

**AGENDA  
SPECIAL MEETING  
(Workshop)  
BANNING CITY COUNCIL  
BANNING, CALIFORNIA**

August 28, 2012  
3:00 p.m.

Banning Civic Center  
Council Chambers  
99 E. Ramsey Street

**I. CALL TO ORDER**

Roll Call – Councilmember’s Botts, Franklin, Hanna, Machisic, Mayor Robinson

**II. WORKSHOP ITEM**

1. Resolution No. 2012-68 “Authorizing the Riverside County Transportation Department to Act as Lead Agency to Exercise the Powers of Eminent Domain for the Sunset Avenue Grade Separation Improvements”

**III. 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.*

*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*

**NOTICE:** Any member of the public may address this meeting of the Mayor and Council on any item appearing on the agenda by approaching the microphone in the Council Chambers and asking to be recognized, either before the item about which the member desires to speak is called, or at any time during consideration of the item. A five-minute limitation shall apply to each member of the public, unless such time is extended by the Mayor and Council. No member of the public shall be permitted to “share” his/her five minutes with any other member of the public.

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

**In compliance with the Americans with Disabilities Act**, if you need special assistance to participate in this meeting, please contact the City Clerk's Office (951) 922-3102. **Notification 48 hours prior to the meeting** will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.02-35.104 ADA Title II].

## CITY COUNCIL AGENDA

### RESOLUTION

**DATE:** August 28, 2012

**TO:** City Council

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

**SUBJECT:** Resolution No. 2012-68 “Authorizing the Riverside County Transportation Department to Act as Lead Agency to Exercise the Powers of Eminent Domain for the Sunset Avenue Grade Separation Improvements”

#### **RECOMMENDATION:**

- I. Adopt Resolution No. 2012-68, “Authorizing the Riverside County Transportation Department to Act as Lead Agency to Exercise the Powers of Eminent Domain for the Sunset Avenue Grade Separation Improvements.

**JUSTIFICATION:** City Council approval is necessary in order for the City of Banning to designate Riverside County Transportation Department as the lead agency to exercise the powers of eminent domain pursuant to the authority of California Government Code Section 6502 and California Code of Civil Procedure 1240.140, and to thereby agree and accept the authorization for the County to act as lead agency for condemnation of properties within the vicinity by Sunset Avenue Grade Separation project. County shall perform Right-of-Way activities required to acquire necessary Right-of-Way for the project including appraisals, acquisition, relocation and condemnation, if necessary.

**BACKGROUND:** The Sunset Avenue Railroad Crossing is currently 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 traffic circulation in the area.

The Riverside County Transportation Department has extensive experience in the development and implementation of Federal and State involved interchange and grade separation projects. Currently, the County is managing the engineering design of the project and in order for the City to meet the Traffic Corridor Infrastructure Funding-1B (TCIF) deadline, the County needs to obtain the Right-of-Way for the City to receive the TCIF funding. Construction activities for this project must commence on or before December 31, 2013. As a result, it may be necessary that eminent domain processes be initiated.

**FISCAL DATA:** The cost to obtain the Right-of-Way is included as part of the original Agreement; however, there may be additional costs related to the eminent domain process, which will be forwarded to the City Council for approval at a later date.

**RECOMMENDED BY:**




Duane Burk,  
Director of Public Works

**REVIEWED BY:**



June Overholt,  
Director of Administrative  
Services/Deputy City Manager

**APPROVED BY:**



by  
Andy Takata,  
City Manager

**RESOLUTION NO. 2012-68**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, AUTHORIZING THE RIVERSIDE COUNTY TRANSPORTATION DEPARTMENT TO ACT AS LEAD AGENCY TO EXERCISE THE POWERS OF EMINENT DOMAIN FOR THE SUNSET AVENUE GRADE SEPARATION IMPROVEMENTS”**

**WHEREAS**, City Council approval is necessary in order for the City of Banning to designate Riverside County Transportation Department as the lead agency to exercise the powers of eminent domain pursuant to the authority of California Government Code Section 6502 and California Code of Civil Procedure 1240.140; and

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

**WHEREAS**, the Riverside County Transportation Department has extensive experience in the development and implementation of Federal and State involved interchanges and grade separation projects; and

**WHEREAS**, in order for the City to meet the Traffic Corridor Infrastructure Funding-1B (TCIF) deadline, County needs to obtain the Right-of-Way and construction activities for this project must commence on or before December 31, 2013; therefore, it may be necessary that eminent domain processes be initiated; and

**WHEREAS**, it is essential that the City of Banning work with Riverside County to exercise the eminent domain procedure;

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

**Section I.** Approve and Authorize the Riverside County Transportation Department to Act as Lead Agency to Exercise the Powers of Eminent Domain for the Sunset Avenue Grade Separation Improvements.

**Section II.** This authorization will be rescinded if the Eminent Domain process is not executed within three- hundred sixty (360) days of the date of this resolution.

**PASSED, APPROVED, AND ADOPTED** this 28th day of August, 2012.

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Don Robinson, Mayor  
City of Banning

**ATTEST**

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Marie A. Calderon, City Clerk

**APPROVED AS TO FORM  
AND LEGAL CONTENT**

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

**CERTIFICATION:**

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2012-68 was adopted by the City Council of the City of Banning at the Regular Meeting thereof held on the 28th day of August, 2012.

AYES:

NOES:

ABSENT:

ABSTAIN:

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