AGENDA
REGULAR MEETING
CITY OF BANNING
BANNING, CALIFORNIA

February 26, 2013
5:00 p.m.

Banning Civic Center
Council Chambers
99 E. Ramsey St.

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

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

I. CALL TO ORDER
   . Pledge of Allegiance
   . Invocation – Pastor Javier Hernandez, New Creation Church
   . Roll Call - Councilmembers Botts, Miller, Peterson, Welch, Mayor Franklin

II. REPORT ON CLOSED SESSION

III. PUBLIC COMMENTS/CORRESPONSENCE

PUBLIC COMMENTS – On Items Not on the Agenda

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

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

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

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

Motion: That the City Council approve Consent Item 1 through 6 Items to be pulled ____ ____ ____ ____ ____ for discussion.
(Resolutions require a recorded majority vote of the total membership of the City Council)

1. Approval of Minutes – Special Meeting – 02/06/13 ....................... 1
2. Approval of Minutes – Special Meeting (Closed Session) – 02/12/13 .......... 8
3. Approval of Minutes – Regular Meeting – 02/12/13 ...................... 10
4. Approval of Minutes – Special Meeting – 02/19/13 ..................... 17
6. Resolution No. 2013-25, Approving Side Letter Agreements with the International Brotherhood of Electrical Workers (“IBEW”) – Local 47 General and Utility Employees Unit pending adoption of a Memorandum of Understanding (MOU) setting forth the complete negotiated terms and conditions of employment for the IBEW represented employees .......... 27

• Open for Public Comments
• Make Motion

RECESS REGULAR CITY COUNCIL MEETING AND CALL TO ORDER A JOINT MEETING OF THE BANNING CITY COUNCIL AND THE BANNING CITY COUNCIL SITTING IN ITS CAPACITY OF A SUCCESSOR AGENCY.

V. CONSENT ITEMS

1. Resolution No. 2013-01 SA, Approving the Recognized Obligation Payment Schedule for the Period of July through December 2013 and Approving Certain Related Actions. ......................... 40

Adjourn Joint Meeting and reconvene the regular City Council Meeting.

VI. PUBLIC HEARING

1. Ordinance No. 1461 – Density Bonus
Staff Report .......................... 51
Recommendation: That the City Council adopt Ordinance No. 1461, Repealing Chapter 15.60 in its entirety and replacing it with a new Chapter 15.60 to the Banning Municipal code and amending Section 17.08.070 of the Banning Municipal Code regarding density bonus and introduce the first reading of the Ordinance.
Mayor asks the City Clerk to read the title of Ordinance No. 1461:

"An Ordinance of the City Council of the City of Banning, California, Repealing chapter 15.60 in its entirety and Adding Chapter 15.60 to the Banning Municipal Code and Amending Chapter 17.08.070 of the Banning Zoning Code to Establish Density Bonus Standards Consistent With State Law for Affordable Residential Units."

Motion: I move to waive further reading of Ordinance No. 1461.  
(Requires a majority vote of Council)

Motion: I move that Ordinance No. 1461 pass its first reading.

2. Ordinance No. 1462 – Reasonable Accommodations  
   Staff Report ................................................................. 77
   Recommendation: That the City Council adopt Ordinance No. 1462, Amending Title 17 of the Banning Zoning Code regarding Reasonable Accommodations for Disabled Individuals and introduce it first reading.

Mayor asks the City Clerk to read the title of Ordinance No. 1462:

"An Ordinance of the City Council of the City of Banning, California, Adding Chapter 17.42 to the Banning Zoning Code Regarding Reasonable Accommodations for Disabled Individuals."

Motion: I move to waive further reading of Ordinance No. 1462.  
(Requires a majority vote of Council)

Motion: I move that Ordinance No. 1462 pass its first reading.

VII. ANNOUNCEMENTS/REPORTS  
(Upcoming Events/Other Items if any)
- City Council
- City Committee Reports
- Report by City Attorney
- Report by City Manager

VIII. ITEMS FOR FUTURE AGENDAS

New Items –
- Consideration of an “in-house” attorney vs. contract
- Policy regarding presentations to City Council

Pending Items – City Council
1. Schedule Meetings with Our State and County Elected Officials
IX. ADJOURNMENT

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

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

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

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office (951) 922-3102. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.02-35.104 ADA Title II].
A special meeting of the Banning City Council was called to order by Mayor Franklin on February 6, 2013 at 5:10 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

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

COUNCIL MEMBERS ABSENT: None

OTHERS PRESENT: Andrew J. Takata, City Manager
Lona Laymon, Assistant City Attorney
June Overholt, Administrative Services Dir./Deputy City Manager
Duane Burk, Public Works Director
Zai Abu Bakar, Community Development Director
Leonard Purvis, Police Chief
Bill Manis, Economic Development Director
Heidi Meraz, Community Services Director
John McQuown, City Treasurer
Marie A. Calderon, City Clerk

Mayor Franklin welcomed everyone to our Special Council Meeting celebrating the 100th Anniversary of Banning’s history. Banning Police Color Guard made Presentation of the Colors. Councilman Botts led the audience in the Pledge of Allegiance to the Flag and the invocation was given by Pastor George Rosemier, Banning United Methodist Church.

PUBLIC COMMENTS

There were none.

RECOGNITION OF FORMER COUNCIL MEMBERS & CITY OFFICIALS

Mayor Franklin said it is so nice to see so many of our special dignitaries here and we have prior Council Members in attendance that include: Barbara Hanna, Larry Higgins, John Machisic, Sue Palmer, Brigitte Page – first female Mayor, Gary Reynolds, Don Robinson, Brenda Salas Freeman, Don Smith, Carl Wolfram, Jan Wages and Past City Treasurer – Audrey Nathan. Also in attendance: Clara Thomas - former Planning Commissioner, Margaret Hanson - widow of former Mayor Bob Hanson, Robert Martin – Chairman of the Morongo Band of Mission Indians,
Supervisor Marion Ashley, Ella Zanowic – Mayor of Calimesa, Alex Cassadas – Banning School Board Trustee, Charles Williams – son of former Councilman Roosevelt Williams, Roger Berg – Mayor of City of Beaumont, Brian Nestande-Assemblyman, Berti Windsor – widow of former City Manager Ray Windsor, Mary Ann Melleby -San Gorgonio Pass Water Agency Board Member, current Planning Commissioners Dennis Arterberry and Kevin Siva, current Parks & Recreation Commissioners Richard Sanchez and Leroy Miller.

Mayor Franklin at this time read a letter from Mayor Robert “Bob” Hanson, Mayor of Banning - 1991, 1992 to the Mayor of Banning – 2013 (attached as Exhibit “A”).

PRESENTATIONS TO THE CITY

Assemblyman Brian Nestande presented a resolution from the California Legislature on behalf of Senator Bill Emmerson and himself to the Mayor and Council. He said it was wonderful to experience this event in the sense that Southern California does not have a lot of cities with your heritage and history. He thinks what makes this city special is not that it is 100 years but that people here feel that it is really a community and not a bedroom community but a real community in a sense that people know each other and are connected to Council, the Mayor, the police department and its Chief and it is really a wonderful community to raise your family and to have that sense of community.

Roger Berg, Mayor of the City of Beaumont presented a resolution to the Mayor and Council. He said that they just celebrated their 100th Anniversary and he was born at Pass Hospital and his wife is from Banning. He said what the Assemblyman just said is true and it is a small town and you know everybody and he looks back at all the past Council Members and it is just people that have cared about the community through the years from the forefathers to the present Council in wanting to make Banning a better place and it has made the San Gorgonio Pass a better place. He congratulated the City on their 100th Anniversary and stated that the Council is doing a great job and Banning is a great city and they enjoy being a part of the San Gorgonio Pass with you.

Barbara Hanna along with Pat Murkland of the Centennial Committee addressed the Council. Barbara Hanna stated that they are a group of volunteers that have been planning the Centennial Celebration since early 2011 and she is so grateful for all of their work and they have been meeting monthly since then and have many events planned for the year. They also have a website and all the information is available at “banning100birthday.com” and she would encourage people to visit their website for current events because it is changing constantly. They are also on Facebook with Domino.Banning and Banning100 Birthday.com. and you can also text them at 90210 and type in “BNG100” and within a minute you will have a response of what is going on today for the Centennial. She said that their top sponsors are the Morongo Band of Mission Indians and Marion Ashley, 5th District Supervisor and they really appreciate both their organizations support.

Pat Murkland who is in charge of collecting “100 Things” for the Centennial that reflect our history said she happens to be the caretaker of some ledgers which happen to be the minutes of the very first Council meetings starting in 1913 all the way up to the 1930’s and some other ledgers and things from early Banning history. She also has some receipts and balances, bills
and first expenses from 1913 and by the year 1927 she said that they actually had $4000 in their budget.

Supervisor Marion Ashley said it is a pleasure to be here and represent the Pass, particularly a city like Banning. He said Banning has had an interesting and illustrious past and they are doing quite well right now and you can see that by all the wonderful things happening like the Mid-County Justice Center, the new police station and other buildings and there is no telling how far Banning can go. Banning has a tremendous future by its location and the valuable real estate it has such as the airport and owning your own utility which is unique among cities. He presented to the Mayor and Council a resolution signed by all five members of the County Board of Supervisor and said it was his pleasure to celebrate and commemorate the first 100th Anniversary of the City of Banning.

Don Smith said that both he and Mike Rose are on the Centennial Committee but today they are speaking on behalf of the Banning Cultural Alliance and a project that they have taken on for the Centennial. He said that when Mike Rose joined their organization he went to a Phineas Festival and was looking for Phineas and he came back saying we need to bring Phineas back to Banning and do something that tells people why we are named after Phineas Banning and why we should be proud to be named after him and he came up with the idea of doing a bust.

Mike Rose addressed the Council and went over a list of reasons why we should do this and said that Phineas was big, over 6 foot tall and weighing 250 pounds, he was first a clerk back in 1851, he became a shopkeeper, a stagecoach driver, a stagecoach line owner, he got involved in a series of businesses for shipping and had a shipping company. He was a Lincoln republican, very anti-slavery and in got the army in here to build a fort in Wilmington because he was afraid of all the confederates that were filtering into the state. He was a newspaper owner, a ship captain and ship owner and was also instrumental in three different police forces in the City of Los Angeles and he appointed himself captain and after that he referred to himself as captain until he was able to buy a commission with the California National Guard during the Civil War as a General and then he called himself General and then he ran for the Senate and then became Senator General Captain Banning. He also built the first railroad and dug the first oil well in Southern California, and ran the S.P. Railroad through to Yuma. He was a very, very good businessman and a 19th Century entrepreneur.

Mr. Smith said the Banning Cultural Alliance commissioned a sculpture of Phineas Banning and they actually have three of them and the third one will be in bronze and will be coming soon. They would like to present this sculpture to the City of Banning in honor of the history of Banning and to act as an “Art in Public Places” sculpture which they hope to shown in city hall. The sculptor’s names is Rob Brown and the first thing he did was to create a “relief” to get a feel for his subject and the Alliance have these “reliefs” of Phineas Banning and they will be selling shares of Banning. He said it is their pleasure to dedicate this sculpture to the City of Banning on our Centennial. Don Smith also thanked Supervisor Ashley for sponsoring the “100 Things of Banning”.

At this time presentation of commemorative lapel pins and coasters were given to the dignitaries.
CENTENNIAL VIDEO PRESENTATION

A video was shown celebrating the City’s Centennial and proud history and the “New Banning”.

MAYOR AND COUNCIL MEMBER COMMENTS

Councilman Botts said it has been a privilege to be on this Council for about six year now and he says this because he looks out and sees those wonderful people that worked for the city and dedicated their time and if you have been on the Council you know that it does take some effort sometimes and does take some thick skin sometimes. He also thinks about the folks who are not here that have made this city what it is over the last 100 years. He thanked those who are not here and everyone who is here. If you look around it is the folks that are here tonight and watching on television that continue to support us and work with us in addition to our wonderful elected representatives that make Banning what it is today.

Councilman Peterson thanked the citizens of Banning for the opportunity to serve the community particularly at this time of the 100 Year Anniversary which is a special time and it is really unique to be a part of it and sitting on the Council at this special time. He thanked everyone for trusting and putting their faith in him.

Councilman Welch thanked everyone who put him back into office. He said back in 2003 he ran for the City Council for the first time and became a Council Member and they moved ahead with everyone’s help out here and there were some very special people that helped us move ahead during that period of time and he personally thanked Marion Ashley and Robert Martin. These two people have helped our city tremendously move ahead into the future. He thanked everyone for putting their trust in him and inviting him back to the Council for a second try and he is very honored and humbled to have this job and as a group they will all pull together to do the very best for Banning as we move into the future.

Councilmember Miller said he was very impressed when he looked and saw how many of the old Council Members were here who had devoted their time, energy and effort in making Banning the great city that it is. When he looks at everyone here he gets very excited because he knows that in the year 2113 he will be sitting there where you are and everyone will be congratulating him. If we really consider it the improvement in the city is because of the effort of all of you people and we intend to continue that. We have a City Council that is devoted to working together to improve the City and he has only been on the Council for three months now but he has met all the staff members and many of the people who work for the City and he thinks we have a fantastic team that will get together and work together and will improve the City. He thanked everyone for being a part of the city and all the work that you have done.

Mayor Franklin thanked everyone who is not only here today but those who have supported our City Councils throughout the years. We are a city because people care and have taken time to work to make us the city that we are. She said it is her honor to be able to sit in this chair and looks at it as a privilege and not an entitlement. At this time she read the letter she has written to the Mayor for 2063 (attached as Exhibit “A”).
City Manager reminded the audience if they wanted copies of the video to please leave their address and we will get a copy to you and it will also be available on the City's website. He thanked Marie Calderon, Jessica Hicks, Daniele Savard, Patrick Stephens, Eric Brown and Bill Manis for putting the videos together, as well as, putting this event together. He also thanked Pardée Homes for supplying the coasters that were given out, as well as, his department heads that have been supportive over the years. He also thanked his mentor Ray Windsor whom he followed to Mammoth and Atascadero because he saw something in him that he didn't see in himself. Ray Windsor was a former City Manager of Banning. He said as a thought there were 21 managers total here for 53 years which average is 2.7 years per term and he will be here 3 years in 9 days so he is part of the average. He thanked everyone for coming and thanked everyone for their support.

ADJOURNMENT

By common consent the meeting adjourned at 6:15 p.m. in honor of former Councilman Roosevelt Williams who recently passed away and was our longest sitting City Council Member.

Marie A. Calderon, City Clerk
CITY OF BANNING

99 E. Ramsey Street • P.O. Box 998
Banning, California 92220
Telephone (714) 922-1200

OFFICE OF THE MAYOR

February 6, 1992

TO: Mayor of Banning - 2013

FROM: Robert L. Hanson, Mayor - 1991, 1992

After completing our new City Hall and moving in on October 15th, we held the Dedication Ceremony on October 26th, with over two hundred of our citizens in attendance. The modern building that you see took over a year-and-a-half to build. Before we began the construction, the City was housed temporarily in an old 10,000 square foot grocery store located at 1434 West Ramsey Street.

If you will read the material furnished you in this time capsule, you will read about the old City Hall burning down, and the referendum delaying the construction of the City Hall until 1990. I was fortunate to have been on the City Council that "bit the bullet" by hiring an architect in 1988, and authorizing a 20,600 square foot City Hall to be constructed at a cost not to exceed $1,750,000. I assume that you have paid off the old Certificates of Participation, and have issued new ones for the City Hall Annex that we planned west of this building. We were proud of the plans and managed to purchase a lot of the surrounding land for parking lots until the central business district was ready for either a parking lot or garage, and other commercial development. Our thoughts at the time were to construct "temporary parking facilities."

We began a very active Redevelopment Program in 1991, and kept one of the buildings to temporarily house our Community Redevelopment Department in a building located directly west across the alley until you build the Annex. I trust that the Annex is large enough to serve the community well into the year 3000! I also hope that the downtown is a thriving shopping area.

Sincerely,

Robert L. "Bob" Hanson
Mayor, City of Banning

RH/le

Exhibit "A"
6
spec. mtg.—02/05/13
To: The Mayor of Banning in 2063

From: The Mayor of Banning in 2013

Congratulations on reaching another milestone!

Today February 6, 2013 we are celebrating Banning’s 100 year anniversary. Our city is made up of almost 30,000 residents living in 26 square miles. We are basically a full service city with our own water and electric utilities. Banning is the location of a community college, a hospital that is modernizing, and city library. A state justice center is currently under construction and scheduled to open next year. We have 177 employees, and our city budget is $85,000,000. Plans to expand the city’s economic development include more housing, industrial, and tourism development. Other avenues are also being explored. Our vision includes a community where people can safely live, work, and play.

As a part of the Pass Region, we share common concerns of water, transportation, and economic development. Educating our young people and mature workforce is vital to the future of our community.

While we have many challenges, we also have many accomplishments. Thanks to the foresight of past councils in such areas as buying the electric utility, and the Banning Water Company, we are well poised to continue our managed growth as a small town city. The opportunities are great, and we are working with eager anticipation to capturing some of them to move Banning successfully forward into the future.

Sincerely,

Debbie Franklin

Mayor 2012 - 2013
A special meeting of the Banning City Council and the City Council Sitting In Its Capacity of a Successor Agency was called to order by Mayor Franklin on February 12, 2013 at 4:00 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

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

COUNCIL MEMBERS ABSENT: None

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

CLOSED SESSION

City Attorney announced that the items on the agenda are real property negotiations for the City involving the Flume property and the Sunset Grade Separation right of way pursuant to the provisions of Government Code Section 54956.8.; and labor negotiations involving all of the bargaining units pursuant to the provisions of Government Code Section 54957.6. For the Successor Agency there is a potential initiation of litigation matter to report on pursuant to the provisions of sub-paragraph (d) (4) of Government Code Section 54956.9; and real property negotiations regarding 2301 W. Ramsey Street pursuant to the provisions of Government Code Section 54956.8.

Mayor Franklin opened the item for public comments. There were none. Meeting went into closed session at 4:02 p.m. and recessed at 4:59 p.m.

Meeting reconvened at 5:46 p.m. returned to open session at 7:22 p.m.

City Attorney stated that the Council met in closed session and further discussed the item on real property negotiations concerning the property at 2301 W. Ramsey Street and there was no
reportable action taken. The Council also discussed the potential initiation of litigation on one matter and there was no reportable action taken as a result of that discussion.

**ADJOURNMENT**

By common consent the meeting adjourned at 7:23 p.m.

Marie A. Calderon, City Clerk
A regular meeting of the Banning City Council was called to order by Mayor Franklin on February 12, 2013 at 5:07 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

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

COUNCIL MEMBERS ABSENT:  None

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

The invocation was given by Pastor Carlton Anderson, Fountain of Life Church of God in Christ. Councilman Miller led the audience in the Pledge of Allegiance to the Flag.

REPORT ON CLOSED SESSION

City Attorney stated that the City Council and the Successor Agency met in closed session. In regards to the City Council there was a report on real property negotiations concerning the Flume and the Sunset Grade Separation and a status report was given and there was no reportable action taken. In regards to labor negotiations a status report was given of the negotiations with the City’s bargaining units and there was no reportable action taken on that item. With respect to potential initiation of litigation there was no discussion and the Successor Agency will return to closed session at the end of the meeting in regards to that item. In regards to the real property negotiations a status report was given in regards to 2301 W. Ramsey Street and no reportable action was taken.

PUBLIC COMMENTS/CORRESPONSENCE/PRESENTATIONS/ANNOUNCEMENTS

PUBLIC COMMENTS – On Items Not on the Agenda
Beverly Rashidd, resident of Banning, stated that their play “Doubt” opens this Friday and will run for two weekends. This is one of their more serious productions and the director, who has a theological background, said it is a really great play for people of faith and people who belong to congregations because it has to do with how we make judgments about people. You can call 722-5526 for tickets. The production runs on Friday and Saturday night of each weekend at 7:00 p.m. and on Sunday at 3:00 p.m. Their 5th Annual Black Heritage Celebration will be featuring “Pioneering Black Families” in honor of the Centennial and hope everybody will come on February 23rd at 11:30 a.m. and the cost is $12.00 and you can call 922-4911. These events will take place at the Banning Women’s Club, 175 W. Hays Street.

Diego Rose, resident of Banning, asked that he possibly be placed on the agenda at another point in time. He is responsible for the Grand Jury investigation against the Pass hospital. The reason he is before the Council is because of his concern with the way that the information about the hospital is coming forward either by Mark Turner’s presentation or the newspaper’s presenting of the facts as they stand. There are a lot of things that are being brought forward that are not necessarily true. He thinks that if the public in the Pass area understands what is actually going on at the hospital, they may have a different in inclination in regards to how they vote especially with the possibility of another $184,000 million dollar bond measure being put to the voters. He thinks it is important that everybody get at least both sides or at least another perspective on what is going on. He is coming to this Council not only as a resident of the area but also as an ex-employee of the hospital in which he was actively involved at that time and he has since left and is now a business owner here in the Pass. He said that he has other information that directly contradicts what was just stated here two weeks ago by Mark Turner and so he is concerned that it is misinformation.

Don Smith, resident of Banning, said on behalf of the Riverside County Fair and National Date Festival he reminded the citizens of Banning that the fair starts this Friday and runs through Sunday, February 24th. On behalf of the Centennial last weekend’s events were amazing. The “Go Red” regarding 100 years of women’s health sold out and the Patty Nelson Limerick lecture and dinner sold out. Their next event is the Black Heritage event on February 23rd and if you want to attend, order your tickets now because it will be sold out. The next lecture will be held on March 9th at the Dorothy Ramon Learning Center at 7:00 p.m. by Tom Sitton who wrote a book called “Grand Ventures: The History of Banning Family and the Making of Southern California”. He is probably the world’s leading expert on Phineas Banning.

**CORRESPONDENCE:** There was none.

**CONSENT ITEMS**

Councilman Welch pulled Consent Item No. 8 and Mayor Franklin pulled Consent Items No. 9 for discussion

1. Approval of Minutes – Special Meeting – 01/22/13 (Closed Session)

Recommendation: That the minutes of special meeting of January 22, 2013 be approved.
2. Approval of Minutes -- Regular Meeting -- 01/22/13

Recommendation: That the minutes of the regular meeting of January 22, 2013 be approved.

3. Approval of Accounts Payable and Payroll Warrants for the Month of December 2012

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

4. City Business Permit for Symons Emergency Specialties

Recommendation: That the Council review and consider approving a City Business Permit for Symons Emergency Specialties to provide non-emergency medical transport services within the City of Banning.

5. Resolution No. 2013-10, Initiate Proceedings to Update Landscape Maintenance District No. 1 for Fiscal Year 2013/2014

Recommendation: That the City Council adopt Resolution No. 2013-10.

6. Resolution No. 2013-14, Authorizing the City Manager or His Designee to Execute For and On Behalf of the City of Banning Any Actions Necessary for the Purpose of Obtaining Financial Assistance Provided by the Governor’s Office of Homeland Security and Authorizing the Administrative Services Director to Make Any Necessary Budget Adjustments Upon Receiving Such Funds.

Recommendation: That the City Council adopt Resolution No. 2013-14, Authorizing the execution of Appendix C, Governing Body Resolution, of the FY 10-11, FY 11-12 and FY 12-13 California Transit Security Grant Program and the California Transit Assistance Fund (CTSGP-CTAF) Applications respectively.


Recommendation: That the City Council adopt Resolution No. 2013-15, Approving a Professional Services Agreement with Albert A. Webb Associates for the Design of Street Improvements on Westward Avenue for an amount not to exceed $38,520.00; Authorize the Administrative Services Director to make necessary budget adjustments and make the necessary budget adjustments and appropriations in an amount of $25,320.00 from the SB 300 Fund to Account No. 101-4900-431.33-53; and authorize the City Manager to execute the Professional Services Agreement with Albert A. Webb Associates of Riverside, California.

10. Stagecoach Days In-Kind Services Report

Recommendation: That the City Council accept and file the report.

Recommendation: That the City Council accept the settlement amount of $55,000 in exchange for a dismissal of the City with prejudice.

Motion Welch/Peterson to approve Consent Items 1 through 7, 10 and 11. Motion carried, all in favor.

8. Resolution No. 2013-16, Approving the Project Development Cooperative Agreement with the State of California, Department of Transportation (Caltrans), for the Grade Separation and Ramps Modifications at Sunset Avenue.

Councilman Welch said that the community has been talking about this project for quite a few years and looking forward to it happening but the word out on the street is that it is approximately a $40 million dollar project (railroad grade separation on Sunset). In the documentation that was shared with the Council we only talked about a sum total of about $30 million dollars and he would like some clarification.

Director Burk gave the staff report on this project as contained in the agenda packet and explained the Funding Summary as shown on page 62 of the agenda packet which lists what was being obligated by federal funds. Currently the project is with the California Transportation Commission (CTC) and is scheduled to be heard in May of this year to obligate the federal funding. He also displayed and explained another slide showing all the other funding for the Sunset Grade Separation and with all of these put together it shows that we have $39 million available.

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

Motion Botts/Welch to approve Consent Item No. 8, adopting Resolution No. 2013-16, Approving the Construction Cooperative Agreement with the State of California, Department of Transportation (Caltrans), for the Grade Separation and Ramps Modifications at Sunset Avenue, attached hereto as Exhibit A; and Authorize the Mayor to execute the Construction Cooperative Agreement with the State of California, Department of Transportation (Caltrans). Motion carried, all in favor.


Mayor Franklin asked that an update be given to the public in regards to this item.

Director Burk gave the staff report as contained in the agenda packet stating that this is for the engineering services as relates to the entire Corporation Yard. He gave a power-point
presentation showing the existing conditions of the buildings and what would be taking its place.

Councilman Botts asked what the total cost of construction would be. Director Burk said the estimate of this project is around $3 million dollars but they have not done any value engineering and the funds would come from electric bond proceeds.

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

Motion Botts/Welch to approve Consent Items No. 9, adopting Resolution No. 2013-19, Approving a Professional Services Agreement with Albert A. Webb Associates for Engineering and Design Services for the Modification and Expansion of the City Corporate Yard for an amount not to exceed $86,600.00; and Authorize the City Manager to execute the Professional Services Agreement with Albert A. Webb Associates of Riverside, California. Motion carried, all in favor.

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

CONSENT ITEMS

1. Resolution No. 2013-03 UA, Approving the Amendment to the Professional Services Agreement with Stephen P. Stockton, P.E.

Recommendation: That the Utility Authority adopt Resolution No. 2012-03 UA, Approving the Amendment to the Professional Services Agreement with Stephen P. Stockton, P.E. of Redlands, California in an amount of $20,000.00 for consulting services related to the Whitewater Flume Restoration Project for a total contract amount of $40,000.00; and Authorizing the Administrative Services Director to make necessary adjustments and appropriations in an amount of $20,000.00 from the Banning Utility Authority Water Capital Facility Fund to Account No. 661-6300-471.33-11 (Professional Services).


Recommendation: That the Authority Board adopt Resolution No. 2013-04 UA.

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

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

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

ANNOUNCEMENTS/REPORTS (Upcoming Events/Other Items if any)
City Council

Councilman Botts --
- He stated he attended the dinner/lecture Saturday night at the Gathering Hall and it was a wonderful event. The lecture was given by Patty Nelson-Limerick, educated at Yale and a graduate from Banning High School. It was a wonderful and interesting talk. The event was catered by the Haven and it was very good. He thanked Barbara Hanna and Don Smith and the committee who put the event together. He is hopeful in the future that they will receive lots more support from City folks, Council and residents.

Councilmember Welch --
- He stated that in regards to public transportation (Pass Transit) a new route was introduced, part of Route 1, called the “Evening Express”. It is a route that runs until 10:15 p.m. to the outlet mall and the casino Monday through Friday.

Mayor Franklin --
- Last week we were able to be hosts to 150 students from Central Elementary School. They had a tour of City Hall, as well as, running a City Council Meeting.
- She attended a Regional Water Meeting last week and people from Yucaipa, Calimesa, Cabazon, Beaumont and Banning were in attendance. There was a real agreement that we need to continue working as a region regarding our water issues and hopefully have these meeting on a quarterly or monthly basis.

City Committee Reports - None

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

Report by City Manager
- There have been some phone calls made to residents and businesses saying that people are delinquent in their utility bill and therefore they can pay by credit card over the phone. He stated that our staff does not call you on the phone. You would receive a letter and usually you have to come in or pay online. Our staff will never call you and ask for a credit card.
- On Fourth and Ramsey Street we have LED demonstration of street lights.
- Construction for our recycled waterline is going on between Highland Home Road and Westward to Sunset. Currently they are working on Lincoln to Westward on Sunset.
- Our local Shell gas station on Hargrave is being converted to an Arco.
- A tour of the courthouse is being scheduled and the date is Thursday, February 28th at 1:30 p.m.
- He asked that the meeting this evening be adjourned in memory of those fallen officers from this tragic week that we have had.
- Congressman Raul Ruiz will be here at City Hall on Tuesday, Feb. 19th for a Special Meeting “Meet and Greet” session in the Large Conference Room.
- March 27, 2013 the Pass Forum will be held and will include Beaumont, Banning, and the County with discussion on economic development, water and housing.

ITEMS FOR FUTURE AGENDAS
New Items — None

Pending Items — City Council
1. Schedule Meetings with Our State and County Elected Officials

Mayor Franklin stated that they would be returning to closed session.

ADJOURNMENT

By common consent the meeting adjourned at 7:24 p.m. in memory of those fallen officers from this tragic week of events.

Marie A. Calderon, City Clerk

THE ACTION MINUTES REFLECT ACTIONS TAKEN BY THE CITY COUNCIL. A COPY OF THE MEETING IS AVAILABLE IN DVD FORMAT AND CAN BE REQUESTED IN WRITING TO THE CITY CLERK’S OFFICE.
A special meeting of the Banning City Council was called to order by Mayor Franklin on February 19, 2013 at 2:35 p.m. at the Banning Civic Center Council Chambers, 99 E. Ramsey Street, Banning, California.

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

COUNCIL MEMBERS ABSENT: Councilman Peterson

OTHERS PRESENT: Andrew J. Takata, City Manager  
June Overholt, Administrative Services Dir./Deputy City Manager  
Duane Burk, Public Works Director  
Fred Mason, Electric Utility Director  
Bill Manis, Economic Development Director  
Leonard Purvis, Police Chief  
Marie A. Calderon, City Clerk

MEET AND GREET WITH CONGRESSMAN RAUL RUIZ – 36TH DISTRICT

Mayor Franklin and each of the Councilmembers introduced themselves to Congressman Ruiz giving him a little bit of their background information.

Congressman Ruiz addressed the audience stating that he was very excited to be here today and this is such a great welcoming to your city and he is very excited to learn about what are the different issues that are important for each and every one of the City Council Members and also every resident that is here and really learn about the things that really matter to everyone. He is extremely excited to be able to represent and to listen and learn and also to start a relationship that is based on the idea that everybody deserves to be represented and listened to and everybody should have a voice in determining how their future is going to play. He said that his role is to amplify your voice and to learn from you to see what you want him to take to Washington D.C. because his priority is to serve the Council Members and the residents of this city and together come up with ways that we can work together to make sure that the lives of the people that we serve and represent improves. He said that he firmly believes in service leadership in being able to serve and provide a catalyst in whatever tools that we have at our disposal whether it be congress, city council, employment, community agencies or in your churches to improve the lives of our neighbors and our loved ones. Congressman Ruiz said he was from Coachella and grew up there and his parents were farmworkers. He started off in humble beginnings and lived in a trailer for the first years of his life and his older brother was the first to graduate from
high school. He said that his high school counselor paid for his college application when they were having a hard times and because of that he was able to attend UCLA and he made a social contract, a promise when he was 17 years old, that he would return to the community to serve as a physician and help serve the community. Congressman Ruiz gave information on his educational background and training as a doctor. He returned home to fulfill that promise and to help the community and his focus was on healthcare and you cannot separate the health of a community from the educational opportunities from his youth and you cannot separate the health and wellness of a community from economic development and job opportunities; they are all interlinked. Those are what he calls the three pillars of the American Dream. Those are what he calls the fundamentals of any society to improve live for everybody and low and behold he is working in the community and his father told him never to complain unless you are going to be part of the solution so he ran for Congress and here he is today.

Congressman Ruiz said that in Washington D.C. he serves on two committees. He serves on the Natural Resources Committee and the sub-committees under that he serves on is the Indian and Alaska Native Affairs Committee because the tribes are very important to our well-being in this district and we have 9 tribes and they are a very strong and powerful economic engine and they are sovereign nations that we need to respect and work with to improve the lives of everybody here in our district. The second sub-committee he serves on is the Water and Power under Natural Resources and that is important to us because water is our gold in the desert and also the Salton Sea so that will help us being able to negotiate water sources and negotiate solutions for the Salton Sea which is very important for us not only for our health and our habitat but for our economy and he explained why that was important. He said that the other committee he really enjoys and looks forward to working with is the Veterans Affairs Committee. We have a large proportion of veterans in the district and he attended the Veteran Expo held recently and he really enjoyed it. He firmly believes that our country needs to pay more than lip service to our veterans and he says that with complete humility because of all the sacrifices and the experiences that our veterans have gone through. He said under the Veterans Affairs Committee he is on the Health Sub-Committee and on the Disability Memorial Services Sub-Committee which he knows they have a backlog of claims and cases really need to work on prioritizing the high need ones first. Soon they will be launching the “Listening Tour” throughout the entire district including their clinics and VA hospital and they have already met with a few individuals and they are going to continue that and he would like to have one here in the Banning and Beaumont area as well because a lot of times we get lost in the implementation and he wants to find out why because he believes policies do not end with just laws; policy ends in the effect that it has on your lives. So our responsibility as policy makers and community and city council members is to insure the successful implementation of policies that will make a difference in our lives and they are going to start to identify which are the bottlenecks in our VA systems locally so they can improve the lives of our veterans.

Congressman Ruiz said those are the two committees that he is involved in and he is dedicated and determined to serve everyone and make his office accessible. He will be here frequently and any ideas that you have about anything that is going on he would love to hear from you and more importantly he would like to serve and make sure that your voice is understood and amplified out there.
At this time Congressman Ruiz heard from each of the Council Members as to what areas they are interested in and these areas include: locate a resource center here in the area for veterans; issues with the EPA on our San Juan Electric Plant in New Mexico; employment/jobs in the Pass Area - because the Inland Empire continues to lead in unemployment and loss and recovery; stimulate new business and make it easier to do business in the state of California; also issues with health; need help with getting education dollars to help our schools, community college and funds to help a future science center here in Banning.

At this time the public addressed Congressman Ruiz and expressed their interests and concerns which include: stop making entitlements a pejorative term; do not make cuts to social security and Medicare benefits; transportation issues when Interstate 10 gets closed for 11 hours; concern with the economy; thanks for your support of stopping violence against women; on a national level promote the Keystone Pipeline from the north of the U.S. down to the Texas area; keep Banning in mind for any funding from the National Endowment for the Arts; support for “Blue our Sailors of Vietnam” in regards to Agent Orange; support for the Science Center; support for early childhood development; why is it a zero sum game if we raise the minimum wage; support funding for small charities such as soup kitchens (Carol’s Kitchen) that provide hunger relief in the community; keep Congress from taking too much time off; possibility of kicking the social security cap to $200,000; concerns in how long it takes or just contacting someone to talk to at Loma Linda VA hospital.

Congressman Ruiz thanked everyone for coming and said he would take their interests and concerns back to their legislative team and digest it and put it into a very vigorous way of how they analyze policies and put it through the grill. He closed by telling a story and the valuable lesson he learned from his mother and he learned that no matter how much money we have or lack of, or how much education we have or lack of, we can always help somebody else or serve somebody else. He has seen that value here in Banning through your stories, through your service and what you do and for that he honors you, respects you and thanks you.

**ADJOURNMENT**

By common consent the meeting adjourned at 3:25 p.m.

Marie A. Calderon, City Clerk
CITY COUNCIL AGENDA

DATE:    February 26, 2013

TO:      Mayor and City Council

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

SUBJECT: Adopt Resolution No. 2013-18 and 2013-22, Approving Updated Resolutions for Employer Paid Member Contributions to the California Public Employees’ Retirement System


JUSTIFICATION: The City has negotiated with the International Brotherhood of Electrical Workers (“IBEW”) – Local 47, General Employees Unit and Utility Employees Unit whereby they have agreed to pay all of the CalPERS employee rate thus reducing the Employer Paid Member Contribution (EPMC) in exchange for certain salary adjustments, which provide some cost savings to the City.

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

The IBEW has agreed that member employees hired prior to January 1, 2013 will pay the employee rate of 8% for non-sworn miscellaneous members effective the full pay period after the adoption date by City Council on February 26, 2013. Effective the first full pay period ending March 17, 2013, there will no longer be any City Employer Paid Member Contribution on behalf of IBEW members. These changes, including a concurrent three point eight percent (3.8%) salary increase and two salary range adjustment are included in the side letter agreement which is a separate staff report on this Council meeting of February 26, 2013.

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

RECOMMENDED BY:  

[Signature]  
June Overholt  
Administrative Services Director/Deputy City Manager

APPROVED BY:  

[Signature]  
Andy J. Takata  
City Manager

Attachments: Resolution No. 2013-18 and 2013-22
RESOLUTION NO. 2013-18

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

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

WHEREAS, the governing body of the City of Banning has a written labor policy or agreement for all International Brotherhood of Electrical Workers ("IBEW") - Local 47, General Employees Unit, represented employees in the CalPERS Miscellaneous Group that currently provides for the City as the employer to pay the employee member contributions; and

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

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

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

<table>
<thead>
<tr>
<th>Accountant</th>
<th>Accountant II</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building Permit Specialist</td>
<td>Building Inspector</td>
</tr>
<tr>
<td>Building Maintenance Specialist</td>
<td>Bus Driver</td>
</tr>
<tr>
<td>Bus Driver Lead/Trainer</td>
<td>Buyer</td>
</tr>
<tr>
<td>Cable Services Specialist</td>
<td>Code Compliance Officer</td>
</tr>
<tr>
<td>Custodian</td>
<td>Development Project Coordinator</td>
</tr>
<tr>
<td>Economic/ Redevelopment Project</td>
<td>Engineering Services Assistant</td>
</tr>
<tr>
<td>Coordinator</td>
<td></td>
</tr>
<tr>
<td>Executive Secretary</td>
<td>Executive Assistant</td>
</tr>
<tr>
<td>Financial Services Specialist</td>
<td>Fleet Maintenance Mechanic</td>
</tr>
<tr>
<td>Information Technology Coordinator</td>
<td>Information Technology/Media Technician</td>
</tr>
</tbody>
</table>

Resolution No. 2013-18
<table>
<thead>
<tr>
<th>Position</th>
<th>Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lead Fleet Maintenance Mechanic</td>
<td>Lead Police Records</td>
</tr>
<tr>
<td>Lead Public Safety Dispatcher</td>
<td>Maintenance Worker</td>
</tr>
<tr>
<td>Motor Sweeper Operator</td>
<td>Office Specialist</td>
</tr>
<tr>
<td>Payroll Coordinator</td>
<td>Police Information Technology Technician</td>
</tr>
<tr>
<td>Police Records Assistant</td>
<td>Police Assistant I/II</td>
</tr>
<tr>
<td>Public Safety Dispatcher</td>
<td>Public Works Inspector</td>
</tr>
<tr>
<td>Receptionist</td>
<td>Recreation Coordinator</td>
</tr>
<tr>
<td>Sr. Building Inspector</td>
<td>Sr. Code Compliance Officer</td>
</tr>
<tr>
<td>Sr. Maintenance Worker</td>
<td>Sr. Utility Billing Representative</td>
</tr>
<tr>
<td>Utility Billing Representative</td>
<td>Warehouse Services Specialist</td>
</tr>
<tr>
<td>Work Release Crew Lead</td>
<td></td>
</tr>
</tbody>
</table>

- This benefit shall consist of the City of Banning paying 0% of the normal member contribution as EMPC for all IBEW General represented employees effective for the pay period ending March 17, 2013.

- All employees in the above classifications or otherwise represented by the IBEW General Employees will be required to pay their own member contributions.

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

**PASSED, APPROVED AND ADOPTED** this 26th day of February, 2013 at Banning, California.

Deborah Franklin, Mayor  
City of Banning, California

ATTEST:

Marie A. Calderon, City Clerk  
City of Banning

Resolution No. 2013-18
CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2013-18 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 26th day of February, 2013, by the following vote, to wit:

AYES: 
NOES: 
ABSENT: 
ABSTAIN:

______________________________
Marie A. Calderon, City Clerk
City of Banning, California
RESOLUTION NO. 2013-22

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

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

WHEREAS, the governing body of the City of Banning has a written labor policy or agreement for all International Brotherhood of Electrical Workers ("IBEW") - Local 47, Utility Employees Unit, represented employees in the CalPERS Miscellaneous Group that currently provides for the City as the employer to pay the employee member contributions; and

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

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

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

<table>
<thead>
<tr>
<th>Apprentice Meter Test Technician</th>
<th>Assistant Water Superintendent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Auto Cad Technician</td>
<td>Electrical Service Planner</td>
</tr>
<tr>
<td>Electric Services Worker</td>
<td>Field Service Representative</td>
</tr>
<tr>
<td>Lead Field Service Representative</td>
<td>Meter Test Technician</td>
</tr>
<tr>
<td>Powerline Apprentice</td>
<td>Powerline Crew Supervisor</td>
</tr>
<tr>
<td>Powerline Technician</td>
<td>Public Benefits Coordinator</td>
</tr>
<tr>
<td>Senior Electric Distribution System Designer</td>
<td>Senior Electric Services Planner</td>
</tr>
<tr>
<td>Substation Test Technician</td>
<td>Utility Service Assistant</td>
</tr>
<tr>
<td>Wastewater Collection Systems Specialist</td>
<td>Wastewater Collection Systems Technician</td>
</tr>
<tr>
<td>Wastewater Collections Systems Supervisor</td>
<td>Water Crew Supervisor (Production and Distribution)</td>
</tr>
<tr>
<td>Water Services Worker</td>
<td>Water Meter Crew Lead</td>
</tr>
<tr>
<td>-----------------------</td>
<td>-----------------------</td>
</tr>
<tr>
<td>Water Valve Flushing Crew Lead</td>
<td>Water Construction Crew Lead</td>
</tr>
</tbody>
</table>

- This benefit shall consist of the City of Banning paying 0% of the normal member contribution as EMPC for all IBEW Utility represented employees effective the full pay ending March 17, 2013.

- All employees in the above classifications or otherwise represented by the IBEW Utility Employees will be required to pay their own member contributions.

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

**PASSED, APPROVED AND ADOPTED** this 26th day of February, 2013 at Banning, California.

Deborah Franklin, Mayor  
City of Banning, California

ATTEST:

Marie A. Calderon, City Clerk  
City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT

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

Resolution No. 2013-22
CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2013-22 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 26th day of February, 2013, by the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:


Marie A. Calderon, City Clerk
City of Banning, California
DATE: February 26, 2013

TO: Mayor and City Council

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

SUBJECT: Side Letter Agreements with the International Brotherhood of Electrical Workers ("IBEW") - Local 47 General and Utility Employees Unit

RECOMMENDATION: Adopt Resolution No. 2013-25 - approving Side Letter Agreements with the International Brotherhood of Electrical Workers ("IBEW") — Local 47 General and Utility Employees Unit pending adoption of a Memorandum of Understanding (MOU) setting forth the complete negotiated terms and conditions of employment for the IBEW represented employees.

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

BACKGROUND: The general and utility employees under IBEW have agreed to the side letter agreement setting forth deal points that are reflected as changes to prior Memorandum of Understanding (MOU) language. The adoption of the complete MOU’s will be presented to the Council at a later date.

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

RECOMMENDED BY:  

APPROVED BY:  

Attachments:
1. Resolution No. 2013-25 — Approval of the Side Letter of Agreements with both the IBEW General Employees Unit and Utility Employees Units
2. Side Letter Agreement – IBEW General Employees Unit
3. Side Letter Agreement – IBEW Utility Employees Unit
RESOLUTION NO. 2013-25

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING
APPROVING A SIDE LETTER AGREEMENT TO THE MEMORANDUM OF
UNDERSTANDING BETWEEN THE INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS-LOCAL 47 (IBEW) GENERAL EMPLOYEES UNIT AND
UTILITY UNIT AND THE CITY OF BANNING

WHEREAS, the City of Banning has recognized the International Brotherhood of Electrical Workers – General Unit (IBEW – General Unit) and the Utility Unit (IBEW – Utility Unit) as the bargaining units representing a group of its employees; and,

WHEREAS, the City and the IBEW – General Unit and Utility Unit entered into a Memorandum of Understanding (MOU) which all expired September 11, 2011; and

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

WHEREAS, the City and bargaining units have been in meet and conferred sessions to negotiate an MOU, which remain in progress; and

WHEREAS, the City proposed a 3.8% salary increase and two salary range adjustment.

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

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

SECTION 1:
1. That the City Council approves the Side Letter Agreements between the City and IBEW for General and Utility Unit, a copy of which is attached hereto and by this reference made a part hereof; and
2. The Administrative Services Director/Deputy City Manager is authorized to make the necessary budget adjustments as applicable.

PASSED, APPROVED AND ADOPTED this 26th day of February, 2013 at Banning, California.

Deborah Franklin, Mayor
City of Banning, California

Resolution No. 2013-25
ATTEST:

Marie A. Calderon
City Clerk of the City of Banning

APPROVED AS TO FORM AND LEGAL CONTENT

David Aleshire, Attorney
Aleshire & Wynder, LLP

CERTIFICATION:

I, Marie A. Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Resolution, No. 2013-25 was duly adopted by the City Council of the City of Banning, California, at a regular meeting thereof held on the 26th day of February 2013, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

Resolution No. 2013-25
SIDE LETTER AGREEMENT BETWEEN

THE CITY OF BANNING,

AND

THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS - LOCAL 47

REPRESENTING THE GENERAL EMPLOYEES UNIT

REGARDING RATIFIED MOU DEAL POINTS

(FEBRUARY, 2013)
SIDE LETTER AGREEMENT BETWEEN THE CITY OF BANNING, AND THE
INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS - LOCAL 47,
REPRESENTING THE GENERAL EMPLOYEES UNIT, REGARDING RATIFIED MOU
DEAL POINTS

PREAMBLE

The most recent Memorandum of Understanding ("MOU") between the City of Banning ("City"), a Municipal Corporation, and the authorized representatives of the International Brotherhood Of Electrical Workers - Local 47 ("IBEW"), the recognized employee organization representing the General Employees Unit ("Unit"), expired September 30, 2011. Since that time, the parties have continued on and off good faith negotiations over a successor MOU. The negotiations have been delayed in large part due to successive and ongoing negative fiscal impacts to the City caused by both the local economy and statewide events beyond the City's control. However, the parties have recently reached a ratified tentative agreement on deal points for a successor MOU subject to City Council approval.

This Side Letter Agreement is intended to memorialize the deal points of the MOU so that the financial terms of those deal points can be promptly implemented to immediately achieve City cost savings. Therefore, when approved by City Council action, this Side Letter Agreement is intended to be binding on the parties with the understanding that final expression of the full terms and conditions of the collective bargaining agreement between the parties shall be through a subsequent formal MOU signed by the parties and presented to City Council for adoption. Thus, the purpose of this Side Letter Agreement is to memorialize the meet and confer discussions and general deal points reached and the agreement made on the particular issues set forth herein which would be an express modification of the terms and conditions of the pre-existing expired MOU. Accordingly, this Side Letter Agreement is the product of meet and confer labor negotiations between the parties pursuant to Chapter 10 (Section 3500 et. seq.) of Division 4, Title 1 of the Government Code and pursuant to Resolution No. 2010-45, the Employer-Employee Relations Resolution of the City of Banning.

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

Article 24 – CalPERS formulas

IBEW represented miscellaneous employees hired prior to December 11, 2012 will remain at 2.5% @55 with single highest year benefit.

Beginning on or after December 11, 2012, the City implemented the 2% @ 60 formula for miscellaneous new hires with average three years for calculation of final retirement benefit, which after January 1, 2013 shall only apply to new hires defined by CalPERS as "classic members." (Approved by City Council through side letter December 11, 2012).
Beginning January 1, 2013, new hires defined by CalPERS as "new members" shall receive the newly created 2% @ 62 formula with average of three years for calculation of final retirement benefit. (Mandated by the Public Employees Pension Reform Act of 2013.)

Article 24 – Contribution to CalPERS

Effective January 1, 2013, all miscellaneous new hires defined by CalPERS as "new members" will pay their full employee rate towards their CalPERS retirement benefit per the Public Employees Pension Reform Act of 2013 (rates vary per retirement formula).

Effective the first full pay period after City Council adoption of this Side Letter Agreement, all IBEW represented employees will pay their full member contribution to their respective retirement plan with CalPERS, which is currently 8% for miscellaneous members in the 2.5% @ 55 formula. CalPERS will determine the employee contribution rates for each retirement formula.

Article 14.1 – Salary

Effective first full pay period after City Council adoption of this Side Letter Agreement and concurrently with and contingent upon the City ceasing all Employer Paid Member Contributions, employees will receive a 3.8% salary increase and a 2 range salary adjustment.

The remaining 1.2% salary increase potential within the 2 range adjustment will be postponed until the end of the contract term.

Article 11.2 (b), 22.9 and 22.11 – Holiday leave increase – Holiday leave for all IBEW represented employees shall increase from 8 hours to 10 hours.


Article 17.1 – Jury duty – Add provision for dispatchers that work the night shift the night before serving jury duty to receive rest period before reporting to jury duty.

Article 18.3 – Boot allowance Increase from $200 to $250.

Article 19 – Emergency Meal Compensation Increase from $12.00 to $14.00.

Article 20 – Book Reimbursement Eliminated– Books will no longer be reimbursed.

Article 21 – Sick leave – Sick leave shall be capped at 400 hours.

Article 22.13 – Promotional Pay Out of Accrued Leave – Employees promoted to a different bargaining unit may be cashed out at their current pay rate for leave banks in excess of 160 hours collectively at the sole discretion of the City.
Article 32 – Reopeners --

In the event General Fund reserves fall below $1 million, the parties agree to meet and confer to discuss alternatives to layoffs.

Meet to discuss revisions to grievance procedure.

Meet to discuss definition of critical positions.

**MOU LANGUAGE CHANGES**

Article 1.3 – Term to be from City Council adoption of this Side Letter Agreement through June 30, 2014.

Article 4.3 – Volunteers shall be allowed except they cannot be used to replace work previously performed by terminated or laid off IBEW represented members.

Article 7.1 – Provide 24 hour notice to supervisor/department head of scheduled meetings.

Article 9.1 – Reduce number of MOU copies required.

Article 14 – Bilingual Pay – establishes a cap of $110 per pay period.

Article 19.2 – DMV testing – delete article since program is no longer available.

Article 21 – Sick leave & Bereavement – language cleanup “housekeeping”. Increase bereavement leave from 24 hours to 30 hours.

Article 22.4 – Termination payment of leave balances modified to allow payout with payroll pay date.

Article 25.5 – Security deposit – eliminate Article.

Article 27.5 – Reduction of Class – add back requirement for minimum qualifications.

**ARTICLE 30 – RATIFICATION AND EXECUTION**

IBEW represents that this Side Letter Agreement has been ratified by its members and therefore the City’s representatives and IBEW jointly recommend this Side Letter Agreement to the City Council for the City of Banning. The parties hereto acknowledge that this Side Letter Agreement shall not be in full force and effect until adoption by the Banning City Council.
In witness whereof, the parties have caused their signatures to be affixed this 7th day of February, 2013.

For: the City of Banning

______________________________
Andy Takata,
City Manager

______________________________
Colin Tanner,
Lead Negotiator

______________________________
June Overholt,
Administrative Services Director/
Deputy City Manager

______________________________
Rita Chapparosa,
Deputy Human Resources Director

For IBEW

______________________________
Patrick Lavin, Business Manager
IBEW Local 47

______________________________
Stan Stossel
Lead Negotiator, Senior Assistant
Business Manager
IBEW Local 47

______________________________
Tom Lara
Representative

February 2013
SIDE LETTER AGREEMENT BETWEEN
THE CITY OF BANNING,
AND
THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS - LOCAL 47
REPRESENTING THE METER READING, ELECTRIC AND WATER UTILITY
EMPLOYEES UNIT
REGARDING RATIFIED MOU DEAL POINTS
(FEBRUARY, 2013)
SIDE LETTER AGREEMENT BETWEEN THE CITY OF BANNING, AND THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS - LOCAL 47, REPRESENTING THE METER READING, ELECTRIC AND WATER UTILITY EMPLOYEES UNIT, REGARDING RATIFIED MOU DEAL POINTS

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The remaining 1.2% salary increase potential within the 2 range adjustment will be postponed until the end of the contract term.

Retention bonus for journeymen - $1500 one-time payment at the end of the contract term.

Article 14.2 – Apprentice – City shall promote current employees that have met the qualifications to promote from apprentice to powerline/meter test technician.

Article 14.2 Certificate Pay

New categories for Wastewater Collections Systems Technician, Specialist and Supervisor shall be implemented per subsequent MOU terms.

Article 14.3 – Bilingual Premium – Add Articles for bilingual pay.

Article 18.3 – Boot allowance Increase from $200 to $250.

Article 19 – Emergency Meal Compensation Increase from $12.00 to $14.00.

Article 20 – Book Reimbursement Eliminated– Books will no longer be reimbursed.

Article 21 – Sick leave shall be capped at 400 hours.
Article 22.9 and 22.11 – Holiday leave increase – Holiday leave for all IBEW represented employees shall increase from 8 hours to 10 hours effective upon City Council adoption of this Side Letter.

Article 22.13 – Promotional Pay Out of Accrued Leave – Employees promoted to a different bargaining unit may be cashed out at their current pay rate for leave banks in excess of 160 hours collectively at the sole discretion of the City.

Article 32 – Reopeners –

In the event that the Utility reserves are reduced to less than 10% reserves and the bond covenants debt coverage of 115% is not met during Fiscal year 2014, the parties agree to re-open the agreement to negotiate alternatives to layoffs.

Meet to discuss revisions to grievance procedure.

Meet to discuss definition of critical position.

**MOU LANGUAGE CHANGES**

Article 1.3 – Term to be from City Council adoption of this Side Letter Agreement through June 30, 2014.

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For the City of Banning

______________________________
Andy Takata,
City Manager

______________________________
Colin Tanner,
Lead Negotiator

______________________________
June Overholt,
Administrative Services Director/Deputy City Manager

For IBEW

______________________________
Patrick Lavin, Business Manager
IBEW Local 47

______________________________
Sian Stossel
Lead Negotiator, Senior Assistant Business Manager
IBEW Local 47

______________________________
Michael Colantuono
Representative

Rita Chapparosa,
Deputy Human Resources Director

February 2013
SUCCESSOR AGENCY TO THE DISOLVED
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING
CONSENT

DATE: February 26, 2013

TO: Chair and Successor Agency Board Members

FROM: Bill R. Manis, Economic Development Director

SUBJECT: Approval of the Recognized Obligation Payment Schedule for the Period of July through December 2013 for the Successor Agency to the Dissolved Community Redevelopment Agency of the City of Banning

RECOMMENDATION:
That the City Council, acting in its capacity as the Successor Agency to the Dissolved Community Redevelopment Agency of the City of Banning adopt Resolution No. 2013-01 SA (Attachment A) approving the Recognized Obligation Payment Schedule for the period of July through December 2013 and approving certain related actions.

BACKGROUND:
Pursuant to Health and Safety Code § 34172 (a)(1), the Community Redevelopment Agency of the City of Banning was dissolved on February 1, 2012. Consistent with the provisions of the Health and Safety Code, the City Council previously elected to serve in the capacity of the Successor Agency to the Dissolved Community Redevelopment Agency of the City of Banning, (the “Successor Agency”). Per Health and Safety Code § 34177 (l)(1), the Successor Agency is required to prepare a Recognized Obligation Payment Schedule ("ROPS") before each six-month fiscal period, which corresponds to equal halves of a fiscal year (i.e., July through December and January through June). The ROPS is the basis for the Successor Agency’s authority to make payments due for enforceable obligations. Subsequent to its approval by the Successor Agency, the ROPS must also be approved by the Oversight Board ("OS Board") to the Successor Agency and is reviewable by the County Auditor-Controller, the County Administrative Officer, the California Department of Finance and the California State Controller’s Office.

Staff, together with Urban Futures, Inc., has prepared the ROPS for the period July through December 2013, which consists of several spreadsheets that are appended to the attached Resolution as Exhibit “A”. Pursuant to Health and Safety Code § 34177 (m), an Oversight Board-approved ROPS for the period of July through December 2013 must be submitted to the County Auditor-Controller, the County Administrative Officer, the California Department of Finance and the California State Controller’s Office not later than March 1, 2013. Therefore, subsequent to the approval of the attached Resolution and approval by the OS Board, the ROPS will be forwarded to the County Auditor-Controller, County Administrative Officer, the State Controller and the State Department of Finance.

Approval of the attached Resolution will authorize the City Manager, or designee, to:

1. Post the ROPS for the period of July through December 2013 on the City’s website;
2. Transmit the ROPS for the period of July through December 2013 to the OS Board for their review;

3. Transmit the ROPS for the period of July through December 2013 to the County Auditor-Controller, County Administrative Officer, the State Controller and the State Department of Finance within the timeframe prescribed by the Health and Safety Code; and

4. Make ministerial revisions to the ROPS which may include, but is not limited to restating the information included within the ROPS in any format that may be requested by the State Department of Finance, take such other actions and execute such other documents as are necessary to effectuate the intent of the Resolution, and to implement the ROPS for the period of July through December 2013 on behalf of the Successor Agency, including authorizing and causing such payments.

The attached Resolution has been reviewed with respect to applicability of the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, §§ 15000 et seq., hereafter the "Guidelines"), and the City’s environmental guidelines. The attached Resolution does not constitute a “project” for purposes of CEQA, as that term is defined by Guidelines § 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per § 15378(b)(5) of the Guidelines.

**FISCAL IMPACT:**
Pursuant to Health and Safety Code § 34177, the Successor Agency is legally required to continue to make payments due for enforceable obligations. Approval of the ROPS will ensure that the Successor Agency has the authority to continue to pay its enforceable obligations. The recommended action does not, in itself, cause any new financial obligations.

**RECOMMENDED BY:**

Bill R. Manis  
Economic Development Director

**REVIEWED BY:**

June A. Overholt  
Administrative Services Director/  
Deputy City Manager

**APPROVED BY:**

Andy Takata  
City Manager

**Attachment:**

1. Resolution No. 2013-01 SA
RESOLUTION NO. 2013-01 SA

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BANNING ACTING IN ITS CAPACITY AS THE SUCCESSOR AGENCY TO THE DISSOLVED COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF BANNING, CALIFORNIA RECEIVING AND ADOPTING ITS RECOGNIZED OBLIGATION PAYMENT SCHEDULE ("ROPS") FOR THE PERIOD OF JULY THROUGH DECEMBER 2013 AND APPROVING CERTAIN RELATED ACTIONS

The City of Banning, Acting as Successor Agency to the Former Redevelopment Agency of the City of Banning DOES RESOLVE as follows:

WHEREAS, pursuant to Health and Safety Code § 34172 (a)(1), the Community Redevelopment Agency of the City of Banning was dissolved on February 1, 2012; and

WHEREAS, consistent with the provisions of the Health and Safety Code, the City Council previously elected to serve in the capacity of the Successor Agency to the Dissolved Community Redevelopment Agency of the City of Banning (the “Successor Agency”); and

WHEREAS, per Health and Safety Code § 34177 (l)(1), the Successor Agency is required to prepare a Recognized Obligation Payment Schedule (“ROPS”) before each six-month fiscal period, which corresponds to equal halves of a fiscal year (i.e., July through December and January through June); and

WHEREAS, the ROPS is the basis for the Successor Agency’s authority to make payments due for enforceable obligations; and

WHEREAS, the ROPS must also be approved by the Oversight Board (“OS Board”) to the Successor Agency and is reviewable by the County Auditor-Controller, the County Administrative Officer, the California Department of Finance and the California State Controller’s Office; and

WHEREAS, staff, together with Urban Futures, Inc., has prepared the ROPS for the period of July through December 2013, which consists of several spreadsheets that are appended to this Resolution as Exhibit “A”; and

WHEREAS, subsequent to the approval of this Resolution and approval by the OS Board, the ROPS will be forwarded to the County Auditor-Controller, the County Administrative Officer, the California Department of Finance and the California State Controller’s Office for their review; and

WHEREAS, this Resolution has been reviewed with respect to applicability of the California Environmental Quality Act (“CEQA”), the State CEQA Guidelines (California Code of Regulations, Title 14, §§ 15000 et seq., hereafter the “Guidelines”), and the City’s environmental guidelines; and
WHEREAS, this Resolution is not a “project” for purposes of CEQA, as that term is defined by Guidelines § 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per § 15378(b)(5) of the Guidelines; and

WHEREAS, all of the prerequisites with respect to the approval of this Resolution have been met.

NOW, THEREFORE, the City Council of the City of Banning, in its capacity as Successor Agency, resolves as follows:

SECTION 1. The foregoing Recitals are true and correct and are incorporated herein.

SECTION 2. The Successor Agency’s ROPS for the period of July through December 2013, which is attached hereto as Exhibit “A”, is approved and adopted.

SECTION 3. The City Manager, or designee, is hereby authorized and directed to: i) post the ROPS for the period of July through December 2013 on the City’s website, ii) transmit the ROPS for the period of July through December 2013 to the OS Board for their review, iii) transmit the ROPS for the period of July through December 2013 to the County Auditor-Controller, the County Administrative Officer, the State Controller and the State Department of Finance for their review within the timeframe prescribed by the Health and Safety Code; and iv) make ministerial revisions to the ROPS which may include, but is not limited to restating the information included within the ROPS in any format that may be requested by the State Department of Finance, take such other actions and execute such other documents as are necessary to effectuate the intent of this Resolution, and to implement the ROPS for the period of July through December 2013 on behalf of the Successor Agency, including authorizing and causing such payments.

SECTION 4. This Resolution is not a “project” for purposes of CEQA, as that term is defined by Guidelines § 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per § 15378(b)(5) of the Guidelines.

SECTION 5. This Resolution shall take effect upon the date of its adoption.

PASSED, APPROVED, AND ADOPTED at a joint meeting of the City Council of the City of Banning, acting at its capacity as the Successor Agency, this 26th day of February 2013.

Deborah Franklin, Mayor
City of Banning – Successor Agency

Reso. No. 2013-01 SA
APPROVED AS TO FORM
AND LEGAL CONTENT:

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

ATTEST:

Marie Calderon, City Clerk

CERTIFICATION:

I, MARIE CALDERON, City Clerk of the City of Banning, seating as the Successor Agency, California, do hereby certify that Resolution No. 2013-01 SA was adopted by the City of Banning, seating as the Successor Agency, of the City of Banning at a regular meeting held on the 26th day of February 2013, and that the same was adopted by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie Calderon, City Clerk
City of Banning
EXHIBIT A
SUCCESSOR AGENCY TO THE DISSOLVED
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF
BANNING
RECOGNIZED OBLIGATION PAYMENT SCHEDULE
(July through December 2013)
<table>
<thead>
<tr>
<th>Successor Agency</th>
<th>220</th>
<th>Riverside</th>
</tr>
</thead>
<tbody>
<tr>
<td>ID:</td>
<td></td>
<td>Banning</td>
</tr>
<tr>
<td>County:</td>
<td></td>
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<tr>
<td>Successor Agency:</td>
<td></td>
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<tr>
<td><strong>Primary Contact</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Honorific (Ms, Mr, Mrs)</td>
<td>Ms.</td>
<td></td>
</tr>
<tr>
<td>First Name</td>
<td>June</td>
<td></td>
</tr>
<tr>
<td>Last Name</td>
<td>Overholt</td>
<td></td>
</tr>
<tr>
<td>Title</td>
<td>Deputy City Manager/Administrative Services Director</td>
<td></td>
</tr>
<tr>
<td>Address</td>
<td>99 E. Ramsey Street</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Banning</td>
<td></td>
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<tr>
<td></td>
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<tr>
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</tr>
<tr>
<td>City</td>
<td>1-951-922-3148</td>
<td></td>
</tr>
<tr>
<td>State</td>
<td><a href="mailto:Joverholt@ci.banning.ca.us">Joverholt@ci.banning.ca.us</a></td>
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</tr>
<tr>
<td>Zip</td>
<td></td>
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<tr>
<td>Phone Number</td>
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<td></td>
</tr>
<tr>
<td>Email Address</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| **Secondary Contact** |     |           |
| Honorific (Ms, Mr, Mrs) | Mr. |           |
| First Name             | Bill |           |
| Last Name              | Manis |           |
| Title                  | Economic Development Director |           |
| Phone Number           | 1-951-922-3181 |           |
| Email Address          | Bmanis@ci.banning.ca.us |           |
**SUMMARY OF RECOGNIZED OBLIGATION PAYMENT SCHEDULE**

Filed for the July 1, 2013 to December 31, 2013 Period

Name of Successor Agency: BANNING (RIVERSIDE)

<table>
<thead>
<tr>
<th>Outstanding Debt or Obligation</th>
<th>Total</th>
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</thead>
<tbody>
<tr>
<td>Total Outstanding Debt or Obligation</td>
<td>$70,094,578.00</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Current Period Outstanding Debt or Obligation</th>
<th>Six-Month Total</th>
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<tbody>
<tr>
<td>A Available Revenues Other Than Anticipated RPTTF Funding</td>
<td>$348,030.00</td>
</tr>
<tr>
<td>B Enforceable Obligations Funded with RPTTF</td>
<td>$1,582,620.00</td>
</tr>
<tr>
<td>C Administrative Allowance Funded with RPTTF</td>
<td>$125,000.00</td>
</tr>
<tr>
<td>D Total RPTTF Requested (B + C = D)</td>
<td>$1,707,620.00</td>
</tr>
<tr>
<td>E Total Current Period Outstanding Debt or Obligation (A + B + C = E) Should be the same amount as ROPS form six-month total</td>
<td>$1,707,620.00</td>
</tr>
<tr>
<td>F Enter Total Six-Month Anticipated RPTTF Funding</td>
<td>$1,707,620.00</td>
</tr>
<tr>
<td>G Variance (F - D = G) Maximum RPTTF Allowable should not exceed Total Anticipated RPTTF Funding</td>
<td>$</td>
</tr>
</tbody>
</table>

Prior Period (July 1, 2012 through December 31, 2012) Estimated vs. Actual Payments (as required in HSC section 34186 (a))

| H Enter Estimated Obligations Funded by RPTTF (lesser of Finance's approved RPTTF amount including admin allowance or the actual amount distributed) | $1,451,352.00 |
| J Enter Actual Obligations Paid with RPTTF | $1,326,352.00 |
| K Adjustment to Redevelopment Obligation Retirement Fund (H - (I + J) = K) | $125,000.00 |
| L Adjustment to RPTTF (D - K = L) | $1,707,620.00 |

Certification of Oversight Board Chairman: Pursuant to Section 34177(m) of the Health and Safety code, I hereby certify that the above is a true and accurate Recognized Obligation Payment Schedule ("ROPS") for the above named agency.

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
</tr>
</thead>
</table>

Signature

Date
| Item # | Project Name / Debt Obligation | Contract/Agreement Execution Date | Contract/Agreement Termination Date | FY22 | Description/Project Scope | Project Area | Total Outstanding Debt or Obligation | Total Clean Carryover Fiscal Year 2012/13 | Original Obligation Amount | Loan Proceeds | Reserve Balance | Available Allocation | Other | 
|-------|-------------------------------|----------------------------------|----------------------------------|------|-----------------------------|-------------|----------------------------------|-----------------------------------|--------------------------|----------------|----------------|-------------------|-------|-----------------|-----------------|-------|
|       |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 1     |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 2     |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 3     |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 4     |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 5     |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 6     |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 7     |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 8     |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 9     |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 10    |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 11    |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 12    |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 13    |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 14    |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 15    |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 16    |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 17    |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 18    |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 19    |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 20    |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 21    |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 22    |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 23    |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 24    |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 25    |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 26    |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 27    |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 28    |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 29    |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 30    |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 31    |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 32    |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 33    |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 34    |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 35    |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| 36    |                               |                                  |                                  |      |                             |             |                                  |                     |                          |                |                |                   |       |                  |                  |       |
| Item # | Project Name / Debt Obligation | Payee | Description / Project Scope | Project Area | LRNF Est | Actual | Estimate | Actual | Estimate | Actual | Estimate | Actual | Estimate | Actual | Estimate | Actual | LRNF | Actual | Bank Proc | Reserve Balance | Admin Allowance | 3BTFF | Other |
|-------|--------------------------------|-------|-------------------------------|--------------|----------|--------|----------|--------|----------|--------|----------|--------|----------|--------|----------|--------|-------|-------|---------|-----------|-------------|--------|-------|-------|
| A.1  | 2010 Tax Refund Bonds         | MND Bank NP| Refunding for Priva Projects | Merged       | 1,056,367 | 1,056,367 | 209,278 | 209,278 | 117,084 | 117,084 | 123,000 | 123,000 | 128,000 | 128,000 | 110,000 | 110,000 | 161,985 | 161,985 |
| A.2  | 2010 Tax Refund Bonds         | MND Bank NP| Refunding for RDA Projects   | Merged       |          | 177,049 |          |        |          |        | 481,258 | 481,258 | 388,000 | 388,000 |          |          |          |          |
| A.3  | Property Assumption           | Employee Benefit Fund | Property Assumption - Trust Debt | Merged       |          | 936,007 |          |        |          |        | 936,007 | 936,007 | 936,000 | 936,000 |          |          |          |          |
| A.4  | Construction Compliance       | Johnson Controls | Construction Compliance for Tolls | Merged       |          | 36,090 |          |        |          |        | 36,090 | 36,090 | 36,090 | 36,090 |          |          |          |          |
| A.5  | Bond Charges Fines            | MND Bank NP| Annual Charge Revenue/Charge Interest | Merged       |          |          |          |        |          |        |          |          |          |          |          |          |          |
| B.1  | Bond Servicing Services       | Johnson Controls | Bond Servicing & Collection Service | Merged       |          |          |          |        |          |        |          |          |          |          |          |          |          |
| B.2  | Settlement Agreement          | Bonding Agent Associates | Settlement Agreement | Merged       |          |          |          |        |          |        |          |          |          |          |          |          |          |
| B.3  | Construction Contract         | Cyberware | Construction Contract | Merged       |          | 93,500 | 93,500 | 93,500 | 93,500 |          |          |          |          |          |          |          |          |
| B.4  | Provisions Service Agreement  | Urban Futures, Inc | Provisions Service Agreement | Merged       |          | 12,000 | 12,000 | 12,000 | 12,000 |          |          |          |          |          |          |          |          |
| B.5  | Bond Payables                 | Business Corporation | Bond Payables | Merged       |          | 70,250 | 70,250 | 70,250 | 70,250 |          |          |          |          |          |          |          |          |
| B.6  | Bond Payables                 | Business Corporation | Bond Payables - Trust Debt | Merged       |          | 43,940 | 43,940 | 43,940 | 43,940 |          |          |          |          |          |          |          |          |
| B.7  | Bond Payables                 | Business Corporation | Bond Payables | Merged       |          | 1,900 | 1,900 | 1,900 | 1,900 |          |          |          |          |          |          |          |          |
| B.8  | Bond Payables                 | Business Corporation | Bond Payables - Trust Debt | Merged       |          |          |          |        |          |        |          |          |          |          |          |          |          |
| B.9  | Construction Contract         | Business Corporation | Construction Contract | Merged       |          | 50,000 | 50,000 | 50,000 | 50,000 |          |          |          |          |          |          |          |          |
| C.1  | Business Agency Activity      | City of St. Paul | Business Agency Administration | Merged       |          | 125,000 | 125,000 | 125,000 | 125,000 |          |          |          |          |          |          |          |          |

**Note:** The table details various financial obligations and their respective estimates and actuals for different periods and departments.
<table>
<thead>
<tr>
<th>Item #</th>
<th>Project Name / Debt Obligation</th>
<th>Notes/Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2003 Tax Allocation Bonds</td>
<td>None</td>
</tr>
<tr>
<td>2</td>
<td>2007 Tax Allocation Bonds</td>
<td>None</td>
</tr>
<tr>
<td>3</td>
<td>Property Acquisition</td>
<td>None</td>
</tr>
<tr>
<td>4</td>
<td>Continuing Disclosure</td>
<td>None</td>
</tr>
<tr>
<td>5</td>
<td>Securities Servicing</td>
<td>None</td>
</tr>
<tr>
<td>6</td>
<td>HSG 34171 60/61(6) Reserve</td>
<td>None</td>
</tr>
<tr>
<td>7</td>
<td>Intentionally Left Blank</td>
<td>Project Completed</td>
</tr>
<tr>
<td>8</td>
<td>Note Payable</td>
<td>None</td>
</tr>
<tr>
<td>9</td>
<td>Note Payable</td>
<td>None</td>
</tr>
<tr>
<td>10</td>
<td>Auditing Services</td>
<td>None</td>
</tr>
<tr>
<td>11</td>
<td>Intentionally Left Blank</td>
<td>Project Completed</td>
</tr>
<tr>
<td>12</td>
<td>Successor Agency Admin.</td>
<td>None</td>
</tr>
<tr>
<td>13</td>
<td>Consulting Services</td>
<td>None</td>
</tr>
<tr>
<td>14</td>
<td>Pansey Street Improvements</td>
<td>Per HBG § 34191.4 (a), bond proceeds shall be used for the purpose for which the bonds were sold, subject to the successor agency receiving a “Finding of Completion” from DOE.</td>
</tr>
<tr>
<td>15</td>
<td>1987A Mortgage Backed Securities</td>
<td>Per an October 12, 2012 communication, US Bank has discovered a shortfall in the Program Expense Fund for this bond issue. The successor agency’s responsibility for the shortfall per the indenture of Trust.</td>
</tr>
<tr>
<td>16</td>
<td>RBBG Repayment to USDA</td>
<td>The U.S. Department of Agriculture has requested the repayment of $32,196 representing the amount of unused Rural Business Enterprise Grant funds that it advanced to the Banking RDA during 1995.</td>
</tr>
<tr>
<td>17</td>
<td>Arbitrage Analysis for TABs</td>
<td>Resulted by Indenture for TABs. This item was inadvertently overlooked in prior ROPS</td>
</tr>
</tbody>
</table>
CITY COUNCIL
PUBLIC HEARING

DATE: February 26, 2013

TO: City Council

FROM: Zai Abu Bakar, Community Development Director

SUBJECT: Ordinance No. 1461 – Density Bonus

RECOMMENDATIONS: That the City Council adopt Ordinance No. 1461 repealing Chapter 15.60 in its entirety and replacing it with a new Chapter 15.60 to the Banning Municipal Code and amending Section 17.08.070 of the Banning Zoning Code regarding density bonus and introduce the first reading of the Ordinance.

BACKGROUND: Government Code Section 65915 requires that cities provide certain incentives, concessions, or density bonuses to an applicant constructing housing units that allocates and restricts a portion of the units as affordable housing or senior citizens units. The density bonus provisions in the Banning Municipal and Zoning Codes are out-of-compliance with the State laws. The proposed Ordinance No. 1461, once adopted, will bring the City into compliance.

PLANNING COMMISSION REVIEW: The Planning Commission reviewed the draft Ordinance at its meeting on February 6, 2013. The Commission discussed the implications of the Ordinance and its application. The Commission wanted to ensure that the City standards are not compromised; that there would not be negative impacts to the community; and that public concerns are addressed. Staff responded in the affirmative that all applications will be reviewed for compliance with the City standards in advanced of the Commission hearing. Findings must be made prior to any approvals or denial of the density bonus applications. The projects that request density bonus are required to comply with the California Environmental Quality Act Guidelines (CEQA).

PUBLIC HEARING NOTICE: The public hearing notice regarding this Municipal Code amendment was published in the Record Gazette on February 15, 2013. As of the writing of this staff report, City staff has not received any comments from the public.

FISCAL DATA: There is no additional cost resulting from the adoption of the Ordinance.

RECOMMENDED BY: Zai Abu Bakar
Community Development Director

REVIEWED BY: June Overholt
Administrative Services Director/
Deputy City Manager
APPROVED BY:

Andrew J. Takala
City Manager

Attachment: Ordinance No. 1461
ORDINANCE NO. 1461

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, REPEALING CHAPTER 15.60 IN ITS ENTIRETY AND ADDING CHAPTER 15.60 TO THE BANNING MUNICIPAL CODE AND AMENDING SECTION 17.08.070 OF THE BANNING ZONING CODE TO ESTABLISH DENSITY BONUS STANDARDS CONSISTENT WITH STATE LAW FOR AFFORDABLE RESIDENTIAL UNITS

SUMMARY: This ordinance establishes standards for awarding density bonuses.

WHEREAS, Government Code Section 65915 requires cities to provide certain incentives, concessions or density bonuses to an applicant constructing housing units, a portion of which are restricted as affordable units or units restricted for senior citizens. Banning’s current density bonus ordinance is out-of-compliance with these State laws; and

WHEREAS, the City Council of the City of Banning would like to establish density bonus regulations as required by State law; and

WHEREAS, the Planning Commission did, on the 6th day of February 2013, hold a noticed public hearing as prescribed by law to consider repealing Chapter 15.60 in its entirety and adding Chapter 15.60 to the Banning Municipal and amending Section 17.08.070 of the Banning Zoning; and

WHEREAS, the City Council did, on the 26th of February 2013, hold a duly noticed public hearing as prescribed by law to consider the proposal repealing Chapter 15.60 in its entirety and adding Chapter 15.60 to the Banning Municipal and amending Section 17.08.070 of the Banning Zoning.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. The current Chapter 15.60 of the Banning Municipal Code is hereby repealed and replaced in its entirety with a new Chapter 15.60, entitled Density Bonus Provisions for Residential Units, to read as follows:

<table>
<thead>
<tr>
<th>Chapter 15.60</th>
<th>DENSITY BONUS PROVISIONS FOR RESIDENTIAL UNITS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 15.60.010</td>
<td>Purpose.</td>
</tr>
<tr>
<td>Section 15.60.020</td>
<td>Definitions.</td>
</tr>
<tr>
<td>Section 15.60.030</td>
<td>Density bonuses for affordable and senior citizen housing.</td>
</tr>
<tr>
<td>Section 15.60.040</td>
<td>Additional density bonus for donations of land.</td>
</tr>
</tbody>
</table>
Section 15.60.050  Density bonus and incentives for condominium conversions.

Section 15.60.060  Density bonus & concessions/incentive for child care facilities.

Section 15.60.070  General provisions governing density bonus calculations.

Section 15.60.080  Incentives and concessions.

Section 15.60.090  Waivers & modifications of development standards.

Section 15.60.100  Parking incentives.

Section 15.60.110  Standards for density bonus housing developments.

Section 15.60.120  Application requirements.

Section 15.60.130  Density bonus housing agreements.

Section 15.60.140  Administrative fee.

Section 15.60.150  Violations of affordable housing requirements.

Section 15.60.160  State law amendments.

Section 15.60.010 - Purpose.

This chapter is being enacted: (1) to provide incentives for the production of housing for very low income, low income, moderate income and senior citizen households; (2) to provide incentives for the creation of rental housing serving lower and moderate income households; (3) to provide incentives for the construction of childcare facilities serving very low, lower and moderate income households; and (4) to implement Sections 65915, 65915.5, and 65917 of the California Government Code as required by Section 65915(a). In enacting this chapter, the City also intends to implement the goals, objectives, and policies of the City's General Plan Housing Element to encourage the construction of affordable housing in the City. It is also the City's intent to encourage the development of rental housing to serve an economically diverse community. Accordingly, the City desires to provide a density bonus upon the request of an applicant when the applicant is not otherwise required to include affordable or senior citizen restricted units in a project.

Section 15.60.020 - Definitions.

For purposes of this chapter, the following definitions shall apply. Unless specifically defined below, words or phrases shall be interpreted as to give this chapter its most reasonable interpretation.

"Affordable ownership costs" means average annual housing costs, including mortgage payments, property taxes, homeowners' insurance, and homeowners' association dues, if any, which do not exceed the following:

i. Very low income households: 50% of area median income, adjusted for assumed household size based on unit size, multiplied by 30%.
ii. Lower income households: 70% of area median income, adjusted for assumed household size based on unit size, multiplied by 30%.

iii. Moderate income households: 110% of area median income, adjusted for assumed household size based on unit size, multiplied by 35%.

On an annual basis, the City shall make available copies of the U.S. Department of Housing and Urban Development household income limits applicable to owner-occupied affordable units subject to this chapter and may determine an inflation factor to establish the affordable ownership cost limits applicable to an affordable unit.

"Affordable rent" means annual rent, including utilities and all fees for housing services, which does not exceed the following:

i. Very low income households: 50% of area median income, adjusted for assumed household size based on unit size, multiplied by 30%.

ii. Lower income households: 60% of area median income, adjusted for assumed household size based on unit size, multiplied by 30%.

On an annual basis, the City shall make available copies of the U.S. Department of Housing and Urban Development household income limits applicable to tenant-occupied affordable units subject to this chapter and may determine an inflation factor to establish the affordable rent limits applicable to an affordable unit.

"Affordable units" are dwelling units which are affordable to very low, lower, or moderate income households as defined by this chapter or by any federal or state housing program and are subject to rental, sale, or resale provisions to maintain affordability.

"Applicant" means a developer or applicant for a density bonus who seeks and agrees to construct a qualified housing development on or after the effective date of this chapter pursuant to Section 65915, subdivision (b), of the California Government Code.

"Area median income" means area median income for Riverside County as published by the State of California pursuant to California Code of Regulations, Title 25, Section 6932, or a successor provision.

"Assumed household size based on unit size" means a household of one person in a studio apartment, two persons in a one bedroom unit, three persons in a two bedroom unit, and one additional person for each additional bedroom thereafter.
"Childcare facility" means a child day care facility other than a family day care home including, but not limited to, infant centers, preschools, extended day care facilities, and school age childcare centers.

"City" means the City of Banning, California, including the City’s Redevelopment Successor Agency and/or the City’s Housing Authority acting on behalf of the City.

"Common interest development" bears the same meaning as defined in Section 1351 of the California Civil Code.

"Density bonus" means a density increase over the otherwise allowable zoning maximum residential density on a site as of the date of application by the applicant to the City, granted pursuant to this chapter.

"Density bonus units" means residential units granted pursuant to this chapter which exceed the otherwise allowable zoning maximum residential density for a housing development.

"Density bonus housing agreement" means an agreement governing affordable and density bonus units as a condition of granting any density bonus, as further described in Section 15.60.130 of this chapter.

"Development standard" means any site or construction condition including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a housing development pursuant to any ordinance, general plan element, specific plan, or other local condition, law, policy, or regulation. A "site and construction condition" is a development condition or law that provides a specification for the physical development of a site and buildings on the site in a housing development.

"First approval" means the first of the following approvals to occur with respect to a housing development: specific plan, development agreement, planned development permit, tentative map, minor land division, use permit, design permit, building permit, or any other development entitlement permit listed in Titles 15, 16 and/or 17 of this code.

"Household income" means the combined adjusted gross household income for all adult persons living in a residential unit as calculated for the purpose of the Section 8 program under the United States Housing Act of 1937, as amended, or its successor provision.

"Very Low Income Household" shall have the same meaning as provided in California Health & Safety Code Section 50105.

"Lower Income Household" shall have the same meaning as provided in California Health & Safety Code Section 50079.5.
"Moderate Income Household" shall have the same meaning as provided in California Health & Safety Code Section 50093.

"Housing development" means one or more groups of projects for residential units in the planned development of the City. "Housing development" also includes a subdivision or common interest development, as defined in Section 1351 of the California Civil Code, approved by the City and consisting of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4 of the Government Code, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. For purposes of this chapter, "housing development" does not include projects for less than five (5) dwelling units.

"Incentives and concessions" are regulatory concessions as listed in Section 15.60.080 of this chapter.

"Market-rate unit" means a dwelling unit which is not an affordable unit or an inclusionary unit.

"Maximum residential density" means the maximum number of dwelling units permitted by the zoning ordinance and land use element of the General Plan or, if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the General Plan applicable to the project. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the General Plan, the General Plan density shall prevail. The maximum allowable density is based on the date an application for a housing development is deemed complete. This definition is used to calculate a density bonus pursuant to this chapter.

"Senior citizen housing development" means senior citizen housing as defined in Section 51.3 (a housing development developed, substantially rehabilitated, or substantially renovated for senior citizens that has at least 35 dwelling units) and Section 51.12 of the California Civil Code, or a mobile home park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

"Specific adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identifiable, written public health or safety standards, policies, or conditions as they existed on the date that the application for the housing development was deemed complete. Mere inconsistency with the zoning ordinance or General Plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.
Section 15.60.030 - Density Bonuses for Affordable and Senior Citizen Housing.

A. Very Low and Lower Income Housing and Senior Citizen Housing. Upon written request to the City, an applicant for a housing development is eligible for one density bonus of twenty percent (20%) over the maximum residential density (except in the case of senior citizen housing, as provided below), provided that the applicant agrees to construct the housing development in accordance with one of the following criteria:

1. Five percent (5%) of the total dwelling units, excluding any units permitted by the density bonus, are provided at affordable rent or ownership costs to very low income households; or

2. Ten percent (10%) of the total dwelling units, excluding any units permitted by the density bonus, are provided at affordable rent or ownership costs to lower income households; or

3. A senior citizen housing development. For senior citizen housing developments, the density bonus shall be twenty percent (20%) of the number of senior housing units provided.

B. Moderate Income Housing. Upon written request to the City, an applicant for a housing development is eligible for one density bonus of five percent (5%) over the maximum residential density if the applicant agrees to construct the housing development in accordance with all of the following criteria:

1. At least ten percent (10%) of the total dwelling units, excluding any units permitted by the density bonus, are provided at affordable ownership costs to moderate income households; and

2. The housing development is a common interest project as defined by Section 1351 of the California Civil Code; and

3. All of the dwelling units in the housing development are offered for sale to the public.

C. Higher Density Bonus for Greater Contribution of Affordable Units. Upon written request to the City, an applicant for a housing development that is eligible for a density bonus based upon the contribution of affordable units, may receive a higher amount of density bonus if the percentage of very low, lower, and moderate income housing units exceeds the base percentage established in subsections (A) or (B) above, as follows:

1. Very low income units - For each one percent (1%) increase above five percent (5%) in affordable units for very low income households, the density bonus shall be increased by two and one-half percent (2.5%) up to a maximum of thirty-five percent (35%), as follows:
<table>
<thead>
<tr>
<th>Percentage Very Low Income Units</th>
<th>Percentage Density Bonus</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>20</td>
</tr>
<tr>
<td>6</td>
<td>22.5</td>
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<tr>
<td>7</td>
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<td>10</td>
<td>32.5</td>
</tr>
<tr>
<td>11</td>
<td>35</td>
</tr>
</tbody>
</table>

2.  Lower income units - For each one percent (1%) increase above ten percent (10%) in affordable units for lower income households, the density bonus shall be increased by one and one-half percent (1.5%) up to a maximum of thirty-five percent (35%), as follows:

<table>
<thead>
<tr>
<th>Percentage Low Income Units</th>
<th>Percentage Density Bonus</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>20</td>
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<td>21.5</td>
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<td>19</td>
<td>33.5</td>
</tr>
<tr>
<td>20</td>
<td>35</td>
</tr>
</tbody>
</table>

3.  Moderate income ownership units - For each one percent (1%) increase above ten percent (10%) in affordable units offered for sale to moderate income households, the density bonus shall be increased by one percent (1%) up to a maximum of thirty-five percent (35%), as follows:

<table>
<thead>
<tr>
<th>Percentage Moderate Income Units</th>
<th>Percentage Density Bonus</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>5</td>
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<td>11</td>
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<tr>
<td>21</td>
<td>16</td>
</tr>
<tr>
<td>Percentage Moderate Income Units</td>
<td>Percentage Density Bonus</td>
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D. Continued Affordability. Affordable units qualifying a housing development for a density bonus shall remain affordable as follows:

1. Very low income and lower income household units shall remain affordable to the designated income group for a minimum of thirty (30) years, or for a longer period of time if required by any construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program applicable to the dwelling units.

2. An applicant shall agree to, and the City shall ensure, that the initial occupant of moderate-income units that are directly related to the receipt of the density bonus in a common interest development, are persons and families of moderate income and that the units are offered at an affordable housing cost. The local government shall enforce an equity-sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following shall apply to the equity-sharing agreement:

   a. Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation. The City shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used within three years for any of the purposes that promote homeownership as described in subdivision (e) of Section 33334.2 of the California Health and Safety Code that promote homeownership.
b. For purposes of this subdivision, the City's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any down payment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

c. For purposes of this subdivision, the City's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of initial sale.

3. The resale price of any owner-occupied affordable unit shall not exceed the affordable ownership costs with the following exceptions: (i) customary closing costs and costs of sale; or (ii) costs of real estate commissions paid by the seller if a licensed real estate salesperson is employed; or (iii) consideration of permanent capital improvements installed by the seller.

5. These provisions for continued affordability shall be a provision of the density bonus housing agreement required by Section 15.60.130 hereof.

E. Specification of Basis for Density Bonus. Each applicant who requests a density bonus pursuant to this section, shall elect whether the bonus will be awarded on the basis of subsection (A)(1), (A)(2), (A)(3) or subsection (B) of this section. Each housing development is entitled to only one density bonus, which may be selected based on the percentage of either very low income affordable housing units, lower-income affordable housing units or moderate-income affordable housing units, or the development's status as a senior citizen housing development. Density bonuses from more than one of these categories may not be combined.

Section 15.60.040 - Additional Density Bonus for Donations of Land.

A. Upon written request, when an applicant for a tentative map, subdivision map, parcel map, or other residential development approval qualified for a density bonus pursuant to Section 15.60.030 also donates land to the City in accordance with this section, the applicant shall be entitled to an additional density bonus. Applicants donating land to the City shall be eligible for an additional fifteen percent (15%) density bonus at the site of the housing development if the donated land is suitable for the construction of very low income units equaling at least ten percent (10%) of the market-rate units being constructed for the project. The density bonus provided pursuant to this section shall be in addition to any density bonus granted pursuant to Section 15.60.030, up to a maximum combined density bonus of thirty-five percent (35%).

B. To qualify for the additional density bonus described in subsection (A) of this section, the donation of land must meet all of the following criteria:
1. The tentative map, subdivision map, parcel map, or other residential development must otherwise be subject to a density bonus pursuant to Section 15.60.030; and

2. The land must be transferred no later than the date of the approval of the final subdivision map, parcel map, or housing development application; and

3. The developable acreage and zoning classification of the land being transferred must be sufficient to permit construction of dwelling units affordable to very low income households in an amount not less than ten percent (10%) of the total number of market rate dwelling units in the proposed development (i.e., the proposed development before the addition of any density bonus); and

4. The donated land is at least one acre in size or is large enough to permit development of at least forty (40) units, has the appropriate General Plan land use designation, has the appropriate zoning and development standards for affordable housing and, at the time of project approval is, or at the time of construction will be, served by adequate public facilities and infrastructure; and

5. No later than the date of approval of the final map, parcel map, or other development application for the housing development, the donated land must have all of the applicable permits and approvals (other than building permits) necessary for the development of the very low income housing units on the donated land, except that the City may subject the proposed housing development to subsequent design review to the extent authorized by California Government Code Section 65583.2 subsection (i) if the design is not reviewed by the City prior to the time of transfer; and

6. The donated land is subject to a deed restriction ensuring continued affordability of the very low income units consistent with Section 15.60.030(D), which deed restriction shall be recorded upon the donated property at the time of its transfer; and

7. The land will be transferred to the City or to a housing developer approved by the City. The City reserves the right to require the applicant to identify a developer and to require that the land be transferred to that developer; and

8. The land is within the boundary of the proposed housing development or within one-quarter mile of the boundary of the proposed housing development; and

9. No later than the date of approval of the final map, parcel map, or other development application for the housing development, a proposed
source of funding for the construction of the very low income units shall be identified.

C. Additional Density Bonus Based on Greater Suitability of Land for Very Low Income Housing. For each one percent (1%) increase above the minimum ten percent (10%) in the number of very low income housing units that can be accommodated on the donated land, the maximum density bonus shall be increased by one percent (1%), up to a maximum of thirty-five percent (35%), as follows:

<table>
<thead>
<tr>
<th>Percentage of Very Low Income Units That Can Be Accommodated on Donated Land</th>
<th>Percentage of Additional Density Bonus</th>
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<tbody>
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<td>10</td>
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Section 15.60.050 - Density Bonus & Incentives for Condominium Conversions.

A. An applicant for a conversion of existing rental apartments to condominiums is eligible for either a density bonus or other incentives of equivalent financial value, at the option of the City, if the applicant agrees to provide: (i) at least thirty-three percent (33%) of the total units of the proposed condominium project to persons and families of low or moderate income as defined in Section 50093 of the Health and Safety Code, or (ii) at least fifteen percent (15%) of the total units of the proposed condominium project to lower
income households as defined in Section 50079.5 of the Health and Safety Code, and (iii) the applicant agrees to pay for the reasonably necessary administrative costs incurred by the City pursuant to this section.

B. Condominium conversions qualified under subsection (A), above, may receive one of the following, at the City's option:

1. A flat density bonus of twenty-five percent (25%) to be provided within the existing structure or structures proposed for conversion, excepting that a condominium conversion is ineligible for this bonus if the apartments to be converted originally received a density bonus or incentives pursuant to any other provisions of this chapter or pursuant to California Government Code Section 65915. Qualified applicants may choose to implement a lower density bonus.

2. Incentives of equivalent financial value in the form of a reduction or waiver of requirements or fees which the City might otherwise apply as conditions of conversion approval. "Other incentives of equivalent financial value" shall not be construed to require the City to provide cash transfer payments or other monetary compensation to the condominium conversion project or its applicant.

C. The City reserves the right to place such reasonable conditions on the granting of a density bonus or other incentives of equivalent financial value pursuant to this section as it finds appropriate, including, but not limited to, conditions which assure continued affordability of units to subsequent purchasers who are persons and families of low and moderate income or lower income households.

D. Condominium conversions are eligible only for the granting of a density bonus or incentive of equivalent value pursuant to this section, which bonus or incentive may not be granted in addition to, or combined with, any other incentives, concessions, density bonuses or waivers and reductions of development standards pursuant other sections of this chapter. Nothing in this section shall be construed to require the City to approve a proposal to convert rental apartments into condominiums.

Section 15.60.060 - Density Bonus & Concessions/Incentives for Childcare Facilities.

A. A housing development that is eligible for a density bonus pursuant to Section 15.60.030 which includes a childcare facility qualified under this section is also eligible for either of the following, at the option of the City, if requested in writing by the applicant:
1. An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the childcare facility; or

2. An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the childcare facility.

B. A childcare facility will only qualify the housing development for an additional density bonus or incentive or concession if it is (i) located on the premises of, as part of, or adjacent to the housing development, and (ii) the housing development is eligible for a density bonus pursuant to Section 15.60.030. As a condition of approving the additional density bonus for the housing development, the childcare facility must meet all of the following criteria:

1. The childcare facility shall be used exclusively for childcare for a period of time that is as long as or longer than the period of time during which the affordable units are required to remain affordable as stated in deed restrictions and pursuant to Section 15.60.030(D); and

2. Of the children who attend the child care facility, the percentage of children of very low income households, lower income households, or moderate income households shall be equal to or greater than the percentage of dwelling units in that housing development that are proposed to be affordable to very low income households, lower income households, or moderate income households pursuant to Section 15.60.030.

C. Notwithstanding any requirement of this section, the City shall not be required to provide a density bonus or concession or incentive for a childcare facility if it makes a written finding, based upon substantial evidence, that the community already has adequate childcare facilities.

Section 15.60.070 - General Provisions Governing Density Bonus Calculations.

A. For the purposes of any provisions in this chapter, an applicant may elect to accept a lesser percentage of density bonus than that to which the housing development is eligible.

B. When calculating the number of permitted density bonus units, any calculations resulting in fractional units shall be rounded up to the next larger whole number.

C. For the purpose of calculating a density bonus, the dwelling units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the affordable units are located.
D. For the purposes of this chapter, the term "total units" or "total dwelling units" in a housing development does not include those units added by any density bonus.

E. Regardless of the number or extent of affordable units, senior housing, land dedication, childcare facilities or other qualifications for a density bonus provided in any single housing development, no housing development may be entitled to a total density bonus of more than thirty-five percent (35%).

<table>
<thead>
<tr>
<th>Types of Affordable Units Providing Eligibility for a Density Bonus</th>
<th>Minimum %</th>
<th>Bonus Granted</th>
<th>Additional Bonus for Each 1% Increase in Affordable Units</th>
<th>% Affordable Units Required for Maximum 35% Bonus</th>
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<tbody>
<tr>
<td>Affordable Housing</td>
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<tr>
<td>- Very low income</td>
<td>5%</td>
<td>20%</td>
<td>2.5%</td>
<td>11%</td>
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<tr>
<td>- Lower income</td>
<td>10%</td>
<td>20%</td>
<td>1.5%</td>
<td>20%</td>
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<tr>
<td>- Moderate income (ownership units only)</td>
<td>10%</td>
<td>5%</td>
<td>1%</td>
<td>40%</td>
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<tr>
<td>Senior citizen housing</td>
<td>Qualified senior citizen housing development</td>
<td>20% of the senior citizen housing units</td>
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<tr>
<td>Land donation for very low income housing</td>
<td>Land donated can accommodate 10% of market rate units, plus housing development qualifies for density bonus as an affordable or senior project.</td>
<td>15%</td>
<td>1%</td>
<td>30% of market-rate units (assuming housing development provides 5% very low income units)</td>
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<td>Condominium Conversion</td>
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<td>- Lower income</td>
<td>15%</td>
<td>25%(1)</td>
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<tr>
<td>- Low/Mod income</td>
<td>33%</td>
<td>25%(1)</td>
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<tr>
<td>Child care facility</td>
<td>Housing development qualifies for density bonus as an affordable or senior project.</td>
<td>Sq. ft. in child care facility(1)</td>
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Notes:
(1) Maximum of 25% bonus for condominium conversions, or an incentive of equal value, at the city's option.
Section 15.60.080  - Incentives and Concessions.

A. Definition of a Qualified Concession or Incentive. An applicant for a density bonus pursuant to Section 15.60.030 may also submit to the City a written proposal for specific incentives or concessions as provided in this section. The applicant may also request a meeting with the City’s city manager or his/her designee to discuss such proposal. For purposes of this chapter, concessions and incentives include any of the following:

1. Reductions in site development standards or modifications of zoning requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the California Health & Safety Code. These include, without limitation, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required. In order to qualify as a "concession or incentive," the City must be able to find that the requested reductions in site development standards result in identifiable, financially sufficient, and actual cost reductions; or

2. Approval of mixed use zoning in conjunction with the housing development if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial or other land uses are compatible with the housing development and the existing or planned development in the area where the proposed housing development will be located; or

3. Other regulatory incentives or concessions proposed by the applicant or the City, so long as the City can find that such proposals result in identifiable, financially sufficient, and actual cost reductions.

B. Findings to Deny Concession or Incentive. The City shall grant the concession or incentive requested by the applicant unless the City makes a written finding, based upon substantial evidence, of any of the following:

1. The concession or incentive is not required in order to provide for affordable housing costs or for affordable rents for the targeted units to be set as specified in Section 15.60.030(D); or

2. The concession or incentive would have a specific adverse impact; or

3. The concession or incentive would be contrary to State or Federal law.

C. Number of Concessions or Incentives. If all other provisions of this section are satisfied, an applicant will be eligible for the following number of incentives and concessions:
1. One incentive or concession for housing developments where at least five percent (5%) of the total units are for very low income households, at least ten percent (10%) of the total units are for lower income households, or at least ten percent (10%) of the total units in a common interest development are sold to moderate income households; or

2. Two incentives or concessions for housing developments where at least ten percent (10%) of the total units are for very low income households, at least twenty percent (20%) of the total units are for lower income households, or at least twenty percent (20%) of the total units in a common interest development are sold to moderate income households.

3. Three incentives or concessions for housing developments where at least fifteen percent (15%) of the total units are for very low income households, at least thirty percent (30%) of the total units are for lower income households, or at least thirty percent (30%) of the total units in a common interest development are sold to moderate income households.

<table>
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<th>TABLE 2: Incentives and Concessions Summary</th>
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<tbody>
<tr>
<td>Affordable Units or Category</td>
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<td>Pursuant to State Density Bonus</td>
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<td>Affordable Housing</td>
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<tr>
<td>- Very low income</td>
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<td>- Lower income</td>
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<td>- Moderate income (ownership units only)</td>
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<tr>
<td>Childcare Facility</td>
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<td>Maximum Incentive(s)/Concession(s)</td>
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Notes:
(1) An incentive or concession may be requested only if an application is also made for a density bonus.
(2) Incentives or concessions may be selected from only one category (very low, lower, or moderate).
(3) No incentives or concessions are available for land donation.

D. This section does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly-owned land, by the City or the waiver of fees or dedication requirements. Nor does any provision of this section require the City to grant an incentive or concession found to have a specific adverse impact.

E. The granting of a concession or incentive shall not be interpreted, in and of itself, to require a General Plan amendment, zoning change, or other discretionary approval.
Section 15.60.090 - Waivers & Modifications of Development Standards.

A. Applicants granted a density bonus pursuant to Section 15.60.030 may, by written proposal, seek a waiver, modification or reduction of development standards that would otherwise have the effect of physically precluding the construction of the housing development at the densities or with the concessions or incentives permitted pursuant to this chapter. The applicant may also request a meeting with the City to discuss such request for waivers and modifications.

B. To obtain a waiver or modification of development standards, the applicant shall show that the development standards will have the effect of physically precluding the construction of a housing development meeting the criteria of Section 15.60.030(A) and (B) at the densities or with the concessions or incentives permitted by this chapter.

C. A proposal for the waiver or reduction of development standards pursuant to this section shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to Section 15.60.080.

D. The City may deny a request for any waiver, modification or reduction of development standards if the waiver, modification or reduction would have a specific adverse impact.

Section 15.60.100 - Parking Incentives.

Upon the written request of the applicant for a housing development meeting the criteria for a density bonus under Section 15.60.030, the City shall not require a vehicular parking ratio that exceeds the following:

1. Zero to one-bedroom units: one on-site parking space.
2. Two to three-bedroom units: two on-site parking spaces.
3. Four and more bedroom units: two and one-half parking spaces.

Guest parking and handicapped parking shall be included within the maximum number of spaces that may be required. If the total number of parking spaces required for a housing development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this section, a housing development may provide on-site parking through tandem parking or uncovered parking, but not through on-street parking. For purposes of this chapter, the parking ratios set forth in this section shall be deemed a concession or incentive available to the applicant under Section 15.60.080.

Section 15.60.110 - Standards for Density Bonus Housing Developments.
A. Affordable units qualifying a housing development for a density bonus shall be reasonably dispersed throughout the housing development and compatible with the design of market-rate units in terms of appearance, materials, and finished quality. The applicant may reduce the interior amenities and square footage of inclusionary units, provided all units conform to all other requirements of this code.

B. For developments with multiple market-rate units containing differing numbers of bedrooms, affordable units qualifying as a housing development for a density bonus shall be representative of the market-rate unit mix.

C. All building permits for affordable units qualifying a housing development for a density bonus shall be issued concurrently with, or prior to, issuance of building permits for the market rate units, and the affordable units shall be constructed concurrently with, or prior to, construction of the market rate units. Occupancy permits and final inspections for affordable units qualifying a housing development for a density bonus shall be approved concurrently with, or prior to, approval of occupancy permits and final inspections for the market rate units.

Section 15.60.120 - Application Requirements.

A. A written application for a density bonus, incentive, concession, waiver, or modification pursuant to this chapter shall be submitted with the first application for approval of a housing development and processed concurrently with all other applications required for the housing development. The application shall be submitted on the form prescribed by the City’s Director of Community Development pursuant to Chapter 17.48 of this code and shall additionally include at least the following information:

1. Site plan showing total number of units, number and location of affordable units, and number and location of proposed density bonus units. The site plan shall describe the size, in square footage, of all affordable units and density bonus units.

2. A marketing plan that describes how the applicant will inform the public and those within the appropriate income groups of the availability of affordable units.

3. The location, structure (attached, semi-attached, or detached), proposed tenure (for sale or rental), and size of the proposed market-rate units, any commercial space, density bonus units, and/or affordable units.

4. Level of affordability proposed for each affordable housing unit and proposals for ensuring affordability.
5. Description of any requested incentives, concessions, waivers or modifications of development standards, or modified parking standards. The application shall include evidence that the requested incentives and concessions are required for the provision of affordable housing costs and/or affordable rents, as well as, evidence relating to any other factual findings required under Section 15.60.050.

6. If a density bonus or concession is requested in connection with a land donation, the application shall show the location of the land to be dedicated and provide evidence that each of the findings included in Section 15.60.080 can be made.

7. If a density bonus or concession/incentive is requested for a childcare facility, the application shall show the location and square footage of the childcare facilities and provide evidence that each of the findings included Section 15.60.090 can be made.

8. For phased projects, a phasing plan that provides for the timely development of the number of affordable units proportionate to each proposed phase of development.

9. Any other information reasonably requested by the Planning Commission to assist with evaluation of the application.

B. An application for a density bonus, incentive or concession pursuant to this chapter shall be considered by and acted upon by the approval body with authority to approve the housing development (generally the City’s Planning Commission) and subject to the same administrative appeal procedure, if any, as more particularly described in Chapter 17.68 of this zoning code. In accordance with State law, neither the granting of a concession, incentive, waiver, or modification nor the granting of a density bonus shall be interpreted, in and of itself, to require a General Plan amendment, zoning change, variance, or other discretionary approval. Provisions of this code governing standards of design review and/or special use permits that are more restrictive than, or contrary to, the provisions of this chapter shall be inapplicable to an application for density bonus.

C. For housing developments requesting a waiver, modification or reduction of a development standard, an application pursuant to this subsection shall be heard in conjunction with the application for density bonus in accordance with Chapter 17.68 of this zoning code. A public hearing shall be held by the Planning Commission and the Commission shall issue a determination. Pursuant to Government Code Section 65915, the Planning Commission shall approve the requested waiver/modification or reduction of development standards, unless one of the following conditions applies:

1. The development standards subject to the waiver/modification do not have the effect of physically precluding the
construction of the housing development at the densities or with the concessions or incentives permitted pursuant to this chapter.

2. The waiver/modification will have a specific adverse impact.

D. The decision of the City Planning Commission may be appealed to the City Council in accordance with Chapter 17.68. Notice of any City determination pursuant to this section shall be provided to the same extent as required for the underlying development approval.

Section 15.60.130 - Density Bonus Housing Agreements

A. In General. As a condition to approval of any density bonus pursuant to this chapter, the applicant shall agree to enter into a density bonus housing agreement with the City, which agreement shall be binding upon the applicant and all successors in interest. The form of the density bonus housing agreement will vary, depending on the manner in which the provisions of this chapter are satisfied for a particular development. The agreement shall be recorded as a restriction on the parcel or parcels on which the affordable units and the density bonus units will be constructed. The approval and recordation of the agreement shall take place prior to final map approval, or, where a map is not being processed, prior to issuance of building permits for such parcels or units. The agreement must include, at minimum, all of the information required for the initial application as set forth in Section 15.60.120(A).

B. Density Bonus Housing Agreements for Ownership Units. In the case of housing developments consisting of ownership units, the density bonus housing agreement must provide the following additional conditions governing the sale and use of affordable units during the applicable affordability restriction period:

1. Affordable units shall be sold or resold only to very low income households, lower income households, or moderate income households in a common interest development, at an affordable ownership cost as defined by this chapter.

2. Affordable units shall be owner-occupied by very low or lower income households, or by moderate income households within a common interest development.

3. Any conditions as necessary or directed by the City Council (or other such governing body in the case of the Redevelopment Successor Agency or Housing Authority) for the subordination or prioritization of liens or mortgages upon the parcel underlying the owner-occupied affordable unit(s).
4. The purchaser of each affordable unit shall execute a deed instrument approved by the City, which instrument shall restrict the sale of the affordable unit in accordance with this chapter during the applicable affordability restriction period. Such instrument shall be recorded against the parcel containing the affordable unit and shall contain such provisions as the City may require to ensure continued compliance with this chapter and with Government Code Section 65915. With respect to moderate income affordable units, the instrument or agreement shall provide for equity-sharing as set forth in Government Code Section 65915. The deed restrictions required for affordable units shall specify that the title to the subject property shall only be transferred with prior written approval by the City.

5. Any additional obligations relevant to the compliance with this chapter.

C. Density Bonus Housing Agreements for Rental Units. In the case of housing developments consisting of rental units, the density bonus housing agreement must provide the following additional conditions governing the use of affordable units during the affordability restriction period:

1. Specific property management procedures for qualifying and documenting tenant income eligibility, establishing affordable rent and maintaining affordable units for qualified tenants.

2. Provisions requiring owners or managers of the housing development to verify household incomes for all tenants in affordable units and maintain books and records to demonstrate compliance with this chapter.

3. Provisions requiring owners or managers of the housing development to submit an annual report to the City, which includes the name(s), address, and income of each household occupying affordable units, and which identifies the bedroom size and monthly rent or cost of each affordable unit.

4. Provisions describing the amount of, and timing for payment of, administrative fees to be paid to the City for the on-going compliance monitoring of the provisions of this chapter pursuant to Section 15.60.140 below.

5. Any conditions as necessary or directed by the City Council (or other such governing body in the case of the Redevelopment Successor Agency or Housing Authority) for the subordination or prioritization of liens or mortgages upon the parcel underlying the tenant-occupied affordable units.

6. The property owner of each for-rent housing development containing affordable units shall execute a deed instrument approved by the City, which instrument shall restrict the leasing of the affordable unit in accordance with this chapter during the applicable affordability restriction period. Such instrument shall be recorded against the parcel containing the affordable units and
shall include the provisions of this ordinance and shall provide, at a minimum, each of the following provisions: (a) The affordable units shall be leased to and occupied by eligible households; (b) The affordable units shall be leased at rent levels affordable to eligible households for the full duration of the affordability period; (c) Subleasing of affordable units shall not be permitted without the express written consent of the City; and (d) Title to the subject property shall only be transferred with prior written approval by the City.

7. Any additional obligations relevant to the compliance with this chapter.

Section 15.60.140 - Administrative Fee.

An administrative fee shall be charged to the applicant for City review of all materials submitted in accordance with this chapter and for on-going enforcement of the provisions of this chapter. The fee amount shall be established by City Council resolution. Fees will be charged for staff time and materials associated with the following activities: development review process, agreement drafting, project marketing and lease-up, and estimated City-incurred costs of monitoring long-term compliance of the affordable units.

Section 15.60.150 - Violations of Affordable Housing Requirements.

In the event it is determined that rents in excess of those allowed by operation of this chapter have been charged to a tenant residing in a rental affordable unit, the City may take the appropriate legal action to recover, and the rental unit owner shall be obligated to pay to the tenant (or to the City in the event the tenant cannot be located), any excess rent charges.

In the event it is determined that a sales price in excess of that allowed by operation of this chapter has been charged to a household purchasing an owner-occupied affordable unit, the City may take the appropriate legal action to recover, and the affordable unit seller shall be obligated to pay to the purchaser (or to the City in the event the purchaser cannot be located), any excess sales costs.

Nothing in this Section 15.60.150 limits or waives any other remedies the City may have available to it in law or equity.

Section 15.60.160 - State Law Amendments.

This chapter implements the laws for density bonuses and other incentive and concessions available to qualified applicants under Government Code Sections 65915 through 65918. In the event these Government Code sections are amended, those amended provisions shall be incorporated into this chapter as if fully set forth herein. Should any inconsistencies exist between the amended
State law and the provisions set forth in this chapter, the amended state law shall prevail."

SECTION 2. Section 17.08.070 is amended as follows:

"Section 17.08.070 Density Bonus. Refer to Chapter 15.60 of the Banning Municipal Code."

SECTION 3. 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 any competent jurisdiction, such decision shall 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 and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. The City Clerk shall certify to the passage and adoption of this ordinance, and shall make a minute of the passage and adoption thereof in the records of and the proceedings of the City Council at which the same is passed and adopted. This ordinance shall be in full force and effect thirty (30) days after its final passage and adoption, and within fifteen (15) days after its final passage, the City Clerk shall cause it to be published in a newspaper of general circulation.

PASSED, APPROVED, AND ADOPTED this ____ day of __________, 2013.

Deborah Franklin, Mayor
City of Banning

ATTEST:

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

APPROVED AS TO FORM AND LEGAL CONTENT:

David Aleshire, City Attorney
Aleshire & Wynder, LLP

Ordinance 1461
CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Ordinance 1461 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the ___ day of __________ 2013 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marie A. Calderon, City Clerk
City of Banning, California
DATE: February 26, 2013

TO: City Council

FROM: Zai Abu Bakar, Community Development Director

SUBJECT: Ordinance No. 1462 – Reasonable Accommodations

RECOMMENDATIONS: That the City Council adopt Ordinance No. 1462 amending Title 17 of the Banning Zoning Code regarding Reasonable Accommodations for Disabled Individuals and introduce its first reading.

BACKGROUND: The Federal Fair Employment and Housing Act of 1988 and California’s Fair Employment and Housing Act (the “Fair Housing Laws”) impose an affirmative duty on local governments to make reasonable accommodations in their land use and zoning regulations and practices when such accommodation is necessary to afford individuals with disabilities an equal opportunity to housing.

The proposed ordinance establishes a reasonable accommodation process allowing zoning and development standards to be modified or waived so that individuals with disabilities may safely and conveniently occupy their homes. Request for reasonable accommodations would be processed administratively, and therefore would not require a public hearing or noticing. It is anticipated that most requests would be for temporary improvements, such as access ramps; however, permanent improvements, such as room additions, may also be approved.

Examples of requests for reasonable accommodation that have occurred in California cities include:

<table>
<thead>
<tr>
<th>Examples of requests for reasonable Accommodation</th>
<th>Reason for Request</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Yard Fence Height</td>
<td>Ensure safety of a disabled child residing at a home.</td>
</tr>
<tr>
<td>Residential Height Limits</td>
<td>Allow residential elevator.</td>
</tr>
<tr>
<td>Parking Requirements</td>
<td>Accommodate the conversion of enclosed parking spaces in a garage into a residential unit for a disabled family member needing special care.</td>
</tr>
<tr>
<td>Parking Requirements</td>
<td>Allow encroachment into a garage parking space in order to construct a residential elevator in a townhome.</td>
</tr>
<tr>
<td>Front, Rear or Side Setbacks</td>
<td>Accommodate a wheelchair access ramp.</td>
</tr>
<tr>
<td>Parking Requirements</td>
<td>Allow an oversize garage to accommodate a wheelchair accessible vehicle (such as a van).</td>
</tr>
<tr>
<td>Parking Requirements</td>
<td>Accommodate a ground level bedroom or bathroom for a disabled family member.</td>
</tr>
</tbody>
</table>
PLANNING COMMISSION REVIEW: The Planning Commission reviewed the draft Ordinance at its meeting on February 6, 2013 and recommended approval to the City Council.

PUBLIC HEARING NOTICE: The public hearing notice regarding this Municipal Code amendment was published in the Record Gazette on February 15, 2013. As of the writing of this staff report, City staff has not received any comments from the public.

FISCAL DATA: There is no additional cost resulting from the adoption of the ordinance.

RECOMMENDED BY:

Zul Abu Bakar
Community Development Director

APPROVED BY:

Andrew J. Takata
City Manager

REVIEWED BY:

June Overholt
Administrative Services Director/
Deputy City Manager

Attachment: Ordinance No. 1462
ORDINANCE NO. 1462

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BANNING, CALIFORNIA, ADDING CHAPTER 17.42 TO THE BANNING ZONING CODE REGARDING REASONABLE ACCOMMODATIONS FOR DISABLED INDIVIDUALS

A. The Federal Fair Employment and Housing Act of 1988 and California's Fair Employment and Housing Act (the "Fair Housing Laws") impose an affirmative duty on local governments to make reasonable accommodations in their land use and zoning regulations and practices when such accommodation is necessary to afford individuals with disabilities an equal opportunity to housing.

B. Establishing a reasonable accommodation process will further the City's compliance with the Fair Housing Laws and provide greater opportunities for the development of critically needed housing for individuals with disabilities.

C. Establishing a reasonable accommodation process will further the City's compliance with the Fair Housing Laws and provide greater opportunities for the development of critically needed housing for individuals with disabilities.

D. This Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) (the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, and because the Ordinance is categorically exempt from CEQA in that any of the reasonable accommodations permitted under this Ordinance would fall within either the Class 1 (Existing Facilities) or Class 3 (New Construction or Conversion of Small Structures) exemptions provided under Sections 15301 and 15303 of the CEQA Guidelines.

E. The proposed project was advertised in the Record Gazette newspaper January 25, 2013. As of the date of this report, staff has not received any comments.

F. The Planning Commission did, on the 6th of February 2013, hold a noticed public hearing as prescribed by law to consider the proposed addition of Chapter 17.42 to the Banning Zoning Code and voted to recommend the City Council approval of said request.

G. The City Council did, on the 26th of February 2013, hold a duly noticed public hearing as prescribed by law to consider the proposed addition of Chapter 17.42 to the Banning Zoning Code.

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

SECTION 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.
SECTION 2. Addition of Chapter 17.42 to Title 17 of the Zoning Code. Chapter 17.42 is hereby added to Title 17 of the Banning Zoning Code to read as follows:

“Chapter 17.42 - REASONABLE ACCOMMODATIONS IN CITY HOUSING REGULATIONS AND DEVELOPMENT FOR DISABLED OR HANDICAPPED INDIVIDUALS

Sections:
17.42.010 - Purpose.
17.42.020 - Definitions.
17.42.030 - Requesting reasonable accommodation.
17.42.040 - Decision on application.
17.42.050 - Required findings.
17.42.060 - Appeals.
17.42.070 - Waiver of time periods.

17.42.010 - Purpose.

It is the purpose of this chapter, pursuant to Fair Housing Laws, to provide individuals with disabilities reasonable accommodation in the application of the City’s land use, zoning, and building standards, regulations, policies, and procedures and to establish relevant criteria to be used to ensure equal access to housing. The purpose of this chapter is to provide a process for individuals with disabilities to make requests for, and be provided, reasonable accommodation, when reasonable accommodation is warranted based upon sufficient evidence, from the various city laws, rules, policies, practices and/or procedures of the City, including land use and zoning regulations.

17.42.020 – Applicability.

A. Any individual with a disability, his or her representative, or a developer or provider of housing for individuals with disabilities may seek relief from any land use, zoning or building standard, regulation, policy or procedure found in Titles 15 or Title 17 of this code to ensure equal access to housing and to facilitate the development of housing for individuals with disabilities by requesting a reasonable accommodation in the manner prescribed in following Section 17.42.40.

B. The City shall waive land use, zoning, and building standards, regulations, policies, and procedural requirements when such waiver is necessary to eliminate barriers to housing opportunities. Such waivers for reasonable accommodation may include, without limitation, a household’s reasonable waiver of residential fence or structural height restrictions to accommodate specific disabilities, reasonable waivers of building size or set-back restrictions to accommodate necessary disability accommodations such as wheelchair ramps or expanded parking spaces.
C. The reasonable accommodation rules set forth in this chapter apply to proposals to modify existing structures as well as new development, as when a household applies to the City in order to modify their existing residence as necessary to reasonably accommodate a specific disability, subject to the findings and requirements of this chapter. Proposals to modify structures, especially single-family homes, should respect existing development patterns if reasonably possible.

17.42.030 - Definitions.

A. "Applicant" means a person, business, or organization making a written request to the City for reasonable accommodation.

B. "City" means the City of Banning.


D. "Department" means the Community Development Department.

E. "Director" means the Director of Community Development.

F. "Disabled or Handicapped Person" means an individual with a qualifying disability under the Fair Housing Laws. Generally, any person with any mental or physical impairment, disorder or condition, which substantially limits one or more major life activities, including physical, mental and social activities and working. “Disabled or handicapped person” does not include impairments, disorders or conditions resulting from the current, illegal use of or addiction to a controlled substance, sexual behavior disorders, compulsive gambling, kleptomania, or pyromania.

G. "Fair Housing Laws" means the "Fair Housing Amendments Act of 1988" (42 U.S.C. § 3601, et seq.), including reasonable accommodation required by 42 U.S.C. § 3604 (f)(3)(B), and the "California Fair Employment and Housing Act" (California Government Code Section 12900, et seq.), including reasonable accommodation required specifically by California Government Code Sections 12927 (c)(1) and 12955 (l), and Civil Code § 54, as any of these statutory provisions now exist or may be amended from time to time by either legislative act or published judicial decisions.

H. "Reasonable Accommodation" means a modification or exception to the standards, regulations, policies and procedures contained in Title 15 or Title 17 of this code for the siting, development and use of housing or housing-related facilities, that would eliminate regulatory barriers and provide an individual with a disability equal opportunity for the use and enjoyment of housing of their choice, and that does not impose undue financial or administrative burdens on the City or require a fundamental or substantial alteration of the City’s planning and zoning program.
17.42.040 - Requesting reasonable accommodation.

A. In order to make specific housing available to an individual with a disability, a disabled person or representative may request reasonable accommodation, pursuant to this chapter, relating to the application of various land use, zoning, or building laws, rules, policies, practices and/or procedures of the City.

B. If an individual or representative needs assistance in making a request for reasonable accommodation, or appealing a determination regarding reasonable accommodation, the department will endeavor to provide the assistance necessary to ensure that the process is accessible to the applicant or representative. The applicant may be represented at all stages of the proceeding by a person designated by the applicant as his or her representative.

C. A request for reasonable accommodation in laws, rules, policies, practices and/or procedures must be filed on an application form provided by the department, shall be signed by the owner of the property and submitted to the director, and shall include the following information:

1. The name, address and telephone number of the applicant;

2. The name, address and telephone number of the individual with a disability for whom the reasonable accommodation is being requested;

3. The name, address, and telephone number of the owner of the property for which the reasonable accommodation request is being made. If the applicant is someone other than the property owner, a letter of agency or authorization signed by the property owner consenting to the application being made is required;

4. The address and current use of the property for which the reasonable accommodation request is being made;

5. A description of how the subject property will be used by the disabled individual(s);

6. A description of the reasonable accommodation request and the specific land use, zoning or building standard, regulation, policy or procedure to be modified or waived;

7. The basis for the claim that the Fair Housing Laws applies to the individual(s) and evidence satisfactory to the City supporting the claim, which may include a letter from a medical doctor or other licensed health care professional, a handicapped license, or other appropriate evidence which establishes that the individual(s) needing the reasonable accommodation is disabled/handicapped pursuant to the Fair Housing Laws;

8. The specific reason the requested accommodation is necessary to make the particular housing unit reasonably accessible and available to the disabled
individual(s);

9. Verification by the applicant that the property is the primary residence of the person for whom reasonable accommodation is requested; and

10. A filing fee in an amount as determined from time to time by resolution of the City Council, but not to exceed the reasonable estimated costs to the City in processing the application.

17.42.050 - Decision on application.

A. The director may approve, conditionally approve, or deny an application for a reasonable accommodation for an existing use or a proposed new use that only requires a ministerial permit or approval. The director shall issue a written determination within thirty (30) days of the date of receipt of a completed application. The director may (1) grant the accommodation request in full, (2) grant the accommodation request subject to specified nondiscriminatory conditions that are consistent with the requested reasonable accommodation, or (3) deny the request. Notice of the director’s determination shall be mailed first class to the applicant and adjacent property owners within three hundred (300) feet of the project boundary. The notice of the director’s decision shall state the facts and evidence upon which the director’s decision was based in connection with the findings stated in Section 17.42.060.

B. If the project for which the request for a reasonable accommodation is made requires a discretionary permit or approval, then the application for a reasonable accommodation will be heard at the same time as, and in conjunction with, the applicable discretionary permit or approval. The Planning Commission shall consider an application at the next reasonably available regular Planning Commission meeting that occurs after the application for reasonable accommodation is complete. The application for reasonable accommodation shall be heard as a public hearing item. At the conclusion of the public hearing and determination thereon by the Planning Commission, the director shall issue a written statement of the Planning Commission’s determination within thirty (30) days. The Planning Commission may (1) grant the accommodation request, (2) grant the accommodation request subject to specified nondiscriminatory conditions that are consistent with the requested reasonable accommodation, or (3) deny the request. Notice of the Planning Commission’s determination (which may be in the form of a resolution adopted by the commission) shall be mailed first class to the applicant and adjacent property owners within three hundred (300) feet of the project boundary. The notice of the Planning Commission’s decision shall state the facts and evidence upon which the commission’s decision was based in connection with the findings stated in Section 17.42.060.

C. If necessary to reach a determination on any request for reasonable accommodation, the director may request further information from the applicant after the applicant has submitted its initial application. Such request for
additional information shall:

1. Be consistent with this chapter; and

2. Specify in detail what information is required; and

3. Request additional information only to the extent such information is reasonably necessary to render the findings required by this chapter.

In the event that a request for further information is made, the application will not be deemed “complete” until the applicant reasonably responds to the request with responsive information.

D. A reasonable accommodation that is granted pursuant to this chapter shall not require the approval of any variance as to the reasonable accommodation.

17.42.060 - Required findings.

The following findings must be made in order to approve any request for reasonable accommodation:

A. The housing, which is the subject of the request for reasonable accommodation, will be occupied as the primary residence by an individual protected under the Fair Housing laws.

B. The request for reasonable accommodation is necessary to make specific housing available to one or more disabled individuals protected under the Fair Housing Laws.

C. The requested reasonable accommodation will not impose an undue financial or administrative burden on the City. “Undue financial or administrative burden” is defined in the Fair Housing Laws.

D. The requested accommodation will not require a fundamental alteration of the zoning or building laws, policies and/or procedures of the City. “Fundamental alteration” is defined in the Fair Housing Laws.

E. The requested reasonable accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.

17.42.070 - Conditions of Approval.

In granting a request for a reasonable accommodation, the director or Planning Commission, as applicable, may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required by Section 14.44.060, the Fair Housing Laws and the intent of this chapter. Such conditions may generally include, but are not limited to, the following restrictions:

A. The City’s general/standard conditions of approval applicable to all projects;
B. That the reasonable accommodation shall only be applicable to particular disabled individual(s); and/or

C. That the reasonable accommodation shall only be applicable to the specific use for which application is made.

17.42.080 - Appeals.

A. Director Decision. Any applicant who is dissatisfied by the decision made by the director on an application for a reasonable accommodation may appeal the director's decision to the Planning Commission. The appeal must be filed via written notice detailing the grounds for appeal, such notice must be received by the director within fifteen (15) days of the mailing of the director’s decision. Upon the filing of a notice of appeal, the director will set the matter for a public hearing before the Planning Commission to occur not later than sixty (60) days from the date of filing. Notice of the appeal hearing will be given to the applicant by mail at least ten (10) days prior to the hearing. Any person who is dissatisfied by the decision of the Planning Commission may make a further appeal to the City Council in accordance with applicable procedures of Section 17.68.090 et seq. of this code. The Planning Commission’s decision will be final absent a timely appeal to the City council.

B. Planning Commission Decision. A decision of the Planning Commission on an application for a reasonable accommodation considered concurrently with another application for a discretionary approval is subject to the same appeal rights and procedures that apply to the other discretionary approval or pursuant to Section 17.68.090 et seq., as applicable.

17.42090 - Expiration, Revocation, Termination.

A. Expiration. Any reasonable accommodation approved under this chapter will expire within 12 months from the effective date of approval or at such alternative time specified as a condition of approval unless:

1. A building permit has been issued and construction has commenced;

2. A certificate of occupancy has been issued;

3. The use is established; or

4. A time extension has been granted.

B. Revocation.

1. Director Decisions. If the director was the last reviewing authority to grant a reasonable accommodation application, the director may revoke or modify such reasonable accommodation permit if the findings required in this section can be made with the support of substantial evidence.

2. Planning Commission and/or City Council Decisions. If the Planning
Commission or City Council was the last reviewing authority to grant a reasonable accommodation application, the Planning Commission may revoke or modify such reasonable accommodation permit if the findings required in this section can be made with the support of substantial evidence. The Commission shall hold a public hearing to revoke or modify a reasonable accommodation granted pursuant to the provisions of this chapter. At least ten (10) days prior to the hearing, notice shall be delivered in writing to the applicant and/or owner of the property for which the reasonable accommodation was granted. Notice shall be deemed delivered two (2) days after being mailed, first class postage paid, to the owner as shown on the current tax rolls of the County of Riverside, and/or the project applicant.

3. Required Findings. Any decision to modify or revoke a reasonable accommodation can be made only if at least one (1) of the following findings can be made with the support of substantial evidence:

   a) Circumstances have changed so that one or more of the findings contained in Section 17.42.060 can no longer be made;

   b) The reasonable accommodation was obtained by misinformation, misrepresentation or fraud; or

   c) One or more of the conditions of the reasonable accommodation have not been met.

4. Notice and Appeal. Written notice of any decision to revoke or modify a reasonable accommodation permit shall be mailed by first class mail to the owner as shown on the current tax rolls of the County of Riverside and/or the applicant. The determination may be appealed in accordance with Section 17.42.080.

C. Termination. If the individual with a disability who initially occupied the applicable dwelling ceases to reside at the premises, the reasonable accommodation will remain in effect only if the director determines that: (1) the modification is physically integrated into the residential structure and cannot easily be removed or altered to comply with this code, or (2) the accommodation is necessary to give another disabled individual an equal opportunity to enjoy the dwelling. The director may request that any successor-in-interest to the property provide documentation that subsequent occupants are persons with disabilities. Failure to provide such documentation within ten (10) days of the date of a written request by the director will result in the termination of a previously-approved reasonable accommodation and the applicable premises must subsequently be made to conform to code.

17.42.100 - Waiver of time periods.

Notwithstanding any provisions in this chapter regarding the occurrence of any action within a specified period of time, the applicant may request additional time
beyond that provided for in this chapter or may request a continuance regarding any
decision or consideration by the City of the pending appeal. Extensions of time
sought by applicants shall not be considered delay on the part of the City, shall not
constitute failure by the City to provide for prompt decisions on applications and
shall not be a violation of any required time period set forth in this chapter.”

SECTION 3. That, if any provision, section, subsection, sentence, clause, or phrase of this
Ordinance, or the application of same to any person or set of circumstances, is for any reason
held to be unconstitutional, void or invalid, the validity of the remaining portions of this
Ordinance or their application to other persons or sets of circumstances shall not be affected
thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof
or provision or regulation contained herein shall become inoperative or fail by reason of any
unconstitutionality, voidance or invalidity of any other portion hereof, and all provisions of this
Ordinance are declared to be severable for that purpose.

SECTION 4. The City Clerk is directed to cause this Ordinance to be published within 15 days
of its passage in a newspaper of general circulation published and circulated within the City of
Banning.

PASSED, APPROVED, AND ADOPTED this ___ day of __________, 2013.

Deborah Franklin, Mayor
City of Banning

ATTEST:

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

APPROVED AS TO FORM AND
LEGAL CONTENT:

David Aleshire, City Attorney
Aleshire & Wynder, LLP
CERTIFICATION:

I, Marie Calderon, City Clerk of the City of Banning, California, do hereby certify that the foregoing Ordinance 1462 was duly adopted by the City Council of the City of Banning at a regular meeting thereof held on the _____ day of _________ 2013 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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