'48" EAST, PARALLEL WITH THE EAST LINE OF SAID LOT 18, A DISTANCE OF 132.94 FEET; THENCE SOUTH 41°43'50" EAST, A DISTANCE OF 19.58 FEET; THENCE SOUTH 88°06'00" EAST, A DISTANCE OF 19.08 FEET; THENCE SOUTH 00°21'48" EAST, A DISTANCE OF 3.00 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF RAMSEY STREET; THENCE NORTH 88°06'00" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE OF RAMSEY STREET, A DISTANCE OF 60.05 FEET TO THE POINT OF BEGINNING.

THE AREA OF THE DESCRIBED PROPERTY IS 4,391 SQUARE FEET, MORE OR LESS.

Prepared under my supervision

Henry C. Poquiz
L.S. 6048

State of California
APN: 419-101-012
GRANT DEED
(RIGHT-OF-WAY DEDICATION)

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

REZA BIRJANDI, Trustee of Birjandi Family Trust Dated 10/13/04

hereby GRANT(S) to the City of Banning, a Municipal Corporation, for street right-of-way purposes, all that real property situated in the City of Banning, County of Riverside, California, described as follows:

SEE EXHIBITS "A" AND "B" ATTACHED HERETO AND MADE A PART HEREOF

Assessor's Parcel No. 419-101-012

Executed on January 6, 2009, at __________, California

Dated: __________

Reza Birjandi

STATE OF CALIFORNIA
COUNTY OF Orange

On January 8, 2009

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

I certify under the penalty of perjury under the laws of the State Of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal:

Signature: ____________________________
Printed Name: ____________________________

The County of my principal business is: Orange
EXHIBIT “A”

LEGAL DESCRIPTION
(RIGHT OF WAY DEDICATION)
Portion APN: 419-101-012

THAT PORTION OF LOT 18, GRAND VIEW RANCHO, AS PER MAP RECORDED IN MAP BOOK 23, PAGES 19 AND 20, RECORDS OF RIVERSIDE COUNTY, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 18; THENCE NORTH 01°54'00" EAST ALONG THE WESTERLY LINE THEREOF, A DISTANCE OF 5.93 FEET TO THE BEGINNING OF A NON-TANGENT CURVE HAVING A RADIUS OF 3,038.00 FEET AND A RADIAL BEARING OF NORTH 04°01'02" EAST; THENCE SOUTHEASTERLY ALONG SAID CURVE CONCAVE SOUTHERLY, THROUGH A CENTRAL ANGLE OF 00°57'29", AN ARC DISTANCE OF 50.80 FEET; THENCE NORTH 47°14'25" EAST, A DISTANCE OF 23.48 FEET; THENCE NORTH 00°21'48" WEST PARALLEL WITH THE EASTERLY LINE OF SAID LOT 18, A DISTANCE OF 259.75 FEET TO A POINT ON THE NORTHERLY LINE OF SAID LOT 18; THENCE SOUTH 88°06'00" EAST ALONG SAID NORTHERLY LINE OF LOT 18, A DISTANCE OF 38.03 FEET TO THE NORTHEAST CORNER THEREOF; THENCE SOUTH 00°21'48" EAST, ALONG THE EASTERLY LINE OF SAID LOT 18, A DISTANCE OF 279.90 FEET TO THE SOUTHEAST CORNER THEREOF; THENCE NORTH 88°06'00" WEST, ALONG THE SOUTHERLY LINE THEREOF, A DISTANCE OF 108.27 FEET TO THE POINT OF BEGINNING.

THE AREA OF THE DESCRIBED PROPERTY IS 11,089 SQUARE FEET, MORE OR LESS.

Prepared under my supervision:

Henry C. Poquill
L.S. 6048
GRANT DEED
(RIGHT-OF-WAY DEDICATION)

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

REZA BIRJANDI, Trustee of Birjandi Family Trust Dated 10/13/04

hereby GRANT(S) to the City of Banning, a Municipal Corporation, for street right-of-way purposes, all that real property situated in the City of Banning, County of Riverside, California, described as follows:

SEE EXHIBITS “A” AND “B” ATTACHED HERETO AND MADE A PART HEREOF

Assessor’s Parcel No. 419-101-011

Executed on January 09, 2009, at 10:00 a.m., California

Dated: 1/09/2009

Reza Birjandi

STATE OF CALIFORNIA
COUNTY OF Orange

On January 09, 2009

before me, Victoria J. DiFranco, a notary public personally appeared Reza Birjandi and

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in their authorized capacity(a) and that by their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under the penalty of perjury under the laws of the State Of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal:

Signature: Victoria J. DiFranco

Printed Name: Victoria J. DiFranco

The County of my principal business is: Orange

39
EXHIBIT “A”

LEGAL DESCRIPTION
(RIGHT OF WAY DEDICATION)
Portion APN: 419-101-011

THAT PORTION OF LOT 17, GRAND VIEW RANCHO, AS PER MAP RECORDED IN MAP BOOK 23,
PAGES 19 AND 20, RECORDS OF RIVERSIDE COUNTY, STATE OF CALIFORNIA, DESCRIBED AS
FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 17; THENCE NORTH 01°54'00" EAST
ALONG THE WESTERLY LINE THEREOF, A DISTANCE OF 7.98 FEET TO THE BEGINNING OF A NON-
TANGENT CURVE HAVING A RADIUS OF 3,038.00 FEET WITH A RADIAL BEARING OF NORTH
02°07'51" EAST; THENCE SOUTHEASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE
OF 01°53'11", AN ARC DISTANCE OF 100.02 FEET TO A POINT ON THE EASTERN LINE OF SAID
LOT 17, WITH A RADIAL BEARING OF NORTH 04°01'02" EAST; THENCE SOUTHERLY ALONG SAID
EASTERLY LINE OF LOT 17, A DISTANCE OF 5.93 FEET TO THE SOUTHEAST CORNER THEREOF;
THENCE WESTERLY ALONG THE SOUTHERLY LINE OF SAID LOT 17, A DISTANCE OF 100.00 FEET
TO THE POINT OF BEGINNING.

THE AREA OF THE DESCRIBED PROPERTY IS 723 SQUARE FEET, MORE OR LESS.

Prepared under my supervision:

Henry C. Poquiz
L.S. 6048

[Stamp: LICENSED LAND SURVEYOR]
No. 6048
EXP. 5-7-14
STATE OF CALIFORNIA
APN: 419-101-010
REZA BIRJANDI, Trustee of Birjandi Family Trust Dated 10/13/04

hereby GRANT(S) to the City of Banning, a Municipal Corporation, for street right-of-way purposes, all that real property situated in the City of Banning, County of Riverside, California, described as follows:

SEE EXHIBITS “A” AND “B” ATTACHED HERETO AND MADE A PART HEREOF

Assessor’s Parcel No. 419-101-010

Executed on January 20, 2009, at , California
Dated:

STATE OF CALIFORNIA
COUNTY OF

On January 20, 2010 before me, , a notary public personally appeared and
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under the penalty of perjury under the laws of the State Of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Printed Name:

The County of my principal business is:
EXHIBIT “A”

LEGAL DESCRIPTION
(RIGHT OF WAY DEDICATION)
Portion APN: 419-101-010

THAT PORTION OF LOT 16, GRAND VIEW RANCHO, AS PER MAP RECORDED IN MAP BOOK 23, PAGES 19 AND 20, RECORDS OF RIVERSIDE COUNTY, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 16; THENCE NORTH 01°54'00" EAST ALONG THE WESTERLY LINE THEREOF, A DISTANCE OF 8.00 FEET; THENCE EASTERLY PARALLEL WITH THE SOUTH LINE OF SAID LOT 16, A DISTANCE OF 87.76 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 3,038 FEET, THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 00°13'51", AN ARC DISTANCE OF 12.24 FEET TO A POINT ON THE EASTERLY LINE OF SAID LOT 16, WITH A RADIAL BEARING OF NORTH 02°07'51" EAST; THENCE SOUTHERLY ALONG SAID EASTERLY LINE OF LOT 16, A DISTANCE OF 7.98 FEET TO THE SOUTHEAST CORNER THEREOF; THENCE WESTERLY ALONG THE SOUTHERLY LINE OF SAID LOT 16, A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING.

THE AREA OF THE DESCRIBED PROPERTY IS 800 SQUARE FEET, MORE OR LESS.

Prepared under my supervision:

[Signature]
Henry C. Poquiz
L.S. 6048

[Seal of Licensed Land Surveyor]

[Stamp: Licensed Land Surveyor]

[Stamp: Henry C. Poquiz]

No. 6048
EXP 12/2011

44
APN: 419-101-008
GRANT DEED
(RIGHT-OF-WAY DEDICATION)

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

JORDAN KUTZAROV, a married man as his sole and separate property

hereby GRANT(S) to the City of Banning, a Municipal Corporation, for street right-of-way purposes, all that real property situated in the City of Banning, County of Riverside, California, described as follows:

SEE EXHIBITS “A” AND “B” ATTACHED HERETO AND MADE A PART HEREOF

Assessor’s Parcel No. 419-101-008

Executed on Feb 18, 2009, at Cypress, California

Dated: Feb 18, 2010

STATE OF CALIFORNIA
COUNTY OF Orange

On Feb 18, 2010

before me, Young Sam Choi, a notary public personally appeared Jordan Kutzarov and

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities and that by their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under the penalty of perjury under the laws of the State Of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal:

Signature: [Signature]

Printed Name: Young Sam Choi

The County of my principal business is: Orange
EXHIBIT “A”

LEGAL DESCRIPTION
(RIGHT OF WAY DEDICATION)
Portion APN: 419-101-008

THE SOUTH 8.00 FEET OF LOT 14, GRAND VIEW RANCHO, AS PER MAP RECORDED IN MAP BOOK 23, PAGES 19 AND 20, RECORDS OF RIVERSIDE COUNTY, STATE OF CALIFORNIA

THE AREA OF THE DESCRIBED PROPERTY IS 800 SQUARE FEET, MORE OR LESS.

Prepared under my supervision:

Henry C. Poquiz
L.S. 6048

[Stamp]

[Signature]
EXHIBIT "B"

LOT 14, M.B. 23/19-20

APN: 419-101-008

SCALE: 1" = 20'

RIGHT OF WAY

SURVEY CENTERLINE

RAMSEY STREET

CITY OF BANNING, CALIFORNIA
DEED PLAT
RAMSEY STREET

DRAWN BY:    HCP
CHECKED BY:  
APPROVED BY:  
DATE:  AUGUST 4, 2008
DATE: March 23, 2010

TO: Honorable Mayor and City Council

FROM: Andy Takata, City Manager

SUBJECT: First Amendment to Consultant Services Agreement with Michael Brandman and Associates

RECOMMENDATION:
That the City Council approve an amendment to Consultant Services Agreement with Michael Brandman and Associates for the amount not to exceed $11,800.00 to complete the preparation of an environmental document (Mitigated Negative Declaration) for the O'Donnell Business Park project.

JUSTIFICATION:
Michael Brandman and Associates (MBA) was retained by the City to prepare various environmental documents for the developer and City funded projects. The purpose of the contract amendment is to complete the environmental document (Mitigated Negative Declaration) for the O'Donnell Business Park project. This is a developer funded project and there is no fiscal impact to the City.

BACKGROUND/DISCUSSION:
On August 8, 2008, the City entered into an Agreement with Michael Brandman and Associates as an on-call consultant to prepare various environmental documents for developer funded and City projects at a cost not to exceed $20,000.00. Currently MBA is preparing an environmental document for the O'Donnell Business Park project. The cost increase of $11,800.00 which necessitates the contract amendment is due to the change in the O'Donnell Business Park project and changes that are required to be made to the environmental document in response to the comments that were raised by the outside agencies. The majority of the comments came from the South Coast Air Quality Management District. The land use entitlement for the O'Donnell project, which included Design Review and Tentative Parcel Map is tentatively scheduled for the Planning Commission hearing in May 2010. The environmental document is required by the California Environmental Quality Act and needs to be completed and made available for public review for 30 days prior to the public hearing.

CONCLUSION:
Staff recommends that the City Council approve an amendment to Consultant Services Agreement with Michael Brandman and Associates for the amount not to exceed $11,800.00 to complete the preparation of an environmental document (Mitigated Negative Declaration) for the O'Donnell Business Park project.
**FISCAL DATA:**
The cost of $11,800.00 is funded by the developer of the O'Donnell Business park project. There is no fiscal impact to the City.

**APPROVED BY:**

Andy Takata  
City Manager

**PREPARED BY:**

Zai Abu Bakar  
Community Development Director

**REVIEWED BY:**

Kirby Warner  
Interim Finance Director

Attachments:

1. First Amendment to Consultant Services Agreement with Michael Brandman and Associates.
2. Existing contract dated August 8, 2008.
ATTACHMENT 1

First Amendment to Consultant Services Agreement with Michael Brandman Assoc.
FIRST AMENDMENT TO THE CONSULTANT SERVICES AGREEMENT BETWEEN
THE CITY OF BANNING AND MICHAEL BRANDMAN AND ASSOCIATES

THIS FIRST AMENDMENT TO THE CONSULTANT SERVICES AGREEMENT
(“First Amendment”) by and between the CITY OF BANNING (“City”) and Michael Brandman
Associates (“Consultant”) is effective as of the 23rd day of March 2010.

RECITALS

A. City and Consultant entered into a Consultant Services Agreement approved by
the City on September 3, 2008 for an amount not to exceed $20,000.00 to provide services
related to on-call consultant services for preparation of environmental documents related to
development projects funded by private developers.

B. Consultant is currently preparing an environmental document for the O’Donnell
Business Park project that is located on property located at the northeast corner of Hathaway and
Nicolet streets and adjacent to the Orco Block in the City of Banning.

C. Significant comments were raised by the resources agencies, such as the South
Coast Air Quality Management District during the public review of the Initial Study for the
environmental documents.

D. To address these comments, the contract scope will need to be amended and the
budget will need to be augmented by $11,800.00.

E. Section 1 of the existing agreement referenced the Scope of Services as Exhibit
“A”.

F. Section 4(a) of the existing Agreement agrees to pay Consultant the amounts
specified in Exhibit “B” Compensation.

NOW, THEREFORE, it is hereby agreed that the Agreement is amended in the following
particulars only:

Section 1. The parties herein agree that Scope of Services as indicated in Exhibit “A”
is hereby amended to include Exhibit A-1.

Section 2. The parties herein agree that the Section 4(a) is hereby amended to include
Exhibit B-1 to supplement the total compensation for Consultant Services for an additional
$11,800.00, which brings the total contract to $31,800.00.

Section 3. Except as expressly provided in this First Amendment, all other provisions
of the Agreement, shall remain in full force and effect.

[SIGNATURES ON NEXT PAGE]
IN WITNESS WHEREOF, City and Consultant have entered into this First Amendment as of the date set forth above.

By: _________________________________
    Robert E. Botts, Mayor

ATTEST:

By: _________________________________
    Marie Calderon, City Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

By: _________________________________
    David J. Aleshire, City Attorney

"Consultant"
Michael Brandman Associates

By: _________________________________ (Signature)
    (Signature)

Name: ______________________________ (Print Name)
    (Print Name)

1st amendment to MBA contract
Exhibit A-1
Scope of Work

Task 1: Update Draft IS/MND – MBA will update the previously prepared Draft IS/MND to include the following:

- Revised site plan dated October 1, 2009
- Revised traffic study dated December 2, 2009
- Revised air quality study/green house gas analysis dated December 10, 2009
- Incorporate water supply assessment dated June 9, 2009

It is the intent of the City that all environmental documents be legally compliant. Therefore, after review by City staff and the City Attorney, and in the event revisions are requested, Consultant will make any necessary changes to the document to make it legally compliant.

Complete by: March 2, 2010

Task 2: Update Draft Initial Study/MND for Public Review – MBA will respond to one set of Staff comments made on the Updated Draft Initial Study/MND (Task 1). MBA will revise the document or provide an explanation/rationale for conclusions made. MBA will submit one “proof check” copy of the Updated Initial Study/MND and prepare an Updated Notice of Intent (NOI) to Adopt a MND prior to the City circulating it for public review.

Upon approval, MBA will then reproduce up to 40 copies of the Updated Draft Initial Study/MND document to be circulated for public review in compliance with CEQA Guidelines. An electronic copy will also be provided to the City for posting on its website. The Updated Draft Initial Study/NOI will be distributed to the appropriate agencies and interested parties by the City.

Complete by: April 22, 2010

Task 3: Management and Meetings – Project coordination and management consists of attendance at two additional project meetings, regarding the Updated Initial Study. The MBA project manager will also provide management liaison among the MBA project team and the consulting engineer project team and the City’s designate Project Manager. MBA has allocated a total of sixteen (16) hours for this task.
## Exhibit B-1
### Total Compensation

<table>
<thead>
<tr>
<th>Task</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Task 1: Update Draft Initial Study/MND</td>
<td>$5,250</td>
</tr>
<tr>
<td>Task 2: Update Initial Study/MND for Public Review</td>
<td>$2,500</td>
</tr>
<tr>
<td>Task 3: Management and Meetings</td>
<td>$2,800</td>
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<tr>
<td>Direct Costs</td>
<td>$1,250</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$11,800</strong></td>
</tr>
</tbody>
</table>
ATTACHMENT 2

Existing Contract dated
August 8, 2008
CONSULTANT SERVICES AGREEMENT

By and Between

THE CITY OF BANNING,
a municipal corporation

and

MICHAEL BRANDMAN ASSOCIATES
AGREEMENT FOR CONSULTANT SERVICES
BETWEEN
THE CITY OF BANNING, CALIFORNIA
AND
MICHAEL BRANDMAN ASSOCIATES

This Agreement for Consultant Services ("Agreement") is entered into as of this 8th day of AUGUST, 2008 by and between the City of Banning, a municipal corporation ("City") and Michael Brandman Associates, a California Corporation ("Consultant"). City and Consultant are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. City has sought, by issuance of a Request for Proposals or Invitation for Bids, the performance of the services defined and described particularly in Section 2 of this Agreement.

B. Consultant, following submission of a proposal or bid for the performance of the services defined and described particularly in Section 2 of this Agreement, was selected by the City to perform those services.

C. Pursuant to the City of Banning's Municipal Code, City has authority to enter into this Consultant Services Agreement and the City Manager has authority to execute this Agreement.

D. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Section 2 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained here and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

SECTION 1. TERM OF AGREEMENT.

Subject to the provisions of Section 20 "Termination of Agreement" of this Agreement, the scope of services set forth in Exhibit "A" "Scope of Services" shall be completed pursuant to the schedule specified in Exhibit "A." Should the scope of services not be completed pursuant to that schedule, the Consultant shall be deemed to be in Default of this Agreement pursuant to Section 21 of this Agreement. The City, in its sole discretion, may choose not to enforce the Default provisions of this Agreement and may instead allow Consultant to continue performing the scope of services until such services are complete.
SECTION 2. SCOPE OF SERVICES.

Consultant agrees to perform the services set forth in Exhibit “A” “Scope of Services” and made a part of this Agreement.

SECTION 3. ADDITIONAL SERVICES.

Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to or outside of those set forth in this Agreement or listed in Exhibit “A” “Scope of Services,” unless such additional services are authorized in advance and in writing by the City Council or City Manager of City. Consultant shall be compensated for any such additional services in the amounts and in the manner agreed to by the City Council or City Manager.

SECTION 4. COMPENSATION AND METHOD OF PAYMENT.

(a) Subject to any limitations set forth in this Agreement, City agrees to pay Consultant the amounts specified in Exhibit “B” “Compensation” and made a part of this Agreement. The total compensation, including reimbursement for actual expenses, shall not exceed twenty thousand dollars ($20,000.00), unless additional compensation is approved in writing by the City Council or City Manager.

(b) Each month Consultant shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month. The invoice shall detail charges by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-consultant contracts. Sub-consultant charges shall be detailed by the following categories: labor, travel, materials, equipment and supplies. City shall independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. In the event that no charges or expenses are disputed, the invoice shall be approved and paid according to the terms set forth in subsection (c). In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission.

(c) Except as to any charges for work performed or expenses incurred by Consultant which are disputed by City, City will use its best efforts to cause Consultant to be paid within forty-five (45) days of receipt of Consultant’s correct and undisputed invoice.

(d) Payment to Consultant for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Consultant.

SECTION 5. INSPECTION AND FINAL ACCEPTANCE.

City may inspect and accept or reject any of Consultant’s work under this Agreement, either during performance or when completed. City shall reject or finally accept Consultant’s work within sixty (60) days after submitted to City. City shall reject work by a timely written explanation, otherwise Consultant’s work shall be deemed to have been accepted. City’s acceptance shall be conclusive as to such work except with respect to latent defects, fraud and such gross mistakes as amount to fraud. Acceptance of any of Consultant’s work by City shall
not constitute a waiver of any of the provisions of this Agreement including, but not limited to, sections 16 and 17, pertaining to indemnification and insurance, respectively.

SECTION 6. OWNERSHIP OF DOCUMENTS.

All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared, developed or discovered by Consultant in the course of providing any services pursuant to this Agreement shall become the sole property of City and may be used, reused or otherwise disposed of by City without the permission of the Consultant. Upon completion, expiration or termination of this Agreement, Consultant shall turn over to City all such original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents.

If and to the extent that City utilizes for any purpose not related to this Agreement any maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents prepared, developed or discovered by Consultant in the course of providing any services pursuant to this Agreement, Consultant’s guarantees and warrants related to Standard of Performance and found in Section 9 of this Agreement shall not extend to such use of the maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents.

SECTION 7. CONSULTANT'S BOOKS AND RECORDS.

(a) Consultant shall maintain any and all documents and records demonstrating or relating to Consultant’s performance of services pursuant to this Agreement. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, or other documents or records evidencing or relating to work, services, expenditures and disbursements charged to City pursuant to this Agreement. Any and all such documents or records shall be maintained in accordance with generally accepted accounting principles and shall be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by Consultant pursuant to this Agreement. Any and all such documents or records shall be maintained for three years from the date of execution of this Agreement and to the extent required by laws relating to audits of public agencies and their expenditures.

(b) Any and all records or documents required to be maintained pursuant to this section shall be made available for inspection, audit and copying, at any time during regular business hours, upon request by City or its designated representative. Copies of such documents or records shall be provided directly to the City for inspection, audit and copying when it is practical to do so; otherwise, unless an alternative is mutually agreed upon, such documents and records shall be made available at Consultant’s address indicated for receipt of notices in this Agreement.

(c) Where City has reason to believe that any of the documents or records required to be maintained pursuant to this section may be lost or discarded due to dissolution or termination of Consultant’s business, City may, by written request, require that custody of such documents or records be given to the City and that such documents and records be maintained by the requesting party. Access to such documents and records shall be granted to City, as well as to its successors-in-interest and authorized representatives.
SECTION 8. STATUS OF CONSULTANT.

(a) Consultant is and shall at all times remain a wholly independent contractor and not an officer, employee or agent of City. Consultant shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City.

(b) The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant’s exclusive direction and control. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall have control over the conduct of Consultant or any of Consultant’s officers, employees, or agents except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that Consultant or any of Consultant’s officers, employees, or agents are in any manner officials, officers, employees or agents of City.

(c) Neither Consultant, nor any of Consultant’s officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City’s employees. Consultant expressly waives any claim Consultant may have to any such rights.

SECTION 9. STANDARD OF PERFORMANCE.

Consultant represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the services required under this Agreement in a thorough, competent and professional manner. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. In meeting its obligations under this Agreement, Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to those required of Consultant under this Agreement.

If and to the extent that City utilizes for any purpose not related to this Agreement any maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents prepared, developed or discovered by Consultant in the course of providing any services pursuant to this Agreement, Consultant’s guarantees and warranties related to Standard of Performance shall not extend to such use of the maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents.

SECTION 10. COMPLIANCE WITH APPLICABLE LAWS; PERMITS AND LICENSES.

Consultant shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this Agreement. Consultant shall obtain any and all licenses, permits and authorizations necessary to perform the services set forth in this Agreement. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall be liable, at law or in equity, as a result of any failure of Consultant to comply with this section.
SECTION 11. PREVAILING WAGE LAWS

It is the understanding of City and Consultant that California prevailing wage laws do not apply to this Agreement because the Agreement does not involve any of the following services subject to prevailing wage rates pursuant to the California Labor Code or regulations promulgated thereunder: Construction, alteration, demolition, installation, or repair work performed on public buildings, facilities, streets or sewers done under contract and paid for in whole or in part out of public funds. In this context, "construction" includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work.

SECTION 12. NONDISCRIMINATION.

Consultant shall not discriminate, in any way, against any person on the basis of race, color, religious creed, national origin, ancestry, sex, age, physical handicap, medical condition or marital status in connection with or related to the performance of this Agreement.

SECTION 13. UNAUTHORIZED ALIENS.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

SECTION 14. CONFLICTS OF INTEREST.

(a) Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the City Manager. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

(b) City understands and acknowledges that Consultant is, as of the date of execution of this Agreement, independently involved in the performance of non-related services for other governmental agencies and private parties. Consultant is unaware of any stated position of City relative to such projects. Any future position of City on such projects shall not be considered a conflict of interest for purposes of this section.

(c) City understands and acknowledges that Consultant will, perform non-related services for other governmental agencies and private parties following the completion of the scope of work under this Agreement. Any such future service shall not be considered a conflict of interest for purposes of this section.

Michael Brandman Associates
FY 2008-2009
- 5 -
SECTION 15. CONFIDENTIAL INFORMATION; RELEASE OF INFORMATION.

(a) All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the City Manager, except as may be required by law.

(b) Consultant, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the City Manager or unless requested by the City Attorney of City, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

(c) If Consultant, or any officer, employee, agent or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys fees, caused by or incurred as a result of Consultant’s conduct.

(d) Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

SECTION 16. INDEMNIFICATION.

(a) **Indemnification for Professional Liability.** Where the law establishes a professional standard of care for Consultant’s Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including attorney’s fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or sub-consultants (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement.

(b) **Indemnification for Other than Professional Liability.** Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorneys fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence
of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable, including but not limited to officers, agents, employees or sub-contractors of Consultant.

(c) **General Indemnification Provisions.** Consultant agrees to obtain executed indemnity Agreements with provisions identical to those set forth here in this section from each and every sub-contractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. In the event Consultant fails to obtain such indemnity obligations from others as required here, Consultant agrees to be fully responsible according to the terms of this section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth here is binding on the successors, assigns or heirs of Consultant and shall survive the termination of this Agreement or this section.

(d) The provisions of this section do not apply to claims occurring as a result of City’s sole negligence or willful acts or omissions.

**SECTION 17. INSURANCE.**

Consultant agrees to obtain and maintain in full force and effect during the term of this Agreement the insurance policies set forth in Exhibit “C” “Insurance” and made a part of this Agreement. All insurance policies shall be subject to approval by City as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the City Manager. Consultant agrees to provide City with copies of required policies upon request.

**SECTION 18. ASSIGNMENT.**

The expertise and experience of Consultant are material considerations for this Agreement. City has an interest in the qualifications of and capability of the persons and entities who will fulfill the duties and obligations imposed upon Consultant under this Agreement. In recognition of that interest, Consultant shall not assign or transfer this Agreement or any portion of this Agreement or the performance of any of Consultant’s duties or obligations under this Agreement without the prior written consent of the City Council. Any attempted assignment shall be ineffective, null and void, and shall constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including summary termination of this Agreement. City acknowledges, however, that Consultant, in the performance of its duties pursuant to this Agreement, may utilize subcontractors.

**SECTION 19. CONTINUITY OF PERSONNEL.**

Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant’s staff and subcontractors, if any, assigned to perform the services required under this Agreement. Consultant shall notify City of any changes in Consultant’s staff and subcontractors, if any, assigned to perform the services required under this Agreement, prior to and during any such performance.
SECTION 20. TERMINATION OF AGREEMENT.

(a) City may terminate this Agreement, with or without cause, at any time by giving thirty (30) days written notice of termination to Consultant. In the event such notice is given, Consultant shall cease immediately all work in progress.

(b) Consultant may terminate this Agreement for cause at any time upon thirty (30) days written notice of termination to City.

(c) If either Consultant or City fail to perform any material obligation under this Agreement, then, in addition to any other remedies, either Consultant, or City may terminate this Agreement immediately upon written notice.

(d) Upon termination of this Agreement by either Consultant or City, all property belonging exclusively to City which is in Consultant’s possession shall be returned to City. Consultant shall furnish to City a final invoice for work performed and expenses incurred by Consultant, prepared as set forth in Section 4 of this Agreement. This final invoice shall be reviewed and paid in the same manner as set forth in Section 4 of this Agreement.

SECTION 21. DEFAULT.

In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default. Instead, the City may give notice to Consultant of the default and the reasons for the default. The notice shall include the timeframe in which Consultant may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Consultant is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Consultant does not cure the default, the City may take necessary steps to terminate this Agreement under Section 20. Any failure on the part of the City to give notice of the Consultant’s default shall not be deemed to result in a waiver of the City’s legal rights or any rights arising out of any provision of this Agreement.

SECTION 22. EXCUSABLE DELAYS.

Consultant shall not be liable for damages, including liquidated damages, if any, caused by delay in performance or failure to perform due to causes beyond the control of Consultant. Such causes include, but are not limited to, acts of God, acts of the public enemy, acts of federal, state or local governments, acts of City, court orders, fires, floods, epidemics, strikes, embargoes, and unusually severe weather. The term and price of this Agreement shall be equitably adjusted for any delays due to such causes.

SECTION 23. COOPERATION BY CITY.

All public information, data, reports, records, and maps as are existing and available to City as public records, and which are necessary for carrying out the work as outlined in the
Exhibit "A" "Scope of Services," shall be furnished to Consultant in every reasonable way to facilitate, without undue delay, the work to be performed under this Agreement.

SECTION 24. NOTICES.

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

To City: City of Banning
Attn: Matthew Bassi or Kim Clinton
99 East Ramsey Street
Banning, CA 92220

To Consultant: Michael Brandman Associates
621 E. Carnegie Drive, Suite 100
San Bernardino CA 92408
Attn: Nancy Ferguson

Notice shall be deemed effective on the date personally delivered or transmitted by facsimile or, if mailed, three (3) days after deposit of the same in the custody of the United States Postal Service.

SECTION 25. AUTHORITY TO EXECUTE.

The person or persons executing this Agreement on behalf of Consultant represents and warrants that he/she/they has/have the authority to so execute this Agreement and to bind Consultant to the performance of its obligations hereunder.

SECTION 26. BINDING EFFECT.

This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

SECTION 27. MODIFICATION OF AGREEMENT.

No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Consultant and by the City Council. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

SECTION 28. WAIVER.

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by
any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Consultant shall not constitute a waiver of any of the provisions of this Agreement.

SECTION 29. LAW TO GOVERN; VENUE.

This Agreement shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Riverside, California. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Los Angeles.

SECTION 30. ATTORNEYS FEES, COSTS AND EXPENSES.

In the event litigation or other proceeding is required to enforce or interpret any provision of this Agreement, the prevailing party in such litigation or other proceeding shall be entitled to an award of reasonable attorney's fees, costs and expenses, in addition to any other relief to which it may be entitled.

SECTION 31. ENTIRE AGREEMENT.

This Agreement, including the attached Exhibits "A" through "C", is the entire, complete, final and exclusive expression of the parties with respect to the matters addressed therein and supersedes all other Agreements or understandings, whether oral or written, or entered into between Consultant and City prior to the execution of this Agreement. No statements, representations or other Agreements, whether oral or written, made by any party which are not embodied herein shall be valid and binding. No amendment to this Agreement shall be valid and binding unless in writing duly executed by the parties or their authorized representatives.

SECTION 32. SEVERABILITY.

If any term, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and the Agreement shall be read and construed without the invalid, void or unenforceable provision(s).

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

By: __________
Brian Nakamura, City Manager

Date: __________

ATTEST:

Marie Calderon, City Clerk
City of Banning

APPROVED AS TO FORM:

By: __________
Burke, Williams & Sorensen, LLP
City Attorney

CONSULTANT

Michael Brandman Associates

Date: __________

By: __________
Michael G. Wolfer, AICP
Vice President of Operations, So.Ca.

By: __________
Thomas F. Holm, AICP
Vice President of Environmental Services

Two signatures are required if a corporation

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

STATE OF CALIFORNIA

COUNTY OF

On August 12, 2006 before me, Jayne W. Ingram, notary public, personally appeared
Thomas E. Helm, who proved to me on the basis of satisfactory evidence to be the person(s)
whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the
same in his/her/their authorized capacity (ies), and that by his/her/their signature(s) on the instrument the person(s), or
the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: 

[Stamp: Jayne W. Ingram, Commission # 1823399, Notary Public - California, Orange County, My Comm. Expires Jun 25, 2012]

OPTIONAL

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

CAPACITY CLAIMED BY SIGNER

☐ INDIVIDUAL
☐ CORPORATE OFFICER

☐ PARTNER(S) ☐ LIMITED
☐ GENERAL

☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER

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

Michael Brandman Associates

DESCRIPTION OF ATTACHED DOCUMENT

Consultant Services Agreement

TITLE OR TYPE OF DOCUMENT

☐ NUMBER OF PAGES

☐ DATE OF DOCUMENT

Michael G. Wolfer
SIGNER(S) OTHER THAN NAMED ABOVE
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA
COUNTY OF

On August 12, 2013 before me, Jayne W. Ingram, notary public, personally appeared

Michael G. Wolfer, who proved to me on the basis of satisfactory evidence to be the

person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they

executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the

person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature:

[Signature]

JAYNE W. INGRAM
Commission # 1803999
Notary Public - California
Orange County

OPTIONAL

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

CAPACITY CLAIMED BY SIGNER

☐ INDIVIDUAL
☐ CORPORATE OFFICER

TITLE(S)

☐ PARTNER(S) ☐ LIMITED
☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER [______ PRESENTER

DESCRIPTION OF ATTACHED DOCUMENT

Consultant Services Agreement

TITLE OR TYPE OF DOCUMENT

20

NUMBER OF PAGES

6.12.06

DATE OF DOCUMENT

Thomas F. Holm, ACP

SIGNER(S) OTHER THAN NAMED ABOVE

Michael Toddman, Associates

LA #4815-6815-2320 v1
EXHIBIT "A"
SCOPE OF SERVICES

I. Consultant will perform the following Services:

A. Environmental assessments, services, including preparation of Initial Study, Negative Declaration, Mitigated Negative Declaration and Special Studies.

B. Work will be completed in compliance with the time frames and requirements of CEQA law.

C. For City and private third party projects.

II. As part of the Services, Consultant will prepare and deliver the following tangible work products to the City:

A. Initial Study

B. Negative Declaration

C. Mitigated Negative Declaration

D. Peer Review, when applicable

III. During performance of the Services, Consultant will keep the City apprised of the status of performance by delivering the following status reports:

A. Initial Study

B. Negative Declaration

C. Mitigated Negative Declaration

IV. The tangible work products and status reports will be delivered to the City pursuant to the following schedule:

A. In accordance with CEQA law.
V. Consultant will utilize the following personnel to accomplish the Services:

A.

B.

C.

D.

VI. Consultant will utilize the following subcontractors to accomplish the Services:

A.

B.

C.

D.

VII. AMENDMENT

The Scope of Services, including services, work products, and personnel, are subject to change by mutual Agreement. In the absence of mutual Agreement regarding the need to change any aspects of performance, Consultant shall comply with the Scope of Services as indicated above.
EXHIBIT "B"
COMPENSATION

I. Consultant shall use the following rates of pay in the performance of the Services:

| A. | President / CEO                      | $250-285/hr |
| B. | Principal / Director                 | $160-270/hr |
| C. | Sr Proj Mgt/Scientist/Sr Reg Spec    | $110-175/hr |
| D. | Proj Mgr/Reg Spec                    | $100-150    |
| E. | Assis Proj Mgr/Assis Reg Spec        | $80-120     |
| F. | Environ Plann/Proj Ecol/Biolog       | $70-95      |
| G. | Environ Analyst/Reg Analyst          | $60-90      |
| H. | Research Analyst/Staff Ecolog        | $50-75      |
| I. | Sr. Archeol/Paleontologist           | $95-135     |
| J. | Proj Archeol/Paleontol/Historian     | $85-110     |
| K. | Project Coordinator                  | $65-90      |
| L. | Architectural Historian/Staff Archeol| $65-95      |
| M. | Field Director/Supervisor            | $65-80      |
| N. | Laboratory Director                  | $65-80      |
| O. | Field Crew-Chief                     | $65-80      |
| P. | Field Monitors/Laborer               | $40-55      |
| Q. | Laboratory Assistant                 | $40-55      |
| R. | Public Coordin/Technical Editor      | $90-110     |
| S. | GIS Specialist                       | $70-100     |
| T. | Graphics Designer/GIS Tech           | $65-80      |
| U. | Word Processor                       | $65-80      |
| V. | Admin Assist/Accounting/Clerical     | $55-80      |
| W. | Reprographics Assist/Intern          | $55-60      |

Other Labor Rates

Labor rates for expert testimony, litigation support, and depositions/court appearances will be billed at a minimum of two times the above rates. If additional services are authorized during the performance of a contract, compensation will be based on the fee schedule in effect at the time the services are authorized.

Direct Expenses

Direct expenses are billed at the amount charged, as described below, plus a 10 percent administration cost.

1. Out-of-pocket expenses — including, but not limited to, travel, messenger service, lodging, meals, blueprint, reproduction, and photographic services: Cost, as charged to MBA.
2. Subcontractors’ fees: As quoted.
3. Passenger cars: $0.53 per mile
4. Four-wheel drive vehicles: $75.00 per day ($0.80 per mile)
5. Reproduction and Color copies: See Reprographics Fee Schedule provided as necessary.
6. Records checks: fees vary with facility and project.
7. USFWS/CDFG impacts or mitigation fees.
8. Museum curation: fees vary with the city and project.
9. Cultural resources storage/curation of fossil and artifact collections; Cost, as charged to MBA.
10. Per Diem: $145.00/per day. Lodging surcharge may apply in high rate areas.

II. Consultant may utilize subcontractors as indicated in this Agreement. The hourly rate for any subcontractor is not to exceed $_______ per hour without written authorization from the City Manager or his designee.

III. The City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include:

   A. Line items for all personnel describing the work performed, the number of hours worked, and the hourly rate.

   B. Line items for all supplies properly charged to the Services.

   C. Line items for all travel properly charged to the Services.

   D. Line items for all equipment properly charged to the Services.

   E. Line items for all materials properly charged to the Services.

   F. Line items for all subcontractor labor, supplies, equipment, materials, and travel properly charged to the Services.

IV. The total compensation for the Services shall not exceed $20,000.00, as provided in Section 4 of this Agreement.
EXHIBIT "C"

INSURANCE

A. Insurance Requirements. Consultant shall provide and maintain insurance, acceptable to the City Manager or City Counsel, in full force and effect throughout the term of this Agreement, against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by Consultant, its agents, representatives or employees. Insurance is to be placed with insurers with a current A.M. Best’s rating of no less than A:VII. Consultant shall provide the following scope and limits of insurance:

1. Minimum Scope of Insurance. Coverage shall be at least as broad as:

   (1) Insurance Services Office form Commercial General Liability coverage (Occurrence Form CG 0001).

   (2) Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, including code 1 "any auto" and endorsement CA 0025, or equivalent forms subject to the written approval of the City.

   (3) Workers' Compensation insurance as required by the Labor Code of State of California and Employer's Liability insurance and/or covering all persons providing services on behalf of the Consultant and all risks to such persons under this Agreement.

   (4) Professional liability insurance appropriate to the Consultant’s profession. This coverage may be written on a “claims made” basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement. The insurance must be maintained for at least 5 consecutive years following the completion of Consultant’s services or the termination of this Agreement. During this additional 5-year period, Consultant shall annually and upon request of the City submit written evidence of this continuous coverage.

2. Minimum Limits of Insurance. Consultant shall maintain limits of insurance no less than:

   (1) General Liability: $2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Contract/location or the general aggregate limit shall be twice the required occurrence limit.

   (2) Automobile Liability: $1,000,000 per accident for bodily injury and property damage. A combined single limit policy with aggregate limits in an amount of not
less than $2,000,000 shall be considered equivalent to the said required minimum limits set forth above.

(3) Workers' Compensation and Employer's Liability: Workers' Compensation as required by the Labor Code of the State of California and Employers Liability limits of not less than $1,000,000 per accident.

(4) Professional Liability: $1,000,000 per occurrence.

B. Other Provisions. Insurance policies required by this Agreement shall contain the following provisions:

1. All Policies. Each insurance policy required by this Agreement shall be endorsed and state the coverage shall not be suspended, voided, cancelled by the insurer or either party to this Agreement, reduced in coverage or in limits except after 30 days' prior written notice by Certified mail, return receipt requested, has been given to City.

2. General Liability, Automobile Liability and Professional Liability Coverages.

(1) City, and its respective elected and appointed officers, officials, and employees and volunteers are to be covered as additional insureds as respects: liability arising out of activities Consultant performs; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, or employees.

(2) Consultant’s insurance coverage shall be primary insurance with respect to City, and its respective elected and appointed, its officers, officials, employees and volunteers. Any insurance or self insurance maintained by City, and its respective elected and appointed officers, officials, employees or volunteers, shall apply in excess of, and not contribute with, Consultant’s insurance.

(3) Consultant’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(4) Any failure to comply with the reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to City, and its respective elected and appointed officers, officials, employees or volunteers.

3. Workers' Compensation and Employer's Liability Coverage. Unless the City Manager otherwise agrees in writing, the insurer shall agree to waive all rights of
subrogation against City, and its respective elected and appointed officers, officials, employees and agents for losses arising from work performed by Consultant.

C. **Other Requirements.** Consultant agrees to deposit with City, at or before the effective date of this contract, certificates of insurance necessary to satisfy City that the insurance provisions of this contract have been complied with. The City Attorney may require that Consultant furnish City with copies of original endorsements effecting coverage required by this Section. The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. City reserves the right to inspect complete, certified copies of all required insurance policies, at any time.

1. Consultant shall furnish certificates and endorsements from each subcontractor identical to those Consultant provides.

2. Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims.

3. The procuring of such required policy or policies of insurance shall not be construed to limit Consultant’s liability hereunder nor to fulfill the indemnification provisions and requirements of this Agreement.
DATE: March 23, 2010
TO: City Council
FROM: Duane Burk, Director of Public Works
SUBJECT: Resolution No. 2010-18, “Approving the Cooperative Agreement with Riverside County for Sunset Avenue Grade Separation Improvements”

RECOMMENDATION:

I. Adopt Resolution No. 2010-18, “Approving the Cooperative Agreement with Riverside County for Sunset Avenue Grade Separation Improvements.”

II. Authorize the Mayor to execute the Cooperative Agreement with Riverside County for Sunset Avenue Grade Separation Improvements.

JUSTIFICATION: This Cooperative Agreement is essential in order for Riverside County to assist the City in expediting the design approval of said project through the State of California, Department of Transportation (Caltrans) and to meet the grant obligation deadline.

BACKGROUND: The Sunset Avenue railroad crossing is at street level and causes significant traffic delays to and from the southwest portion of the City of Banning. The proposed underpass would enhance traffic flows along Sunset Avenue and would provide a route for emergency services to access residents south of the railroad tracks, while improving overall safety in the area.

In order to successfully continue with this project and without jeopardizing Trade Corridor Improvement Fund (TCIF) grant funding, it is essential that the City of Banning work with Riverside County and enter into a Cooperative Agreement, attached hereto as Exhibit “A”. The Cooperative Agreement will designate the County as the lead agency and permit the County to provide administrative, technical, managerial and support services necessary to development and implement the approval of said project through the State of California, Department of Transportation (Caltrans).

The County has extensive experience in the development and implementation of Federal and State involved interchange and grade separation projects. With that, and in consideration of the impending TCIF deadline, it is essential to move forward with this Cooperative Agreement. TCIF funding requirements include a stipulation that construction activities for the project must commence on or before December 31, 2013.

FISCAL DATA: As per the Cooperative Agreement, the design of this project will be funded by the Western Riverside Transportation Uniform Mitigation Fee (TUMF) Program.
RECOMMENDED BY:

Duane Burk
Director of Public Works

REVIEWED BY:

Kirby Warner
Interim Director of Finance

APPROVED BY:

Andy Takata
City Manager
RESOLUTION NO. 2010-18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, APPROVING THE COOPERATIVE AGREEMENT WITH RIVERSIDE COUNTY FOR SUNSET AVENUE GRADE SEPARATION IMPROVEMENTS

WHEREAS, the Sunset Avenue railroad crossing is at street level and causes significant traffic delays to and from the southwest portion of the City of Banning; and

WHEREAS, the proposed underpass would enhance traffic flows along Sunset Avenue and would provide a route for emergency services to access residents south of the railroad tracks, while improving overall safety in the area; and

WHEREAS, the Cooperative Agreement is essential in order for Riverside County to assist the City in expediting the design approval of said project through the State of California, Department of Transportation (Caltrans) and to meet the grant obligation deadline.

WHEREAS, it is essential that the City of Banning work with Riverside County and enter into a Cooperative Agreement, attached hereto as Exhibit “A”; and

WHEREAS, the Cooperative Agreement will designate the County as the lead agency and permit the County to provide administrative, technical, managerial and support services necessary to development and implement the approval of said project through the State of California, Department of Transportation (Caltrans); and

WHEREAS, as per the Cooperative Agreement, the design of this project will be funded by the Western Riverside Transportation Uniform Mitigation Fee (TUMF) Program.

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

Section I. Approve the Cooperative Agreement with Riverside County for Sunset Avenue Grade Separation Improvements.

Section II. Authorize the Mayor to execute the Cooperative Agreement with Riverside County. This authorization will be rescinded if the Cooperative Agreement is not executed by both parties within one hundred eighty (180) days of the date of this resolution.

PASSED, APPROVED, AND ADOPTED this 23rd day of March, 2010.

Robert E. Botts, Mayor
City of Banning

Resolution No. 2010-18
ATTEST

________________________
Marie A. Calderon, City Clerk

APPROVED AS TO FORM
AND LEGAL CONTENT

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

CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2010-18 was adopted by the City Council of the City of Banning at the Regular Meeting thereof held on the 23rd day of March, 2010.

AYES:

NOES:

ABSENT:

ABSTAIN:

________________________
Marie A. Calderon, City Clerk
City of Banning, CA

Resolution No. 2010-18
EXHIBIT “A”

COOPERATIVE AGREEMENT
BY AND BETWEEN RIVERSIDE COUNTY AND CITY OF
BANNING FOR ROADWAY AND BRIDGE IMPROVEMENT
SERVICES ON SUNSET AVENUE BETWEEN
RAMSEY STREET AND SOUTHERLY OF THE
UNION PACIFIC RAILROAD
City of Banning and County Agreement for Sunset Avenue Grade Separation Improvements

AGREEMENT BY AND BETWEEN

RIVERSIDE COUNTY

AND

CITY OF BANNING

FOR ROADWAY AND BRIDGE IMPROVEMENT SERVICES ON

SUNSET AVENUE BETWEEN RAMSEY ST AND SOUTHERLY OF THE UNION PACIFIC RAILROAD

This Agreement entered into this ______ day of __________, 2010, by and between the COUNTY of Riverside, (hereinafter "COUNTY"), and the CITY of Banning, (hereinafter "CITY") for the provision of certain roadway improvements on Sunset Avenue located within the jurisdictional boundaries of the CITY.

RECATALS

A. CITY and COUNTY have determined that there is great need for grade separation improvements on Sunset Avenue and the Union Pacific Railroad (hereinafter "PROJECT") as shown in Exhibit A (Vicinity Map).

B. The 2008 Regional Transportation Improvement Program (hereinafter "RTIP") includes Federal and State funds programmed in the amount of $20,600,000 from several sources including: FFY 2006 Appropriations Earmarks, Demo-SAFETEA-LU, Projects of National and Regional Significance, Surface Trans Program-HR4818, and Trade Corridor Improvement Funds (TCIF). The RTIP also identifies local funds from the Western Riverside Transportation Uniform Mitigation Fee (TUMF) program in the amount of $4,200,000.

C. TCIF funding requirements include a stipulation that construction activities for the PROJECT must commence on or before December 31, 2013.

D. CITY is designated as the responsible Agency in the RTIP.

E. CITY and Western Riverside Counsel of Governments (WRCOG) have entered into an agreement titled "TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM - SUNSET AVENUE GRADE SEPERATION" dated MAY 14, 2008. Said agreement authorizes CITY to expend up to $4.2 Million on PROJECT. All appropriate PROJECT expenses incurred by CITY, including services by COUNTY under contract to CITY, are reimbursable from WRCOG TUMF funds.

F. COUNTY has extensive experience in the development and implementation of Federal and State involved interchange and grade separation projects. CITY and COUNTY desire to designate COUNTY as the lead agency in the development and implementation of PROJECT in part due to the experience and expertise of the COUNTY and the impending TCIF deadline. COUNTY will therefore provide the administrative, technical,
City of Banning and County Agreement for Sunset Avenue Grade Separation Improvements

managerial and support services necessary to develop and implement PROJECT.

G. COUNTY and CITY desire to define herein the terms and conditions under which said PROJECT is to be administered, environmentally cleared, engineered, coordinated, constructed, managed, maintained and financed.

H. PROJECT is located adjacent to the Interstate 10 and Sunset Avenue Interchange. It has been determined that the construction of PROJECT improvements will encroach in the State right-of-way and will impact the existing overpass as well as the east-bound and west-bound ramps. Coordination with the State of California, Transportation Department ("hereinafter CALTRANS") and possibly Federal agencies will be required as a result of this encroachment.

I. PROJECT is located within the right-of-way of the Union Pacific Railroad ("hereinafter UPRR") and will therefore require coordination with UPRR.

J. CITY has completed substantial engineering work for the preparation of a Project Study Report (PSR), a Draft Supplemental Project Study Report (SPSR) and a Preliminary Environmental Analysis Report (PEAR).

K. COUNTY and CITY intend to authorize the PROJECT services under this agreement in multiple phases. The first phase will include the work needed to complete the planning studies, provide preliminary engineering, provide utility coordination, perform technical studies, obtain environmental clearance, provide right-of-way engineering and prepare final plans, specs and estimates. The first phase is authorized to proceed upon execution of this agreement by the parties. It is anticipated that COUNTY will provide services to perform right-of-way acquisition, utility relocations, complete construct of the improvements, and provide construction support services under a future phase or phases that will be authorized though amendments to this agreement.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises contained herein, the parties hereto agree as follows:

SECTION 1 ▪ COUNTY AGREES:

1. To prepare, or cause to be prepared, detailed PS&E documents for the PROJECT in accordance with State of California Department of Transportation (Caltrans), Union Pacific Railroad (UPRR), CITY and Federal Highways Administration requirements. COUNTY will submit environmental and design documents to CITY for review and approval at appropriate stages of development. Final plans for improvements shall be Cooperative Agreement
City of Banning and County Agreement for Sunset Avenue Grade Separation Improvements

1. Designed to appropriate standards and signed by a Civil Engineer registered in the State of California.

2. To identify and locate all utility facilities within the PROJECT area. If any existing public and/or private utility facilities conflict with PROJECT construction, COUNTY shall make all necessary arrangements with the owners of such facilities for their protection, relocation, or removal. COUNTY shall require the utility owner and/or its contractors performing the relocation work within CITY's right-of-way to obtain a CITY encroachment permit prior to the performance of said relocation work. COUNTY and CITY shall coordinate and cooperate in the effort to establish prior rights related to utility encroachments.

3. To prepare an environmental document in accordance with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). It has not yet been determined if the project will be done as a Caltrans Oversight Project or under an encroachment permit (Local Assistance Project). Caltrans will be the Environmental Lead Agency for both NEPA and CEQA in the event the project is processed as a Caltrans Oversight Project. County will be the Environmental Lead Agency for CEQA and Caltrans will be the Environmental Lead Agency for NEPA in the event the project is done under an encroachment permit.

4. In the event the project is processed as a Caltrans Oversight Project, COUNTY will provide the necessary services to complete the Project Study Report and Project Report as those services are defined and required under Caltrans Oversight Project procedures.

5. To perform right-of-way engineering services including but not limited to the preparation of Right-of-way Requirement Maps, Legals, Plats and Right-of-way Maps. COUNTY may also provide Property appraisal services upon request of CITY, however actual land acquisition is not included in this first phase of services.

SECTION 2 - CITY AGREES:

1. To fund one hundred (100) percent of the cost of the preparation of planning studies (PSR), preparation of technical studies, providing utility coordination, providing preliminary engineering services (PR), preparation of an environmental document (ED) and obtaining environmental clearance, preparation of plans, specifications and estimates (PS&E) and providing right-of-way engineering services necessary to construct PROJECT improvements. It is anticipated that COUNTY shall invoice CITY for services provided by COUNTY. CITY shall be responsible for submitting COUNTY invoices to WRCOG for reimbursement consistent with the terms of the agreement between CITY and WRCOG. The estimated cost for these services is provided in Exhibit "B" attached hereto and incorporated herein. CITY agrees that should unforeseen circumstances arise which result in an increase of any costs over those shown in Exhibit "B", CITY will in good faith consider an

Cooperative Agreement
amendment to this agreement to include any such costs under this agreement.

2. To Provide, at no cost to COUNTY, electronic copies of all work product prepared by CITY and CITY's engineering consultant(s) to date.

3. To provide, at no cost to COUNTY, oversight of PROJECT and to provide prompt reviews and approvals, as appropriate, of submittals by COUNTY, and to cooperate in timely processing of PROJECT.

4. To issue, at no cost to COUNTY or its contractors, upon proper application by COUNTY or COUNTY's contractor, an encroachment permit authorizing entry onto CITY's right-of-way to perform survey and other investigative activities required for preparation of the ED, PS&E or Construction of project.

5. To pay within 45 days of receipt all invoices submitted by COUNTY for services rendered in accordance with this agreement.

SECTION 3 - IT IS MUTUALLY AGREED AS FOLLOWS:

1. The cost of the Engineering and Environmental Services for the PROJECT is estimated to be $3.2 Million as detailed in Exhibit "B".

2. Services performed by COUNTY may be performed by COUNTY staff or by consultants hired by COUNTY.

3. Ownership and title to all materials, equipment, and appurtenances installed as part of this agreement will automatically be vested with the jurisdiction for which the improvements reside and no further agreement will be necessary to transfer ownership.

4. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by both parties and no oral understanding or agreement not incorporated herein shall be binding on either party hereto.

5. COUNTY and CITY shall retain or cause to be retained for audit for a period of three (3) years from the date of final payment, all records and accounts relating to PROJECT.

6. Neither CITY nor any officer or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by COUNTY under or in connection with any work, authority or jurisdiction delegated to COUNTY under this Agreement. It is further agreed that pursuant to Government Code Section 895.4, COUNTY shall fully indemnify and hold CITY harmless from any liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by COUNTY under or in connection with any work, authority or jurisdiction delegated to COUNTY under this Agreement.

Cooperative Agreement
7. Neither COUNTY nor any officer or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction delegated to CITY under this Agreement. It is further agreed that pursuant to Government Code Section 895.4, CITY shall fully indemnify and hold COUNTY harmless from any liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction delegated to CITY under this Agreement.

8. This agreement and the exhibits herein contain the entire agreement between the parties, and are intended by the parties to completely state the agreement in full. Any agreement or representation respecting the matters dealt with herein or the duties of any party in relation thereto, not expressly set forth in this agreement, is null and void.

9. Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not party to this Agreement or affect the legal liability of either party to the Agreement by imposing any standard of care with respect to the maintenance of roads different from the standard of care imposed by law.

10. This agreement may be executed in one or more counterparts and when a counterpart shall have been signed by each party hereto, each shall be deemed an original, but all of which constitute one and the same instrument.

11. This Agreement shall terminate upon completion and acceptance of the construction contract for PROJECT or on 12/31/2017 whichever is earlier in time.
City of Banning and County Agreement for Sunset Avenue Grade Separation Improvements

APPROVALS

COUNTY Approvals

APPROVED AS TO FORM:

________________________ Dated: ________

PAMELA J. WALLS
County Counsel

APPROVAL BY THE BOARD OF SUPERVISORS

________________________ Dated: ________

________________________ Dated: ________

Chairman, Riverside County Board of Supervisors

ATTEST:

________________________ Dated: ________

KECIA HARPER-IHEM
Clerk of the Board (SEAL)

CITY OF BANNING Approvals

APPROVED BY:

________________________ Dated: ________

________________________ Dated: ________

PRINTED NAME

TITLE

APPROVED BY:

________________________ Dated: ________

________________________ Dated: ________

PRINTED NAME

TITLE

Cooperative Agreement
City of Banning and County Agreement for Sunset Avenue Grade Separation Improvements

EXHIBIT B • PROJECT COST ESTIMATE

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TBD = To Be Determined

Note:

The Engineering estimate includes preliminary survey, planning studies, preliminary engineering, relevant technical studies, utility coordination, right-of-way engineering and preparation of PS&E documents.

The Environmental estimate includes relevant technical studies, preparation of the environmental document and obtaining environmental clearance.

The Right-of-way Acquisition, Utility, Construction and Construction Support services are anticipated to be included in this agreement by a future amendment to this agreement. Cost Estimates for these services will be included with the relevant amendment(s) to this agreement.
DATE: March 23, 2010

TO: Honorable Mayor and City Council Members

FROM: Duane Burk, Director of Public Works

SUBJECT: Resolution No. 2010-13 – Request to Vacate a Portion of Val Monte Street and Adjacent Alleys.

RECOMMENDATION: Adopt Resolution No. 2010-13, vacating a portion of Val Monte Street from Ramsey Street to Interstate 10 and adjacent alleys.

BACKGROUND: This is a continued public hearing from the March 9, 2010 City Council meeting. The reason for the continuance is that the City Council directed Staff to address comments made from residents at the public hearing. Provided below is background on the project approved by the Planning Commission followed by responses to the questions raised at the public hearing and a follow-up meeting.

Planning Commission Action
On December 1, 2009 the Planning Commission approved Conditional Use Permit #09-803 authorizing the health clinic project. On November 20, 2009, the proposed project was advertised in the Record Gazette newspaper, and notices were mailed to all property owners within a 300-foot radius of the site. As of the date of the Planning Commission hearing, staff did not receive any verbal or written comments for or against the proposed project. Condition of approval #60 for the Conditional Use Permit #09-803 reads as follows:

60. Provide proof to the City Engineer that the vacation of Val Monte Street has been completed and recorded with the County Assessor’s office. In addition, the applicant shall provide ingress and egress access rights to those parcels adjoining the easterly property line.

Failure on the part of the applicant to provide for the vacation of Val Monte Street would result in the project not meeting the conditions of approval as imposed by the Planning Commission.

Additionally, on December 1, 2009 the Planning Commission adopted Resolution No. 2009-09 recommending approval of the vacation of Val Monte Street. Findings contained in the Planning Commission resolution read in part as follows:

1. The vacation of Val Monte Street and associated alleys south of Ramsey is consistent with the City’s General Plan and in particular with the Circulation Element of the General Plan.

2. The vacation of Val Monte Street and associated alleys south of Ramsey as shown in Exhibit A and Exhibit B respectively made a part by this reference will benefit the City
by providing an area to use for future commercial development. The location is
described as shown on Hunter’s Val Monte Tract, in the City of Banning, County of
Riverside, State of California, per Map Book 17, Page 91 records of Riverside County,
more particularly described as follows:

That portion of said Val Monte Street, being north of the northerly right-
of-way of Interstate 10, and being south of the southerly right-of-way of
Ramsey Street (having a 60 foot right-of-way, 30 feet both sides);

Together with Lot C of said Hunter’s Val Monte Tract, and Lot A of said
Hunter’s Val Monte Tract being north of the northerly right-of-way of
Interstate 10;

Reserving a Public Utility Easement for the City of Banning; and, a
Private Access Easement for the owners of the real property abutting Val
Monte Street more particularly described in Exhibit A and Exhibit B
respectively attached to this resolution and made a part by this
reference.

Response to Questions
Listed below are the responses to the items of concern as stated by the individuals present at the
public hearing on March 9, 2010:

A. An unidentified gentleman asked if the proposed project was a mental health clinic
or a medical/dental office.

Response: The proposed facility will provide health services to low-income families and
seniors in the Pass area. Inland Behavioral and Health Service, Inc. (IBHS) is a state-licensed
and certified Federally Qualified Health Center (FQHC) operating as a private, nonprofit,
community based organization providing comprehensive primary health care and support
services to low-income and indigent citizens of the Inland Empire. The organization has been
in existence since 1976 and the main clinic is located in downtown San Bernardino and
operates six days a week. A second clinic is located in San Bernardino’s west side community
and serves a public housing site. A third site is located in San Bernardino and serves as the
corporate headquarters. Specific services that are proposed to be provided at the Banning
facility include:

- Basic primary health care visits
- Preventive health education
- Dental services
- Immunizations
- State Only Family Planning (SOFP)
- Pediatric care
- Vision screenings
- Gynecology
- Case management
- Substance abuse services
- Limited mental health
- Limited laboratory services
- Medicines
- Referrals for ancillary care
- Pharmacy
- Urgent care

It is anticipated that the facility will employ approximately 38 full-time employees, which
includes office personnel, medical technicians, and medical professionals. The proposed hours
of operation are Monday thru Friday 8 a.m. to 5 p.m. Additionally, it is proposed that urgent care services will operate Monday thru Friday 5 p.m. to 9 p.m. and Saturday 9 a.m. to 6 p.m.

B. Johnnie Schoonover and Ginger Schoonover of 1160 E. Ramsey Street asked if parking will be allowed, will the drainage problem be fixed, and what will the traffic be like as they have children that do not have adequate room to play.

Response: Initially, when it was dedicated to the City in March of 1930 Val Monte Street was intended to serve the public as a local collector roadway (dedicated as 50 feet in width). Since that time the subdivision (Hunter's Val Monte Tract created in 1930) was bisected by the construction of Interstate 10. This resulted in a dead-end roadway on the north side of the Interstate that served only a few lots. Therefore, having a 50 foot wide unimproved roadway does not serve the purpose that was originally intended. During project review, the fire department was consulted as to the width required to provide safety access. The minimum width is 20 feet with a 42 foot radius at the end of the private driveway in order to provide a turn around. The width of the private access easement as proposed is 25 feet. Parking is permitted on private property, so the individuals occupying the parcels will be allowed to park on their side of the private drive.

The conditions of approval require the applicant to improve the private drive (asphalt paving) and prepare a grading plan. During the preparation of the grading plan, the City Engineer will assure that the site including the private drive has adequate drainage.

The private drive is intended to serve the parcels that do not have direct vehicle access to Ramsey Street. The main entrance for the medical clinic is the westerly driveway fronting Ramsey Street. The access point for the proposed project at the end of the private drive is intended to be a second point of access (safety). However, the access rights reserved in the street vacation documents are equal for all the private properties abutting vacated Val Monte Street.

C. A typed letter was read by Mr. Schoonover that he identified as coming from his neighbor who was later identified as Jon Oh. The letter expresses concerns that the vacation of Val Monte Street interferes with the business interests of 68 Val Monte Street.

Response: The two single family residences located east of Val Monte Street are legal non-conforming structures and may continue even though they fail to conform to the present requirements of the land use district in which they are located (Professional Office zone district). A search of the City’s Business license data base fails to show any business license issued for 68 Val Monte Street; additionally, a search of the utility data base reveals that the location has maintained residential utility rates since 1973 and continues to do so. If, and when, the owner desires to change the use of the existing single family residence to those allowed in the Professional Office zone, the proposed change will require permits; and, the subsequent conditions of approval would require the proposed development to meet the current development standards including those for access, parking, and landscaping.
Follow-up Meeting
On March 16, 2010 City Staff met with Mr. Schoonover and Mr. Oh and reviewed the project plans with them as approved by Planning Commission on December 1, 2009. Afterward, staff met in the field and walked the site to further explain the proposed improvements with more detail. It was recognized that the gravel roadway currently used by the residents for access is approximately 20 feet wide. The proposed private driveway will be at least 20 feet wide and probably wider depending on the width of the existing planters located along the frontage of the easterly properties. Additionally, the asphalt paved surface will be superior to the gravel drive that now exists. It was explained to the gentlemen that construction details will be finalized when the grading plan is prepared. The grading plan requires the review and approval of the City Engineer.

Conclusion
The vacation of Val Monte Street is integral to the design of the project approved by Planning Commission on December 1, 2009. The right-of-way for Val Monte Street no longer serves the intended purpose as a local roadway when it was dedicated in 1930; and, it continues to be the opinion of Staff that this property would be better utilized for development. During the Planning Commission review of this project, design elements in accordance with the Zoning Code were incorporated into the project to address the placement of the clinic adjacent to the existing non-conforming single family residences to the east of Val Monte Street. These design elements included a 25 foot landscape buffer, orientation of the proposed building away from the existing residences and the requirement to construct a block wall and landscaping between the two uses. Therefore, Staff recommends that City Council adopt Resolution No. 2010-13 vacating a portion of Val Monte Street from Ramsey Street to Interstate 10.
RESOLUTION NO. 2010-13

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF BANNING, CALIFORNIA VACATING
THE STREET COMMONLY KNOWN AS VAL
MONTE STREET FROM RAMSEY STREET TO
INTERSTATE 10 AND ADJACENT ALLEYS

WHEREAS, the City of Banning desires to vacate that roadway commonly known as Val Monte Street from Ramsey Street to Interstate 10 and adjacent alleys located in,

THAT PORTION OF VAL MONTE STREET AS SHOWN ON HUNTER'S VAL MONTE TRACT, IN THE CITY OF BANNING, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, MAP BOOK 17, PAGE 91 RECORDS OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PORTION OF SAID VAL MONTE STREET, BEING NORTH OF THE NORTHERLY RIGHT-OF-WAY INTERSTATE 10, AND BEING SOUTH OF THE SOUTHERLY RIGHT-OF-WAY OF RAMSEY STREET (HAVING A 60 FOOT RIGHT-OF-WAY, 30 FEET BOTH SIDES.)


WHEREAS, the City of Banning desires to reserve a Private Access Easement to the owners of the real property abutting said street vacation located in,

THOSE PORTIONS OF LOTS 15 AND 16 OF HUNTER'S VAL MONTE TRACT AS SHOWN ON BOOK 17, PAGE 91 OF MAPS, RECORDS OF SAN DIEGO COUNTY, STATE OF CALIFORNIA, AND THE EAST HALF OF VAL MONTE STREET, SAID MAP, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 1 OF SAID TRACT, THENCE SOUTH ALONG THE EAST RIGHT-OF-WAY LINE OF VAL MONTE STREET A DISTANCE OF 250.05 FEET TO ITS INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF INTERSTATE 10 AS SHOWN ON CALTRANS RIGHT-OF-WAY MAP NO. 421541;

THENCE WESTERLY ALONG SAID NORTHERLY RIGHT-OF-WAY A DISTANCE OF 50.14 FEET TO ITS INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY LINE OF SAID VAL MONTE STREET;

THENCE NORTH ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 4.71 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE TO THE EAST HAVING A RADIUS OF 31.41 FEET, A RADIAL TO SAID POINT BEARS SOUTH 27°27'45" WEST (SOUTH 27°02'37" WEST RECORD);

THENCE ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 125°20'46". A DISTANCE OF 68.71 FEET TO ITS INTERSECTION WITH THE SAID WESTERLY RIGHT-OF-WAY OF VAL MONTE STREET AND THE BEGINNING OF A TANGENT CURVE, CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 46.22 FEET;

THENCE ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 62°40'23", A DISTANCE OF 50.55 FEET TO ITS TANGENCY WITH THE CENTERLINE OF SAID VAL MONTE STREET; THENCE NORTH ALONG SAID CENTERLINE, A DISTANCE OF 144.99 FEET TO THE SOUTH RIGHT-OF-WAY OF RAMSEY STREET;

THENCE EASTERLY ALONG SAID SOUTH RIGHT-OF-WAY, A DISTANCE OF 25.00 FEET TO THE POINT OF BEGINNING.
WHEREAS, the City of Banning desires to reserve a Public Utility Easement to the owners of the real property abutting said street vacation located in,

THOSE PORTIONS OF LOTS 15 AND 16 OF HUNTER'S VAL MONTE TRACT AS SHOWN ON BOOK 17, PAGE 91 OF MAPS, RECORDS OF SAN DIEGO COUNTY, STATE OF CALIFORNIA, AND THE EAST HALF OF VAL MONTE STREET, SAID MAP, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 1 OF SAID TRACT, THENCE SOUTH ALONG THE EAST RIGHT-OF-WAY LINE OF VAL MONTE STREET A DISTANCE OF 250.05 FEET TO ITS INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF INTERSTATE 10 AS SHOWN ON CALTRANS RIGHT-OF-WAY MAP NO. 421541; THENCE WESTERLY ALONG SAID NORTHERLY RIGHT-OF-WAY A DISTANCE OF 50.14 FEET TO ITS INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY LINE OF SAID VAL MONTE STREET;

THENCE NORTH ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 4.71 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE TO THE EAST HAVING A RADIUS OF 31.41 FEET, A RADIAL TO SAID POINT BEARS SOUTH 27°27'45" WEST (SOUTH 27°02'37" WEST RECORD);

THENCE ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 125°20'46". A DISTANCE OF 68.71 FEET TO ITS INTERSECTION WITH THE SAID WESTERLY RIGHT-OF-WAY OF VAL MONTE STREET AND THE BEGINNING OF A TANGENT CURVE, CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 46.22 FEET;

THENCE ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 62°40'23", A DISTANCE OF 50.55 FEET TO ITS TANGENCY WITH THE CENTERLINE OF SAID VAL MONTE STREET; THENCE NORTH ALONG SAID CENTERLINE, A DISTANCE OF 144.99 FEET TO THE SOUTH RIGHT-OF-WAY OF RAMSEY STREET;

THENCE EASTERLY ALONG SAID SOUTH RIGHT-OF-WAY, A DISTANCE OF 25.00 FEET TO THE POINT OF BEGINNING.

WHEREAS, pursuant to California Streets and Highways Code Sections 8300 et seq., the City Council has the authority and responsibility to resolve to vacate streets and highways within the City; and

WHEREAS, on December 1, 2009 the Planning Commission adopted Resolution No. 2009-09, finding that the vacation of Val Monte Street from Ramsey Street to Interstate 10 and adjacent allies is consistent with the City of Banning's General Plan and recommending that the City Council vacate Val Monte Street from Ramsey Street to Interstate 10 and adjacent allies; and

WHEREAS, on February 9, 2010, the City Council set March 9, 2010 as the date on which it would hold a hearing for the purpose of considering the vacation of Val Monte Street from Ramsey Street to Interstate 10 and adjacent allies; and

WHEREAS, on February 19, 2010, and continuing through February 26, 2010, the City gave public notice, by publishing in Record Gazette newspaper and by posting in prominent places on Val Monte Street from Ramsey Street to Interstate 10 and adjacent allies in compliance with Streets and Highways Code Section 8320, of the holding of the public hearing at which the City Council would consider the vacation of Val Monte Street from Ramsey Street to Interstate 10 and adjacent allies; and

WHEREAS, on March 9, 2010, the City Council held the noticed public hearing considering the vacation of Val Monte Street from Ramsey Street to Interstate 10 and
adjacent alleys, at which interested persons had an opportunity to testify in support of, or
opposition to, the vacation of Val Monte Street from Ramsey Street to Interstate 10 and
adjacent alleys:

NOW, THEREFORE, the City Council of the City of Banning does Resolve,
Determine, Find and Order as follows:

SECTION 1. FINDINGS.

The City Council, in light of the whole record before it, including but not limited to, the
City's General Plan, the recommendation of the Community Development Director as
provided in the Planning Commission Staff Report dated December 1, 2009, and the
documents incorporated therein by reference, the recommendation of the Planning
Commission, and any other evidence within the record or provided at or prior to the
public hearing of this matter, hereby finds and determines as follows:

1. Val Monte Street from Ramsey Street to Interstate 10 and adjacent alleys is
   unnecessary for present or prospective public use.

2. The vacation of Val Monte Street from Ramsey Street to Interstate 10 and adjacent
   alleys is consistent with the City of Banning’s General Plan.

3. No conditions precedent to the vacation of Val Monte Street from Ramsey Street to
   Interstate 10 and adjacent alleys exist or are necessary.

SECTION 2. CITY COUNCIL ACTION.

The City Council hereby takes the following actions:

1. The City Council hereby recognizes Val Monte Street from Ramsey Street to
   Interstate 10 and adjacent alleys is not necessary for present or prospective public
   use.

2. The City Council hereby orders vacated Val Monte Street from Ramsey Street to
   Interstate 10 and adjacent alleys.

3. The City Council hereby orders the City Clerk to record this Resolution with the
   County Recorder, which recording will make the vacation of Val Monte Street from
   Ramsey Street to Interstate 10 and adjacent alleys effective pursuant to Streets and
   Highways Code Section 8325.

4. The City Council hereby orders Public Works Department to review potential uses
   for the land formerly known as Val Monte Street from Ramsey Street to Interstate
   10 and adjacent alleys and to provide to the City Council by April 13, 2010 a report
   analyzing the reasonably practicable uses for that land, including but not limited to
   sale of the land as surplus property.
5. The City Council hereby reserves any rights of way needed for sewer, water, gas, energy or other utility services in existence as of the date of this action.

PASSED, APPROVED, AND ADOPTED this 23rd day of March, 2010.

Robert E. Botts, Mayor

APPROVED AS TO FORM
AND LEGAL CONTENT:

_____________________________________
David J. Aleishire, City Attorney
Aleishire & Wynder, LLP

ATTEST:

_____________________________________
Marie A. Calderon, City Clerk
CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2010-13, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 23rd day of March 2010.

AYES:

NOES:

ABSENT:

ABSTAIN:

______________________________
Marie A. Calderon, City Clerk
City of Banning, California
CITY COUNCIL AGENDA

DATE: March 23, 2010

TO: Honorable Mayor and City Council

FROM: Andy Takata, City Manager

SUBJECT: Revised Ordinance No. 1420 – Approving Zone Text Amendment No. 09-97506 to amend the Municipal Code Section 17.44.010 Pertaining to Table 17.44.010 Review Authority for Tentative Parcel Maps and Amendment to the Municipal Code Title 16 Subdivisions.

RECOMMENDATION:
That the City Council adopt revised Ordinance No. 1420 and re-introduce its first reading.

JUSTIFICATION:
On February 9, 2010, the City Council held a public hearing on this matter adopting Ordinance No.1420 and introduced its first reading. The Ordinance changes the review authority of Tentative Parcel Maps of four lots or less from the Community Development Director to the Planning Commission with approval authority vested in the City Council. After further consultation with the City Attorney regarding public hearing and noticing requirements, the City Attorney advised staff to revise the Ordinance to include additional requirements to clarify the notice and public hearing requirements and the timelines required under the Subdivision Map Act as it relates to tentative maps. This is to ensure that it is clear to the applicants regarding the review process for Tentative Parcel Maps. Most notably, the Ordinance has been revised to include a new chapter 16.14 to address public hearing and noticing requirements. The redlined version of the changes to the Subdivision Code is attached for your information.

FISCAL DATA:
There is no fiscal impact related to the preparation and discussion of this report.

CONCLUSION:
That the City Council adopt the revised Ordinance No. 1420 and re-introduce the first reading.

APPROVED BY:

[Signature]
Andy Takata
City Manager

PREPARED BY:

[Signature]
Zal Abu Bakar
Community Development Director

Attachments:
1. Revised Ordinance No. 1420
2. Redlined version of changes to the Subdivision Code
3. Public Hearing Notice
ORDINANCE NO. 1420

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA APPROVING ZONE TEXT AMENDMENT NO. 09-97506, TO AMEND MUNICIPAL CODE SECTION 17.44.010, PERTAINING TO TABLE 17.44.010 REVIEW AUTHORITY OF TENTATIVE PARCEL MAPS AND AMENDMENTS TO MUNICIPAL CODE TITLE 16 SUBDIVISIONS.

WHEREAS, the Zoning Code Chapter 17.116 allows for Zone Text Amendments consistent with the goals and policies of the General Plan; and

WHEREAS, on the 5th day of January, 2010, the Planning Commission held a public hearing at which interested persons had an opportunity to testify in support of, or opposition to, the Zone Text Amendment and at which time the Planning Commission considered and heard public comments on the Zone Text Amendment; and

WHEREAS, on the 5th day of January, 2010, the Planning Commission recommended approval of Zone Text Amendment No. 09-97506 to the City Council as stipulated in Planning Commission Resolution No. 2010-02, and

WHEREAS, the Municipal Code Section 1.04.040 allows amendments to the Code that may be designated as an addition or amendment to, or repeal of, "The Code of the City of Banning"; and,

WHEREAS, on the 29th day of January, 2010, the City also gave public notice by advertising in the Record Gazette newspaper of the holding of a public hearing at which the amendment to the Municipal Code would be considered; and

WHEREAS, on the 9th day of February, 2010, the City Council held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, Zone Text Amendment No. 09-97506. The City Council adopted Ordinance No. 1420. Subsequently, the proposed amendments to Title 16 were altered to clarify the notice and hearing requirements for tentative maps.

WHEREAS, on the 12th day of March 2010, the City also gave public notice by advertising in the Record Gazette newspaper of the holding of a public hearing at which the amendment to the Municipal Code and re-introduction of Ordinance No. 1420 would be considered; and

WHEREAS, on the 23rd day of March, 2010, the City Council held the noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, Zone Text Amendment No. 09-97506 to amend Municipal Code Section
17.44.010, pertaining to Table 17.44.010 Review Authority of Tentative Parcel Maps and amendments to Municipal Code Title 16 Subdivisions and at which time the City Council considered the amendments to the Municipal Code; and

WHEREAS, at this public hearing on the 23rd day of March, 2010 the City Council re-introduced the first reading of Ordinance No. 1420 regarding Zone Text Amendment No. 09-97506, and considered and heard public comments on the Municipal Code amendments; and

WHEREAS, the City Council has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment.

NOW THEREFORE BE IT HEREBY ORDAINED, that the City Council of the City of Banning does hereby find, determine, and 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, the recommendation of the Planning Commission as provided in Planning Commission Resolution No. 2010-02, and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code § 21080(e) and §21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines as follows:

1. California Environmental Quality Act (CEQA):

CEQA: The City Council has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; the activity is not subject to CEQA. The amendments to the 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 ordinance may have a significant adverse effect on the environment, and therefore the adoption of this ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.
2. **Multiple Species Habitat Conservation Plan (MSHCP).**

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

**SECTION 2. FINDINGS**

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

*Findings of Fact:*

The Zone Text Amendment is consistent with the goals and policies of the General Plan, insofar as the General Plan designations and Zoning designations will not change, and the text amendments will result in clarifying the goals, policies and programs of the General Plan. The primary General Plan Land Use Goal states "A balanced, well planned community including businesses which provides a functional pattern of land uses and enhances the quality of life for all Banning residents". Subdivision of land is fundamental to a well planned community and providing the Planning Commission with the opportunity to review and recommend approval of Tentative Parcel Maps is consistent with that goal.

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

*Findings of Fact:*

The Zone Text Amendment is consistent with the existing provisions of the Zoning Ordinance. The amendment will consolidate the review procedures for all tentative maps both Tentative Parcel Maps (subdivisions creating four or fewer lots) and Tentative Tract Maps (subdivisions creating five or more lots).

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

*Findings of Fact:*

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

SECTION 3. CITY COUNCIL ACTIONS

The City Council hereby takes the following actions:

1. The City Council hereby approves Zone Text Amendment No. 09-97506 to amend Municipal Code Section 17.44.010, pertaining to Table 17.44.010 Review Authority of Tentative Parcel Maps and amendments to Municipal Code Title 16 Subdivisions as follows:

   a) Amend Section 17.44.010 of the Municipal Code more specifically Table 17.44.010 Review Authority as follows:

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<tr>
<th>Table 17.44.010 Review Authority</th>
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<td>Community Development Director</td>
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<td>Planning Commission</td>
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<td>City Council</td>
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<td>Home Occupation Permits</td>
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<td>Interpretations (Zoning Ordinance)</td>
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<td>Interpretations (General Plan)</td>
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<td>Temporary Use Permits</td>
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<td>Commercial:</td>
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<td>Public Facilities &amp; Open Space:</td>
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Note: When an item indicates more than one permitting entity, the determination as to which authority (entity) is used, is based upon the intensity of the proposed use.

* Planning Commission recommends to the City Council for final determination.

**b) Amend section 16.04.020, Chapter 16.08 Tentative Map – Four Lots or Less, Chapter 16.12 Tentative Map – Five Lots or More; Add a new Chapter 16.14 Reports and Hearings; Amend Section 16.16.010 Preparation Generally, and Amend Section 16.16.270 Examination and endorsement by the city engineer of the Subdivisions Code to correspond with the change in review authority as follows:**

1) Amend Section 16.04.020 as follows:

16.04.020 Advisory agency designated—Powers and duties generally.
The planning commission is hereby designated as the "advisory agency" referred to in the Subdivision Map Act and is charged with the duty of making investigations and reports on the design and improvement of proposed subdivisions; and, is hereby authorized to recommend the approval, conditional approval, or disapproval of tentative maps for subdivisions prepared and filed according with this Code and the Subdivision Map Act; to recommend the kinds, nature and extent of the improvements required to be installed in subdivisions and to report to the city council the action taken on tentative maps for subdivisions.

2) Section 16.08.030 shall be deleted and replaced with the following to read in its entirety as follows:

16.08.030 Hearing requirement.
An application for a tentative map shall be processed and set for a public hearing in accordance with Chapter 16.14 of this Title.

3) Section 16.12.080 shall be deleted and replaced with the following to read in its entirety as follows:

16.12.080 Hearing requirement.
An application for a tentative map shall be processed set for a public hearing in accordance with Chapter 16.14 of this Title.

4) Sections 16.12.090 and 16.12.100 shall be deleted.

5) Add a new Chapter 16.14 Reports and Hearings to read in its entirety as follows:

CHAPTER 16.14 REPORTS AND HEARINGS
16.14.010 General requirements.

16.14.010 General requirements.

A. Any hearing required in this Title 16, Subdivisions, shall be set, and notice of the public hearing of the planning commission and of the city council shall be given, in a manner consistent with Chapter 17.68.

B. The time periods set forth in this section shall commence after certification of the environmental impact report, adoption of a negative declaration, or a determination by the city that the project is exempt from the requirements of the California Environmental Quality Act.


Prior to the consideration by the planning commission of a tentative map, the city engineer shall make a report in writing to the planning commission as to any recommendations in connection with the tentative map and its bearing on particular functions. The city engineer shall determine whether the proposed subdivision of land is in conformity with law and subdivisions code; and, whether all the proposed lots will have adequate access to public streets, sanitary sewer lines, water mains, fire hydrants, drainage structures and utilities. The community development director shall determine whether the size of the proposed lots is in conformance with the zoning code. Failure to so report shall be deemed approval on the part of the city engineer only.


The planning commission shall hold a public hearing on a tentative map application. After a hearing on a tentative map, the planning commission shall make a written report recommending approval, conditional approval, or disapproval of a tentative map. Said recommendation shall be made within fifty days of the map being filed with the secretary of the commission, unless an extension of time is mutually agreed upon by the planning commission and the subdivider.

Any written report required in this section shall be served in accordance with section 66452.3 of the Government Code.


A. At the next regular meeting of the city council following the filing of the planning commission’s report, the city council shall fix the meeting date at which the tentative map will be considered by it, which date shall be within thirty days thereafter. After a public hearing, the city council shall approve, conditionally approve, or disapprove the tentative map within that thirty day period.

B. Upon conclusion of the hearing, the City Council shall, within ten days, declare its findings. Any action taken by the City Council shall be supported by the findings required by Sections 66427.1, 66473.5, 66474, 66474.1 and 66474.6 of the California Government Code and Section 21100 of the California Public Resources Code.

vi) Amend Section 16.16.010 as follows:

16.16.010 Preparation generally.

After approval of the tentative map of a subdivision and approval of the final map or parcel map by the city council, the subdivider may cause a final map or parcel map to be prepared in accordance with a completed survey of the subdivision and in substantial compliance with the approved tentative map, and in full compliance with the Subdivision Map Act and the subdivisions code.

vii) Amend Section 16.16.270 as follows:

16.16.270 Examination and endorsement by the city engineer.

After receiving copies of the final map of a subdivision, the city engineer shall examine or have examined the map as to sufficiency of affidavits and acknowledgments, correctness of surveying data, mathematical data and computations and such other matters as required, checking to insure compliance with the provisions of the Subdivision Map Act, and of this chapter. If the final map is found to be in correct form and the matters shown thereon are sufficient, the city engineer shall endorse his approval thereon and transmit it to the city council.

SECTION 4. 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 5. EFFECTIVE DATE.

This Ordinance shall take effect thirty (30) days after its 2nd reading in accordance with California law.

PASSED, APPROVED, AND ADOPTED this 23rd day of March, 2010.

Robert E. Botts, Mayor
City of Banning

APPROVED AS TO FORM
AND LEGAL CONTENT:

David J. Aleshire, City Attorney
Aleshire & Wynder, LLP
City of Banning, California

ATTEST:

Marie A. Calderon, City Clerk
City of Banning
CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that Ordinance No. 1420 was duly re-introduced at a regular meeting of the City Council of the City of Banning, held on the 23rd day of March, 2010, and was duly adopted at a regular meeting of said City Council on the ____ day of ___________ 2010, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

______________________________
Marie A. Calderon, City Clerk
City of Banning
Banning, California
ATTACHMENT 2

Redlined Version of Changes to the Subdivision Code
Title 16 SUBDIVISIONS

Chapters:
16.04 General Provisions
16.08 Tentative Map—Four Lots or Less
16.12 Tentative Map—Five Lots or More
16.14 Reports and Hearings
16.16 Final or Parcel Map
16.20 Vesting Tentative Map
16.24 Design Standards
16.28 Improvements
16.32 Merger of Contiguous Parcels
16.33 Tentative Map Extensions
16.34 City Engineer Review and Approval of Final and Parcel Maps
16.35 Certificate of Compliance

Chapter 16.04 GENERAL PROVISIONS

Sections:
16.04.010 Chapter supplemental to state act—Applicability of title.
16.04.020 Advisory agency designated—Powers and duties generally.
16.04.030 Repealed.
16.04.040 Repealed.
16.04.050 Map fees.
16.04.060 Nuisances.
16.04.070 Exceptions.
16.04.080 Offers of dedication for right-of-way—No nonconformity.
16.04.090 Amendment process.

16.04.010 Chapter supplemental to state act—Applicability of title.
Pursuant to the subdivision map act, the provisions of the Banning Municipal Code are supplemental to those of said Act, and shall apply to all subdivisions of land hereafter made when such land is entirely or partially within the city.

A. Lot Line Adjustment. This Code does not apply to a lot line adjustment provided that:
1. No additional parcels are created and the adjustment is limited to four or fewer existing adjoining parcels; and
2. The resulting parcels conform to the Banning Zoning Code, California Building Code, and the city's general plan; and
3. The resulting parcels do not interfere with existing utilities infrastructure or easements; and
4. The resulting parcels conform to the California Fire Code as determined by the fire department; and
5. Real property taxes have been prepaid; and
6. The owner, or owners, cause to be prepared a legal description and plat map, and any deeds if so required. However, if a record of survey is required under Business and Professions Code § 8762 the owner shall cause to be prepared a record of survey;
7. If the parcels are not legal subdivisions in accordance with Subdivision Map Act § 66499.34, the city approves a certificate of compliance.
An application and plot plan shall be required to determine conformance with these requirements.

B. Waiver of Tentative Parcel Map. The community development director may waive the requirements for a tentative parcel map for the following:
1. A division of real property or interests therein created by probate, eminent domain procedures, partition or other civil judgments or decrees;
2. A division of property resulting from conveyance of land or interest therein to or from a public entity or public utility for a public purpose such as school sites, public building sites, rights-of-way, or easements for streets, sewers, utilities, and drainage. Land conveyed to or from a governmental agency includes a fee, interest, a leasehold interest, an easement, or a license;
3. A division of property which has been merged under the subdivisions code, the Subdivision Map Act, or any prior ordinance of the city;
4. Where existing public improvements meet the minimum requirements of this Code.

To waive the tentative parcel map requirements the community development director upon the recommendation of the city engineer shall find that the proposed division of land complies with requirements of the Banning Zoning Code, Banning Development Standards, and the Subdivision Map Act.

A waiver of the tentative parcel map requirement may be conditioned to require payment by the subdivider of park land dedication, drainage, transportation, and other applicable fees by a method approved by the community development director.

Whenever a tentative parcel map is waived under this section, an application and parcel map shall be submitted and approved in accordance with the subdivisions code. The city clerk shall transmit the map to the county recorder. If the county recorder rejects that map for filing, the city shall rescind its approval of the map per the requirements of Government Code § 66466.

(Code 1965, § 22-1.)
(Ord. No. 1384, § 3.A, 3-5-08)

16.04.020 Advisory agency designated—Powers and duties generally. The planning commission is hereby designated as the "advisory agency" referred to in the Subdivision Map Act and is charged with the duty of making investigations and reports on the design and improvement of proposed subdivisions; and, is hereby authorized to recommend the approval, conditional approval, or disapproval of tentative maps for subdivisions prepared and filed according with this Code and the Subdivision Map Act; to recommend the kinds, nature and extent of the improvements required to be installed in subdivisions and to report to the city council the action taken on tentative maps for subdivisions.

(Code 1965, § 22-2.)
(Ord. No. 1384, § 3.A, 3-5-08)

16.04.030 Repealed.

Editor's note: Section 3.A of Ord. No. 1384, adopted March 5, 2008, repealed § 16.04.030, which pertained to the record of survey map: generally and derived from § 22-17 of the 1965 Code, in its entirety.

16.04.040 Repealed.

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16.04.050 Map fees.
A. Fees shall be paid to the city to cover the costs of checking tentative and final maps and parcel maps and for construction inspection as well as any other related items identified in the subdivision code requiring the submittal of an application. These fees shall be adopted by resolution.
B. The finance director shall issue a receipt for fees received in behalf of the city, identifying the same as related to the description for which such fee was tendered.
(Code 1965, § 22-19.)
(Ord. No. 1384, § 3.A, 3-5-08)

16.04.060 Nuisances.
Any lot, street, alley or other feature made the subject of this title which is maintained contrary to the provisions hereof shall constitute a public nuisance.
(Code 1965, § 22-20.)

16.04.070 Exceptions.
Conditional exceptions to the regulations prescribed in this title may be authorized if exceptional or special circumstances apply to the property. Such special circumstances may include limited size, unusual shape, extreme topography, dominating drainage problems or the impracticability of employing a comprehensive plan or layout by reason of a prior existing recorded subdivision of contiguous properties.
(Code 1965, § 22-21.)

16.04.080 Offers of dedication for right-of-way--No nonconformity.
In instances where the city requests an offer of dedication for right-of-way purposes, and such offer of dedication is made by the property owner, and such dedication results in the reduction of a dimension of the property below the minimum property development requirement identified in the Banning Ordinance Code related to lot width, depth, or minimum lot area, the Banning city council shall make a finding that such dedication is for public purposes and the reduction in the minimum required dimension shall for these purposes not create a "nonconformity."
(Code 1965, § 22-21.1.)

16.04.090 Amendment process.
Minor amendments to the approved or conditionally approved tentative map or conditions of approval may be approved by the community development director upon application by the subdivider or on the planning department's initiative, provided:
A. No lots, units or building sites or structures are added; and
B. There are not resulting violations of this Code or the Subdivision Map Act.
The amendment shall be indicated on the approved or conditionally approved tentative map and certified by the community development director. Amendments to the tentative map conditions of approval which, in the opinion of the department, are not minor, shall be presented to the planning commission for its approval. Processing shall be in accordance with the provisions of
processing a tentative map as set forth in this title. Any approved amendment shall not alter the expiration date of the tentative map.
(Code 1965, § 22-87.)

Chapter 16.08 TENTATIVE MAP--FOUR LOTS OR LESS
Sections:
16.08.010 Filing of copies.
16.08.020 Contents.
16.08.030 Action by community development director.
16.08.040 Disposition of copies.
16.08.050 Repealed.

16.08.010 Filing of copies.
Five copies of the tentative map of proposed subdivision of land into four or less lots shall be filed with the community development department.
(Code 1965, § 22-22.)
(Ord. No. 1384, § 3.B, 3-5-08)

16.08.020 Contents.
The tentative map shall be in the form of a parcel map, as described in Government Code § 66444 et seq., unless waived by the community development director.
(Code 1965, § 22-23.)
(Ord. No. 1384, § 3.B, 3-5-08)

16.08.030 Hearing requirement.
An application for a tentative map shall be processed and set for a public hearing in accordance with Chapter 16.14 of this Title.

16.08.040 Disposition of copies.
One copy of the tentative map for the subdivision of land into four or less lots shall be retained in the files of the community development department and one copy shall be retained in the files of the city engineer. The third copy shall be returned to the subdivider with proper notations thereon indicating the actions taken.
(Code 1965, § 22-25.)
(Ord. No. 1384, § 3.B, 3-5-08)

16.08.050 Repealed.
Editor's note: Section 3.B of Ord. No. 1384, adopted March 5, 2008, repealed § 16.08.050, which pertained to the effect of approval and derived from § 22-26 of the 1965 Code, in its entirety.

Chapter 16.12 TENTATIVE MAP--FIVE LOTS OR MORE
Sections:
16.12.010 Definitions.
16.12.030 Filing and distribution of copies generally.
16.12.040 Scale.
16.12.050 Information to be shown.
16.12.090 Planning commission action and record.

16.12.010 Definitions.
For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section:
Subdivision. The subdivision of land into five or more lots.
Tentative map. The tentative map, required by this chapter, of subdivisions of land into five or more lots.
(Code 1965, § 22-27.)

Each proposed subdivision shall be submitted in tentative map form as provided for in this chapter.
(Code 1965, § 22-28.)

16.12.030 Filing and distribution of copies generally.
Not less than ten copies of the tentative map shall be filed with the secretary of the planning commission. When such required copies of a tentative map are filed, the secretary of the planning commission shall immediately forward one copy to each of the following, with a request that each report recommendations, if any, to the planning commission:
A. City council.
B. City engineer.
C. Water company.
D. Electrical department.
E. Riverside County flood control and water conservation district.
F. Division of highways, if affected.
G. State division of real estate.
H. County planning commission.
I. City planning commission—two copies.
(Code 1965, § 22-29.)

16.12.040 Scale.
The scale of the tentative map shall not be less than two hundred feet to the inch.
(Code 1965, § 22-30.)

16.12.050 Information to be shown.
Each tentative map shall contain the following information:
A. The tract number or name of the subdivision.
B. The name and address of the owner whose property is proposed to be subdivided and the name and address of the subdivider.
C. The name and address of the registered civil engineer, licensed surveyor, landscape architect or other person who prepared the map.
D. The north point.
E. The scale.
F. The date of preparation.
G. The boundary lines.
H. The location, width and proposed names of all streets within the boundaries of the proposed subdivision and their approximate grades.
I. The location and width of alleys.
J. The name, location and width of adjacent streets.
K. Lot lines and approximate dimensions and numbers of each lot.
L. The location and width of watercourses or areas subject to inundation from floods, or location of structures, irrigation ditches and other permanent physical features.
M. A description of the exterior boundaries of the subdivision (or legal description of the property comprising the subdivision).
N. The width and location of all existing or proposed public or private easements.
O. Classification of lots as to intended residential commercial, industrial or other uses.
P. Railroads.
Q. Approximate radii of curves.
R. Where topography controls or influences the layout of streets and lots, water supply or drainage, approximate contours shall be shown drawn to intervals prescribed by the city engineer.
(Code 1965, § 22-31.)

The tentative map shall show thereon, or be accompanied by, ten copies of reports and written statements from the subdivider giving essential information regarding the following matters:
A. The source of water supply.
B. The type of street improvements and utilities which the subdivider proposes to install.
C. The proposed method of sewage disposal.
D. Proposed storm water sewer or other means of drainage (grade and size).
E. Protective covenants to be recorded.
F. Proposed tree planting.
(Code 1965, § 22-32.)

The tentative map shall be prepared in accordance with the Subdivision Map Act and the provisions of the subdivisions code, and shall be filed with the community development director. Such filing shall be prior to the completion of final surveys of streets and lots and before grading or any construction work within the proposed subdivision that might be affected by changes in the tentative map. The planning commission shall act upon such tentative maps in accordance with times set forth in the Subdivision Map Act.
(Code 1965, § 22-33.)
16.12.080 Hearing requirement.
An application for a tentative map shall be processed for a public hearing in accordance with Chapter 16.14 of this Title.

CHAPTER 16.14 REPORTS AND HEARINGS

16.14.010 General requirements.

16.14.010 General requirements.

A. Any hearing required in this Title 16, Subdivisions, shall be set, and notice of the public hearing of the planning commission and of the city council shall be given, in a manner consistent with Chapter 17.68.

B. The time periods set forth in this section shall commence after certification of the environmental impact report, adoption of a negative declaration, or a determination by the city that the project is exempt from the requirements of the California Environmental Quality Act.


Prior to the consideration by the planning commission of a tentative map, the city engineer shall make a report in writing to the planning commission as to any recommendations in connection with the tentative map and its hearing on particular functions. The city engineer shall determine whether the proposed subdivision of land into four or less lots is in conformity with law and subdivisions code; and, whether the all the proposed lots will have adequate access to public streets, sanitary sewer lines, water mains, fire hydrants, drainage structures and utilities. The community development director shall determine whether the size of the proposed lots is in conformance with the zoning code. Failure to so report shall be deemed approval on the part of the city engineer only.


The planning commission shall hold a public hearing on a tentative map application. After a hearing on a tentative map, the planning commission shall make a written report.
recommending approval, conditionally approval, or disapproval of a tentative map. Said
recommendation shall be made within fifty days of the map being filed with the secretary of
the commission, unless an extension of time is mutually agreed upon by the planning
commission and the subdivider.


Any written report required in this section shall be served in accordance with section 66452.3


A. At the next regular meeting of the city council following the filing of the planning
commission’s report, the city council shall fix the meeting date at which the tentative map
will be considered by it, which date shall be within thirty days thereafter. After a public
hearing, the city council shall approve, conditionally approve, or disapprove the tentative
map within that thirty day period.

B. Upon conclusion of the hearing, the city council shall, within ten days, declare its
findings. Any action taken by the city council shall be supported by the findings required by
Sections 66427.1, 66473.5, 66474, 66474.1 and 66474.6 of the California Government Code
and Section 21100 of the California Public Resources Code.

Chapter 16.16 FINAL OR PARCEL MAP
Sections:
16.16.010 Preparation generally.
16.16.020 Information to be shown generally.
16.16.030 Index.
16.16.040 Easements.
16.16.050 Surveying data generally.
16.16.060 Polyester film and ink to be used; size of sheets.
16.16.070 Marginal line.
16.16.080 Outline of exterior boundary line.
16.16.090 Scale.
16.16.100 Sheets to be numbered, etc.
16.16.110 Tract title, etc., to be shown on each sheet.
16.16.120 Title sheet.
16.16.130 Certificate forms.
16.16.140 Title report.
16.16.150 Surveying data for lots.
16.16.160 Data concerning streets, rights-of-way, etc.
16.16.170 How survey to be made.
16.16.180 Existing monuments.
16.16.190 New monuments.
16.16.010 Preparation generally.
After approval of the tentative map of a subdivision and approval of the final map or parcel map by the city council, the subdivider may cause a final map or parcel map to be prepared in accordance with a completed survey of the subdivision and in substantial compliance with the approved tentative map, and in full compliance with the Subdivision Map Act and the subdivisions code.
(Code 1965, § 22-37.)
(Ord. No. 1384, § 3.D, 3-5-08)

16.16.020 Information to be shown generally.
The final map or parcel map of a subdivision shall give the following information:
A. The title, date, north arrow, and scale.
B. The legal description of the land included in the subdivision.
C. The location and names, without abbreviations, of all:
   1. Proposed streets and alleys;
   2. Proposed public areas and easements;
   3. Adjoining streets;
   4. Street names.
D. The dimensions in feet and decimals of a foot, or as required by state law.
E. The dimensions of all lots.
F. Each lot shall be numbered. Each block may be lettered or numbered. Each lot shall be shown entirely on one sheet.
G. The center line data of streets, alleys, and easements, including bearings and distances.
H. If any portion of the land within the boundaries shown on any final map or parcel map is subject to inundation or flood hazard by storm waters, such fact, and an identification of the affected portion, shall be clearly shown on the final map or parcel map by a prominent note on each sheet of such map whereon any such portion shall be shown.
I. In the event that a dedication of right-of-way for storm drainage purposes is not required, the city engineer may require that the location of any watercourse or channel be shown on the final map or parcel map.
16.16.030 Index.
If more than three sheets are used for the final map of a subdivision, an index showing the entire subdivision with lots numbered consecutively, shall be included.
(Code 1965, § 22-39.)

16.16.040 Easements.
A. The final map or parcel map of a subdivision shall show the center line data, width and side lines of all easements to which the lots are subject. If the easement cannot be definitely located by the recorded documents, a statement as to the easement shall appear on the title sheet.
B. Easements from storm drains, sewers and other purposes shall be denoted by broken lines.
C. The easement shall be clearly labeled and identified, and if already of record proper reference to the records shall be given.
D. Easements being dedicated shall be so indicated in the certificate of dedication.
(Code 1965, § 22-40.)
(Ord. No. 1384, § 3.D, 3-5-08)

16.16.050 Surveying data generally.
Each final map or parcel map of a subdivision shall have indicated thereon the following:
A. The radius, tangent, arc, and central angle of curves.
B. Suitable primary survey control points including section corners, and monuments existing outside of subdivision.
C. The location of all permanent monuments within the subdivision.
D. Ties to and identification of adjacent subdivisions.
E. Ties to any city boundary lines involved.
F. All required certificates.
(Code 1965, § 22-41.)
(Ord. No. 1384, § 3.D, 3-5-08)

16.16.060 Polyester film and ink to be used; size of sheets.
The final map or parcel map of a subdivision shall be clearly and legibly delineated upon polyester film of good quality. All lines, letters, figures, certificates, acknowledgments and signatures shall be made in black waterproof ink, except that affidavits, certificates and acknowledgments may be legibly stamped or printed upon the map with black opaque ink. The size of each sheet of the map shall be eighteen by twenty-six inches.
(Code 1965, § 22-42.)
(Ord. No. 1384, § 3.D, 3-5-08)

16.16.070 Marginal line.
A marginal line shall be drawn completely around each sheet of the final map or parcel map of a subdivision, leaving an entirely blank margin of one inch.
(Code 1965, § 22-43.)
(Ord. No. 1384, § 3.D, 3-5-08)
16.16.080 Outline of exterior boundary line.
The exterior boundary line of the subdivision shall be outlined by a blue line on the final map.
(Code 1965, § 22-44.)

16.16.090 Scale.
The scale of the final subdivision map shall be large enough to show all details clearly, and
enough sheets shall be used to accomplish this end.
(Code 1965, § 22-45.)

16.16.100 Sheets to be numbered, etc.
Each sheet of the final subdivision map shall be numbered, the relation of one sheet to another
clearly shown and the number of sheets used shall be set forth on each sheet.
(Code 1965, § 22-46.)

16.16.110 Tract title, etc., to be shown on each sheet.
The tract title, scale and north point of the subdivision shall be shown on each sheet of the final
map.
(Code 1965, § 22-47.)

16.16.120 Title sheet.
Below the title of the final map of a subdivision shall be a subtitle consisting of a general
description of all the property being subdivided, by reference to subdivisions or to sectional
surveys. Where the size of a subdivision permits, the title may be included on a single sheet.
Reference to tracts and subdivisions shall be spelled out and worded identically with original
records, with complete reference to proper books and page of the record. In addition, the title
sheet shall show the basis of bearings. Maps filed for the purpose of reverting subdivided land to
acreage shall be conspicuously marked under the title "The Purpose of this Map is a Reversion to
Acreage."
(Code 1965, § 22-48.)

16.16.130 Certificate forms.
Forms for certificates required by the Subdivision Map Act and this chapter may be secured from
the city engineer.
(Code 1965, § 22-49.)

16.16.140 Title report.
Each subdivision shall be accompanied by a title report showing the names of all persons or
parties having any record title interest in the real property proposed to be subdivided.
(Code 1965, § 22-50.)
(Ord. No. 1384, § 3.D, 3-5-08)

16.16.150 Surveying data for lots.
Sufficient data shall be shown on the final map to determine readily the bearing and length of
each lot line in the subdivision.
Dimensions of lots shall be the net dimensions, no ditto marks shall be used and lots containing one acre or more shall show net acreage to the nearest hundredth.
(Code 1965, § 22-51.)

16.16.160 Data concerning streets, rights-of-way, etc.
The final map of a subdivision shall show the center lines of all streets, the length, tangents, radii and central angles or radial bearings of all curves the total width of each street, the width of the portion being dedicated and the width of existing dedication and the width of each side of the center line. Also the width of the rights of way of railroads, flood control or easments existing or being dedicated and drainage channels shall be shown.
(Code 1965, § 22-52)

16.16.170 How survey to be made.
Surveys in connection with the preparation of subdivision maps as provided in this chapter shall be made in accordance with standard practices and principles for land surveying. A traverse of the boundaries of the subdivisions and all lots and blocks shall close within an error of one to seven thousand.
(Code 1965, § 22-53.)

16.16.180 Existing monuments.
The final map of a subdivision shall show clearly what stakes, monuments or other evidence was found on the ground which were used as ties to determine the boundaries of the tract. The corners of adjoining subdivisions or portions thereof shall be identified and ties shown.
(Code 1965, § 22-54.)

16.16.190 New monuments.
In making the survey for the subdivision, the surveyor shall set sufficient permanent monuments so that the survey or any part thereof may be readily retraced. Such monuments shall generally be placed at angle points on the exterior boundary lines of the tract, and at intersections of center lines of streets and at the beginning of curves and the end of curves on center lines. Such monuments may be placed on offset lines. Stakes set at lot corners will not be considered permanent. The character, type and positions of all monuments shall be noted on the final map.
For each center line intersection monument set, the engineer or surveyor under whose supervision the survey has been made, shall furnish to the city engineer a set of notes showing clearly the ties between such monument and a sufficient number (normally four) of durable distinctive reference points or monuments. Such reference points or monuments may be leads or tacks in sidewalks or a two-inch iron pipe set back of the curb line and below the surface of the ground or such substitute therefor as appears to be not more likely to be disturbed.
Such set of notes shall be of such quality, form and completeness and shall be on paper of such quality and size as may be necessary to conform to the standardized office records of the city engineer. All such notes shall be indexed and filed by the city engineer as a part of the permanent records of his office.
All permanent monuments shall be placed prior to recording the final map. Before approving the map, the city engineer shall, by field survey, satisfy himself that all the monuments shown thereon actually exist and that their positions are correctly shown.
(Code 1965, § 22-55.)
16.16.200 Established lines. Whenever the city engineer has established the center line of a street or alley such data shall be considered in making the surveys and in preparing the final map of the subdivision, and all monuments found shall be indicated and proper references made to field books or maps of public record, relating to the monuments. If the points were reset by ties, that fact shall be stated. The final map shall show city boundaries crossing or adjoining the subdivision clearly designated and tied in. (Code 1965, § 22-56.)

16.16.210 Lot numbers. The lots of a subdivision shall be numbered consecutively, commencing with the number 1, with no omissions or duplications. Each lot shall be shown entirely on one sheet of the final map. Blocks may be used, but not preferred. They shall be consecutively numbered in the same manner as required for numbering lots, or they may be lettered in alphabetical sequence, beginning with the letter "A". Lots within each block shall be numbered as herein provided for subdivisions where blocks are not employed. (Code 1965, § 22-57.)

16.16.220 When to be filed. After receipt of the report of the city council approving or conditionally approving the final map or parcel map of a subdivision the subdivider may, within one year from the date of such approval, proceed to prepare and file with the county recorder a final map or parcel map as provided for in the subdivisions code. If such final map or parcel map is not submitted to the city engineer within one year from the date of the approval of the final map, or parcel map, such map shall be considered abandoned. (Code 1965, § 22-58.) (Ord. No. 1384, § 3.D, 3-5-08)

16.16.230 Disposition of copies. For purposes of filing a final map, the subdivider shall submit to the city engineer an original final map tracing and three dark line prints thereof. One copy of such dark line print shall be filed permanently with the city engineer. One copy shall be checked by the city engineer and reported to the city planning commission. One copy shall be returned to the subdivider after showing thereon corrections if any, or a statement by the city engineer that the map is correct. When the map is found to be correct, the final map tracing shall be certified by the city engineer, the city clerk and the secretary of the planning commission and returned to the subdivider for recording. (Code 1965, § 22-59.)

16.16.240 Polyester film copy to be furnished to city engineer. After the final map or parcel map of a subdivision has been recorded in the county recorder's office, one polyester film print of such map shall be furnished to the city engineer by the subdivider. (Code 1965, § 22-60.) (Ord. No. 1384, § 3.D, 3-5-08)
16.16.250 Certification by planning commission.
If the final map of a subdivision, as submitted, conforms in every respect to the recommendations of the planning commission pertaining to the tentative map and no new features have been added which have not been approved by the commission such fact shall be reported to the city council and the secretary of the planning commission may certify the map in behalf of the commission. If the final map does not so conform such fact and the nature of the nonconforming features shall be reported to the city council and the secretary of the planning commission may not certify such map in behalf of the commission until the commission specifically so authorities.
(Code 1965, § 22-61.)

16.16.260 Traverse sheets and work sheets.
When requested by the city engineer traverse sheets and work sheets showing the closure of the exterior boundaries and of each irregular block and lot in the subdivision shall be provided.
(Ord No. 379, § 2; Code 1965, § 22-62.)

16.16.270 Examination and endorsement by city engineer.
After receiving copies of the final map of a subdivision, the city engineer shall examine or have examined the map as to sufficiency of affidavits and acknowledgments, correctness of surveying data, mathematical data and computations and such other matters as required, checking to insure compliance with the provisions of the Subdivision Map Act and of this chapter. If the final map is found to be in correct form and the matters shown thereon are sufficient, the city engineer shall endorse his approval thereon and transmit it to the city council.
(Code 1965, § 22-63.)

16.16.280 Dedications for public use.
All streets, highways, and parcels of land shown on the final map or parcel map of the subdivision and intended for any public use shall be offered for dedication for public use. Streets or portions of streets may be offered for future dedication where the immediate opening and improvement is not required, but where it is necessary to ensure that the city can later accept dedication when such streets are needed for the further development of the area or adjacent areas.
(Code 1965, § 22-64.)
(Ord. No. 1384, § 3.D, 3-5-08)

16.16.290 Improvements—Required.
The subdivider shall improve or agree to improve all land dedicated for streets, highways, public ways and easements as a condition precedent to acceptance thereof and approval of the final map. Such improvements shall include such grading, surfacing, sidewalks, curbs, gutters, culverts, bridges, storm drains, sanitary sewers and such other structures or improvements as may be required under prescribed circumstances and conforming to such specifications pertaining to design and materials as shall be defined by resolution by the city council.
(Code 1965, § 22-65.)

16.16.300 Improvements—Grades.
All improvements in the subdivision shall be installed to grades approved by the city engineer.
16.16.310 Improvements—Plans profiles and specifications.
Plans, profiles and specifications of proposed improvements in subdivisions shall be furnished to the city engineer prior to the time of submitting the final map to him, and be approved by the city engineer before the map shall be filed with the city council. Such plans and profiles shall show full details of the proposed improvements which shall be according to the standards for the city as defined by resolution of the city council.
(Code 1965, § 22-67.)

16.16.320 Improvements—Agreement to complete.
If improvement work required by this chapter is not completed satisfactorily prior thereto, the owner of the subdivision shall, immediately upon approval and before the certification of the final map by the city, enter as contractor into an agreement with the city council whereby in consideration of the acceptance by the city council of the streets and easements offered for dedication the contractor agrees to complete the work within the time specified in the agreement.
(Code 1965, § 22-68.)

To assure the city that work contemplated by the preceding section will be completed and lien holders paid, a bond shall be furnished guaranteeing faithful performance, and guaranteeing payment for labor and materials. The amount of cash deposit or adequacy of such bond shall be determined by the city engineer and approval by the city council as to amount and adequacy of the bond.
(Code 1965, § 22-69.)

The minimum improvements which the subdivider will be required to make or enter an agreement to make in the subdivision prior to the acceptance and approval of the final map by the city council shall be as follows:
A. Adequate distribution lines for domestic water supply to each lot.
B. A sewage collection system where main lines of an adequate disposal system are available.
C. Adequate drainage of the subdivision streets, highways, ways and alleys.
D. Adequate grading and surfacing of streets, highways, ways and alleys, as per minimum standards established by resolution by the city council.
E. Monuments.
F. Fire hydrants at locations designated by the city engineer.
G. Necessary barricades and safety devices.
H. Street signs of appropriate design and material and at locations designated by the city engineer.
I. All utilities installed underground; adequate street lighting, installed in accordance with standards established by resolution of the city council.
J. Other improvements may be required under circumstances cited in the city council's resolution.
All such improvements shall conform to the standards and specifications established by resolution of the city council.
Chapter 16.20 VESTING TENTATIVE MAP
Sections:
16.20.010 General provisions.
16.20.020 Application.
16.20.030 Vesting tentative map processing fee.
16.20.040 Consistency requirement.
16.20.050 Definition of "vesting map."
16.20.060 Filing and processing.
16.20.070 Expiration of vesting tentative map approval.
16.20.080 Vesting on approval of vesting tentative map.

16.20.010 General provisions.
A. This chapter is adopted to supplement and implement Chapter 113 of the Statutes of 1984 (S.B. 1660) relating to vesting tentative maps.
B. The purpose of this chapter is to establish procedures necessary for the implementation of the Statute relating to vesting tentative maps, and to supplement the provisions of the Subdivision Map Act and this title. Except as otherwise provided in this chapter, the provisions of this Code shall apply to vesting tentative maps.

16.20.020 Application.
A. This chapter shall apply to residential and nonresidential development.
B. Whenever a provision of the Subdivision Map Act, as implemented and supplemented by this title, requires the filing of a tentative map or tentative parcel map for a development, a vesting tentative map may instead be filed in accordance with the provisions of this chapter.

16.20.030 Vesting tentative map processing fee.
Every person submitting a vesting tentative map shall pay a processing fee in an amount prescribed by resolution of the city council.

16.20.040 Consistency requirement.
No land shall be subdivided and developed pursuant to a vesting tentative map for any purpose which is inconsistent with the general plan and any applicable specific plan or not permitted by the zoning ordinance or other applicable provisions of this Code. A vesting tentative map shall not be filed unless it is consistent with the existing zoning on the property proposed to be subdivided.

16.20.050 Definition of "vesting map."
A "vesting tentative map" shall mean a "tentative map" or "tentative parcel map" or a "parcel map" for a residential or nonresidential subdivision as defined in this chapter, that shall have printed conspicuously on its face the words "vesting tentative map" at the time it is filed in

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accordance with Section 16.20.060 of this chapter, and is thereafter processed in accordance with
the provisions of this chapter. All other definitions set forth in this chapter are applicable.
(Code 1965, § 22-75.)

16.20.060 Filing and processing.
A vesting tentative map shall be filed with the planning department in the same form and have
the same contents, accompanying data and reports and shall be processed in accordance with the
Subdivision Map Act, this title, and this chapter except as provided hereafter:
A. At the time a vesting tentative map is filed it shall have printed conspicuously on its face the
words "vesting tentative map."
B. At the time a vesting tentative map is filed the subdivider shall also provide the planning
department with the following information:
1. Location, height, size and shape of any structures presently on the site and proposed for
construction;
2. Architectural elevations, building materials and colors;
3. Dimensions showing front, side and rear yard setbacks, paving, porches, decks and fencing;
4. Roof overhangs and other architectural features such as bay windows and chimneys;
5. Location, number and dimensions of all parking areas both covered and open and driveways
(existing and proposed);
6. Location of easements that cross the property or other pertinent legal features;
7. Ground elevations and contour lines for sloping sites or where earth grading is proposed.
8. Detailed grading plans;
9. Geological studies;
10. Flood control information and approval from Riverside County Flood Control District;
11. Noise impact studies;
12. Sewer, water, storm drain and road detail for on site and off site improvements;
13. Landscaping and irrigation plans.
C. Applicant shall meet the requirements of this Code prior to receiving consideration for
vesting tentative map approval by the city's planning commission and city council.
(Code 1965, § 22-76.)

16.20.070 Expiration of vesting tentative map approval.
The approval or conditional approval of a vesting tentative map shall expire at the end of the
same time period, and shall be subject to the same extensions established by this Code for the
expiration of approval or conditional approval of a tentative map.
(Code 1965, § 22-77.)

16.20.080 Vesting on approval of vesting tentative map.
A. The approval or conditional approval of a vesting tentative map shall confer a vested right to
proceed with development in substantial compliance with the ordinances, policies and standards
described in Government Code section 66474.2.
B. However, if section 66474.2 of the Government Code is repealed, the approval or
conditional approval of a vesting tentative map shall confer a vested right to proceed with
development in substantial compliance with the ordinances, policies and standards in effect at the
time the vesting tentative map is approved or conditionally approved.
C. The city may apply any ordinances, policies, or standards that were formally published to amend applicable general or specific plans, subdivisions or zoning regulations prior to a vesting tentative map being received as a complete application and that are in effect on the date the city approves or disapproves the vesting tentative map.

D. Notwithstanding subsections A, B and C of this section, a permit, approval, extension, or entitlement may be made conditional or denied if any of the following are determined:
   1. A failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both.
   2. The condition or denial is required in order to comply with state or federal law.
   E. The rights referred to herein shall expire if a final map is not approved prior to the expiration of the vesting tentative map as provided in Section 16.20.070.

F. In the event the final map is approved, these rights shall last for the following periods of time:
   1. An initial time period of one year beyond the recording of the final map.
   2. Where several final maps are recorded on various phases of a project covered by a single vesting tentative map, the one-year initial time period shall begin for each phase when the final map for that phase is recorded.
   3. The initial time period shall be automatically extended by any time used by the city for processing a complete application for a grading permit or for design or architectural review, if the time used by the city to process the application exceeds thirty days, from the date that a complete application is filed.
   4. The subdivider may request a one-year extension at any time prior to the expiration of the initial time period provided by this section. The application shall state the reasons for requesting the extension. The council shall consider the application as soon as practicable after filing. The council shall set forth its reasons for granting any extension.
   5. If the subdivider submits a complete application for a building permit during the periods of time specified in this section, the rights referred to herein shall continue until the expiration of that permit or any extension of that permit granted by the city.
   6. The developer who applies for an amendment pursuant to Government Code section 66498.2 shall do so prior to the expiration of vesting rights. The city shall process said application as a modification to tentative maps contained in the chapter. Approved modifications shall not extend the vesting period.

(Code 1965, § 22-78.)

Chapter 16.24 DESIGN STANDARDS
Sections:
16.24.010 Streets and highways generally.
16.24.030 Street grades.
16.24.040 Alleys.
16.24.050 Blocks.
16.24.060 Lots.
16.24.080 Layout of sidewalks.

16.24.010 Streets and highways generally.
A subdivision plan shall conform to the official plan of streets. In the absence of an official plan of streets and highways, there shall be substantial conformance to the master plan. In the absence of a master plan, the street system in a proposed subdivision shall relate to the existing streets in the area adjoining the subdivision. All existing streets adjacent to a subdivision need not necessarily be carried into a new subdivision.

A. Freeways, limited access, etc., highways. Freeways, limited-access and unlimited-access state highways shall conform to the standards of the division of highways, department of public works of the state and where the same are involved in any subdivision, they shall be subject to individual determination by the city. Such standards of the division of highways shall be deemed to be the minimum standards that will be acceptable.

B. Width--Major streets. Major thoroughfares shall be not less than one hundred feet wide.

C. Same--Secondary streets. Secondary thoroughfares shall be not less than eighty feet wide.

D. Same--Local collector streets. Local collector streets shall be not less than sixty feet wide.

E. Minor and cul-de-sac streets. Minor and cul-de-sac streets shall be not less than fifty-two feet wide, nor more than five hundred feet in length, except where special conditions might justify a lesser width or greater length. The radius at the terminus of the cul-de-sac should be not less than fifty feet. Cul-de-sac and minor streets shall be subject to individual determination by the city. Stub streets or rights of way may be required to the edge of the subdivision.

F. Special local streets. Special local streets where railroads, parkways, grade separations, freeways and hills or other concomitant factors are involved shall be subject to individual determination by the city.

G. Service roadways. Along major highways, limited-access highways or freeways, a service roadway separated from the traffic roadway by an acceptable separation strip, when indicated by the master or official plan of the city or the state, will be required for access to abutting private property and local streets. All dimensions on such multiple roadway thoroughfares shall be as defined on the city official plan or state division of highway plan.

H. Curved major highways. Curved major highways shall have a center line radius of not less than one thousand feet.

I. Curved secondary streets. Curved secondary streets shall have a center line radius of not less than five hundred feet. Lesser radii may be used if evidence indicates the above requirements are not practicable.

J. Miscellaneous curved streets. Curves or other streets shall have a center line radius of not less than two hundred feet. Lesser radii may be used if evidence indicates the above requirements are not practicable.

K. Street corners. Street corners shall have a radius of not less than ten feet or an equivalent angle.

L. Street intersections. Street intersections shall be as near right angles as practicable. In no case shall the angle be less than forty-five degrees.

M. Street continuations. Streets which are a continuation of streets in contiguous territory shall be so aligned as to assure that their center lines shall coincide. In cases where straight continuations are not physically possible, such center line shall be continued by curves.

(Code 1965, § 22-3.)

Suitable tangents, when possible, shall be used between all curves in streets or highways within a subdivision.
16.24.030 Street grades.
Any street grade in a subdivision greater than six per cent shall be subject in each case to review.
Grades of more than ten per cent may be cause for disapproval of a map submitted under this chapter.
(CODE 1965, § 22-5.)

16.24.040 Alleys.
A. Alleys in subdivisions shall be not less than twenty feet wide and shall be provided at the rear of all lots classified for and to be used for commercial or multiple-family purposes. If adequate off-street parking areas to serve such property are securely reserved for such purpose and are shown upon the map and approved by the city in the manner provided in this chapter, this requirement may be modified. Alleys elsewhere shall be optional, but if offered shall be subject to approval by the city if the official plan indicates alleys which are not required by the general rule then the alley thus shown shall be required.
B. Alleys at the rear of business, industrial or unlimited multiple-residential property shall be subject to determination by the city as to design, location and possible increased width.
C. Alleys shall be required at the rear of all property fronting directly upon any major highway.
D. Where two alleys intercept or intersect, the corners shall be cut either on a twenty-foot radius to which the lot boundaries are tangent or on a straight line connecting points on both lot lines fifteen feet distant from the corner of the lot at the intersection of the alleys.
(CODE 1965, § 22-6.)

16.24.050 Blocks.
A. Blocks in subdivisions which are less than three hundred thirty feet in length, or more than nine hundred ninety feet in length, may be cause for disapproval of the proposed subdivision, but in no case shall a block be longer than thirteen hundred twenty feet.
B. In blocks nine hundred ninety feet long or over pedestrian ways at least ten feet wide may be required.
C. Long blocks are desirable adjacent to main thoroughfares in order to reduce the number of intersections.
(CODE 1965, § 22-7.)

16.24.060 Lots.
A. Lot areas in subdivisions shall be such as will conform to the standards of development as defined by the Zoning Ordinance or by other official plans adopted pursuant to law.
B. Lots having no frontage on a public street may be cause for disapproval of the proposed subdivision.
C. The width of lots shall be such as will conform to standards of development as defined by the Zoning Ordinance or other official plans adopted pursuant to law; provided, that the minimum width of interior lots shall be sixty feet, and corner lots shall have a minimum width of seventy feet. Odd-shaped lots shall be subject to individual determination by the city.
D. No lot shall be divided by a county, city, school district or other taxing district boundary line.
E. The side lines of lots shall be approximately at right angles to the street line on straight streets or to the tangent on curved streets.
F. Double frontage lots should be avoided.
G. Corner lots shall have a width sufficient to permit adequate side yards.
(Code 1965, § 22-8.)
* See Title 17 of this volume.

In areas where no official plans exist, the layout of all improvements including roadways, curbs, parkways, dividing strips, sidewalks, sewer lines and water mains within the right of way of all highways, streets, alleys and utility easements shall be in accordance with standards established by the city council and where no such standards have been adopted the arrangements shall be subject to approval by the city.
(Code 1965, § 22-9.)

16.24.080 Layout of sidewalks.
All subdivision projects shall be required to install sidewalks in accordance with Section 12.16.020 of this Code.
(Code 1965, § 22-9.1.)

Chapter 16.28 IMPROVEMENTS
Sections:
16.28.010 Sewer lines generally.
16.28.020 Water lines generally.
16.28.030 Gas supply.
16.28.040 Curbs, gutters, pavements, sidewalks, sewers, etc., to be installed at expense of subdivider.
16.28.050 Water, sewer and gas lines to conform to approved grades.
16.28.060 Utility easements.
16.28.070 Off-street parking areas.

16.28.010 Sewer lines generally.
Where a sewer line is constructed or laid within a street or road in a subdivision, the subdivider shall install a four-inch sewer line to property line of each lot within the subdivided area. All sanitary sewer lines, appurtenances and service connections shall be constructed or laid, prior to paving, to the grade established by the city engineer and shall be of such size and design as he designates.
(Code 1965, § 22-10.)

16.28.020 Water lines generally.
Water shall be provided from a common source and water mains shall be constructed to serve each lot within the subdivided area and shall be of such size and design as designated by the superintendent or engineer of the agency furnishing water services, and where such water mains are constructed or laid within a street or lot, the subdivider shall install a water line not less than one inch in diameter to the property line of each lot within the subdivided area, all such water lines, appurtenances and service connections shall be constructed or laid, prior to paving, to the
grade established by the city engineer, and shall be of such size and design as designated by the superintendent or engineer of the agency furnishing water service.
(Code 1965, § 22-11.)

16.28.030 Gas supply. Gas for heating and cooking purposes shall be provided from a common source or sources, and gas mains shall be constructed to serve each lot within the subdivided area. Where such gas mains are constructed or laid within a street, all such gas mains shall be constructed or laid, prior to paving, to the grade established by the city engineer, and shall be of such size and design as designated by the superintendent or engineer of the agency furnishing such gas service. In situations where the laying and installation of service laterals subsequent to paving may become necessary and expedient, the subsequent laying of laterals for gas service shall be done in such manner that the paving shall not be cut, except where boring under the street paving would not be feasible, such feasibility to be determined exclusively by the superintendent or engineer of the agency furnishing such gas service.
(Code 1965, § 22-12.)

16.28.040 Curbs, gutters, pavements, sidewalks, sewers, etc., to be installed at expense of subdivider.
A. All curbs, gutters, pavements, sidewalks, sanitary sewers, water mains, culverts, etc., if required by the city engineer, and fire hydrants shall be installed in subdivisions at the cost of the subdivider.
B. Supplemental Capacity. The planning commission or city council may require that improvements installed by the subdivider for the benefit of the subdivision contain supplemental size, capacity or number for the benefit of property not within the subdivision and that such improvements be dedicated to the public.
C. Reimbursements for Supplemental Capacity.
1. In the event the improvements constructed by the subdivider are required to contain supplemental capacity for the benefit of property not within the subdivision, the city shall enter into an agreement with the subdivider to reimburse or to require the reimbursement of the subdivider for that portion of the cost of such improvements equal to the difference between the amount it would have cost the subdivider to install such improvements to serve the subdivision only and the actual costs of such improvements, together with such other charges as may be acceptable to the city, or as set forth in the condition of approval for the proposed development.
2. In order to pay the costs required by a reimbursement agreement, the city shall collect from other persons, including public agencies, using or making use of such improvements for the benefit of real property not within the subdivision, a reasonable charge for such use, as determined by the city engineer.
3. The term of reimbursement agreement shall be for a maximum period of ten years.
(Code 1965, § 22-13.)

16.28.050 Water, sewer and gas lines to conform to approved grades. Water, sewer, and gas lines in subdivisions shall conform to grades approved by the city engineer.
(Code 1965, § 22-14.)
16.28.060 Utility easements.
Where alleys are not required, utility easements fifteen feet in width shall be provided generally through the interior of the block and in approximately the location that would be occupied by an alley in the subdivision. If the easement parallels the boundary of a subdivision along which no contiguous easement exists, the utility easement shall be ten feet in width.
(Code 1965, § 22-15.)

16.28.070 Off-street parking areas.
Special areas for off-street parking of motor vehicles, offered for dedication or to be otherwise reserved for public use in connection with proposed business, industrial, unlimited multiple residential, or institutional property in subdivisions, shall be subject to determination by the city as to size, location, shape, and adequacy and shall generally conform to the zoning ordinance.*
(Code 1965, § 22-16.)
* See Title 17 of this volume.

Chapter 16.32 MERGER OF CONTIGUOUS PARCELS

Sections:
16.32.010 Authority for merger of contiguous parcels.
16.32.020 Owner-initiated merger of contiguous lots or parcels.
16.32.030 Form of petition.
16.32.040 City-initiated mergers of contiguous lots or parcels.
16.32.050 Findings.
16.32.060 Recordation of instrument evidencing the merger.
16.32.070 Failure to conform to procedures--Application may be voided.
16.32.080 Merger application processing fee.

16.32.010 Authority for merger of contiguous parcels.
Notwithstanding Chapter 16.08 of this title, except as may otherwise be provided for in this section, two or more, but less than five contiguous parcels or lots of subdivided real property which have been created under the provisions of the Subdivision Map Act of the California Government Code or any prior law regulating the division of land, or a city ordinance enacted pursuant thereto, or which were not subject to those provisions at the time of their creation, may be merged without a reversion to acreage and an associated parcel map, under the authority of Section 66499.20 3/4 of the Subdivision Map Act of the California Government Code.
(Code 1965, § 22-79.)

16.32.020 Owner-initiated merger of contiguous lots or parcels.
The owner(s) of any two or more, but less than five, contiguous lots or parcels may request a merger of said lots or parcels upon the submittal of a petition of all the owners of record of the real property in question requesting such merger, and by filing with the community development director an application for owner-initiated merger and waiver of parcel map, on a form provided by the community development department. All owners must have an interest in each of the parcels sought to be merged. The petition and application shall be processed and the request approved, denied and/or appealed in accordance with the provisions of Title 17 of this Code.
(Code 1965, § 22-80.)
16.32.030 Form of petition.
The petition cited in Section 16.32.020 shall contain the following information:
A. Evidence of title (e.g. grant deeds and title report) to all of the parcels of real property
   involved in the merger.
B. Written consent of all the owners of interest(s) in all of the parcels of real property involved
   in the merger. The consent shall be notarized.
C. An exhibit, drawn to a standard engineering scale, delineating the existing parcel boundaries
   and the location of any existing structures and easements; and delineating the boundaries of the
   parcel after the merger.
D. Evidence of any variances, encroachment permits, or other evidence of entitlement to
   deviation from existing zoning law requirements.
E. Evidence of legal and physical access to the parcel and evidence that access to adjoining lots
   and parcels will not be eliminated or restricted by the merger.
F. Evidence that all property taxes are current for all of the affected parcels.
G. After receipt of the petition, applicant may be required to provide such other pertinent
   information as may be determined by the community development director and/or the city
   engineer to be needed for the proper processing of the application. Such additional information
   may include, but is not limited to the following: topographic data, data relative to drainage
   conditions or flood hazards, relative location of public facilities and improvements, information
   relative to the potential environmental impact of the merger, record survey, etc.
(Code 1965, § 22-81.)

16.32.040 City-initiated mergers of contiguous lots or parcels.
The community development director shall initiate the process to merge into a single lot or
parcel any two or more, but less than five, contiguous lots or parcels of land which are held by
the same owner, prior to any land use approval, or the issuance of any building permits on said
lots or parcels if no land use approval is required, when any one or more of the following
conditions apply:
A. Any one or more of the contiguous lots or parcels held by the same owner does not conform
   to the minimum parcel size and/or dimensional standards set forth for the zoning district in
   which such lots or parcels are located.
B. One or more of the parcels or lots is developed, or will be developed, with a single primary
   structure, that is also partially sited on a contiguous lot or parcel under the same ownership.
C. One or more of the parcels or lots is developed, or will be developed, with a primary use or
   structure that will be partially or wholly sited on a contiguous lot or parcel under the same
   ownership.
D. Merger is required by the city as a condition of any land use approval or for the issuance of
   any permit.
(Code 1965, § 22-82.)

16.32.050 Findings.
The real property described in Sections 16.32.020 and 16.32.040 may only be merged when the
community development director finds that:
A. The lots to be merged are, at the time of merger, under common ownership and all owners
   having an interest in the real property to be merged have consented to the merger, in writing;
B. The parcel(s) or lot(s) to be created by the merger meet or exceed the minimum dimensions and area as to size established by the zoning district in which said lots or parcels are located, or a variance thereto has been granted;

C. The lot or parcel to be created by the merger has legal and physical access, and access to adjoining lots or parcels will not be eliminated or restricted by the merger;

D. All property taxes are current for all affected parcels. Any delinquent property taxes have been paid on all affected lots/parcels which are the subject of the merger;

E. It clearly appears from the record, as determined by the community development director, that any easements of record affecting the lots or parcels to be merged, or for adjoining lots or parcels, will not be restricted or eliminated by the merger. Alternatively, where it appears from the record, as determined by the community development director, that any such easement may be restricted or eliminated, a written, notarized, statement of noninterference has been received from the easement holder;

F. No new lot lines will be created through the merger.

(Code 1965, § 22-83.)

16.32.060 Recordation of instrument evidencing the merger.
Upon the granting of a merger by the community development director, a certificate of compliance shall be prepared by the applicant. Such certificate shall be subject to review and approval by the engineering department.

A. The planning department shall provide the applicant with the form for the certificate of compliance. Applicant shall complete the form and return it to the planning department. Such certificate shall be subject to review and approval by the engineering department.

B. When the certificate has been completed and approved as set forth hereinabove, the certificate shall be filed with the city clerk, who shall be responsible for recording the document with the county recorder of the county of Riverside.

C. A certificate of compliance shall not be recorded if any of the subject lots or parcels is subject to delinquent taxes. The applicant shall have ten days following date of notice of such delinquency by the planning department to present evidence of such payment.

D. The recorded certificate of compliance shall be returned to the planning department, which shall forward same to applicant;

E. Applicant shall cause to be prepared a deed, or such other document of title as may be made to appear in the record chain of title for the newly created parcel, bearing a description thereof which is in conformance with the merger. The applicant shall be responsible for the accuracy of the legal description appearing on such document. The applicant shall record the document with the Riverside County recorder. Applicant shall submit a conformed copy of such document to the planning department within ninety days following date of mailing of the certificate of compliance to the applicant by the planning department.

(Code 1965, § 22-84.)

16.32.070 Failure to conform to procedures—Application may be voided.
Failure by the applicant to conform to any of the procedures or time limits set forth herein may result in the voiding of the merger application.

(Code 1965, § 22-83.)

16.32.080 Merger application processing fee.
Applicant may be charged a reasonable fee, in an amount not to exceed the costs as determined by the city manager, or processing the merger application.

(Code 1965, § 22-86.)

Chapter 16.33 TENTATIVE MAP EXTENSIONS
Sections:
16.33.010 General.
16.33.020 Pending litigation.
16.33.030 City right to condition or deny approval.

16.33.010 General.
Upon formal application by the subdivider submitted prior to the expiration of the tentative map, the city council may approve an extension to the tentative map for a period, or periods, as stipulated in the Subdivision Map Act. A public hearing shall be required.

(Ord. No. 1384, § 3.E, 3-5-08)

16.33.020 Pending litigation.
If a lawsuit involving an approved or conditionally approved tentative map is pending, the city council may upon request of the subdivider by formal application stay the approval period of the tentative map for up to five years in accordance with Government Code § 66452.6(c). A public hearing shall be required.

(Ord. No. 1384, § 3.E, 3-5-08)

16.33.030 City right to condition or deny approval.
A. This chapter does not enlarge or diminish the types of conditions which the city may impose on a development or diminish or alter the city power to protect against a condition dangerous to the public health or safety (Government Code § 66498.6).
B. The city may condition or deny a permit approval extension or entitlement relating to a vesting tentative map if it determines that either the failure to do so would place the residents of the subdivision or the community in a condition dangerous to their health, or safety or the condition or denial is required to comply with state or federal law (Government Code §66498.1(c)).

(Ord. No. 1384, § 3.E, 3-5-08)

Chapter 16.34 CITY ENGINEER REVIEW AND APPROVAL OF FINAL AND PARCEL MAPS
Sections:
16.34.010 Final maps.
16.34.020 Parcel maps.
16.34.030 Amendments.

16.34.010 Final maps.
The city engineer in consultation with the community development department shall review the final map to determine if it conforms to the approved tentative map conditions, the Subdivision Map Act, and this Code. The subdivider shall make corrections and additions until the map is acceptable to the city engineer. The city engineer shall apply the development standards of the
city, the provisions of the Subdivision Map Act and the subdivisions code in order to determine what is acceptable, or not, for final maps.
(Ord. No. 1384, § 3.F, 3-5-08)

16.34.020 Parcel maps.
The city engineer in consultation with the community development director shall review the parcel map to determine if it conforms to the approved tentative map conditions, the Subdivision Map Act, and the Subdivisions Code. The subdivider shall make corrections and additions until the map is acceptable to the city engineer. The city engineer shall apply the development standards of the city, the provisions of the Subdivision Map Act and this Code in order to determine what is acceptable, or not, for parcel maps.
(Ord. No. 1384, § 3.F, 3-5-08)

16.34.030 Amendments.
After a final or parcel map is filed in the office of the county recorder it may be amended by a certificate of correction or an amending map in accordance with Article 7 of the Subdivision Map Act.
(Ord. No. 1384, § 3.F, 3-5-08)

Chapter 16.35 CERTIFICATE OF COMPLIANCE

Sections:
16.35.010 [Request for determination.]
16.35.020 [Filing of certificate of compliance.]
16.35.030 [City right to impose conditions.]

16.35.010 [Request for determination.]
A person owning real property or a vendee of such person under a contract of sale may request the community development department to determine whether the real property complies with the provision of the Subdivision Map Act and the subdivisions code. A written application for a certificate of compliance shall be accompanied by a current title report showing the names of all persons or parties having any record title interest in the real property.
(Ord. No. 1384, § 3.G, 3-5-08)

16.35.020 [Filing of certificate of compliance.]
If the community development director determines that the real property complies with the provision of the Subdivision Map Act and the Subdivisions Code, the city shall file a certificate of compliance for recordation with the county recorder. The certificate of compliance shall identify the real property and shall state that the division of the real property complies with the provisions of the Subdivision Map Act and the subdivisions code.
(Ord. No. 1384, § 3.G, 3-5-08)

16.35.030 [City right to impose conditions.]
If the community development director determines that the real property does not comply with the provisions of the Subdivision Map Act or the subdivisions code, the community development director may as a condition to granting a conditional certificate of compliance impose conditions in accordance with Government Code § 66499.35, except that where the applicant was the owner
of record at the time of the initial violation and the current owner of record of one or more parcels which were created as a result of the violation then the city may impose any conditions that would be applicable to a current division of the property. Upon the community development director making such a determination and establishing such conditions, the city shall file a conditional certificate of compliance for recordation with the county recorder. The certificate shall serve as notice to the property owner and any successor that the fulfillment and implementation of such conditions shall be required before subsequent issuance of a permit or other grant of approval for development of the property. Compliance with such conditions is not required until the city issues a permit or other grant of approval for development of the property. (Ord. No. 1384, § 3.G, 3-5-08)
ATTACHMENT 3

Public Hearing Notice
NOTICE OF PUBLIC HEARING

PURSUANT TO LAW, NOTICE IS HEREBY GIVEN of a Public Hearing before the City Council of the City of Banning, to be held at a regular City Council Meeting on Tuesday, March 23, 2010, at 6:30 p.m. in the Council Chambers, City Hall, 99 East Ramsey Street, Banning, California, to consider the following:

Revised Ordinance No. 1420 approving Zone Text Amendment No. 09-97506 to amend Table 17.44.010 of Section 17.44.010 regarding review authority for Tentative Parcel Maps and Amendments to Municipal Code Title 16 Subdivisions providing additional requirements regarding noticing and public hearing and time line under the Subdivision Map Act pertaining to Tentative Maps.

Information regarding the foregoing can be obtained by contacting the City's Planning Department at (951) 922-3125, or by visiting the City Hall located at 99 East Ramsey Street, Banning.

All parties interested in speaking either in support of or in opposition to any item are invited to attend said hearing, or to send their written comments to the City Clerk of the City of Banning at P.O. Box 998, Banning, California 92220.

If you challenge any decision regarding the above proposal in court, you may be limited to raising only those issues you or someone else raised in written correspondence delivered to the City Clerk at, or prior to, the time the City Council makes its decision on the proposal; or, you or someone else raised at the public hearing or in written correspondence delivered to the hearing body at, or prior to, the hearing (California Government Code, Section 65009).

BY ORDER OF THE CITY CLERK OF THE CITY OF BANNING, CALIFORNIA.

Marie A. Calderon
City of Banning

Date: March 8, 2010
Publish: March 12, 2010
DATE: March 23, 2010

TO: Honorable Mayor and City Council

FROM: Andy Takata, City Manager

SUBJECT: Temporary Suspension of Development Impact Fees for Residential and Non-Residential Development

RECOMMENDATION:
Adopt Resolution No. 2010-20 approving a temporary suspension of development impact fees for residential and non-residential development by 50% for up to 150 permits or for a temporary period of one year, which ever comes first.

JUSTIFICATION:
At the January 26, 2010 City Council meeting, the City Council directed staff to work with the Riverside Chapter of Building Industry Association (BIA) to come up with an acceptable level of development impact fee reduction for the development community.

BACKGROUND/DISCUSSION:
On January 26, 2010, the City Council held a public hearing and received a recommendation from staff to continue the current deferral of the collection of development impact fees at project occupancy. A copy of the January 26th staff report is attached. During the public hearing, Bill Blankenship, Deputy Director of the Riverside Chapter of Building Industry Association (BIA) requested that the City Council postpone the hearing on this matter so that the BIA could work with staff to come up with a recommendation that is palatable to the building industry.

Staff met with the BIA representatives, including Bill Blankenship and Mark Knorrina, Chief Executive Officer on February 25, 2010. BIA is agreeable to the 50% reduction in development impact fees for a one year period provided that reduction is tied to the total number of permits that is greater than 100 permits. This request is similar to the City of Menifee’s program where the City of Menifee approved a 50% reduction in development impact fees and up to 500 permits (see Exhibit A of the January 26th staff report).

Based on the discussion with BIA, staff proposes that the City Council adopt a resolution approving a temporary 50% reduction of development impact fees for residential and non-residential development for up to 150 permits or for the time period of one year, which ever comes first.
The total number of permits is determined based on the existing developments that could potentially come on line should the economy rebound. One of the developments is Tract Map No. 30906 (formerly “Fiesta Development”). This tract is located off of Mountain Avenue and north of Wilson Street. The tract has 303 lots, with 31 homes constructed prior to the foreclosure. Staff proposes using nearly half of the number of lots (150 permits) within this development as a gauge for the number of permits proposed for the 50% reduction in the development impact fees. Should the City Council approve staff’s recommendation, any developer could take advantage of this program should their construction plans be approved and ready for issuance of building permits.

CONCLUSION:
Staff recommends that the City Council adopt Resolution No. 2010-20 approving a temporary 50% reduction of development impact fees for residential and non-residential development for up to 150 permits or for the time period of one year, whichever comes first.

FISCAL DATA:
The development impact fees that would be affected by this recommendation are limited to police, fire, traffic, parks, and general facility fees. Based on a 1,500-square foot home, the full impact fees for 150 permits is $1,452,300. The 50% reduction for 150 permits is $726,150.00. This cost would have to be absorbed by future development or through the general fund if there is inadequate funding resulting from this fee reduction.

APPROVED BY:  
Andy Takata  
City Manager

PREPARED BY:  
Zai Abu Bakar  
Community Development Director

REVIEWED BY:  
Kirby Warner  
Interim Finance Director

REVIEWED BY:  
Diane Burk  
Public Works Director

Attachments:
1. Resolution No. 2010-20
RESOLUTION NO. 2010-20

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BANNING, CALIFORNIA, APPROVING A TEMPORARY FIFTY
PERCENT (50%) REDUCTION OF DEVELOPMENT IMPACT
FEES FOR RESIDENTIAL AND NON-RESIDENTIAL
DEVELOPMENT FOR UP TO 150 PERMITS OR FOR THE TIME
PERIOD OF ONE YEAR, WHICHEVER COMES FIRST.

WHEREAS, the City of Banning Municipal Code provides among other things that all fees and
charges including Development Impact Fees ("DIFs") be fixed by resolution of the City Council; and

WHEREAS, the City has adopted DIFs for residential and non-residential development in order to
mitigate impacts on public facilities as necessary to protect health, safety, and welfare of the public. The
DIFs are currently established pursuant to (i) the authority of the City Council Resolution No. 2006-75 and
its supporting “Development Impact Fee Study” by which the Council duly adopted DIF rates on August 8,
2006, (ii) Resolution No. 2009-32 by which DIF collections on residential developments were deferred
without any change in rates on April 28, 2009, and (iii) Resolution No. 2009-52 by which DIF collections
on commercial/industrial developments were deferred without any change in rates on June 23, 2009 (all
such enactments are collectively referenced herein as the “Existing Authorities”). A true and correct copy of
the Existing Authorities is attached as Attachment “1” to Exhibit “A” of this resolution; and

WHEREAS, a list of full DIF amounts as adopted under the Existing Authorities is attached
hereto as Exhibit “A”. The DIF amounts in Exhibit “A” are the full amount of the adopted DIFs; and

WHEREAS, the City has experienced a steep downturn in development activities due to the
current economic factors and conditions; and

WHEREAS, given the need to promote economic development during the slowdown in the
economy, the City Council finds that temporary and partial suspension of DIFs is in the best interest of
the City; and

WHEREAS, on January 11, 2010, the City gave a public notice to the agencies, organizations,
and persons requesting notification in accordance with the Mitigation Fee Act as described in
Government Code Sections 66000-66025; and

WHEREAS, on the 15th day of January 2010 and the 22nd day of January 2010, the City gave
public notice as required by Section 3.36.050 of the Banning Municipal Code by advertising in the
Record Gazette newspaper of the holding of a public hearing at which the development impact fee
suspension would be considered; and

WHEREAS, on January 26, 2010, the City Council held a duly noticed public meeting at which
interested persons had an opportunity to testify in support of, or opposition to the development impact
fee suspension and at which time the City Council considered the matter; and

CC RESOLUTION NO. 2010-20

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WHEREAS, at the January 26, 2010 City Council public hearing, the Riverside County Chapter of the Building Industry Association ("BIA") requested that the City Council continue the public hearing so that its representatives could work with City staff to present an alternative that is palatable to the building community.

WHEREAS, City staff met with the Riverside County Chapter of the BIA and discussed the possible alternatives on February 25, 2010.

WHEREAS, on March 9, 2010, the City gave a public notice to the agencies, organizations, and persons requesting notification in accordance with the Mitigation Fee Act as described in Government Code Sections 66000-66025; and

WHEREAS, on the 12th day of March 2010 and the 19th day of March 2010, the City gave public notice as required by Section 3.36.050 of the Banning Municipal Code by advertising in the Record Gazette newspaper of the holding of a public hearing at which the development impact fee suspension would be considered; and

WHEREAS, on March 23, 2010, the City Council held a duly noticed public meeting at which interested persons had an opportunity to testify in support of, or opposition to the development impact fee suspension and at which time the City Council considered the matter; and

WHEREAS, the City Council has analyzed this proposed project and has determined that it is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the CEQA Guidelines because the proposed fees provide one means of mitigating potential environmental impacts which have been identified in environmental analyses of other planning efforts, including the General Plan EIR and the City of Banning Specific Plan EIR, among others.

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

Section 1. Suspension. The City Council hereby determines with the adoption of Resolution No. 2010-20 that effective on March 23, 2010, the current DIFs for both residential and non-residential development as referenced herein as Exhibit "A" be suspended by 50% for a one-year period or not to exceed 150 building permits, whichever comes first. This suspension of development impact fees shall not effect an amendment or modification of the existing fees or any other existing City enactment. At the end of the one-year suspension period or by 150 building permits, whichever comes first, the existing impact fees (as adopted by the City Council on August 8, 2006) will continue in full effect without any change, increase or modification.

Section 2. This resolution shall be in full force and effect for one (1) year commencing from the effective date of this Resolution or issuance of up to 150 building permits, which ever comes first. If the reduced fees are paid at issuance of building permits and either the development application or the building permit expires subsequent to the building permit application, then the same parcel shall be subject to the full fee unless the temporary suspension period is still in effect at the time the subsequent application is made.
PASSED, APPROVED AND ADOPTED this 23rd day of March 2010.

Robert E. Botts, Mayor
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

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

ATTEST:

Marie A. Calderon, City Clerk
City of Banning

CERTIFICATION:
I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2010-20, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 23rd day of March 2010, by the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

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

CC RESOLUTION NO. 2010-20
RESOLUTION NO. 2010-02

EXHIBIT "A"

FULL & CURRENT RATES OF DEVELOPMENT IMPACT FEES
AS ADOPTED UNDER EXISTING AUTHORITIES
**DEVELOPMENT IMPACT FEES ADOPTED UNDER EXISTING AUTHORITIES**

The following schedule of Development Impact Fees ("DIFs") was adopted by the Council on August 8, 2006 pursuant to City Council Resolution No. 2006-75 and its supporting "Development Impact Fee Study," and subject to two deferrals in collection adopted on April 28, 2009 and June 23, 2009 (collectively, the "Existing Authorities"). A true and correct copy of the Existing Authorities is attached hereto as Attachment "1".

**FIRE FACILITIES:**

- **Residential (per Housing Unit):**
  - Single Family Detached: 1,335.00
  - Townhouse/Duplex: 1,335.00
  - Multi-Family: 1,335.00
  - Mobile Home: 1,335.00

- **Nonresidential:**
  - Com/Shopping Ctr 50,000 SF or less: 579.00
  - Com/Shopping Ctr 50,001-100,000 SF: 506.00
  - Com/Shopping Ctr 100,001-200,000 SF: 450.00

- **SF:**
  - Com/Shopping Ctr over 200,001 SF: 405.00
  - Office/Inst 25,000 SF or less: 841.00
  - Office/Inst 25,001-50,000 SF: 792.00
  - Office/Inst 50,001-100,000 SF: 748.00
  - Medical-Dental Office: 821.00
  - Hospital: 685.00
  - Business Park: 640.00
  - Light Industrial: 468.00
  - Manufacturing: 363.00
  - Warehousing: 259.00
  - Elementary School: 186.00

- **Other Nonresidential:**
  - Lodging (per room): 144.00
  - Day Care (per student): 32.00
  - Nursing Home (per bed): 73.00

**POLICE FACILITIES:**

- **Residential (per Housing Unit):**
  - Single Family Detached: 823.00
  - Townhouse/Duplex: 626.00
  - Multi-Family: 913.00
  - Mobile Home: 500.00

- **Nonresidential (per 1,000 SF):**
  - Com/Shopping Ctr 50,000 SF or less: 472.00
  - Com/Shopping Ctr 50,001-100,000 SF: 413.00
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<tr>
<th>Service/Use</th>
<th>Rate</th>
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<tbody>
<tr>
<td>Com/Shopping Ctr 100,001-200,000</td>
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<tr>
<td>SF</td>
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<td>Com/Shopping Ctr over 200,001 SF</td>
<td>307.00</td>
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<tr>
<td>Nonresidential (per 1,000 SF)</td>
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<tr>
<td>Office/Inst 25,000 SF or less</td>
<td>192.00</td>
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<tr>
<td>Medical-Dental Office</td>
<td>379.00</td>
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<td>Hospital</td>
<td>184.00</td>
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<tr>
<td>Business Park</td>
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<td>Light Industrial</td>
<td>73.00</td>
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<tr>
<td>Manufacturing</td>
<td>40.00</td>
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<td>Warehousing</td>
<td>52.00</td>
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<td>Elementary School</td>
<td>152.00</td>
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<tr>
<td>Other Nonresidential</td>
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<tr>
<td>Lodging (per room)</td>
<td>95.00</td>
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<tr>
<td>Day Care (per student)</td>
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<tr>
<td>Nursing Home (per bed)</td>
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<td>TRAFFIC CONTROL FACILITIES:</td>
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<td>Single Family Detached</td>
<td>250.00</td>
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<tr>
<td>Townhouse/Duplex</td>
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<td>Multi-Family</td>
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<td>Nonresidential (per 1,000 SF)</td>
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<tr>
<td>Com/Shopping Ctr 50,000 SF or less</td>
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<td>349.00</td>
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<tr>
<td>Medical-Dental Office</td>
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<td>Hospital</td>
<td>459.00</td>
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<tr>
<td>Business Park</td>
<td>333.00</td>
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<tr>
<td>Light Industrial</td>
<td>182.00</td>
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<td>Warehousing</td>
<td>130.00</td>
</tr>
<tr>
<td>Elementary School</td>
<td>379.00</td>
</tr>
<tr>
<td>Other Nonresidential</td>
<td></td>
</tr>
<tr>
<td>Lodging (per room)</td>
<td>238.00</td>
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<tr>
<td>Day Care (per student)</td>
<td>117.00</td>
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<tr>
<td>Nursing Home (per bed)</td>
<td>62.00</td>
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**PARKLAND:**

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<tr>
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<tbody>
<tr>
<td>Single Family Detached</td>
<td>1,955.00</td>
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<tr>
<td>Townhouse/Duplex</td>
<td>1,485.00</td>
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<tr>
<td>Multi-Family</td>
<td>2,168.00</td>
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<td>Mobile Home</td>
<td>1,187.00</td>
</tr>
<tr>
<td>Commercial / Industrial, per acre</td>
<td>1,233.00</td>
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</tbody>
</table>

**GENERAL CITY FACILITIES:**

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<tr>
<th>Residential (per Housing Unit)</th>
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</thead>
<tbody>
<tr>
<td>Single Family Detached</td>
<td>478.00</td>
</tr>
<tr>
<td>Townhouse/Duplex</td>
<td>363.00</td>
</tr>
<tr>
<td>Multi-Family</td>
<td>530.00</td>
</tr>
<tr>
<td>Mobile Home</td>
<td>290.00</td>
</tr>
<tr>
<td>Nonresidential (per 1,000 SF)</td>
<td></td>
</tr>
<tr>
<td>Com/Shopping Ctr 50,000 SF or less</td>
<td>208.00</td>
</tr>
<tr>
<td>Com/Shopping Ctr 50,001-100,000 SF</td>
<td>182.00</td>
</tr>
<tr>
<td>Com/Shopping Ctr 100,001-200,000</td>
<td>162.00</td>
</tr>
<tr>
<td>SF</td>
<td></td>
</tr>
<tr>
<td>Com/Shopping Ctr over 200,001 SF</td>
<td>146.00</td>
</tr>
<tr>
<td>Office/Inst 25,000 SF or less</td>
<td>302.00</td>
</tr>
<tr>
<td>Office/Inst 25,001-50,000 SF</td>
<td>285.00</td>
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<tr>
<td>Office/Inst 50,001-100,000 SF</td>
<td>269.00</td>
</tr>
<tr>
<td>Medical-Dental Office</td>
<td>295.00</td>
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<tr>
<td>Hospital</td>
<td>246.00</td>
</tr>
<tr>
<td>Business Park</td>
<td>230.00</td>
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<tr>
<td>Light Industrial</td>
<td>168.00</td>
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<tr>
<td>Manufacturing</td>
<td>130.00</td>
</tr>
<tr>
<td>Warehousing</td>
<td>93.00</td>
</tr>
<tr>
<td>Elementary School</td>
<td>67.00</td>
</tr>
<tr>
<td>Other Nonresidential</td>
<td></td>
</tr>
<tr>
<td>Lodging (per room)</td>
<td>52.00</td>
</tr>
<tr>
<td>Day Care (per student)</td>
<td>12.00</td>
</tr>
<tr>
<td>Nursing Home (per bed)</td>
<td>26.00</td>
</tr>
</tbody>
</table>
Attachment 1 to Exhibit "A".

"Existing Authorities"
CITY COUNCIL AGENDA
PUBLIC HEARING

DATE: August 8, 2006

TO: City Council

FROM: Duane Burk, Director of Public Works


RECOMMENDATION: That the City Council adopt Resolution No. 2006-75, “Adopting the Impact Fee Study as Prepared by Tischler Bise, and Repealing Resolution Nos. 1992-27 (General Facilities and Traffic Control Facilities Fee), 1995-17 (Fire Facilities Fee), 1995-18 (Police Facilities Fee), and 1995-19 (Park Development Fee)”

JUSTIFICATION: The City’s Development Impact Fees have not been increased since 1995. It is essential that the City adopt this Resolution so that the proper Impact Fees can be charged to developers at the time of building permit issuance, in order to support the General Plan and the master plans of the affected facilities.

BACKGROUND & ANALYSIS: In 1989, the City added Chapter 22 to the Banning Municipal Code. Chapter 22D, pursuant to Ordinance No. 958, established park development Impact Fees assessed as a condition of new residential, commercial and industrial development to pay for the costs incurred by the City in acquiring, improving, and expanding park land and open space areas. Ordinance Nos. 986, 987, and 1057 were adopted in 1990 and 1992, establishing development Impact Fees for Fire Facilities, Police Facilities, General Facilities and Traffic Control Facilities.

Under these ordinances, the City’s master plans for parks, traffic signals, police facilities, fire facilities, and general facilities have defined the amount of money needed in order to offset the cost of future expansion of City facilities, which are necessary to accommodate growth. The Impact Fees were reviewed and adjusted in 1992 and 1995 by Resolution Nos. 1992-27, 1995-17, 1995-18, and 1995-19, as shown as Exhibit “D”, and there have been no adjustments since then. The City contracted with Maximus (consultant) to conduct a detailed study for Impact Fees. Due to some changes within the company’s personnel, the City reassigned the contract with Tischler Bise (consultant) in 2005 to complete the Impact Fee study. At this time, staff is recommending that the Impact Fees as calculated by Tischler Bise, as shown as Attachment 1 and summarized in Exhibit “B”, be implemented. A Public Hearing is required to amend Impact Fees and the Notice of Public Hearing was advertised on July 28, 2006, shown herewith as Exhibit “A”. The Impact Fee Study report was made available at the Office of the City Clerk and at the Engineering Division’s counter. Also, as a courtesy prior to this meeting, staff contacted the Building Industry Association (BIA) and as many potential developers as possible via the e-mail list (Attachment 2), to inform them of their future expected financial impact.

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The proposed/recommended Impact Fees are attached herewith as Exhibit “B” along with the existing Impact Fees charged for various types of residential housing developments or commercial developments. Based on the General Plan that was approved by the City Council on January 31, 2006, it is estimated that 220 and 550 residential housing units will be built in the City of Banning during Fiscal Years 2006/2007 and 2007/2008, respectively. Increases in each Impact Fee from Fiscal Year 2005/2006 to 2006/2007, based on an estimated 220 new residential housing units, are shown as Exhibit “C”. The extent of commercial/industrial development is unknown at this time; therefore, for the purpose of estimating the additional revenue, staff utilized the estimated numbers for residential development only.

The methodology for assessing the Park Development fee has changed. The new methodology shifts the impact solely to residential development. As a result, the consultant has recommended eliminating the park land development fee for non-residential development.

If approved, these development Impact Fees, as attached as Exhibit “B”, would be effective within 60 days of the adoption of this resolution. The Impact Fees will be reviewed annually. Pursuant to the Building Cost Index and industry standards, we anticipate an increase every three to five years.

FISCAL DATA: Exhibit “C” reflects potential additional revenue generation of approximately $567,564 annually for Fiscal Year 2006/2007 for a single family development with the implementation of the Impact Fees at levels set forth in the study. These additional revenue estimates are based upon assumptions of an additional 220 housing units for Fiscal Year 2006/2007. Actual net revenue may vary depending on housing market conditions.

RECOMMENDED BY:
Duane Burk
Director of Public Works

REVIEWED BY:
Bonnie Johnson
Director of Finance

REVIEWED BY:
Chris Mollen
Community Services Director

APPROVED BY:
Randy Auhseine
City Manager

REVIEWED BY:
John Horton
Chief of Police

REVIEWED BY:
Ted Yarbrough
Fire Marshal
RESOLUTION NO. 2006-75


WHEREAS, on March 28, 1989, the City Council adopted Ordinance No. 958, establishing a Park Development Fee and amending Section 22D of the Municipal Code of the City of Banning, entitled “Open Space and Park Fee”; and

WHEREAS, on November 27, 1990, the City Council adopted Ordinance Nos. 986 and 987, establishing a Fire Facilities Development Fee and a Police Facilities Development Fee, respectively; and

WHEREAS, on January 28, 1992, the City Council adopted Ordinance No. 1057, adding Sections 22E-3 (General City Facilities Fee) and 22E-4 (Traffic Control Facilities Fee) to the Banning Ordinance Code; and

WHEREAS, the City Council readjusted development Impact Fees in 1992 and 1995 by adopting Resolution Nos. 1992-27 (General Facilities and Traffic Control Fees), 1995-17 (Fire Facilities Fee), 1995-18 (Police Facilities Fee), and 1995-19 (Park Development Fee), pursuant to Chapters 22D and 22E of the Municipal Code of the City of Banning, respectively entitled “Open Space and Park Fee” and “Miscellaneous Development Fees”; and

WHEREAS, Section 22D-1 of the Banning Municipal Code states that the Park Development Fees are “assessed as a condition of new residential, commercial, and industrial development to pay for the costs incurred by the City in acquiring, improving, and expanding open space areas, scenic drives, parks, playgrounds, and recreational facilities to meet the increased needs for those facilities resulting from the effects of new development in the City”; and

WHEREAS, Section 22E of the Banning Municipal Code states that General, Fire, Police, and Traffic Control facilities fees must be paid by “each owner of an unimproved lot or unimproved parcel of property within the City,” “prior to and as a condition of issuance of a building permit, a [facilities fee] representing the owner’s fair share of the estimated cost of the construction of [facilities] serving the property”; and

WHEREAS, the abovementioned Impact Fees shall be applicable to every new single-family residence, residential dwelling unit, manufactured or mobile home, and commercial or industrial development constructed within the City, per Section 22D-3 of the Banning Municipal Code; and

WHEREAS, the City contracted with Tischoer Bise in 2005 to conduct a detailed cost of services study (copy attached) for Development Impact Fee activities throughout the City. The purpose of the study was to determine what adjustments were necessary in the amounts charged for the Impact Fees to ensure proper cost recovery as required under the Fee Ordinance. The Development Impact Fee Study concluded that the amount charged for the Impact Fees required an adjustment to ensure adequate cost recovery. The table of Impact Fees attached hereto and incorporated herein by

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reference as Exhibit "B" contains the Impact Fee amounts recommended in the Development Impact Fee Study. The Development Impact Fee Study also concluded that none of the recommended Impact Fee amounts exceeded the reasonable cost to the City of providing said regulations; and

WHEREAS, in reviewing the Fee Study, the City has determined that the reasonable costs of providing the facilities reflected in the Impact Fees should be reviewed on an annual basis to comply with the Fee Ordinance, and if the annual review should show that modifications to related costs are necessary, the City would then implement the changes per the Building Construction Index; and

WHEREAS, the City Council finds as follows:

A. The City of Banning's Development Impact Fee Study complies with California Government Code section 66001 by establishing the basis for imposition of fees on new development. In particular, the City of Banning's Development Impact Fee Study:

1. identifies the purpose of the fee.
2. identifies the use to which the fee will be put.
3. shows a reasonable relationship between the fee's use and the type of development project on which the fee is imposed.
4. shows a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed.
5. shows a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.

B. The fees collected pursuant to this resolution shall be used to finance the public facilities described or identified in the City of Banning's Development Impact Fee Study or other public facility master plans as may from time to time be adopted by the City Council of the City of Banning.

C. After considering the specific project descriptions and cost estimates identified in the City of Banning's Development Impact Fee Study, the Council approves such project descriptions and cost estimates, and finds them reasonable as the basis for calculating and imposing certain development Impact Fees.

D. The projects and fee methodology identified in the City of Banning's Development Impact Fee Study are consistent with the City's General Plan.

E. The City of Banning's Development Impact Fee Study is categorically exempt from environmental review pursuant to the California Environmental Quality Act guidelines section 15061 (b)(3). The intent of the study and proposed fees is to provide one means of mitigating potential environmental impacts which have been identified in environmental analyses of other planning efforts, including the General Plan BIR and the City of Banning's Specific Plan BIR, among others.

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

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Section 1. Finding.

The City Council hereby finds, based upon the Fee Study, that the Impact Fee amounts in Exhibit "B": (i) do not exceed the reasonable cost to the City of park development costs and the costs of Police, Fire, Traffic Control, and General facilities, as defined in Section 22E of the Banning Municipal Code, for during Fiscal Year 2006-2007; and (ii) fully recover said costs.

Section 2. Revision of Impact Fee Amounts.

Pursuant to Chapters 29 and 22E of the Banning Municipal Code, the schedule of fee amounts for park development and construction of Police, Fire, Traffic Control, and General facilities, as specified in Exhibit "B", are hereby adopted and implemented.

Section 3. Effective Date.

The Service Fees that are the subject of this Resolution shall be effective 60 days following adoption of the Resolution, which is October 7, 2006.

PASSED, APPROVED AND ADOPTED this 8th day of August, 2006.

John Machisi, Mayor
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

Burke, Williams & Sorenson
City Attorney

ATTEST:

Marie A. Calderon, City Clerk
City of Banning
CERTIFICATION

I, MARIE A. CALDERON, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2006-75 was duly adopted by the City Council of the City of Banning, California at a regular meeting thereof held on the 8th day of August, 2006, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Marie A. Calderon, City Clerk
City of Banning, California
EXHIBIT “A”

NOTICE OF PUBLIC HEARING

FOR

RESOLUTION NO. 2006-75, “ADOPTING THE IMPACT FEE

STUDY AS RECOMMENDED BY TISCHLER BISE AND

IMPLEMENTING THE IMPACT FEES”

RECORD-GAZETTE

JULY 28, 2006

Record Gazette

PUBLIC NOTICES

NOTICE OF PUBLIC HEARING
Pursuant to law, notice is hereby given of a Public Hearing before the City Council of the City of Banning, to be heard August 6, 2006 at 8:00 p.m. at the Banning Civic Center Council Chambers, 90 E. Ramsey St., Banning, California, to consider “Adopting Resolution No. 2006-75 and Amending Ordinance No. 906 and 915 for the Implementation of the Impact Fees.”

All interested parties are invited to attend said hearing and present oral or written testimony on the matter or to send written comments to the City Clerk, P.O. Box 999, Banning, CA 92220. Data relevant to these fees is available for public review at the office of the City Clerk or at the Engineering Division of the Public Works Department, at 90 E. Ramsey St., for the period of 10 days prior to the Public Hearing.

By Order of the City Clerk of the City of Banning, California

- Marie A. Caldeiron
  City Clerk, City of
  Banning, California

Publish The Record Gazette
No. 232
7/28/2006
### EXHIBIT "B"

#### CITYWIDE DEVELOPMENT IMPACT FEES

<table>
<thead>
<tr>
<th></th>
<th>General Facilities</th>
<th></th>
<th>Fire Facilities</th>
<th>Proposed Fee</th>
<th>Police Facilities</th>
<th>Proposed Fee</th>
<th>Park Land</th>
<th>Proposed Fee</th>
<th>Traffic Control Facility</th>
<th>Proposed Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Current Fee</td>
<td>Proposed Fee</td>
<td>Current Fee</td>
<td>Proposed Fee</td>
<td>Current Fee</td>
<td>Proposed Fee</td>
<td>Current Fee</td>
<td>Proposed Fee</td>
<td>Current Fee</td>
<td>Proposed Fee</td>
</tr>
<tr>
<td><strong>Residential (per Housing Unit)</strong></td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
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</tr>
<tr>
<td>Single Family Detached</td>
<td>$0.12 per SF</td>
<td>$478.00</td>
<td>$386.05 *</td>
<td>$1,335 *</td>
<td>$364.11</td>
<td>$823.00</td>
<td>$696.00</td>
<td>$1,365.00</td>
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<td>$1,335 *</td>
<td>$364.11</td>
<td>$823.00</td>
<td>$630.00</td>
<td>$2,168.00</td>
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<td>Mobile Home</td>
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<td>$386.05 *</td>
<td>$1,335 *</td>
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<td>$823.00</td>
<td>$630.00</td>
<td>$2,168.00</td>
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<tr>
<td>Commercial/Shopping Ctr 50,000 SF or less</td>
<td>$0.12 per SF</td>
<td>$208.00</td>
<td>$275.00 per SF **</td>
<td>$876.00 **</td>
<td>$275.00 per SF</td>
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<td>$0.19 per SF</td>
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<td>$275.00 per SF **</td>
<td>$506.00 **</td>
<td>$275.00 per SF</td>
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<td>$641.00 **</td>
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<td>$748.00 **</td>
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<td>$641.00 **</td>
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<td>$275.00 per SF</td>
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<td>$1,233.00</td>
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<td>$0.16 per SF</td>
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<td><strong>Other Nonresidential</strong></td>
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<td>$12.00</td>
<td>-</td>
<td>$22.00 **</td>
<td>-</td>
<td>$47.00</td>
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<td>$17.00</td>
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<td>Nursing Home (per bed)</td>
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<td>-</td>
<td>$73.00 **</td>
<td>-</td>
<td>$24.00</td>
<td>-</td>
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<td>$62.00</td>
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</tbody>
</table>

* A $5 Disaster Planning Fee is also levied
** A $25 Disaster Planning Fee is also levied
**EXHIBIT "C"**

**RESIDENTIAL DEVELOPMENT IMPACT FEES**

<table>
<thead>
<tr>
<th>General Facilities</th>
<th>Fire Facilities</th>
<th>Police Facilities</th>
<th>Park Land</th>
<th>Traffic Control Facility</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Fee</td>
<td>Proposed Fee</td>
<td>Current Fee</td>
<td>Proposed Fee</td>
<td>Current Fee</td>
</tr>
<tr>
<td>Residential (per Housing Unit)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single Family Detached</td>
<td>$0.12 per SF</td>
<td>$478.00</td>
<td>$538.05 *</td>
<td>$1,335 *</td>
</tr>
<tr>
<td>Townhouse/Duplex</td>
<td>$0.12 per SF</td>
<td>$363.00</td>
<td>$538.05 *</td>
<td>$1,335 *</td>
</tr>
<tr>
<td>Multi-Family</td>
<td>$0.12 per SF</td>
<td>$530.00</td>
<td>$538.05 *</td>
<td>$1,335 *</td>
</tr>
<tr>
<td>Mobile Home</td>
<td>$0.12 per SF</td>
<td>$290.00</td>
<td>$538.05 *</td>
<td>$1,335 *</td>
</tr>
</tbody>
</table>

Example: The mitigation impact fee increase for a 1,500-square-foot single-family housing unit is $2,579.84.

Based on an estimated 220-unit increase in 2006/2007, additional revenue would equal $567,654.00.

*A $5 Disaster Planning Fee is also included.*
EXHIBIT "D"

RESOLUTION NOS.
1992-27 (GENERAL FACILITIES/TRAFFIC CONTROL FEES),
1995-17 (FIRE FACILITIES FEE),
1995-18 (POLICE FACILITIES FEE),
and 1995-19 (PARK DEVELOPMENT FEE)
RESOLUTION NO. 1992-27

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING SETTING FORTH THE AMOUNT OF THE GENERAL FACILITIES FEES

IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF BANNING AS FOLLOWS:

SECTION 1:

Pursuant to Section 22E-3 of the Banning Ordinance Code, as General Facilities Fee is hereby established in the amounts as set forth in Exhibit "A", attached hereto and by this reference incorporated herein.

SECTION 2:

This fee shall be assessed commencing on the effective date of Ordinance No. 1057 and shall be reviewed annually by the City Council at its meeting next following January 1st of each year.

PASSED, APPROVED, AND ADOPTED this 28th day of January 1992.

[Signature]
Robert L. Hanson, Mayor
City of Banning, California

APPROVED AS TO FORM AND LEGAL CONTENT

[Signature]
John F. Wilson
City Attorney

ATTEST:

[Signature]
City Clerk of the City of Banning

CERTIFICATION:

I, Lucille M. Elizondo, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 1992-27, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 28th day of January, 1992, by the following vote, to wit:

AYES: Councilmembers Reynolds, Williams, Mayor Hanson
NOES: Councilmembers Garcia, Holbert
ABSENT: None
ABSTAIN: None

[Signature]
Lucille M. Elizondo, City Clerk
City of Banning, California
### TABLE 3  
**CITY OF BANNING**  
**DEVELOPER IMPACT FEE STUDY**  
**SUMMARY OF DEVELOPER IMPACT FEES**  

<table>
<thead>
<tr>
<th>Proposed Land Use</th>
<th>Bridge and Thoroughfare Zone 1 (1)</th>
<th>Bridge and Thoroughfare Zone 2 (2)</th>
<th>Traffic Control Facilities Zone 1 (1)</th>
<th>Traffic Control Facilities Zone 2 (2)</th>
<th>General City Facilities Zone 1 (1)</th>
<th>General City Facilities Zone 2 (2)</th>
<th>Total Fee per Sq. Ft. Zone 1 (1)</th>
<th>Total Fee per Sq. Ft. Zone 2 (2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>$0.93</td>
<td>$0.01</td>
<td>$0.12</td>
<td>$0.12</td>
<td>$1.17</td>
<td>$0.26</td>
<td>$1.43</td>
<td>$0.33</td>
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<tr>
<td>Commercial</td>
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<td>0.02</td>
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<td>0.12</td>
<td>1.03</td>
<td>0.24</td>
<td>1.74</td>
<td>0.33</td>
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<tr>
<td>Industrial</td>
<td>0.80</td>
<td>0.01</td>
<td>0.11</td>
<td>0.12</td>
<td></td>
<td></td>
<td>1.03</td>
<td>0.24</td>
</tr>
</tbody>
</table>

(1) Zone 1 is all property located West of 6th St.  
(2) Zone 2 is all property located East of 6th St.

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**AS OF 22-Jan-92**
ORDINANCE NO. 1057

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING ADDING SECTION 22E-3 AND 22E-4 TO THE BANNING ORDINANCE CODE ESTABLISHING, RESPECTIVELY, A GENERAL CITY FACILITIES FEE AND A TRAFFIC CONTROL FACILITIES FEE

IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF BANNING AS FOLLOWS:

SECTION 1:

Section 22E-3 is hereby added to the Banning Ordinance Code to read as follows:

Section 22E-3: General City Facilities Fee.

(a) Each owner of an unimproved lot or unimproved parcel of property within the city shall pay to the city prior to and as a condition of issuance of a building permit a general city facilities fee representing the owner's fair share of the estimated cost of the construction of general city facilities; provided that no fee shall be required for improvements on lots or parcels for which a fee for such facilities has been paid. The amount of the fee shall be set by resolution of the city council.

(b) The fees paid pursuant to this section shall be placed in a special fund which may be further segregated by specific project. The fund, and any interest earned thereon, shall be expended solely for acquisition of land, if necessary, and the design and construction of, or reimbursement for construction of general facilities and equipment serving the development.

SECTION 2:

Section 22E-4 is hereby added to the Banning Ordinance Code to read as follows:

Section 22E-4: Traffic Control Facilities Fee.

(a) Each owner of an unimproved lot or unimproved parcel of property within the city shall pay to the city prior to and as a condition of issuance of a building permit a traffic control facilities fee representing the owner's fair share of the estimated cost of the construction of traffic control facilities serving the property; provided that no fee shall be required for improvements on lots or parcels for which a fee has been paid. The amount of the fee shall be set by resolution of this city council.

(b) The fees paid pursuant to this section shall be placed in a special fund which may be further segregated by specific project. The fund, and any interest earned thereon, shall be expended solely for acquisition of land, if necessary, and the design and
construction of or reimbursement for construction of traffic control facilities.

SECTION 3:

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

PASSED, APPROVED, AND ADOPTED this 11th day of February 1991.

Robert L. Hanson, Mayor
City of Banning, California

APPROVED AS TO FORM AND LEGAL CONTENT:

John F. Wilson
City Attorney

ATTEST:

Lucille M. Elizondo
City Clerk

CERTIFICATION:

I, Lucille M. Elizondo, City Clerk of the City of Banning, California, do hereby certify that the foregoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Banning, held on the 28th day of January, 1992, and was duly adopted at a regular meeting of said City Council on the 11th day of February, 1992, by the following vote, to wit:

AYES: Councilmembers Reynolds, Williams, Mayor Hanson

NOES: Councilmembers Garcia, Holbert

ABSENT: None

ABSTAIN: None

Lucille M. Elizondo, City Clerk
City of Banning
RESOLUTION NO. 1995-17

A RESOLUTION OF THE CITY OF BANNING
REDAJUSTING THE AMOUNTS OF THE FIRE
FACILITIES DEVELOPMENT FEE AND REPEALING
RESOLUTION 1994-12

WHEREAS, this City Council has enacted Ordinance No. 986,
Banning Municipal Code, Chapter 22E-1 ("Fire Fees") authorizing
the levy of a fire facilities development fee; and

WHEREAS, pursuant to such ordinance the amount of the
fee to be charged thereunder is to be set by resolution of the
City Council, and

WHEREAS, the purpose of the Resolution and the Fire Fee
Ordinance is to finance the design and construction of certain
fire facilities and equipment described in the Fire Fee Ordinance
(referred to as the "Fire Facilities"); and

WHEREAS, the City has approved the Fire Protection Report
dated August 13, 1990, which along with staff reports (collectively)
referred to as the "Reports") described in detail the Fire
Facilities which are required to serve new development and also
contain an estimate of the total cost of acquiring the Fire
Facilities discussed in the Reports; and

WHEREAS, the adjusted cost estimates set forth herein
reflect reasonable 1995 cost estimates for constructing the Fire
Facilities and providing equipment, and the fees expected to be
generated by new development within the City will not exceed the
total of these costs; and

Resolution No. 1995-17
Page 1
WHEREAS, the facts and evidence presented to the City Council establish that there is a reasonable relationship between the need for the Fire Facilities and the population increase which results from new development, and, also that there is a reasonable relationship between the fees' use and the type of development on which the fees are charged, and these reasonable relationships are described in more detail in the Reports; and

WHEREAS, the costs of the Fire Facilities funded by this Resolution and the Fire Fee Ordinance are apportioned relative to the anticipated benefit conferred by the Fire Facilities on new development and on the basis of the need for the Fire Facilities created by new development; and

WHEREAS, notice of this Resolution has been provided in accordance with Government Code Sections 66017 and 66018.

NOW, THEREFORE, the City of Banning hereby resolves as follows:

Section 1. The Fire Facilities fees established in the Fire Fee Ordinance are set as follows:

(1) Residential dwelling. $538.05 p/unit + $5 Disaster Planning = $543.05

(2) Residential apartments/condominiums; $538.05 p/unit + $5 Disaster Planning = $543.05

(3) Mobile home parks; $538.05 p/unit + $5 Disaster Planning = $543.05

(4) Recreational Vehicle units; $269.00 p/unit + $5 Disaster Planning = $274.00

(5) Commercial $ .275 p/sq.ft. + $25 Disaster Planning

(6) Industrial $ .275 p/sq.ft. + $25 Disaster Planning

(7) Office complex $ .275 p/sq.ft. + $25 Disaster Planning

Resolution No. 1995-17
Page 2
Section 2. This Resolution shall become effective sixty
(60) days after its adoption by the City Council and shall supersede
all prior resolutions inconsistent herewith.

PASSED, APPROVED AND ADOPTED this 28th day of

Mayor, City of Banning

APPROVED AS TO FORM AND
LEGAL CONTENT

John P. Wilson
City Attorney

ATTEST:

Lucille M. Elizondo
City Clerk

I, Lucille M. Elizondo, City Clerk of the City of Banning,
California, do hereby certify that the preceding Resolution was
duly adopted by the City Council of the City of Banning at a regular
meeting thereof held on the 28th day of February, 1995, by the
following vote, to wit:

AYES:    Councilmembers Hunt, Lewis, Lucsko, Williams, Mayor Smith
NOES:    None
ABSTAIN: None
ABSENT:  None

Lucille M. Elizondo,
City Clerk, City
of
Banning, California

Resolution No. 1995-17
Page 3
RESOLUTION NO. 1995-18

A RESOLUTION OF THE CITY OF BANNING
READJUSTING THE AMOUNTS OF THE POLICE
FACILITIES DEVELOPMENT FEE AND REPEALING
RESOLUTION 1994-11

WHEREAS, this City Council has enacted Ordinance No. 987
(the "Police Fee Ordinance") authorizing the levy of a police
facilities development fee; and

WHEREAS, pursuant to such ordinance the amount of the
fee charged thereunder is to be set by Resolution of the City
Council; and

WHEREAS, the purpose of the Resolution and the Police
Fee Ordinance is to finance the design and construction of certain
police facilities described in the Police Fee Ordinance (referred
to as the "Police Facilities"); and

WHEREAS, the City has approved the Police Safety Report
dated October 23, 1990, which along with staff reports and
information presented at that time (collectively referred to as
the "Reports") describe in detail the Police Facilities which are
required to serve new development and also contain an estimate
of the total cost of acquiring the Police Facilities discussed
in the Reports; and

WHEREAS, the cost estimates set forth in the Reports
are reasonable cost estimates for constructing the Police
Facilities, and the fees expected to be generated by new development
within the City will not exceed the total of these costs; and

WHEREAS, the facts and evidence presented to the City
Council establish that there is a reasonable relationship between
the need for the Police Facilities and the population increase
which results from new development, and, also that there is a
reasonable relationship between the fees' use and the type of
development on which the fees are charged, and these reasonable
relationships are described in more detail in the Reports; and

Resolution No. 1995-18
Page 1
WHEREAS, the costs of the Police Facilities funded by this Resolution and the Police Fee Ordinance are apportioned relative to the anticipated benefit conferred by the Police Facilities on new development and on the basis of the need for the Police Facilities created by new development; and

WHEREAS, notice of this Resolution has been provided in accordance with Government Code Section 66017 and 66018.

NOW, THEREFORE, the City of Banning hereby resolves as follows:

Section 1. The Police Facilities fee established in the Police Fee Ordinance are set as follows:

1. Residential Dwelling: $364.11 per unit
2. Residential Apartments/Condominiums: $364.11 per unit
3. Mobile Home Parks: $364.11 per unit
4. Recreational Vehicle Units: $364.11 per unit
5. Industrial/Commercial Development: 0 – 3,000 square feet: $0.275 per sq.ft.
   3,001 – 7,000 square feet: $0.275 per sq.ft.
   7,001 – 12,000 square feet: $0.275 per sq.ft.
   12,001 – 20,000 square feet: $0.275 per sq.ft.
   20,001 – 28,000 square feet: $0.275 per sq.ft.
   28,001 – 38,000 square feet: $0.275 per sq.ft.
   38,001 and greater: $0.275 per sq.ft.
Section 2. This Resolution shall become effective sixty (60) days after its adoption by the City Council.

PASSED, APPROVED AND ADOPTED this 28th day of February, 1995.

Mayor, City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT

John F. Wilson
City Attorney

ATTEST:

Lucille M. Elizondo
City Clerk

I, Lucille M. Elizondo, City Clerk of the City of Banning, California, do hereby certify that the preceding Resolution was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 28th day of February, 1995, by the following vote, to wit:

AYES: Councilmembers Hunt, Lewis, Lucsko, Williams, Mayor Smith

NOES: None

ABSTAIN: None

ABSENT: None

Lucille M. Elizondo,
City Clerk, City of Banning, California

Resolution No. 1995-18
Page 3

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RESOLUTION NO. 1995-19

A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF BANNING SETTING
PARK DEVELOPMENT FEES

WHEREAS, the City Council of the City of Banning has adopted Ordinance No. 958 which establishes a requirement for the payment of park development fees by any development within the City to ensure that adequate park and recreational facilities are available concurrent with the need caused by new development; and

WHEREAS, Ordinance No. 958 requires that the City Council shall, by resolution, annually set forth the specific amount of fees which will be levied upon new development within the City; and

WHEREAS, the City Council has adopted a Park and Recreation Master Plan, which identifies the need for additional park and recreational facilities caused by new development; and based on an independent financial study, has determined the amount of fees to be assessed hereunder;

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

SECTION 1. Park Development Fees for residential, using densities set forth in the City's General Plan; commercial, and industrial development are hereby determined to be:

1) $999 per dwelling for very low density and low density residential; 
2) $821 per dwelling unit for medium density residential;
3) $530 per dwelling unit for high density residential;
4) $999 per dwelling unit for specific plan; 
5)
$1,233 per acre for commercial and industrial.

SECTION 2. This resolution shall take effect 60 days following date of adoption.

Adopted this 28th day of February, 1995.

Donald E. Smith, Mayor
City of Banning

APPROVED AS TO LEGAL FORM AND CONTENT

[Signature]
John F. Wilson
City Attorney

ATTEST:

[Signature]
City Clerk

I, LUCILLE M. ELIZONDO, City Clerk of the City of Banning, California DO HEREBY CERTIFY that the foregoing Resolution was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the 28th day of February 1995, by the following vote to wit:

AYES: Councilmembers Hunt, Lewis, Lucsko, Williams, Mayor Smith
NOES: None
ABSTAIN: None
ABSENT: None

[Signature]
Lucille M. Elizondo, City Clerk
City of Banning, California

(SEAL)

Res. No. 1995-19
-2-
ATTACHMENT 1

Development Impact Fee Study

Prepared for:
City of Banning, California

June 9, 2006

Prepared by:

TischlerBise
Fiscal, Economic & Planning Consultants
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Executive Summary

The City of Banning has retained TischlerBise to prepare a development impact fee study. This report documents the data, methodology, and results of the impact fee study. Impact fees are one-time payments used to fund system improvements needed to accommodate development. As documented in this report, the methods used to calculate development impact fees in this study are intended to satisfy all legal requirements governing such fees, including provisions of the U.S. Constitution, the California Constitution, and the California Mitigation Fee Act (Government Code Sections 66000 et seq.).

Development impact fees for Banning are proportionate and reasonably related to the capital facility service demands of new development. The written analysis of each development impact fee methodology and the cash flow analysis, establish that impact fees are necessary to achieve an equitable allocation of costs in comparison to the benefits received. Development impact fee methodologies also identify the extent to which newly developed properties are entitled to various types of credits to avoid potential double payment of capital costs. Specifically, the development impact fees categories contained in this report include the following infrastructure categories:

- Traffic Control
- Fire/EMS
- Police
- General Government
- Parks and Recreation

LEGAL FRAMEWORK

U.S. Constitution. Like all land use regulations, development exactions, including impact fees, are subject to the Fifth Amendment prohibition on taking of private property for public use without just compensation. Both state and federal courts have recognized the imposition of impact fees on development as a legitimate form of land use regulation, provided the fees meet standards intended to protect against regulatory takings. To comply with the Fifth Amendment, development regulations must be shown to substantially advance a legitimate governmental interest. In the case of impact fees, that interest is in the protection of public health, safety, and welfare by ensuring that development is not detrimental to the quality of essential public services.

There is little federal case law specifically dealing with impact fees, although other rulings on other types of exactions (e.g., land dedication requirements) are relevant. In one of the most important exaction cases, the U.S. Supreme Court found that a government agency imposing exactions on
development must demonstrate an "essential nexus" between the exaction and the interest being protected (see Nollan v. California Coastal Commission, 1987). In a more recent case (Dolan v. City of Tigard, OR, 1994), the Court ruled that an exaction also must be "roughly proportional" to the burden created by development. However, the Dolan decision appeared to set a higher standard of review for mandatory dedications of land than for monetary exactions such as impact fees. Constitutional issues related to impact fees will be discussed in more detail below.

**California Constitution.** The California Constitution grants broad police power to local governments, including the authority to regulate land use and development. That police power is the source of authority for a wide range of regulations, including the authority to impose impact fees on development to pay for infrastructure and capital facilities. Some impact fees have been challenged on grounds that they are special taxes imposed without voter approval in violation of Article XIII A, which was added by Proposition 13 in 1978. That objection is valid only if the fees exceed the cost of providing capital facilities needed to serve new development. If that were the case, then the fees would also run afoul of the U.S. Constitution and the Mitigation Fee Act. Articles XIII A and XIX B, added by Proposition 218 in 1996, require voter approval for some "property-related fees," but exempt "the imposition of fees or charges as a condition of property development."

**The Mitigation Fee Act.** California's impact fee statute originated in Assembly Bill 1600 during the 1987 session of the Legislature, and took effect in January, 1989. AB 1600 added several sections to the Government Code, beginning with Section 66000. Since that time the impact fee statute has been amended from time to time, and in 1997 was officially titled the "Mitigation Fee Act." Unless otherwise noted, code sections referenced in this report are from the Government Code.

The Act does not limit the types of capital improvements for which impact fees may be charged. It defines public facilities very broadly to include "public improvements, public services and community amenities." Although the issue is not specifically addressed in the Mitigation Fee Act, other provisions of the Government Code (see Section 65913.8) prohibit the use of impact fees for maintenance or operating costs. Consequently, the fees calculated in this report are based on capital costs only.

The Mitigation Fee Act does not use the term "mitigation fee" except in its official title. Nor does it use the more common term "impact fee." The Act simply uses the word "fee," which is defined as "a monetary exaction, other than a tax or special assessment, . . . that is charged by a local agency to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project . . . ." To avoid confusion with other types of fees, this report uses the widely-accepted term "impact fee," which should be understood to mean "fee" as defined in the Mitigation Fee Act.

The Mitigation Fee Act contains requirements for establishing, increasing and imposing impact fees. They are summarized below. It also contains provisions that govern the collection and expenditure of fees, and require annual reports and periodic re-evaluation of impact fee programs. Those administrative requirements are discussed in the Implementation Chapter of this report. Certain fees or charges related to development are exempted from the requirements of the Mitigation Fee
Act. Among them are fees in lieu of park and dedication as authorized by the Quimby Act (Section 66477), fees collected pursuant to a reimbursement agreement or developer agreement, and fees for processing development applications.

**Required Findings.** Section 66001 requires that an agency establishing, increasing or imposing impact fees, must make findings to:

"Identify the purpose of the fee;

2. Identify the use of the fee; and,

3. Determine that there is a reasonable relationship between:
   a. The use of the fee and the development type on which it is imposed;
   b. The need for the facility and the type of development on which the fee is imposed; and
   c. The amount of the fee and the facility cost attributable to the development project.
   (Applies only upon imposition of fees)"

Each of those requirements is discussed in more detail below.

**Identifying the Purpose of the Fees.** The broad purpose of impact fees is to protect the public health, safety and general welfare by providing for adequate public facilities. The specific purpose of the fees calculated in this study is to fund the construction of certain capital improvements identified in this report. Those improvements are needed to mitigate the impacts of additional development in the City, and thereby prevent deterioration in public services that would result from additional development if impact fee revenues were not available to fund such improvements. Findings with respect to the purpose of a fee should state the purpose of the fees as financing development-related public facilities in a broad category, such as street improvements or water supply system improvements.

**Identifying the Use of the Fees.** According to Section 66001, if a fee is used to finance public facilities, those facilities must be identified. A capital improvement plan may be used for that purpose, but is not mandatory if the facilities are identified in the General Plan, a Specific Plan, or in other public documents. If a capital improvement plan is used to identify the use of the fees, it must be updated annually by resolution of the governing body at a noticed public hearing. Impact fees calculated in this study are based on specific capital facilities identified in this report. We recommend that this report be designated as the public document identifying the use of the fees.

**Reasonable Relationship Requirement.** As discussed above, Section 66001 requires that, for fees subject to its provisions, a "reasonable relationship" must be demonstrated between:

1. the use of the fee and the type of development on which it is imposed;

2. the need for a public facility and the type of development on which a fee is imposed; and,
3. the amount of the fee and the facility cost attributable to the development on which
the fee is imposed.

These three reasonable relationship requirements as defined in the statute are closely related to
"rational nexus" or "reasonable relationship" requirements enunciated by a number of state courts.
Although the term "dual rational nexus" is often used to characterize the standard by which courts
evaluate the validity of development impact fees under the U.S. Constitution, we prefer a
formulation that recognizes three elements: "impact or need" "benefit," and "proportionality." The
dual rational nexus test explicitly addresses only the first two, although proportionality is reasonably
implied, and was specifically mentioned by the U.S. Supreme Court in the *Dolan* case.

The reasonable relationship language of the statute is considered less strict than the rational nexus
standard used by many courts. Of course, the higher standard controls. We will use the nexus
terminology in this report for two reasons: because it is more concise and descriptive, and also to
signify that the methods used to calculate impact fees in this study are intended to satisfy the more
demanding constitutional standard. Individual elements of the nexus standard are discussed further
in the following paragraphs.

**Demonstrating an Impact.** All new development in a community creates additional demands on
some, or all, public facilities provided by local government. If the supply of facilities is not increased
to satisfy that additional demand, the quality or availability of public services for the entire
community will deteriorate. Impact fees may be used to recover the cost of development-related
facilities, but only to the extent that the need for facilities is a consequence of development that is
subject to the fees. The *Nollan* decision reinforced the principle that development exactions may be
used only to mitigate conditions created by the developments upon which they are imposed. That
principle clearly applies to impact fees. In this study, the impact of development on improvement
needs is analyzed in terms of quantifiable relationships between various types of development and
the demand for specific facilities, based on applicable level-of-service standards. This report
contains all information needed to demonstrate this element of the nexus.

**Demonstrating a Benefit.** A sufficient benefit relationship requires that impact fee revenues be
segregated from other funds and expended only on the facilities for which the fees were charged.
Fees must be expended in a timely manner and the facilities funded by the fees must serve the
development paying the fees. Nothing in the U.S. Constitution or California law requires that
facilities paid for with impact fee revenues be available exclusively to the development
paying the fees.

Procedures for earmarking and expenditure of fee revenues are mandated by the Mitigation Fees
Act, as are procedures to ensure that the fees are expended expeditiously or refunded. All of those
requirements are intended to ensure that developments benefit from the impact fees they are
required to pay. Thus, an adequate showing of benefit must address procedural as well as
substantive issues.

**Demonstrating Proportionality.** The requirement that exactions be proportional to the impacts of
development was clearly stated by the U.S. Supreme Court in the *Dolan* case (although the relevance
of that decision to impact fees has been debated) and is logically necessary to establish a proper
nexus. Proportionality is established through the procedures used to identify development-related facility costs, and in the methods used to calculate impact fees for various types of facilities and categories of development. In this study, the demand for facilities is measured in terms of relevant and measurable attributes of development. For example, the need for road improvements is measured by the number of vehicle trips generated by development.

In calculating impact fees, costs for development-related facilities are allocated in proportion to the service needs created by different types and quantities of development. The following section describes methods used to allocate facility costs and calculate impact fees in ways that meet the proportionality standard.

**Impact Fees for Existing Facilities.** It is important to note that impact fees may be used to pay for existing facilities, provided that those facilities are needed to serve additional development and have the capacity to do so. In other words, such fees must satisfy the same nexus requirements as any other impact fee.

**DEVELOPMENT IMPACT FEE CALCULATION METHODOLOGY**

Any one of several legitimate methods may be used to calculate development impact fees. The choice of a particular method depends primarily on the service characteristics and planning requirements for the facility type being addressed. Each method has advantages and disadvantages in a particular situation, and to some extent they are interchangeable, because they all allocate facility costs in proportion to the needs created by development.

Reduced to its simplest terms, the process of calculating development impact fees involves only two steps: determining the cost of development-related capital improvements, and allocating those costs equitably to various types of development. In practice, though, the calculation of impact fees can become quite complicated because of the many variables involved in defining the relationship between development and the need for facilities. The following paragraphs discuss three basic methods for calculating impact fees and how those methods can be applied.

**Plan-Based Impact Fee Calculation.** The plan-based method allocates costs for a specified set of improvements to a specified amount of development. The improvements are identified by a facility plan and the development is identified by a land use plan. In this method, the total cost of relevant facilities is divided by total demand to calculate a cost per unit of demand. Then, the cost per unit of demand is multiplied by the amount of demand per unit of development (e.g. dwelling units or square feet of building area) in each category to arrive at a cost per unit of development.

The plan-based method is often the most workable approach where actual service usage is difficult to measure (as is the case with administrative facilities), or does not directly drive the need for added facilities (as is the case with fire stations). It is also useful for facilities, such as streets, where capacity cannot always be matched closely to demand. This method is relatively inflexible in the sense that it is based on the relationship between a particular facility plan and a particular land use plan. If either plan changes significantly, the fees should be recalculated.
Cost Recovery Impact Fee Calculation. The rationale for the cost recovery approach is that new development is paying for its share of the useful life and remaining capacity of facilities from which new growth will benefit. To calculate an impact fee using the cost recovery approach, facility cost is divided by ultimate number of demand units the facility will serve.

Incremental Expansion Impact Fee Calculation. The incremental expansion method documents the current level-of-service (LOS) for each type of public facility in both quantitative and qualitative measures, based on an existing service standard such as square feet per capita or park acres per capita. The level-of-service standards are determined in a manner similar to the current replacement cost approach used by property insurance companies. However, in contrast to insurance practices, Banning will not use the funds for renewal and/or replacement of existing facilities. Rather, the City will use the development impact fee revenue to expand or provide additional facilities, as needed, to accommodate new development. An incremental expansion cost method is best suited for public facilities that will be expanded in regular increments, with LOS standards based on current conditions in the community. Figure 1a shows the methodology used to calculate development impact fees for the City of Banning.

Figure 1a: Summary of Development Impact Fee Methodologies

<table>
<thead>
<tr>
<th>Type of Public Facility</th>
<th>Incremental Expansion</th>
<th>Plan Based</th>
<th>Cost Recovery</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Government</td>
<td>• Office Space</td>
<td>• Not-applicable</td>
<td>• Not-applicable</td>
</tr>
<tr>
<td></td>
<td>• Vehicles/Equipment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fire</td>
<td>• Not-applicable</td>
<td>• Fire Stations</td>
<td>• Not applicable</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Apparatus</td>
<td></td>
</tr>
<tr>
<td>Police</td>
<td>• Vehicles</td>
<td>• Police Station</td>
<td>• Not applicable</td>
</tr>
<tr>
<td>Parks and Recreation</td>
<td>• Park Land</td>
<td>• Not applicable</td>
<td>• Not applicable</td>
</tr>
<tr>
<td></td>
<td>• Park Improvements</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Recreation Facilities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Traffic Control</td>
<td>• Not applicable</td>
<td>• Traffic Control Projects</td>
<td>• Not applicable</td>
</tr>
</tbody>
</table>

Figure 1b provides a schedule of the maximum supportable development impact fees for Banning. The City may adopt fees that are less than the amounts shown. However, a reduction in impact fee revenue will necessitate an increase in other revenues, a decrease in planned capital expenditures and/or a decrease in the City's LOS standards.

For residential development, fees will be assessed per housing unit. For nonresidential development, fees will be assessed per thousand square feet of floor area. Nonresidential development categories are based on land use classifications from the book Trip Generation (ITE, 2003). A summary description of each development category is provided below.
Shopping Center (620) – A shopping center is an integrated group of commercial establishments that is planned, developed, owned and managed as a unit. A shopping center provides on-site parking facilities sufficient to serve its own parking demands. Shopping centers may contain non-merchandizing facilities, such as office buildings, movie theaters, restaurants, post offices, banks, health clubs and recreational facilities. In addition to the integrated unit of shops in one building or enclosed around a mall, many shopping centers include out-parcels. For smaller centers without an enclosed mall or peripheral buildings, the Gross Leasable Area (GLA) may be the same as the Gross Floor Area (GFA) of the building.

General Office (710) – A general office building houses multiple tenants including, but not limited to, professional services, insurance companies, investment brokers and tenant services such as banking, restaurants and service retail facilities. In the development fees study, this category is used as a proxy for institutional uses that may have more specific land use codes.

Business Park (770) – Business parks consist of a group of flex-type buildings served by a common roadway system. The tenant space lends itself to a variety of uses, with the rear side of the building usually served by a garage door. The tenant space includes a variety of uses with an average mix of 20 to 30 percent office/commercial and 70 to 80 percent industrial/warehousing.

Light Industrial (110) – Light industrial facilities usually employ fewer than 500 persons and have an emphasis on activities other than manufacturing. Typical light industrial activities include, but are not limited to printing plants, material-testing laboratories and assembling of data processing equipment.

Warehousing (150) – Warehouses are primarily devoted to the storage of materials.

Manufacturing (140) – In manufacturing facilities, the primary activity is the conversion of raw materials or parts into finished products.

For development types not shown above, City of Banning staff may use the most appropriate rates from the ITB manual, or rates from approved local transportation studies or observed data.
Figure 1b: Schedule of Maximum Supportable Development Impact Fees

<table>
<thead>
<tr>
<th>ITE Code</th>
<th>Nonresidential</th>
<th>General Government</th>
<th>Fire</th>
<th>Parks and Recreation</th>
<th>Police</th>
<th>Traffic Control</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Per Housing Unit</td>
<td></td>
<td>Per 1,000 Square Feet</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residential</td>
<td>Single Family Detached</td>
<td>$478</td>
<td>$1,355</td>
<td>$1,955</td>
<td>$823</td>
<td>$250</td>
<td>$4,860</td>
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<tr>
<td></td>
<td>Townhouse/Duplex</td>
<td>$363</td>
<td>$1,030</td>
<td>$1,485</td>
<td>$626</td>
<td>$153</td>
<td>$3,657</td>
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<tr>
<td></td>
<td>Multi-Family</td>
<td>$530</td>
<td>$1,502</td>
<td>$2,168</td>
<td>$913</td>
<td>$172</td>
<td>$5,285</td>
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<td></td>
<td>Mobile Home</td>
<td>$290</td>
<td>$823</td>
<td>$1,187</td>
<td>$500</td>
<td>$130</td>
<td>$2,930</td>
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<tr>
<td>Nonresidential</td>
<td>Con / Shop Ctr 50,000 SF or less</td>
<td>$208</td>
<td>$579</td>
<td>$472</td>
<td>$51,176</td>
<td>$2,436</td>
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</tr>
<tr>
<td></td>
<td>Con / Shop Ctr 50,001-100,000 SF</td>
<td>$182</td>
<td>$506</td>
<td>$413</td>
<td>$1,029</td>
<td>$2,131</td>
<td></td>
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<tr>
<td></td>
<td>Con / Shop Ctr 100,001-200,000 SF</td>
<td>$182</td>
<td>$450</td>
<td>$358</td>
<td>$891</td>
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<tr>
<td></td>
<td>Con / Shop Ctr over 200,000 SF</td>
<td>$146</td>
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<td>$307</td>
<td>$764</td>
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<td>Office / Inst 25,000 SF or less</td>
<td>$302</td>
<td>$841</td>
<td>$192</td>
<td>$479</td>
<td>$1,814</td>
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<tr>
<td></td>
<td>Office / Inst 25,001-50,000 SF</td>
<td>$285</td>
<td>$792</td>
<td>$164</td>
<td>$409</td>
<td>$1,650</td>
<td></td>
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<tr>
<td></td>
<td>Office / Inst 50,001-100,000 SF</td>
<td>$259</td>
<td>$748</td>
<td>$140</td>
<td>$349</td>
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<td></td>
<td>Medical-Dental Office</td>
<td>$295</td>
<td>$821</td>
<td>$379</td>
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<td></td>
<td>Hospital</td>
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<td>$685</td>
<td>$184</td>
<td>$459</td>
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<td></td>
<td>Light Industrial</td>
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<td>$468</td>
<td>$73</td>
<td>$182</td>
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<tr>
<td></td>
<td>Manufacturing</td>
<td>$130</td>
<td>$363</td>
<td>$40</td>
<td>$100</td>
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<td></td>
<td>Warehousing</td>
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<td>$52</td>
<td>$130</td>
<td>$334</td>
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<td></td>
<td>Elementary School</td>
<td>$67</td>
<td>$186</td>
<td>$152</td>
<td>$379</td>
<td>$784</td>
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<tr>
<td>Other Nonresidential</td>
<td>Lodging (per room)</td>
<td>$52</td>
<td>$144</td>
<td>$395</td>
<td>$238</td>
<td>$529</td>
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<tr>
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<td>Day Care (per student)</td>
<td>$12</td>
<td>$32</td>
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<td>$208</td>
<td></td>
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<tr>
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<td>Nursing Home (per bed)</td>
<td>$26</td>
<td>$73</td>
<td>$24</td>
<td>$62</td>
<td>$185</td>
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</tbody>
</table>

All costs in the development fee calculations are given in current dollars with no assumed inflation rate over time. Necessary cost adjustments can be made as part of the recommended annual evaluation and update of the development impact fees. One approach is to adjust for inflation in construction costs by means of an index like the one published by Engineering News Record (ENR). This index could be applied against the calculated impact fees. If cost estimates change significantly, the fees should be recalculated.
Development and Demand Data

Both existing and planned development must be addressed as part of the nexus analysis required to support the establishment of impact fees. This chapter of the report organizes and correlates information on existing and planned development to provide a framework for the impact fee analysis contained in subsequent chapters of the report. The information in this chapter forms a basis for establishing levels of service, analyzing facility needs, and allocating the cost of capital facilities between existing and future development and among various types of new development.

Data on land use employed in this study are based on information obtained from the City of Banning. Demographic data used in this study are based on information obtained from the 2000 U.S. Census, State of California Department of Finance, Claritas, Institute of Transportation Engineers and the Urban Land Institute.

BACKGROUND AND SETTING

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 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.

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, invigorating and healthful clean air - the key ingredients that lure families to our City.

Business people see opportunity in Banning. They're attracted to the community because the City has readied 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 relatively low costs 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.

According to the California Department of Finance (DOF) estimates, the number of housing units in the City of Banning increased from 9,167 units in 1994 to 11,153 in 2004, an increase of 1,986 housing units over the past decade. This growth has resulted in a two percent annual growth rate or an average of 199 units per year. Since 2001, however, residential growth in the City has accelerated to almost 5% per year, adding on average 441 housing units per year during this time.

STUDY AREA AND TIME FRAME

The study area for the impact fee analysis is the existing City, as well as areas anticipated for annexation in the future. Data on future development used in this study represents the amount of
additional development expected in the study area through 2025. The impact fees calculated in this study are based on the amount and type of projected development and the fees are calculated in terms of current dollars. Development may occur sooner or later than projected, but the rate and timing of development do not affect the fee calculations except in rare cases where fee revenue will be used to repay debt issued to fund capital facilities. If that situation arises in this study, it will be discussed in the fee analysis for a particular type of facility.

DATA SOURCES

Data on existing and future development available for use in this study are:

- Dwelling units by type (single-family, townhouse/duplex, multi-family, and mobile home/other)
- Population
- Employment
- Nonresidential building area
- Average daily weekday and FM-peak hour vehicle trips

DEMAND VARIABLES AND IMPACT FACTORS

In calculating impact fees, the relationship between facility needs and development must be quantified in cost allocation formulas. Certain measurable attributes of development (e.g., population) are used in those formulas as "demand variables" that reflect the impact of different types and amounts of development on the demand for specific public services and facilities. Demand variables are selected either because they directly measure service demand or because they are reasonably correlated with that demand.

For example, the service standard for parks in a community is typically defined as a ratio of park acreage to population. As population grows, more parks are needed to maintain the desired standard. Logically, then, population is an appropriate yardstick for measuring the impacts of development on the need for additional parks.

Each demand variable has a specific value per unit of development for each land use category. Those values may be referred to as demand factors or impact factors. For example, on average, one single-family dwelling unit generates an average of 2.75 persons (US Census data). Consequently, the persons per housing unit factor for single-family residential development are 2.75 persons per dwelling unit. Other land use categories would have different impact factors. Some of the impact factors used in this study are based on widely-accepted standards (e.g., trip generation rates), while others are based on local conditions (e.g., population).

The specific demand variables used in this study are discussed below.

Population per Unit of Development. Persons per housing unit are an important demographic factor that helps account for variations in service demand by type of housing. Because population is
tied to residential development, the value of this variable for all non-residential land uses is zero. The best data currently available to calculate this differentiation is the US Census Summary File 3 sample dataset. According to the 2000 US Census data, Banning had 9,724 housing units (shown in Figure 2). Census data also indicates a total of 23,074 persons residing in these housing units in 2000. This results in an average, for all housing types, of 2.60 persons per housing unit. This is shown in Figure 2 below.

After reviewing the detailed persons per housing unit data, TischlerBise recommends using the following four residential categories in the impact fee calculations: 1) Single Family Detached; 2) Single Family Attached (Townhouse) 3) MultiFamily, and 4) Mobile Homes. A differentiation by type of housing is necessary to make residential development fees proportionate and reasonably related to the demand for public facilities.

**Figure 2: Persons Per Housing Unit**

<table>
<thead>
<tr>
<th>Dwelling Unit Type</th>
<th>Total Housing Units</th>
<th>Occupied Housing Units</th>
<th>Population</th>
<th>Persons Per Dwelling</th>
<th>Vacancy Rate</th>
<th>Distribution of Housing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family-Detached</td>
<td>6,832</td>
<td>6,303</td>
<td>17,362</td>
<td>2.75</td>
<td>7.7%</td>
<td>70.3%</td>
</tr>
<tr>
<td>Single Family-Attached</td>
<td>726</td>
<td>658</td>
<td>1,377</td>
<td>2.09</td>
<td>9.4%</td>
<td>7.5%</td>
</tr>
<tr>
<td>Multi-Family</td>
<td>1,028</td>
<td>820</td>
<td>2,504</td>
<td>3.05</td>
<td>20.2%</td>
<td>10.6%</td>
</tr>
<tr>
<td>Mobile Home</td>
<td>1,138</td>
<td>1,095</td>
<td>1,831</td>
<td>1.67</td>
<td>3.8%</td>
<td>11.7%</td>
</tr>
<tr>
<td>Total / Average</td>
<td>9,724</td>
<td>8,876</td>
<td>23,074</td>
<td>2.60</td>
<td>8.7%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

Source: U.S. Census Bureau; 2000 SF 3; Tables H10, H12, and H13

**Employment Building Area Ratios and Trip Generation Rates.** In addition to data on residential development, the calculation of impact fees requires data on nonresidential construction in Banning. To convert projections to gross floor area of nonresidential development in employment, TischlerBise will use average square feet per employee multipliers. The multipliers shown in Figure 3 are derived from national data published by the Institute of Transportation Engineers (ITE) and the Urban Land Institute (ULI).

In Banning, the Light Industrial category (433 square feet per employee) is an appropriate prototype for jobs in the production and distribution employment sector. Office and institutional development in Banning is typically located in scattered, small-scale buildings. Therefore, a general office building, averaging 10,000 square feet of floor area, is a suitable prototype for future office and institutional development. This size office building has an average of 223 square feet per employee. For retail jobs, a prototypical future development is expected to be a shopping center that has less than 50,000 square feet of floor area. A commercial development of this size will typically have approximately 350 square feet per employee.
Figure 3: Employee Building Area Ratios and Trip Generation Data

<table>
<thead>
<tr>
<th>LTE Code</th>
<th>Land Use/Size</th>
<th>Commercial/Shopping Ctr</th>
<th>Demand Unit</th>
<th>Widely Trip Ends Per Dmd Unit*</th>
<th>Emp Per Dmd Unit***</th>
<th>Per Emp Sq Ft</th>
</tr>
</thead>
<tbody>
<tr>
<td>820</td>
<td>25K gross leasable area</td>
<td>1,000 Sq Ft</td>
<td>110.32</td>
<td>na</td>
<td>5.33</td>
<td>202</td>
</tr>
<tr>
<td>820-5K</td>
<td>50K gross leasable area</td>
<td>1,000 Sq Ft</td>
<td>220.66</td>
<td>56.36</td>
<td>2.86</td>
<td>250</td>
</tr>
<tr>
<td>820</td>
<td>100K gross leasable area</td>
<td>1,000 Sq Ft</td>
<td>87.91</td>
<td>na</td>
<td>5.33</td>
<td>250</td>
</tr>
<tr>
<td>820</td>
<td>200K gross leasable area</td>
<td>1,000 Sq Ft</td>
<td>53.28</td>
<td>na</td>
<td>2.22</td>
<td>450</td>
</tr>
<tr>
<td>820</td>
<td>400K gross leasable area</td>
<td>1,000 Sq Ft</td>
<td>41.80</td>
<td>na</td>
<td>2.50</td>
<td>500</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>General Office</th>
</tr>
</thead>
<tbody>
<tr>
<td>710</td>
</tr>
<tr>
<td>710</td>
</tr>
<tr>
<td>710</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Industrial</th>
</tr>
</thead>
<tbody>
<tr>
<td>770</td>
</tr>
<tr>
<td>150</td>
</tr>
<tr>
<td>150</td>
</tr>
<tr>
<td>150</td>
</tr>
<tr>
<td>140</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Other Nonresidential</th>
</tr>
</thead>
<tbody>
<tr>
<td>720</td>
</tr>
<tr>
<td>620</td>
</tr>
<tr>
<td>610</td>
</tr>
<tr>
<td>565</td>
</tr>
<tr>
<td>310</td>
</tr>
<tr>
<td>320</td>
</tr>
</tbody>
</table>

**Square feet per employee calculated from trip rates except for Shopping Center data, which are derived from the Urban Land Institute's Development Handbook and Dollars and Cents of Shopping Centers.
***According to ITE, a Business Park is a group of flex-type buildings served by a common roadway system. The tenant space includes an average mix of 20-30% office/commercial and 70-80% industrial/warehousing.

CURRENT AND FUTURE CITY DEVELOPMENT BASE

The following provides the demographic data and development projections that the consultant will use in the impact fee study for the City of Banning. As noted above, the data will serve in the study as the basis for measuring the increased demand for services in the future, establishing levels of service provided by the City, as well as allocating the cost of capital facilities between existing and future development and among various types of new development.

Figure 4 provides population, housing unit, and employment data for the 2004 to 2025 time period. The following pages provide a discussion of the assumptions and data used to generate the data in Figure 4.
Figure 4: City of Banning Growth Indicators

![City of Banning Growth Indicators](image)

<table>
<thead>
<tr>
<th></th>
<th>2005</th>
<th>2010</th>
<th>2015</th>
<th>2020</th>
<th>2025</th>
<th>Total % Increase</th>
<th>Annual % Increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population¹</td>
<td>27,954</td>
<td>32,337</td>
<td>37,452</td>
<td>42,567</td>
<td>47,683</td>
<td>19,729</td>
<td>986</td>
</tr>
<tr>
<td>Employment²</td>
<td>9,874</td>
<td>11,730</td>
<td>13,585</td>
<td>15,441</td>
<td>17,296</td>
<td>7,422</td>
<td>371</td>
</tr>
<tr>
<td>Housing Units³</td>
<td>11,359</td>
<td>13,494</td>
<td>15,628</td>
<td>17,763</td>
<td>19,897</td>
<td>8,538</td>
<td>427</td>
</tr>
<tr>
<td>Service Population⁴</td>
<td>37,828</td>
<td>44,067</td>
<td>51,037</td>
<td>58,008</td>
<td>64,979</td>
<td>21,151</td>
<td>1,358</td>
</tr>
<tr>
<td>Nonresidential Space⁵</td>
<td>3,259</td>
<td>4,300</td>
<td>4,980</td>
<td>5,660</td>
<td>6,340</td>
<td>3,081</td>
<td>154</td>
</tr>
</tbody>
</table>

¹ Population projection based on applying 2000 Census persons per dwelling unit by type to number of housing units presently in the City's development pipeline and/or under developer agreement (8,538 units). The distribution of housing by type (based on 2005 data from State of California, Department of Finance) was held constant over study period. Housing units were adjusted to occupied housing units by applying vacancy rate from 2000 Census.

² Employment estimate and projections based on applying the City's 2000 jobs to housing ratio to housing estimate or projection. Ratio derived from (8,435 jobs in 2000 according to SCAG 2001 Growth Forecast)/8,876 occupied housing units according to 2000 Census) = 535.

³ Source: State of California, Department of Finance, E-5 City/County Population and Housing Estimates, 2005. Housing projection based on the number of housing units presently in the City's development pipeline and/or under developer agreement (8,538 units).

⁴ Service population is the sum of the City's population and employment.

⁵ Nonresidential space in thousands of square feet. Data derived from square per employee multipliers published by U.S. Transportation Engineers.

TischlerBise
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Housing Units. Figure 4 above shows that the number of housing units in Banning is projected to increase from about 8,538 units in 2005 to almost 19,897 by 2025, an increase of approximately 75 percent. The housing projection is based on a review of projected residential developments in the City as of March 2006. Such developments, shown in Figure 5, include projects that have been approved by the City and/or projects where the City has entered into development agreements with property owners.

Figure 5 shows that a total of 8,669 residential units are approved or under agreement in the City, but remain unbuilt as of March 2006. Covering about 3,664 acres, the projects in Figure 5 represent the majority of the land available for residential development in the City, according to City Staff.

Figure 5: Residential Development – Approved or Under Agreement

<table>
<thead>
<tr>
<th>Tract Numbers</th>
<th>Development Name</th>
<th>Acres</th>
<th>Total Units Approved</th>
<th>Total Units To Be Built</th>
<th>Date of Approval</th>
</tr>
</thead>
<tbody>
<tr>
<td>30528</td>
<td>Charter / Galleher</td>
<td>3</td>
<td>9</td>
<td>9</td>
<td>As of 03/06</td>
</tr>
<tr>
<td>13360</td>
<td>St. Boniface</td>
<td>73</td>
<td>173</td>
<td>42</td>
<td></td>
</tr>
<tr>
<td>31417</td>
<td>Ford</td>
<td>5</td>
<td>21</td>
<td>21</td>
<td></td>
</tr>
<tr>
<td>29233</td>
<td>Oberg</td>
<td>6</td>
<td>10</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>30642</td>
<td>Action Surveys</td>
<td>19</td>
<td>53</td>
<td>53</td>
<td></td>
</tr>
<tr>
<td>30774</td>
<td>Stallion Estates</td>
<td>145</td>
<td>213</td>
<td>213</td>
<td></td>
</tr>
<tr>
<td>30906</td>
<td>Feista Development</td>
<td>159</td>
<td>303</td>
<td>303</td>
<td></td>
</tr>
<tr>
<td>30793</td>
<td>Feista Development</td>
<td>13</td>
<td>43</td>
<td>43</td>
<td></td>
</tr>
<tr>
<td>SP#2</td>
<td>Duetch Property</td>
<td>1,552</td>
<td>5,400</td>
<td>5,400</td>
<td></td>
</tr>
<tr>
<td>SP#3</td>
<td>Black Beach Ranch</td>
<td>1,500</td>
<td>1,500</td>
<td>1,500</td>
<td></td>
</tr>
<tr>
<td>SP#4</td>
<td>Loma Linda / Banning Bench</td>
<td>190</td>
<td>944</td>
<td>944</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>3,664</td>
<td>8,669</td>
<td>8,538</td>
<td></td>
</tr>
</tbody>
</table>

Source: City of Banning Community Development Department

This study assumes that the residential units shown above in Figure 5 will represent the bulk of residential development in Banning over the next two decades and, therefore, serve as the basis for the housing projection in Figure 4. In terms of the type of housing units constructed over the course of the study period, it is assumed that the distribution of housing types will follow the distribution of housing types estimated by the State of California, Department of Finance, E-5 City/County Populations and Housing Estimaters (2005). This estimate is 74 percent single family-detached, 6 percent single family-attached, 9 percent multifamily and 10 percent mobile home.

Population. Using the housing projections and 2000 Census data persons per housing unit data (see Figure 2), Figure 4 above shows that Banning’s 2025 population is projected to be over 47,580 residents, an increase of over 19,627 residents between 2005 and 2025.
\textbf{Nonresidential Floor Space.} Figure 6 shows that the estimated total nonresidential floor area in Banning in 2005 is approximately 3.25 million square feet. This estimate is based on the nonresidential prototypes shown above in Figure 3.

\textbf{Figure 6: Estimate of Nonresidential Floor Area}

<table>
<thead>
<tr>
<th></th>
<th>2005 Employment</th>
<th>Percent of Employment</th>
<th>Sq Ft Per Emp</th>
<th>2005 Non-Res Floor Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail/Commercial</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Retail Trade</td>
<td>3,740</td>
<td></td>
<td></td>
<td>1,904,946</td>
</tr>
<tr>
<td>Services (50%)</td>
<td>1,703</td>
<td>45.1%</td>
<td>250</td>
<td></td>
</tr>
<tr>
<td>Subtotal</td>
<td>5,443</td>
<td>55.1%</td>
<td></td>
<td>1,904,946</td>
</tr>
<tr>
<td>Office</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Finance/Ins./Real Estate</td>
<td>185</td>
<td></td>
<td></td>
<td>428,617</td>
</tr>
<tr>
<td>Services (50%)</td>
<td>1,737</td>
<td>19.5%</td>
<td>225</td>
<td></td>
</tr>
<tr>
<td>Subtotal</td>
<td>1,922</td>
<td>19.5%</td>
<td></td>
<td>428,617</td>
</tr>
<tr>
<td>Institutional</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Government</td>
<td>994</td>
<td>10.1%</td>
<td>271</td>
<td>269,377</td>
</tr>
<tr>
<td>Subtotal</td>
<td>994</td>
<td>10.1%</td>
<td></td>
<td>269,377</td>
</tr>
<tr>
<td>Goods Production</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Agriculture</td>
<td>40</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Construction</td>
<td>296</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Manufacturing</td>
<td>608</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wholesale Trade</td>
<td>206</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Comm. Trans. &amp; Utilities</td>
<td>305</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subtotal</td>
<td>1,515</td>
<td>15.3%</td>
<td>433</td>
<td>656,670</td>
</tr>
<tr>
<td>Total</td>
<td>9,874</td>
<td>100.0%</td>
<td></td>
<td>3,259,009</td>
</tr>
</tbody>
</table>

\(^1\) Employment by development type based on employment data by industry obtained from InfoUSA. Ratio of employment distribution by sector applied to 2004 estimate of total employment.

\(^2\) Trip Generation, Institute of Transportation Engineers, 2003.

\textbf{Employment.} In 2000, there were 8,453 jobs in Banning according to the Southern California Association of Government's (SCAG) 2001 Growth Forecast. This estimate was matched with the number of housing units in 2000 to derive a job to housing ratio of .95 jobs for each occupied housing unit in Banning. This job to housing ratio was applied to the housing data discussed above to estimate the number of jobs for 2005 (9,974) and to project employment in the future.

\textbf{Vehicle Trips.} Future residential and nonresidential development in Banning will have an impact on the City's road system due to the additional vehicle trips that will be generated by such development. Using the housing and nonresidential floor space data discussed above, additional trips and peak hour PM trips were calculated so that vehicle trip data can be used as a demand unit to measure the impact of development in the City. Figure 7 provides an estimate for 2005 of total
vehicle trips and peak hour PM trips in the City of Banning. The vehicle trip projections were
derived by applying trip generation rates published by the Institute of Transportation Engineers to
the 2005 estimates of housing units and nonresidential floor space in the City. For nonresidential
space, the same four prototype developments used to estimate floor space were used to estimate
trips and peak hour trips.

Since each trip includes both an origin and destination point, it should be noted that the trip
generation rates must be adjusted to avoid double counting of the number of trips generated. This
adjustment is shown in Figure 7 and, except for commercial, the tables indicate that the trip
adjustment factor of 50 percent is the same for all residential and non-residential development.
### Figure 7: Estimate of Current Daily and PM-Peak Hour Vehicle Trips

#### 2005 Peak Hour Trips (City of Banning)

<table>
<thead>
<tr>
<th>Development Type</th>
<th>Units</th>
<th>2005 Units</th>
<th>Peak Hr Trips per Unit</th>
<th>Adjustment Factor</th>
<th>Adj. Peak Hr per Unit</th>
<th>2005 Peak Hr Trips</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single Family Detached</td>
<td>DU</td>
<td>8,459</td>
<td>1.62</td>
<td>50%</td>
<td>0.51</td>
<td>4,314</td>
</tr>
<tr>
<td>Single Family Attached</td>
<td>DU</td>
<td>728</td>
<td>0.32</td>
<td>50%</td>
<td>0.36</td>
<td>189</td>
</tr>
<tr>
<td>Multi-Family Residential</td>
<td>DU</td>
<td>1,016</td>
<td>0.67</td>
<td>50%</td>
<td>0.34</td>
<td>340</td>
</tr>
<tr>
<td>Mobile Home</td>
<td>DU</td>
<td>1,156</td>
<td>0.60</td>
<td>50%</td>
<td>0.30</td>
<td>347</td>
</tr>
<tr>
<td>Non-Residential</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commercial</td>
<td>KSF</td>
<td>1,905</td>
<td>7.92</td>
<td>22%</td>
<td>1.74</td>
<td>3,319</td>
</tr>
<tr>
<td>Office</td>
<td>KSF</td>
<td>429</td>
<td>4.27</td>
<td>50%</td>
<td>2.14</td>
<td>915</td>
</tr>
<tr>
<td>Government / Institutional</td>
<td>KSF</td>
<td>269</td>
<td>1.91</td>
<td>50%</td>
<td>0.96</td>
<td>257</td>
</tr>
<tr>
<td>Industrial</td>
<td>KSF</td>
<td>656</td>
<td>1.08</td>
<td>50%</td>
<td>0.54</td>
<td>354</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>10,036</td>
</tr>
</tbody>
</table>

1 DU = dwelling units and KSF = per 1,000 square feet of nonresidential floor area
3 Based on the ITE data in Table VII-1 of the 5th edition of Trip Generation, the best trendline correlation between pass-by trips and floor area is a power curve. The equation used to derive the pass-by trip percentage is $116.63 \times (\text{KSF}^{-0.2254})$.

#### 2005 Average Daily Trips (City of Banning)

<table>
<thead>
<tr>
<th>Development Type</th>
<th>Units</th>
<th>2005 Units</th>
<th>Av Daily Trips per Unit</th>
<th>Adjustment Factor</th>
<th>Adj. ADT per Unit</th>
<th>2005 ADT Trips</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single Family Detached</td>
<td>DU</td>
<td>8,459</td>
<td>9.57</td>
<td>50%</td>
<td>4.79</td>
<td>40,476</td>
</tr>
<tr>
<td>Single Family Attached</td>
<td>DU</td>
<td>728</td>
<td>5.86</td>
<td>50%</td>
<td>2.93</td>
<td>2,133</td>
</tr>
<tr>
<td>Multi-Family Residential</td>
<td>DU</td>
<td>1,016</td>
<td>6.72</td>
<td>50%</td>
<td>3.36</td>
<td>3,414</td>
</tr>
<tr>
<td>Mobile Home</td>
<td>DU</td>
<td>1,156</td>
<td>4.99</td>
<td>50%</td>
<td>2.50</td>
<td>2,884</td>
</tr>
<tr>
<td>Non-Residential</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commercial</td>
<td>KSF</td>
<td>1,905</td>
<td>86.56</td>
<td>26%</td>
<td>22.51</td>
<td>42,872</td>
</tr>
<tr>
<td>Office</td>
<td>KSF</td>
<td>429</td>
<td>22.66</td>
<td>50%</td>
<td>11.33</td>
<td>4,856</td>
</tr>
<tr>
<td>Government / Institutional</td>
<td>KSF</td>
<td>269</td>
<td>13.34</td>
<td>50%</td>
<td>6.67</td>
<td>1,797</td>
</tr>
<tr>
<td>Industrial</td>
<td>KSF</td>
<td>656</td>
<td>6.97</td>
<td>50%</td>
<td>3.49</td>
<td>2,286</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>100,719</td>
</tr>
</tbody>
</table>

1 DU = dwelling units and KSF = per 1,000 square feet of nonresidential floor area
3 Based on the ITE data in Table VII-1 of the 5th edition of Trip Generation, the best trendline correlation between pass-by trips and floor area is a power curve. The equation used to derive the pass-by trip percentage is $116.63 \times (\text{KSF}^{-0.2254})$. 

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SUMMARY OF PROJECTION INFORMATION

Figure 8 summarizes the development data and projections that will be used in subsequent chapters for Banning’s development impact fee study. The figures indicate the following:

- Based on projects approved and/or under development agreement with the City of Banning, 8,538 new residential units are projected to be constructed in Banning between 2005 and 2025, a 75 percent increase over the City’s current housing stock. On an annual basis, this projection converts to an average of 427 new housing units per year.

- The projected residential development will have an impact on Banning’s population, with the City expected to add over 19,627 new residents between 2005 and 2025.

- The residential development will drive employment growth in Banning over the study period, assuming that the City’s current ratio of jobs to occupied housing units remains stable. It is anticipated that over 7,400 new jobs will be added in the City between 2005 and 2025.

- The consultant estimates that there is approximately 3.25 million square feet of nonresidential floor area in Banning in 2005. Between 2005 and 2025, it is expected that the City could add 3 million square feet of nonresidential space, with the largest share of this space being for retail and commercial uses.
Figure 8: City of Banning Development Projections, 2005-2025

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Population</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Population</td>
<td>27,954</td>
<td>32,337</td>
<td>37,452</td>
<td>42,567</td>
<td>47,683</td>
<td>19,729</td>
<td>939</td>
</tr>
<tr>
<td>Households</td>
<td>10,368</td>
<td>12,317</td>
<td>14,265</td>
<td>16,213</td>
<td>18,162</td>
<td>7,793</td>
<td>371</td>
</tr>
<tr>
<td>Housing Units</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single Family Detached</td>
<td>8,459</td>
<td>10,086</td>
<td>11,658</td>
<td>13,251</td>
<td>14,843</td>
<td>6,384</td>
<td>304</td>
</tr>
<tr>
<td>Townhouse / Duplex</td>
<td>728</td>
<td>864</td>
<td>1,000</td>
<td>1,137</td>
<td>1,273</td>
<td>545</td>
<td>26</td>
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<tr>
<td>Multi-Family</td>
<td>1,016</td>
<td>1,201</td>
<td>1,391</td>
<td>1,581</td>
<td>1,771</td>
<td>755</td>
<td>36</td>
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<tr>
<td>Mobile Home</td>
<td>1,156</td>
<td>1,363</td>
<td>1,578</td>
<td>1,794</td>
<td>2,010</td>
<td>854</td>
<td>41</td>
</tr>
<tr>
<td>Total Units</td>
<td>11,359</td>
<td>13,494</td>
<td>15,628</td>
<td>17,763</td>
<td>19,897</td>
<td>8,538</td>
<td>407</td>
</tr>
<tr>
<td>Employment</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Employment</td>
<td>9,874</td>
<td>11,730</td>
<td>13,585</td>
<td>15,441</td>
<td>17,296</td>
<td>7,422</td>
<td>353</td>
</tr>
<tr>
<td>Jobs to Housing Ratio</td>
<td>0.95</td>
<td>0.95</td>
<td>0.95</td>
<td>0.95</td>
<td>0.95</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Percent Retail/Commercial</td>
<td>55%</td>
<td>55%</td>
<td>55%</td>
<td>55%</td>
<td>55%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Percent Office</td>
<td>19%</td>
<td>19%</td>
<td>19%</td>
<td>19%</td>
<td>19%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Percent Gov / Inst.</td>
<td>10%</td>
<td>10%</td>
<td>10%</td>
<td>10%</td>
<td>10%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Percent Industrial</td>
<td>15%</td>
<td>15%</td>
<td>15%</td>
<td>15%</td>
<td>15%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nonresidential Space</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Retail / Commercial</td>
<td>1,905</td>
<td>2,586</td>
<td>2,995</td>
<td>3,405</td>
<td>3,814</td>
<td>1,909</td>
<td>91</td>
</tr>
<tr>
<td>Office</td>
<td>429</td>
<td>585</td>
<td>677</td>
<td>769</td>
<td>862</td>
<td>433</td>
<td>21</td>
</tr>
<tr>
<td>Government / Institutional</td>
<td>269</td>
<td>350</td>
<td>405</td>
<td>460</td>
<td>515</td>
<td>246</td>
<td>12</td>
</tr>
<tr>
<td>Industrial</td>
<td>656</td>
<td>779</td>
<td>903</td>
<td>1,026</td>
<td>1,149</td>
<td>493</td>
<td>23</td>
</tr>
<tr>
<td>Total</td>
<td>3,259</td>
<td>4,300</td>
<td>4,980</td>
<td>5,660</td>
<td>6,340</td>
<td>3,081</td>
<td>147</td>
</tr>
<tr>
<td>Peak Hour Vehicle Trips</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residential</td>
<td>5,191</td>
<td>6,169</td>
<td>7,145</td>
<td>8,121</td>
<td>9,079</td>
<td>3,907</td>
<td>186</td>
</tr>
<tr>
<td>Nonresidential</td>
<td>5,449</td>
<td>7,328</td>
<td>8,388</td>
<td>9,647</td>
<td>10,806</td>
<td>5,357</td>
<td>255</td>
</tr>
<tr>
<td>Total</td>
<td>10,640</td>
<td>13,498</td>
<td>15,533</td>
<td>17,768</td>
<td>19,903</td>
<td>9,263</td>
<td>441</td>
</tr>
<tr>
<td>Average Daily Vehicle Trips</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residential</td>
<td>48,907</td>
<td>58,132</td>
<td>67,328</td>
<td>76,524</td>
<td>85,790</td>
<td>36,812</td>
<td>1,753</td>
</tr>
<tr>
<td>Nonresidential</td>
<td>51,811</td>
<td>69,876</td>
<td>80,929</td>
<td>91,983</td>
<td>103,036</td>
<td>51,225</td>
<td>2,439</td>
</tr>
<tr>
<td>Total</td>
<td>100,719</td>
<td>128,008</td>
<td>148,257</td>
<td>168,507</td>
<td>188,826</td>
<td>88,037</td>
<td>4,192</td>
</tr>
</tbody>
</table>
METHODOLOGY

The general government development impact fee includes the City Hall, as well as general government vehicles and equipment used by city functions such as public works, engineering, code compliance, and permits and inspections. This development impact fee does not include administrative facilities that are part of the City's enterprise fund operations (i.e. water, sewer, etc.).

Development impact fees for general government are based on the incremental expansion cost approach, using existing level of service standards. As illustrated in Figure 9, capital costs are allocated to residential development and nonresidential development. Residential factors are calculated on a per person basis, and converted to a development impact fee amount per housing unit using average persons per housing unit type. Nonresidential development impact fees are based on a capital cost per employee, where such costs are typically multiplied by the number of employees per 1,000 square feet of nonresidential floor area.

Figure 9: General Government Development Impact Fee Methodology Chart
PROPORTIONATE SHARE FACTORS

The proportionate share factors shown in Figure 10 are used to allocate capital costs to residential and nonresidential development. For residential development, the proportionate share factor is based on estimated person hours of non-working residents, plus the non-working hours of resident workers. Based on 2000 census data, Banning’s population is heavily weighted to residents who do not work versus residents that do. For resident workers, two-thirds of a day (i.e., 16 hours) is allocated to residential demand. Time spent at work (i.e., 8 hours) is allocated to nonresidential development. In 2000, the U.S. Census Bureau estimated that 3,531 residents worked in the City. Therefore, total jobs include 6,164 non-resident workers that commute into Banning for work. Based on estimated person hours, the cost allocation for residential development is 87% while nonresidential development accounts for 13% of the demand for general government facilities and equipment.

Figure 10 – Proportionate Share Factors for General Government

<table>
<thead>
<tr>
<th></th>
<th>Demand Units in 2003</th>
<th>Demand Person Hours</th>
<th>Demand Person Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Estimated Residents (Peak)</td>
<td>25,243</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residents Not Working</td>
<td>15,013</td>
<td>24</td>
<td>360,312</td>
</tr>
<tr>
<td>Workers Living in Banning</td>
<td>10,230</td>
<td></td>
<td></td>
</tr>
<tr>
<td>City Residents Working in Banning</td>
<td>2,531</td>
<td>16</td>
<td>56,495</td>
</tr>
<tr>
<td>City Residents Working outside of Banning</td>
<td>6,699</td>
<td>16</td>
<td>107,185</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Residential Subtotal</td>
<td>523,992</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>87%</td>
</tr>
<tr>
<td>Nonresidential</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jobs Located in Banning</td>
<td>9,695</td>
<td></td>
<td></td>
</tr>
<tr>
<td>City Residents Working in Banning</td>
<td>3,531</td>
<td>8</td>
<td>28,247</td>
</tr>
<tr>
<td>Non-Resident Workers</td>
<td>6,164</td>
<td>8</td>
<td>49,314</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Nonresidential Subtotal</td>
<td>77,561</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>13%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>TOTAL:</td>
<td>601,553</td>
</tr>
</tbody>
</table>

1 State of California Labor Market Data for Sub-County Areas (2003 average)
2 Residents working in the city was derived from U.S. Census, 2000, Table P27 from Summary File 3 (SF3), which indicated that 35% of residents worked within the City. This percentage has been applied to the April 2004 labor force data to estimate city residents working in the city.
3 Employment estimate is for 2003 and provided by InfoUSA, Omaha NE. Copyright 2002, all rights reserved.

LEVEL-OF-SERVICE

GENERAL GOVERNMENT FACILITIES INCREMENTAL EXPANSION COMPONENT

Figure 11 documents the current level of service standards for land and buildings supporting general government functions in Banning. The level of service standards are based on the amount of existing building floor area devoted to general government functions in the City. Cost estimates on
a per square foot (including land, as of 02/06) have been used to estimate the cost of providing this level of service. As discussed above, the total cost of the general government infrastructure has been allocated to residential and nonresidential development.

The bottom of Figure 11 shows the cost per demand unit—on a per person or per employee basis—for general government facilities and sites. To derive the cost per demand unit, the current asset value ($4,608,310) is multiplied by the proportionate share factors for each type of land use and then divided by the respective demands for each. For example, the cost per person of $143.60 is derived by multiplying the current asset value ($4,608,310) by 87%, then dividing by the current population estimate (27,954). A similar calculation is used for nonresidential development.

Figure 11: General Government Land and Buildings LOS Factors

<table>
<thead>
<tr>
<th>Site</th>
<th>Square Feet</th>
<th>Cost Per Square Foot</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>City Hall</td>
<td>21,434</td>
<td>$215.00</td>
<td>$4,608,310</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Development Type</th>
<th>Proportionate Share</th>
<th>2005 Demand Units</th>
<th>Cost per Demand Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>87%</td>
<td>27,954 Persons</td>
<td>$143.60</td>
</tr>
<tr>
<td>Nonresidential</td>
<td>13%</td>
<td>9,874 Jobs</td>
<td>$60.18</td>
</tr>
</tbody>
</table>

Provided by City of Banning

**VEHICLE AND EQUIPMENT INCREMENTAL EXPANSION COMPONENT**

Figure 12 documents the City of Banning's existing inventory of vehicles and equipment used by the City’s engineering, building, code enforcement, streets and parks departments. The inventory and cost of the vehicles and equipment represent the City’s current level of service. Proportionate share factors noted previously in Figure 10 are used to assign costs between residential and nonresidential development. To derive the cost per demand unit, the current asset value ($967,000) is multiplied by the proportionate share factors for each type of land use and then divided by the respective demands for each. For example, the cost per person of $30.13 is derived by multiplying the current asset value ($967,000) by 82%, then dividing by the current population estimate (27,954). A similar calculation is used for nonresidential development.
### Figure 12 - General Government Vehicles Impact Fee Factors

<table>
<thead>
<tr>
<th>Unit</th>
<th>Vehicle Type</th>
<th>Year</th>
<th>Replacement Cost Per Unit</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Engineering</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>404</td>
<td>Chevrolet</td>
<td>1999</td>
<td>$15,500</td>
<td>$15,500</td>
</tr>
<tr>
<td>407</td>
<td>Ford</td>
<td>2002</td>
<td>$23,500</td>
<td>$23,500</td>
</tr>
<tr>
<td>408</td>
<td>Chevrolet</td>
<td>2003</td>
<td>$30,000</td>
<td>$30,000</td>
</tr>
<tr>
<td><strong>Building</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>436</td>
<td>Dodge</td>
<td>2001</td>
<td>$24,500</td>
<td>$24,500</td>
</tr>
<tr>
<td><strong>Code Enforcement</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>437</td>
<td>Ford</td>
<td>2001</td>
<td>$14,000</td>
<td>$14,000</td>
</tr>
<tr>
<td>438</td>
<td>Ford</td>
<td>2001</td>
<td>$14,000</td>
<td>$14,000</td>
</tr>
<tr>
<td>439</td>
<td>Ford</td>
<td>2001</td>
<td>$14,000</td>
<td>$14,000</td>
</tr>
<tr>
<td><strong>Streets</strong></td>
<td></td>
<td></td>
<td>$200,000</td>
<td>$200,000</td>
</tr>
<tr>
<td>600 TYMCO</td>
<td></td>
<td>2001</td>
<td></td>
<td></td>
</tr>
<tr>
<td>561</td>
<td>Chevrolet</td>
<td>1987</td>
<td>$21,000</td>
<td>$21,000</td>
</tr>
<tr>
<td>562</td>
<td>Dodge</td>
<td>2003</td>
<td>$24,000</td>
<td>$24,000</td>
</tr>
<tr>
<td>563</td>
<td>Chevrolet</td>
<td>1987</td>
<td>$21,000</td>
<td>$21,000</td>
</tr>
<tr>
<td>564</td>
<td>Dodge</td>
<td>1991</td>
<td>$20,000</td>
<td>$20,000</td>
</tr>
<tr>
<td>565</td>
<td>Ford</td>
<td>2000</td>
<td>$24,000</td>
<td>$24,000</td>
</tr>
<tr>
<td>566</td>
<td>Ford</td>
<td>1989</td>
<td>$46,000</td>
<td>$46,000</td>
</tr>
<tr>
<td>568</td>
<td>Chevrolet</td>
<td>1991</td>
<td>$24,000</td>
<td>$24,000</td>
</tr>
<tr>
<td>609</td>
<td>John Deere</td>
<td>2004</td>
<td>$55,000</td>
<td>$55,000</td>
</tr>
<tr>
<td>610</td>
<td>Cessna</td>
<td>2004</td>
<td>$5,000</td>
<td>$5,000</td>
</tr>
<tr>
<td>611</td>
<td>Cessna</td>
<td>2004</td>
<td>$3,500</td>
<td>$3,500</td>
</tr>
<tr>
<td>612</td>
<td>GMC</td>
<td>1991</td>
<td>$70,000</td>
<td>$70,000</td>
</tr>
<tr>
<td>613</td>
<td>HYDRA PAC</td>
<td>1980</td>
<td>$3,000</td>
<td>$3,000</td>
</tr>
<tr>
<td>616</td>
<td>Kel-Kraft</td>
<td>1989</td>
<td>$1,500</td>
<td>$1,500</td>
</tr>
<tr>
<td>619</td>
<td>Case</td>
<td>2003</td>
<td>$64,000</td>
<td>$64,000</td>
</tr>
<tr>
<td>622</td>
<td>Varmax</td>
<td>1989</td>
<td>$13,000</td>
<td>$13,000</td>
</tr>
<tr>
<td>612</td>
<td>Hydro Tek</td>
<td>1990</td>
<td>$8,000</td>
<td>$8,000</td>
</tr>
<tr>
<td>648</td>
<td>GMC</td>
<td>1990</td>
<td>$80,000</td>
<td>$80,000</td>
</tr>
<tr>
<td>650</td>
<td>CDB GG</td>
<td>1985</td>
<td>$4,500</td>
<td>$4,500</td>
</tr>
<tr>
<td>651</td>
<td>Asplund</td>
<td>1989</td>
<td>$14,000</td>
<td>$14,000</td>
</tr>
<tr>
<td>652</td>
<td>Wacker</td>
<td>1993</td>
<td>$8,000</td>
<td>$8,000</td>
</tr>
<tr>
<td>668</td>
<td>FB</td>
<td>1986</td>
<td>$12,000</td>
<td>$12,000</td>
</tr>
<tr>
<td>712</td>
<td>Honda</td>
<td>2000</td>
<td>$3,500</td>
<td>$3,500</td>
</tr>
<tr>
<td><strong>Parks</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>702</td>
<td>Chevrolet</td>
<td>1989</td>
<td>$21,000</td>
<td>$21,000</td>
</tr>
<tr>
<td>703</td>
<td>Chevrolet</td>
<td>1990</td>
<td>$21,000</td>
<td>$21,000</td>
</tr>
<tr>
<td>704</td>
<td>Dodge</td>
<td>1991</td>
<td>$21,000</td>
<td>$21,000</td>
</tr>
<tr>
<td>763</td>
<td>Toro</td>
<td>1992</td>
<td>$18,000</td>
<td>$18,000</td>
</tr>
<tr>
<td>764</td>
<td>Grasshopper</td>
<td>2000</td>
<td>$18,000</td>
<td>$18,000</td>
</tr>
<tr>
<td>778</td>
<td>CDB GG</td>
<td>1984</td>
<td>$6,500</td>
<td>$6,500</td>
</tr>
<tr>
<td>791</td>
<td>Big TX</td>
<td>1990</td>
<td>$6,000</td>
<td>$6,000</td>
</tr>
</tbody>
</table>

Total 37 $2,977,000

### Development Type Proportionate Share 2005 Demand Units Cost per Demand Unit

<table>
<thead>
<tr>
<th>Development Type</th>
<th>Proportionate Share</th>
<th>2005 Demand Units</th>
<th>Cost per Demand Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>87%</td>
<td>27,954</td>
<td>$20.13</td>
</tr>
<tr>
<td>Nonresidential</td>
<td>13%</td>
<td>8,874</td>
<td>$12.63</td>
</tr>
</tbody>
</table>

*Source: City of Banning Replacement Cost of City Inventory (March 8, 2005)*

---

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CREDITS

At present, the City of Banning does not have any outstanding bonded debt related to the construction of general government facilities and improvements. Therefore, a credit for existing bond financing is not applicable to this development impact fee. And since the development impact fee was calculated using an incremental expansion approach, there is no need to include a credit calculation in the methodology to offset any possibility of potential double payment by fee payers.

MAXIMUM SUPPORTABLE GENERAL GOVERNMENT IMPACT FEE

Figure 13 provides a summary of the level of service standards used to calculate the general government impact fees. As discussed previously, general government impact fees are calculated for both residential and nonresidential land uses. As shown in the bottom of Figure 13, the capital costs per demand unit are $173.73 per person and $72.80 per employee.
Figure 13: General Government Impact Fee Level-of-Service Standard Summary

<table>
<thead>
<tr>
<th>Residential and Nonresidential Demand Indicators</th>
<th>Standards:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Persons Per Housing Unit</strong></td>
<td></td>
</tr>
<tr>
<td>Single Family Detached</td>
<td>2.75</td>
</tr>
<tr>
<td>Townhouse/Duplex</td>
<td>2.09</td>
</tr>
<tr>
<td>Multi-Family</td>
<td>3.05</td>
</tr>
<tr>
<td>Mobile Home</td>
<td>1.67</td>
</tr>
<tr>
<td><strong>Employees Per 1,000 Square Feet</strong></td>
<td></td>
</tr>
<tr>
<td>820 Com./Shop Ctr 50,000 SF or less</td>
<td>2.86</td>
</tr>
<tr>
<td>820 Com./Shop Ctr 50,001-100,000 SF</td>
<td>2.50</td>
</tr>
<tr>
<td>820 Com./Shop Ctr 100,001-200,000 SF</td>
<td>2.22</td>
</tr>
<tr>
<td>820 Com./Shop Ctr over 200,000 SF</td>
<td>2.00</td>
</tr>
<tr>
<td>710 Office/Inst 25,000 SF or less</td>
<td>4.15</td>
</tr>
<tr>
<td>710 Office/Inst 25,001-50,000 SF</td>
<td>3.91</td>
</tr>
<tr>
<td>710 Office/Inst 50,001-100,000 SF</td>
<td>3.69</td>
</tr>
<tr>
<td>720 Medical-Dental Office</td>
<td>4.05</td>
</tr>
<tr>
<td>510 Hospital</td>
<td>3.38</td>
</tr>
<tr>
<td>770 Business Park</td>
<td>3.16</td>
</tr>
<tr>
<td>110 Light Industrial</td>
<td>2.31</td>
</tr>
<tr>
<td>140 Manufacturing</td>
<td>1.79</td>
</tr>
<tr>
<td>150 Warehousing</td>
<td>1.28</td>
</tr>
<tr>
<td>520 Elementary School</td>
<td>0.92</td>
</tr>
<tr>
<td><strong>Other Nonresidential</strong></td>
<td>Per Person</td>
</tr>
<tr>
<td>320 Lodging (per room)</td>
<td>0.71</td>
</tr>
<tr>
<td>565 Day Care (per student)</td>
<td>0.16</td>
</tr>
<tr>
<td>620 Nursing Home (per bed)</td>
<td>0.36</td>
</tr>
<tr>
<td><strong>Demand Unit Cost Factors</strong></td>
<td></td>
</tr>
<tr>
<td>General Government Facilities Cost</td>
<td>$143.60</td>
</tr>
<tr>
<td>General Government Vehicles Cost</td>
<td>$30.13</td>
</tr>
<tr>
<td>Capital Cost per Demand Unit</td>
<td>$173.73</td>
</tr>
</tbody>
</table>

Figure 14 contains a schedule of the general government impact fees for Banning. For residential land uses, persons per housing unit (2.75 for a single family-detached unit) are multiplied by the capital cost per person ($173.73), for an impact fee per unit of $478. For nonresidential land uses, such as a commercial shopping center greater than 50,000 square feet, but less than 100,000 square feet, the number of employees per 1,000 square feet (2.50) is multiplied by the capital cost per employee ($78.80), for a development impact fee of $182 per 1,000 square feet.
Figure 14: General Government Impact Fee Schedule

**Maximum Supportable Development Impact Fee**

<table>
<thead>
<tr>
<th>Category</th>
<th>Per Housing Unit</th>
<th>Per 1,000 Sq Ft</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single Family Detached</td>
<td>$478</td>
<td></td>
</tr>
<tr>
<td>Townhouse/Duplex</td>
<td>$363</td>
<td></td>
</tr>
<tr>
<td>Multi-Family</td>
<td>$530</td>
<td></td>
</tr>
<tr>
<td>Mobile Home</td>
<td>$290</td>
<td></td>
</tr>
<tr>
<td><strong>Nonresidential</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Com / Shop Ctr 50,000 SF or less</td>
<td>$208</td>
<td></td>
</tr>
<tr>
<td>Com / Shop Ctr 50,001-100,000 SF</td>
<td>$182</td>
<td></td>
</tr>
<tr>
<td>Com / Shop Ctr 100,001-200,000 SF</td>
<td>$162</td>
<td></td>
</tr>
<tr>
<td>Com / Shop Ctr over 200,000 SF</td>
<td>$146</td>
<td></td>
</tr>
<tr>
<td>Office / Inst 25,000 SF or less</td>
<td>$302</td>
<td></td>
</tr>
<tr>
<td>Office / Inst 25,001-50,000 SF</td>
<td>$285</td>
<td></td>
</tr>
<tr>
<td>Office / Inst 50,001-100,000 SF</td>
<td>$269</td>
<td></td>
</tr>
<tr>
<td>Medical-Dental Office</td>
<td>$295</td>
<td></td>
</tr>
<tr>
<td>Hospital</td>
<td>$246</td>
<td></td>
</tr>
<tr>
<td>Business Park</td>
<td>$230</td>
<td></td>
</tr>
<tr>
<td>Light Industrial</td>
<td>$168</td>
<td></td>
</tr>
<tr>
<td>Manufacturing</td>
<td>$130</td>
<td></td>
</tr>
<tr>
<td>Warehousing</td>
<td>$93</td>
<td></td>
</tr>
<tr>
<td>Elementary School</td>
<td>$67</td>
<td></td>
</tr>
<tr>
<td><strong>Other Nonresidential</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lodging (per room)</td>
<td>$52</td>
<td></td>
</tr>
<tr>
<td>Day Care (per student)</td>
<td>$12</td>
<td></td>
</tr>
<tr>
<td>Nursing Home (per bed)</td>
<td>$26</td>
<td></td>
</tr>
</tbody>
</table>
METHODOLOGY

The fire development impact fees have been calculated using a plan-based approach, based on station and apparatus needs through 2025. The development impact fees will assist the City's continuing effort to provide adequate station locations, as well as additional apparatus needed as a result of new development. As illustrated in Figure 15, capital costs are allocated to residential development and nonresidential development. Residential factors are calculated on a per person basis, and converted to a development impact fee amount per housing unit using average persons per housing unit type. Nonresidential development impact fees are based on a capital cost per employee, where such costs are typically multiplied by the number of employees per 1,000 square feet of nonresidential floor area.

PROPORTIONATE SHARE FACTORS

The proportionate share factors shown in Figure 16 are used to allocate fire capital costs to residential and nonresidential development. For residential development, the proportionate share factor is based on estimated person hours of non-working residents, plus the non-working hours of resident workers. Based on 2000 census data, Banning’s population is heavily weighted to residents who do not work versus residents that do. For resident workers, two-thirds of a day (i.e., 16 hours)
is allocated to residential demand. Time spent at work (i.e., 8 hours) is allocated to nonresidential development. In 2000, the U.S. Census Bureau estimated that 3,531 residents worked in the City. Therefore, total jobs include 6,164 non-resident workers that commute into Banning for work. Based on estimated person hours, the cost allocation for residential development is 87% while nonresidential development accounts for 13% of the demand for fire facilities and equipment.

Figure 16 – Proportionate Share Factors for Fire

<table>
<thead>
<tr>
<th>Residential</th>
<th>Demand Units in 2003</th>
<th>Demand Person</th>
<th>Person</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Hours/Day</td>
<td>Hours</td>
<td></td>
</tr>
<tr>
<td>Residents Not Working</td>
<td>15,013</td>
<td>24</td>
<td>360,312</td>
</tr>
<tr>
<td>Workers Living in Banning</td>
<td>10,230</td>
<td></td>
<td></td>
</tr>
<tr>
<td>City Residents Working in Banning</td>
<td>3,531</td>
<td>16</td>
<td>56,495</td>
</tr>
<tr>
<td>City Residents Working outside of Banning</td>
<td>6,699</td>
<td>16</td>
<td>187,185</td>
</tr>
<tr>
<td>Residential Subtotal</td>
<td>523,992</td>
<td>87%</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Nonresidential</th>
<th>Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jobs Located in Banning</td>
<td>9,695</td>
</tr>
<tr>
<td>City Residents Working in Banning</td>
<td>3,531</td>
</tr>
<tr>
<td>Non-Resident Workers</td>
<td>6,164</td>
</tr>
<tr>
<td>Nonresidential Subtotal</td>
<td>77,561</td>
</tr>
<tr>
<td>TOTAL</td>
<td>663,553</td>
</tr>
</tbody>
</table>

1 State of California Labor Market Data for Sub-County Areas (2003 average)
2 Residents working in the city was derived from U.S. Census, 2000, Table P27 from Summary File 3 (SF3), which indicated that 33% of residents worked within the City. This percentage has been applied to the April 2004 labor force data to estimate city residents working in the city.
3 Employment estimate is for 2003 and provided by InfoUSA, Omaha NE. Copyright 2002, all rights reserved

CAPITAL FACILITY PLAN

As discussed above, the fire and rescue development impact fees are derived using a plan-based methodology, based on a projection of future station needs through 2025 prepared by the City of Banning. The capital facility plan used to determine the impact fees is comprised of four components. The first component includes stations needed that will benefit both current and future residents. The second component includes stations the City feels are needed solely as a result of new growth. The third component covers apparatus needs benefiting both current and future residents. The fourth component includes apparatus the City feels are needed solely as a result of new growth.
FIRE FACILITIES BENEFITTING ALL DEVELOPMENT

As shown in Figure 17, the City plans on constructing two additional fire stations though 2025 that all development will benefit from. Information provided by the City indicates that the estimated cost of these stations is $7,000,000. Since these facilities will not only provide capacity for new growth, but will also enhance the level-of-service provided to current City residents and businesses, the cost of this capital improvement plan is spread equally over the projected number of demand units in the year 2025. This will ensure that new development is not charged for a higher level-of-service than is currently provided to existing residents.

The bottom of Figure 17 shows the cost per demand unit—on a per person or per employee basis—for future fire facilities. To derive the cost per demand unit, the anticipated fire station cost ($7,000,000) is multiplied by the proportionate share factors for each type of land use and then divided by the respective demands for each. For example, the cost per person of $127.87 is derived by multiplying the anticipated future station cost ($7,000,000) by 87%, then dividing by the projected population in 2025 (47,683). A similar calculation is used for nonresidential development.

Figure 17: Planned Fire Facilities Through 2025 Benefiting All Development

<table>
<thead>
<tr>
<th>Station</th>
<th>Anticipated Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Station #3 – 4300 Westward</td>
<td>$3,500,000</td>
</tr>
<tr>
<td>Station #4 – 200 S. Hathaway (approximate location)</td>
<td>$3,500,000</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$7,000,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Development Type</th>
<th>Proportional Share</th>
<th>2025 Demand Units</th>
<th>Cost per Demand Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>87%</td>
<td>47,683 Persons</td>
<td>$127.87</td>
</tr>
<tr>
<td>Nonresidential</td>
<td>13%</td>
<td>17,296 Jobs</td>
<td>$52.18</td>
</tr>
</tbody>
</table>

FIRE FACILITIES BENEFITTING NEW GROWTH

As shown in Figure 18, the City plans on constructing two additional fire stations though 2025 that is solely a result of new development that is anticipated. Information provided by the City indicates that the estimated cost of these stations is $6,000,000. Since these facilities are solely providing capacity to serve new development, the cost of this capital improvement plan is spread over the net increase in residential and nonresidential demand units from 2005 to 2025.

The bottom of Figure 18 shows the cost per demand unit—on a per person or per employee basis—for future fire facilities. To derive the cost per demand unit, the anticipated fire station cost ($6,000,000) is multiplied by the proportionate share factors for each type of land use and then divided by the respective demands for each. For example, the cost per person of $264.91 is derived...
by multiplying the anticipated future station cost ($6,000,000) by 87%, then dividing by the projected net increase in population from 2005 to 2025 (19,729). A similar calculation is used for nonresidential development.

Figure 18: Planned Fire Facilities Through 2025 Benefiting New Growth

<table>
<thead>
<tr>
<th>Station</th>
<th>Anticipated Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Station #5 – Black Bench</td>
<td>$3,000,000</td>
</tr>
<tr>
<td>Station #6 – Banning Bench</td>
<td>$3,000,000</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$6,000,000</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Development Type</th>
<th>Proportional Share</th>
<th>Net Increase in Demand Units to 2025</th>
<th>Cost per Demand Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>87%</td>
<td>19,729 Persons</td>
<td>$264.91</td>
</tr>
<tr>
<td>Nonresidential</td>
<td>13%</td>
<td>7,069 Jobs</td>
<td>$109.44</td>
</tr>
</tbody>
</table>

**Apparatus Needs Benefiting All Development**

Figure 19 presents the City of Banning's plans for additional fire apparatus through the year 2025. Information provided by the City indicates that the estimated cost of this growth-related apparatus is $2,720,000. Since the apparatus is intended to serve new growth as well as enhance the level-of-service provided to current City residents and businesses, the cost of this capital improvement plan is spread equally over the projected number of demand units in the year 2025. This will ensure that new development is not charged for a higher level-of-service than is currently provided to existing residents.

Proportionate share factors noted previously in Figure 16 are used to assign costs between residential and nonresidential development, which are shown at the bottom of Figure 18. To derive the cost per demand unit, the cost of the apparatus ($2,720,000) is multiplied by the proportionate share factors for each type of land use and then divided by the respective demands for each. For example, the cost per person of $49.69 is derived by multiplying the apparatus cost ($2,720,000) by 87%, then dividing by the projected population in 2025 (47,683). A similar calculation is used for nonresidential development.
Figure 19 – Fire Vehicle and Apparatus Needs Through 2025

<table>
<thead>
<tr>
<th>Apparatus</th>
<th>Anticipated Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fire Pumper-Station #2</td>
<td>$375,000</td>
</tr>
<tr>
<td>Rescue Squad-Station #2</td>
<td>$185,000</td>
</tr>
<tr>
<td>Fire Pumper-Station #3</td>
<td>$375,000</td>
</tr>
<tr>
<td>100' Aerial-Station #3</td>
<td>$850,000</td>
</tr>
<tr>
<td>Rescue Squad-Station #3</td>
<td>$185,000</td>
</tr>
<tr>
<td>Fire Pumper-Station #4</td>
<td>$375,000</td>
</tr>
<tr>
<td>Aircraft Crash/Foam Unit-Station #4</td>
<td>$375,000</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$2,720,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Development Type</th>
<th>Proportional Share</th>
<th>2025 Demand Units</th>
<th>Cost per Demand Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>87%</td>
<td>47,683 Persons</td>
<td>$49.69</td>
</tr>
<tr>
<td>Nonresidential</td>
<td>13%</td>
<td>17,296 Jobs</td>
<td>$20.28</td>
</tr>
</tbody>
</table>

**Apparatus Benefiting New Growth**

As shown in Figure 20, the City plans on purchasing additional apparatus associated with the two stations being constructed solely a result of new development that is anticipated. Information provided by the City indicates that the estimated cost of this apparatus is $1,135,000. Since the apparatus are solely providing capacity to serve new development, the cost of this capital improvement plan is spread over the net increase in residential and nonresidential demand units from 2005 to 2025.

The bottom of Figure 20 shows the cost per demand unit—on a per person or per employee basis—for future fire facilities. To derive the cost per demand unit, the anticipated fire station cost ($1,135,000) is multiplied by the proportionate share factors for each type of land use and then divided by the respective demands for each. For example, the cost per person of $50.11 is derived by multiplying the anticipated future apparatus cost ($1,135,000) by 87%, then dividing by the projected net increase in population from 2005 to 2025 (19,729). A similar calculation is used for nonresidential development.
Figure 20: Fire Vehicle and Apparatus Needs Through 2025 Benefiting New Growth

<table>
<thead>
<tr>
<th>Apparatus</th>
<th>Anticipated Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fire Pumper-Station #5</td>
<td>$375,000</td>
</tr>
<tr>
<td>Rescue Squad-Station #5</td>
<td>$185,000</td>
</tr>
<tr>
<td>Fire Pumper-Station #6</td>
<td>$375,000</td>
</tr>
<tr>
<td>Mini Pumper-Station #6</td>
<td>$200,000</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$1,135,000</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Development Type</th>
<th>Proportional Share</th>
<th>Net Increase in Demand Units to 2025</th>
<th>Cost per Demand Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>87%</td>
<td>19,729 Persons</td>
<td>$30.11</td>
</tr>
<tr>
<td>Nonresidential</td>
<td>13%</td>
<td>7,069 Jobs</td>
<td>$20.70</td>
</tr>
</tbody>
</table>

CREDITS

At present, the City of Banning does not have any outstanding bonded debt related to the construction of fire facilities and apparatus. Therefore, a credit for existing bond financing is not applicable to this development impact fee. And since the development impact fee was calculated using an incremental expansion approach, there is no need to include a credit calculation in the methodology to offset any possibility of potential double payment by fee payers.

MAXIMUM SUPPORTABLE FIRE IMPACT FEE

Figure 21 provides a summary of the level of service standards used to calculate development impact fees for fire facilities and apparatus. Fire development impact fees are calculated for both residential and nonresidential land uses. As shown in the bottom of Figure 21, the capital costs per demand unit are $492.58 per person and $202.60 per employee.
Figure 21: Fire Development Impact Fee Level-of-Service Standard Summary

<table>
<thead>
<tr>
<th>Residential and Nonresidential Demand Indicators</th>
<th>Standards:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Persons Per Housing Unit</strong></td>
<td></td>
</tr>
<tr>
<td>Single Family Detached</td>
<td>2.75</td>
</tr>
<tr>
<td>Townhouse/Duplex</td>
<td>2.09</td>
</tr>
<tr>
<td>Mult-Family</td>
<td>3.05</td>
</tr>
<tr>
<td>Mobile Home</td>
<td>1.67</td>
</tr>
<tr>
<td><strong>Employees Per 1,000 Square Feet</strong></td>
<td></td>
</tr>
<tr>
<td>820 Com / Shop Ctr 50,000 SF or less</td>
<td>2.86</td>
</tr>
<tr>
<td>820 Com / Shop Ctr 50,001-100,000 SF</td>
<td>2.50</td>
</tr>
<tr>
<td>820 Com / Shop Ctr 100,001-200,000 SF</td>
<td>2.22</td>
</tr>
<tr>
<td>820 Com / Shop Ctr over 200,000 SF</td>
<td>2.00</td>
</tr>
<tr>
<td>710 Office / Inst 25,000 SF or less</td>
<td>4.15</td>
</tr>
<tr>
<td>710 Office / Inst 25,001-50,000 SF</td>
<td>3.91</td>
</tr>
<tr>
<td>710 Office / Inst 50,001-100,000 SF</td>
<td>3.69</td>
</tr>
<tr>
<td>720 Medical-Dental Office</td>
<td>4.05</td>
</tr>
<tr>
<td>610 Hospital</td>
<td>3.38</td>
</tr>
<tr>
<td>770 Business Park</td>
<td>3.16</td>
</tr>
<tr>
<td>110 Light Industrial</td>
<td>2.31</td>
</tr>
<tr>
<td>140 Manufacturing</td>
<td>1.79</td>
</tr>
<tr>
<td>150 Warehousing</td>
<td>1.28</td>
</tr>
<tr>
<td>520 Elementary School</td>
<td>0.92</td>
</tr>
<tr>
<td><strong>Other Nonresidential</strong></td>
<td></td>
</tr>
<tr>
<td>320 Lodging (per room)</td>
<td>0.71</td>
</tr>
<tr>
<td>565 Day Care (per student)</td>
<td>0.16</td>
</tr>
<tr>
<td>620 Nursing Home (per bed)</td>
<td>0.36</td>
</tr>
<tr>
<td><strong>Demand Unit Cost Factors</strong></td>
<td></td>
</tr>
<tr>
<td>Fire Station Cost Benefiting All Development</td>
<td>Per Person</td>
</tr>
<tr>
<td>Fire Station Cost Benefiting New Growth</td>
<td>$264.91</td>
</tr>
<tr>
<td>Apparatus Cost Benefiting All Development</td>
<td>$49.69</td>
</tr>
<tr>
<td>Apparatus Cost Benefiting New Growth</td>
<td>$50.11</td>
</tr>
<tr>
<td>Capital Cost per Demand Unit</td>
<td>$492.58</td>
</tr>
</tbody>
</table>

Figure 22 contains a schedule of the development impact fees for fire facilities. For residential land uses, persons per housing unit (2.75 for a single family-detached unit) are multiplied by the capital cost per person ($492.58), for an impact fee per unit of $1,355. For nonresidential land uses, such as a commercial shopping center greater than 50,000 square feet, but less than 100,000 square feet, the number of employees per 1,000 square feet (2.50) is multiplied by the capital cost per trip ($202.60), for a fee of $506 per 1,000 square feet.
Figure 22: Fire Development Impact Fee Schedule

Maximum Supportable Development Impact Fee

<table>
<thead>
<tr>
<th>Residential</th>
<th>Per Housing Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family Detached</td>
<td>$1,355</td>
</tr>
<tr>
<td>Townhouse/Duplex</td>
<td>$1,030</td>
</tr>
<tr>
<td>Multi-Family</td>
<td>$1,502</td>
</tr>
<tr>
<td>Mobile Home</td>
<td>$823</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Nonresidential</th>
<th>Per 1,000 Sq Ft</th>
</tr>
</thead>
<tbody>
<tr>
<td>Com / Shop Ctr 50,000 SF or less</td>
<td>$579</td>
</tr>
<tr>
<td>Com / Shop Ctr 50,001-100,000 SF</td>
<td>$506</td>
</tr>
<tr>
<td>Com / Shop Ctr 100,001-200,000 SF</td>
<td>$450</td>
</tr>
<tr>
<td>Com / Shop Ctr over 200,000 SF</td>
<td>$405</td>
</tr>
<tr>
<td>Office / Inst 25,000 SF or less</td>
<td>$841</td>
</tr>
<tr>
<td>Office / Inst 25,001-50,000 SF</td>
<td>$792</td>
</tr>
<tr>
<td>Office / Inst 50,001-100,000 SF</td>
<td>$748</td>
</tr>
<tr>
<td>Medical-Dental Office</td>
<td>$821</td>
</tr>
<tr>
<td>Hospital</td>
<td>$685</td>
</tr>
<tr>
<td>Business Park</td>
<td>$640</td>
</tr>
<tr>
<td>Light Industrial</td>
<td>$468</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>$363</td>
</tr>
<tr>
<td>Warehousing</td>
<td>$259</td>
</tr>
<tr>
<td>Elementary School</td>
<td>$186</td>
</tr>
</tbody>
</table>

Other Nonresidential

| Lodging (per room)                  | $144             |
| Day Care (per student)              | $32              |
| Nursing Home (per bed)              | $73              |
Parks and Recreation

METHODOLOGY

The development impact fees for park and recreation were derived using an incremental expansion methodology. As shown in Figure 23, cost components were allocated 100% to residential development and include park land, improvements as well as community recreation facilities. This methodology will enable the City of Banning to maintain the current level of service for parks and recreation as the City grows. Development impact fee revenue collected using this methodology may not be used to replace or rehabilitate existing improvements.

Figure 23: Parks and Recreation Development Impact Fee Methodology

![Diagram of impact fee methodology]

LEVEL-OF-SERVICE

PARK LAND INCREMENTAL EXPANSION COMPONENT

Figure 24 lists the current inventory of parks in the City of Banning. As Figure 24 indicates, the City currently has a park land inventory totaling 226.1 acres. When the current inventory (226.1 acres) is compared to the current population estimate (27,954), the resulting level of service standard is 0.0081 acres per person. According to information provided by City staff, the current cost of purchasing a "typical" acre of land for parks is estimated at $36,197. This information is based on a sales comparison analysis for vacant parcels within the City.
To determine the cost per demand unit to be used in the development impact fee, the cost per acre ($36,197) is multiplied by the park acres per person level of service standard (.0081) for a cost per demand unit of $424.78 per person.

Figure 24: Park Land Incremental Expansion Cost Component

<table>
<thead>
<tr>
<th>Park</th>
<th>Type of Park</th>
<th>Developed Park Acres</th>
<th>Undeveloped Park Acres</th>
<th>Total Acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>Repplier Park</td>
<td>Community</td>
<td>13.6</td>
<td>2.0</td>
<td>15.6</td>
</tr>
<tr>
<td>Sylvan Park</td>
<td>Neighborhood</td>
<td>7.8</td>
<td></td>
<td>7.8</td>
</tr>
<tr>
<td>Roosevelt Williams Park</td>
<td>Neighborhood</td>
<td>5.5</td>
<td>7.5</td>
<td>5.5</td>
</tr>
<tr>
<td>Lincoln St. / 22nd St.</td>
<td>Neighborhood</td>
<td>-</td>
<td></td>
<td>7.5</td>
</tr>
<tr>
<td>Mountain Avenue Park</td>
<td>Neighborhood</td>
<td>3.1</td>
<td></td>
<td>3.1</td>
</tr>
<tr>
<td>Dysart Park</td>
<td>Special Event</td>
<td>20.0</td>
<td>-</td>
<td>20.0</td>
</tr>
<tr>
<td>Smith Creek Park</td>
<td>Special Event</td>
<td>-</td>
<td>150.0</td>
<td>150.0</td>
</tr>
<tr>
<td>Lions Park</td>
<td>Sports Field</td>
<td>9.1</td>
<td>7.5</td>
<td>16.6</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>59.1</td>
<td>167.0</td>
<td>226.1</td>
</tr>
</tbody>
</table>

Source: City of Banning Park and Facilities Inventory

2005 Population 27,954
Acres per Resident 0.0081
Average Cost per Acre $36,197
Cost per Capita $424.78

PARK AND RECREATION IMPROVEMENTS INCREMENTAL EXPANSION COMPONENT

Figure 25 lists current improvements at City of Banning parks, which total $5,717,410. The total value of park improvements is based on the inventory of park improvements provided by City staff. A detailed description of these recreation improvements is provided in the Appendix to this analysis. As discussed above, the value of park improvements is allocated 100% to residential development. Dividing the total improvement value ($5,717,410) by the current population estimate (27,954) results in a cost per demand unit of $204.53 per person.
Figure 25: Park and Recreation Improvements Incremental Expansion Cost Component

<table>
<thead>
<tr>
<th>Park</th>
<th>Value of Park Amenities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Repliier Park</td>
<td>$2,376,584</td>
</tr>
<tr>
<td>Sylvan Park</td>
<td>$531,610</td>
</tr>
<tr>
<td>Roosevelt Williams Park</td>
<td>$831,653</td>
</tr>
<tr>
<td>Mountain Avenue Park</td>
<td>$334,335</td>
</tr>
<tr>
<td>Dysart Park</td>
<td>$616,940</td>
</tr>
<tr>
<td>Lions Park</td>
<td>$1,026,277</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$5,717,410</strong></td>
</tr>
</tbody>
</table>

1 See Appendix for a detailed inventory and cost estimate of park amenities at each park.

2005 Population: 27,954
Cost per Capita: $204.53

COMMUNITY RECREATION FACILITY INCREMENTAL EXPANSION COMPONENT

Figure 26 lists existing community and recreational facilities located at Repliier Park that are owned and operated by the City of Banning for the benefit of the City's residents. The facilities include the community center, senior center, and the amphitheater. The estimated value of these existing facilities is $2,277,000 million. To determine the cost per demand unit, the facility value ($2,277,000) is divided by the current population estimate (27,954), for a cost per demand unit of $81.46 per person.
Figure 26: Community Recreation Facility Incremental Expansion Cost Component

<table>
<thead>
<tr>
<th>Community and Recreation Facility</th>
<th>Value of Facility</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community Center</td>
<td>$1,072,800</td>
</tr>
<tr>
<td>Senior Center</td>
<td>$702,000</td>
</tr>
<tr>
<td>Amphitheater</td>
<td>$502,200</td>
</tr>
<tr>
<td></td>
<td>$2,277,000</td>
</tr>
</tbody>
</table>

Source: City of Banning Park Amenities Value Estimates (9-10-04).

2005 Population 27,954
Cost per Capita $81.46

CREDITS

At present, the City of Banning does not have any outstanding bonded debt related to the construction of parks and recreation facilities and improvements. Therefore, a credit for existing bond financing is not applicable to this development impact fee. And since the development impact fee was calculated using an incremental expansion approach, there is no need to include a credit calculation in the methodology to offset any possibility of potential double payment by fee payers.

MAXIMUM SUPPORTABLE PARKS AND RECREATION IMPACT FEE

Figure 27 provides a summary of the level-of-service standards used to calculate development impact fees for parks and recreation, as well as a schedule of the development impact fees. Development impact fees are calculated for residential land uses only. As shown in the bottom of Figure 27, the capital cost per demand unit is $710.76 per person. To calculate the fee, persons per housing unit (2.75 for a single family unit) is multiplied by the capital cost per demand unit ($710.76), for a development impact fee per unit of $1,955.
Figure 27: Maximum Supportable Parks and Recreation Development Impact Fee Schedule

<table>
<thead>
<tr>
<th>Residential Demand Indicators</th>
<th>Standards:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Persons Per Housing Unit</strong></td>
<td></td>
</tr>
<tr>
<td>Single Family Detached</td>
<td>2.75</td>
</tr>
<tr>
<td>Townhouse/Duplex</td>
<td>2.09</td>
</tr>
<tr>
<td>Multi-Family</td>
<td>3.05</td>
</tr>
<tr>
<td>Mobile Home</td>
<td>1.67</td>
</tr>
<tr>
<td><strong>Demand Unit Cost Factors</strong></td>
<td></td>
</tr>
<tr>
<td>Park Land Cost Per Person</td>
<td>$424.78</td>
</tr>
<tr>
<td>Park Improvement Cost Per Person</td>
<td>$204.53</td>
</tr>
<tr>
<td>Community Recreation Facility Cost Per Person</td>
<td>$81.46</td>
</tr>
<tr>
<td>Capital Cost Per Demand Unit</td>
<td>$710.76</td>
</tr>
</tbody>
</table>

| Maximum Supportable Impact Fee per Housing Unit |              |
| Single Family Detached                         | $1,955       |
| Townhouse/Duplex                              | $1,485       |
| Multi-Family                                  | $2,168       |
| Mobile Home                                   | $1,187       |
Police

METHODOLOGY

The development impact fee for police is derived using a combination of the plan-based and incremental expansion methodologies. First, a plan-based approach is used for future police station square footage, based on the City's plan to construct a new police facility. Second, an incremental expansion approach is used for new police cars necessitated by new development in the City.

Figure 28 shows the methodology used for the police department development impact fee. The methodology chart shows that police department impact fees use different demand indicators for residential and nonresidential development. Residential impact fees are calculated on a per capita basis and then converted to a proportionate fee amount by type of housing, based on the number of persons per housing unit.

For nonresidential development impact fees, TischlerBise recommends using nonresidential vehicle trips as the best demand indicator for police department facilities and equipment. Trip generation rates are used for nonresidential development because vehicle trips are highest for commercial developments, such as shopping centers, and lowest for industrial/warehouse development. Office and institutional trip rates fall between the other two categories. This ranking of trip rates is consistent with the relative demand for public safety from nonresidential development. Other possible nonresidential demand indicators, such as employment or floor area, will not accurately reflect the demand for service. For example, if employees per thousand square feet were used as the demand indicator, police impact fees would be too high for office and institutional development because offices typically have more employees per 1,000 square feet than retail uses. If floor area were used as the demand indicator, police impact fees would be too high for industrial development.
Figure 28: Police Development Impact Fee Methodology

PROPORTIONATE SHARE FACTORS

The proportionate share factors shown in Figure 29 are used to allocate police capital costs to residential and nonresidential development. For residential development, the proportionate share factor is based on estimated person hours of non-working residents, plus the non-working hours of resident workers. Based on 2000 census data, Banning’s population is heavily weighted to residents who do not work versus residents that do. For resident workers, two-thirds of a day (i.e., 16 hours) is allocated to residential demand. Time spent at work (i.e., 8 hours) is allocated to nonresidential development. In 2000, the U.S. Census Bureau estimated that 3,531 residents worked in the City. Therefore, total jobs include 6,164 non-resident workers that commute into Banning for work. Based on estimated person hours, the cost allocation for residential development is 87% while nonresidential development accounts for 13% of the demand for police facilities and vehicles.
Figure 29—Proportionate Share Factors for Police

<table>
<thead>
<tr>
<th></th>
<th>Demand Units in 2003</th>
<th>Demand Person</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Hours/Day</td>
<td>Hours</td>
</tr>
<tr>
<td>Residential</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Estimated Residents (Peak)</td>
<td>25,243</td>
<td>15,013</td>
</tr>
<tr>
<td>Residents Not Working</td>
<td>10,230</td>
<td></td>
</tr>
<tr>
<td>Workers Living in Banning</td>
<td></td>
<td></td>
</tr>
<tr>
<td>City Residents Working in Banning</td>
<td>2,531</td>
<td>16</td>
</tr>
<tr>
<td>City Residents Working outside of Banning</td>
<td>6,699</td>
<td>16</td>
</tr>
<tr>
<td>Residential Subtotal</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nonresidential</td>
<td>9,695</td>
<td></td>
</tr>
<tr>
<td>Jobs Located in Banning</td>
<td></td>
<td></td>
</tr>
<tr>
<td>City Residents Working in Banning</td>
<td>3,381</td>
<td>8</td>
</tr>
<tr>
<td>Non-Resident Workers</td>
<td>6,164</td>
<td></td>
</tr>
<tr>
<td>Nonresidential Subtotal</td>
<td></td>
<td>137,61</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1 State of California Labor Market Data for Sub-County Areas (2003 average)
2 Residents working in the city was derived from U.S. Census, 2000, Table P27 from Summary File 3 (SF3), which indicated that 95% of residents worked within the City. This percentage has been applied to the April 2004 labor force data to estimate city residents working in the city.
3 Employment estimate is for 2003 and provided by InfoUSA, Omaha NE Copyright 2002, all rights reserved

The proportionate share of costs attributable to residential development will be allocated to population and then converted to an appropriate amount by type of housing unit, based on average persons per housing unit. We recommend using average daily nonresidential vehicle trips on a weekday as the best demand indicator for police facilities. Trip generation rates are highest for commercial development, such as a shopping center, and lowest for industrial/warehouse development. Office/institutional trip rates fall between the other two categories. This ranking of trip rates is consistent with the relative demand for police protection from nonresidential development. Other possible nonresidential demand indicators, such as employment or floor area, do not accurately reflect the demand for police services. If employees per 1,000 square feet of building area were used as the demand indicator, police impact fees would be too high for office/institutional development.

Average weekday vehicle trip ends are from the reference book, Trip Generation, published by the Institute of Transportation Engineers (ITE, 2003). A "trip end" represents a vehicle either entering or exiting a development (as if a traffic counter were placed across a driveway). Trip generation rates are adjusted to avoid double counting each trip at both the origin and destination points. For all types of nonresidential development except commercial, the trip adjustment factor is 50%. For commercial / shopping center development, the trip adjustment factor ranges from 22-32%
depending on the floor area of the development. The trip adjustment factor is less than 50% because retail uses attract vehicles as they pass by on arterial and collector roads. For example, when someone stops at a convenience store on the way home from work, the convenience store is not the primary destination. For a small-size shopping center of 50,000 square feet of floor area, the ITE manual indicates that on average 48% of the vehicles that enter are passing by on their way to some other primary destination. The remaining 52% of attraction trips have the shopping center as their primary destination. Because attraction trips are half of all trips, the trip adjustment factor is 52% multiplied by 50%, or approximately 26% of the trip ends. The data contained in Trip Generation (see Table VII-1 of the 5th edition, 1991) indicates there is an inverse relationship between shopping center size and pass-by trips. Therefore, appropriate trip adjustment factors have been calculated for each category of shopping center size used in the police development impact fee calculations. Figure 30 below summarizes average nonresidential weekday vehicle trip factors.
Figure 30: Average Daily Vehicle Trip Factors for Nonresidential Development

<table>
<thead>
<tr>
<th>Average Weekday Vehicle Trip Ends per 1,000 Sq Ft</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>820 Com / Shop Ctr 50,000 SF or less</td>
<td>86.56</td>
</tr>
<tr>
<td>820 Com / Shop Ctr 50,001-100,000 SF</td>
<td>67.91</td>
</tr>
<tr>
<td>820 Com / Shop Ctr 100,001-200,000 SF</td>
<td>53.28</td>
</tr>
<tr>
<td>820 Com / Shop Ctr over 200,000 SF</td>
<td>41.80</td>
</tr>
<tr>
<td>710 Office / Inst 25,000 SF or less</td>
<td>18.35</td>
</tr>
<tr>
<td>710 Office / Inst 25,001-50,000 SF</td>
<td>15.65</td>
</tr>
<tr>
<td>710 Office / Inst 50,001-100,000 SF</td>
<td>13.34</td>
</tr>
<tr>
<td>720 Medical-Dental Office</td>
<td>36.13</td>
</tr>
<tr>
<td>610 Hospital</td>
<td>17.57</td>
</tr>
<tr>
<td>770 Business Park</td>
<td>12.76</td>
</tr>
<tr>
<td>110 Light Industrial</td>
<td>6.97</td>
</tr>
<tr>
<td>140 Manufacturing</td>
<td>3.82</td>
</tr>
<tr>
<td>150 Warehousing</td>
<td>4.96</td>
</tr>
<tr>
<td>520 Elementary School</td>
<td>14.49</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Average Weekday Vehicle Trip Ends</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>320 Lodging (per room)</td>
<td>9.11</td>
</tr>
<tr>
<td>560 Day Care (per student)</td>
<td>4.48</td>
</tr>
<tr>
<td>620 Nursing Home (per bed)</td>
<td>2.37</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Trip Adjustment Factors</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Com / Shop Ctr 50,000 SF or less</td>
<td>26%</td>
</tr>
<tr>
<td>Com / Shop Ctr 50,001-100,000 SF</td>
<td>29%</td>
</tr>
<tr>
<td>Com / Shop Ctr 100,001-200,000 SF</td>
<td>32%</td>
</tr>
<tr>
<td>Com / Shop Ctr over 200,000 SF</td>
<td>35%</td>
</tr>
<tr>
<td>All Other Nonresidential</td>
<td>50%</td>
</tr>
</tbody>
</table>

CAPITAL FACILITY PLAN

As discussed above, the police impact fees are derived using a plan-based methodology, based on a projection of future facility needs through 2025 prepared by the City of Banning.

POLICE FACILITIES

As shown in Figure 31, the City plans on constructing a new police station, which is intended to serve the City through 2025. Information provided by the City indicates that the estimated cost of this facility is $14,000,000. Since this facility will not only provide capacity for new growth, but will also enhance the level-of-service provided to current City residents and businesses, the cost of this capital improvement plan is spread equally over the projected number of demand units in the year 2025. This will ensure that new development is not charged for a higher level-of-service than is currently provided to existing residents.
The bottom of Figure 31 shows the cost per demand unit—on a per person or per nonresidential vehicle trip basis. To derive the cost per demand unit, the anticipated police station cost ($14,000,000) is multiplied by the proportionate share factors for each type of land use and then divided by the respective demands for each. For example, the cost per person of $255.75 is derived by multiplying the anticipated future station cost ($14,000,000) by 87%, then dividing by the projected population in 2025 (47,683). A similar calculation is used for nonresidential development.

Figure 31: Planned Police Facilities

<table>
<thead>
<tr>
<th>Planned Police Facility</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$14,000,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Development Type</th>
<th>Proportional Share</th>
<th>2025 Demand Units</th>
<th>Cost per Demand Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>87%</td>
<td>47,683 Persons</td>
<td>$255.75</td>
</tr>
<tr>
<td>Nonresidential</td>
<td>13%</td>
<td>103,036 Veh. Trips</td>
<td>$17.52</td>
</tr>
</tbody>
</table>

1Source: City of Banning

**Police Vehicles and Equipment Incremental Expansion Component**

The cost per demand unit for police vehicles and equipment is derived using an incremental expansion approach. Vehicle and equipment costs shown at the top of Figure 32 are based on information provided by the City on the cost of replacing existing vehicles and/or equipment in the department’s inventory. As shown in Figure 32, the estimated replacement costs totals $1,405,080.

In order to determine the cost per demand unit for Police vehicles, the total estimated replacement cost ($1,405,080) is multiplied by the residential and nonresidential proportionate share factors. The resulting residential proportionate share factor ($1,223,917) is then divided by the current population estimate (27,954) for a cost per demand unit of $43.78 per person. For nonresidential development, the proportionate share factor ($492,133) is divided by the current estimate of average daily nonresidential vehicle trips (51,811), for a cost per demand unit of $3.50 per vehicle trip.
Figure 32: Police Vehicle and Equipment Incremental Expansion Component

<table>
<thead>
<tr>
<th>Vehicle Type</th>
<th>Replacement Cost Per Unit</th>
<th># of Units</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ford Expedition</td>
<td>$33,200</td>
<td>2</td>
<td>$66,400</td>
</tr>
<tr>
<td>Ford Explorer</td>
<td>$28,200</td>
<td>1</td>
<td>$28,200</td>
</tr>
<tr>
<td>Ford Crown Victoria (patrol car)</td>
<td>$44,000</td>
<td>15</td>
<td>$660,000</td>
</tr>
<tr>
<td>Chevrolet Caprice (patrol car)</td>
<td>$44,000</td>
<td>5</td>
<td>$220,000</td>
</tr>
<tr>
<td>Ford Taurus (detective bureau?)</td>
<td>$14,000</td>
<td>2</td>
<td>$28,000</td>
</tr>
<tr>
<td>Mercury Grand Marquis (Commander)</td>
<td>$31,000</td>
<td>2</td>
<td>$62,000</td>
</tr>
<tr>
<td>Pontiac Bonneville</td>
<td>$36,000</td>
<td>1</td>
<td>$36,000</td>
</tr>
<tr>
<td>Dodge Intrepid (COP)</td>
<td>$26,000</td>
<td>1</td>
<td>$26,000</td>
</tr>
<tr>
<td>Ford F-250</td>
<td>$29,200</td>
<td>1</td>
<td>$29,200</td>
</tr>
<tr>
<td>Chevrolet 1500 Van</td>
<td>$24,000</td>
<td>1</td>
<td>$24,000</td>
</tr>
<tr>
<td>Police Motorcycle</td>
<td>$22,760</td>
<td>3</td>
<td>$68,280</td>
</tr>
<tr>
<td>Wells Fargo Enclosed Trailer</td>
<td>$45,000</td>
<td>1</td>
<td>$45,000</td>
</tr>
<tr>
<td>Olympian Stationary Generator</td>
<td>$40,000</td>
<td>1</td>
<td>$40,000</td>
</tr>
<tr>
<td>Chevrolet Cavalier</td>
<td>$17,000</td>
<td>2</td>
<td>$34,000</td>
</tr>
<tr>
<td>Trailer with Radar Display</td>
<td>$15,000</td>
<td>1</td>
<td>$15,000</td>
</tr>
<tr>
<td>Chevrolet S-10 pick-up</td>
<td>$23,000</td>
<td>1</td>
<td>$23,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>40</strong></td>
<td><strong>$1,405,080</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Development Type</th>
<th>Proportional Share</th>
<th>2005 Demand Units</th>
<th>Cost per Demand Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>87%</td>
<td>27,954 Persons</td>
<td>$43.78</td>
</tr>
<tr>
<td>Nonresidential</td>
<td>13%</td>
<td>51,811 No. Veh. Trips</td>
<td>$3.50</td>
</tr>
</tbody>
</table>

Source: Unit Assignments and Status: Field Operations Division as of September 22, 2002

CREDITS

At present, the City of Banning does not have any outstanding bonded debt related to the construction of Police facilities and/or vehicles. Therefore, a credit for existing bond financing is not applicable to this development impact fee. And since the development impact fee was calculated using an incremental expansion approach, there is no need to include a credit calculation in the methodology to offset any possibility of potential double payment by fee payers.

MAXIMUM SUPPORTABLE POLICE IMPACT FEE

Figure 33 provides a summary of the level-of-service standards used to calculate the police development impact fees. As discussed previously, police development impact fees are calculated
for both residential and nonresidential land uses. As shown in the bottom of Figure 33, the capital cost per demand unit for residential land uses is $299.53 per person. The cost per demand unit for residential units is $21.02 per nonresidential vehicle trip.

Figure 33: Police Development Impact Fee LOS Standards Summary

<table>
<thead>
<tr>
<th>Residential and Nonresidential Demand Indicators</th>
<th>Standards:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Persons Per Housing Unit</strong></td>
<td></td>
</tr>
<tr>
<td>Single Family Detached</td>
<td>2.75</td>
</tr>
<tr>
<td>Townhouse/Duplex</td>
<td>2.09</td>
</tr>
<tr>
<td>Mult-Family</td>
<td>3.05</td>
</tr>
<tr>
<td>Mobile Home</td>
<td>1.67</td>
</tr>
<tr>
<td><strong>Average Weekday Vehicle Trip Ends per 1,000 Sq Ft</strong></td>
<td></td>
</tr>
<tr>
<td>820 Corn / Shop Ctr 50,000 SF or less</td>
<td>86.56</td>
</tr>
<tr>
<td>820 Corn / Shop Ctr 50,001-100,000 SF</td>
<td>67.91</td>
</tr>
<tr>
<td>820 Corn / Shop Ctr 100,001-200,000 SF</td>
<td>53.28</td>
</tr>
<tr>
<td>820 Corn / Shop Ctr over 200,000 SF</td>
<td>41.80</td>
</tr>
<tr>
<td>710 Office / Inst 25,000 SF or less</td>
<td>18.35</td>
</tr>
<tr>
<td>710 Office / Inst 25,001-50,000 SF</td>
<td>15.65</td>
</tr>
<tr>
<td>710 Office / Inst 50,001-100,000 SF</td>
<td>13.34</td>
</tr>
<tr>
<td>720 Medical-Dental Office</td>
<td>36.13</td>
</tr>
<tr>
<td>610 Hospital</td>
<td>17.57</td>
</tr>
<tr>
<td>770 Business Park</td>
<td>12.76</td>
</tr>
<tr>
<td>110 Light Industrial</td>
<td>6.97</td>
</tr>
<tr>
<td>140 Manufacturing</td>
<td>3.82</td>
</tr>
<tr>
<td>150 Warehousing</td>
<td>4.96</td>
</tr>
<tr>
<td>520 Elementary School</td>
<td>14.49</td>
</tr>
<tr>
<td><strong>Average Weekday Vehicle Trip Ends</strong></td>
<td></td>
</tr>
<tr>
<td>320 Lodging (per room)</td>
<td>9.11</td>
</tr>
<tr>
<td>565 Day Care (per student)</td>
<td>4.48</td>
</tr>
<tr>
<td>620 Nursing Home (per bed)</td>
<td>2.37</td>
</tr>
<tr>
<td><strong>Trip Adjustment Factors</strong></td>
<td></td>
</tr>
<tr>
<td>Corn / Shop Ctr 50,000 SF or less</td>
<td>2.6%</td>
</tr>
<tr>
<td>Corn / Shop Ctr 50,001-100,000 SF</td>
<td>2.9%</td>
</tr>
<tr>
<td>Corn / Shop Ctr 100,001-200,000 SF</td>
<td>3.2%</td>
</tr>
<tr>
<td>Corn / Shop Ctr over 200,000 SF</td>
<td>3.5%</td>
</tr>
<tr>
<td>All Other Nonresidential</td>
<td>5.0%</td>
</tr>
<tr>
<td><strong>Demand Unit Cost Factors</strong></td>
<td></td>
</tr>
<tr>
<td>Police Building and Facility Cost</td>
<td>Per Person: $255.75</td>
</tr>
<tr>
<td>Police Vehicle and Equipment Cost</td>
<td>Per Person: $43.78</td>
</tr>
<tr>
<td>Capital Cost Per Demand Unit</td>
<td>Per Person: $299.53</td>
</tr>
</tbody>
</table>
Figure 34 contains a schedule of the development impact fees for police. For residential land uses, persons per housing unit (2.75 for a single family-detached unit) are multiplied by the capital cost per person ($299.53), for a development impact fee per unit of $823. For nonresidential land uses, such as a commercial shopping center greater than 50,000 square feet, but less than 100,000 square feet, the number of average daily vehicle trips per 1,000 square feet (67.91) are multiplied by the trip adjustment factor (29%) and the capital cost per vehicle trip ($21.02), for a development impact fee of $413 per 1,000 square feet.

Figure 34: Police Development Impact Fee Schedule

<table>
<thead>
<tr>
<th>Maximum Supportable Development Impact Fee</th>
<th>Per Housing Unit</th>
<th>Per 1,000 Sq Ft</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single Family Detached</td>
<td>$823</td>
<td>$4.72</td>
</tr>
<tr>
<td>Townhouse/Duplex</td>
<td>$626</td>
<td>$4.13</td>
</tr>
<tr>
<td>Mult-Family</td>
<td>$913</td>
<td>$3.58</td>
</tr>
<tr>
<td>Mobile Home</td>
<td>$500</td>
<td>$3.07</td>
</tr>
<tr>
<td>Nonresidential</td>
<td></td>
<td></td>
</tr>
<tr>
<td>820 Com/Shop Ctr 50,000 SF or less</td>
<td>$472</td>
<td>$1.64</td>
</tr>
<tr>
<td>820 Com/Shop Ctr 50,001-100,000 SF</td>
<td>$413</td>
<td>$1.40</td>
</tr>
<tr>
<td>820 Com/Shop Ctr 100,001-200,000 SF</td>
<td>$358</td>
<td>$1.30</td>
</tr>
<tr>
<td>820 Com/Shop Ctr over 200,000 SF</td>
<td>$307</td>
<td>$1.20</td>
</tr>
<tr>
<td>710 Office/Inst 25,000 SF or less</td>
<td>$307</td>
<td>$1.19</td>
</tr>
<tr>
<td>710 Office/Inst 25,001-50,000 SF</td>
<td>$358</td>
<td>$1.40</td>
</tr>
<tr>
<td>710 Office/Inst 50,001-100,000 SF</td>
<td>$397</td>
<td>$1.34</td>
</tr>
<tr>
<td>720 Medical-Dental Office</td>
<td>$184</td>
<td>$1.34</td>
</tr>
<tr>
<td>610 Hospital</td>
<td>$134</td>
<td>$1.34</td>
</tr>
<tr>
<td>770 Business Park</td>
<td>$73</td>
<td>$0.73</td>
</tr>
<tr>
<td>110 Light Industrial</td>
<td>$40</td>
<td>$0.40</td>
</tr>
<tr>
<td>140 Manufacturing</td>
<td>$52</td>
<td>$0.52</td>
</tr>
<tr>
<td>150 Warehousing</td>
<td>$152</td>
<td>$1.52</td>
</tr>
<tr>
<td>520 Elementary School</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other Nonresidential</td>
<td></td>
<td></td>
</tr>
<tr>
<td>320 Lodging (per room)</td>
<td>$95</td>
<td></td>
</tr>
<tr>
<td>565 Day Care (per student)</td>
<td>$47</td>
<td></td>
</tr>
<tr>
<td>620 Nursing Home (per bed)</td>
<td>$24</td>
<td></td>
</tr>
</tbody>
</table>
Traffic Control

METHODOLOGY

The traffic control development impact fees are derived using a plan-based methodology, which incorporates planned capacity and signalization improvements for the 2005 to 2025 time-period. As shown in Figure 35, traffic control development impact fees will be assessed against both residential and nonresidential development, using average weekday vehicle trip ends data from the Institute of Transportation Engineers Trip Generation Manual, 2003 edition.

Figure 35: Traffic Control Development Impact Fee Methodology Chart

ROAD DEMAND (TRIP GENERATION)

The demand for additional road capacity is primarily a function of vehicle trips. Therefore, transportation development fees by type of development are based on average weekday vehicle trip generation rates and adjustment factors published by the Institute of Transportation Engineers (ITE). Adjustment factors are necessary to avoid double counting the same trip at both the origin and destination points.

Average weekday vehicle trips are from the reference book, Trip Generation, 7th Edition, published by the Institute of Transportation Engineers (ITE) in 2003. A vehicle trip end represents a vehicle
either entering or exiting a development (as if a traffic counter were placed across a driveway). To calculate impact fees, trip generation rates are adjusted to avoid double counting each trip at both the origin and destination points. For all nonresidential development except commercial/shopping center development, the trip adjustment factor is 50 percent. As documented in the Fifth Edition of Trip Generation (see Table VII-1 of the 5th edition, 1991), there is an inverse relationship between shopping center size and pass-by trips. Therefore, appropriate trip adjustment factors have been calculated according to shopping center size. (See Figure 36.) For commercial/shopping center development (ITE code 820), the trip adjustment factor is less than 50 percent because retail uses attract vehicles as they pass by on arterial and collector roads. For example, when someone stops at a convenience store on the way home from work, the convenience store is not the primary destination. For a small-size shopping center of 50,000 square feet of floor area, the ITE manual indicates that on average 48 percent of the vehicles that enter are passing by on their way to some other primary destination. The remaining 52 percent of attraction trips have the shopping center as their primary destination. Because attraction trips are half of all trips, the trip adjustment factor is 52 percent multiplied by 50 percent, or approximately 26 percent of the trip ends.
Figure 36: Average Weekday Vehicle Trip Factors and Pass-By Adjustments

<table>
<thead>
<tr>
<th>Residential and Nonresidential Demand Indicators</th>
<th>Residential</th>
<th>Commercial/Shopping Ctrs</th>
<th>Other Nonresidential</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average Weekday Vehicle Trip Ends Per Unit</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single Family-Detached</td>
<td>9.57</td>
<td>86.56</td>
<td></td>
</tr>
<tr>
<td>Townhouse/Duplex</td>
<td>5.86</td>
<td>67.91</td>
<td></td>
</tr>
<tr>
<td>Multifamily</td>
<td>6.59</td>
<td>53.28</td>
<td></td>
</tr>
<tr>
<td>Mobile Home/Other</td>
<td>4.99</td>
<td>41.80</td>
<td></td>
</tr>
<tr>
<td>Avg Weekday Vehicle Trip Ends Per 1,000 Sq Ft</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>820 Com / Shop Ctr 50,000 SF or less</td>
<td></td>
<td></td>
<td>18.35</td>
</tr>
<tr>
<td>820 Com / Shop Ctr 50,001-100,000 SF</td>
<td></td>
<td></td>
<td>15.65</td>
</tr>
<tr>
<td>820 Com / Shop Ctr 100,001-200,000 SF</td>
<td></td>
<td></td>
<td>13.34</td>
</tr>
<tr>
<td>820 Com / Shop Ctr over 200,000 SF</td>
<td></td>
<td></td>
<td>36.13</td>
</tr>
<tr>
<td>710 Office / Inst 25,000 SF or less</td>
<td></td>
<td></td>
<td>17.57</td>
</tr>
<tr>
<td>710 Office / Inst 25,001-50,000 SF</td>
<td></td>
<td></td>
<td>12.76</td>
</tr>
<tr>
<td>710 Office / Inst 50,001-100,000 SF</td>
<td></td>
<td></td>
<td>6.97</td>
</tr>
<tr>
<td>720 Medical-Dental Office</td>
<td></td>
<td></td>
<td>3.82</td>
</tr>
<tr>
<td>610 Hospital</td>
<td></td>
<td></td>
<td>4.96</td>
</tr>
<tr>
<td>770 Business Park</td>
<td></td>
<td></td>
<td>14.49</td>
</tr>
<tr>
<td>110 Light Industrial</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>140 Manufacturing</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>150 Warehousing</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>520 Elementary School</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other Nonresidential</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>220 Lodging (per room)</td>
<td></td>
<td></td>
<td>9.11</td>
</tr>
<tr>
<td>565 Day Care (per student)</td>
<td></td>
<td></td>
<td>4.48</td>
</tr>
<tr>
<td>620 Nursing Home (per bed)</td>
<td></td>
<td></td>
<td>2.37</td>
</tr>
<tr>
<td>Trip Adjustment Factors</td>
<td>50%</td>
<td>26%</td>
<td></td>
</tr>
<tr>
<td>Residential</td>
<td></td>
<td>29%</td>
<td></td>
</tr>
<tr>
<td>Commercial/Shopping Ctrs</td>
<td></td>
<td>32%</td>
<td></td>
</tr>
<tr>
<td>Other Nonresidential</td>
<td></td>
<td>35%</td>
<td></td>
</tr>
<tr>
<td>All Other Nonresidential</td>
<td></td>
<td></td>
<td>50%</td>
</tr>
</tbody>
</table>


CAPITAL FACILITY PLAN

The traffic control capital improvements included in the development impact fee methodology is based on capacity improvements identified by a study prepared for the City by Whipple, Kinsell, and Company (1992).
As shown in Figure 37, traffic control projects benefiting new growth total $4,600,000. To determine the cost per unit of trip capacity, the traffic control capital facility plan cost ($4,600,000) is divided by the projected net increase in growth-related average weekday vehicle trip ends through the year 2025 (88,037) to yield a weighted average cost per unit of trip capacity of $52.25.

**Figure 37: Traffic Control Capital Facilities Plan**

<table>
<thead>
<tr>
<th>Item #</th>
<th>Description</th>
<th>Signallization Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Lincoln St &amp; San Gorgonio</td>
<td>$200,000</td>
</tr>
<tr>
<td>2</td>
<td>Lincoln St &amp; 6th St</td>
<td>$200,000</td>
</tr>
<tr>
<td>3</td>
<td>Lincoln St &amp; Hargrave St</td>
<td>$200,000</td>
</tr>
<tr>
<td>4</td>
<td>Lincoln St &amp; 22nd St</td>
<td>$200,000</td>
</tr>
<tr>
<td>5</td>
<td>Highland Home Road &amp; Westward Ave</td>
<td>$200,000</td>
</tr>
<tr>
<td>6</td>
<td>Highland Home Road &amp; Ramsey St</td>
<td>$200,000</td>
</tr>
<tr>
<td>7</td>
<td>Highland Home Road &amp; Wilson St</td>
<td>$200,000</td>
</tr>
<tr>
<td>8</td>
<td>Highland Springs Ave &amp; Sun Lakes Blvd</td>
<td>$200,000</td>
</tr>
<tr>
<td>9</td>
<td>Highland Springs Ave &amp; Wilson St</td>
<td>$200,000</td>
</tr>
<tr>
<td>10</td>
<td>Westward Ave &amp; San Gorgonio</td>
<td>$200,000</td>
</tr>
<tr>
<td>11</td>
<td>Westward Ave &amp; Sunset Ave</td>
<td>$200,000</td>
</tr>
<tr>
<td>12</td>
<td>Westward Ave &amp; 22nd St</td>
<td>$200,000</td>
</tr>
<tr>
<td>13</td>
<td>Westward Ave &amp; 8th St</td>
<td>$200,000</td>
</tr>
<tr>
<td>14</td>
<td>Sunset Ave &amp; Lincoln St</td>
<td>$200,000</td>
</tr>
<tr>
<td>15</td>
<td>Sunset Ave &amp; Wilson St</td>
<td>$200,000</td>
</tr>
<tr>
<td>16</td>
<td>San Gorgonio &amp; Wilson St</td>
<td>$200,000</td>
</tr>
<tr>
<td>17</td>
<td>Ramsey St &amp; 16th St</td>
<td>$200,000</td>
</tr>
<tr>
<td>18</td>
<td>8th St &amp; Wilson St</td>
<td>$200,000</td>
</tr>
<tr>
<td>19</td>
<td>Jacinto View Rd &amp; Highland Home Rd</td>
<td>$200,000</td>
</tr>
<tr>
<td>20</td>
<td>Hargrave St &amp; Westward Ave</td>
<td>$200,000</td>
</tr>
<tr>
<td>21</td>
<td>Highland Springs Ave &amp; Sun Lakes Blvd</td>
<td>$200,000</td>
</tr>
<tr>
<td>22</td>
<td>Wilson St &amp; Mountain Ave</td>
<td>$200,000</td>
</tr>
<tr>
<td>23</td>
<td>Wilson St &amp; Oregon Trail</td>
<td>$200,000</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$4,600,000</td>
</tr>
</tbody>
</table>

Net Increase in Average Daily Vehicle Trips (2005-2025): 88,037
Cost Per Vehicle Trip: $52.25

Source: Development Impact Fee Report for the City of Banning Prepared by Whipple, Kinsell, and Co. (January 1992)
CREDITS

At present, the City does not have any outstanding bonded debt related to the construction of traffic control. Therefore, a credit for existing bond financing is not applicable to this impact fee. TischlerBise also evaluated the need for a credit to avoid potential double payment for future road improvements. In the case of road funds the City receives from the State of California, these funds will be dedicated to the maintenance and repair of existing streets, therefore a future revenue credit is not required for this funding source.

MAXIMUM SUPPORTABLE TRAFFIC CONTROL IMPACT FEE

Figure 38 provides a summary of the level of service standards used to calculate development impact fees for traffic control. Traffic control development impact fees are calculated for both residential and nonresidential land uses and are based on average weekday vehicle trip generation rates, trip adjustment rates and the capital cost per unit of trip capacity. As shown in the bottom of Figure 38, the capital cost per demand unit is $52.25 per vehicle trip.
Figure 38: Traffic Control Development Impact Fee Level-of-Service Standard Summary

<table>
<thead>
<tr>
<th>Residential and Nonresidential Demand Indicators</th>
<th>Commercial/Shopping Ctrs</th>
<th>Other Nonresidential</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Average Weekday Vehicle Trip Ends Per Unit</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single Family-Detached</td>
<td>9.57</td>
<td></td>
</tr>
<tr>
<td>Townhouse/Duplex</td>
<td>5.86</td>
<td></td>
</tr>
<tr>
<td>MultiFamily</td>
<td>6.59</td>
<td></td>
</tr>
<tr>
<td>Mobile Home/Other</td>
<td>4.99</td>
<td></td>
</tr>
<tr>
<td><strong>Avg Weekday Vehicle Trip Ends Per 1,000 Sq Ft</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>820 Com/Shop Ctr 50,000 SF or less</td>
<td>86.56</td>
<td></td>
</tr>
<tr>
<td>820 Com/Shop Ctr 50,001-100,000 SF</td>
<td>67.91</td>
<td></td>
</tr>
<tr>
<td>820 Com/Shop Ctr 100,001-200,000 SF</td>
<td>53.28</td>
<td></td>
</tr>
<tr>
<td>820 Com/Shop Ctr over 200,000 SF</td>
<td>41.80</td>
<td></td>
</tr>
<tr>
<td>710 Office/Inst 25,000 SF or less</td>
<td>18.35</td>
<td></td>
</tr>
<tr>
<td>710 Office/Inst 25,001-50,000 SF</td>
<td>15.65</td>
<td></td>
</tr>
<tr>
<td>710 Office/Inst 50,001-100,000 SF</td>
<td>13.34</td>
<td></td>
</tr>
<tr>
<td>720 Medical-Dental Office</td>
<td>36.13</td>
<td></td>
</tr>
<tr>
<td>610 Hospital</td>
<td>17.57</td>
<td></td>
</tr>
<tr>
<td>770 Business Park</td>
<td>12.76</td>
<td></td>
</tr>
<tr>
<td>110 Light Industrial</td>
<td>6.97</td>
<td></td>
</tr>
<tr>
<td>140 Manufacturing</td>
<td>3.82</td>
<td></td>
</tr>
<tr>
<td>150 Warehousing</td>
<td>4.96</td>
<td></td>
</tr>
<tr>
<td>520 Elementary School</td>
<td>14.49</td>
<td></td>
</tr>
<tr>
<td><strong>Other Nonresidential</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>320 Lodging (per room)</td>
<td>1.11</td>
<td></td>
</tr>
<tr>
<td>365 Day Care (per student)</td>
<td>4.48</td>
<td></td>
</tr>
<tr>
<td>620 Nursing Home (per bed)</td>
<td>2.37</td>
<td></td>
</tr>
<tr>
<td><strong>Trip Adjustment Factors</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residential</td>
<td>50%</td>
<td></td>
</tr>
<tr>
<td>Com/Shop Ctr 50,000 SF or less</td>
<td>26%</td>
<td></td>
</tr>
<tr>
<td>Com/Shop Ctr 50,001-100,000 SF</td>
<td>29%</td>
<td></td>
</tr>
<tr>
<td>Com/Shop Ctr 100,001-200,000 SF</td>
<td>32%</td>
<td></td>
</tr>
<tr>
<td>Com/Shop Ctr over 200,000 SF</td>
<td>35%</td>
<td></td>
</tr>
<tr>
<td>All Other Nonresidential</td>
<td>50%</td>
<td></td>
</tr>
<tr>
<td><strong>Demand Unit Factors</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Signalization Improvement CIP Cost</td>
<td>$52.25</td>
<td>$52.25</td>
</tr>
<tr>
<td>Capital Cost Per Unit of Trip Capacity</td>
<td>$52.25</td>
<td>$52.25</td>
</tr>
</tbody>
</table>

Figure 39 contains a schedule of the development impact fees for traffic control improvements for the City of Banning. For residential and nonresidential land uses, the capital cost per unit of trip capacity ($52.25) is multiplied by average weekday vehicle trips (9.57 for a single family-detached unit) and trip adjustment factor (50%), for a development impact fee per unit of $250. A similar calculation is made for nonresidential land uses.
### Maximum Supportable Development Impact Fee

<table>
<thead>
<tr>
<th>Residential</th>
<th>Per Housing Unit</th>
<th>Nonresidential</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family-Detached</td>
<td>$250</td>
<td>Corn / Shop Ctr 50,000 SF or less</td>
</tr>
<tr>
<td>Townhouse/Duplex</td>
<td>$153</td>
<td>Corn / Shop Ctr 50,001-100,000 SF</td>
</tr>
<tr>
<td>Multi-family</td>
<td>$172</td>
<td>Corn / Shop Ctr 100,001-200,000 SF</td>
</tr>
<tr>
<td>Mobile Home/Other</td>
<td>$190</td>
<td>Corn / Shop Ctr over 200,000 SF</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Office / Inst 25,000 SF or less</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Office / Inst 25,001-50,000 SF</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Office / Inst 50,001-100,000 SF</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Medical-Dental Office</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Hospital</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Business Park</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Light Industrial</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Manufacturing</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Warehousing</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Elementary School</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Other Nonresidential</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Lodging (per room)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Day Care (per student)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Nursing Home (per bed)</td>
</tr>
</tbody>
</table>

Per 1,000 Sq. Ft.

- $1,176
- $1,029
- $891
- $764
- $479
- $409
- $349
- $944
- $459
- $333
- $182
- $100
- $130
- $379
- $234
- $117
- $62

*Source: ITE Trip Generation, 7th Edition, 2003*
Implementation and Administration

This section of the report contains recommendations for adoption and administration of a development impact fee program based on this study, and for the interpretation and application of impact fees recommended herein. Statutory requirements for the adoption and administration of fees imposed as a condition of development approval are found in the Mitigation Fee Act (Government Code Sections 66000 et seq.).

ADOPTION

The form in which development impact fees are adopted, whether by ordinance or resolution, should be determined by the City Attorney. Typically, it is desirable that specific fee schedules be set by resolution to facilitate periodic adjustments. Procedures for adoption of fees subject to the Mitigation Fee Act, including notice and public hearing requirements, are specified in Government Code Section 66016. Such fees do not become effective until 60 days after final action by the Governing body. Actions establishing or increasing fees subject to the Mitigation Fee Act require certain findings, as set forth in Government Code Section 66001 and discussed in Section 1 of this report summarized below.

ADMINISTRATION

Several requirements of the California Mitigation Fee Act (Government Code Sections 66000 et seq.) address the administration of impact fee programs, including collection and accounting procedures, refunds, updates and reporting. References to code sections in the following paragraphs pertain to the California Government Code.

Imposition of Fees. Pursuant to the Mitigation Fee Act, when the City imposes an impact fee upon a specific development project, it must make findings to:

1. Identify the purpose of the fee;
2. Identify the use of the fee; and
3. Determine that there is a reasonable relationship between:
   a. The use of the fee and the development type on which it is imposed;
   b. The need for the facility and the type of development on which the fee is imposed; and
   c. The amount of the fee and the facility costs attributable to the development project.

Most of those findings would normally be based on an impact fee study, and this study is intended to provide a basis for all of the required findings. According to the statute, the use of the fee (c),
above) may be specified in a capital improvement plan, the General Plan, or other public document. This study is intended to serve as a public document identifying the use of the fees.

In addition, Section 66006, as amended by SB 1693, provides that a local agency, at the time it imposes a fee for public improvements on a specific development project, "... shall identify the public improvement that the fee will be used to finance." For each type of fee calculated in this report, the improvements to be funded by the impact fees are identified. Consequently, this report provides a basis for the notification required by the statute. The City Attorney should be consulted as to the specific method of notification to be provided.

Collection of Fees. Section 66007, provides that a local agency shall not require payment of fees by developers of residential projects prior to the date of final inspection, or issuance of a certificate of occupancy, whichever occurs first. However, "utility service fees" (not defined) may be collected upon application for utility service. In a residential development project of more than one dwelling unit, the agency may choose to collect fees either for individual units or for phases upon final inspection, or for the entire project upon final inspection of the first dwelling unit completed.

An important exception allows fees to be collected at an earlier time if they will be used to reimburse the agency for expenditures previously made, or for improvements or facilities for which money has been appropriated. The agency must also have adopted a construction schedule or plan for the improvement. These restrictions on the time of collection do not apply to non-residential development.

Notwithstanding the foregoing restrictions, many cities routinely collect impact fees for all facilities at the time building permits are issued, and builders often find it convenient to pay the fees at that time. In cases where the fees are not collected upon issuance of building permits, Section 66007 provides that the city may require the property owner to execute a contract to pay the fee, and to record that contract as a lien against the property until the fees are paid.

Credit for Improvements provided by Developers. If the City requires a developer, as a condition of project approval, to construct facilities or improvements for which impact fees have been, or will be, charged, the impact fee imposed on that development project, for that type of facility, should be adjusted to reflect a credit for the cost of those facilities or improvements. If the reimbursement would exceed the amount of the fee to be paid by the development for that type of facility, the City may wish to negotiate a reimbursement agreement with the developer.

Credit for Existing Development. If a project involves replacement, redevelopment or intensification of previously existing development, impact fees should be applied only to the portion of the project which represents an increase in demand for City facilities, as measured by the demand variables used in this study. Since residential service demand is normally estimated on the basis of demand per dwelling unit, an addition to a single family dwelling unit typically would not be subject to an impact fee if it does not increase the number of dwelling units in the structure. If a dwelling unit is added to an existing structure, no impact fee would be charged for the previously existing units. A similar approach can be used for other types of development.
Earmarking of Fee Revenue. Section 66006 specifies that fees shall be deposited with other fees for the improvement in a separate capital facilities account or fund in a manner to avoid any commingling of the fees with other revenues and funds of the local agency, except for temporary investments. Fees must be expended solely for the purpose for which the fee was collected. Interest earned on the fee revenues must also be placed in the capital account and used for the same purpose.

The language of the law is not clear as to whether depositing fees "with other fees for the improvement" refers to a specific capital improvement or a class of improvements (e.g., street improvements). We are not aware of any city that has interpreted that language to mean that funds must be segregated by individual projects. As a practical matter, that would make it exceedingly difficult to accumulate enough funds to construct any improvements funded by impact fees. Common practice is to maintain separate funds or accounts for impact fee revenues by facility category (i.e., streets, traffic signals, or park improvements), but not for individual projects. We recommend that approach.

Reporting. As amended by SB 1693 in 1996, Section 66006 requires that once each year, within 180 days of the close of the fiscal year, the local agency must make available to the public the following information for each separate account established to receive impact fee revenues:

1. The amount of the fee;
2. The beginning and ending balance of the account or fund;
3. The amount of the fees collected and interest earned;
4. Identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the percentage of the cost of the public improvement that was funded with fees;
5. Identification of the approximate date by which the construction of a public improvement will commence, if the City determines sufficient funds have been collected to complete financing of an incomplete public improvement;
6. A description of each inter-fund transfer or loan made from the account or fund, including interest rates, repayment dates, and a description of the improvement on which the transfer or loan will be expended;
7. The amount of any refunds or allocations made pursuant to Section 66001, paragraphs (c) and (d).

That information must be reviewed by the City Council at its next regularly scheduled public meeting, but not less than 15 days after the statements are made public.

Findings and Refunds. Prior to the adoption of Government Code amendments contained in SB 1693, a local agency collecting impact fees was required to expend or commit the fee revenue within five years or make findings to justify a continued need for the money. Otherwise, those funds had to be refunded. SB 1693 changed that requirement in material ways.
Now, Section 66001 requires that, for the fifth fiscal year following the first deposit of any impact fee revenue into an account or fund as required by Section 66006, and every five years thereafter, the local agency shall make all of the following findings for any fee revenue that remains unexpended, whether committed or uncommitted:

1. Identify the purpose to which the fee will be put;
2. Demonstrate the reasonable relationship between the fee and the purpose for which it is charged;
3. Identify all sources and amounts of funding anticipated to complete financing of incomplete improvements for which impact fees are to be used;
4. Designate the approximate dates on which the funding necessary to complete financing of those improvements will be deposited into the appropriate account or fund.

Those findings are to be made in conjunction with the annual reports discussed above. If such findings are not made as required by Section 66001, the local agency must refund the moneys in the account or fund. Once the agency determines that sufficient funds have been collected to complete an incomplete improvement for which impact fee revenue is to be used, it must, within 180 days of that determination, identify an approximate date by which construction of the public improvement will be commenced. If the agency fails to comply with that requirement, it must refund impact fee revenue in the account according to procedures specified in the statute.

Costs of Implementation. The ongoing cost of implementing the impact fee program is not included in the fees themselves. Implementation costs would include the staff time involved in applying the fees to specific projects, accounting for fee revenues and expenditures, preparing required annual reports, updating the fees, and preparing forms and public information handouts. We recommend that those costs be included in user fees charged to applicants for processing development applications.

Annual Update of the Capital Improvement Plan. Section 66002 provides that if a local agency adopts a capital improvement plan to identify the use of impact fees, that plan must be adopted and annually updated by a resolution of the governing body at a noticed public hearing. The alternative is to identify improvements in other public documents. Since impact fee calculations in this study include costs for future facilities to be funded by impact fees, we believe it is to the City's advantage to use this report as the public document in which the use of impact fees is identified. In that event, we believe the City would not be required to update its CIP annually to satisfy Section 66002.

Indexing of Impact Fee Rates. The fees recommended in this report are stated in current dollars. Fees should be adjusted annually to account for construction cost escalation. The "Engineering News Record" Building Cost Index is recommended as the basis for indexing the cost of yet to be constructed projects. It is desirable that the ordinance or resolution establishing the fees include provisions for annual escalation.

Updates of This Study. Generally, impact fees should be reviewed and updated about every five years, unless significant changes in land use or facility plans make it necessary to update the fees more often.
TRAINING AND PUBLIC INFORMATION

Administering an impact fee program effectively requires considerable preparation and training. It is important that those responsible for writing findings to impose the fees, for collecting the fees, and for explaining them to the public, understand both the details of the fee program and its supporting rationale. Before fees are imposed, a staff training workshop is highly desirable if more than a handful of employees will be involved in collecting or accounting for fees.

It is also useful to pay close attention to handouts which provide information to the public regarding impact fees. Impact fees should be clearly distinguished from user fees, such as application and plan review fees, and the purpose and use of particular impact fees should be made clear.

Finally, anyone who is responsible for accounting, capital budgeting, or project management for projects involving impact fees must be fully aware of the restrictions placed on the expenditure of impact fee revenues. The fees recommended in this report are tied to specific improvements and cost estimates. Fees must be expended accordingly and the City must be able to show that funds have been properly expended.

RECOVERY OF STUDY COST

We do not recommend adding an administrative fee to impact fees to cover the costs of administering the impact fee program. Those costs should be included in the processing fees charged to developers and builders. However, it is reasonable for the City to recover the cost of this study through the impact fee program. Once the City Council decides what impact fees to impose, it is a relatively simple matter to calculate an adjustment to cover the consultant costs for this study.

Assuming the impact fee study will be updated every five years or so, the cost of this study can be divided by the amount of revenue projected over the next five years to determine the percentage by which fees should be increased to cover the cost of the study. That percentage typically represents a very small increase in the fees. For example, if the study costs amount to $25,000 and the City expects to collect $2,500,000 in public safety impact fees over the next five years, the fees calculated in this study would have to be increased by 1% to recover the cost of the study over five years ($25,000 / 2,500,000 = 0.01). The necessary adjustment should be made before the fees are actually adopted by the City Council.
## Appendix

This Appendix provides a detailed listing of the improvements for City parks.

### Figure 40: Roosevelt Park Amenities

<table>
<thead>
<tr>
<th>Qty</th>
<th>Unit</th>
<th>Description</th>
<th>Cost/Unit</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.5</td>
<td>each</td>
<td>Basketball Courts</td>
<td>$45,000</td>
<td>$112,500</td>
</tr>
<tr>
<td>1,040</td>
<td>sq ft</td>
<td>Large Picnic Shelter</td>
<td>$50</td>
<td>$52,000</td>
</tr>
<tr>
<td>6</td>
<td>each</td>
<td>Picnic Table</td>
<td>$700</td>
<td>$4,200</td>
</tr>
<tr>
<td>1</td>
<td>each</td>
<td>BBQ</td>
<td>$200</td>
<td>200</td>
</tr>
<tr>
<td>1</td>
<td>each</td>
<td>Playground (including fill material)</td>
<td>$60,092</td>
<td>$60,092</td>
</tr>
<tr>
<td>15,590</td>
<td>sq ft</td>
<td>Jogging Path (asphalt)</td>
<td>$1,25</td>
<td>$19,488</td>
</tr>
<tr>
<td>1</td>
<td>each</td>
<td>Single Bin Trash Enclosure</td>
<td>$1,000</td>
<td>1,000</td>
</tr>
<tr>
<td>25</td>
<td>each</td>
<td>Trees</td>
<td>$600</td>
<td>15,000</td>
</tr>
<tr>
<td>3</td>
<td>each</td>
<td>Benches</td>
<td>$350</td>
<td>1,050</td>
</tr>
<tr>
<td>9</td>
<td>each</td>
<td>Security Lighting</td>
<td>$1,500</td>
<td>13,500</td>
</tr>
<tr>
<td>5</td>
<td>each</td>
<td>Trash Containers</td>
<td>$390</td>
<td>1,950</td>
</tr>
<tr>
<td>1</td>
<td>each</td>
<td>Flag Pole</td>
<td>$1,500</td>
<td>1,500</td>
</tr>
<tr>
<td>807</td>
<td>linear ft</td>
<td>Chain Link Fencing around 3/4's of park</td>
<td>$17</td>
<td>13,719</td>
</tr>
<tr>
<td>26,968</td>
<td>sq ft</td>
<td>Parking lot</td>
<td>$1.25</td>
<td>33,710</td>
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<tr>
<td>221</td>
<td>linear ft</td>
<td>Concrete Curb and Gutter for Parking Area</td>
<td>$25.00</td>
<td>5,525</td>
</tr>
<tr>
<td>243</td>
<td>linear ft</td>
<td>Concrete Curb (playareas/mow curb)</td>
<td>$15.00</td>
<td>3,645</td>
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<tr>
<td>1,400</td>
<td>sq ft</td>
<td>Recreation Center</td>
<td>$120</td>
<td>168,000</td>
</tr>
<tr>
<td>2</td>
<td>each</td>
<td>Restrooms (1 men, 1 women)</td>
<td>$30,000</td>
<td>60,000</td>
</tr>
<tr>
<td>2</td>
<td>each</td>
<td>Drinking Fountains</td>
<td>$300</td>
<td>600</td>
</tr>
<tr>
<td>1,592</td>
<td>sq ft</td>
<td>Concrete walkways</td>
<td>$5</td>
<td>7,960</td>
</tr>
<tr>
<td>147,240</td>
<td>sq ft</td>
<td>Automated Irrigation</td>
<td>$0.95</td>
<td>139,878</td>
</tr>
<tr>
<td>147,240</td>
<td>sq ft</td>
<td>Turf Area</td>
<td>$0.78</td>
<td>114,847</td>
</tr>
<tr>
<td>130</td>
<td>each</td>
<td>Landscaping (Oleander Bushes)</td>
<td>$10</td>
<td>1,300</td>
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<tr>
<td></td>
<td></td>
<td><strong>Total</strong></td>
<td></td>
<td><strong>831,663</strong></td>
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</table>
Figure 41: Lions Park Amenities

<table>
<thead>
<tr>
<th>Lions Park</th>
<th>$</th>
<th>$</th>
</tr>
</thead>
<tbody>
<tr>
<td>44,344 sq ft Parking Lot</td>
<td>1.25</td>
<td>55,430</td>
</tr>
<tr>
<td>536 linear ft Concrete Curb and Gutter for Parking Area</td>
<td>25.00</td>
<td>13,400</td>
</tr>
<tr>
<td>375 linear ft Concrete Curb (playarea/mow curb)</td>
<td>15.00</td>
<td>5,625</td>
</tr>
<tr>
<td>3 each Picnic tables on concrete slabs</td>
<td>700</td>
<td>2,100</td>
</tr>
<tr>
<td>3 each Picnic tables</td>
<td>900</td>
<td>2,700</td>
</tr>
<tr>
<td>3 each Baseball fields (lighted)</td>
<td>200,000</td>
<td>600,000</td>
</tr>
<tr>
<td>1 each Playground (including fill material)</td>
<td>83,134</td>
<td>83,134</td>
</tr>
<tr>
<td>4 each Beaches</td>
<td>350</td>
<td>1,400</td>
</tr>
<tr>
<td>6 each Drinking Fountains</td>
<td>300</td>
<td>1,800</td>
</tr>
<tr>
<td>43 each Trees (Mature)</td>
<td>600</td>
<td>25,800</td>
</tr>
<tr>
<td>3 each Trees (24&quot; Box)</td>
<td>250</td>
<td>750</td>
</tr>
<tr>
<td>2 each BBQ</td>
<td>200</td>
<td>400</td>
</tr>
<tr>
<td>18 each Trash Cans</td>
<td>390</td>
<td>7,020</td>
</tr>
<tr>
<td>1 each Single Bin Trash Enclosure</td>
<td>1,000</td>
<td>1,000</td>
</tr>
<tr>
<td>18 each Security Lighting</td>
<td>1,500</td>
<td>27,000</td>
</tr>
<tr>
<td>1 each Flag Pole</td>
<td>3,000</td>
<td>3,000</td>
</tr>
<tr>
<td>1 each Park Sign</td>
<td>1,000</td>
<td>1,000</td>
</tr>
<tr>
<td>48 sq ft Announcers Booth (6x8)</td>
<td>50</td>
<td>2,400</td>
</tr>
<tr>
<td>360 sq ft Concession Stand (18x20)</td>
<td>120</td>
<td>43,200</td>
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<tr>
<td>2 each Restrooms (1 men, 1 women)</td>
<td>30,000</td>
<td>60,000</td>
</tr>
<tr>
<td>2,752 sq ft Concrete walkways</td>
<td>5</td>
<td>13,760</td>
</tr>
<tr>
<td>43,560 sq ft Automated Irrigation</td>
<td>0.95</td>
<td>41,582</td>
</tr>
<tr>
<td>43,560 sq ft Turf Area</td>
<td>0.78</td>
<td>33,977</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1,026,277</strong></td>
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</tr>
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</table>
### Figure 42: Repplier Park Amenities

<table>
<thead>
<tr>
<th>Repplier Park</th>
<th>Quantity</th>
<th>Cost Breakdown</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trees (mature)</td>
<td>130 each</td>
<td>$600</td>
</tr>
<tr>
<td>24&quot; Box Trees</td>
<td>13 each</td>
<td>$250</td>
</tr>
<tr>
<td>Large Shelter</td>
<td>1,040 sq ft</td>
<td>$50</td>
</tr>
<tr>
<td>Trash Cans</td>
<td>15 each</td>
<td>$390</td>
</tr>
<tr>
<td>Picnic Tables on concrete slabs</td>
<td>10 each</td>
<td>$700</td>
</tr>
<tr>
<td>Picnic Tables</td>
<td>3 each</td>
<td>$900</td>
</tr>
<tr>
<td>BBQ</td>
<td>10 each</td>
<td>$200</td>
</tr>
<tr>
<td>Single Bin Trash Enclosure</td>
<td>9 each</td>
<td>$800</td>
</tr>
<tr>
<td>Parking Lot</td>
<td>$1,25</td>
<td>$7,125</td>
</tr>
<tr>
<td>Parking Lot Lighting</td>
<td>$2,500.00</td>
<td>$22,500</td>
</tr>
<tr>
<td>Concrete Curb and Gutter for Parking Area</td>
<td>$25.00</td>
<td>$2,750</td>
</tr>
<tr>
<td>Concrete Curb (playarea/mow curb)</td>
<td>$15.00</td>
<td>$10,000</td>
</tr>
<tr>
<td>18&quot; Retaining Wall</td>
<td>$24.00</td>
<td>$4,080</td>
</tr>
<tr>
<td>Community Center Complex Sign</td>
<td>$1,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>Restrooms (1 men, 1 women)</td>
<td>$30,000</td>
<td>$60,000</td>
</tr>
<tr>
<td>Boy Scout House</td>
<td>$120</td>
<td>$72,000</td>
</tr>
<tr>
<td>Girl Scout House</td>
<td>$120</td>
<td>$399,000</td>
</tr>
<tr>
<td>Concrete walkways</td>
<td>$5</td>
<td>$29,940</td>
</tr>
<tr>
<td>D. G. roadway</td>
<td>$2</td>
<td>$17,888</td>
</tr>
<tr>
<td>Softball Field (lighted)</td>
<td>1 each</td>
<td>$200,000</td>
</tr>
<tr>
<td>Tennis Courts (lighted)</td>
<td>2 each</td>
<td>$70,000</td>
</tr>
<tr>
<td>Metal Storage Building 20' x 120'</td>
<td>1 each</td>
<td>$120,000</td>
</tr>
<tr>
<td>Drinking Fountains</td>
<td>3 each</td>
<td>$300</td>
</tr>
<tr>
<td>Playground (including fill material)</td>
<td>1 each</td>
<td>$48,648</td>
</tr>
<tr>
<td>Security Lighting</td>
<td>21 each</td>
<td>$1,500</td>
</tr>
<tr>
<td>Automated Irrigation</td>
<td>$0.95</td>
<td>$213,034</td>
</tr>
<tr>
<td>Turf Area</td>
<td>$0.78</td>
<td>$174,912</td>
</tr>
<tr>
<td>Landscaping</td>
<td>$5,000</td>
<td>$5,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$2,376,584</strong></td>
</tr>
</tbody>
</table>
### Figure 44: Dysart Park Amenities

**Dysart Park**

<table>
<thead>
<tr>
<th>Item</th>
<th>Quantity</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>23 Trees (Mature)</td>
<td></td>
<td>$600</td>
</tr>
<tr>
<td>1 Drinking Fountain</td>
<td></td>
<td>$300</td>
</tr>
<tr>
<td>4 Picnic Tables</td>
<td></td>
<td>$700</td>
</tr>
<tr>
<td>20 Concession Slabs w/electricity</td>
<td></td>
<td>$200</td>
</tr>
<tr>
<td>39 Park Lighting</td>
<td></td>
<td>$1,500</td>
</tr>
<tr>
<td>1 Administration Trailer w/patio &amp; Porch</td>
<td></td>
<td>$90,000</td>
</tr>
<tr>
<td>1 Restroom Trailer</td>
<td></td>
<td>$35,000</td>
</tr>
<tr>
<td>1 Equestrian Arena (lighted) 240 x 160</td>
<td></td>
<td>$60,000</td>
</tr>
<tr>
<td>1 Warm-up Arena (31'-10' fence segments)</td>
<td></td>
<td>$4,000</td>
</tr>
<tr>
<td>1 Announcers Booth</td>
<td></td>
<td>$45,000</td>
</tr>
<tr>
<td>1 Ticket Booth</td>
<td></td>
<td>$1,500</td>
</tr>
<tr>
<td>1 Enclosed Booth</td>
<td></td>
<td>$3,200</td>
</tr>
<tr>
<td>2 Information Booth</td>
<td></td>
<td>$2,880</td>
</tr>
<tr>
<td>2,112 linear ft Chain Link Fencing</td>
<td></td>
<td>$17</td>
</tr>
<tr>
<td>500 linear ft Tubular Steel Fencing for beer garden</td>
<td></td>
<td>$37.50</td>
</tr>
<tr>
<td>160 sq ft Concrete walkways</td>
<td></td>
<td>$5</td>
</tr>
<tr>
<td>600 sq ft Concrete slab for beer garden</td>
<td></td>
<td>$5</td>
</tr>
<tr>
<td>14 RV Utility Hook Ups</td>
<td></td>
<td>$100</td>
</tr>
<tr>
<td>180 sq ft Maintenance Building Concrete Slab</td>
<td></td>
<td>$5</td>
</tr>
<tr>
<td>130,680 sq ft Automated Irrigation</td>
<td></td>
<td>$0.95</td>
</tr>
<tr>
<td>130,680 sq ft Turf Area</td>
<td></td>
<td>$0.78</td>
</tr>
<tr>
<td>1 Landscaping</td>
<td></td>
<td>$250</td>
</tr>
<tr>
<td>1 Septic Tank and Leach Lines</td>
<td></td>
<td>$6,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$61,940</strong></td>
</tr>
</tbody>
</table>

### Figure 45: Mountain Avenue Park Amenities

**Mountain Avenue Park**

- developer's estimate on park construction cost including design and construction (excludes land)

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total</strong></td>
<td>$334,335</td>
</tr>
</tbody>
</table>

Tischler Bise

66

245
### Figure 43: Sylvan Park Amenities

<table>
<thead>
<tr>
<th>Description</th>
<th>Quantity</th>
<th>Unit Price ($1)</th>
<th>Total ($1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trees (24&quot; box)</td>
<td>43</td>
<td>$250</td>
<td>$10,750</td>
</tr>
<tr>
<td>Trees (mature)</td>
<td>48</td>
<td>$600</td>
<td>$28,800</td>
</tr>
<tr>
<td>Picnic Tables on concrete slabs</td>
<td>6</td>
<td>$900</td>
<td>$5,400</td>
</tr>
<tr>
<td>BBQ</td>
<td>5</td>
<td>$200</td>
<td>$1,000</td>
</tr>
<tr>
<td>Small Picnic Shelter</td>
<td>400</td>
<td>$50</td>
<td>$20,000</td>
</tr>
<tr>
<td>Benches</td>
<td>9</td>
<td>$350</td>
<td>$3,150</td>
</tr>
<tr>
<td>Trash Cans</td>
<td>10</td>
<td>$390</td>
<td>$3,900</td>
</tr>
<tr>
<td>Single Bin Trash Enclosure</td>
<td>1</td>
<td>$1,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>Playground (including fill material)</td>
<td>1</td>
<td>$46,973</td>
<td>$46,973</td>
</tr>
<tr>
<td>Drinking Fountains</td>
<td>4</td>
<td>$300</td>
<td>$1,200</td>
</tr>
<tr>
<td>Restrooms (1 men, 1 women)</td>
<td>2</td>
<td>$30,000</td>
<td>$60,000</td>
</tr>
<tr>
<td>Parking lot</td>
<td>3,437</td>
<td>$1.25</td>
<td>$4,296</td>
</tr>
<tr>
<td>Concrete Curb and Gutter for Parking Area</td>
<td>165</td>
<td>$25.00</td>
<td>$4,125</td>
</tr>
<tr>
<td>Concrete Curb (play area/mow curb)</td>
<td>340</td>
<td>$15.00</td>
<td>$5,100</td>
</tr>
<tr>
<td>T-Ball Field</td>
<td>1</td>
<td>$7,500</td>
<td>$7,500</td>
</tr>
<tr>
<td>Basketball Courts</td>
<td>2</td>
<td>$22,000</td>
<td>$44,000</td>
</tr>
<tr>
<td>Entrance Archway</td>
<td>1</td>
<td>$10,000</td>
<td>$10,000</td>
</tr>
<tr>
<td>Concrete walkways</td>
<td>2,344</td>
<td>$5</td>
<td>$11,720</td>
</tr>
<tr>
<td>Security Lighting</td>
<td>10</td>
<td>$1,500</td>
<td>$15,000</td>
</tr>
<tr>
<td>Automated Irrigation</td>
<td>152,460</td>
<td>$0.95</td>
<td>$144,937</td>
</tr>
<tr>
<td>Turf Area</td>
<td>125,460</td>
<td>$0.78</td>
<td>$97,859</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td><strong>$311,610</strong></td>
</tr>
</tbody>
</table>
CITY COUNCIL
CONSENT CALENDAR

DATE: April 28, 2009
TO: City Council
FROM: Kim Clinton, Senior Planner
SUBJECT: Resolution No. 2009-32, temporarily delaying the collection of the City’s residential development impact fees.

RECOMMENDATION: That the Council adopt Resolution No. 2009-32, temporarily deferring the collection of certain residential development fees until the Certificate of Occupancy (C of O) permits are issued.

JUSTIFICATION: The City has the ability to establish fees and collection protocols for such fees.

BACKGROUND:

Last year the Riverside chapter of the Building Industry Association (BIA) requested that the City assist the home builders during the challenging market conditions by deferring the collection of fees until the home is ready to be occupied (Certificate of Occupancy). In response to this request, the City passed Resolution 2008-32 in March of 2008 allowing for the deferral for one year. The deferral period expired on March 5, 2009. Staff is recommending a new resolution be approved to extend the residential fee deferral for another year.

Attached to this report is Resolution No. 2009-32. This would defer the collection of Impact fees until the C of O until April 28, 2010. Impact fees are collected by Banning to pay for such things as roadway improvements, including signals. The following is a list of the Banning Impact Fees:

Administrative Program Processing Fee
Development Impact Fee
Fire Protection Facilities & Equipment Fee (Fire Facilities Fee)
General Facility & Equipment Fee
General Plan
Park Land Fee
Police Facilities Fee
Solid Waste Facility & Equipment Fee
Traffic Control Facility Fee (Transportation-Signals Fee)
Water Capital Facilities Fee
This resolution would improve the home builders' cash flow by allowing the flexibility of paying fees at the end of the building process. Developers would still have the option of paying fees when the building permit is issued.

Cities such as Hemet, San Jacinto, Moreno Valley, Corona, Riverside, Perris, Lake Elsinore and Riverside County have agreed to similar fee deferrals. Please note that Banning has also deferred the collection of fees on a case-by-case basis, including deferring fees beyond the C of O phase. This Resolution would affirm the Council's commitment to that policy.

FISCAL DATA: None, except that the collection of fees would be deferred.

RECOMMENDED BY:

[Signature]
Kim Clinton
Senior Planner

REVIEWED BY:

[Signature]
Bonnie Johnson
Finance Director

APPROVED BY:

[Signature]
Brian Nakamura
City Manager

Exhibits:
1. Resolution No. 2009-32
RESOLUTION NO. 2009-32

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, TEMPORARILY DELAYING THE COLLECTION OF THE CITY'S RESIDENTIAL DEVELOPMENT IMPACT FEES UNTIL CERTIFICATE OF OCCUPANCY

WHEREAS, due to the effects of the current housing conditions and other economic factors, the Riverside Chapter of the Building Industry Association (BIA) has asked that collection of residential development impact fees be delayed until certificate of occupancy and

WHEREAS, the BIA has made verbal representations to City staff that other cities and counties that have been contacted by them with a similar request to defer collection of the development impact fees until certificate of occupancy have done so, and

WHEREAS, given the need to promote economic development during the slowdown in the current housing market, the City Council hereby finds the temporary deferral of the collection of such fees until certificate of occupancy, to be in the best interest of the City.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BANNING DOES RESOLVE, DETERMINE, FIND AND ORDER AS FOLLOWS:

CITY COUNCIL ACTION.

The City Council hereby takes the following action:

a. Effective immediately, as of April 28, 2009 the collection of the City’s Residential Development Impact Fees shall be temporarily deferred until Certificate of Occupancy.

b. This Resolution shall be in effect for a period of one year from the effective date and shall automatically terminate unless extended. At the time of termination, those projects for which building permits have been issued will still have fees deferred until building occupancy, but all new projects shall pay fees in accordance with prior law.

PASSED, APPROVED AND ADOPTED this 28th day of April, 2009.

[Signature]
Robert E. Botts, Mayor
City of Banning
CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2009-32, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 28th day of April, 2009 by the following vote, to wit:

AYES: Councilmembers Franklin, Hanna, Machisic, Robinson, Mayor Botts

NOES: None

ABSENT: None

ABSTAIN: None

Marie A. Calderon, City Clerk
City of Banning, California
CITY COUNCIL
CONSENT CALENDAR

DATE: June 23, 2009
TO: Honorable Mayor and City Council
FROM: John Jansons, Redevelopment Manager
THROUGH: Brian Nakamura, City Manager
SUBJECT: Resolution of the City Council (Resolution No. 2009-52) Temporarily Deferring the Collection of the City’s Development Impact Fees for Commercial and Industrial Development in the City of Banning

RECOMMENDATION:

That the Council adopt Resolution No. 2009-52 temporarily deferring the collection of certain commercial and industrial development impact fees until the issuance of a Certificate of Occupancy permit.

JUSTIFICATION:

The City has the ability to establish development impact fees and collection protocols/policies for such fees. The fee deferral policy adopted in 2008 is recommended for a one year extension in response to the current economic crisis and as a part of the Banning Local Economic Stimulus Program.

BACKGROUND:

The City Council on May 27, 2008 adopted resolution 2008-58 approving the deferral of residential development impact fees in an effort to assist home builders deal with the financial burden during the current economic/market conditions. The Council decided to defer collection of the development impact fees until the issuance of certificates of occupancy. Currently, development impact fees are collected when the building permit is issued for a given project.

To address a similar economic situation now facing commercial and industrial developers, staff is proposing that Council also consider deferring development impact fees for commercial and industrial development projects. Attached to this report is Resolution No. 2009-52 that would defer the collection of commercial and industrial development impact fees until the issuance of a Certificate of Occupancy for any given project. If a commercial or industrial developer requests a deferral of development impact fees beyond the issuance of a certificate of occupancy, then staff will bring a project specific deferral agreement for Council consideration (similar to the La Quinta Inn hotel request approved by Council on May 13, 2008).

The development impact fees that are routinely collected by the City are used to pay for such things as roadway improvements, including signals and water and sewer facilities. The following is a list of the City’s development impact fees (refer to next page):
The attached resolution 2009-52 would improve the cash flow and financing challenges for commercial and industrial developers by allowing the flexibility of paying development impact fees when a certificate of occupancy is issued rather than at the time building permits are issued. It is important to note that staff's recommendation to defer development impact fees to certificates of occupancy will not eliminate the option for any given developer to pay development impact fees when the building permit is issued for their project.

**FISCAL DATA:** No direct financial impact to the City, except that the collection of the development impact fees will occur later in the development review process.

**RECOMMENDED BY:**

John Johnson,
Redevelopment Manager

**REVIEWED BY:**

Bonnie Johnson,
Finance Director

**APPROVED BY:**

Brian Nakamura,
City Manager

**CC Attachment:**

1. Council Resolution No. 2009-52
RESOLUTION NO. 2009-52

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, TEMPORARILY DEFERRING THE COLLECTION OF THE CITY'S COMMERCIAL AND INDUSTRIAL DEVELOPMENT IMPACT FEES UNTIL THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY

WHEREAS, due to the effects of the current economic factors and conditions within the County of Riverside and based on meetings/discussions with the development community, there is a desire that the collection of commercial and industrial Development Impact Fees (DIF) be deferred to the issuance of a Certificate of Occupancy; and

WHEREAS, given the need to promote economic development during the slowdown in the current economic environment, the City Council hereby finds the temporary deferral of the collection of Development Impact Fees until the issuance of a Certificate of Occupancy, to be in the best interest of the City.

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

Section 1. The City Council hereby determines with the adoption of this Resolution that effective on June 23, 2009, the collection of the City's Commercial and Industrial Development Impact Fees shall be temporarily deferred from the issuance of building permits until the issuance of a Certificate of Occupancy, but the City reserves the right to suspend this resolution at any time and recommence collection at the issuance of building permits.

Section 2. Development Impact Fees shall mean those fees imposed and levied by the City to recover the cost of planned public facilities and to mitigate impacts of development on the City. The Development Impact Fees include the following:

- Administrative Program Processing Fee
- Development Impact Fee
- Energy Conservation Fee
- Fire Protection Facilities & Equipment Fee (Fire Facilities Fee)
- General Facility & Equipment Fee
- General Plan Fee
- Park Land Fee
- Police Facilities Fee
- Solid Waste Facility and Equipment Fee
- Water Capital Facilities Fee
- Traffic Control Facility Fee (Transportation-Signals Fee)

Section 3. This Resolution shall be in full force and effect for a period of one (1) year commencing from the effective date of this Resolution.
PASSED, APPROVED AND ADOPTED this 23rd day of June, 2009.

Robert E. Botts, Mayor
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT:

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

ATTEST:

Marie A. Calderon, City Clerk

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution No. 2009-52, was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 23rd day of June 2009, by the following vote, to wit:

AYES: Councilmembers Franklin, Hanna, Machisie, Robinson, Mayor Botts

NOES: None

ABSENT: None

ABSTAIN: None

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

Reso. No. 2009-52
DATE: January 26, 2010

TO: Honorable Mayor and City Council

FROM: Sam Racadio, Interim City Manager

SUBJECT: Discussion on Temporary Suspension of Development Impact Fees for Residential and Non-Residential Development

RECOMMENDATION:
That the City Council review and discuss the report on temporary suspension of development impact fees for residential and non-residential development, including consideration for supporting extension of the current incentive program to defer the collection of impact fees at the time of occupancy as opposed to suspending the collection of a certain percentage of the impact fees. Staff recommends the City continue collecting the full development impact fee and extend the current deferral incentive program for another year.

BACKGROUND/DISCUSSION:
On October 27, 2009, the City Council received and filed the report on economic stimulus initiatives that are intended to support the Banning business community during the current economic crisis. As part of the discussion of the report, the City Council directed staff to look into suspending a certain percentage of the development impact fees.

City staff contacted the Western Riverside Council of Governments, the Building Industry Association, and cities in Riverside County to determine which cities have suspended their development impact fees. As of the writing of this staff report, six (6) out of twenty-four (24) cities have adopted resolutions/ordinances suspending their impact fees (see Exhibit "A"). The majority of the cities (in Riverside County) decided not to suspend their impact fees because of the complexity and legality associated with the adoption of the fees and their future changes. What Banning has already done, as well as some cities in the County, is defer the collection of impact fees before occupancy of the development projects as opposed to suspending a certain percentage of the fees.

Currently, the City’s general fund is in deficit. The premise of the Mitigation Fee Act is that development pays its own way; therefore, the general fund does not subsidize the cost of development. Since there is still interest from developers to develop future housing and commercial development in the City, suspending the fee may not be in their best interest since they would have to pay higher impact fees in the future in order to fund the public improvements caused by their projects.

On April 28, 2009, the City Council adopted Resolution No. 2009-32 delaying the collection of the City’s residential development impact fees until the issuance of a Certificate of Occupancy for one year. This program would expire on April 28, 2010. On June 23, 2009, the City Council adopted Resolution No. 2009-52 temporarily delaying the collection of the City’s commercial
and industrial development impact fees until the issuance of a Certificate of Occupancy for one year, which would expire on June 23, 2010.

A development impact fee is a one-time payment that a local agency charges to a developer in connection with approval of a development project for the purpose of defraying the cost of public facilities that are needed to serve a particular development (residential and non-residential). The premise of the development impact fee is that growth pays for itself. Government Code Sections 66000 – 66025 ("AB 1600 - Mitigation Fee Act") governs the adoption of development impact fee program. The fee has to be proportionate and reasonably related (nexus) to the capital facility service demands of new development.

Since the adoption of AB 1600, there have been a number of court rulings challenging the validity of the relationship between the fees imposed and the project in which the fees are being imposed. Establishment of an impact fee program requires a “nexus” study, which is performed by fiscal or economic consultants. The trend in the field of impact fees has been to require more accountability and strong relationship between the fees imposed and the development project that is being considered.

To establish the impact fees, the following data is required:

1. Growth projections for residential and non-residential development in the community at build-out.
2. Identification of the current and projected level of service or demand for each of the public facilities.
3. Identification of any additional facilities or improvements that will be needed to accommodate future growth.
4. Allocating the cost of providing the needed public facilities between the existing versus future growth.

On August 8, 2006, the City of Banning City Council adopted Resolution No. 2006-75 establishing development impact fees for General Facilities, Traffic Control Facilities, Fire Facilities, Police Facilities, and Park Development based on the nexus study conducted by Tischler Bise - Fiscal, Economic, and Planning Consultants (Exhibit “B”). As part of Resolution No. 2006-75, the City Council repealed previous resolutions establishing the fees referred above, which included Resolution Nos. 1992-27 (General Facilities and Traffic Control Fee), 1995 -17 (Fire Facilities Fee), 1995-18 (Police Facilities Fee), and 1995-19 (Park Development Fee). Attached in Exhibit “C” is a list the current development impact fees that are being collected.

The establishment of the impact fees is directly and proportionately related to the projected development/growth in the community and the public facilities and their service levels that are needed to accommodate the growth. Fees that are collected are required to be used for a specific purpose. Depending upon the impact of the development, fees that are collected may be small which is often difficult to translate these funds into infrastructure improvements quickly. The improvements would need to wait until such time that there are enough funds collected to construct the improvement, or if there are other funding sources that are available (e.g. grants) to provide supplemental funds to construct the improvements.

The following are examples of development impact fees collected for residential and commercial development based on a 1,500 square foot home and a 10,000 square foot commercial building,
respectively. For a 1,500 square foot home, the amount of development impact fees collected is $16,591.00. For a 10,000 square foot commercial development, the amount of fees collected is $26,583.00. Please note that these examples exclude other City fees. Based on the permits issued for 2009, the total amount of development impact fees collected for residential and nonresidential development are $18,579.00 and $3,831.00, respectively. These amounts are not significant.

Since the development impact fees do not provide adequate funds to construct the improvements quickly, suspending/reducing the impact fees by a certain percentage would reduce the amount of fees collected to provide for the needed facilities. The suspension or reduction of the fees could result in significantly less money available to fund public improvements, which would result in:

1. The improvements would be further delayed and their benefits would be realized much later than expected; or
2. The City will have to absorb the cost of constructing public improvements using the general fund; or
3. The development impact fees would have to be reassessed in the future, which could lead to future developers paying higher development impact fees.

Extension of the current incentives by deferring the collection of impact fees until occupancy of the project is the preferable alternative to suspending the collection of the development impact fees. This is because the City's general fund would not have to subsidize the costs of the improvements. Most likely future developers would not have to pay higher impact fees because there would be fewer units to pay for the fixed cost of public improvements. Due to the legality and complexity of calculating the impact fees, a nexus fee study may be required to be completed by a financial consultant. Staff recommends that the City Council continue the collection of the impact fees and extends the current fee deferral incentive program for another year.

CONCLUSION:
The suspension of the development impact fees would mean that there will be fewer funds available to construct the required infrastructure. If the building permits are issued during this temporary one-year suspension period, the City would have to absorb the costs but more likely future developers would have to pay higher impact fees.

FISCAL DATA:
Exhibit "B" provides a listing of current development impact fees for residential and nonresidential development. Any suspension or reduction in the fees would reduce the funds available to construct the necessary public improvements to serve a particular development or the improvements would be delayed until funds are available to pay for the improvements. The General Fund would have to be used to fund the gap for the improvements or future developers would have to pay higher development impact fees.
Approved By:  
Sam Racadio  
Interim City Manager

Prepared By:  
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Community Development Director

Reviewed By:  
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Interim Finance Director

Reviewed By:  
Duane Burk  
Public Works Director

Attachments:

1. Exhibit “A” – List of Cities in Riverside County that adopted Development Impact Fees Suspension
2. Exhibit “B” – Current Development Impact Fees Collected by the City
CITIES IN RIVERSIDE COUNTY THAT HAVE ADOPTED IMPACT FEE SUSPENSION

EXHIBIT "A"
# 2009 DIF Reductions

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Adoption Date</th>
<th>Percent Reduced</th>
<th>Terms of Reduction</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Beaumont</td>
<td>02/17/2009</td>
<td>32%</td>
<td>Full reduction is in place for 16 months. Fees go back to 2009 levels over a three year phase in period ending in 2012.</td>
</tr>
<tr>
<td>City of Corona</td>
<td>05/06/2009</td>
<td>40%</td>
<td>Full reduction is in place for two years with an optional third year.</td>
</tr>
<tr>
<td>City of Menifee</td>
<td>05/20/2009</td>
<td>50%</td>
<td>Reduction ends on June 30, 2010 OR after 500 permits are issued, which ever comes first.</td>
</tr>
<tr>
<td>City of Perris</td>
<td>06/30/2009</td>
<td>50%</td>
<td>Reduction is in place for 1 year. After that, there will be a 25% reduction for 6 months.</td>
</tr>
<tr>
<td>County of Riverside</td>
<td>07/14/2009</td>
<td>50%</td>
<td>One year reduction ending August 20, 2010.</td>
</tr>
<tr>
<td>Morena Valley</td>
<td>09/21/2009</td>
<td>50%</td>
<td>One year reduction ending 09/22/2010</td>
</tr>
</tbody>
</table>

November 20, 2009
CURRENT FEE SCHEDULE

EXHIBIT "B"
(IMPACT FEES)

FIRE FACILITIES:

Residential (per Housing Unit)
- Single Family Detached: 1,335.00*
- Townhouse/Duplex: 1,335.00*
- Multi-Family: 1,335.00*
- Mobile Home: 1,335.00*

Nonresidential
- Com/Shopping Ctr 50,000 SF or less: 579.00**
- Com/Shopping Ctr 50,001-100,000 SF: 506.00**
- Com/Shopping Ctr 100,001-200,000 SF: 450.00**
- Com/Shopping Ctr over 200,001 SF: 405.00**
- Office/Inst 25,000 SF or less: 841.00**
- Office/Inst 25,001-50,000 SF: 792.00**
- Office/Inst 50,001-100,000 SF: 748.00**
- Medical-Dental Office: 821.00**
- Hospital: 685.00**
- Business Park: 640.00**
- Light Industrial: 468.00**
- Manufacturing: 363.00**
- Warehousing: 259.00**
- Elementary School: 186.00**

Other Nonresidential
- Lodging (per room): 144.00**
- Day Care (per student): 32.00**
- Nursing Home (per bed): 73.00**

POLICE FACILITIES:

Residential (per Housing Unit)
- Single Family Detached: 823.00
- Townhouse/Duplex: 626.00
- Multi-Family: 913.00
- Mobile Home: 500.00

Nonresidential (per 1,000 SF)
- Com/Shopping Ctr 50,000 SF or less: 472.00
- Com/Shopping Ctr 50,001-100,000 SF: 413.00
- Com/Shopping Ctr 100,001-200,000 SF: 358.00
- Com/Shopping Ctr over 200,001 SF: 307.00

*A $5 Disaster Planning Fee is also levied
**A $25 Disaster Planning Fee is also levied

*Environmental fees will vary based upon scope of project

Updated 12/17/09
POLICE FACILITIES (cont’d):

<table>
<thead>
<tr>
<th>Nonresidential (per 1,000 SF) (cont’d)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Office/Inst 25,000 SF or less</td>
<td>192.00</td>
</tr>
<tr>
<td>Office/Inst 25,001-50,000 SF</td>
<td>164.00</td>
</tr>
<tr>
<td>Office/Inst 50,001-100,000 SF</td>
<td>140.00</td>
</tr>
<tr>
<td>Medical-Dental Office</td>
<td>379.00</td>
</tr>
<tr>
<td>Hospital</td>
<td>184.00</td>
</tr>
<tr>
<td>Business Park</td>
<td>134.00</td>
</tr>
<tr>
<td>Light Industrial</td>
<td>73.00</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>40.00</td>
</tr>
<tr>
<td>Warehousing</td>
<td>52.00</td>
</tr>
<tr>
<td>Elementary School</td>
<td>152.00</td>
</tr>
<tr>
<td>Other Nonresidential</td>
<td></td>
</tr>
<tr>
<td>Lodging (per room)</td>
<td>95.00</td>
</tr>
<tr>
<td>Day Care (per student)</td>
<td>47.00</td>
</tr>
<tr>
<td>Nursing Home (per bed)</td>
<td>24.00</td>
</tr>
</tbody>
</table>

TRAFFIC CONTROL FACILITIES:

| Residential (per Housing Unit)         | 250.00 |
| Single Family Detached                 | 153.00 |
| Townhouse/Duplex                       | 172.00 |
| Multi-Family                           | 130.00 |
| Mobile Home                            |   |
| Nonresidential (per 1,000 SF)         |   |
| Com/Shopping Ctr 50,000 SF or less     | 1,176.00 |
| Com/Shopping Ctr 50,001-100,000 SF     | 1,029.00 |
| Com/Shopping Ctr 100,001-200,000 SF    | 891.00  |
| Com/Shopping Ctr over 200,001 SF       | 764.00  |
| Office/Inst 25,000 SF or less          | 479.00  |
| Office/Inst 25,001-50,000 SF           | 409.00  |
| Office/Inst 50,001-100,000 SF          | 349.00  |
| Medical-Dental Office                  | 944.00  |
| Hospital                               | 459.00  |
| Business Park                          | 333.00  |
| Light Industrial                       | 182.00  |
| Warehousing                            | 130.00  |
| Elementary School                      | 379.00  |
| Other Nonresidential                   |   |
| Lodging (per room)                     | 238.00  |
| Day Care (per student)                 | 117.00  |
| Nursing Home (per bed)                 | 62.00   |

GENERAL PLAN:

| Residential, per unit                  | 75.00  |
| Commercial, per sq. ft.                | .10    |

*Environmental fees will vary based upon scope of project

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PARK LAND:
   Residential (per Housing Unit)
       Single Family Detached  1,955.00
       Townhouse/Duplex        1,485.00
       Multi-Family            2,168.00
       Mobile Home             1,187.00
   Commercial / Industrial, per acre  1,233.00

GENERAL CITY FACILITIES:
   Residential (per Housing Unit)
       Single Family Detached  478.00
       Townhouse/Duplex        363.00
       Multi-Family            530.00
       Mobile Home             290.00
   Nonresidential (per 1,000 SF)
       Com/Shopping Ctr 50,000 SF or less  208.00
       Com/Shopping Ctr 50,001-100,000 SF  182.00
       Com/Shopping Ctr 100,001-200,000 SF  162.00
       Com/Shopping Ctr over 200,001 SF     146.00
       Office/Inst 25,000 SF or less         302.00
       Office/Inst 25,001-50,000 SF          285.00
       Office/Inst 50,001-100,000 SF         269.00
       Medical-Dental Office                295.00
       Hospital                             246.00
       Business Park                        230.00
       Light Industrial                     168.00
       Manufacturing                        130.00
       Warehousing                          93.00
       Elementary School                   67.00
   Other Nonresidential
       Lodging (per room)                  52.00
       Day Care (per student)               12.00
       Nursing Home (per bed)               26.00

ENERGY CONSERVATION:
   Residential                          45.00
   Commercial                           60.00

NEW ELECTRIC SERVICE:
   Residential, per unit                 1,400.00

WATER CONNECTION:
   Residential, per Dwelling Unit        7,232.00
   Plus frontage fee of 25.00 per foot
   Commercial, depends on project

*Environmental fees will vary based upon scope of project

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SEWER/WASTEWATER COLLECTION:
  Residential, per Dwelling Unit 2,786.00
  Plus frontage fee of 27.50 per foot
  Commercial, depends on project

SCHOOL FEES (Paid to the school district)
  Banning Unified School District
  Residential, per sq. ft. 2.97
  Residential Room Addition 2.97
  Commercial/Industrial, per sq. ft. .47

  Beaumont Unified School District
  Residential, per sq. ft. 2.97
  Commercial/Industrial/Senior Housing .47

T.U.M.F.:
  Residential, per unit 9,812.00
  Multi-Family, per unit 6,890.00
  Industrial, per sq.ft. 1.84
  Commercial-Retail, per sq.ft. 9.99
  Commercial-Service, per sq.ft. 5.71
  Class A & B Office, per sq.ft. 2.19

M.S.H.C.P.:
  Residential, <8.0 DU per acre, per unit 1,938.00
  Residential, 8.1 – 14.0 DU per acre, per unit 1,241.00
  Residential, > 14.1 DU per acre, per unit 968.00
  Commercial, per acre 6,597.00
  Industrial, per acre 6,597.00

*Environmental fees will vary based upon scope of project

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