



City of Los Banos

At the Crossroads of California

www.losbanos.org

AGENDA

JOINT CITY COUNCIL AND REDEVELOPMENT AGENCY MEETING

CITY HALL COUNCIL CHAMBERS
520 J Street
Los Banos, California

JULY 6, 2011

If you require special assistance to attend or participate in this meeting, please call the City Clerk's Office @ (209) 827-7000 at least 48 hours prior to the meeting.

The City of Los Banos complies with the Americans with Disabilities Act (ADA) of 1990.

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Si requiere asistencia especial para atender o participar en esta junta por favor llame a la oficina de la Secretaria de la ciudad al (209) 827-7000 a lo menos de 48 horas previas de la junta.

La Ciudad de Los Banos cumple con la Acta de Americanos con Desehabilidad (ADA) de 1990.

Any writings or documents provided to a majority of the City Council / Redevelopment Agency regarding any item on this agenda will be made available for public inspection at the meeting and in the City Clerk's office located at City Hall, 520 J Street, Los Banos, California during normal business hours. In addition, such writings and documents may be posted on the City's website at www.losbanos.org.

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Cualquier escritura o los documentos proporcionaron a una mayoría del Ayuntamiento / Agencia de Reurbanización con respecto a cualquier artículo en este orden del día será hecho disponible para la inspección pública en la reunión y en la oficina de la Secretaria de la ciudad en City Hall, 520 J Street, Los Banos, California durante horas de oficina normales. Además, tales escrituras y los documentos pueden ser anunciados en el website de la ciudad en www.losbanos.org.

1. CALL TO ORDER.

7:00 PM

2. PLEDGE OF ALLEGIANCE.

3. ROLL CALL:

Faria ____, Silveira ____, Sousa ____, Stone ____, Villalta ____

4. CONSIDERATION OF APPROVAL OF AGENDA.

5. PUBLIC FORUM. (Members of the public may address the City Council / Redevelopment Agency Members on any item of public interest that is within the jurisdiction of the City Council / Redevelopment Agency; includes agenda and non-agenda items. No action will be taken on non-agenda items. Speakers are limited to a five (5) minute presentation. Detailed guidelines are posted on the Council Chamber informational table.)

6. CONSIDERATION OF APPROVAL OF CONSENT AGENDA. (Items on the Consent Agenda are considered to be routine and will be voted on in one motion unless removed from the Consent Agenda by a City Council / Redevelopment Agency Member.)
 - A. Check Register for #129413 - #129756 in the Amount of \$2,937,798.71.
Recommendation: Approve the check register as submitted.
 - B. Minutes for the May 18, 2011 City Council / Redevelopment Agency Meeting.
Recommendation: Approve the minutes as submitted.
 - C. Minutes for the June 1, 2011 City Council / Redevelopment Agency Meeting.
Recommendation: Approve the minutes as submitted.
 - D. Minutes for the June 15, 2011 City Council / Redevelopment Agency Meeting.
Recommendation: Approve the minutes as submitted.
 - E. Authorizing the City Manager to Sign a Subordination of Deed of Trust for the Community Development Block Grant (CDBG) Rehabilitation Loan #268-02-04, Executed by Manuel E. Alves for 325 K Street, Los Banos, California.
Recommendation: Authorize the execution of the deed of trust as submitted.
 - F. City Council Resolution No. 5335 – Approving a Professional Services Agreement for Plan Review Services and/or Building Inspection Services with Precision Inspection Company, Inc.
Recommendation: Adopt the resolution as submitted.
 - G. City Council Resolution No. 5336 – Approving the Purchase of a Home Located at 459 Winemaker Street with Neighborhood Stabilization Program (NSP) Funding.
Recommendation: Adopt the resolution as submitted.
 - H. City Council Resolution No. 5337 – Approving a Side Letter/Contract Extension through June 30, 2012 by and between the City of Los Banos and the Los Banos Police Dispatchers/Community Services Officers Association.
Recommendation: Adopt the resolution as submitted.

7. PUBLIC HEARING. (If you challenge the proposed action as described herein in court, you may be limited to raising only those issues you or someone else raised at the public hearing described herein or in written correspondence delivered to the City or Redevelopment Agency at, or prior to, the public hearing.)

A. Public Hearing – To Receive Public Comment and Consideration of Adoption of the New Utility Rates for Water, Wastewater and Solid Waste Service Fees.

- 1) City Council Resolution No. 5338 – Amending the Current Billing Procedures for Water, Wastewater Treatment, Wastewater Collection and Disposal, and Solid Waste Rates.
- 2) City Council Resolution No. 5339 – Establishing Rates for Water Service Fees.
- 3) City Council Resolution No. 5340 – Establishing Rates for Wastewater Service Fees.
- 4) City Council Resolution No. 5341 – Establishing Rates for Solid Waste Service Fees.

Recommendation: Receive staff report, open public hearing, close the public hearing, and adopt the resolutions as submitted.

B. Public Hearing – To Receive Public Comment and Consideration of an Annexation, Area Plan, General Plan Amendment and Fiscal Studies for Stonecreek North. The Project Site is Approximately 362 Acres Located North of Pacheco Boulevard and West of Badger Flat Road Extending Past the Merced Community College. **(To be Continued)**

Recommendation: Receive staff report, open public hearing, and continue the item to a date uncertain as requested.

C. Public Hearing – To Receive Public Comment and Consideration of Amendments to the City Building Codes Ordinance by Adopting by Reference the 2010 California Building Standards Code.

- 1) Ordinance No. 1098 – Adopting by Reference the 2010 Edition of the California Building Code, the 2010 Edition of the California Energy Code, The 2010 Edition of the California Historical Building Code, the 2010 Edition of the California Referenced Standards Code, the 2010 Edition of the California Electrical Code, the 2010 Edition of the California Mechanical Code, the 2010 Edition of the California Administrative Code, The 2010 Edition of the California Existing Building Code, the 2010 Edition of the California Green Building Standards Code, the 2010 Edition of the California Residential Code, the 2010 Edition of the California Plumbing Code, Together with Certain Amendments and

Deletions, and Amending and Reorganizing Title 8 of the Los Banos
Municipal Code. **(First Reading & Introduction)**

Recommendation: Receive staff report, open public hearing, and introduce the ordinance as submitted.

D. **Public Hearing** – To Receive Public Comment and Consideration of Amendments to the City Fire Prevention Code Ordinance by Adopting by Reference the 2010 California Fire Code.

- 1) Ordinance No. 1099 – Adopting by Reference the 2010 Edition of the California Fire Code Together with Certain Amendments and Deletions, and Amending and Reorganizing Title 4 Chapter 3 of the Los Banos Municipal Code. **(First Reading & Introduction)**

Recommendation: Receive staff report, open public hearing, and introduce the ordinance as submitted.

8. CONSIDERATION OF REQUEST TO FUND UP TO \$1,000 WORTH OF LEGAL FEES TO THE CALIFORNIA REDEVELOPMENT ASSOCIATION TO BATTLE THE GOVERNOR'S BUDGET, NAMELY ABX1 26 AND ABX1 27.

Recommendation: Receive staff report and direction from the City Council/Redevelopment Agency on how to proceed.

9. REDEVELOPMENT AGENCY UPDATE.

10. ADVISEMENT OF PUBLIC NOTICES. (Three Reports)

11. CITY MANAGER / EXECUTIVE DIRECTOR REPORT.

12. CITY COUNCIL / REDEVELOPMENT AGENCY MEMBER REPORTS.

A. Joe Sousa

B. Elizabeth Stone

C. Tom Faria

D. Scott Silveira

E. Mayor Mike Villalta

13. ADJOURNMENT.

- A. Adjourn to 5:30 p.m., Wednesday, July 20, 2011 to Attend a 2009-2010 Fiscal Year Financial Audit Workshop being held in the City Hall Council Chambers, 520 J Street, Los Banos, California.

I hereby certify under penalty of perjury under the laws of the State of California, that the foregoing agenda was posted on the City Hall bulletin board not less than 72 hours prior to the meeting.

Lucille L. Mallonee

Lucille L. Mallonee, City Clerk

Dated this 30th day of June 2011

CK #129413 - #129756 07/06/11 \$2,937,798.71

Bank Reconciliation

Checks By Date



City of
Los Banos
At the Crossroads of California

06/28/2011 - 4:30 PM

User: jdemelo

Cleared and Not Cleared Checks

Check No	Check Date	Name	Comment	ModuleVoid	Clear Date	Amount
129413	06/09/2011	Merced County Clerk		AP		50.00
129414	06/10/2011	ABS Presort Inc		AP		3,372.74
129415	06/10/2011	All American Plumbing		AP		99.30
129416	06/10/2011	Anderson Pump Company Inc		AP		812.00
129417	06/10/2011	Aramark Uniform Ser Inc		AP		225.73
129418	06/10/2011	AT&T		AP		656.92
129419	06/10/2011	Bank of America		AP		1,000,000.00
129420	06/10/2011	Bank of America		AP		500,000.00
129421	06/10/2011	Bank of America		AP		167.21
129422	06/10/2011	Bank of America		AP		13.48
129423	06/10/2011	Bank of America		AP		1.10
129424	06/10/2011	Baker Supplies & Repair		AP		127.85
129425	06/10/2011	Battery Systems, Inc.		AP		48.88
129426	06/10/2011	Bruce's Tire Inc		AP		707.46
129427	06/10/2011	BSK		AP		150.00
129428	06/10/2011	CalPERS		AP		237,507.81
129429	06/10/2011	Carrot Top Industries Inc		AP		819.86
129430	06/10/2011	Cerium Networks Inc.		AP		348.00
129431	06/10/2011	Chevron Usa Inc		AP		81.87
129432	06/10/2011	CPCA		AP		125.00
129433	06/10/2011	CPCA		AP		380.00
129434	06/10/2011	City of Los Banos **		AP		70.50
129435	06/10/2011	Department of Public Health		AP		60.00
129436	06/10/2011	Electric Drives Inc		AP		6,027.51
129437	06/10/2011	Employment Developmt Dept		AP		12,386.66
129438	06/10/2011	F S Rod Inc		AP		269.35
129439	06/10/2011	Fastenal Company		AP		147.19
129440	06/10/2011	Ferrellgas, Inc.		AP		230.82
129441	06/10/2011	Frasier Irrigation, Inc.		AP		366.45
129442	06/10/2011	Fresno Truck Center		AP		143.38
129443	06/10/2011	Thomas W. Giraldin		AP		400.00
129444	06/10/2011	The Glass Shop		AP		253.84
129445	06/10/2011	Greater San Joaquin Umpire Ass		AP		1,148.00
129446	06/10/2011	Harris Electric Service		AP		68.87
129447	06/10/2011	Helena Chemical Co Inc		AP		606.20
129448	06/10/2011	Ikon Office Solutions, Inc.		AP		680.03
129449	06/10/2011	JP's Services		AP		399.86
129450	06/10/2011	Knorr Systems Inc (Ksi)		AP		90.94
129451	06/10/2011	Lehigh Hanson HeidelbergCement		AP		1,997.82
129452	06/10/2011	Lexisnexus Matthew Bender		AP		391.44
129453	06/10/2011	Local Agency Formation Commiss		AP		11,591.21
129454	06/10/2011	Los Banos Vet Clinic		AP		170.00
129455	06/10/2011	Lowe's		AP		40.85
129456	06/10/2011	Marfab Inc		AP		1.07
129457	06/10/2011	Maze & Associates		AP		13,785.00
129458	06/10/2011	Merced Sun Star		AP		603.42
129459	06/10/2011	Napa Auto Parts		AP		391.99
129460	06/10/2011	Nextel		AP		1,226.25
129461	06/10/2011	OSE		AP		4.89
129462	06/10/2011	O'Reilly Auto Parts		AP		763.40

Check No	Check Date	Name	Comment	ModuleVoid	Clear Date	Amount
129463	06/10/2011	P G & E Company		AP		89,556.40
129464	06/10/2011	P G & E Company		AP		22.64
129465	06/10/2011	P G & E Company		AP		10.82
129466	06/10/2011	PERS - Public Employees		AP		105,618.06
129467	06/10/2011	Protech Security & Electronics		AP		349.56
129468	06/10/2011	SJVUAPCD		AP		197.00
129469	06/10/2011	Save Mart Supermarkets		AP		144.31
129470	06/10/2011	Sherwin Williams Co		AP		113.59
129471	06/10/2011	Frank Ortiz		AP		70.00
129472	06/10/2011	Sierra Chemical Co		AP		1,874.10
129473	06/10/2011	Silveria Electric		AP		1,148.65
129474	06/10/2011	Merced County Solid Waste Div.		AP		3,252.56
129475	06/10/2011	Merced County Solid Waste Div.		AP		56,611.77
129476	06/10/2011	Sorensens True Value		AP		85.42
129477	06/10/2011	Spriggs Inc		AP		128.78
129478	06/10/2011	Thomas Ochoa		AP		4,271.70
129479	06/10/2011	Kim Tomas		AP		2,128.46
129480	06/10/2011	Toolpro		AP		54.32
129481	06/10/2011	Triangle Rock Products		AP		1,612.56
129482	06/10/2011	United Textile		AP		150.11
129483	06/10/2011	US Bank Corp Pymt System		AP		14,879.49
129484	06/10/2011	Tom Kaljian		AP		221.66
129485	06/10/2011	Remax, Tammy Miller		AP		65.23
129486	06/10/2011	Westside Water Conditioning		AP		116.00
129487	06/10/2011	Windecker Inc		AP		3,997.59
129488	06/10/2011	Young's Air Conditioning		AP		250.00
129511	06/17/2011	A & A Electrical Service		AP		88.59
129512	06/17/2011	A & A Portables Inc		AP		529.07
129513	06/17/2011	AECOM Water (Boyle)		AP		13,349.34
129514	06/17/2011	Ameripride Valley Uniform Serv		AP		265.42
129515	06/17/2011	Anthony Gomes Electric Service		AP		225.00
129516	06/17/2011	Aramark Uniform Ser Inc		AP		712.80
129517	06/17/2011	AT&T		AP		418.60
129518	06/17/2011	Bank of America		AP		29.65
129519	06/17/2011	Todd Baker		AP		365.00
129520	06/17/2011	Barton Overhead Door Inc		AP		156.95
129521	06/17/2011	BJ's Consumers Choice		AP		200.00
129522	06/17/2011	Richard A Blak Phd		AP		350.00
129523	06/17/2011	Brinks Inc.		AP		506.96
129524	06/17/2011	Bruce's Tire Inc		AP		2,624.16
129525	06/17/2011	BSK		AP		400.00
129526	06/17/2011	Ca Dept of Justice		AP		1,362.00
129527	06/17/2011	California State University, S		AP		350.00
129528	06/17/2011	California State University, S		AP		350.00
129529	06/17/2011	Luis Castellanos		AP		223.29
129530	06/17/2011	LN Curtis & Sons		AP		353.44
129531	06/17/2011	City of Los Banos Utility		AP		335.66
129532	06/17/2011	City of Los Banos **		AP		413.00
129533	06/17/2011	Dell Marketing L P		AP		215.31
129534	06/17/2011	Double D. Towing LLC		AP		90.00
129535	06/17/2011	Electrical Distributors Co.		AP		496.75
129536	06/17/2011	Fastenal Company		AP		421.57
129537	06/17/2011	Ferguson Enterprises Inc		AP		199.80
129538	06/17/2011	Thomas W. Giraldin		AP		150.00
129539	06/17/2011	Heppner Precision Machine		AP		619.78
129540	06/17/2011	Hi Tech Emergency Vehicle Serv		AP		91.30
129541	06/17/2011	Home Depot		AP		542.34
129542	06/17/2011	Ikon Office Solutions, Inc.		AP		639.79
129543	06/17/2011	J W Professional Janitor		AP		4,949.00
129544	06/17/2011	Lehigh Hanson HeidelbergCement		AP		1,313.07
129545	06/17/2011	Los Banos Express Oil & Lube		AP		37.60
129546	06/17/2011	Lowe's		AP		205.32

Check No	Check Date	Name	Comment	Module Void	Clear Date	Amount
129547	06/17/2011	Lowe's Business Account		AP		1,305.27
129548	06/17/2011	Merced County Dept Of Agricult		AP		143.00
129549	06/17/2011	Merced Sun Star		AP		592.62
129550	06/17/2011	John Mueller		AP		120.00
129551	06/17/2011	Napa Auto Parts		AP		167.26
129552	06/17/2011	NetXperts, Inc.		AP		828.82
129553	06/17/2011	Nextel		AP		1,159.36
129554	06/17/2011	The Office City		AP		160.87
129555	06/17/2011	OSE		AP		796.13
129556	06/17/2011	OnTrac		AP		67.20
129557	06/17/2011	Outdoor Creations, Inc..		AP		7,949.63
129558	06/17/2011	Pacheco Veterinary		AP		385.33
129559	06/17/2011	Recall Secure Destruction Serv		AP		313.50
129560	06/17/2011	Riggs Ambulance Service		AP		456.36
129561	06/17/2011	Save Mart Supermarkets		AP		668.27
129562	06/17/2011	Sharpening Shop		AP	Void	292.49
129563	06/17/2011	Merced County Solid Waste Div.		AP		3,117.72
129564	06/17/2011	Sorensens True Value		AP		279.85
129565	06/17/2011	Spriggs Inc		AP		128.78
129566	06/17/2011	Tire World Car Care Center, In		AP		504.04
129567	06/17/2011	Tractor Supply Credit Plan		AP		4,250.75
129568	06/17/2011	Triangle Rock Products		AP		153.34
129569	06/17/2011	Humayun Anjum M.D.		AP		13.17
129570	06/17/2011	Ben & Nora Cabasag		AP		15.30
129571	06/17/2011	Reyes & Anna Cardenas		AP		73.66
129572	06/17/2011	Century 21 M & M, Mario Zazuet		AP		40.91
129573	06/17/2011	Oscar & Roxanne Garcia		AP		19.25
129574	06/17/2011	Mr.& Mrs. Rory Lane		AP		32.35
129575	06/17/2011	Celia Pulido		AP		7.43
129576	06/17/2011	Jenny Ramirez		AP		88.18
129577	06/17/2011	Remax, Tammy Miller		AP		38.13
129578	06/17/2011	Emilio & Alice Soto		AP		40.91
129579	06/17/2011	M C Real Estate Corp		AP		11.90
129580	06/17/2011	Charles Rodgers		AP		57.36
129581	06/17/2011	Florentino & Sara Farias		AP		10.91
129582	06/17/2011	Johnny Bermio		AP		15.30
129583	06/17/2011	Chris and Yvonne Correia		AP		72.41
129584	06/17/2011	Martin Vasquez		AP		40.91
129585	06/17/2011	Anthony Vasquez		AP		16.73
129586	06/17/2011	LuAnne Anderson @ Westhill Rea		AP		76.36
129587	06/17/2011	Elisa Lustre		AP		37.13
129588	06/17/2011	Alfredo Bardaji		AP		85.26
129589	06/17/2011	Monica Villicana Madueno		AP		49.47
129590	06/17/2011	Lonni Rhinehart		AP		29.45
129591	06/17/2011	Edwards Property Management		AP		17.27
129592	06/17/2011	Gold Country Homes LLC		AP		76.36
129593	06/17/2011	Karin Shaw		AP		19.25
129594	06/17/2011	Eva Cabness		AP		45.53
129595	06/17/2011	Maria and Manuel Silveira		AP		6.14
129596	06/17/2011	Moises Orellana		AP		30.97
129597	06/17/2011	Ming Shi		AP		42.87
129598	06/17/2011	Rosario Diaz		AP		6.96
129599	06/17/2011	Ramiro Prado, Jr.		AP		1.13
129600	06/17/2011	Scott & Lucy Raymond		AP		60.99
129601	06/17/2011	Remax, Tammy Miller		AP		12.66
129602	06/17/2011	Remax, Tammy Miller		AP		46.03
129603	06/17/2011	Cristina Jacquez Rodriguez		AP		6.25
129604	06/17/2011	Betty Ro		AP		31.67
129605	06/17/2011	James Gumberg		AP		32.48
129606	06/17/2011	Bricia Rosales		AP		7.43
129607	06/17/2011	Joe Chavez		AP		36.96
129608	06/17/2011	Don & Sherrie Brewer		AP		21.37

Check No	Check Date	Name	Comment	ModuleVoid	Clear Date	Amount
129609	06/17/2011	Filomena Perry, Wachovia		AP		40.89
129610	06/17/2011	Natalie Levario		AP		65.98
129611	06/17/2011	Pravin Lal		AP		13.33
129612	06/17/2011	Larry Marques		AP		29.09
129613	06/17/2011	Larry Marques		AP		25.14
129614	06/17/2011	Michael De La Torre		AP		43.59
129615	06/17/2011	Law Offices of William A Vaugh		AP		6,841.25
129616	06/17/2011	Law Offices of William A Vaugh		AP		550.00
129617	06/17/2011	Law Offices of William A Vaugh		AP		3,845.38
129618	06/17/2011	Westside Water Conditioning		AP		214.50
129619	06/17/2011	The Thomas Wilkins Co		AP		2,000.00
129620	06/17/2011	Windecker Inc		AP		28,097.11
129621	06/17/2011	Working Fire Training Systems		AP		610.00
129622	06/17/2011	Young's Air Conditioning		AP		194.00
129631	06/20/2011	Aflac-Customer Service		AP		165.90
129632	06/20/2011	Aflac-Customer Service		AP		227.75
129633	06/20/2011	Aflac-Customer Service		AP		53.90
129634	06/20/2011	Aflac-Customer Service		AP		122.89
129635	06/20/2011	Bank of America		AP		91,190.81
129636	06/20/2011	Bank of America		AP		3,246.32
129637	06/20/2011	Bank of America		AP		13,370.44
129638	06/20/2011	Hartford Life Ins Co		AP		5,705.25
129639	06/20/2011	Hartford Life Ins Co		AP		48.55
129640	06/20/2011	Hartford Life Ins Co		AP		54.38
129641	06/20/2011	Hartford Life Ins Co		AP		44.62
129642	06/20/2011	Hartford Life Ins Co		AP		45.37
129643	06/20/2011	Hartford Life Ins Co		AP		24.78
129644	06/20/2011	Hartford Life Ins Co		AP		30.45
129645	06/20/2011	Hartford Life Ins Co		AP		74.57
129646	06/20/2011	Hartford Life Ins Co		AP		51.82
129647	06/20/2011	Hartford Life Ins Co		AP		55.38
129648	06/20/2011	Hartford Life Ins Co		AP		42.60
129649	06/20/2011	ICMA-RC Headquarters		AP		1,305.00
129650	06/20/2011	Los Banos Fitness &		AP		766.50
129651	06/20/2011	Los Banos Police Assn		AP		2,191.00
129652	06/20/2011	Merced County Sheriff		AP		424.21
129653	06/20/2011	Merced County Sheriff		AP		335.43
129654	06/20/2011	Nationwide Retiremt Solut		AP		1,360.00
129655	06/20/2011	PERS Long Term Care		AP		436.15
129656	06/20/2011	Professional Fire Fighter		AP		350.00
129657	06/20/2011	State Disbursement Unit		AP		276.00
129658	06/20/2011	State Disbursement Unit		AP		441.00
129659	06/20/2011	State Disbursement Unit		AP		221.00
129660	06/20/2011	State Disbursement Unit		AP		174.00
129661	06/20/2011	State Disbursement Unit		AP		572.00
129662	06/20/2011	State Disbursement Unit		AP		208.50
129663	06/20/2011	Westamerica Bank - Cafeteria P		AP		8,519.88
129664	06/21/2011	City of Los Banos Utility		AP		37,179.27
129665	06/21/2011	State Water Resources Control		AP		607.00
129666	06/21/2011	Trans County Title Co		AP		48,191.00
129667	06/24/2011	Alhambra		AP		160.11
129668	06/24/2011	Yaochi Abarca		AP		67.50
129669	06/24/2011	ABS Presort Inc		AP		3,098.77
129670	06/24/2011	AECOM Water (Boyle)		AP		9,318.74
129671	06/24/2011	Allied Waste Services #917		AP		227,354.62
129672	06/24/2011	Aramark Uniform Ser Inc		AP		223.27
129673	06/24/2011	AT&T		AP		567.07
129674	06/24/2011	Todd Baker		AP		376.00
129675	06/24/2011	Brenda Beltran		AP		29.95
129676	06/24/2011	Bear Cat Mfg Inc		AP		4,957.86
129677	06/24/2011	Best Best & Krieger		AP		956.23
129678	06/24/2011	Board of Equalization		AP		1,010.00

Check No	Check Date	Name	Comment	Module Void	Clear Date	Amount
129679	06/24/2011	Bonander Pontiac, Inc.		AP		51.81
129680	06/24/2011	Jeff Bondi		AP		75.00
129681	06/24/2011	Bruce's Tire Inc		AP		38.81
129682	06/24/2011	BSK		AP		967.00
129683	06/24/2011	Cen Cal Machinery Co Inc		AP		296.93
129684	06/24/2011	City of Merced		AP		100.00
129685	06/24/2011	Comcast		AP		99.95
129686	06/24/2011	Comcast		AP		99.95
129687	06/24/2011	Costco Membership		AP		100.00
129688	06/24/2011	Department of Public Health		AP		55.00
129689	06/24/2011	Double D. Towing LLC		AP		90.00
129690	06/24/2011	Drager Safety Diagnostics Inc.		AP		1,810.24
129691	06/24/2011	Electrical Distributors Co.		AP		17.95
129692	06/24/2011	Brian Elms		AP		364.92
129693	06/24/2011	Ernest Packaging Solutions		AP		1,408.91
129694	06/24/2011	Marie Flores		AP		925.00
129695	06/24/2011	Darrall Gargano		AP		342.30
129696	06/24/2011	Abel Gomes Enterprise		AP		716.00
129697	06/24/2011	Aaron J. Gomes		AP		50.00
129698	06/24/2011	Heppner Precision Machine		AP		695.34
129699	06/24/2011	Holt Bros		AP		114.43
129700	06/24/2011	Hydrowatch Services		AP		446.00
129701	06/24/2011	JB Consulting Services		AP		5,500.00
129702	06/24/2011	J W Professional Janitor		AP		150.00
129703	06/24/2011	K Mart W 3764		AP		15.39
129704	06/24/2011	Liebert Cassidy Whitmore		AP		532.00
129705	06/24/2011	Liebert Cassidy Whitmore		AP		2,140.00
129706	06/24/2011	Los Banos Ministries		AP		967.50
129707	06/24/2011	Los Banos Vet Clinic		AP		510.85
129708	06/24/2011	Steve Macillas		AP		87.50
129709	06/24/2011	Marfab Inc		AP		277.13
129710	06/24/2011	Merced Truck & Trailer Inc		AP		533.16
129711	06/24/2011	Barney Meza		AP		1,620.00
129712	06/24/2011	Paula Kathleen Moore		AP		156.00
129713	06/24/2011	Napa Auto Parts		AP		116.59
129714	06/24/2011	North Central Laboratories		AP		89.27
129715	06/24/2011	OSE		AP		332.62
129716	06/24/2011	P G & E Company		AP		10.82
129717	06/24/2011	Pacifico Sol, Inc.		AP		285.00
129718	06/24/2011	The Paper		AP		701.11
129719	06/24/2011	PERS - Public Employees		AP		104,964.68
129720	06/24/2011	P F Pettibone & Co		AP		392.85
129721	06/24/2011	Pitney Bowes Inc		AP		732.00
129722	06/24/2011	Playgrounds By Design, Inc.		AP		310.77
129723	06/24/2011	Precision Inspection Co., Inc.		AP		10,189.10
129724	06/24/2011	Pump Repair Service Company, I		AP		36,288.74
129725	06/24/2011	Safe T Lite		AP		108.21
129726	06/24/2011	Scott Savage		AP		622.50
129727	06/24/2011	San Joaquin Pest Control		AP		75.00
129728	06/24/2011	Sase Company Inc		AP		892.11
129729	06/24/2011	Save Mart Supermarkets		AP		39.47
129730	06/24/2011	Seeger's Printing		AP		5,216.74
129731	06/24/2011	Sharpening Shop		AP		292.49
129732	06/24/2011	Sierra Chemical Co		AP		2,409.04
129733	06/24/2011	Stanley G. Silva		AP		120.00
129734	06/24/2011	Sorensens True Value		AP		446.14
129735	06/24/2011	Rick Spalding		AP		76.46
129736	06/24/2011	Staples Credit Plan		AP		59.01
129737	06/24/2011	State Controller's Office		AP		100.00
129738	06/24/2011	Daniel Saldana		AP		500.00
129739	06/24/2011	Tee-Dee-Us Auto Service		AP		150.53
129740	06/24/2011	THL Enterprise		AP		160.00

Check No	Check Date	Name	Comment	Module Void	Clear Date	Amount
129741	06/24/2011	Toscano Upholstery		AP		228.00
129742	06/24/2011	U.S. Bancorp Equipment Finance		AP		243.22
129743	06/24/2011	Remax, Tammy Miller		AP		100.00
129744	06/24/2011	Big Realty, Mark Chu		AP		74.39
129745	06/24/2011	Bruce Austin		AP		30.91
129746	06/24/2011	Law Offices of William A Vaugh		AP		1,417.00
129747	06/24/2011	Western Pacific Signal, LLC		AP		2,183.76
129748	06/24/2011	Jennifer Williams		AP		872.50
129749	06/24/2011	Young's Automotive		AP		176.64
129750	06/24/2011	Emi Zako		AP		260.00
129751	06/24/2011	Zee Medical Service Co		AP		105.22
129752	06/27/2011	American Custom Coach Inc.		AP		9,400.00
129753	06/27/2011	Trans County Title Co		AP		31,760.00
129754	06/27/2011	Westamerica Bank - Cafeteria P		AP		46,821.84
129756	06/28/2011	United States Post Office		AP		2,838.42

Total for Valid Checks: 2,937,798.71

Total Valid Checks: 312

Total Void Checks: 1

Total Checks: 313

Break in Check Sequence due to the following
Check # 129489-129510, 129623-129630, 129755 (payroll checks)

**CITY OF LOS BANOS
CITY COUNCIL / REDEVELOPMENT AGENCY MEETING MINUTES
MAY 18, 2011**

ACTION MINUTES – These minutes are prepared to depict action taken for agenda items presented to the City Council. For greater detail of this meeting refer to the electronic media (CD and/or audio) kept as a permanent record.

The following closed session item was held prior to the City Council / Redevelopment Agency Meeting:

CLOSED SESSION – CONFERENCE WITH REAL PROPERTY NEGOTIATORS, PURSUANT TO GOVERNMENT CODE SECTION 54956.8; PROPERTY: A PORTION OF PACHECO PARK, 903 PACHECO BOULEVARD, LOS BANOS, CALIFORNIA, (A PORTION OF APN 026-110-001), APPROXIMATELY 6.11 ACRES; NEGOTIATORS: CITY MANAGER, CITY ATTORNEY, PUBLIC WORKS DIRECTOR/CITY ENGINEER; NEGOTIATING PARTIES: CITY OF LOS BANOS & LOS BANOS UNIFIED SCHOOL DISTRICT; UNDER NEGOTIATION: PURCHASE PRICE AND TERMS OF SALE.
Direction to staff only, no action taken.

CALL TO ORDER: Mayor Villalta called the City Council / Redevelopment Agency Meeting to order at the hour of 7:03 p.m.

PLEDGE OF ALLEGIANCE: Police Chief Brizzee led the pledge of allegiance.

ROLL CALL – MEMBERS OF THE CITY COUNCIL / REDEVELOPMENT AGENCY PRESENT: Council Members Tom Faria, Scott Silveira, Joe Sousa, Elizabeth Stone, Mayor Michael Villalta; Absent: None

STAFF MEMBERS PRESENT: City Attorney Vaughn, City Clerk/Human Resources Director Mallonee, City Treasurer/Accountant II Brazil, City Manager Rath, Police Chief Brizzee, Public Works Director/City Engineer Fachin, Redevelopment Agency Director Post, Planning Director Fitzgerald, and Information Technology Director Spalding.

CONSIDERATION OF APPROVAL OF AGENDA: Motion by Faria, seconded by Stone to approve the agenda as submitted. The motion carried by the affirmative action of all City Council / Redevelopment Agency Members present.

PUBLIC FORUM: MEMBERS OF THE PUBLIC MAY ADDRESS THE CITY COUNCIL / REDEVELOPMENT AGENCY MEMBERS ON ANY ITEM OF PUBLIC INTEREST THAT IS WITHIN THE JURISDICTION OF THE CITY; INCLUDES AGENDA AND NON-AGENDA ITEMS. NO ACTION WILL BE TAKEN ON NON-AGENDA ITEMS. SPEAKERS ARE LIMITED TO A FIVE (5) MINUTE PRESENTATION. DETAILED GUIDELINES ARE POSTED ON THE COUNCIL CHAMBER INFORMATIONAL TABLE.
BARRY MANN, City of Dos Palos Police Chief, thanked the City of Los Banos, spoke to what the businesses in Los Banos have done to assist them their efforts of hosting a first

ever Police canine trial on May 21, 2011 at 9:00 a.m. Dos Palos High School, in return they booked the Vagabond Inn to capacity, and invited all to come out to the event; RHONDA LOWE, Los Banos, spoke regarding the senior meals on wheels program offered at the community center, the great programs available for seniors at the community center, and the upcoming Tomato Festival and how volunteer organizations can participate; STUDENTS, Mr. McNally's Los Banos High School AP US History class, spoke regarding the upcoming wax museum event being held at the Henry Miller Plaza on Friday, May 20, 2011 from 3:30 p.m. - 5:30 p.m. and invited the community to attend. No one else came forward to speak and the public forum was closed.

CONSIDERATION OF APPROVAL OF CONSENT AGENDA. Motion by Stone, seconded by Silveira to approve the consent agenda as follows: Check Register for #128650 – #128895 in the Amount of \$973,742.89; Minutes for the March 16, 2011 City Council / Redevelopment Agency Meeting; Minutes for the May 3, 2011 Adjourned City Council / Redevelopment Agency Meeting; Minutes for the May 4, 2011 City Council / Redevelopment Agency Meeting; City Council Resolution No. 5320 – Amending the Nationwide Retirement Solutions Deferred Compensation Plan; City Council Resolution No. 5321 – Authorizing Award of Construction Agreement for Supplying and Installing Playground Equipment at Cresthills and College Greens Park; City Council Resolution No. 5322 – Approving Sale of Surplus Property Located at 1740 D Street, Merced, and Authorizing the City Manager to Execute a Grant Deed; City Council Resolution No. 5323 – Amending the Fiscal Year (FY) 2010-2011 Budget by Increasing the Appropriation Amount in the General Fund for Revenue and Expenditures in the Amount of \$3,000 for a “First 5 of Merced County” Grant to Inspect and Replace Child Safety Seats. The motion carried by the affirmative action of all City Council / Redevelopment Agency Members present.

PRESENTATION BY MATTHEWS SOUTH WEST REGARDING A REQUEST FOR A CAPITAL LOAN IN LOW AND MODERATE INCOME FUNDING FOR PHASE 1 OF THE 700 G STREET WORKFORCE APARTMENT PROJECT. Redevelopment Agency Director Post presented the staff report and introduced Scott Galbraith of Matthews Southwest.

Mr. Galbraith introduced the team he brought with him, including Sarah Reedy of Economic Strategic Solutions, who gave an overview of the process in the low income tax credit projects.

Derek Holdsworth, KSA Group Architects and part of Mr. Galbraith's team, gave an overview of what they envision as a possible project.

There was council member and staff discussion regarding paybacks, the need for review of the disposition and development agreement, the need to hold a closed session to review all points of the agreement, the low/mod fund and what the Agency would do with the funds if they weren't expended on this project, the Redevelopment Agency tax increment and how the funds are dispersed, the Economic Development Advisory Committee in support of this project, and how developers can rehabilitate blighted areas in the community.

Council suggested the adjournment of this meeting to Wednesday, May 25, 2011 at 4:30 p.m. at City Hall in the Council Chambers to hold a closed session regarding this item.

Informational item only, no action taken.

COUNCIL MEMBER AGENDA REQUESTS. (TO SEE IF THERE IS A MAJORITY CONSENSUS TO HAVE STAFF EXPEND TIME ON THE ISSUE AND TO HEAR IT AT A FUTURE MEETING.)

REQUEST FROM COUNCIL MEMBER SOUSA TO DISCUSS THE STATUS AND PROCESS OF THE REGIONAL TRANSPORTATION IMPACT FEE (RTIF) AS IT RELATES TO THE LOS BANOS BYPASS PROJECT, INCLUDING LEVEL OF FEES COLLECTED AND/OR EXPENDED TO DATE. Council Member Sousa spoke of a vote regarding the Atwater-Merced expressway project that took place at the previous Merced County Association of Governments Governing Board meeting and cautioned that the conditions that were recommended by Council at a previous Council meeting are dependent on the RTIF being in place.

Council Member Sousa withdrew this item from the agenda.

REQUEST FROM COUNCIL MEMBER SOUSA TO DISCUSS THE STATUS OF THE LOS BANOS BYPASS PROJECT, INCLUDING ALL EXPENDITURES OF LOCAL AND ALL OTHER FUNDS, INCLUDING COSTS INCURRED IN ONEVOICE EFFORTS BY THE CITY OF LOS BANOS. Council Member Sousa withdrew this item from the agenda.

REDEVELOPMENT AGENCY UPDATE. Spoke of working on a zoomprospector.com website to be called losbanosprospect.com that will show the enterprise zone, all the City zones, and the Redevelopment area.

ADVISEMENT OF PUBLIC NOTICES (No Report).

CITY MANAGER / EXECUTIVE DIRECTOR REPORT. City Manager Rath Invitee all to the 2011/2012 Fiscal Year Budget Workshop on Monday, May 23, 2011 at 4:30 p.m. at City Hall in the Council Chambers, spoke of continuing to manage the budget with the declining revenues, other agencies are going through layoffs but we are not proposing layoffs with this budget, the money saved by reducing expenses, Measure P being a godsend to our community, not seen any other agency give back what our employees have given back, and a second budget workshop on May 31, 2011 at 4:30 p.m. at City Hall in the Council Chambers.

CITY COUNCIL / REDEVELOPMENT AGENCY MEMBER REPORTS.

TOM FARIA: Spoke of the wax museum event on Friday, May 20, 2011, a New Bethany event on Saturday, May 21, 2011 at 10:00 a.m. at the College Greens Park called "Burst of Joy", upcoming band pops concert on May 25, 2011, choir awards concert on May 19, 2011, and how great the senior banquet was on May 13, 2011.

SCOTT SILVEIRA: No report.

JOE SOUSA: Spoke of attending the mariachi concert on May 7, 2011 that was hosted by Mr. Joe Gutierrez at the community center, congratulated all of the Future Farmers of America award recipients, spoke of graduation quickly approaching and congratulated the upcoming graduates, Memorial Day event on May 30, 2011 at 9:30 a.m., the disappointment that the meaning of Memorial Day has become lost among many of us, the need to remember those who served and sacrificed, and thanked those who attended the concert because they also supported scholarships at Merced College.

ELIZABETH STONE: Spoke of attending the mariachi concert and thanked Mr. Joe Gutierrez for hosting the event, an upcoming informative event on May 21, 2011 at 10:00 a.m. to bring a Waldorf Education System charter school to town, Relay for Life event on May 21, 2011 at Pacheco High School, selling raffle tickets for Caidyn's Crusaders' Relay for Life team, encouraged all to come out and support Mr. McNally's Los Banos High School history class at the wax museum event.

MAYOR MICHAEL VILLALTA: Encouraged all to attend the canine event in Dos Palos, spoke of the senior meals program, the upcoming wax museum event, speaking to the students makes him realize that he misses teaching, thanked Mr. McNally's students for the invitation, the upcoming Memorial Day event at the local cemetery and at the national cemetery, and encouraged all to attend.

ADJOURNMENT. The meeting was adjourned at the hour of 8:11 p.m. to 4:30 p.m., Monday, May 23, 2011 to Attend a 2011-2012 Fiscal Year Budget Workshop Being Held in the Council Chambers, 520 J Street, Los Banos, California, to 4:30 p.m., Wednesday, May 25, 2011 to Attend a Closed Session – Conference with Real Property Negotiators, Pursuant to Government Code Section 54956.8; Property: 700 G Street, Los Banos, California, APN: 025-114-011 = 0.91 acres, A Portion of 025-114-010 = 0.59 acres, an Unnumbered Parcel = 0.18 acres, Negotiators: City Manager, City Attorney, Redevelopment Agency Director, Negotiating Parties: Los Banos Redevelopment Agency & Matthews Southwest, Under Negotiation: Purchase Price and Terms of Sale, and to 4:30 p.m., Tuesday, May 31, 2011 to Attend a 2011-2012 Fiscal Year Budget Workshop Being Held in the Council Chambers, 520 J Street, Los Banos, California.

APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk

**CITY OF LOS BANOS
CITY COUNCIL / REDEVELOPMENT AGENCY MEETING MINUTES
JUNE 1, 2011**

***ACTION MINUTES** – These minutes are prepared to depict action taken for agenda items presented to the City Council. For greater detail of this meeting refer to the electronic media (CD and/or audio) kept as a permanent record.*

The following closed session item was held prior to the City Council / Redevelopment Agency Meeting:

CLOSED SESSION – CONFERENCE WITH REAL PROPERTY NEGOTIATORS, PURSUANT TO GOVERNMENT CODE SECTION 54956.8; PROPERTY: 700 G STREET, LOS BANOS, CALIFORNIA, APN: 025-114-011 = 0.91 ACRES, A PORTION OF 025-114-010 = 0.59 ACRES, AN UNNUMBERED PARCEL = 0.18 ACRES; NEGOTIATORS: CITY MANAGER, CITY ATTORNEY, REDEVELOPMENT AGENCY DIRECTOR; NEGOTIATING PARTIES: LOS BANOS REDEVELOPMENT AGENCY & MATTHEWS SOUTHWEST; UNDER NEGOTIATION: PURCHASE PRICE AND TERMS OF SALE. Mayor Villalta stated there was nothing to report.

CALL TO ORDER: Mayor Villalta called the City Council / Redevelopment Agency Meeting to order at the hour of 7:02 p.m.

PLEDGE OF ALLEGIANCE: Police Chief Brizzee led the pledge of allegiance.

ROLL CALL – MEMBERS OF THE CITY COUNCIL / REDEVELOPMENT AGENCY PRESENT: Council Members Tom Faria, Scott Silveira, Joe Sousa, Elizabeth Stone, Mayor Michael Villalta.

STAFF MEMBERS PRESENT: City Attorney Vaughn, Deputy City Clerk/Payroll Technician Ascencio, City Manager Rath, Police Chief Brizzee, Public Works Director/City Engineer Fachin, Redevelopment Agency Director Post, Planning Director Fitzgerald, and Information Technology Director Spalding.

CONSIDERATION OF APPROVAL OF AGENDA: Motion by Faria, seconded by Stone to approve the agenda as submitted. The motion carried by the affirmative action of all City Council / Redevelopment Agency Members present.

PRESENTATIONS – PROCLAMATION RECOGNIZING LOS BANOS HIGH SCHOOL – WESTERN ATHLETIC CONFERENCE (WAC) ATHLETIC EXCELLENCE BANNER RECIPIENT. Mayor Villalta presented the proclamation to Joe Barcellos, Los Banos High School Athletic Director, who spoke of receiving this honor.

PRESENTATIONS – PROCLAMATION RECOGNIZING FLAG DAY. Mayor Villalta presented the proclamation to Richard Barcellos, Elks Lodge Exalted Ruler, who spoke

of the upcoming Flag Day ceremony on Wednesday, June 8, 2011 at 6:00 p.m. in the City Hall Council Chambers.

PUBLIC FORUM: MEMBERS OF THE PUBLIC MAY ADDRESS THE CITY COUNCIL / REDEVELOPMENT AGENCY MEMBERS ON ANY ITEM OF PUBLIC INTEREST THAT IS WITHIN THE JURISDICTION OF THE CITY; INCLUDES AGENDA AND NON-AGENDA ITEMS. NO ACTION WILL BE TAKEN ON NON-AGENDA ITEMS. SPEAKERS ARE LIMITED TO A FIVE (5) MINUTE PRESENTATION. DETAILED GUIDELINES ARE POSTED ON THE COUNCIL CHAMBER INFORMATIONAL TABLE.

JOHNNY MAYS, Dos Palos, stated that he would like to speak on item 10; ERNIE ROQUE, Los Banos, thanked Police Chief Brizzee and the Los Banos Police Department for a quick turnaround in getting a face sheet to his client; TOM KALJIAN, Los Banos, spoke of the apartments and retail project on Seventh Street, the need to take a look at timing and the location, suggested that the courthouse building be downtown along the rail corridor, and spoke of his concern that O'Reilly's cut off all the branches of their parking lot trees and now have no shade trees on their property; DOMINIC BENIDETTINO, Los Banos, spoke of the Los Banos Bypass, read from a prepared statement regarding blithe, and spoke of the need to plan and inform everyone; TONY WHITEHURST, Los Banos, spoke of the possible location of the courthouse, suggested that the City sell some property along the corridor to the County, and encouraged Council to reopen the discussions about the location being downtown; DICK GERBI, Los Banos, spoke of his concerns regarding the location of the courthouse, the opportunity to do something great in the downtown area, and suggested Council take more time to look at the rail corridor area near the plaza and put off the vote tonight; LORI WILSON, Los Banos, spoke of the low income apartments on Ward Road, would like the apartments project on Seventh Street to be reconsidered, low income housing being a sensitive decision to make, and encouraged Council to reconsider the location for low income housing; MEGAN SOARES, Los Banos, spoke of starting a charter school in Los Banos called Green Valley Charter School and an upcoming Pork Loin dinner fundraiser on Wednesday June 29, 2011. No one else came forward to speak and the public forum was closed.

CONSIDERATION OF APPROVAL OF CONSENT AGENDA. Motion by Stone, seconded by Silveira to approve the consent agenda as follows: Check Register for #128896 – #129175 in the Amount of \$1,076,190.66; Minutes for the May 23, 2011 Adjourned City Council/Redevelopment Agency Meeting; Quarterly Investment Report for the Quarters Ending September 30, 2010 and December 31, 2010; City Council Resolution No. 5324 – Approving the Purchase of a Home Located at 765 Friguglietti Avenue, Los Banos, California with Neighborhood Stabilization Program (NSP) Funding Not to Exceed \$102,000; City Council Resolution No. 5325 – Authorizing the Chief of Police to Enter into an Agreement with the Merced County Revenue and Reimbursement Department Regarding Collection of Booking Fees from Los Banos Police Department (LBPD) Arrests. The motion carried by the affirmative action of all City Council / Redevelopment Agency Members present.

PUBLIC HEARING – TO RECEIVE PUBLIC COMMENT AND CONSIDER ACCEPTING THE 2010 URBAN WATER MANAGEMENT PLAN, WHICH DIRECTS WATER AGENCIES IN CARRYING OUT THEIR LONG-TERM RESOURCE PLANNING RESPONSIBILITIES TO ENSURE ADEQUATE WATER SUPPLIES ARE AVAILABLE TO MEET EXISTING AND FUTURE DEMANDS – CITY COUNCIL RESOLUTION NO. 5326 – ACCEPTING THE 2010 URBAN WATER MANAGEMENT PLAN. Public Works Director/City Engineer Fachin presented the report.

Ken Swanson, AECOM, came forward and spoke of the new requirements, the baseline and interim target numbers, and the technical aspects of the plan.

Council Member Faria thanked staff for their work and commended citizens for this accomplishment.

Council Member Silveira commented on the partnership between the City and Central California Irrigation District (CCID) and water being a valuable commodity.

Council Member Faria left the dais at 7:54 p.m. and returned at 7:55 p.m.

Mayor Villalta opened the public hearing. No one came forward to speak and the public hearing was closed.

Motion by Silveira, seconded by Faria to adopt City Council Resolution No. 5326 – Accepting the 2010 Urban Water Management Plan. The motion carried by the affirmative action of all City Council / Redevelopment Agency Members present.

JOINT PUBLIC HEARING BETWEEN THE CITY COUNCIL & REDEVELOPMENT AGENCY – TO RECEIVE PUBLIC COMMENT AND CONSIDER A PROPOSED DISPOSITION AND DEVELOPMENT/AFFORDABLE HOUSING AGREEMENT BETWEEN THE LOS BANOS REDEVELOPMENT AGENCY AND MATTHEWS AFFORDABLE INCOME FOR PROPERTY LOCATED AT THE SOUTHEAST CORNER OF 7TH STREET AND G STREET CONSISTING OF APPROXIMATELY 1.669 ACRES FOR AN AFFORDABLE HOUSING PROJECT AND A COMMERCIAL COMPONENT - CITY COUNCIL RESOLUTION NO. 5327 – CONSENTING TO THE EXECUTION BY THE LOS BANOS REDEVELOPMENT AGENCY OF A DISPOSITION AND DEVELOPMENT / AFFORDABLE HOUSING AGREEMENT BY AND BETWEEN THE AGENCY AND 700 G STREET L.P., A CALIFORNIA LIMITED PARTNERSHIP – REDEVELOPMENT AGENCY RESOLUTION NO. 2011-05 – CONSENTING TO THE EXECUTION BY THE LOS BANOS REDEVELOPMENT AGENCY OF A DISPOSITION AND DEVELOPMENT / AFFORDABLE HOUSING AGREEMENT BY AND BETWEEN THE AGENCY AND 700 G STREET L.P., A CALIFORNIA LIMITED PARTNERSHIP. Mayor Villalta informed Council that the motion should include continuing this item to June 15, 2011.

Redevelopment Agency Director Post presented the report, which included a PowerPoint presentation.

Council Member Stone spoke of there being a misconception about what type of project this is and asked Redevelopment Agency Director Post to go over the income levels for this project, in which she did.

Mayor Villalta opened the public hearing. DR. STEVE TIETJEN, Los Banos Unified School District Superintendent, spoke of there being a time issue, not having had a chance to chat with City staff regarding the impact on schools, mitigation fees, the Ward Road Apartments having filled quickly, district enrollment having changed in the last two years, the lack of State support, and would like to meet in the next couple weeks; TONY WHITHURST, Los Banos Chamber of Commerce Economic Development Committee Chairperson, asked Council to apply same standards to this project as has been applied to past projects, fees and impacts, and lacking public input on the item; LES PALOCSAY, Los Banos, inquired if there was an adjustment for inflation, if there was adequate parking, if there was enough Police coverage for the Ward Road Apartments, if there was currently commercial stores in line to occupy, and spoke of the need for Matthews to be liable for the project and not a partnership; ARKADY FAKTOROVICH, Los Banos, spoke of being new to town, having been in the business of engineering and construction, his opinion that the costs of the units were too high, and urged the Council to consider how much waste this is; GENEVA BRETT, Los Banos, spoke of her agreement to previous comments, asked the Council to remember that they represent the people, spoke to the retail aspect of the building, and asked Council to delay the adoption of this item for longer than two weeks; DICK GERBI, Los Banos, spoke of his agreement to the previous comments, the need to look at this even further, and his concerns about parking; SHIRLEY NAPOLITANO, Los Banos, spoke of serving on the Economic Development Advisory Committee, the idea of this item not being a new thing, this not being a low income project, being a workforce project, and this being exactly what was discussed at rail trail committee meetings. No one else came forward to speak and the public hearing was continued to the June 15, 2011 City Council/Redevelopment Agency Meeting.

Scott Galbraith, Matthews Southwest, spoke of the misconceptions and would like to document those and submit them to Council through staff.

Council Member Sousa spoke of the misconception that this is a low income project, the inability to use this money for Police or Fire, the condition that it has to be used for low-mod because they are low-mod funds, rail corridor plan directs to have mixed use, and the idea was to populate the area and bring people downtown.

Motion by Silveira, seconded by Sousa to continue the adoption of City Council Resolution No. 5327 – Consenting to the Execution by the Los Banos Redevelopment Agency of a Disposition and Development / Affordable Housing Agreement by and between the Agency and 700 G Street L.P., a California Limited Partnership and public hearing to the June 15, 2011 City Council/Redevelopment Agency meeting. The motion carried by the affirmative action of all City Council / Redevelopment Agency Members present.

Motion by Silveira, seconded by Sousa to continue the adoption of Redevelopment Agency Resolution No. 2011-05 – Consenting to the Execution by the Los Banos Redevelopment Agency of a Disposition and Development / Affordable Housing Agreement by and between the Agency and 700 G Street L.P., a California Limited Partnership and public hearing to the June 15, 2011 City Council/Redevelopment Agency meeting. The motion carried by the affirmative action of all City Council / Redevelopment Agency Members present.

Mayor Villalta called for a five minute recess.

CONSIDERATION OF A REQUEST FOR HOMELESS CONTINUUM OF CARE (COFC) ADMINISTRATION FUNDING FOR FISCAL YEAR 2011-12. LOS BANOS REDEVELOPMENT AGENCY RESOLUTION NO. 2011-06 – APPROVING \$12,000 FROM THE REDEVELOPMENT AGENCY FOR FISCAL YEAR 2011-12 HOMELESS CONTINUUM OF CARE ADMINISTRATION FUNDING – CITY COUNCIL RESOLUTION NO. 5328 – APPROVING \$12,000 FROM THE REDEVELOPMENT AGENCY FOR FISCAL YEAR 2011-12 HOMELESS CONTINUUM OF CARE ADMINISTRATION FUNDING. City Manager Rath presented the report, and introduced Jeanette Garcia, Merced County Association of Governments, who spoke regarding the program and requested the City Council's support.

There was discussion among Council Members, staff, and Ms. Garcia regarding the HUD grant, the location not having been determined yet, the need to address this issue in Los Banos, the participating agencies, how MCAG Chief Executive Officer Brown will be in contact with those who are not participating to see if they will join in implementing, and a federal vouchers program.

Council Member Stone spoke of her excitement about this item, encouraged the community to look at the plan online, progressive solutions, following the lead of other communities, preventing those that are at risk to becoming homeless, thanked Ms. Garcia, her support for this project, this being a personal goal of hers, and being great for the community.

Mr. Johnny Mays, Dos Palos, spoke of being the City of Dos Palos Mayor Pro Tem and a MCAG Governing Board member, came forward to speak regarding the difference between being homeless and being houseless, the despair about being less, MCAG getting into the area that they are not meant to be, his resistance to this whole idea, and his opinion that another government agency will not solve the problem in this City.

Mayor Villalta spoke of other communities who are not interested in supporting this, this money not going to the homeless or the veterans, would like to see the money go to a program like A Woman's Place, and agrees with Mr. Mays' comments.

Council Member Stone thanked Mr. Mays for coming, spoke of her respect for him, respectfully disagrees with some of his comments, thanked faith based organizations

for their help in the community, spoke of her work at three different homeless shelters in San Luis Obispo, the need for an assistance program, the shame that other communities aren't participating but that doesn't mean we shouldn't, and how she will not say to our citizens that we had the opportunity and didn't take it.

Mayor Villalta spoke of the need to cut back, how another administrator won't help, how Merced County Community Action Agency (MCCAA) should be running the program, and suggested redirecting money to go where it would be most effective.

Council Member Faria spoke of the rescue mission and Pastor Hammond's efforts, how it hasn't solved the problem of housing, his agreement with Mr. Mays and Mayor Villalta, and would support tabling this issue until we can get feedback from the other cities in the County about their participation.

Ms. Garcia spoke of her appreciation for the concern and questions, grant funds and return on investment, how it would be the City's choice to not participate and how it would not stop the process from moving forward, MCAG being committed to continuing with the COFC as long as the other cities would like them to do so, dealing with 24% poverty in the County, the vouchers program, and funds received by HUD being used directly for this purpose.

Council Member Sousa spoke of his respect for Mr. Mays but things aren't always what they seem, the problem has become aggravated, MCAG being the agency in charge of carrying out the plan, this being a good investment, homeless and low income having a bad connotation, economic situation we are currently in is highlighted by those pulling our resources together as well as those who are only in it for themselves, many people dislike government programs unless it benefits them directly, having been asleep at the wheel for this issue and others, and his support for this issue.

Supervisor O'Banion spoke of his respect for Mr. Mays, his presence at the MCAG Governing Board meeting when this action was discussed, the vote and action taken at that meeting, spoke of this being all of our responsibility to provide assistance, this being the only avenue of getting federal funds, MCCAA and Merced County Housing Authority being great entities but the only one entity that stepped up for the ten year plan was MCAG, and the efforts made have had enormous strides with the plan and can be successful.

Mr. Mays spoke of his respect for all at the dais, the issue of homelessness and houselessness, grants are coming from people who pay taxes, how we don't need MCAG to handle this issue, and the need to use tax payer dollars wisely.

Council Member Stone spoke from her personal experience of seeing people move out of homelessness with the aid of faith based organizations and other agencies that get them into permanent housing, the need for more permanent solutions, Supervisor O'Banion's comments that this being more cost effective to face this head on rather than waiting until more are homeless to alleviate the issue, the need for organizations to

come together, how this is our responsibility, and how we cannot cut off opportunities like this for the community.

Mayor Villalta opened the public hearing. RHONDA LOWE, MCCA, spoke of having been involved in this process from the very beginning, MCAG was able to bring lots of entities to the table, how they deal with homelessness and poor people everyday, how homelessness has changed, the ten year plan presents an opportunity to solve this problem, housing and jobs being crucial, MCCA is committed to continuing with this, and how she is whole heartedly behind this program. No one else came forward to speak and the public hearing was closed.

Council Member Silveira spoke of his agreement with Mr. Mays' comments but how doing nothing doesn't make sense.

Council Member Faria spoke of how none of his comments have to do with MCAG but rather has to do with the money, how this item will move forward whether or not the City approves it, and would like to see the rest of the cities come on board.

Motion by Sousa, seconded by Stone to adopt Los Banos Redevelopment Agency Resolution No. 2011-06 – Approving \$12,000 from the Redevelopment Agency for Fiscal Year 2011-12 Homeless Continuum of Care Administration Funding. The motion carried by the following roll call vote: AYES: Silveira, Sousa, Stone; NOES: Faria, Villalta.

Motion by Sousa, seconded by Stone to adopt City Council Resolution No. 5328 – Approving \$12,000 from the Redevelopment Agency for Fiscal Year 2011-12 Homeless Continuum of Care Administration Funding. The motion carried by the following roll call vote: AYES: Silveira, Sousa, Stone; NOES: Faria, Villalta.

Mayor Villalta left the dais at 9:58 p.m. due to a conflict of interest for the upcoming agenda item.

CONSIDERATION OF ADOPTION OF CITY COUNCIL RESOLUTION NO. 5329 – SUPPORTING THE GATEWAY DEVELOPMENT PROPERTY FOR THE NEW LOS BANOS COURTHOUSE SITE LOCATED AT THE CORNER OF SOUTH MERCY SPRINGS ROAD & EAST PACHECO BOULEVARD. Planning Director Fitzgerald presented the report, and invited Mayor Pro Tem Faria to speak as a Project Advisory Group member in which he spoke of how this location was selected and the project details.

There was council member discussion regarding this site being supported by the Administrative Office of the Courts and this site being the best site available at this point.

Motion by Sousa, seconded by Silveira to adopt City Council Resolution No. 5329 – Supporting the Gateway Development Property for the New Los Banos Courthouse Site

Located at the Corner of South Mercy Springs Road & East Pacheco Boulevard. The motion carried by the following roll call vote: AYES: Faria, Silveira, Sousa, Stone: NOES: none; ABSENT: none; ABSTAIN: Villalta.

Mayor Villalta returned to the dais at 10:12 p.m.

REDEVELOPMENT AGENCY UPDATE. No report.

ADVISEMENT OF PUBLIC NOTICES (One Report). Planning Director Fitzgerald advised of a public hearing on Wednesday, June 8, 2011 at 7:00 p.m. at City Hall in the Council Chambers to consider a vendor permit to allow the operation of fifteen ice cream push-carts in the residential zoning districts.

CITY MANAGER / EXECUTIVE DIRECTOR REPORT. No report.

CITY COUNCIL / REDEVELOPMENT AGENCY MEMBER REPORTS.

SCOTT SILVEIRA: Congratulated the Los Banos High School Athletic Program for the award of the Athletic Excellence banner and the Elks for their Flag Day proclamation.

JOE SOUSA: Requested that Ms. Lowe and Brenda Callahan-Johnson of MCCA come forward at a future Council meeting to present a report of the projects that MCCA is working on in the community, thanked Ms. Lowe and MCCA for the hard work on the meals on wheels program, thanked former Mayor Tommy Jones for planting that seed, acknowledged the cemetery services for Memorial Day as the day of remembrance of those who gave their lives, spoke of his attendance Bethel Community Church event for graduates, the Green Valley School drive thru dinner fundraiser on June 29, 2011, Dr. Tietjen's comments and how this should not have been a surprise as it has been discussed for over year, the 2x3 meeting being the perfect platform for these talks, and how he would like to get the MCAG Governing Board meeting and 2x3 meeting reports from those who attend those meetings.

Council Member Silveira gave his apologies and will report back to Council after the next board meetings.

ELIZABETH STONE: Spoke of her attendance at the wax museum event put on by Mr. McNally's history class from Los Banos High School, thanked Mayor Villalta for laminating the boards for their assignments, her attendance at the Relay for Life event and happy to be part of a team this year, her attendance at the Memorial Day ceremony and her hope that it will grow every year, thanked the veterans and how she is looking forward to the Flag Day ceremony next week, the upcoming Elks fashion show on June 9, 2011, the second annual graffiti clean-up day on June 7, 2011 at 10:00 a.m., and encouraged everyone to assist.

TOM FARIA: Congratulated his daughter Ariana who graduated from Adrian's Beauty College and daughter Gabby on her upcoming nuptials, upcoming graffiti clean-up day,

thanked everyone for their work, thanked citizens for speaking at the meetings, and spoke on record that his head of hair is completely untouched.

MAYOR MICHAEL VILLALTA: Spoke of Flag Day ceremony on June 8, 2011 at 6:00 p.m., congratulated the 2011 graduates, reported that Los Banos will get bus shelters in the next few months, trying to bring items from MCAG to City Council, would like Council's authority before voting on controversial items, an upcoming MCAG Governing Board public hearing on July 21, 2011 for the adoption of a solid waste ordinance, ten year plan COFC plan approved by MCAG was a separate issue than discussed tonight, attended Memorial Day services for the fallen in battle, there were fifteen young men that died from Los Banos, and would like to honor these men by reading their names off in reverence at a future meeting.

City Manager Rath spoke of a Congressional Medal of Honor recipient from Los Banos named Chester West.

ADJOURNMENT. The meeting was adjourned at the hour of 10:34 p.m.

APPROVED:

Michael Villalta, Mayor

ATTEST:

Sandra Ascencio, Deputy City Clerk

**CITY OF LOS BANOS
CITY COUNCIL / REDEVELOPMENT AGENCY MEETING MINUTES
JUNE 15, 2011**

ACTION MINUTES – These minutes are prepared to depict action taken for agenda items presented to the City Council. For greater detail of this meeting refer to the electronic media (CD and/or audio) kept as a permanent record.

The following closed session item was held prior to the City Council / Redevelopment Agency Meeting:

CLOSED SESSION – CONFERENCE WITH REAL PROPERTY NEGOTIATORS, PURSUANT TO GOVERNMENT CODE SECTION 54956.8; PROPERTY: 700 G STREET, LOS BANOS, CALIFORNIA, APN: 025-114-011 = 0.91 ACRES, A PORTION OF 025-114-010 = 0.59 ACRES, AN UNNUMBERED PARCEL = 0.18 ACRES; NEGOTIATORS: CITY MANAGER, CITY ATTORNEY, REDEVELOPMENT AGENCY DIRECTOR; NEGOTIATING PARTIES: LOS BANOS REDEVELOPMENT AGENCY & MATTHEWS SOUTHWEST; UNDER NEGOTIATION: PURCHASE PRICE AND TERMS OF SALE. Mayor Villalta stated that this item was cancelled, so there was nothing to report.

CALL TO ORDER: Mayor Villalta called the City Council / Redevelopment Agency Meeting to order at the hour of 7:01 p.m.

PLEDGE OF ALLEGIANCE: Police Chief Brizzee led the pledge of allegiance.

ROLL CALL – MEMBERS OF THE CITY COUNCIL / REDEVELOPMENT AGENCY PRESENT: Council Members Tom Faria, Scott Silveira, Joe Sousa, Elizabeth Stone, Mayor Michael Villalta.

STAFF MEMBERS PRESENT: City Attorney Vaughn, City Clerk/Human Resources Director Mallonee, City Manager Rath, Police Chief Brizzee, Public Works Director/City Engineer Fachin, Redevelopment Agency Director Post, Planning Director Fitzgerald, and Information Technology Director Spalding.

CONSIDERATION OF APPROVAL OF AGENDA: Redevelopment Agency Director Post read a letter from Matthews Southwest LLC requesting that item 9D – Joint Public Hearing Between the City Council & Redevelopment Agency – To Receive Public Comment and Consider a Proposed Disposition and Development/Affordable Housing Agreement between the Los Banos Redevelopment Agency and Matthews Affordable Income for Property Located at the Southeast Corner of 7th Street and G Street Consisting of Approximately 1.669 Acres for an Affordable Housing Project and a Commercial Component (*Continued from June 1, 2011*), City Council Resolution No. 5327 – Consenting to the Execution by the Los Banos Redevelopment Agency of a Disposition and Development / Affordable Housing Agreement by and between the

Agency and 700 G Street L.P., a California Limited Partnership; Redevelopment Agency Resolution No. 2011-05 – Consenting to the Execution by the Los Banos Redevelopment Agency of a Disposition and Development / Affordable Housing Agreement by and between the Agency and 700 G Street L.P., a California Limited Partnership be pulled from the agenda.

Motion by Sousa, seconded by Faria to approve the agenda as amended with the removal of item 9D – Joint Public Hearing Between the City Council & Redevelopment Agency – To Receive Public Comment and Consider a Proposed Disposition and Development/Affordable Housing Agreement between the Los Banos Redevelopment Agency and Matthews Affordable Income for Property Located at the Southeast Corner of Seventh Street and G Street Consisting of Approximately 1.669 Acres for an Affordable Housing Project and a Commercial Component (*Continued from June 1, 2011*); City Council Resolution No. 5327 – Consenting to the Execution by the Los Banos Redevelopment Agency of a Disposition and Development / Affordable Housing Agreement by and between the Agency and 700 G Street L.P., a California Limited Partnership; Redevelopment Agency Resolution No. 2011-05 – Consenting to the Execution by the Los Banos Redevelopment Agency of a Disposition and Development / Affordable Housing Agreement by and between the Agency and 700 G Street L.P., a California Limited Partnership from the agenda. The motion carried by the affirmative action of all City Council / Redevelopment Agency Members present.

PRESENTATION – READING OF THE NAMES OF SERVICEMEN FROM THE CITY OF LOS BANOS WHO DIED IN SERVICE TO THEIR COUNTRY. Mayor Villalta read the names of servicemen who died in combat service to their country who acknowledged the City of Los Banos as their home.

PRESENTATION – MERCED COUNTY 2011 REDISTRICTING PROJECT. Jim Brown, Merced County Assistant County Executive Officer, spoke regarding the Merced County 2011 Redistricting Project, which included a PowerPoint presentation, noting that Merced County District 5 will remain unchanged.

PUBLIC FORUM: MEMBERS OF THE PUBLIC MAY ADDRESS THE CITY COUNCIL / REDEVELOPMENT AGENCY MEMBERS ON ANY ITEM OF PUBLIC INTEREST THAT IS WITHIN THE JURISDICTION OF THE CITY; INCLUDES AGENDA AND NON-AGENDA ITEMS. NO ACTION WILL BE TAKEN ON NON-AGENDA ITEMS. SPEAKERS ARE LIMITED TO A FIVE (5) MINUTE PRESENTATION. DETAILED GUIDELINES ARE POSTED ON THE COUNCIL CHAMBER INFORMATIONAL TABLE. NORM DONOVAN, Los Banos, spoke regarding the luncheon being hosted by the Elks on June 23, 2011 at 11:30 a.m. and invited the Council attend, thanked Council Member Stone for setting up the second annual graffiti clean-up day, and reminded the community to report graffiti to the Police Department; GEORGE ALLAN, Los Banos, announced that the second annual tea party patriots potluck picnic will be held on July 7, 2011 at 5:30 p.m. at Pacheco Park and invited the community to attend; RHONDA LOWE, Los Banos, spoke for the last time as the Los Banos Chamber of Commerce President, thanked the City for their support and enthusiasm, and will

continue giving updates on the upcoming Tomato Festival; LES POLACSAY, Los Banos, thanked Police Chief Brizzee and the Police Officers for the recent gang sweep, spoke of his hope that it continues regularly and effectively, thanked Redevelopment Agency Director Post and staff for responding to and answering his questions and requests, speaking about the Rail Corridor Master Plan, concern about the management of the City and the need to reevaluate it, and suggested that Council put together a Citizen Advisory Committee to oversee the activities of the City Manager; TIM MARRISON, Los Banos Assistant Fire Chief, spoke regarding the upcoming 4th of July holiday and reminded all to be safe, the difference in the symbols that identify safe and sane fireworks from illegal and dangerous fireworks, the penalties assessed if violations are cited, encouraged all to enjoy the 4th of July in a safe way, spoke to his experience with the California Master Mutual Aid Plan, had the opportunity to be given a tour through command post of the recent gang sweep, and commended law enforcement; GENEVA BRETT, Los Banos, reminded all that it is the Los Banos Chamber of Commerce that puts on the free evening fireworks show, asked the community to support the Chamber's fireworks booth, thanked the veterans and Mayor for their tribute to the local servicemen who died in combat, spoke to the removal of the G Street project item on the agenda, and encouraged the community to donate shoes to St. Johns Lutheran Church for their September 11th memorial at Henry Miller Plaza; JOHN WHALA, Los Banos Chamber of Commerce Executive Director, stated that the location of the fireworks will change from the fairgrounds to the Pacheco High School stadium and gates will open at 7:00 p.m.; MARIA BORBA, Los Banos, read from a prepared statement regarding the need to pull together and do what is right for the City, the decision that was made regarding the homeless plan, how Mr. Johnny Mays was the only one with correct information about the homeless, the need to quit imposing government on these people, a story about a successful homeless family, this can be done locally and does not feel that local dollars should have been given to Merced County Association of Governments, and asked when the mockery will stop; BOB REISTER, Los Banos, spoke of his concern about the situation that was printed in the paper about the City's pocketbook going in the hole, concerns that no adjustments have been made by the City, suggested capping salaries and laying people off, how running a City is like running a business, and suggested hiring outside contractors to save pension and benefit costs; GARY BRIZZEE, Los Banos Police Chief, spoke regarding Operation Red Zone and the events that took place on June 7, 2011, which included a PowerPoint presentation; Mayor Villalta inquired of Police Chief Brizzee who to contact to be an adult or youth volunteer; Police Chief Brizzee responded that Police Officer Noah Jones would be the person to contact; Council Member Stone thanked Police Chief Brizzee for organizing and carrying out operation Red Zone, spoke of being proud to work on the second annual graffiti clean-up day, thanked all who participated, read a list of the organizations that were represented at the graffiti clean-up day, informed all that they can get involved in the adopt a wall program by contacting the Police Department, thanked all of the sponsors, and thanked the Council and City Manager Rath for participating; Council Member Faria thanked everyone for their efforts, received many comments on Operation Red Zone and the graffiti clean-up day, and thanked Council Member Stone for organizing the graffiti clean-up efforts; City Manager Rath thanked Police Chief Brizzee and the Police Department for their great work and

partnership with other agencies to accomplish this well-planned and well-executed operation; Council Member Silveira thanked Police Chief Brizzee and those who were out there that were part of the team pounding the pavement and serving search warrants, having won a small battle in a big war, having sent a strong message that we are going to keep fighting the fight, taking a team effort, the graffiti clean-up day being a great event, thanked the Elks for lunch and all that were involved; Council Member Sousa thanked Police Chief Brizzee and all those who helped out with graffiti clean-up day; Mayor Villalta spoke of this being a two month active investigation, encouraged neighborhood watch programs to be used, and for youth and adults to volunteers; Police Chief Brizzee thanked Council and staff and spoke to some details of the investigation.

No one else came forward to speak and the public forum was closed.

CONSIDERATION OF APPROVAL OF CONSENT AGENDA. Motion by Faria, seconded by Silveira to approve the consent agenda as follows: Check Register for #129176 - #129412 in the Amount of \$2,101,321.37; Minutes for the April 6, 2011 City Council / Redevelopment Agency Meeting; Minutes for the April 20, 2011 City Council / Redevelopment Agency Meeting; Minutes for the May 31, 2011 Adjourned City Council / Redevelopment Agency Meeting; Quarterly Investment Report for the Quarter Ending March 31, 2011; City of Los Banos and Los Banos Unified School District (LBUSD) Agreement for School Resource Officer (SRO) for the Period of July 1, 2011 – June 30, 2012; City of Los Banos and Merced County Office of Education (MCOE) Agreement for School Resource Officer (SRO) for the Period of July 1, 2011 – June 30, 2012; Block Party/Street Closure Request for Monday, July 4, 2011 from 3:00 p.m. to 10:00 p.m., on the 500 Block of Sixth Street; Block Party/Street Closure Request for Monday, July 4, 2011 from 12:00 p.m. to 10:00 p.m., on the 100 Block of Driftwood Court; 2010 Los Banos Redevelopment Agency Annual Report; City Council Resolution No. 5330 – Award of Construction Contract for Place Road San Luis Street Storm Drain and Detention Basin. The motion carried by the affirmative action of all City Council / Redevelopment Agency Members present.

PUBLIC HEARING – TO RECEIVE PUBLIC COMMENT AND CONSIDERATION OF THE LEVY OF THE PROPOSED ANNUAL ASSESSMENT FOR FISCAL YEAR (FY) 2011/2012 FOR LANDSCAPING AND LIGHTING DISTRICTS 1-7 AND 9-19; CITY COUNCIL RESOLUTION NO. 5331 – CONFIRMING DIAGRAM AND ASSESSMENT AND LEVYING ASSESSMENTS FOR ASSESSMENT DISTRICTS NO. 1-7 AND 9-19 FOR THE FY 2011/2012. Public Works Director/City Engineer Fachin presented the staff report.

Mayor Villalta opened the public hearing. No one came forward to speak and the public hearing was closed.

Council Member Faria stated that he cannot support raising any fees for citizens right now.

Mayor Villalta spoke of this being a timing issue for him in regards to the wastewater treatment fees and utility fees that will be raised soon and to levy both increases at the same time would be tough.

Motion by Stone, seconded by Sousa to adopt City Council Resolution No. 5331 – Confirming Diagram and Assessment and Levying Assessments for Assessment Districts No. 1-7 and 9-19 for the FY 2011/2012. The motion carried by the affirmative action of all City Council / Redevelopment Agency Members present.

The motion carried by the following vote: AYES: Silveira, Sousa, Stone; NOES: Faria and Villalta; ABSENT: none.

PUBLIC HEARING – CONSIDERATION OF THE APPROPRIATION LIMITATION FOR THE FISCAL YEAR (FY) 2011/2012; CITY COUNCIL RESOLUTION NO. 5332 – SETTING THE TAX RELATED APPROPRIATION LIMIT IN COMPLIANCE WITH PROPOSITION 4 AND PROPOSITION 111 FOR FY 2011/2012. Brent Kuhn, Vavrinek, Trine, Day & Co., LLP, presented the staff report.

Mayor Villalta opened the public hearing. No one came forward to speak and the public hearing was closed.

Motion by Silveira, seconded by Faria to adopt City Council Resolution No. 5332 – Setting the Tax Related Appropriation Limit in Compliance with Proposition 4 and Proposition 111 for FY 2011/2012. The motion carried by the affirmative action of all City Council / Redevelopment Agency Members present.

PUBLIC HEARING – CONSIDERATION OF THE 2011/2012 FISCAL YEAR (FY) BUDGET; CITY COUNCIL RESOLUTION NO. 5333 – ADOPTING FY 2011/2012 BUDGET, INCLUDING DIVISION 4 – EMPLOYEE CLASSIFICATIONS & SALARY SCHEDULES AND DIVISION 5 – PERSONNEL BENEFITS OF THE CITY OF LOS BANOS POLICY & PROCEDURES MANUAL. Brent Kuhn, Vavrinek, Trine, Day & Co., LLP, presented the staff report, noting that the State approved their budget today, how Senate Bill 14 eliminated Redevelopment Agencies (RDAs) and Senate Bill 15 gave the option to reinstate RDAs by August 1, 2011 and elimination would be in effect by October 1, 2011 in which we have to comply with several new requirements.

There was discussion among Council Members, staff, and Mr. Kuhn regarding the RDA not having spent any money that the general fund would have to pay back, confirmation that this budget does not include increases to utility rates, possible budget issues that we may face in the 2012-2013 fiscal year, consideration of going back to the public regarding Measures P and A, RDAs running at the discretion of the State, and how there will be some judicial review.

City Manager Rath spoke of everything that the employees are doing to help the budget, their dedication, this budget being balanced, still maintaining the 30% operating

reserve, major reductions every where, revenue still not covering expenses, all the credit going to staff, department heads, and the Finance Department in particular.

Council Member Faria spoke of the long term, recognizing longevity employees, and would like to find a way to reward those long term employees in the future.

Council Member Silveira thanked Senator Cannella for not voting to eliminate RDAs, spoke of his disappointment in Assembly Member Galgiani, and his opinion that they passed a balanced budget so they can receive a pay check.

Mayor Villalta opened the public hearing. GEORGE ALLAN, Los Banos, spoke as a local contractor regarding permits loss and revenue, his belief that businesses are not being fairly regulated which causes contractors to lose work, and realtors also acting illegally as contractors; Mayor Villalta spoke of his agreement to Mr. Allan's comments and stated the need to follow the permitting process. No one else came forward to speak and the public hearing was closed.

Council Member Sousa also thanked Senator Cannella for supporting RDAs, spoke of his discontent that Assembly Member Galgiani did not support us at all, spoke to the budget and how staff has worked hard to cut expenditures and have taken significant hits to their personal pay, being very proud of this budget that covers our core services, his concern for fiscal year 2012/2013, and his support for this budget.

Council Member Stone thanked the Finance Department for all they have done, this is the first budget that has come before them that does not include lay offs or additional employees give backs, not being out of the woods yet, and her concern about next fiscal year 2012/2013.

Motion by Sousa, seconded by Stone to adopt City Council Resolution No. 5333 – Adopting FY 2011/2012 Budget, Including Division 4 – Employee Classifications & Salary Schedules and Division 5 – Personnel Benefits of the City of Los Banos Policy & Procedures Manual. The motion carried by the affirmative action of all City Council/ Redevelopment Agency Members present.

City Manager Rath spoke to the importance of Measures P and A, the oversight committee that was established for the measures, and noted the number of Police Officers and Fire Fighters currently being paid out of those funds.

Council Member Sousa spoke of the need to remember why Measures P and A were instituted and the need to learn from the past and not make the same mistakes again.

Mayor Villalta called for a five minute break at 9:14 p.m.

JOINT PUBLIC HEARING BETWEEN THE CITY COUNCIL & REDEVELOPMENT AGENCY – TO RECEIVE PUBLIC COMMENT AND CONSIDER A PROPOSED DISPOSITION AND DEVELOPMENT/AFFORDABLE HOUSING AGREEMENT

~~**BETWEEN THE LOS BANOS REDEVELOPMENT AGENCY AND MATTHEWS AFFORDABLE INCOME FOR PROPERTY LOCATED AT THE SOUTHEAST CORNER OF 7TH STREET AND G STREET CONSISTING OF APPROXIMATELY 1.669 ACRES FOR AN AFFORDABLE HOUSING PROJECT AND A COMMERCIAL COMPONENT - CITY COUNCIL RESOLUTION NO. 5327 - CONSENTING TO THE EXECUTION BY THE LOS BANOS REDEVELOPMENT AGENCY OF A DISPOSITION AND DEVELOPMENT / AFFORDABLE HOUSING AGREEMENT BY AND BETWEEN THE AGENCY AND 700 G STREET L.P., A CALIFORNIA LIMITED PARTNERSHIP - REDEVELOPMENT AGENCY RESOLUTION NO. 2011-05 - CONSENTING TO THE EXECUTION BY THE LOS BANOS REDEVELOPMENT AGENCY OF A DISPOSITION AND DEVELOPMENT / AFFORDABLE HOUSING AGREEMENT BY AND BETWEEN THE AGENCY AND 700 G STREET L.P., A CALIFORNIA LIMITED PARTNERSHIP.**~~ This item was removed from the agenda at the beginning of the meeting under item 5 - Consideration of Approval of Agenda.

CONSIDERATION OF ADOPTION OF CITY COUNCIL RESOLUTION NO. 5334 - CLASSIFYING THE VARIOUS COMPONENTS OF FUND BALANCE AS DEFINED IN GOVERNMENTAL ACCOUNTING STANDARDS BOARD (GASB) STATEMENT NO. 54 AND ADOPTING A FUND BALANCE POLICY. Brent Kuhn, Vavrinek, Trine, Day & Co., LLP, presented the staff report.

Motion by Faria, seconded by Silveira to adopt City Council Resolution No. 5334 - Classifying the various components of fund balance as defined in Governmental Accounting Standards Board (GASB) Statement No. 54 and Adopting a Fund Balance Policy. The motion carried by the affirmative action of all City Council / Redevelopment Agency Members present.

CONSIDERATION OF ADOPTION OF REDEVELOPMENT AGENCY RESOLUTION NO. 2011-07 - DECLARING THAT PLANNING AND ADMINISTRATIVE EXPENSES ARE NECESSARY FOR THE PRODUCTION, IMPROVEMENT OR PRESERVATION OF LOW AND MODERATE INCOME HOUSING DURING FISCAL YEAR 2011/2012. Brent Kuhn, Vavrinek, Trine, Day & Co., LLP, presented the staff report.

Motion by Stone, seconded by Faria to adopt Redevelopment Agency Resolution No. 2011-07 - Declaring that Planning and Administrative Expenses are Necessary for the Production, Improvement or Preservation of Low and Moderate Income Housing during Fiscal Year 2011/2012. The motion carried by the affirmative action of all City Council / Redevelopment Agency Members present.

REDEVELOPMENT AGENCY UPDATE. City Manager Rath stated that Redevelopment Agency Director Post was not present due to a family matter and now we will be working very closely analyzing the information in regards to what the Governor votes on as to whether or not the Redevelopment Agencies will be eliminated.

ADVISEMENT OF PUBLIC NOTICES (No Report).

CITY MANAGER / EXECUTIVE DIRECTOR REPORT. City Manager Rath asked Public Works Director/City Engineer Fachin to give a report on road work in which he spoke regarding work being done by CalTrans on Highway 165 from Henry Miller Road to Interstate 5 tentatively beginning June 20, 2011 through the end of August 2011, this being night time work, how it will impact the tomato industry, will be a major reconstruction/overlay project with some delays.

City Manager Rath spoke of how the Public Works Department has been working on Talbot Park and the water basin and how McElvany Inc., a local contractor, was awarded the bid with some local subcontractors.

CITY COUNCIL / REDEVELOPMENT AGENCY MEMBER REPORTS.

JOE SOUSA: Thanked the veterans for putting flags out throughout the neighborhood for Flag Day, how the green valley charter school is being created and a pork loin drive-thru fundraiser being held on June 29, 2011 at 4:00 p.m. at the D.E.S. hall to support the school, and thanked staff for their work on the budget.

ELIZABETH STONE: Spoke of attending a ballet recital at the Ted Falasco Art Center led by Elvira Grimes, wonderful opportunity to watch them perform, attending the Flag Day event here at City Hall, thanked the veterans for all they do, and spoke of enjoying the Elks fashion show last week.

TOM FARIA: Spoke of charter schools being under the State of California ospises and must meet State standards, feeling that some children need different types of teaching environments, education being very important, the importance of the 4th of July holiday, the need to remember why the red is present on the flag and respect those who have served, nice to see the graffiti clean-up event and how it helps keep property values higher, read a simple assessment of a city, and commended staff for their work.

SCOTT SILVEIRA: Spoke of attending the Flag Day ceremony, thanked the veterans, Elks, and the boy scouts for helping out, thanked Police Chief Brizzee for his work on operation red zone, the graffiti clean-up event, and the sad news of fellow Merced County Fire Fighter Andrew Maloney's passing and a memorial service that will be held for him on Saturday, June 18, 2011 in the O'Banion building at the fairgrounds.

MAYOR MICHAEL VILLALTA: Spoke of the Chamber of Commerce sponsored 4th of July fireworks event at Pacheco High School, support of fireworks booths within the City and encouraged all to purchase them in town to keep dollars with those 501(c) groups, over thirty fireworks citations were issued last year, suggested that to look at abandoned cars in front yards and cite those who have junky yards, the gang sweep that took place on June 7, 2011, encouraged neighbors to form neighborhood watch groups, the need to open it up for other projects instead of the G Street project like the abandoned apartment complex on I Street, the importance of looking at every aspect and every project that may be submitted, wished everyone a safe and happy 4th of July, and encouraged all to buy safe and sane fireworks only.

ADJOURNMENT. The meeting was adjourned at the hour of 10:11 p.m.

APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk



City of Los Banos

At the Crossroads of California

Agenda Staff Report

TO: Mayor and Council Members

FROM: Elaine Post, RDA Director *EP*

DATE: July 6, 2011

SUBJECT: Authorizing the City Manager to sign a Subordination of Deed of Trust for the Community Development Block Grant (CDBG) Rehabilitation Loan #268-02-04

TYPE OF REPORT: Consent Agenda

Recommendation:

Authorize the City Manager to sign a Subordination of Deed of Trust for the Community Development Block Grant (CDBG) Rehabilitation Loan #268-02-04.

Background:

On June 5, 2002, the City of Los Banos "Lender" entered into a CDBG Rehabilitation Loan Agreement with applicant Manuel Alves "Borrower". This agreement was made for the purpose of financing repair work to be performed on the Borrower's property with funds provided by the City of Los Banos under its Community Development Block Grant (CDBG) Housing Rehabilitation Program. The City of Los Banos loaned the Borrower the amount of \$40,000 at an interest rate of 3% for a period of 15 years. If after 7 years but less than 15 years from the date of the loan the Borrower sells or transfers title of the property the interest is forgiven and the principal amount is due and payable in full. If after 15 years from the date of the loan there is no change in ownership and the Borrower has maintained residence on the property for the entire 15 years, both the principal and interest will be forgiven and the Lender shall issue a deed of reconveyance.

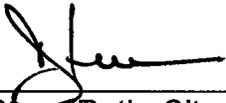
Discussion:

The Borrower is refinancing their loan through the primary lender, Bank of America. The City of Los Banos, acting as a second lender on the loan, is being asked to sign a Subordination of Deed of Trust so that Bank of America's position on the refinance will stay in first position. The Borrower currently has a loan with Bank of America for approximately \$75,000, which is superior to the City's Note and Deed of Trust. The Borrower is only refinancing loan and not cashing out. The Subordination of Deed of Trust has been reviewed by the City Attorney.

Fiscal Impact:

None.

Reviewed by:



Steve Rath, City Manager

Attachments:

Rehabilitation Loan Agreement
Subordination of Deed of Trust

REHABILITATION LOAN AGREEMENT

OWNER-OCCUPANT

Housing Rehabilitation Program

This Agreement is entered into this 5th day of June 2002, by and between the City of Los Banos, hereinafter referred to as "Lender" and **Manuel E. Alves**, hereinafter referred to as Borrower, who are the owners of the residential dwelling located at **325 K Street, Los Banos, CA**, hereinafter referred to as Dwelling.

This Agreement is made for the purpose of financing repair work to be performed on the Borrower's property with funds provided by the Lender under its Community Development Block Grant (CDBG) Housing Rehabilitation Program.

THEREFORE, the Lender and Borrower agree as follows:

WORK TO BE PERFORMED

The Borrower agrees to have performed the housing rehabilitation work described in **Attachment B** of this Agreement (hereinafter called "the Work") on the property.

The Borrower agrees that funds provided under this Agreement will be used only for approved work per **Attachment B**. Changes in the work are not permitted without prior execution of a Change Order authorized by the Lender or its agent and the Borrower.

WORK INSPECTION

The Lender or its designee agrees to inspect all work as needed during the period in which actual construction or repair work is being performed to see that the work is being and has been performed in accordance with the applicable housing and building codes.

COMPLETION OF WORK

Completion of the work shall be considered to take place upon the filing of a duly executed "Notice of Completion" in a form acceptable to the Lender. Said Notice shall signify:

1. That the work as shown in **Attachment B** and any approved change orders was completed; and
2. The acceptance of said work by the Building Inspector and the Borrower.

LOAN CONDITIONS

The Lender agrees to loan to the Borrower the amount of forty thousand Dollars (\$40,000) at an interest rate of three percent (3%) for a period of fifteen (15) years for the purpose of performing the Work. If the cost of the work exceeds \$40,000, the Lender, through the City of Los Banos' Redevelopment Agency (RDA) agrees to provide to the Borrower in the form of a **grant** an amount up to, but not more than, eleven thousand four hundred twelve Dollars (\$11,412) for a total project cost of fifty-one thousand four hundred twelve Dollars (\$51,412).

1. The loan in the amount of forty thousand Dollars (\$40,000) shall be a Deferred Payment Loan subject to the following conditions:
 - a. The loan becomes immediately due and payable in full when the Borrower sells or otherwise transfers title to the dwelling. However, if the Borrower converts the dwelling to a rental unit, the Borrower may request to apply for an owner-investor amortized loan, subject to the appropriate qualifications and accompanying interest rate.
 - b. If less than seven (7) years from the date of the loan the Borrower sells or otherwise transfers title to the dwelling both the interest and the principal is immediately due and payable in full.
 - c. If after seven (7) years but less than fifteen (15) years from the date of the loan, the Borrower sells or otherwise transfers title to the dwelling only the interest is forgiven and the principal is immediately due and payable in full.
 - d. If after fifteen (15) years from the date of the loan there is no change in ownership and the resident CDBG eligible Borrower have maintained residence on the property for the entire fifteen (15) years, both the principal and interest will be forgiven and the Lender shall issue a deed of reconveyance.
2. The Borrower may, with permission of the Lender, make payments to the Lender for the purpose of diminishing the Deferred Payment Loan principal.
3. The Borrower agrees to indemnify, defend and hold harmless the Lender, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, material men, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Borrower in the performance of this Agreement.

4. Without the written consent of the Lender, this Agreement is not assignable by the Borrower either in whole or in part.
5. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
6. Consistent with the Lender's commitment to Fair Housing, applicants will not be discriminated against on the basis of, but not limited to, race, color, ancestry, religion, national origin, sex, marital status, or physical handicap.

SECURITY

The Borrower agree that the proceeds of the loan shall be deposited in an account maintained by the Lender, subject to withdrawal only as necessary to carry out the purpose(s) of the loan, provided that all proceeds of the loan not so withdrawn shall be applied by the Lender to reduce the outstanding and unpaid principal amount of the loan.

At the time of loan closing, the Borrower shall deliver to the Lender the following documents:

- A duly executed and legally binding Promissory Note for the loan amount stated. Such Promissory Note shall be payable to, and in a form approved by, the Lender.
- A duly executed, legally binding and recordable deed of trust on the property. Such deed of trust shall give the Lender the best available lien over the property to protect the Lender's interests under this Agreement.

LOAN CLOSING

The date of loan closing shall be the date upon which the Lender approves the loan application.

TERMINATION FOR DEFAULT

If the Borrower fails to perform the covenants herein contained and in the manner herein provided, the Lender may terminate this Agreement by written notice to the Borrower. If this Agreement is terminated by the Lender before the loan closing date, the Lender shall be relieved of any obligation which it may have hereunder.

If this Agreement is terminated by the Lender after the loan closing date, the Borrower shall immediately become liable for repayment to the Lender of its designee the outstanding principal at the date of termination.

TERMINATION BY EITHER PARTY FOR CONVENIENCE

Prior to incurring any expenditures, either party may terminate this Agreement by giving 15 days prior written notice to the other.

If this Agreement is terminated by either party before the loan closing date, both parties shall be relieved of all their obligations hereunder.

If this Agreement is terminated by either party after the loan closing date, the Borrower shall immediately repay to the Lender, or its designee, any funds expended as of the date of termination.

CANCELLATION AND ACCELERATION OF AMOUNTS DUE

At its option, the City of Los Banos reserves the right to cancel and terminate this loan by sending written notice of cancellation to the Borrower at the mailing address as set forth in the application, under the following conditions:

1. The loan is canceled if, for a period of 60 days from the date of execution of the loan, the Borrower shall have failed or refused to cause the commencement of physical rehabilitation work on his property, or if the Borrower shall have failed or refused to complete such rehabilitation work within 60 days of Notice to Proceed. The Lender's failure to exercise this right shall not be deemed a waiver thereof, as long as the rehabilitation work remains incomplete.
2. The loan will become immediately due and payable in full if the dwelling suffers substantial destruction of the improvements on such property by any means, and/or lack of proper maintenance of said improvements so that the property no longer meets Section 8 housing quality standards.
3. The loan will become immediately due and payable in full if the Borrower cannot provide proof of satisfactory fire insurance as required, naming Lender as loss payee.
4. The loan will become immediately due and payable in full if the Borrower cannot provide proof of property taxes kept current as required.
5. The loan will become immediately due and payable in full upon the appointment of a receiver or liquidator, whether voluntary or involuntary, for the Borrower or any part of the property of the Borrower.

6. The loan will become immediately due and payable in full upon the filing of a petition by or against the Borrower under the provisions of any state insolvency law, or under the provisions of the Bankruptcy Act of 1898, as amended.
7. The loan will become immediately due and payable in full upon the Borrower making an assignment for the benefit of the Borrower' creditors.

INSURANCE

The applicant shall maintain for the term of the loan fire insurance adequate to cover all encumbrances on the property. The Lender shall be designated as loss payee for the amount of the loan. A statement of loss payee shall be forwarded to the Lender and included in the Borrower's file. As stated previously, if the Borrower cannot provide proof of satisfactory insurance as required, the loan will become immediately due and payable.

RECORDS

All records, accounts, documentation and all other materials relevant to a fiscal audit or examination, as specified by the Lender shall be retained for a period of three (3) years from the date of termination of this agreement.

AUDIT

All records, accounts, documentation and all other materials relevant to the work shall be accessible to the authorized representatives of the Lender or its designee on reasonable prior notice, for the purposes of examination or audit.

Any expenditure which is not authorized by this Agreement or which cannot be adequately documented shall be disallowed and must be reimbursed to the Lender or its designee by the Borrower. Expenditures for work on the property not included in the work described in Attachment B shall be deemed authorized if the performance of such work is approved in writing by the Lender or its designee.

Absent fraud, mistake or arbitrariness, the determination by the Lender or its designee of the allowability of any expenditures shall be final.

RECONVEYANCE

When the loan is paid in full, a Reconveyance will be executed by the Lender. The Reconveyance will be recorded on behalf of the Borrower at the Lender's expense.

Manuel E. Alves
Borrower

6-5-2002
Date

Karen L. Whigg
Lender

6-5-2002
Date

ATTACHMENT A

NOTICE OF RIGHT TO CANCEL

Date: June 5, 2002

You have entered into a transaction on **June 5, 2002**, which may result in a lien, mortgage, or other security interest on your home. You have a legal right under federal law to cancel this transaction, if you desire to do so, without any penalty or obligation within three (3) business days from the above date or any later date on which material disclosures required under the Truth in Lending Act have been given to you. If you so cancel the transaction, any lien, mortgage, or other security interest on your home arising from this transaction is automatically void. You are also entitled to receive a refund of any down payment or other refundable consideration if you cancel. If you decide to cancel this transaction, you may do so by notifying:

City of Los Banos
Karen Whipp, Housing Program Manager
520 J Street
Los Banos, CA 93635

by mail or telegram sent not later than midnight of **June 10, 2002**. You may also use any other form of written notice identifying the transaction if it is delivered to the above address not later than that time. This Notice may be used for that purpose by dating and signing below.

I wish to cancel this transaction.

Date

Signature

On the date listed below, I the undersigned each received a copy of the Notice of Right to Cancel in the form prescribed by law advising me of my right to cancel this transaction.

6-5-2002
Date

Manuel E. Abues
Borrower's Signature

WORK WRITE UP

Owner's Name: Manual Alves
Job Address: 325 K Street, Los Banos
Square Footage: 1,088

Date of Bid Tour: April 11, 2002
Prepared By: Karen Whipp, Housing
Program Manager

Contractor's Name: Brian Daguere, Daguere Construction License #: 685620

Business Address: 1251 Nevada Ave., Los Banos, CA 93635 Phone: 827-1528

BID SUMMARY

1.	Roofing/Exterior/Frame	\$ <u>14,275.00</u>
2.	Electrical	\$ <u>560.00</u>
3.	Plumbing/Mechanical	\$ <u>5,275.00</u>
4.	Foundation	\$ <u>17,225.00</u>
5.	Interior	\$ <u>6,075.00</u>
6.	Kitchen	\$ <u>200.00</u>
7.	Bathroom One	\$ <u>845.00</u>
8.	Construction Debris Disposal	\$ <u>450.00</u>
TOTAL COST ESTIMATE		\$ <u>44,905.00</u>

Only those lines checked are to be included in the scope/price of the work. All work must meet City Building Code Requirements. Any deviation from this bid in cost, materials, labor or scheduling shall be documented in a change order in accordance with the provision(s) in the owner/contractor agreement. For performance standards refer to the City of Los Banos' Housing Rehabilitation Guidelines and Specifications. Bids are required to remain valid for a minimum of 90 days and contractor will verify all measurements and itemize each item checked on all sections.

Manual E. Alves
Owner Signature

6-5-2002
Date

Brian Daguere
Contractor Signature

6-5-02
Date

ROOFING/EXTERIOR/FRAME	AMOUNT
Install wall and ceiling insulation (R-38, blown) per City Code with insulation certificate . Install Styrofoam sheet insulation in the laundry room and bedroom ceiling. Install as needed bracing and sheet rock.	1,200.00
Repair and match existing exterior siding. Remove old, deactivated wooden electrical box.	800.00
Prepare and paint all exterior surfaces.	1,200.00
Remove all dry rot from overhang and replace with new wood	1,600.00
Remove damaged Fascia. Install new fascia per City Code	600.00
Remove all existing windows. Repair sheet rock. Install new aluminum dual glaze windows throughout. One bathroom window to be obscure glass . Type: Milguard; color: white.	6,000.00
Install 3X5 foot landing with steps and metal handrails at front and back doors.	1,800.00
Install storm door at front porch entry	250.00
Remove existing front door and threshold. Install pre-hung, solid core front door. Replace footing, door jamb and weatherstripping. Prime and paint.	400.00
Replace exterior door off laundry room (opening to back yard); solid core, no window; Prime and paint.	300.00
Exterior locks for front door and door from laundry room opening to back yard to be keyed alike.	125.00
Total	14,275.00

ELECTRICAL	AMOUNT
Install 20 amp GFI outlets in bathroom and kitchen (2 required in Kitchen) and to all exterior plugs.	75.00
Install battery smoke detectors for two bedrooms and dining room.	85.00
Install Angelo solid brass outdoor wall lantern polished, #66849/#66846 or approved equal for exterior lighting at front and back entry doors per City Code.	300.00
Install new light fixtures in front porch ceiling.	100.00
Total	560.00

PLUMBING/MECHANICAL	AMOUNT
Install dual pack heating & AC ducting system into all rooms.(Will be sized and proper paper work submitted.) Remove existing gas line and install new gas line for roof mounted dual pack heating and air conditioning unit. Remove and cap off existing water cooler.	3,600.00
Remove existing cast iron plumbing under house and install new plumbing in accordance with City Code	1,500.00
Install proper strapping on water heater	100.00
Install proper vent for dryer	75.00
Total	5,275.00

FOUNDATION	AMOUNT
Pour perimeter concrete foundation complete with 4 X 6 girder system and concrete piers.	14,000.00
Install additional girders and concrete piers (as needed) per City code	1,425.00
Install foundation vents and re-screen existing vents	150.00
Install crawl hole (opening and cover) with 6" stemwall	200.00
Provide under floor clearance per UBC	1,450.00
Total	17,225.00

INTERIOR	AMOUNT
Install vinyl floor Mannington Bronze Series: Stardance for kitchen, bathroom and laundry room, coved over ½" underlayment.	1,000.00
Install carpet in Livingroom, dining room, two bedrooms and enclosed porch with Cabin Craft: picture perfect, over 6 lb. Rebond pad certified.	2,000.00
Repair all plaster	900.00
Paint all interior with latex semi-gloss enamel interior paint; color to be chosen by owner.	1,800.00
Strip, prime and paint all existing interior and closet doors	200.00
Replace existing laundry door leading to outside back yard with solid core, prime and paint. Replace footing, door jamb and weather stripping.	175.00
Total	6,075.00

KITCHEN	AMOUNT
Remove existing counter top on small counter near range and install new plastic laminate countertop.	200.00
Total	200.00

BATHROOM ONE	AMOUNT
Remove existing toilet. Install toilet with seat, Manufacturer: American Standard, Model # Cadet 2312.038 , low flow approved.	195.00
Remove existing FRF on bathroom walls and replace with new FRF	200.00
Install stainless steel grab bar/handicap rail on bathtub wall	125.00
Remove existing sink. Install vanity Birch/Alder Styly, stain and varnish, with top cultured marble, Moen #4621 .	325.00
Total	845.00

DEBRIS DISPOSAL	AMOUNT
Removal of all construction debris.	450.00
Total	450.00

PERMITS

Contractor will obtain all necessary papers for permits; fees will be waived.

NOTE

Work will be phased so as to allow residents to remain in home during construction.

PROMISSORY NOTE

(Interest Included Acceleration Clause)

For value received, Manuel E. Alves promises to pay to the City of Los Banos on order, at 325 K Street, Los Banos, CA 93635 the sum of forty thousand dollars (\$40,000), with interest from **September 15, 2002** on unpaid principal at the rate of 3 per cent per annum; principal and interest payable in installments per conditions specified on page 2 of the Rehabilitation Loan Agreement, signed June 5, 2002, and loan amortization schedule attached.

Each payment shall be credited first on interest then due and the remainder on principal; and interest shall thereupon cease upon the principal so credited. Should default be made in payment of any installment when due the whole sum of principal and interest shall become immediately due at the option of the holder of this note. Principal and interest payable in lawful money of the United States. If action be instituted on this note, I promise to pay such sum as the Court may fix as attorney's fees. This note is secured by a DEED OF TRUST, containing the following provision among others: **"If the trustor shall convey or alienate said property or any part thereof or any interest therein or shall be divested of his title in any manner or way, whether voluntary or involuntary any indebtedness or obligation secured hereby, irrespective of the maturity date expressed in any note evidencing the same, at the option of the holder hereof and without demand or notice shall become due and payable immediately,"** and promisors agree to be bound thereby.


Manuel E. Alves

6-5-2002
Date

Loan # 268-02-03

ITEM	AMOUNT
Preliminary title report, title insurance, recording fees (anticipated)	\$ 600
Credit Report	\$ 7
Pest Inspection	\$ 60
Appraisal Report	\$ 250
Termite Treatment	\$ 1,100
Contractor	\$44,905
10% Contingency	\$ 4,490
Total Project Cost	\$51,412
Loan Amount	\$40,000
Redevelopment Agency Grant	\$11,412
Total Project Cost	\$51,412

**CITY OF LOS BANOS
TRUTH IN LENDING DISCLOSURE STATEMENT
DEFERRED PAYMENT REHABILITATION LOAN**

Application Number 268-02-03
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NOTICE TO APPLICANT: This is a disclosure statement required by the Consumer Credit Protection Act related to your anticipated deferred payment rehabilitation loan. This statement is not a contract or commitment. Please refer to the promissory note and contract for the terms and provisions of this transaction.

A. Manuel E. Alves
Borrower's Name

<u>325 K Street</u> Street Address	<u>Los Banos</u> City	<u>CA</u> State	<u>93635</u> ZIP Code
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B.	Principal amount of loan	\$	<u>40,000.00</u>
C.	Prepaid finance charge:		
	Loan origination fee	\$	<u>0</u>
	Total prepaid Finance Charge	\$	<u>0</u>
D.	Amount Financed (B minus C)	\$	<u>40,000.00</u>
E.	Finance Charge	\$	<u>0</u>
	1. Total prepaid finance charge	\$	<u>0</u>
	2. Interest over term of loan at 3%		
	Per annum	\$	<u>9,721.47</u>
	TOTAL FINANCE CHARGE (1 plus 2)	\$	<u>9,721.47</u>
F.	Annual Percentage Rate (APR)		<u>3</u> %
G.	Total of payments (D plus E)	\$	<u>49,721.47</u>

Payable as follows: See attached Rehabilitation Loan agreement, page 2.

- H. SECURITY INTEREST: The loan is secured by a security interest against the property to be improved which is at the following address **325 K Street, Los Banos**. In the event of default, the filing and recording of a certificate of default with the County Recorder shall constitute a lien upon this property.
- I. STATEMENT OF INSURANCE: Property or liability insurance may be obtained by applicant(s) through any person of his/her choice and is not obtainable through the City of Los Banos.
- J. DEFAULT DELINQUENCY AND SIMILAR CHARGES: Should the indebtedness not be paid when due, applicant shall be responsible for attorney's fees and all costs of collection.

I ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT.

Date: June 5, 2002

Manuel E. Alves
Signature of Borrower

Karen R. Whipp Housing
Witness Title
Program Manager

FAIR LENDING NOTICE

LENDER NAME AND ADDRESS: City of Los Banos Community Development Block Grant Housing Rehabilitation Loan Program 520 J Street Los Banos, CA 93635	DATE: June 5, 2002 LOAN NO: 268-02-03 LOAN OFFICER: Karen Whipp
NAME OF BORROWERS: Manuel E. Alves	PROPERTY ADDRESS: 325 K Street Los Banos, CA 93635

EQUAL CREDIT OPPORTUNITY ACT

The Federal Equal Credit Opportunity Act prohibits discrimination against credit applicants on the basis of sex and marital status. Beginning March 23, 1977, the Act extends this protection to race, color, religion, national origin, age, whether all or part of the applicants income is derived from any public assistance program or if the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency which administers compliance with this law in California is the Federal Trade Commission, 450 Golden Gate Avenue, P.O. Box 36005, San Francisco, CA 94102.

FAIR LENDING NOTICE

It is illegal to discriminate in the provision of or in the availability of financial assistance based on the consideration of:

1. Neighborhood characteristics (such as the average age of the homes or the income level in the neighborhood), except to a limited extent necessary to avoid an unsafe and unsound business practice; or
2. Race, Color, Region, Sex, Marital Status, National Origin or Ancestry.

It is illegal to consider the racial, ethnic, religious or national origin composition of a neighborhood or geographical area surrounding a housing accommodation or whether or not, under what terms and conditions, to provide financial assistance.

The provisions govern financial assistance for the purpose of the purchase, construction, rehabilitation or refinancing of one to four unit family residences occupied or leased by the owner and for the purpose of the home improvement of one to four unit family residence.

If you have any questions about your rights, or you wish to file a complaint, contact the office of Fair Lending Business & Transportation, 1120 'N' Street, Sacramento, CA 99814 or CALL COLLECT (916) 322-9851. If you file a complaint, the law requires that you receive a decision within thirty (30) days.

I acknowledge and affirm that I have the read the above and have received a copy of this page.


Manuel E. Alves


Date

Commitment Number: 236456

After Recording Return To:

Bank of America

SUBORDINATION OF DEED OF TRUST

This Subordination of Deed of Trust is made as of the _____, 2011 by **City of Los Banos** ("Subordinating Lender"), whose address is 520 J Street, Los Banos, CA 93635, under the following circumstances:

A. Subordinating Lender is the holder of a Deed of Trust (the "Existing Deed of Trust") executed by **Manuel E. Alves** ("Borrower"), in favor of Subordinating Lender, recorded at 2006-058203, the Public Records of Merced County, California, which is a lien on the real estate described below (the "Property").

SEE ATTACHED EXHIBIT A

Property Address: 325 K ST., Los Banos, CA 93635

B. Lender, **Bank of America**, will be making a loan secured by a Deed of Trust, in the maximum principal amount of \$75,144.00 (Seventy-Five Thousand Dollars and One Hundred and Forty-Four Dollars and no Cents), to **Manuel E. Alves** as Borrower, and ("New Deed of Trust"), which will be a lien on the Property.

C. As part of the consideration for Lender's agreement to make the loan secured by the New Deed of Trust, and to induce Lender to make that loan, Subordinating Lender has agreed to subordinate the lien of the Existing Deed of Trust to the lien of the New Deed of Trust, upon the terms and conditions set forth in this Agreement.

NOW THEREFORE, Subordinating Lender and Lender agree as follows:

1. Subordinating Lender hereby subordinates the lien of the Existing Deed of Trust to the lien of the New Deed of Trust; however, this subordination shall not otherwise affect the validity or priority of the Existing Deed of Trust.

2. This Subordination Agreement is made on the understanding that Subordinating Lender shall not be responsible for any of the obligations of Borrower contained in or secured by the New Deed of Trust.

3. This Subordination Agreement shall be binding upon and inure to the benefit of Lender and Subordinating Lender and their respective successors and assigns.

SIGNED as of the date first written above.

City of Los Banos

By : _____

Its: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 20__ by _____, the _____ of **City of Los Banos**, for and on its behalf.

Notary Public

This instrument prepared by:

Jay A. Rosenberg, Esq., Rosenberg LPA, Attorneys At Law, 7367A E. Kemper Road, Cincinnati, Ohio 45249 (513) 247-9605 Fax: (866) 611-0170

ROSENBERG LPA
ATTORNEYS AT LAW
7367A E. KEMPER ROAD
CINCINNATI, OHIO 45249
(513) 247-9605 FAX: (866) 611-0170

ROSENBERG LPA MAIN NUMBER: 1-800-479-1521
E-MAIL: DOCUMENTS@ROSENBERGLPA.COM
DIRECT FAX: (866) 611-0170

June 22, 2011

City of Los Banos

Re: Subordination of Deed of Trust; Lender: **City of Los Banos**

For Preparation of a Subordination of Deed of Trust

\$ 60.00

ROSENBERG LPA
ATTORNEYS AT LAW
7367A E. KEMPER ROAD
CINCINNATI, OHIO 45249
(513) 247-9605 FAX: (866) 611-0170

E-MAIL: DOCUMENTS@ROSENBERGLPA.COM

June 22, 2011

City of Los Banos

Re: Subordination of Deed of Trust

We have been asked to prepare a subordination of deed of trust for you. You may use this document if you wish or you may use a document prepared by another attorney. It is your choice whether or not to use the document attached to this letter. If you decide that you do not want to use the attached document, there is no charge for the preparation of the document. We ask that you pay the invoice attached to the document only if you decide to use the document.

If you decide to use the document attached to this letter, the following information is designed to explain and to confirm that you have retained our Firm for the limited purpose of the preparation of a deed or other document.

Our engagement is limited to the preparation of these documents based upon information which you or your agents have furnished to us, or which has been furnished to us by title companies or information secured from public records. Our engagement is limited to assuring that the documents are in the proper form for the jurisdiction in which they are to be recorded and that the instruments, when recorded or filed, will accomplish their stated purpose. In connection with the preparation of these documents we are not performing an examination of title and are not giving advice with respect to the suitability of the transaction to your circumstances. Transactions involving real property can involve tax, estate planning, family planning and other considerations. This letter represents a binding contract, which limits our obligations to you. If you wish advice with respect to this letter or anything mentioned in this letter or any documents, which we prepare, you should contact us or should consult with an attorney of your choice.

You agreed to cooperate with us in performing our services by furnishing requested information and by executing correcting documents if required. You authorize us to disclose information that we may learn during our representation to lenders, title companies and escrow agents and authorize those companies to provide information to us and authorize us to rely on such information.

We look forward to working with you in this matter.

Very truly yours,



Jay A. Rosenberg



City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor & City Council Members

FROM: Chet Guintini, Chief Building Official 

DATE: July 6, 2011

SUBJECT: Service Agreement with Precision Inspection for Plan Review and Building Inspection Services

TYPE OF REPORT: Consent Agenda

Recommendation:

Adopt Resolution as submitted and enter into an agreement for plan review and building services with Precision Inspection.

Discussion:

The City has contracted building services with Precision Inspection since June 1997. Precision Inspection provides plan review for code compliance and building inspection and related services for the daily operations of the building department.

Precision has a very good understanding of state building codes and local codes. Precision provides excellent staff with field inspectors providing professional service and are well respected by contractors and local construction businesses and our local citizens.

Precision Inspection works hand in hand with code enforcement on difficult code violations insuring the safety of our citizens.

I believe Precision Inspection is a good fit for the City and the Building Department, and they will continue to provide excellent service.

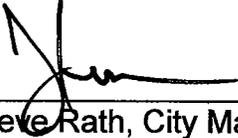
The agreement is for 3 years with the agreement expiring on June 30, 2015.

City Attorney: The Agreement has been reviewed and prepared by the City Attorney, William Vaughn.

Fiscal Impact:

Cost neutral. Precision is compensated for services provided, i.e., as building plans and permits are processed.

Reviewed by:



Steve Rath, City Manager

Attachments:

Resolution
Professional Services Agreement

RESOLUTION _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS BANOS
APPROVING A PROFESSIONAL SERVICES AGREEMENT FOR PLAN
REVIEW SERVICES AND OR BUILDING INSPECTION SERVICES
[Precision Inspection Company Inc.]**

WHEREAS, the City has contracted with Precision Inspection Company Inc., since June 30, 1997 for plan review and inspection services for review of construction plans and inspection of construction projects, and

WHEREAS, staff proposes to restate and amend the agreement for such services, and

WHEREAS, the City has determined that Precision Inspection Company Inc., is qualified by training and experience to render such services and Precision Inspection Company Inc., desires to provide such services; and

WHEREAS, staff recommends entering into a Professional Services Agreement with Precision Inspection Company Inc., in the form presented herewith; and

WHEREAS, the Agreement has been reviewed and has been approved by the City Attorney.

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Los Banos does hereby approve the above mentioned Agreement and authorizes the Mayor to execute a Professional Services Agreement between Precision Inspection Company Inc., and the City of Los Banos, in the form presented herewith.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the ____ day of _____ 2011, by City Council Member XXXXX, who moved its adoption, which motion was duly seconded by City Council Member XXXXXXX, and the Resolution was adopted by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk

**PROFESSIONAL SERVICES AGREEMENT FOR PLAN CHECK AND
BUILDING INSPECTIONS SERVICES
[PRECISION INSPECTION COMPANY, INC.]**

THIS AGREEMENT is made and entered into this ____ day of _____ 2011, by and between the **City of Los Banos**, a municipal corporation, ("City,") and **Precision Inspection Company, Inc.**, a California Corporation ("Consultant"),

RECITALS

A. WHEREAS, Consultant has been providing plan check and building inspections services for the City on a contract basis since June 30, 1999; and

B. WHEREAS, City and Consultant desire to renew the contract for specific services as described herein and desire to set forth their rights, duties and liabilities in the services to be performed; and

C. WHEREAS, Consultant represents that it has that degree of specialized expertise contemplated within California Government Code, Section 37103, and holds all necessary licenses to practice and perform the services herein contemplated; and

D. WHEREAS, City has solicited and received a proposal from Consultant, has reviewed the previous experience and evaluated the expertise of Consultant, and desires to renew the previous agreement and retain Consultant to render professional services under the terms and conditions set forth in this Agreement.

E. WHEREAS, no official or employee of City has a financial interest, within the provisions of California Government Code, Sections 1090-1092, in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1. **Term.** The term of this Agreement shall commence on the above written date, and shall terminate on June 30, 2015, unless terminated earlier as set forth herein.

2. **Scope of Services.** Consultant shall diligently perform all the services described in **EXHIBIT A** attached hereto and incorporated herein by reference.

2.1. All professional services shall be performed by Consultant or under Consultant's supervision. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional Consultants in accordance with sound professional practices.

2.2 This Agreement is non-exclusive and both City and Consultant expressly reserves the right to contract with other entities for the same or similar to the services that are subject to this Agreement or City may have its own employees perform services similar to those services contemplated by this Agreement. Upon request by City, Consultant shall disclose to City any other entities for whom Consultant is providing same or similar to the services that are subject to this Agreement

3. **Time of Performance.** Time is of the essence in the performance of services under this Agreement and the services shall be performed to completion in a diligent and timely manner. The failure by Consultant to perform the services in a diligent and timely manner may result in termination of this Agreement by City.

Notwithstanding the foregoing, Consultant shall not be responsible for delays due to causes beyond Consultant's reasonable control. However, in the case of any such delay in the services to be provided for the Project, each party hereby agrees to provide notice to the other party so that all delays can be addressed.

4. **Compensation For Services.** City agrees to pay and Consultant agrees to accept the following sums as payment for building permit processing, plan checking and inspection services:

A. Compensation for building permit processing and inspection services shall be Sixty-five percent (65%) of the fee the City receives for building permit processing and inspection services from the applicant;

B. Compensation for plan checking/review shall be in accordance with **Exhibit B** attached hereto and incorporated herein by this reference;

C. Compensation for special inspections shall be in accordance with **Exhibit B** attached hereto and incorporated herein by this reference;

D. Compensation for public works and publicly funded projects shall be in accordance with **Exhibit B** attached hereto and incorporated herein by this reference;

E. Compensation for encroachment permits shall include a 20% administrative fee and business inspections shall be billed at \$25.00 per inspection.

4.1. Consultant shall submit monthly invoices on or before the 5th day of the month describing the work performed the preceding month. Invoices shall be submitted by Consultant to the Fire Chief/ Building Official, in a form acceptable to City with sufficient detail to determine the location, the state of inspection and the amount for which payment is requested. City shall pay Consultant no later than thirty (30) days after receipt of the monthly invoice by the City.

4.2. Seventy-five percent (75%) of Consultant's compensation shall be due at the time Consultant is requested to undertake inspection services; and the balance shall be due upon completion of the Final Inspection. Consultant shall provide to City, with all claims for payment

of a completed final inspection, the job site building permit for the respective site, completed in the customary fashion and as required by the Los Banos Municipal Code and the Uniform Codes adopted therein by reference.

4.3. Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to or outside of those set forth in this Agreement or **Exhibit A** unless such additional services and compensation are authorized in advance in writing by the Fire Chief/ Building Official.

5. City's Responsibilities

5.1. City shall approve all applications from which a Building Permit is requested and shall stamp the plot plan indicating such approval and/or provide a list of conditions required. The applicant shall then deliver the Building Permit application and all supporting documents to the Consultant for permit processing.

5.2. City shall collect direct from the applicant costs or fees related to Building Permit activities. Said fees and costs shall be collected upon completion of the plan check and the Permit processing and their return of the application to the City by the applicant. City shall stamp/mark permits PAID upon receipt of funds by applicant.

5.3. City may, from time to time at the places determined by the City, conduct periodic monitoring of the performance of Consultant and Consultant's records as they relate to Consultant's performance under this Agreement.

5.4. The City will provide to Consultant reasonable office space including all reasonably necessary office equipment, for example phone and phone lines at a fixed charge to Consultant of \$200.00 per month. Consultant will supply all office supplies and all other materials and resources necessary to perform under this Agreement.

6. **Personnel.** The City shall not hire any employee of the Consultant within one (1) year of the termination of this Agreement or one (1) year of the termination of employee by Consultant.

7. **Indemnification.** To the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless City, its City Council, boards and commissions, officers, authorized agents and employees (collectively, the "Indemnified Parties) from and against any and all claims (including, without limitation, claims for bodily injury, death or damage to property), demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including, without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever, which may arise from or in any manner relate (directly or indirectly) to any work negligently performed or services provided under this Agreement (including the negligent and/or willful acts, errors and/or omissions of Consultant, its principals, officers, agents, employees, vendors, suppliers, Consultants, subcontractors, anyone employed directly or indirectly by any of them or for whose acts they may be liable or any or all of them).

7.1 Notwithstanding the foregoing, nothing herein shall be construed to require Consultant to indemnify the Indemnified Parties from any Claim arising from the active negligence or willful misconduct of the Indemnified Parties. Nothing in this indemnity shall be construed as authorizing any award of attorney's fees in any action on or to enforce the terms of this Agreement. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by the Consultant.

7.2 Neither termination of this Agreement nor completion of services shall release Consultant from its obligations under this Section 7, as long as the event giving rise to the claim, loss, cost, damage, injury, expense or liability occurred prior to the effective date of any such termination or completion.

7.3 Consultant agrees to obtain executed indemnity agreements, naming City as an indemnified party, with provisions identical to those set forth in this section, from each and every subconsultant or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. If Consultant fails to obtain such indemnity obligations from others as required, Consultant shall be fully responsible for all obligations under this Section. City's failure to monitor compliance with this requirement imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. The obligation to indemnify and defend City as set forth herein is binding on the successors, assigns or heirs of Consultant and shall survive the termination of this Agreement or this section.

7.4 Consultant's compliance with the insurance requirements does not relieve Consultant from the obligations described in this Section 7, which shall apply whether or not such insurance policies are applicable to a claim or damages.

8. **Insurance.** Without limiting Consultant's indemnification of City, Consultant shall obtain, provide and maintain at its own expense during the term of this Agreement, a policy or policies of liability insurance of the type and amounts described below and in a form satisfactory to City.

A. **Certificates of Insurance.** Consultant shall provide certificates of insurance with original endorsements to City as evidence of the insurance coverage required herein. Insurance certificates must be approved by the City Attorney prior to commencement of performance or issuance of any permit. Current certification of insurance shall be kept on file with City at all times during the term of this Agreement.

B. **Signature.** A person authorized by the insurer to bind coverage on its behalf shall sign certification of all required policies.

C. **Acceptable Insurers.** All insurance policies shall be issued by an insurance company currently authorized or approved by the Insurance Commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A (or higher)

and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City Attorney.

D. Coverage Requirements.

i. Workers' Compensation Coverage. Consultant shall maintain Workers' Compensation Insurance and Employer's Liability Insurance for his or her employees in accordance with the laws of the State of California. In addition, Consultant shall require each subcontractor to similarly maintain Workers' Compensation Insurance and Employer's Liability Insurance in accordance with the laws of the State of California for all of the subcontractor's employees. The insurer shall agree to waive all rights of subrogation against City, its officers, agents, employees and volunteers for losses arising from work performed by Consultant for City.

ii. General Liability Coverage. Consultant shall maintain commercial general liability insurance in an amount not less than one million dollars (\$1,000,000) per occurrence for bodily injury, personal injury, and property damage, including without limitation, contractual liability. If commercial general liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement, or the general aggregate limit shall be at least twice the required occurrence limit.

iii. Automobile Liability Coverage. Consultant shall maintain automobile insurance covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than one million dollars (\$1,000,000) combined single limit for each occurrence.

iv. Professional Errors and Omissions Insurance. Consultant shall maintain professional errors and omissions insurance, which covers the services to be performed in connection with this Agreement in the minimum amount of one million dollars (\$1,000,000), per claim and in the aggregate.

E. Endorsements. Each general liability and automobile liability insurance policy shall be endorsed with the following specific language:

i. The City, its elected or appointed officers, officials, employees, authorized agents and volunteers are to be covered as additional insureds with respect to liability arising out of work performed by or on behalf of the Consultant.

ii. This policy shall be considered primary insurance as respects to City, its elected or appointed officers, officials, employees, authorized agents and volunteers as respects to all claims, losses, or liability arising directly or indirectly from the Consultant's operations or services provided to City. Any insurance maintained by City, including any self-insured

retention City may have, shall be considered excess insurance only and not contributory with the insurance provided hereunder.

iii. This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.

iv. The insurer waives all rights of subrogation against City, its elected or appointed officers, officials, employees, authorized agents and volunteers.

v. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its elected or appointed officers, officials, employees, authorized agents or volunteers.

vi. The insurance provided by this policy shall not be suspended, voided, canceled, or reduced in coverage or in limits, by either party except after thirty (30) calendar days (10 calendar days written notice of non-payment of premium) written notice has been received by City, per standard ISO Accord Form wording.

8.1 Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

9. **Nondiscrimination.** In the performing of this Agreement, Consultant shall not discriminate against any subcontractor, employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation race, religion, color, national origin, handicap, ancestry, sex or age.

10. **Independent Contractor.** It is understood that City retains Consultant on an independent contractor basis and Consultant is not an agent or employee of City. The manner and means of conducting the work are under the control of Consultant, except to the extent they are limited by statute, rule or regulation and the expressed terms of this Agreement. Nothing in this Agreement shall be deemed to constitute approval for Consultant or any of Consultant's employees or agents, to be the agents or employees of City. Consultant shall have the responsibility for and control over the means of performing the work, provided that Consultant is in compliance with the terms of this Agreement. Anything in this Agreement that may appear to give City the right to direct Consultant as to the details of the performance or to exercise a measure of control over Consultant shall mean only that Consultant shall follow the desires of City with respect to the results of the services.

10.1 The Consultant shall at all times remain an Independent Contractor with respect to the services to be performed under this Agreement and shall be responsible for the payment of Federal and State Employer Withholding Taxes, Unemployment Insurance Taxes, FICA Taxes, Retirement, Life and/or Medical Insurance, and Worker's Compensation Insurance for the employees of the Consultant or any other person performing services under this Agreement.

Consultant and its employees are not entitled to the rights or benefits afforded to City's employees, including disability or unemployment insurance, workers' compensation, medical insurance, sick leave, or any other employment benefit. Consultant agrees to indemnify and hold City harmless from any claims, costs, losses, fees, penalties, interest, or damages suffered by City as a result of any claim by any person or entity contrary to the provisions of this Section 10.

11. **Ownership and Control of Proprietary Rights.**

11.1 The plans, specifications, estimates, programs, reports, models, and other material prepared by or on behalf of Consultant under this Agreement including all drafts and working documents, and including electronic and paper forms (collectively the "Documents"), shall be and remain the property of the City. Consultant shall deliver all Documents to City upon, (1) the date of termination of this Agreement for any reason, or (2) at any time requested by City, upon five (5) days written notice.

11.2 The Documents may be used by City and its agents, employees, representatives, and assigns, in whole or in part, or in modified form, for all purposes City may deem advisable, without further employment of or payment of any compensation to Consultant

11.3 All reports, information, data, and exhibits prepared or assembled by Consultant in connection with the performance of any services under this Agreement are confidential until released by the City to the public, and the Consultant shall not make any of these documents or information available to any individual or organization not employed by Consultant or City without the written consent of the City before any such release.

12. **Confidentiality.** All City information disclosed to Consultant during the course of performance of services under this Agreement shall be treated as confidential and shall not be disclosed to any other persons or parties except as authorized by City, excepting that information which is public record and subject to disclosure pursuant to the Public Records Act, or otherwise required by law. All documents, including drafts, notes and communications that result from the services in this Agreement, shall be kept confidential unless City authorizes in writing the release of information, excepting that information which is public record and subject to disclosure pursuant to the Public Records Act, or otherwise required by law.

13. **Records/Access to Records.**

13.1. Consultant shall maintain all books, records, documents, accounting ledgers, and similar materials relating to work performed for City under this Agreement on file for at least three (3) years following the date of termination of this Agreement. Any duly authorized representative(s) of City shall have access to such records for the purpose of inspection, audit and copying at reasonable times, during Consultant's usual and customary business hours.

13.2 Consultant and City agree that Consultant shall maintain all records necessary to document all schedules of inspections, inspection reports, reports of re-inspection, and all other documents reasonably necessary for the issuance of Notice of Completion all structures and

improvements inspected pursuant to this Agreement. Consultant and City agree mutually to use their best efforts to establish and maintain such record keeping systems as are necessary to create, maintain and safeguard such records. Upon termination of this Agreement, all original records are to be returned to the City forthwith.

14. **Conflict of Interest.** The Consultant or its employees may be subject to the provisions of the California Political Reform Act of 1974 (the "Act"), which (1) requires such persons to disclose any financial interest that may foreseeably be materially affected by the work performed under this Agreement, and (2) prohibits such persons from making, or participating in making, decisions that will foreseeably financially affect such interest.

If subject to the Act, Consultant shall conform to all requirements of the Act. Failure to do so constitutes a material breach and is grounds for immediate termination of this Agreement by City. Consultant shall indemnify and hold harmless City for any and all claims for damages resulting from Consultant's violation of this Section.

Consultant represents that neither Consultant, nor any of its employees, agents or subcontractors, have a conflict of interest with respect to the work to be performed under this Agreement, nor shall such individuals, during this term of this Agreement, acquire any interest, which would conflict in any manner with the performances of services hereunder.

15. **Assignment.** This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

16. **Compliance with Laws, Rules, Regulations.** Consultant shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement.

17. **Integration; Amendment.** This Agreement represents the entire understanding of City and Consultant as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered in it. This Agreement may not be modified or altered except by amendment in writing sign by both parties.

18. **Severability.** If any part of this Agreement is found to be in conflict with

applicable laws, such part shall be inoperative, null, and void insofar as it is in conflict with said laws, but the remainder of the Agreement shall continue to be in full force and effect.

19. **Waiver/Validity.** Consultant agrees that waiver by City of any one or more of the conditions of performance under this Agreement shall not be construed as waiver of any other condition of performance under this Agreement. The acceptance by the City of the performance of any work or services by Consultant shall not be deemed to be a waiver of any term or condition of this Agreement.

20. **Jurisdiction.** City and Consultant agree that the law governing this Agreement shall be that of the State of California. Any suit brought by either party against the other arising out of the performance of this Agreement shall be filed and maintained in the County of Merced.

21. **Notice.** Any notices required to be given pursuant to this Agreement shall be deemed to have been given by their deposit, postage prepaid, in the United States Postal Service, addressed to the parties as follows:

To City:
City of Los Banos
520 J Street
Los Banos, California 93635

To Consultant:
Precision Inspection Company, Inc.
c/o Crickett M. Brinkman
1247 Main Street
Newman, CA 95360

Nothing hereinabove shall prevent either City or Consultant from personally delivering any such notices to the other.

22. **Termination For Convenience.** Either party may terminate this agreement by providing written notice of no less than sixty (60) days in advance of such termination. In this event, Consultant shall complete any and all requested inspections, and return all documents to City. City shall compensate Consultant for work performed. Consultant shall refund to City or credit against any other amount due to Consultant, any funds paid to the Consultant for which work has not been performed.

23. **Costs and Attorneys' Fees.** The prevailing party in any action brought to enforce the terms of this Agreement or arising out of this Agreement may recover its reasonable costs and attorneys' fees expended in connection with such an action from the other party.

[signatures begin on next page]

IN WITNESS WHEREOF, this Agreement was executed by the parties thereto on the dates set forth below.

“CITY”
CITY OF LOS BANOS,
A municipal corporation

By: _____
MICHAEL VILLALTA, Mayor

Dated: _____

ATTEST:
CITY CLERK

By: _____
LUCILLE L. MALLONEE, City Clerk

Dated: _____

APPROVED AS TO FORM:
CITY ATTORNEY

By: _____
WILLIAM A. VAUGHN, City Attorney

Dated: _____

“CONSULTANT”
PRECISION INSPECTION COMPANY INC.
A California Corporation

By: _____
CRICKETT M. BRINKMAN, Chief Financial Officer

Dated: _____

EXHIBIT A

SCOPE OF SERVICES.

CONSULTANT shall provide building permit processing, plan check/review and building inspection services that include but are not limited to the following:

1. Consultant shall prepare all Building Permits and related paper work to be submitted to the City for collection of the Permit Fees.

(a) Consultant shall submit for approval by City the forms for use for Building Permit application and Building Permit. Consultant shall provide approved forms for use during the Agreement.

2. Consultant shall perform all plan checks for compliance to all applicable local codes, and state and federal building codes.

3. Consultant shall perform all applicable inspections so that the structures inspected will conform to the local, state and federal building codes and regulations governing such properties.

(a) All inspections required shall be completed by the Consultant within one (1) working day of a request therefore by any permit holder for any work which requires a Building Permit.

(b) Consultant shall certify in writing that each inspection performed and authorized as complete conforms with all applicable local, state and federal building codes, ordinances, regulations and requirements, and that the work is in conformity with applicable approved plans and specifications.

(c) Consultant shall, at the time of completing each inspection, record upon the appropriate building permit card, the results of the inspection. All building permit cards shall be returned to the City at the completion of the final inspection.

(d) In the event a STOP ORDER is determined by the Consultant to be appropriate and necessary, Consultant shall immediately notify the Fire Chief/Building Official of the circumstances and conditions. Upon verification by the Fire Chief/Building Official that such an order is necessary, a stop order shall be carried out by the Consultant.

(e) Consultant shall prior to assignment to any inspection conducted pursuant to this Agreement, the qualifications, background, work history and experience of each inspector shall be submitted to the Fire Chief/Building Official for review and approval or disapproval. In the event any proposed inspector is disapproved, Consultant shall not assign said inspector to any inspection services under this Agreement.

(f) Consultant shall, at the time of completing each inspection, record upon the appropriate building permit card, the results of the inspection. All building permit cards shall be returned to the City at the completion of the final inspection.

(g) The Consultant shall perform any additional Building Permit/Inspection work as may be required from time to time as would normally be expected as a standard function of a Building Department. Written authorization to proceed from the Fire Chief/Building Official or designee must be secured by the Consultant Prior to performing any such additional work.

4. Consultant shall prepare a written Standard Operating Procedure for processing permits to be approved by the City.

5. Consultant shall maintain an office staffed with sufficient Building Permit Inspection, Plan Checking and Permit issuance services in a timely manner.

(a) The Consultant's employees shall dress in a professional manner at all times while conducting business for the City of Los Banos Building Department (i.e., tucked in shirts and tied shoes. Shorts may be worn with appropriate uniformity). Employee's dress shall be kept in a clean and appropriate manner.

6. Consultant shall prepare a Monthly report to be submitted to the Finance Department no later than the 15th of the following month. Reports should consist of permit #, address, amount and account used.

7. Consultant shall provide to City a quarterly and yearly report upon request by the Finance Department within a reasonable time of the request. Reports should consist of permit #, address, amount and account used.

8. Consultant shall provide to City upon request any report from the PTWin system.

9. Consultant shall conform their procedures to the following:

(a) Copies of the receipt showing payment for each permit shall be placed in the road file.

(b) Once a payment is received it shall be put in the PT Win system in a timely manner.

(c) All payments received by Consultant shall be forwarded to the Finance Department and receipted in the cash receipting system prior to issuing the permit.

(d) Consultant may not accept cash at any time.

(e) Consultant shall receive prior approval of all City fees charged before issuing a permit.

EXHIBIT B

Fees for Special Inspections (as approved by the City)

In some cases, developers request inspection staff to be available on-site during the entire duration of a project outside of the scope of normal building inspection duties. In instances where Precision Inspection Company Building Inspectors will be required to inspect special projects approved by the City, Precision Inspection Company proposes the following fee schedule at 100%, which the City can then bill the developer for reimbursement with additional administrative fees:

Please note: The below listed Building Inspection Hourly Fees are only for Special Inspections as approved by the City.

Building Inspector*	\$85.00/hour
Supervising Building Inspector*	\$95.00/hour
Building Permit Technician*	\$65.00/hour
Civil Engineer and Structural Engineer*	\$110.00/hour
CASp Inspector/Consultant.....	\$140.00/hour

***4 hour minimum 24 hour inspection request, excluding CASp Services**

For overtime work authorized by the City/ County, Consultant shall be paid as follows:

Work performed in excess of 8 hours per day	1.5 x Regular hourly rate
Work performed after 5:00pm	1.5 x Regular hourly rate
Work performed on Saturdays	1.5 x Regular hourly rate
Work performed on Sundays	2.0 x Regular hourly rate
Work performed on Holidays.....	2.0 x Regular hourly rate

City "Public Works/ Publicly Funded" projects Fee Schedule

Definition of "Public Works/ Publicly Funded" when a project is paid for in whole or in part out of public funds, including federally funded or assisted projects.

In the event that a project that is going to be inspected by Precision Inspection Company Incorporated is determined to be a "Public Works/ Publicly Funded" project then the following fee schedule is to be utilized. Notification that a project is a "Public Works/ Publicly Funded" project is the responsibility of the jurisdiction at the time of submittal.

Building Inspector Prevailing..... \$ *To be determined
Supervising Building Inspector Prevailing \$ *To be determined
Building Official Prevailing..... \$ *To be determined
(All onsite inspection services are subject to a ½ hour minimum)

Determination rate is based on the date when the job was "published" in the newspaper, Per Division of Labor Statistics and Research, therefore once the date is given to Precision by the City of when Job was published in the newspaper. We will use the following form:

"GENERAL PREVAILING WAGE DETERMINATION MADE BY THE DIRECTOR OF INDUSTRIAL RELATIONS PURSUANT TO CALIFORNIA LABOR CODE PART 7, CHAPTER1, ARTICLE 2, SECTION 1770,1773 AND 1773.1"

FOR COMMERCIAL BUILDING, HIGHWAY, HEAVY CONSTRUCTION AND DREDGING PROJECTS

CRAFT: #BUILDING/CONSTRUCTION INSPECTOR AND FIELD SOILS AND MATERIAL TESTER

Fee will be as follows: **Straight-Time** Hourly Rate multiplied by 2.5. That will be the "Regular hourly rate" for these services.

For overtime work authorized by the City, Consultant shall be paid as follows:

Work performed in excess of 8 hours per day 1.5 x Regular hourly rate
Work performed after 5:00pm 1.5 x Regular hourly rate
Work performed on Saturdays 1.5 x Regular hourly rate
Work performed on Sundays 2.0 x Regular hourly rate
Work performed on Holidays..... 2.0 x Regular hourly rate

Past projects of this nature were observed as "No Charge" permits. However due to the current State of California laws regarding projects paid for in whole or in part with public funds,

Precision Inspection Company Incorporated, to stay in compliance with these laws, will utilize the above prevailing wage fee schedule when performing inspection services on these types of projects.

All "Public Works/ Publicly Funded" project permits will be processed as follows:

- Plan check permit fee will be charged accordingly.
- Building permit fees will reflect \$0.00.
- Jurisdiction will be charged the above hourly fees accordingly.
- The inspector will reflect all hours while onsite performing inspection services on the back of the permit.

Please note these rates only apply while the inspector is onsite performing inspection services, phone calls, letters, administrative work, etc... are not subject to these fees.

**City "Public Works/ Publicly Funded"
Projects Submittal**

Sign off sheet

The following project has or has not been determined to be a "Public Works/ Publicly funded" project. The City **"Public Works/ Publicly Funded" projects Fee Schedule** is to be utilized for the hourly charges incurred while providing inspection services on this project.

Definition of "Public Works/ Publicly funded" when a project is paid for in whole or in part out of public funds, including federally funded or assisted projects.

This Project **has** been determined to be a "Public Works/ Publicly Funded" project

This Project **has not** been determined to be a "Public Works/ Publicly Funded" project

Job Site Address: _____

Valuation: _____

Project Description: _____

Owner: **City of Los Banos**
520 J Street
Los Banos, CA 93635

Authorized Signature of City: _____

Please Print Name: _____

Date: _____

Plan Review Fee Schedule

- A. Complete Plan Review 75% of Plan Review Fee as calculated by City's current fee schedule
- B. Structural Plan Review Only 45% of Plan Review Fee as calculated by City's current fee schedule
- C. Fire Systems Plan Review 75% of Plan Review Fee as calculated by City's current fee schedule
- D. Expedited Plan Review 95% of Plan Review Fee as calculated by City's current fee schedule
- E. CASp Plan Review 45% of Plan Review Fee as calculated by City's current fee schedule

Plan Review fees are based on an initial Plan Review and two rechecks. Plans that require a third correction letter will be subject to additional fees, as follows:

Hourly Rates for Plan Review Services:

Senior Plans Examiner	\$95.00/hour
Plans Examiner	\$85.00/hour
Principal Structural Engineer	\$110.00/hour
CASp Plans Examiner.....	\$120.00/hour

Standard Turn-Around Times:

- Residential - 10 Business Days*
- Master Plans/Commercial/Industrial – 15 Business Days*
- Commercial Tenant Improvements – 15 Business Days*
- All Rechecks – 10 Business Days

*** Exceptions of Holidays and Weekends**

*** Times given may vary depending upon complexity of project**

Expedited/Fast Track Turn-Around Times:

- Residential – 5 Business Days*
- Master Plans/Commercial/Industrial – 5 Business Days*
- Commercial Tenant Improvements – 5 Business Days*
- All Rechecks – 5 Business Days*

*** Exceptions of Holidays and Weekends**

*** Times given may vary depending upon complexity of project.**



City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor and Council Members
FROM: Elaine Post, RDA Director *EP*
DATE: July 6, 2011
SUBJECT: Resolution to approve purchase of home at 459 Winemaker Street
TYPE OF REPORT: Consent Agenda

Recommendation:

Approve the Resolution allowing the City Manager or RDA Director to sign documents for the purchase of an NSP funded home located at 459 Winemaker Street with APN 082-593-016 for no more than \$116,500.00.

Background:

The Los Banos Redevelopment Agency has been overseeing the Neighborhood Stabilization Program (NSP) which provided \$2.3 million to purchase foreclosed homes within the City Limits. Part of these funds are being used by Habitat for Humanity to purchase and rehab homes for those families that qualify. Some of the funds were to be used to help home buyers that are NSP qualified purchase homes.

Just two months into the program it was discovered that while we have several families that qualify and homes available, banks were unwilling to lend funds to families until homes being sold were brought up to code and repaired for health and safety reasons. While the NSP program is designed to assist with these costs, staff is unable to provide loans to families until the properties have been purchased. Therefore staff received direction from the Council to purchase 10 homes with NSP funds, repair them with NSP funds, and then sell them to NSP clients.

Discussion:

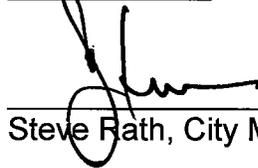
This resolution will allow recording of these deeds and is required by the Merced County Recorder's Office. The resolution contains the addresses, APN numbers, price and those approved to sign the documents.

Staff is requesting these resolutions be approved so the City Manager or RDA Director may sign for homes purchased under the NSP program.

Fiscal Impact:

There are no fiscal impacts to this amendment as funds are provided by the Federal/State NSP program.

Reviewed by:

A handwritten signature in black ink, appearing to read "Steve Rath", is written over a horizontal line. The signature is cursive and somewhat stylized.

Steve Rath, City Manager

Attachments:

Resolution for the City Council

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF LOS BANOS APPROVING THE
PURCHASE OF A HOME LOCATED AT 459
WINEMAKER STREET WITH NSP FUNDING**

WHEREAS, the State of California awarded the City of Los Banos \$2.4 million to use with the Neighborhood Stabilization Program, referred to as NSP; and

WHEREAS, these funds are to be used to purchase foreclosed homes, rehabilitate the homes, and as loans to families wanting to purchase these homes; and

WHEREAS, the Los Banos City Council has approved the purchase of homes by the City for rehabilitation and resale to NSP qualified families; and

WHEREAS, this home qualifies under the NSP guidelines for purchase by the City of Los Banos for a purchase price not to exceed \$116,500.00.

NOW, THEREFORE, BE IT RESOLVED:

1. that the City Council of the City of Los Banos does hereby approve the purchase of property located at 459 Winemaker Street, Los Banos, CA, APN 082-593-016, for a purchase price not to exceed \$116,500.00;
2. that the City Council authorizes the City Manager or RDA Director to execute any and all documents necessary to purchase the property consistent with the authority granted herein;
3. that the City Council authorizes the City Manager or RDA Director to accept and consent to a grant deed conveying the property to the City and execute a Certificate of Acceptance and Consent to Recordation of the Grant Deed.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 6th day of July 2011, by Council Member _____ who moved its adoption, which motion was duly seconded by Council Member _____ and the Resolution adopted by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

Mike Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk



City of
Los Banos

At the Crossroads of California

Agenda Staff Report

TO: Mayor & City Council Members

FROM: Lucy Mallonee, CMC *lm*
City Clerk/Human Resources Director

DATE: July 6, 2011

SUBJECT: Approval of a Side Letter/Contract Extension through June 30, 2012 by and between the City of Los Banos and the Los Banos Police Dispatchers/Community Services Officers Association (LBPDCSOA)

TYPE OF REPORT: Consent Agenda Item

Recommendation:

Adopt the Resolution approving the Side Letter/Contract Extension through June 30, 2012 by and between the City of Los Banos and the LBPDCSOA.

Discussion:

The City has bargained in good faith with the LBPDCSOA and reached agreement on a Side Letter/Contract Extension through June 30, 2012. There are a few minor changes to the existing Memorandum of Understanding (MOU), which clarify department practices and city policies. Merit increases remain suspended and salary ranges remain the same.

Attached are the resolution and the Side Letter/Contract Extension for your review and consideration of approval.

Reviewed by:

Steve Rath, City Manager

Attachments:

Resolution

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF LOS BANOS APPROVING A SIDE
LETTER / CONTRACT EXTENSION THROUGH
JUNE 30, 2012 BETWEEN THE CITY OF LOS
BANOS AND THE LOS BANOS POLICE
DISPATCHERS / COMMUNITY SERVICES
OFFICERS ASSOCIATION**

WHEREAS, the City Council of the City of Los Banos has received a request to approve a Side Letter/Contract Extension through June 30, 2012 by and between the City of Los Banos and the Los Banos Police Dispatchers/Community Services Officers Association; and

WHEREAS, the Side Letter/Contract Extension will be in effect from July 1, 2011 to June 30, 2012.

NOW, THEREFORE, BE IT RESOLVED that the Side Letter/Contract Extension through June 30, 2012 by and between the City of Los Banos and the Los Banos Police Dispatchers/Community Services Officers Association is hereby approved as submitted as "Exhibit A" respectively.

PASSED AND ADOPTED this 6th day of July 2011, at a regular meeting of the City Council by the following vote:

AYES: Council Members
NOES:
ABSENT:

APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk

**SIDE LETTER
BETWEEN CITY OF LOS BANOS
AND OPERATING ENGINEERS LOCAL 3,
REPRESENTING THE LOS BANOS POLICE DISPATCHERS
COMMUNITY SERVICES OFFICERS ASSOCIATION**

RE: CONTRACT EXTENSION FY2011-12

This Side Letter is between the City of Los Banos (hereinafter called "City") and the Operating Engineers, Local 3 representing the Los Banos Police Dispatchers/Community Services Officers Association (hereinafter called "Union") and shall apply to all employees of the City working in the classifications set forth in the Memorandum of Understanding (MOU) between the City and the Union, with reference to the following recitals:

- A. WHEREAS, the City has faced ongoing challenging economic and fiscal circumstances;
- B. WHEREAS, the City and the Union desire to extend the current MOU in place for the following 2011-12 fiscal year;

NOW THEREFORE, the salaries, hours, fringe benefits and working conditions set forth have been mutually agreed upon by the designated bargaining representatives of the City and the Union, as follows:

- 1. The City and the Union agree to extend the MOU between the parties which is scheduled to expire on June 30, 2011. The MOU will be extended from June 30, 2011 to June 30, 2012, and shall be amended as follows:

SECTION 1 – Preamble

This Memorandum of Understanding is entered into by the City of Los Banos (hereafter referred to as the City) and Operating Engineers Local Union No. 3 representing the Los Banos Police Dispatchers/Community Services Officers Association (hereafter referred to as the Union). The term will be **July 1, 2010, and through June 30, ~~2011~~ 2012**. Employees defined for the purpose of this Memorandum of Understanding means a full-time Police Dispatcher/Community Services Officers Officer. This Memorandum of Understanding is subject to Section 3500-3510 of the Government Code of the State of California otherwise known as the "MMB" Act, the City of Los Banos Municipal Code, and Resolution No. 1719.

SECTION VII - Benefits

B. Cafeteria Plan

The City will maintain a Cafeteria Plan, pursuant to Section 125 of the Internal Revenue Code, for the purpose of providing employees with access to various health and welfare benefits. Benefits available through the Cafeteria Plan include, but are not limited to, medical insurance, flexible spending accounts for out-of-pocket medical expenses and dependent care, vision insurance, dental insurance and life insurance benefits. The City agrees to provide a Cafeteria Plan Allowance to all employees eligible to participate in City-sponsored health benefits under Section A of this Article. Any tax consequences resulting from City contributions to the Cafeteria Plan are the sole responsibility of the employee.

1. For employees hired before October 17, 2007, the City will provide, on a monthly basis, a Cafeteria Plan Allowance in the following amount:
 - a. The employee's (and dependent, if applicable) health care premium, up to a maximum of the amount of the Blue Shield HMO premium for the employee's selected level of coverage;
 - b. Minus the PEMHCA contribution specified in Section VI(A);
 - c. Plus the amount of the life insurance premium (for coverage up to \$50,000);
 - d. Plus the employee's (and dependents, if applicable) dental and vision plan premiums, up to a maximum of ~~\$72.92~~ **\$73.00** per month;
 - e. Minus the equivalent of 2.5% of the individual employee's salary.

2. For employees hired on or after October 17, 2007, the City will provide, on a monthly basis, a Cafeteria Plan Allowance, based on the employee's level of health care coverage as follows, minus the equivalent of 2.5% of the individual employee's salary:

In 2010:

Employee Only: \$566.02

[2010: \$586.02 (Health) - \$105 (PEMHCA) + \$85 (Dental/Vision/Life)]

Employee plus One: \$1034.83

CONTRACT EXTENSION BETWEEN CITY OF LOS BANOS AND OE3/LBPDCSOA

[2010:\$1,054.83 (Health) - \$105 (PEMHCA) + \$85
(Dental/Vision/Life)]
Employee plus Family: \$1198.92
[2010: \$1,218.92 (Health) - \$105 (PEMHCA) + \$85
(Dental/Vision/Life)]

In 2011:

Employee Only: \$662.67
Employee plus One: \$1,211.21
Employee plus Family: \$1,403.19

The above amounts will be increased by up to 10% of any annual increase to medical premiums.

3. Effective July 1, 2010, the dental and vision program provided pursuant to Resolution No. 2314 will be discontinued. Employees must submit claims for 2009-10 fiscal year by July 30, 2010 (claims must be dates June 30, 2010 or earlier). On August 5, 2010, any remaining funds provided pursuant to Resolution No. 2314 will be paid to the employee in the form of a separate check. Dental and vision plans will be available through the Cafeteria Plan.
4. Any increase to minimum monthly employer contribution under PEMHCA will result in a corresponding decrease in the employee's Cafeteria Plan Allowance.
5. Employee enrollment in dental, vision and life insurance plans offered by the City is mandatory.
6. Effective July 1, 2010, employees who opt out of medical plans sponsored by the City, and who provide proof of medical coverage in a group plan, will receive a Cafeteria Plan Allowance of \$485 per month, minus an amount equivalent to 2.5% of the employee's salary, of which part must be used to enroll in mandatory life insurance, dental insurance and vision insurance coverage.

SECTION IX – MISCELLANEOUS

B. Uniform and Clothing Replacement

The Department will supply, and replace as needed, three (3) sets of the Department-required uniform **for Community Service Officers.**

The City will provide one (1) Class A uniform for Dispatchers upon hire.

C. **Uniform Cleaning**

The City will pay for cleaning of **Community Service Officer** uniforms, at City approved cleaners, in accordance with the following guidelines:

- 1) Two (2) shirts and two (2) skirts (or pants) per work week; and
- 2) One (1) item of outerwear and one (1) tie, one (1) time each calendar month.

The City will pay for cleaning of Dispatcher Class A uniforms immediately before authorized events where Class A uniforms are required.

SECTION XI – TERM

The term of this Memorandum of Understanding shall commence July 1, 2010, and shall expire ~~June 30, 2011~~ **June 30, 2012**, except as otherwise provided in this Memorandum of Understanding.

2. All other compensation will remain status quo during the period of time that the contract is extended, until June 30, 2012.
3. The parties agree that any and all tentative agreements are hereby incorporated. Any outstanding proposals not agreed to are hereby withdrawn by the parties. Language in the MOU between the parties not changed by this tentative agreement shall remain unchanged.
4. The statements made in Paragraphs A through B inclusive are incorporated into this agreement.
6. This tentative agreement is subject to ratification by the bargaining unit and approval by the Los Banos City Council.

CONTRACT EXTENSION BETWEEN CITY OF LOS BANOS AND OE3/LBPDCSOA

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute the within tentative agreement this 29 day of June, 2011.

FOR OP. ENGINEERS LOCAL 3/
LBPDCSOA

Dated: 6/23/11

FOR THE CITY OF LOS BANOS

Dated: 6.29.11

RATIFIED:
OE3/LBPDCSOA

By: [Signature]
6/29/11

APPROVED:
CITY COUNCIL
CITY OF LOS BANOS

By: _____

ATTEST: _____
Clerk



City of Los Banos

At the Crossroads of California

TO: City Council
FROM: Financial Department and Public Works Department *SD*
DATE: July 6, 2011
SUBJECT: Utility Rates

Recommendations

Staff recommends the following:

- Adopt the Resolution Amending the Current Billing Procedure For Water, Wastewater Treatment, Wastewater Collection and Disposal, and Solid Waste (refuse) Rates
- Adopt the Resolutions establishing increased Water, Wastewater, and Solid Waste (refuse) rates for the ensuing five years.

Background

The City provides water, wastewater, and solid waste services to its business and residents. Water service involves both the production as well as distribution of potable water. Wastewater service involves collection, treatment, and disposal of wastewater. Solid waste services include collection, disposal, and recycling services for which the City contracts with Allied Waste and the Merced County Solid Waste Authority. Each of these services must comply with Federal and State regulations concerning potable water quality, wastewater effluent quality, recycling programs, and landfill closure.

The cost of providing these services is determined for each of the utilities. The City last conducted rate studies for its water and wastewater services eight years ago. Since that time, there have been only occasional inflationary increases. Solid Waste rates were last increased in 2008 when recycling services were added. The City has endeavored to maintain affordable services without increasing rates more than absolutely necessary.

The City engaged HF&H Consultants, LLC to prepare the rate models for water, wastewater, and solid waste. These models were presented at the March 17, 2010 workshop.

Overview of Rate Increase

With the exception of the increase in wastewater rates for FY 2011-12, the rate increases are generally only slightly higher than inflation. The large percentage increase in wastewater rates in FY 2011-12 is driven by the need to meet the coverage requirement in City's wastewater bond covenant. With the proposed increase, the City will achieve the legally required coverage, which will improve its credit worthiness.

Water and solid waste bills increase gradually in order to maintain their current financial positions. Without these increases, these funds would operate in deficits and deplete their reserves. The combined affect on bills is a 16% increase in FY 2011-12 followed by a series of 6% increases.

Summary of Average Single-Family Bills

	FY 10-11	FY 11-12	FY 12-13	FY13-14	FY14-15	FY15-16
<u>Water</u>						
Average Bill	\$ 21.08	\$ 22.13	\$ 23.24	\$ 24.40	\$ 25.62	\$ 27.41
Incremental Increase		\$ 1.05	\$ 1.11	\$ 1.16	\$ 1.22	\$ 1.79
% Increase in Rate		5%	5%	5%	5%	7%
<u>Refuse</u>						
Average Bill	\$ 29.07	\$ 30.67	\$ 32.35	\$ 34.13	\$ 36.00	\$ 37.98
Incremental Increase		\$ 1.60	\$ 1.68	\$ 1.78	\$ 1.87	\$ 1.98
% Increase in Rate		5.5%	5.5%	5.5%	5.5%	5.5%
<u>Sewer</u>						
Average Bill	\$13.68	\$21.20	\$22.69	\$24.28	\$25.98	\$27.27
Incremental Increase		\$ 7.52	\$ 1.48	\$ 1.59	\$ 1.70	\$ 1.30
% Increase in Rate		55%	7%	7%	7%	5%
<u>Combined</u>						
Average Bill	\$ 63.83	\$ 74.01	\$ 78.28	\$ 82.81	\$ 87.60	\$ 92.67
Incremental Increase		\$ 10.18	\$ 4.27	\$ 4.53	\$ 4.79	\$ 5.07
% Increase in Rate		16%	6%	6%	6%	6%

Proposition 218

Fees and charges for all municipal utilities of the City of Los Banos are subject to the requirements of Proposition 218. Proposition 218, the "Right to Vote on Taxes Act," was approved by California voters in November 1996.

In compliance with Proposition 218, the City is required to mail notices to all affected property owners/customers informing them of the proposed rate increases. Proposition 218 does not require voter approval to increase fees and charges; however, if written protests from a majority of the property owners/customer, the City cannot impose the increase.

On May 20, 2011 the City mailed notices to approximately 17,500 property owners/customers as required per California Constitution Article XIID. The notice showed the maximum proposed

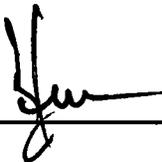
rates to be adopted over the five year period, how a property owner/customer could submit a written protest, and included information on the July 6, 2011 City Council public hearing. In determining if a majority protest exists, only one written protest per parcel may be considered.

Fiscal Impact

The increase in rates will impact the utilities as follows:

- The water fund will show increases of \$163,240, \$241,339, \$230,427, \$237,914 and \$330,808 respectively for the next five fiscal years beginning in fiscal year 2011-12 and ending in fiscal year 2015-16.
- The wastewater fund will show increases of \$1,066,962, \$590,765, \$298,702, \$319,986 and \$260,672 respectively for the next five fiscal years beginning in fiscal year 2011-12 and ending in fiscal year 2015-16.
- The solid waste fund will show increases of \$236,677, \$253,564, \$272,839, \$293,580 and \$315,897 respectively for the next five fiscal years beginning in fiscal year 2011-12 and ending in fiscal year 2015-16.

Reviewed by:



Steve Rath, City Manager

Attachment

Resolutions

**CITY OF LOS BANOS
NOTICE OF PUBLIC HEARING**

TO RECEIVE PUBLIC COMMENT ON THE CONSIDERATION OF A
RESOLUTION ADOPTING NEW UTILITY RATES FOR WATER, WASTEWATER,
AND SOLID WASTE SERVICE FEES

WHERE: City Council Chambers
520 J Street
Los Banos, California

WHEN: July 6, 2011
7:00 PM

Notice is hereby given that the Los Banos City Council will conduct a Public Hearing to receive public comment on the consideration of a resolution adopting the new utility rates for water, wastewater and solid waste service fees.

The City of Los Banos has reviewed its water, waste water and solid waste rates. This review was performed to assess the adequacy of the revenues to maintain the physical integrity of these systems, to comply with all Federal and State regulations concerning potable water quality, wastewater effluent quality, recycling programs, waste diversion regulations, and landfill closure.

The proposed rates are designed to produce the minimum revenue needed to cover projected operating costs, including direct operating expenses, contractually agreed upon cost increases, administrative costs, bond repayment, and ongoing capital improvement repairs, replacements, and upgrades of the City's water, wastewater and solid waste utilities. Detailed descriptions of each component are included below.

Rate Models are detailed in the April 20, 2011 Rate Study prepared by HF&H Consultants and can be found on the City's website at www.losbanos.org or by calling the Finance Department at 209-827-7000.

Proposed Water Increases

The rates for the City's water service fees are comprised of two components – fixed monthly service charge and a water usage charge. The water usage charge is imposed for monthly water usage in excess of 1,500 cubic feet of metered water. The rates are calculated to recover the costs of providing water services and to proportionately allocate those costs on a parcel basis among the various customer classes.

	Proposed Monthly Water Rates by Percentage				
	Sept. 1, 2011	July 1, 2012	July 1, 2013	July 1, 2014	July 1, 2015
Percentage Increase	5%	5%	5%	5%	7%

Proposed Wastewater Increases

The rates for the City's wastewater service fees for residential customers are comprised of a fixed monthly service charge. For non-residential customers, the rates are comprised of a fixed monthly service charge and a flow-based charge. The rates are calculated to

recover the costs of providing wastewater services and to proportionately allocate those costs on a parcel basis among the various customer classes.

	Proposed Monthly Wastewater Rates by Percentage				
	Sept. 1, 2011	July 1, 2012	July 1, 2013	July 1, 2014	July 1, 2015
Percentage Increase	55%	7%	7%	7%	5%

Proposed Solid Waste Increases

The rates for the solid waste service fees for residential customers are comprised of a fixed monthly charge based on the size of the refuse container used for such property. For commercial customers, the rates are comprised of a fixed monthly charge that is determined on the basis of the refuse container used to serve such property and the frequency of pick ups. The rates are calculated to recover the costs of providing solid waste services and to proportionately allocate those costs on a parcel basis among the various customer classes.

	Proposed Monthly Solid Waste Rates by Percentage				
	Sept. 1, 2011	July 1, 2012	July 1, 2013	July 1, 2014	July 1, 2015
Percentage Increase	5.5%	5.5%	5.5%	5.5%	5.5%

The Public Hearing will be held at the regular meeting of the Los Banos City Council on Wednesday, July 6, 2010 at 7:00 p.m. in the Council Chambers at Los Banos City Hall located at 520 J Street, or as near as possible thereafter, at which time and place interested persons may appear and be heard thereon. Questions regarding the above-referenced item may be directed to Sonya Williams, Accounting & Budget Supervisor, 520 J Street or at (209) 827-7000.

All interested persons will be given an opportunity to comment on this item at the Public Hearing. In addition, written protests may be submitted by mail or in person to the City Clerk at 520 J Street, Los Banos, CA 93635, or at the Public Hearing, so long as they are received prior to the conclusion of the public comment portion of the Public Hearing. Any property owner or any tenant directly responsible for the payment of water, wastewater, and/or solid waste service fees (i.e., a customer of record) may submit a written protest to the proposed rate increases described above; provided, however, only one protest will be counted per identified parcel. Any written protest must: (1) state the specific rate increase (water, wastewater, and/or solid waste) for which the protest is being submitted; (2) provide the location of the identified parcel (by assessor's parcel number, street address, or customer account number); and (3) include the name and signature of the property owner or tenant submitting the protest. Any protest submitted via e-mail or other electronic means will not be accepted. Postmarks also cannot be accepted. Please identify on the front of the envelope for any protest, whether mailed or submitted in person to the City Clerk, that the enclosed protest is for the Public Hearing on the Proposed Increases to Utility Rates.

The City Council will hear and consider all written protests and oral comments to the proposed rate increases at the Public Hearing. Oral comments at the Public Hearing will

not qualify as formal protests unless accompanied by a written protest as described above.

It is the intention of the City to comply with the Americans with Disabilities Act (ADA). If you require special assistance beyond what is normally provided, the City will attempt to accommodate you in every reasonable manner. Please contact the City Clerk's Office at (209) 827-7000 at least 48 hours prior to the meeting to inform us of your particular needs.

RESOLUTION NO. ____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
LOS BANOS AMENDING THE CURRENT BILLING
PROCEDURES FOR WATER, WASTEWATER TREATMENT,
WASTEWATER COLLECTION AND DISPOSAL, AND SOLID
WASTE RATES**

WHEREAS, on February 21, 2001, the City Council of the City of Los Banos adopted Resolution 4182 with the stated purpose and intent that the each City Utility be a self-sustaining operation, adequately financed by the user services charges and fees, and has an appropriate billing and collection procedure; and

WHEREAS, the City Council of the City of Los Banos has annually by Resolution adjusted utility service rates and charges and has reaffirmed the billing and collection procedures established by Resolution No. 4182; and

WHEREAS, the City Council of the City of Los Banos has received a report from City Staff proposing additional changes to the billing and collection procedures; and

WHEREAS, the City Council of the City of Los Banos has determined that the proposed changes are appropriate in order to provide a more effective and efficient billing system.

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

1. The billing and collection procedures for water, wastewater treatment, wastewater collection, and solid waste services are hereby amended and restated as set forth in Exhibit A to this Resolution.
2. This Resolution shall supersede any and all provisions of any previous resolution and/or ordinance approved by the City Council of the City of Los Banos that may conflict with, or be contrary to, this Resolution.
3. The foregoing resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the __ day of, _____ 2011 by Council Member _____ who moved its adoption, which motion was duly seconded by Council Member _____ and the Resolution adopted by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk

ATTACHMENT A

BILLING AND COLLECTION PROCEDURES FOR WATER, WASTEWATER TREATMENT, WASTEWATER COLLECTION, AND SOLID WASTE SERVICES

1. RATES FOR WATER, WASTEWATER, SOLID WASTE SERVICE FEES

The rates for water, wastewater, and solid waste service fees shall be those established by separate resolution or ordinance of the City Council of the City of Los Banos. Other fees and charges relating to water, wastewater treatment, wastewater collection, and solid waste disposal service are set forth herein.

RETURNED CHECK FEE: Thirty-Five Dollars (\$35.00)

DEPOSITS: One Hundred Dollars (\$100) for new non-owner applicants for water and/or wastewater service.

METER TEST: Twenty-Five dollar (\$25.00) deposit, returnable if meter registers over two percent (2%) more than actual flow.

LATE CHARGES: Fifteen percent (15%) charge of billing for water, wastewater treatment, wastewater collection, and solid waste disposal services.

DELINQUENCY ADMINISTRATION PROCESSING FEE: Thirty-Five Dollars (\$35.00) for water, wastewater treatment, wastewater collection, and solid waste disposal services.

WATER RATE ADJUSTMENTS:

2. WATER SERVICES: TEMPORARY CONNECTIONS.

Contractors or any persons desiring to use water in construction work where non-metered connections must be made shall in each case obtain a written permit from the Public Works Director. The Public Works Director will then designate the connection and the cost of the meter installation. All water shall then be charged at the prevailing rate. The minimum charge shall be: \$32.69 for the hydrant rental rate and \$40.92 minimum water charge.

3. For water meters over four (4") inches, the minimum monthly charge shall be as determined by the office of Public Works and the City Engineer.

4. The monthly charges set forth in this subsection shall be made irrespective of the amount of water consumed through the metered connection during the monthly billing period.

5. For all water supplied through an un-metered service connection by the Utility Department, a flat monthly charge shall be made therefore, to be determined based upon the

estimated quantity of water supplied at the rates set forth in as determined by the character of the use, but in no case shall such charge be less than: \$16.34.

6. For all water supplied outside the City limits and/or charges for the rendering of such services to any consumer shall be three (3) times the applicable minimum rates and charges set forth in this section for similar service within the City. Such treble rate shall not be charged such consumers for water used in excess of 1,500 cubic feet monthly.

7. The City hereby reserves the right and power to contact separately with any person, firm, or corporation for the sale and delivery of water within or outside the City at wholesale, at times, places, and prices fixed and agreed upon by resolution of the Council. Water rates and compensation to be paid shall be based in part upon the use of the City water system.

8. METERS: MULTIPLE CONSUMERS: RATES

a. Separate services. A single-family residence or business lot occupied by one private business concern with a regulation five-eighths (5/8") inch or three-fourths (3/4") inch meter shall constitute a service connection. No person shall run any water from any meter or service connection to any other consumer, whether on the same lot or property or not, for which the rate has been paid or the rules and regulations set forth in this chapter have not been complied with.

b. Changes to multiple services. No change in the use of the water shall be made after the filing of the application until a written notice has been given to the Utility Department and written permission to make such change has been granted by the Public Works Director.

c. Multiple Family Services. If one meter connection shall serve more than one family living separate and apart from another family, whether in suites or otherwise, and it is impossible to both the consumer and the Utility Department to install separate services, that meter shall be given the allowance consumption of 1,500 cubic feet for all units. If one utility customer for all units, the customer shall pay the minimum base rate, the multi unit rate per unit plus for excess water used over the allowance at the scheduled rate. If more than one utility customer for all units, the first unit shall pay the minimum base rate, plus the excess water used of over the allowance at the scheduled rate. The other units shall pay the multi unit rate per unit in excess of one.

d. Multiple Commercial Services. If one meter connection shall serve more than one store, shop, or any other concern doing business separate and apart from one another, whether in the same building or not, and it is impractical to both the consumer and the Utility Department to install separate services or meters, that meter shall be given the allowance consumption of 1500 cubic feet for all units. The owner shall pay the charges of the minimum base rate, the multi unit rate per unit plus for excess water used over the allowance of the scheduled rate.

e. Liability. With the exception of residential accounts, but not excluding master-metered apartments where one-meter connection serves one (1) or more separate and distinct

consumers, the property owner or the applicant for services, or both at the option of the City shall be held responsible to the City for all water used.

f. Utility Department Option for Separate Services. The Utility Department may, at its option, install separate services and collect the regular rate from each consumer, in which case the owner or consumer shall, at his expense, install a water pipeline from the property to the meter and pay the regular service connection fee.

9. WATER SERVICES: APPLICATIONS: DEPOSITS

The City Utility Department, as a condition to granting an application and supplying water to the premises therein described shall require a deposit of \$100.00. Such a deposit shall be refunded without interest when either (1) the services are discontinued provided all charges to the applicant by the Utility department have been paid; otherwise such deposit shall be applied to the account of the applicant or (2) if there have been no account payment delinquencies in the preceding 24 months. A portion or all of the deposit may be waived if the applicant/customer has previously established an acceptable credit history with the City Utility Department.

10. WATER SERVICES: APPLICATIONS: CONNECTION CHARGES

When the applicant applies for water services, an estimate of the cost of installing the water service, including labor, meters, valve boxes, valves, service lines, and service saddles or removing seals from sealed services, shall be made by the Public Works Director. An amount equal to such estimate shall be deposited with the Utility Department. The final payment for installing the water service shall be a sum equal to the cost of the materials required, plus the cost of the labor for installation. If the estimated deposit does not cover the cost, the difference shall be paid prior to the commencement of the service. If the estimated deposit exceeds the actual cost, the credit shall be applied against subsequent billings for the use of the City water system and water furnished.

11. METERS: TESTS

Any Consumer may require, upon depositing \$25.00 at the office of the Utility Department, that the meter through which water is being furnished to such consumer be tested by the Utility Department for the purpose of ascertaining whether or not the meter is registering correctly. If, upon such test, the meter shall be found to register over two (2%) percent more water than actually passes through, another meter shall be substituted therefore, and the deposit of \$25.00 shall be returned to the consumer making the application, and the water bills for the current period shall be adjusted in an equitable manner. If, upon such test, the meter shall be found to register under two (2%) percent more water than actually passes though, the \$25.00 deposit shall be retained by the Utility Department and deposited in the water fund.

12. COLLECTION BY THE CHIEF FINANCIAL OFFICER

It shall be the duty of the Chief Financial Officer or any other officer of the City designated by resolution of the City Council duly adopted, to collect the water, wastewater collection, wastewater treatment, and disposal service charges set forth in this resolution.

13. UTILITY SERVICE CHARGES: PROPERTY LIENS FOR DELINQUENCIES

With the exception of residential accounts but not excluding master-metered apartments all unpaid delinquent water, wastewater collection, wastewater treatment, and disposal service charges may, at the City's discretion, become a lien on the property served by the water and wastewater system of the City and will be collected and enforced in the same manner unpaid City taxes on such property are collected and enforced.

14. REGULAR BILLING CYCLES

The City utility bills, for water, wastewater collection, wastewater treatment and disposal service charges, will be billed in two billing cycles. The first billing cycle will be due the 5th day of each month. If the fifth (5th) day of the month falls on a legal holiday or weekend, the payment will be due on the following business day. The second billing cycle will be due on the 20th of each month. If the twentieth (20th) day of the month falls on a legal holiday or weekend, the payment will be due on the following business day.

For water meter readings in excess of 30 days in a billing cycle the 1500 cubic feet per month allowance (set forth in Paragraph 1 herein) shall be increased by 50 cubic feet per day and billed at the lower first tier rate calculated on a per day basis for each day in excess of 30 days.

15. LATE CHARGE: DETERMINATION OF DELINQUENCY

Utility billing account delinquency is defined as failure to pay the utility account in full on or before the due date. Payments due on the 5th day of each month shall be considered delinquent if not received by 5:00 p.m. on the 5th day of the month. A fifteen percent (15%) late charge shall be assessed against the outstanding account balance for all delinquent accounts. Payments due on the 20th day of each month shall be considered delinquent if not received by 5:00 p.m. on the 20th of the month. A fifteen percent (15%) late charge shall be assessed against the outstanding account balance for all delinquent accounts.

16. DELINQUENCY PROCESSING FEE; RED TAG NOTICE; WATER SHUTOFF

An Administrative charge for delinquency processing and reinstatement service charge of \$35.00 shall be charged to all delinquent accounts. This delinquency processing fee, for the first cycle, shall be assessed to any utility account not paid in full by 5:00 pm on the fifth (5th) of the delinquency month regardless of whether or not the water has actually been turned off for failure to pay the utility bill. Postmarks shall not be accepted. If full payment is not received at City Hall by the fifth (5th) of the delinquency month, the Delinquency Processing Fee shall be

assessed against the unpaid account and the Red Tag Notice and water shutoff procedures shall commence on or after the sixth (6th) of the Delinquency month.

This delinquency processing fee, for the second cycle, shall be assessed to any utility account not paid in full by the end of the twentieth (20th) of the delinquency month regardless of whether or not the water has actually been turned off for failure to pay the utility bill. Postmarks shall not be accepted. If full payment is not received at City Hall by the twentieth (20th) of the delinquency month, the Delinquency Processing Fee shall be assessed against the unpaid account and the Red Tag Notice and water shutoff procedures shall commence on or after the twenty-first (21st) of the Delinquency month.

The Red Tag Notice shall indicate the assessment of the Delinquency Processing Fee and the total account balance outstanding, indicating that full payment must be made to reestablish utility services, and that checks will not be accepted and that payment can be made only by cash, money order, cashier check or credit card. If full payment is not received within one week of issuance of the Red Tag Notice a new deposit in addition to the total account balance including the Delinquency Processing Fee must be made prior to reestablishing utility services.

17. RETURNED CHECK / CREDIT CARD / ATM / DIRECT PAY FEE

The fee of \$35 will be charged for any payment that is returned this includes form of returned check, returned electronic direct payment, credit card, or debit card and will be subject to shutoff procedures. After three returned payments in a year, the customer may only pay by cash, money order cashier check or credit card for the remainder of that year.

18. METER REMOVAL AND REINSTALLATION; METER VANDALISM AND DESTRUCTION

Fees and charges for meter removal and reinstallation due to customer tampering and the meter after shutoff in violation of Municipal code and fees and charges for meter vandalism and destruction shall be determined by City staff based on time and material cost incurred by the City for correction, repair, or replacement.

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
LOS BANOS ESTABLISHING RATES FOR WATER SERVICE
FEES**

WHEREAS, the City of Los Banos (the "City") must generate revenues in an amount sufficient to cover the City's ongoing costs of providing water production, treatment, and delivery services ("water services"); and

WHEREAS, the City has determined that current increases to the schedule of rates for the City's Water service fees ("Water Fees") are necessary to generate revenues sufficient to cover the City's ongoing costs of providing water services and related costs and expenses; and

WHEREAS, HF&H Consultants prepared a rate study, dated April 26, 2011, to determine the rates for Water Fees necessary to produce the minimum revenue needed to cover projected operating costs, including direct operating expenses, contractually agreed upon cost increases, administrative costs, bond repayment, and ongoing capital improvement repairs, replacements, and upgrades of the City's water system; and

WHEREAS, the revenues derived from the Water Fees will not exceed the funds required to provide the water services and shall be used exclusively for the provision of water services; and

WHEREAS, the amount of the Water Fees will not exceed the proportional cost of the services attributable to each parcel upon which they are proposed for imposition; and

WHEREAS, the Water Fees will not be imposed on a parcel unless the water services are actually used by, or immediately available to, the owner of the parcel upon which the Water Fees are imposed or any tenant directly liable for the payment of Water Fees; and

WHEREAS, the City, as the lead agency under the California Environmental Quality Act (CEQA), in consultation with the City's Legal Counsel, prepared a Preliminary Exemption Assessment for the adoption of this Resolution in order to evaluate its potential impacts. The City determined that this Resolution is exempt from CEQA review under Public Resources Code section 21080(b)(8) and State CEQA Guidelines section 15273 because the Water Fees are necessary and reasonable to fund the administration, operation, maintenance, and improvements of the Water system and will not result in the expansion of the Water system; and

WHEREAS, California Constitution article XIII D, section 6 ("Article XIII D") requires that prior to imposing any increase to the Water Fees, the City shall provide written notice (the "Notice") by mail of the proposed increases to the rates for the Water Fees to the record owner of each parcel upon which the rate increases to the Water Fees are proposed for imposition and any tenant directly liable for the payment of such fees, the amount of the rates for the Water Fees proposed to be imposed on each parcel, the basis upon which the rates for the Water Fees were

calculated, the reason for the rate increases to the Water Fees, and the date time and location of a public hearing (the "Hearing") on the proposed rate increases to the Water Fees; and

WHEREAS, pursuant to Article XIII D such Notice is required to be provided to the affected property owners and any tenants directly liable for the payment of such fees not less than forty-five days prior to the Hearing on the proposed rates; and

WHEREAS, the City did provide such Notice to the affected property owners and tenants of the proposed rate increases to the Water Fees in compliance with Article XIII D; and

WHEREAS, the Hearing was held on this day, July 6, 2011; and

WHEREAS, at the Hearing the City Council of the City heard and considered all oral testimony, written materials, and written protests concerning the establishment and imposition of the proposed rate increases to the Water Fees, and at the close of the Hearing the City did not receive written protests against the establishment and imposition of the proposed rate increases to the Water Fees from a majority of the affected property owners and tenants directly liable for the payment of the Water Fees; and

WHEREAS, the City Council of the City now desires to establish and impose the proposed rate increases to the Water Fees; and

WHEREAS, this Resolution shall supersede all other previous resolutions and ordinances that may conflict with, or be contrary to, this Resolution respecting the rates for Water Fees described more particularly herein;

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

1. The City Council hereby finds and determines that the above Recitals are true and correct and are incorporated herein.
2. As the decision making body for the City, the City Council has reviewed and considered the information contained in the Preliminary Exemption Assessment and administrative record. The City Council finds that the Preliminary Exemption Assessment contains a complete and accurate reporting of the environmental impacts associated with the adoption of this Resolution and reflects the independent judgment of the City Council.
3. The rates for the City's Water Fees are comprised of two components – a flat monthly service charge and a water usage charge. The water usage charge is imposed on a per unit basis for monthly water usage in excess of 1,500 cubic feet of metered water. One unit equals 100 cubic feet of metered water. The City Council hereby adopts the schedule of rates for the Water Fees set forth in Exhibit A, attached hereto and by this reference incorporated herein. The rates currently in effect for Water Fees shall remain in effect for service provided through August 31, 2011. Beginning September

- 1, 2011, the rates set forth in Exhibit A shall be in effect for water services provided on or after the respective dates set forth therein.
4. Prior to implementing any of the authorized rate increases on July 1, 2012, 2013, 2014, or 2015 as set forth in Exhibit A, the City shall provide written notice of any such increase not less than 30 days prior to the effective date of the increase. Such notice may be included in the regular billing statement for the payment of Water Fees or any other mailing by the City to the address to which the City customarily mails the billing statement.
5. The City Council hereby finds that the administration, operation, maintenance, and improvements of the Water system, which are to be funded by the Water Fees, are necessary to maintain water services within the City's existing service area. The City Council further finds that the administration, operation, maintenance, and improvements of the Water system, to be funded by the Water Fees set forth herein, will not expand the Water system. The City Council further finds that such Water Fees are necessary and reasonable to fund the administration, operation, maintenance, and improvements of the Water system. Based on these findings, the City Council hereby determines that this Resolution is exempt from the requirements of CEQA pursuant to California Public Resources Code section 21080(b)(8) and State CEQA Guidelines section 15273(a).
6. The documents and materials that constitute the record of proceedings on which these findings have been based are located at 520 J Street, Los Banos, California 93635. The custodian for these records is the City Clerk.
7. The City Council hereby authorizes and directs the City Manager to implement and take all actions necessary to effectuate the rates for the Water Fees set forth herein and to file a Notice of Exemption with the County Clerk for the County of Merced within five (5) working days of the date of the adoption of this Resolution.
8. If any section, subsection, subdivision, sentence, clause, or phrase in this Resolution or any part thereof is for any reason held to be unconstitutional or invalid, ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Resolution or any part thereof. The City Council hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.
9. This Resolution shall supersede any and all provisions of any previous resolution and/or ordinance approved by the City Council that may conflict with, or be contrary to, this Resolution.
10. This Resolution shall become effective immediately upon its adoption.
11. The foregoing resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 6th day of, July 2011 by Council Member _____ who

moved its adoption, which motion was duly seconded by Council Member _____ and the Resolution adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk

**EXHIBIT A
 SCHEDULE OF WATER SERVICE FEES**

Every person whose premises in the City is served by a connection with the public water system of the City shall pay a water service fee as follows:

Customer Classification	Monthly Water Rates and Effective Dates					
	Current through 8/31/2011	Effective 9/1/2011	Effective 7/1/2012	Effective 7/1/2013	Effective 7/1/2014	Effective 7/1/2015
Residential						
Flat Monthly Rate	\$16.34	\$17.16	\$18.01	\$18.91	\$19.86	\$21.25
Multiple Family > 3 unit	Flat + 5.81 per unit	Flat + \$6.10 per unit	Flat + \$6.41 per unit	Flat + \$6.73 per unit	Flat + \$7.06 per unit	Flat + \$7.56 per unit
Overage per 100 cubic feet	\$1.26	\$1.32	\$1.39	\$1.46	\$1.53	\$1.64
Commercial						
Meters < 1"	\$16.34	\$17.16	\$18.01	\$18.92	\$19.86	\$21.25
Meters 1"- 1½"	\$19.89	\$20.88	\$21.93	\$23.02	\$24.18	\$25.87
Meters 1½"- 2"	\$22.93	\$24.08	\$25.28	\$26.54	\$27.87	\$29.82
Meters 2" - 3"	\$26.18	\$27.49	\$28.86	\$30.31	\$31.82	\$34.05
Meters 3"- 4"	\$32.71	\$34.35	\$36.06	\$37.87	\$39.76	\$42.54
Meters > 4"	Determined by Public Works Department					
Overage per 100 cubic feet	\$1.26	\$1.32	\$1.39	\$1.46	\$1.53	\$1.64
Allowance amount for all users = 1,500 cubic feet per month. Any usage over 1,500 cubic feet will be charged an overage rate per each 100 cubic feet						

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
LOS BANOS ESTABLISHING RATES FOR WASTEWATER
SERVICE FEES**

WHEREAS, the City of Los Banos (the "City") must generate revenues in an amount sufficient to cover the City's ongoing costs of providing wastewater collection, treatment, and disposal services ("wastewater services"); and

WHEREAS, the City has determined that current increases to the schedule of rates for the City's wastewater service fees ("Wastewater Fees") are necessary to generate revenues sufficient to cover the City's ongoing costs of providing wastewater services and related costs and expenses; and

WHEREAS, HF&H Consultants prepared a rate study, dated April 26, 2011, to determine the rates for Wastewater Fees necessary to produce the minimum revenue needed to cover projected operating costs, including direct operating expenses, contractually agreed upon cost increases, administrative costs, bond repayment, and ongoing capital improvement repairs, replacements, and upgrades of the City's wastewater system; and

WHEREAS, the revenues derived from the Wastewater Fees will not exceed the funds required to provide the wastewater services and shall be used exclusively for the provision of wastewater services; and

WHEREAS, the amount of the Wastewater Fees will not exceed the proportional cost of the services attributable to each parcel upon which they are proposed for imposition; and

WHEREAS, the Wastewater Fees will not be imposed on a parcel unless the wastewater services are actually used by, or immediately available to, the owner of the parcel; and

WHEREAS, the City, as the lead agency under the California Environmental Quality Act (CEQA), in consultation with the City's Legal Counsel, prepared a Preliminary Exemption Assessment for the adoption of this Resolution in order to evaluate its potential impacts. The City determined that this Resolution is exempt from CEQA review under Public Resources Code section 21080(b)(8) and State CEQA Guidelines section 15273 because the Wastewater Fees are necessary and reasonable to fund the administration, operation, maintenance, and improvements of the wastewater system and will not result in the expansion of the wastewater system; and

WHEREAS, California Constitution article XIII D, section 6 ("Article XIII D") requires that prior to imposing any increase to the Wastewater Fees, the City shall provide written notice (the "Notice") by mail of the proposed increases to the rates for the Wastewater Fees to the record owner of each parcel upon which the rate increases to the Wastewater Fees are proposed for imposition and any tenant directly liable for the payment of such fees, the amount of the rates for the Wastewater Fees proposed to be imposed on each parcel, the basis upon which the rates

for the Wastewater Fees were calculated, the reason for the rate increases to the Wastewater Fees, and the date time and location of a public hearing (the "Hearing") on the proposed rate increases to the Wastewater Fees; and

WHEREAS, pursuant to Article XIII D such Notice is required to be provided to the affected property owners and any tenants directly liable for the payment of such fees not less than forty-five days prior to the Hearing on the proposed rates; and

WHEREAS, the City did provide such Notice to the affected property owners and tenants of the proposed rate increases to the Wastewater Fees in compliance with Article XIII D; and

WHEREAS, the Hearing was held on this day, July 6, 2011; and

WHEREAS, at the Hearing the City Council of the City heard and considered all oral testimony, written materials, and written protests concerning the establishment and imposition of the proposed rate increases to the Wastewater Fees, and at the close of the Hearing the City did not receive written protests against the establishment and imposition of the proposed rate increases to the Wastewater Fees from a majority of the affected property owners and tenants directly liable for the payment of the Wastewater Fees; and

WHEREAS, the City Council of the City now desires to establish and impose the proposed rate increases to the Wastewater Fees; and

WHEREAS, this Resolution shall supersede all other previous resolutions and ordinances that may conflict with, or be contrary to, this Resolution respecting the rates for Wastewater Fees described more particularly herein;

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

1. The City Council hereby finds and determines that the above Recitals are true and correct and are incorporated herein.
2. As the decision making body for the City, the City Council has reviewed and considered the information contained in the Preliminary Exemption Assessment and administrative record. The City Council finds that the Preliminary Exemption Assessment contains a complete and accurate reporting of the environmental impacts associated with the adoption of this Resolution and reflects the independent judgment of the City Council.
3. The rates for the City's Wastewater Fees for residential customers are comprised of a fixed monthly service charge. For non-residential customers, the rates are comprised of a fixed monthly service charge and a flow-based charge. The City Council hereby adopts the schedule of rates set forth in Exhibit A, attached hereto and by this reference incorporated herein. The rates currently in effect for Wastewater Fees shall remain in effect for services provided through August 31, 2011. Beginning September

- 1, 2011, the rates set forth in Exhibit A shall be in effect for services provided on or after the respective dates set forth therein.
4. Prior to implementing any of the authorized rate increases on July 1, 2012, 2013, 2014, or 2015 as set forth in Exhibit A, the City shall provide written notice of any such increase not less than 30 days prior to the effective date of the increase. Such notice may be included in the regular billing statement for the payment of Wastewater Fees or any other mailing by the City to the address to which the City customarily mails the billing statement.
5. The City Council hereby finds that the administration, operation, maintenance, and improvements of the wastewater system, which are to be funded by the Wastewater Fees, are necessary to maintain wastewater services within the City's existing service area. The City Council further finds that the administration, operation, maintenance, and improvements of the wastewater system, to be funded by the Wastewater Fees set forth herein, will not expand the wastewater system. The City Council further finds that such Wastewater Fees are necessary and reasonable to fund the administration, operation, maintenance, and improvements of the wastewater system. Based on these findings, the City Council hereby determines that this Resolution is exempt from the requirements of CEQA pursuant to California Public Resources Code section 21080(b)(8) and State CEQA Guidelines section 15273(a).
6. The documents and materials that constitute the record of proceedings on which these findings have been based are located at 520 J Street, Los Banos, California 93635. The custodian for these records is the City Clerk.
7. The City Council hereby authorizes and directs the City Manager to implement and take all actions necessary to effectuate the rates for the Wastewater Fees set forth herein and to file a Notice of Exemption with the County Clerk for the County of Merced within five (5) working days of the date of the adoption of this Resolution.
8. If any section, subsection, subdivision, sentence, clause, or phrase in this Resolution or any part thereof is for any reason held to be unconstitutional or invalid, ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Resolution or any part thereof. The City Council hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.
9. This Resolution shall supersede any and all provisions of any previous resolution and/or ordinance approved by the City Council that may conflict with, or be contrary to, this Resolution.
10. This Resolution shall become effective immediately upon its adoption.

11. The foregoing resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 6th day of, July 2011 by Council Member _____ who moved its adoption, which motion was duly seconded by Council Member _____ and the Resolution adopted by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk

**EXHIBIT A
 SCHEDULE OF WASTEWATER SERVICE FEES**

Every person whose premises in the City is served by a connection with the public sewage system of the City whereby the public sewage is treated by the City, either through the sewage treatment plant or otherwise, shall pay a wastewater service fees as follows:

Customer Classification	Monthly Wastewater Rates and Effective Dates					
	Current through 8/31/2011	Effective 9/1/2011	Effective 7/1/2012	Effective 7/1/2013	Effective 7/1/2014	Effective 7/1/2015
Residential						
Wastewater Collection						
Flat	\$9.53	\$14.77	\$15.81	\$16.91	\$18.10	\$19.00
Multiple Dwelling/Trailer Parks with common sewer	\$9.53 + \$9.53/unit	\$14.77 + \$14.77/unit	\$15.8 + \$15.81/unit	\$16.91 + \$16.91/unit	\$18.10 + \$18.10/unit	\$19.00 + \$19.00/unit
Wastewater Treatment						
Flat	\$4.15	\$6.43	\$6.88	\$7.36	\$7.88	\$8.27
Multiple Dwelling/Trailer Parks with common sewer	\$4.15 + \$4.15/unit	\$6.43 + \$6.43/unit	\$6.88 + \$6.88/unit	\$7.36 + \$7.36/unit	\$7.88 + \$7.88/unit	\$8.27 + \$8.27/unit
Commercial						
Wastewater Collection						
Flat	\$19.06	\$29.54	\$31.61	\$33.82	\$36.19	\$38.00
Hotel & Motels	\$19.06	\$29.54	\$31.61	\$33.82	\$36.19	\$38.00
Per room with kitchen	\$4.70	\$7.29	\$7.79	\$8.34	\$8.92	\$9.37
Per room w/o kitchen	\$2.37	\$3.67	\$3.93	\$4.21	\$4.50	\$4.73
Schools per student	\$0.43	\$0.67	\$0.71	\$0.76	\$0.81	\$0.86
Places - Religious Worship	\$9.53	\$14.77	\$15.81	\$16.91	\$18.10	\$19.00
Wastewater Treatment						
Schools per student	\$0.84	\$1.30	\$1.39	\$1.49	\$1.59	\$1.67
Standard Industrial						
Per 100 cu ft of water	\$0.71	\$1.10	\$1.18	\$1.26	\$1.35	\$1.42
Bakeries, Restaurants, Dry Cleaning, Motion Picture Theaters, Packing Sheds, and Dry Process Dairy Products						
Per 100 cu ft of water	\$0.91	\$1.41	\$1.51	\$1.61	\$1.73	\$1.81
Meat Products						
Per 100 cu ft of water	\$1.19	\$1.84	\$1.97	\$2.11	\$2.26	\$2.37

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
LOS BANOS ESTABLISHING RATES FOR SOLID WASTE
SERVICE FEES**

WHEREAS, the City of Los Banos (the "City") must generate revenues in an amount sufficient to cover the City's ongoing costs of providing solid waste collection and disposal services ("solid waste services"); and

WHEREAS, the City has determined that current increases to the schedule of rates for the City's solid waste service fees ("Solid Waste Fees") are necessary to generate revenues sufficient to cover the City's ongoing costs of providing solid waste services and related costs and expenses; and

WHEREAS, HF&H Consultants prepared a rate study, dated April 26, 2011, to determine the rates for Solid Waste Fees necessary to produce the minimum revenue needed to cover projected operating costs, including direct operating expenses, contractually agreed upon cost increases, administrative costs, bond repayment, and ongoing capital improvement repairs, replacements, and upgrades of the City's Solid Waste system; and

WHEREAS, the revenues derived from the Solid Waste Fees will not exceed the funds required to provide the solid waste services and shall be used exclusively for the provision of solid waste services; and

WHEREAS, the amount of the Solid Waste Fees will not exceed the proportional cost of the services attributable to each parcel upon which they are proposed for imposition; and

WHEREAS, the Solid Waste Fees will not be imposed on a parcel unless the solid waste services are actually used by, or immediately available to, the owner of the parcel; and

WHEREAS, the City, as the lead agency under the California Environmental Quality Act (CEQA), in consultation with the City's Legal Counsel, prepared a Preliminary Exemption Assessment for the adoption of this Resolution in order to evaluate its potential impacts. The City determined that this Resolution is exempt from CEQA review under Public Resources Code section 21080(b)(8) and State CEQA Guidelines section 15273 because the Solid Waste Fees are necessary and reasonable to fund the administration, operation, maintenance, and improvements of the Solid Waste system and will not result in the expansion of the Solid Waste system; and

WHEREAS, California Constitution article XIII D, section 6 ("Article XIII D") requires that prior to imposing any increase to the Solid Waste Fees, the City shall provide written notice (the "Notice") by mail of the proposed increases to the rates for the Solid Waste Fees to the record owner of each parcel upon which the rate increases to the Solid Waste Fees are proposed for imposition and any tenant directly liable for the payment of such fees, the amount of the rates for the Solid Waste Fees proposed to be imposed on each parcel, the basis upon which the rates

for the Solid Waste Fees were calculated, the reason for the rate increases to the Solid Waste Fees, and the date time and location of a public hearing (the "Hearing") on the proposed rate increases to the Solid Waste Fees; and

WHEREAS, pursuant to Article XIII D such Notice is required to be provided to the affected property owners and any tenants directly liable for the payment of such fees not less than forty-five days prior to the Hearing on the proposed rates; and

WHEREAS, the City did provide such Notice to the affected property owners and tenants of the proposed rate increases to the Solid Waste Fees in compliance with Article XIII D; and

WHEREAS, the Hearing was held on this day, July 6, 2011; and

WHEREAS, at the Hearing the City Council of the City heard and considered all oral testimony, written materials, and written protests concerning the establishment and imposition of the proposed rate increases to the Solid Waste Fees, and at the close of the Hearing the City did not receive written protests against the establishment and imposition of the proposed rate increases to the Solid Waste Fees from a majority of the affected property owners and tenants directly liable for the payment of the Solid Waste Fees; and

WHEREAS, the City Council of the City now desires to establish and impose the proposed rate increases to the Solid Waste Fees; and

WHEREAS, this Resolution shall supersede all other previous resolutions and ordinances that may conflict with, or be contrary to, this Resolution respecting the rates for Solid Waste Fees described more particularly herein;

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

1. The City Council hereby finds and determines that the above Recitals are true and correct and are incorporated herein.
2. As the decision making body for the City, the City Council has reviewed and considered the information contained in the Preliminary Exemption Assessment and administrative record. The City Council finds that the Preliminary Exemption Assessment contains a complete and accurate reporting of the environmental impacts associated with the adoption of this Resolution and reflects the independent judgment of the City Council.
3. The rates for Solid Waste Fees imposed on residential customers are comprised of a fixed monthly charge based on the size of the refuse container used for such property. The rates for Solid Waste Fees imposed on commercial customers are comprised of a fixed monthly charge that is determined on the basis of the refuse container used to serve such property and the frequency of pick ups. The City Council hereby adopts the schedule of rates set forth in Exhibit A, attached hereto and by this reference

incorporated herein. The rates currently in effect for Solid Waste Fees shall remain in effect for services provided through August 31, 2011. Beginning September 1, 2011, the rates set forth in Exhibit A shall be in effect for solid waste services provided on or after the respective dates set forth therein.

4. Prior to implementing any of the authorized rate increases on July 1, 2012, 2013, 2014, or 2015 as set forth in Exhibit A, the City shall provide written notice of any such increase not less than 30 days prior to the effective date of the increase. Such notice may be included in the regular billing statement for the payment of Solid Waste Fees or any other mailing by the City to the address to which the City customarily mails the billing statement.
5. The City Council hereby finds that the administration, operation, maintenance, and improvements of the Solid Waste system, which are to be funded by the Solid Waste Fees, are necessary to maintain solid waste services within the City's existing service area. The City Council further finds that the administration, operation, maintenance, and improvements of the Solid Waste system, to be funded by the Solid Waste Fees set forth herein, will not expand the Solid Waste system. The City Council further finds that such Solid Waste Fees are necessary and reasonable to fund the administration, operation, maintenance, and improvements of the Solid Waste system. Based on these findings, the City Council hereby determines that this Resolution is exempt from the requirements of CEQA pursuant to California Public Resources Code section 21080(b)(8) and State CEQA Guidelines section 15273(a).
6. The documents and materials that constitute the record of proceedings on which these findings have been based are located at 520 J Street, Los Banos, California 93635. The custodian for these records is the City Clerk.
7. The City Council hereby authorizes and directs the City Manager to implement and take all actions necessary to effectuate the rates for the Solid Waste Fees set forth herein and to file a Notice of Exemption with the County Clerk for the County of Merced within five (5) working days of the date of the adoption of this Resolution.
8. If any section, subsection, subdivision, sentence, clause, or phrase in this Resolution or any part thereof is for any reason held to be unconstitutional or invalid, ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Resolution or any part thereof. The City Council hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.
9. This Resolution shall supersede any and all provisions of any previous resolution and/or ordinance approved by the City Council that may conflict with, or be contrary to, this Resolution.
10. This Resolution shall become effective immediately upon its adoption.

11. The foregoing resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 6th day of, July 2011 by Council Member _____ who moved its adoption, which motion was duly seconded by Council Member _____ and the Resolution adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk

**EXHIBIT A
SCHEDULE OF SOLID WASTE SERVICE FEES**

Every person whose premises in the City that receives solid waste disposal services shall pay a solid waste service fee as follows:

Customer Classification	Monthly Solid Waste Rates and Effective Dates					
	Current through 8/31/2011	Effective 9/1/2011	Effective 7/1/2012	Effective 7/1/2013	Effective 7/1/2014	Effective 7/1/2015
Residential	All residential containers are picked up one time per week					
64 – gal cart	\$29.07	\$30.67	\$32.36	\$34.14	\$36.01	\$37.99
96 – gal cart	\$43.61	\$46.01	\$48.54	\$51.21	\$54.02	\$56.99
Extra Green Cart	\$5.68	\$5.99	\$6.32	\$6.67	\$7.04	\$7.42
Extra Recyclable Cart	\$5.68	\$5.99	\$6.32	\$6.67	\$7.04	\$7.42
Extra Pick Up-32 gal	\$13.26	\$13.99	\$14.76	\$15.57	\$16.43	\$17.33
Commercial						
Cart Service Monthly Rate One Pick Up per Week						
64 – gal cart	\$25.55	\$26.96	\$28.44	\$30.00	\$31.65	\$33.39
96 – gal cart	\$38.33	\$40.44	\$42.66	\$45.01	\$47.48	\$50.10
Bin Service Monthly Rate – Service Frequency Varies						
1 cu yd container						
1 pick up / week	\$76.71	\$80.93	\$85.38	\$90.08	\$95.03	\$100.26
2 pick ups/week	\$113.18	\$119.40	\$125.97	\$132.90	\$140.21	\$147.92
3 pick ups/week	\$153.40	\$161.84	\$170.74	\$180.13	\$190.04	\$200.49
4 pick ups/week	\$193.68	\$204.33	\$215.57	\$227.43	\$239.94	\$253.13
5 pick ups/week	\$232.03	\$244.79	\$258.26	\$272.46	\$287.44	\$303.25
6 pick ups/week	\$276.18	\$291.37	\$307.40	\$324.30	\$342.14	\$360.96
1.5 cu yd container						
1 pick up / week	\$88.20	\$93.05	\$98.17	\$103.57	\$109.26	\$115.27
2 pick ups/week	\$136.10	\$143.59	\$151.48	\$159.81	\$168.60	\$177.88
3 pick ups/week	\$184.08	\$194.20	\$204.89	\$216.15	\$228.04	\$240.59
4 pick ups/week	\$239.72	\$252.90	\$266.81	\$281.49	\$296.97	\$313.30
5 pick ups/week	\$306.83	\$323.71	\$341.51	\$360.29	\$380.11	\$401.01
6 pick ups/week	\$350.94	\$370.24	\$390.60	\$412.09	\$434.75	\$458.66
3 cu yd container						
1 pick up / week	\$143.86	\$151.77	\$160.12	\$168.93	\$178.22	\$188.02
2 pick ups/week	\$260.77	\$275.11	\$290.24	\$306.21	\$323.05	\$340.81
3 pick ups/week	\$377.82	\$398.60	\$420.52	\$443.65	\$468.05	\$493.80
4 pick ups/week	\$473.69	\$499.74	\$527.23	\$556.23	\$586.82	\$619.09
5 pick ups/week	\$563.86	\$594.87	\$627.59	\$662.11	\$698.52	\$736.94
6 pick ups/week	\$646.27	\$681.81	\$719.31	\$758.88	\$800.62	\$844.65
6 cu yd container						
1 pick up / week	\$228.30	\$240.86	\$254.10	\$268.08	\$282.82	\$298.38
2 pick ups/week	\$423.99	\$447.31	\$471.91	\$497.87	\$525.25	\$554.14
3 pick ups/week	\$587.03	\$619.32	\$653.38	\$689.31	\$727.23	\$767.22
4 pick ups/week	\$750.14	\$791.40	\$834.92	\$880.85	\$929.29	\$980.40
5 pick ups/week	\$913.21	\$963.44	\$1,016.43	\$1,072.33	\$1,131.31	\$1,193.53
6 pick ups/week	\$1,076.25	\$1,135.44	\$1,197.89	\$1,263.78	\$1,333.28	\$1,406.62

8 cu yd container						
1 pick up / week	\$306.60	\$323.46	\$341.25	\$360.02	\$379.82	\$400.71
2 pick ups/week	\$521.83	\$550.53	\$580.81	\$612.75	\$646.46	\$682.01
3 pick ups/week	\$717.52	\$756.98	\$798.62	\$842.54	\$888.88	\$937.77
4 pick ups/week	\$913.21	\$963.44	\$1,016.43	\$1,072.33	\$1,131.31	\$1,193.53
5 pick ups/week	\$1,092.60	\$1,152.69	\$1,216.09	\$1,282.98	\$1,353.54	\$1,427.98
6 pick ups/week	\$1,271.95	\$1,341.91	\$1,415.71	\$1,493.58	\$1,575.73	\$1,662.39
Commercial Recyclable Materials						
96 – gal cart	\$4.10	\$4.33	\$4.56	\$4.81	\$5.08	\$5.36
1 cu yd container	\$0.00	\$47.98	\$50.62	\$53.40	\$56.34	\$59.44
1.5 cu yd container	\$0.00	\$57.26	\$60.41	\$63.73	\$67.24	\$70.94
3 cu yd container	\$0.00	\$96.70	\$102.02	\$107.63	\$113.55	\$119.79
4 cu yd container	\$0.00	\$121.50	\$128.18	\$135.23	\$142.67	\$150.52
6 cu yd container	\$0.00	\$160.87	\$169.72	\$179.05	\$188.90	\$199.29
Additional Pick Ups charges are per occurrence						
32- gal bag	\$9.47	\$9.99	\$10.54	\$11.12	\$11.73	\$12.38
64 or 96 gal cart	\$9.47	\$9.99	\$10.54	\$11.12	\$11.73	\$12.38
1 cu yd container	\$28.41	\$29.97	\$31.62	\$33.36	\$35.19	\$37.13
1.5 cu yd container	\$32.67	\$34.47	\$36.36	\$38.36	\$40.47	\$42.70
3 cu yd container	\$53.28	\$56.21	\$59.30	\$62.56	\$66.00	\$69.63
6 cu yd container	\$84.55	\$89.20	\$94.11	\$99.28	\$104.74	\$110.50
8 cu yd container	\$113.55	\$119.80	\$126.38	\$133.34	\$140.67	\$148.41
Additional Recyclable Material Pick Ups charges are per occurrence						
32- gal bag	\$4.74	\$5.00	\$5.28	\$5.57	\$5.87	\$6.19
64 or 96 gal cart	\$4.74	\$5.00	\$5.28	\$5.57	\$5.87	\$6.19
1 cu yd container	\$14.21	\$14.99	\$15.82	\$16.69	\$17.60	\$18.57
1.5 cu yd container	\$16.33	\$17.23	\$18.18	\$19.18	\$20.23	\$21.34
3 cu yd container	\$26.64	\$28.11	\$29.65	\$31.28	\$33.00	\$34.82
6 cu yd container	\$42.28	\$44.61	\$47.06	\$49.65	\$52.38	\$55.26
8 cu yd container	\$56.78	\$59.90	\$63.20	\$66.67	\$70.34	\$74.21
Regularly Scheduled Collection Service (Per pull/return rate not including initial deliver fee)						
6 cu yd drop box	\$189.40	\$199.82	\$210.81	\$222.40	\$234.63	\$247.54
14 cu yd drop box	\$189.40	\$199.82	\$210.81	\$222.40	\$234.63	\$247.54
20 cu yd drop box	\$270.58	\$285.46	\$301.16	\$317.73	\$335.20	\$353.64
30 cu yd drop box	\$400.79	\$422.83	\$446.09	\$470.62	\$496.51	\$523.82
40 cu yd drop box	\$534.36	\$563.75	\$594.76	\$627.47	\$661.98	\$698.39
On-Call Collection Service (Per pull rate includes delivery fee; does not include demurrage fee)						
6 cu yd drop box	\$233.96	\$246.83	\$260.40	\$274.73	\$289.84	\$305.78
14 cu yd drop box	\$233.96	\$246.83	\$260.40	\$274.73	\$289.84	\$305.78
20 cu yd drop box	\$315.14	\$332.47	\$350.76	\$370.05	\$390.40	\$411.88
30 cu yd drop box	\$445.34	\$469.83	\$495.67	\$522.94	\$551.70	\$582.04
40 cu yd drop box	\$578.92	\$610.76	\$644.35	\$679.79	\$717.18	\$756.63
Regularly Scheduled Compactor Service – Customer Owned Compactors (per pull/return rate not including initial delivery fee)						
14 cu yd drop box	\$189.40	\$199.82	\$210.81	\$222.40	\$234.63	\$247.54
16 cu yd drop box	\$216.46	\$228.37	\$240.93	\$254.18	\$268.16	\$282.90
20 cu yd drop box	\$270.57	\$285.45	\$301.15	\$317.71	\$335.19	\$353.62
24 cu yd drop box	\$324.69	\$342.55	\$361.39	\$381.26	\$402.23	\$424.36
25 cu yd drop box	\$338.21	\$356.81	\$376.44	\$397.14	\$418.98	\$442.03
30 cu yd drop box	\$405.86	\$428.18	\$451.73	\$476.58	\$502.79	\$503.44
38 cu yd drop box	\$514.09	\$542.36	\$572.19	\$603.67	\$636.87	\$671.89
40 cu yd drop box	\$541.14	\$570.90	\$602.30	\$635.43	\$670.38	\$707.25

Regularly Scheduled Compactor Service – Contractor Owned Compactors (per pull/return rate not including initial delivery fee)						
14 cu yd drop box	\$189.40	\$199.82	\$210.81	\$222.40	\$234.63	\$247.54
16 cu yd drop box	\$216.46	\$228.37	\$240.93	\$254.18	\$268.16	\$282.90
20 cu yd drop box	\$270.57	\$285.45	\$301.15	\$317.71	\$335.19	\$353.62
24 cu yd drop box	\$324.69	\$342.55	\$361.39	\$381.26	\$402.23	\$424.36
30 cu yd drop box	\$405.86	\$428.18	\$451.73	\$476.58	\$502.79	\$530.44
38 cu yd drop box	\$514.09	\$542.36	\$572.19	\$603.67	\$636.87	\$671.89
40 cu yd drop box	\$541.14	\$570.90	\$602.30	\$635.43	\$670.38	\$707.25
Recyclable Materials Contamination Charge upon 3rd Notice by Contractor						
Container Removal	\$0.00	\$25.00	\$25.00	\$25.00	\$25.00	\$25.00



City of
Los Banos
At the Crossroads of California

TO: Honorable Mayor Villalta and Council Members

DATE: July 6, 2011

FROM: Paula Fitzgerald, Planning Director

RE: Stonecreek North Annexation and General Plan Amendment

The purpose of this memo is to request that the Public Hearing for the Stonecreek North Annexation and General Plan Amendment be continued to a date uncertain as requested in the attached email from the applicant.

Paula Fitzgerald

From: Ray Desa [rdesa@stonecreek-properties.com]
Sent: Tuesday, June 28, 2011 11:11 AM
To: paula.fitzgerald@losbanos.org
Subject: RE: Stonecreek North

Good morning Paula,
As we discussed earlier, I believe it is best to continue this item to a date yet to be determined. Let me know if you have any questions.
Thanks,

Ray DeSa
Vice President/Land Development

1851 Airway Drive, Suite E
Hollister, CA 95023
Tel 831.630.1853 Fax 831.630.9246



This transmission is confidential and intended solely for the person or organization to whom it is addressed. It may contain privileged and confidential information. If you are not the intended recipient, you should not copy, distribute or take any action in reliance on it. If you have received this transmission in error, please notify us immediately by email at info@stonecreek-properties.com, or call us at 209-827-6000. Thank you.

From: Paula Fitzgerald [mailto:paula.fitzgerald@losbanos.org]
Sent: Tuesday, June 28, 2011 10:24 AM
To: Ray Desa
Subject: Stonecreek North

Good morning Ray. I just wanted to touch base with you before I expend additional time working on the staff report for the City Council. Just curious, are you planning to have your item presented at the City Council meeting on July 6, 2011 or did you want to push it to the first meeting in August. Please let me know. Thank you.

Paula Fitzgerald, AICP
Planning Director
City of Los Banos
520 J St.
Los Banos, CA
209-827-7000 ext 114 (office)
209-918-4222 (cell)
209-827-8059 (fax)



City of
Los Banos
At the Crossroads of California

PLANNING DEPARTMENT

Date: June 24, 2011

Regarding: Notice of Public Hearing

Proposal: Annexation, Area Plan, General Plan Amendment and Fiscal Studies for Stonecreek North

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos City Council to consider an Annexation, Area Plan, General Plan Amendment and Fiscal Studies for Stonecreek North. The project site is approximately 362 acres located north of Pacheco Blvd and west of Badger Flat Road extending past the Merced Community College.

The City Council will consider the narrow question of denial for the project or whether the applicant will continue to process the entitlements with or without an Urban Decay Analysis and Fiscal Impact Analysis.

The Los Banos Planning Commission on May 11, 2011 held a public hearing on this matter and recommended denial to the Los Banos City Council.

A PUBLIC HEARING on this matter will be held at the next regularly scheduled meeting of the City Council on Wednesday, July 6th, 2011 at 7:00 p.m. in the Council Chambers of Los Banos City Hall located at 520 "J" Street. Questions regarding the above-referenced item may be directed to Paula Fitzgerald, AICP, Planning Director at City Hall or at (209) 827-7000, Ext.118.

Persons wishing to provide oral comments on the described proposal may do so at this meeting or may provide written comments on this matter prior to the public meeting. Written comments may be sent by U.S. Mail or hand delivered to the City of Los Banos City Hall at 520 "J" Street, Los Banos, California 93635. If no comments are received prior to or on the above date, it will be assumed that no comments are being offered. The public is also informed that should this matter, at some future date go to court, testimony shall be limited to only those issues raised at the public hearing or in written correspondence delivered to the City prior to, or at, the public hearing per Government Code Section 65009.

THE CITY OF LOS BANOS

Paula Fitzgerald, AICP
Planning Director



City of Los Banos

At the Crossroads of California

Agenda Staff Report

TO: Mayor & City Council Members

FROM: Chet Guintini, Fire Chief 

DATE: July 6, 2011

SUBJECT: Introduction of an Ordinance Adopting the 2010 California Building Standards Code

TYPE OF REPORT: Public Hearing

Recommendation:

To introduce an ordinance to the City Council of the City of Los Banos, adopting by reference the 2010 Edition of the California Building Standards Code

Discussion:

The California Building Standards Code (California Code of Regulations, Title 24, Parts 1, 2, 2.5, 3, 4, 5, 6, 7, 8, 9, 10, 11, & 12) is published in its entirety every three years and is applicable to all buildings that submit an application for a building permit during its effective period. The Building Standards Code incorporates all of the regulations applicable to all disciplines of the construction industry including the Building, Electrical, Mechanical, and Plumbing Codes.

The California Building Standard Codes are based on model codes written by the International Code Council, the National Fire Protection Association, and the International Association of Plumbing and Mechanical Officials. The publication of code updates by these organizations triggers State consideration, amendment, and adoption of an updated set of codes to be used by jurisdictions within the state. Each triennial edition of the California Building Standards Code becomes effective 180 days after its publication date of July 1. Therefore, the 2010 Building Standards Codes go into effect

on January 1, 2011 and all building permit submittals after January 1, 2011 will be subject to the Codes.

The State has adopted two new Parts to the Building Standards Code in this adoption cycle, the 2010 California Residential Code and the 2010 California Green Building Code. The 2010 California Residential Code establishes minimum building standards specific to the construction of one- and two-family dwellings, buildings accessory to one- and two-family dwellings, and town homes and the 2010 Green Building Code establishes minimum green building standards for the construction of residential and non-residential structures.

Residential Code

In this code cycle, the State amended and adopted the 2009 International Residential Code that was developed as a model code. As a result of the adoption, it has become Part 2.5 of the Building Standards Code and is referenced as the 2010 California Residential Code (Residential Code). In the previous code cycle, the State included residential code requirements in the California Building Code rather than adopt a separate Residential Code. The 2010 California Building Code (Building Code) now establishes minimum building standards specific to the construction of all other structures other than those covered in the Residential Code.

Green Building Standards Code

The State has also developed and adopted Part 11 of the Building Standards Code known as 2010 Green Building Standards Code or Cal Green. Cal Green is not intended to substitute or be identified as meeting the certification requirements of any green building program but rather it establishes minimum green building standards for the construction of residential and non-residential structures to encourage sustainable construction practices in the following categories:

1. Planning and design;
2. Energy efficiency;
3. Water efficiency and conservation;
4. Material conservation and resource efficiency;
5. Indoor air quality; and
6. Environmental quality.

In addition to the mandatory minimum measures, Cal Green includes appendices of residential and non-residential voluntary measures. These voluntary measures are organized into two tiers, Tier 1 and Tier 2, with the Tier 2 measures containing all of the Tier 1 measures plus additional, more aggressive measures. Selected or all of the voluntary measures can be made mandatory through the local jurisdiction's code adoption process. Staff at this time is not recommending to the Council as to which, if any, voluntary measures should be made mandatory. At this time, only the minimum Cal Green requirements are enforceable.

Other Key Changes in the Code

One of the more significant changes to the Building Standards Code is the requirement for automatic fire sprinklers in all one- and two- family dwellings and town homes except for additions and alterations to existing buildings that are not already equipped with a fire sprinkler system. Historically, the Fire Code has established when automatic fire sprinklers are required and that a jurisdiction's Fire Department has authority for the review of plans and the installation of the fire sprinklers. The requirement for fire sprinklers established in the Residential Code has caused concerns with Building and Fire Departments across the State regarding authority for plan review and inspection of fire sprinklers. The Fire Department currently reviews residential construction projects that include additions and alterations along with non-residential projects for compliance to the State Fire Code which will not change as a result of the requirements of the Residential Code.

Local Amendment

The California Health and Safety Code enables local jurisdictions to modify the California Building Standards Code and adopt different or more restrictive requirements with the caveat that:

- The local modifications must be substantially equivalent to, or more stringent than, building standards published in the California Building Standards Code; and
- The local jurisdiction is required to make specific or express findings that such changes are reasonably necessary because of local geological, climatic, or topographic conditions.

Staff is not recommending the adoption of any new local amendments to the Building Code.

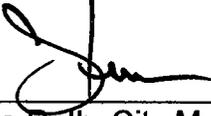
Synopsis

Title 8, Building Codes, of the City of Los Banos Municipal Code, incorporates the Building Standards Code plus locally adopted amendments to the codes and is known as the Building Codes of the City of Los Banos. The Building Code of the City of Los Banos applies to the construction of any building or structure in the city on public or private land except for structures constructed in the public right of way. The proposed ordinance adopts all parts of the 2010 California Standards Building Code with the exception of Parts 7 and 9. Part 7 is vacant but had previously been the California Elevator Safety Construction Code. This code has been moved to a different Title within the California Code of Regulations. Part 9 is the California Fire Code that is adopted by separate ordinance. Additionally, the proposed ordinance renumbers and reorganizes Title 8, Building Codes, to correct the irregular numbering sequence and add the new Parts of the Building Standards Code.

Fiscal Impact:

There will be no fiscal impact on the City of Los Banos for adopting the proposed Ordinance.

Reviewed by:



Steve Rath, City Manager

Attachments:

Proposed Code Ordinance

**CITY OF LOS BANOS
NOTICE OF PUBLIC HEARING**

TO RECEIVE PUBLIC COMMENT AND CONSIDERATION OF ADOPTING BY
REFERENCE THE 2010 EDITION OF THE CALIFORNIA BUILDING STANDARDS
CODE TO THE CITY OF LOS BANOS' BUILDING CODES ORDINANCE

WHERE: City Council Chambers
520 J Street
Los Banos, California

WHEN: July 6, 2011
7:00 PM

Notice is hereby given that the City of Los Banos will conduct a Public Hearing to receive public comment and consider amendments to the City Building Codes Ordinance by adopting by reference the 2010 California Building Standards Code.

Title 8, Building Codes, of the City of Los Banos Municipal Code, incorporates the California Building Standards Code plus locally adopted amendments to the codes and is known as the Building Codes of the City of Los Banos. The Los Banos City Council will consider an ordinance, which if adopted will substantially revise Title 8 of the Los Banos Municipal Code as it relates to the California Building Standards Code by adopting by reference all parts of the 2010 California Building Standards Code as follows: Part 1 – California Administrative Code; Part 2 – California Building Code Vol. 1 & 2; Part 2.5 – California Residential Code; Part 3 – California Electrical Code; Part 4 – California Mechanical Code; Part 5 – California Plumbing Code; Part 6 – California Energy Code; Part 8 – California Historical Code; Part 10 – California Existing Building Code; Part 11 – California Green Building Code; Part 12 – California Reference Standards Code. Additionally, the proposed ordinance renumbers and reorganizes Title 8, Building Codes, to correct the irregular numbering sequence and add the new Parts of the Building Standards Code.

The Public Hearing will be held at the regular meeting of the Los Banos City Council on Wednesday, July 6, 2011 at 7:00 p.m. in the Council Chambers at Los Banos City Hall located at 520 J Street, or as near as possible thereafter, at which time and place interested persons may appear and be heard thereon. Questions regarding the above-referenced item may be directed to Tim Marrison, Assistant Fire Chief, Main Fire Station, 333 7th Street or at (209) 827-7025. Copies of the primary code and also copies of the secondary codes, if any, being considered for adoption, are on file with the City Clerk, and are open for public inspection.

All interested persons will be given an opportunity to comment on this item at the Public Hearing. In addition, written comments may be submitted to the City Council at or prior to the hearing, mailed to 333 7th Street, Los Banos, CA 93635, Attention: Tim Marrison, Assistant Fire Chief. Please reference hearing title and date of hearing in any correspondence. If no comments are received prior to or on the above date, it will be assumed that no comments are being offered. Please note that if you challenge the City's final decision on the above matter in court, you may be limited to raising only those factual and legal issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or

prior to, the public hearing. In light of the foregoing, all interested members of the public are encouraged to voice their concerns regarding the above matter either in person at the hearing or in writing through correspondence addressed to the City Council and submitted to the City Council at or prior to the date of the above hearing.

It is the intention of the City to comply with the Americans with Disabilities Act (ADA). If you require special assistance beyond what is normally provided, the City will attempt to accommodate you in every reasonable manner. Please contact the City Clerk's Office at (209) 827-7000 at least 48 hours prior to the meeting to inform us of your particular needs.

THE CITY OF LOS BANOS
TIM MARRISON
ASSISTANT FIRE CHIEF

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS BANOS, ADOPTING BY REFERENCE THE 2010 EDITION OF THE CALIFORNIA BUILDING CODE, THE 2010 EDITION OF THE CALIFORNIA ENERGY CODE, THE 2010 EDITION OF THE CALIFORNIA HISTORICAL BUILDING CODE, THE 2010 EDITION OF THE CALIFORNIA REFERENCED STANDARDS CODE, THE 2010 EDITION OF THE CALIFORNIA ELECTRICAL CODE, THE 2010 EDITION OF THE CALIFORNIA MECHANICAL CODE, THE 2010 EDITION OF THE CALIFORNIA ADMINISTRATIVE CODE, THE 2010 EDITION OF THE CALIFORNIA EXISTING BUILDING CODE, THE 2010 EDITION OF THE CALIFORNIA GREEN BUILDING STANDARDS CODE, THE 2010 EDITION OF THE CALIFORNIA RESIDENTIAL CODE, THE 2010 EDITION OF THE CALIFORNIA PLUMBING CODE, TOGETHER WITH CERTAIN AMENDMENTS AND DELETIONS, AND AMENDING AND REORGANIZING TITLE 8 OF THE LOS BANOS MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF LOS BANOS MAKES THE FOLLOWING FINDINGS:

WHEREAS, California Health & Safety Code Section 18938 provides that the building standards contained in the California Building Code, 2010 Edition, and incorporates, by adoption, the 2009 Edition of the International Building Code of the International Code Council with the California amendments, shall apply to all occupancies throughout the state and shall become effective 180 days after publication in the California Buildings Standards Code by the California Building Standards Commission; and

WHEREAS, the City Council of the City of Los Banos has previously adopted the "Uniform Building Code, 2007 Edition," including the appendix, which was prepared by the International Conference of Building Officials and Western Fire Chief's Association, with certain amendments as the Fire Code of the City; and

WHEREAS, after due consideration, the City Council of the City of Los Banos hereby finds that it desires to adopt the most recent version of the California Building Code as the City's Building Code, with certain amendments to provide further safety protections to the citizens of the City of Los Banos; and

WHEREAS, California Health & Safety Code Section 18941.5 provides that if a city makes an express finding that building standards that are more restrictive than those standards provided in the international codes are reasonably necessary because of local climatic, geological, or topographical conditions, a city may establish more restrictive building standards; and

WHEREAS, the City Council of the City of Los Banos hereby finds the amendments to the "California Building Code, 2010 Edition," are reasonably necessary to provide sufficient and effective protection of life, health, and property in consideration of the local climatic, geologic and topographic conditions as stated below; and

A. During winter months, the San Joaquin Valley experiences thick fog, heavy rains and extreme wind conditions that in past experience has caused structural damage within the City.

B. Merced County is located within an area with potential seismic activity. The proposed amendments will increase the ability of the structural components to sustain their functionality.

C. The City of Los Banos to a great extent lies on a level plain, as a result, heavy rains have historically threatened flooding throughout the City, which can cause delays for emergency response, or in some situations, make it impossible for responders to get to certain areas of the City. Flooding is both a climatic and topographic problem.

D. The City of Los Banos is located in an area subject to a climatic condition of high winds. This environment is conducive to rapidly spreading fires; control of such fires requires rapid response. Obstacles generated by a strong wind, such as fallen trees, streetlights and utility poles, may greatly impact the response time to reach an incident scene; and

E. Due to the topographical conditions of sprawling development separated by two congested state highways, it is prudent to rely on measures to allow for rapid access and entry to an incident scene.

THE CITY COUNCIL OF THE CITY OF LOS BANOS DOES ORDAIN AS FOLLOWS:

Section 1. Title 8, Chapter 1, of the Los Banos Municipal Code is hereby retitled and amended in its entirety by amending Sections 8-1.01, 8-1.03, 8-1.04, 8-1.05, by repealing 8-1.06, by amending and renumbering Sections 8-1.07 through 8-1.10 and adding new Sections 8-1.10 through 8-1.13 to read as follows:

BUILDING CODES

Sec. 8-1.01 Adoption of the California Building Code 2010 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Building Code, 2010 Edition, Volumes 1 & 2 (Part 2 of Title 24 of the California Code of Regulations), based on the 2009 International Building Code as published by the International Code Council,

together with all Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Building Code of the City of Los Banos.

Sec. 8-1.02 Violations: Penalties.

Any person violating any of the provisions of this chapter or of the Building Code, or who shall fail to comply with any provision thereof, or who shall violate or fail to comply with any order made thereunder, or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the Council or by a court of competent jurisdiction within the time fixed therein shall, for each and every separate violation and noncompliance, respectively, be deemed guilty of a misdemeanor and, upon conviction, shall be punishable as set forth in Chapter 2 of Title 1 of this Code. The imposition of one penalty for any violation of the provisions of this chapter or the Building Code shall not excuse the violation or permit it to continue, and any such person violating the provisions of this chapter or the Building Code shall be required to correct or remedy such violation or defect within a reasonable time, and, when not otherwise specified, each ten (10) days prohibitive conditions are maintained shall constitute a separate offense. The application of the penalties set forth in this section shall not be held to prevent the enforced removal of prohibitive conditions.

Sec. 8-1.03 Adoption of the Uniform Solar Energy Code 2006 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, that certain Code designated as the "Uniform Solar Energy Code" 2006 Edition, published by the International Association of Plumbing & Mechanical Officials (IAPMO), together with all Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Solar Energy Code of the City of Los Banos.

Sec. 8-1.04 Adoption of the California Energy Code 2010 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Energy Code, 2010 Edition (Part 6 of Title 24 of the California Code of Regulations), published by the International Code Council, together with all Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in

this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Energy Code of the City of Los Banos.

Sec. 8-1.05 Adoption of California Historical Building Code 2010 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Historical Building Code, 2010 Edition (Part 8 of Title 24 of the California Code of Regulations), as published by the International Code Council, together with all Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Historical Building Code of the City of Los Banos.

Sec. 8-1.06 Adoption of California Referenced Standards Code 2010 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Referenced Standards Code, 2010 Edition (Part 12 of Title 24 of the California Code of Regulations, published by the International Code Council together with all Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Referenced Standards Code of the City of Los Banos.

Sec. 8-1.07 Adoption of California Electrical Code 2010 Edition.

For the purpose of prescribing regulations governing the installation, erection, construction, enlargement, alteration, repair, maintenance and inspection of electrical facilities within the City, the California Electrical Code, 2010 Edition (Part 3 of Title 24 of the California Code of Regulations), including appendix, based on the 2008 National Electrical Code as published by the National Fire Protection Association, together with its Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter, and said Code shall be known as the Electrical Code of the City of Los Banos.

Sec. 8-1.08 Adoption of Uniform Housing Code 1997 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the Uniform Housing Code, 1997 Edition Conference of Building Officials (Title 25 of the California Code of Regulations

pursuant to Sections 17958, 17958.5, 17958.7, 17958.9 and 17959 of the California Health and Safety Code), published by the International, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions and deletions set forth in this chapter, and said Code shall be known as the Housing Code of the City of Los Banos.

Sec. 8-1.09 Adoption of California Mechanical Code 2010 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Mechanical Code, 2010 Edition (Part 4 of Title 24 of the California Code of Regulations), including appendix, based on the 2009 Uniform Mechanical Code as published by the International Association of Plumbing and Mechanical Officials, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Mechanical Code of the City of Los Banos.

Sec. 8-1.10 Adoption of the California Administrative Code 2010 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Administrative Code, 2010 Edition (Part 1 of Title 24 of the California Code of Regulations), as published by the International Code Council, together with all Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Administrative Code of the City of Los Banos.

Sec. 8-1.11 Adoption of the California Existing Building Code 2010 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Existing Building Code, 2010 Edition (Part 10 of Title 24 of the California Code of Regulations), based on the 2009 International Existing Building Codes published by the International Code Council, together with all Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Existing Building Code of the City of Los Banos.

Sec. 8-1.12 Adoption of the California Green Building Standards Code 2010 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Green Building Standards Code, 2010 Edition (Part 11 of the Title 24 of the California Code of Regulations), as published by the California Buildings Standards Commission, together with all Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Green Building Standards Code of the City of Los Banos.

Sec. 8-1. 13 Adoption of the California Residential Code 2010 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, that certain Code designated as the "California Residential Code, 2010 Edition (Part 2.5 of Title 24 of the California Code of Regulations), based on the 2009 International Residential Code and as published by the International Code Council, together with all Appendices, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Residential Code of the City of Los Banos.

Section 2. Section 3.01 of Title 8, Chapter 3 of the Los Banos Municipal Code is renumbered, amended to read as follows:

Sec. 8-1.14 Adoption of the Uniform Code for the Abatement of Dangerous Buildings 1997 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the Uniform Code for Abatement of Dangerous Buildings, 1997 Edition, published by the International Conference of Building Officials, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions and deletions set forth in this chapter, and said Code shall be known as the Dangerous Buildings Code for the City of Los Banos.

Section 3. Section 8-3.02 of Title 8, Chapter 3 of the Los Banos Municipal Code is repealed.

Section 4. Section 8-8.01 of Title 8, Chapter 8, of the Los Banos Municipal Code is renumbered, retitled and amended to read as follows:

Sec. 8-1.15 Adoption of the California Plumbing Code 2010 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the California Plumbing Code, 2010 Edition (Part 5 of Title 24 of the California Code of Regulations), including appendix, based on the 2009 Uniform Plumbing Code as published by the International Association of Plumbing and Mechanical Officials, , one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Plumbing Code of the City of Los Banos.

Section 5. Section 8-8.02 of Title 8, Chapter 8 of the Los Banos Municipal Code is repealed.

Section 6. Section 8-8.03 and Section 8-8.04 of Title 8, Chapter 4, of the Los Banos Municipal Code are renumbered, retitled and amended to read as follows:

Sec. 8-1.18 Amendments to the California Plumbing Code 2010 Edition.

The following amendments, additions, and deletions are made to the California Plumbing Code 2010 Edition, as adopted by this Chapter.

A. Amendment: Section 505 Water Heater Prohibited Locations

Section 505.1 of the California Plumbing Code is hereby amended to add Section 505.1(3) to read as follows:

(3) Prohibited Locations: No water heater which depends on the combustion of fuel for heat shall be installed in any room designed to be used for sleeping purposes, or in any garage, bathroom, or clothes closet, or in any closet or other confined space opening in any bath or bathroom.

B. Amendment: Section 508 Water Heater Protection From Damage

Section 508.14 (1) of the California Plumbing Code is hereby amended to read as follows:

Section 508.14 (1) Protection from Damage:

- (a) Water heaters generating a glow, spark, or flame capable of igniting flammable vapors may be installed in a residential garage constructed on or before August 4, 1973, provided the pilots and burners, or heating elements and switches, are at least eighteen (18") inches above the floor level.

- (b) Where such water heaters installed within a garage are enclosed in a separate, approved compartment having access only from outside of the garage, such water heaters may be installed at floor level provided the required combustion air is also taken from the exterior of the garage. Fuel burning water heaters having sealed combustion chambers need not be elevated.
- (c) All water heaters installed in areas where they may be subjected to mechanical damage shall be suitably guarded against such damage by being installed behind adequate barriers or by being elevated or located out of the normal path of a vehicle using and such garage.”

Section 7. Chapter 10 of Title 8 is renumbered to Chapter 3 of Title 8.

Section 8. Section 8-10.01 is renumbered to Section 8-3.01

Section 9. Section 8-11.01 of Title 8, Chapter 11 of the Los Banos Municipal Code is renumbered, retitled and amended to read as follows:

Sec. 8-1.16 Adoption of Uniform Swimming Pool, Spa and Hot Tub Code 2006 Edition.

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, the Uniform Swimming Pool, Spa and Hot Tub Code, 2006 Edition, published by the International Association of Plumbing and Mechanical Officials, and subsequent additions and editions thereto, three (3) copies of which are on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Swimming Pool Code of the City of Los Banos.

Section 10. Section 8-11.02 of Title 8, Chapter 11 of the Los Banos Municipal Code is repealed.

Section 11. Section 8-11.03 of Title 8, Chapter 4, of the Los Banos Municipal Code is renumbered, retitled and amended to read as follows:

Sec. 8-1.19 Amendments to the Uniform Swimming Pool, Spa and Hot Tub Code 2006 Edition.

The following amendments, additions, and deletions are made to the Uniform Swimming Pool, Spa and Hot Tub Code 2006 Edition, as adopted by this Chapter.

A. Amendments: Section 103.4 Cost of Permit

Section 103.4 of said Swimming Pool Code **Uniform Swimming Pool, Spa and Hot Tub Code 2006 Edition** is hereby amended to read as follows:

Section 103.4. Cost of Permit

Every applicant for a permit to install, Alter, or repair a swimming pool system, or part thereof, shall state, in writing, on the application form provided for that purpose, the character of work proposed to be done and the amount and kind in connection therewith, together with such information pertinent thereto as may be required.

Such applicant shall pay for each permit, at the time of making the application, a fee in accordance with the schedule of fees shown in this code and at the rate provided for each classification shown therein. When plans are required to be submitted, a plan-checking fee shall be paid to the Building Official at the time the permit is issued. Such permit fees shall be specified in Table No. 3A; 3B; 3C & 3D of the Uniform Administrative Code. Any person who shall commence any swimming pool work for which a permit is required by this code without having obtained a permit therefore shall, if subsequently permitted to obtain a permit, pay double the permit fee fixed by this section for such work; provided, however, this provision shall not apply to emergency work when it shall be demonstrated to the satisfaction of the Administrative Authority that such work was urgently necessary and that it was not practical to obtain a permit therefore before the commencement of the work. In all such cases a permit shall be obtained as soon as it is practical to do so, and if there shall be an unreasonable delay in obtaining such permit, a double fee, as herein provided, shall be charged.

Section 12. Sections 8-11.04 and 8-11.05 are repealed.

Section 13. Section 8-12.01 of Title 8, Chapter 12 of the Los Banos Municipal Code is renumbered and amended to read as follows:

Section 8-8-1.17 Adoption of the Uniform Administrative Code. 1997 Edition

For the purpose of prescribing regulations governing the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and structures within the City, that certain code designated as the "Uniform Administrative Code," 1997 Edition, published by the International Conference of Building Officials, and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Uniform Administrative Code for the City of Los Banos.

Section 14. Chapter 12 of Title 8 is renumbered to Chapter 4 of Title 8.

Section 15. Section 8-12.03 is renumbered to Section 8-4.01.

Section 16. Chapter 13 of Title 8 is renumbered to Chapter 5 of Title 8.

Section 17. Section 8-13.01 through 8-13.03 are renumbered to Section 8-5.01 through 8-5.03.

Section 18. The City Council finds that the changes made to the uniform codes are enacted to mitigate the threats posed to public peace, health and safety from earthquakes and fire. In this regard, the recitals set forth in this Ordinance are incorporated herein by reference a findings.

Section 19. To the extent that the terms and provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior city ordinance, motion, resolution, rule or regulation governing the same subject, the terms of this Ordinance shall prevail with the respect to the subject matter thereof and such inconsistent or conflicting provisions of prior ordinances, motions, resolutions, rules or regulations are hereby repealed.

Section 20. If any section, subsection, subdivision, paragraph, sentence, clause or phrase added by this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses or phrases are declared unconstitutional, invalid or ineffective.

Section 21. This Ordinance shall go into effect and be in full force and operation thirty (30) days after its final passage and adoption. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in this Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, and aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

Introduced by Council Member _____ and seconded by Council Member _____ on the _____ day of _____, 200__.

Passed on the _____ day of _____, 200__, by the following vote:

AYES: COUNCIL MEMBERS

NOES: COUNCIL MEMBERS

ABSENT: COUNCIL MEMBERS

APPROVED:

MAYOR – City of Los Banos

ATTEST:

CITY CLERK – City of Los Banos

SUMMARY OF ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS BANOS, ADOPTING BY REFERENCE THE 2010 EDITION OF THE CALIFORNIA BUILDING CODE, THE 2010 EDITION OF THE CALIFORNIA ENERGY CODE, THE 2010 EDITION OF THE CALIFORNIA HISTORICAL BUILDING CODE, THE 2010 EDITION OF THE CALIFORNIA REFERENCED STANDARDS CODE, THE 2010 EDITION OF THE CALIFORNIA ELECTRICAL CODE, THE 2010 EDITION OF THE CALIFORNIA MECHANICAL CODE, THE 2010 EDITION OF THE CALIFORNIA ADMINISTRATIVE CODE, THE 2010 EDITION OF THE CALIFORNIA EXISTING BUILDING CODE, THE 2010 EDITION OF THE CALIFORNIA GREEN BUILDING STANDARDS CODE, THE 2010 EDITION OF THE CALIFORNIA RESIDENTIAL CODE, THE 2010 EDITION OF THE CALIFORNIA PLUMBING CODE, TOGETHER WITH CERTAIN AMENDMENTS AND DELETIONS, AND AMENDING AND REORGANIZING TITLE 8 OF THE LOS BANOS MUNICIPAL CODE

On July 6, 2011 the Los Banos City Council introduced Ordinance No. _____, which if adopted will substantially revise Title 8 of the Los Banos Municipal Code as it relates to the California Building Standards Code by adopting by reference all parts of the 2010 California Standards Building Code as follows: Part 1 – California Administrative Code; Part 2 – California Building Code Vol. 1 & 2; Part 2.5 – California Residential Code; Part 3 – California Electrical Code; Part 4 – California Mechanical Code; Part 5 – California Plumbing Code; Part 6 – California Energy Code; Part 8 – California Historical Code; Part 10 – California Existing Building Code; Part 11 – California Green Building Code; Part 12 – California Reference Standards Code.

Pursuant to the Health and Safety Code, the California Building Standards Code applies throughout the State of California. This set of 2010 building standards incorporates by reference various model codes with amendments created by applicable State agencies. The California Building Standards Commission publishes amended codes once every three years. One hundred and eighty days later, all cities and counties must follow the published standards unless the local jurisdiction amends them as allowed by law.

This Ordinance adopts the new building standards mandated by the State of California that are to become effective as of January 1, 2011, and adopts amendments to these standards based on local conditions for topography, climate and geology.

A copy of the complete text of the Ordinance is on file with the City Clerk, at 520 J Street.

The Ordinance shall go into effect and be in full force and operation thirty (30) days after its final passage and adoption. The City Council will consider adoption of this Ordinance at the regular City Council Meeting scheduled for July 22, 2011.

LUCILLE L. MALLONEE
CITY CLERK



City of
Los Banos
At the Crossroads of California

Agenda Staff Report

TO: Mayor & City Council Members

FROM: Chet Guintini, Fire Chief 

DATE: July 6, 2011

SUBJECT: Introduction of an Ordinance Adopting the 2010 California Fire Code

TYPE OF REPORT: Public Hearing

Recommendation:

To introduce an ordinance to the City Council of the City of Los Banos, adopting by reference the 2010 Edition of the California Fire Code.

Discussion:

The request is to adopt the 2010 edition of the California Code of Regulations, Title 24, Part 9, also referred to as the California Fire Code, with local amendments. The 2010 California Fire Code incorporates, by adoption, the 2009 edition of the International Fire Code of the International Code Council, with California amendments. A local City or County may make more restrictive standards necessary for local conditions.

Part 9 (The California Fire Code) is the official triennial compilation and publication of the adoptions, amendments, and repeal of administrative regulations to the California Code of Regulations, Title 24, also referred to as the California Building Standards Code. The California Building Standards Code is published every three years by order of the California legislature, with supplements published in intervening years. The California legislature delegated authority to various state agencies, boards, commissions and departments to create building regulations to implement the state statutes. These building regulations or standards have the same force of law, and take effect 180 days after their publication.

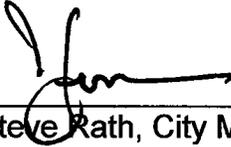
Attached is the proposed Ordinance that identifies the language and numbering necessary for adoption of the 2010 California Fire Code and the local amendments that have been identified as enhancements desirable for the safety of the citizens and preservation of property.

There has been a substantial modification within Title 24, Part 2.5 (California Residential Code) which must also be adopted by the City of Los Banos. Section R313 of said code now requires the installation of automatic fire sprinkler systems in all one- and two- family dwellings. This new requirement mandates that all new residential occupancies throughout the United States be built with NFPA 13 compliant fire sprinkler systems. This requirement has prompted the City of Los Banos to develop local amendments to address our local conditions.

Fiscal Impact:

There will be no fiscal impact on the City of Los Banos for adopting the proposed Ordinance.

Reviewed by:



Steve Rath, City Manager

Attachments:

Proposed Code Ordinance

**CITY OF LOS BANOS
NOTICE OF PUBLIC HEARING**

TO RECEIVE PUBLIC COMMENT AND CONSIDERATION OF ADOPTING BY
REFERENCE THE 2010 EDITION OF THE CALIFORNIA FIRE CODE TO THE CITY
OF LOS BANOS' FIRE PREVENTION CODE ORDINANCE

WHERE: City Council Chambers
520 J Street
Los Banos, California

WHEN: July 6, 2011
7:00 PM

Notice is hereby given that the City of Los Banos will conduct a Public Hearing to receive public comment and consider amendments to the City Fire Prevention Code Ordinance by adopting by reference the 2010 California Fire Code.

Title 4, Chapter 3 Fire Prevention Code, of the City of Los Banos Municipal Code, incorporates the California Fire Code plus locally adopted amendments to the code and is known as the Fire Prevention Code of the City of Los Banos. The Los Banos City Council will consider an ordinance, which if adopted will substantially revise Title 4, Chapter 3 of the Los Banos Municipal Code as it relates to the California Fire Code by adopting by reference the 2010 California Fire Code. Additionally, the proposed ordinance renumbers and reorganizes Title 4, Chapter 3, Fire Prevention Code, to correct the irregular numbering sequence.

The Public Hearing will be held at the regular meeting of the Los Banos City Council on Wednesday, July 6, 2011 at 7:00 p.m. in the Council Chambers at Los Banos City Hall located at 520 J Street, or as near as possible thereafter, at which time and place interested persons may appear and be heard thereon. Questions regarding the above-referenced item may be directed to Tim Marrison, Assistant Fire Chief, Main Fire Station, 333 7th Street or at (209) 827-7025. Copies of the primary code and also copies of the secondary codes, if any, being considered for adoption, are on file with the City Clerk, and are open for public inspection.

All interested persons will be given an opportunity to comment on this item at the Public Hearing. In addition, written comments may be submitted to the City Council at or prior to the hearing, mailed to 333 7th Street, Los Banos, CA 93635, Attention: Tim Marrison, Assistant Fire Chief. Please reference hearing title and date of hearing in any correspondence. If no comments are received prior to or on the above date, it will be assumed that no comments are being offered. Please note that if you challenge the City's final decision on the above matter in court, you may be limited to raising only those factual and legal issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing. In light of the foregoing, all interested members of the public are encouraged to voice their concerns regarding the above matter either in person at the hearing or in writing through correspondence addressed to the City Council and submitted to the City Council at or prior to the date of the above hearing.

It is the intention of the City to comply with the Americans with Disabilities Act (ADA). If you require special assistance beyond what is normally provided, the City will attempt to accommodate you in every reasonable manner. Please contact the City Clerk's Office at (209) 827-7000 at least 48 hours prior to the meeting to inform us of your particular needs.

THE CITY OF LOS BANOS
TIM MARRISON
ASSISTANT FIRE CHIEF

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF LOS BANOS ADOPTING BY REFERENCE THE 2010 EDITION OF
THE CALIFORNIA FIRE CODE TOGETHER WITH CERTAIN AMENDMENTS AND
DELETIONS, AND AMENDING AND REORGANIZING TITLE 4 CHAPTER 3 OF
THE LOS BANOS MUNICIPAL CODE.**

**THE CITY COUNCIL OF THE CITY OF LOS BANOS MAKES THE
FOLLOWING FINDINGS:**

WHEREAS, the California Building Standards Code, Title 24, which incorporates the California Fire Code, is adopted every three years by order of the California Legislature with supplements published in intervening years; and

WHEREAS, pursuant to California Government Code Section 50022.1 et seq. the City of Los Banos (“City”) may adopt by reference the 2010 California Fire Code, based on the International Fire Code, 2009 Edition, with errata, published by International Code Council (ICC), as adopted by the State of California pursuant to Title 24, Part 9 of the California Code of Regulations; and

WHEREAS, the City Council of the City of Los Banos has previously adopted the “Uniform Fire Code, 2007 Edition,” including the appendix, which was prepared by the International Conference of Building Officials and Western Fire Chiefs Association, with certain amendments as the Fire Code of the City; and

WHEREAS, after due consideration, the City Council of the City of Los Banos hereby finds that it desires to adopt the most recent version of the California Fire Code as the City’s Fire Prevention Code, with certain amendments to provide further safety protections to the citizens of the City of Los Banos; and

WHEREAS, California Health & Safety Code Section 18941.5 provides that if a city makes an express finding that building standards that are more restrictive than those standards provided in the international codes are reasonably necessary because of local climatic, geological, or topographical conditions, a city may establish more restrictive building standards; and

WHEREAS, the City Council of the City of Los Banos hereby finds the amendments to the “California Fire Code, 2010 Edition,” are reasonably necessary to provide sufficient and effective protection of life, health, and property in consideration of the local climatic, geologic and topographic conditions as stated below; and

A. During winter months, the San Joaquin Valley experiences thick fog that is a danger to emergency personnel responding to fires and other emergencies and delays response time of emergency vehicles by two to three minutes the normal response time. Fire engines and

trucks must greatly reduce their speed in the fog to compensate for appropriate braking distances because of the weight of the vehicles; and

B. Merced County is located within an area with potential seismic activity. After a large seismic event, the potential for multiple fires occurring simultaneously will tax available firefighting resources. Built-in fire protection will assist in extinguishing or controlling fires in larger structures, which will increase the availability of firefighting resources after seismic activity; and

C. The City of Los Banos to a great extent lies on a level plain, as a result, heavy rains have historically threatened flooding throughout the City, which can cause delays for emergency response, or in some situations, make it impossible for responders to get to certain areas of the City. Flooding is both a climatic and topographic problem; and

D. The City of Los Banos is located in an area subject to a climatic condition of high winds. This environment is conducive to rapidly spreading fires; control of such fires requires rapid response. Obstacles generated by a strong wind, such as fallen trees, streetlights and utility poles, may greatly impact the response time to reach an incident scene; and

E. Due to the topographical conditions of sprawling development separated by two congested state highways, it is prudent to rely on measures to allow for rapid access and entry to an incident scene.

THE CITY COUNCIL OF THE CITY OF LOS BANOS DOES ORDAIN AS FOLLOWS:

Section 1. Section 4-3.01 of the Los Banos Municipal Code is hereby retitled and amended to read as follows:

Sec. 4-3.01 Adoption of the California Fire Code 2010 Edition.

For the purpose of prescribing regulations governing conditions hazardous to life and property from fire, hazardous materials or explosion, that certain Code known as the 2010 California Fire Code (Part 9 of Title 24 of the California Code of Regulations), as published by the International Code Council, together with all Appendices and subsequent additions and editions thereto, one copy of which is on file in the Office of the City Clerk for public record and inspection, is hereby adopted by reference and made a part of this chapter as though set forth in this chapter in full, subject, however, to the amendments, additions, and deletions set forth in this chapter, and said Code shall be known as the Fire Prevention Code of the City of Los Banos.

Section 2. Section 4-3.01.1 and Sections 4-3.08 through 4-3.19 of the Los Banos Municipal Code are hereby repealed:

Section 3. Section 4-3.07 of the Los Banos Municipal Code is hereby retitled, and amended to read as follows:

Sec. 4-3.07 Amendments to the California Fire Code 2010 Edition.

The California Fire Code is hereby amended as follows:

Amendment No. 1

Chapter 1: Section 102.8 Subjects not regulated by this code.

Section 102.8, Chapter 1 of the California Fire Code, 2010 Edition is amended to read as follows:

Section 102.8. **Subjects not regulated by this code.** Where no applicable standards or requirements are set forth in this code, or contained within other laws, codes, regulations, ordinances or bylaws adopted by the jurisdiction, compliance with applicable standards of the National Fire Protection Association or other nationally recognized fire safety standards as are approved shall be deemed as prima facie evidence of compliance with the intent of this Code. Nothing herein shall derogate from the power of the Fire Chief to determine compliance with codes or standards for those activities or installations within the Fire Chief's jurisdiction or responsibility.

EXCEPTION: Recognized standards shall not include any standard which attempts to regulate local authority as to minimum daily staffing levels and incident response levels. These standards include, but are not limited to NFPA 1710 & 1720.

Amendment No. 2

Chapter 1: Section 104.1 General.

Section 104.1 of the 2010 Edition of the California Fire Code is hereby amended to add Section 104.1.1 as follows:

Section 104.1.1 **Permits, Fire Suppression, and Inspection Recovery of Costs.** The Fire Department shall recover cost that reasonably constitute the cost of fire suppression, inspections, clean-up of chemical spills, the cost of suppression chemicals, material and/or equipment used to mitigate the hazard. Cost recovery against a property owner and/or other responsible person when the act is a result of that person's willful negligence and/or negligence, violation of federal or state statute, or local ordinance.

Amendment No. 3

Chapter 1: Section 104.10.1 Assistance from other agencies.

Section 104.10.1, Chapter 1 of the California Fire Code, 2010 Edition, is amended to read as follows:

Section 104.10.1. Assistance from other agencies. The Fire Chief, Fire Chief Officers and the fire investigation team who have been designated by the Fire Chief shall have the powers of a police officer in performing their duties under this code.

Police and other enforcement agencies shall have authority to render necessary assistance in the investigation of fires when requested to do so.

Amendment No 4

Chapter 1: Section 105 Permits: Application for Permit

Section 105.6 of the 2010 Edition of the California Fire Code is hereby amended to read as follows:

Section 105.6. The requirements of this article shall be subject to the permits specified in the California Fire Code as adopted and amended. Permits, Inspections, and Plan review fees may be provided by resolution by the City Council or as provided by the California Building Code and/or California Fire Code and/or Reference to the Building Standards. All required plans and permits shall be submitted to the Fire Department for review and approval prior to issuance of any permits required by this Article and/or required by the City.

Amendment No 5

Chapter 5: Section 506

Section 506.1 of the 2010 Edition of the California Fire Code is hereby amended to add Section 506.1(a) to read as follows:

When access to or within a structure or an area is unduly difficult because of secure openings, where immediate access is necessary for life saving or fire fighting purposes, or where an automatic fire suppression and/or standpipe system is installed, or where an automatic alarm system is installed, or where a gate or cross arm impedes ingress through a fire lane, or where the area or building is protected by a locked gate, a key box or a security padlock shall be installed in an accessible location unless otherwise authorized by the Chief. The approved City of Los Banos Fire Department key box shall be a "Knox Box." The Knox Box and security padlock shall be obtained through the City of Los Banos Fire Department. The key boxes shall contain, but not be limited to the following items as designated by the Chief: (i) labeled keys to locked points of egress, whether interior or exterior; (ii) labeled keys to locked mechanical rooms; (iii) labeled keys to any gate or secured areas not installed with a Knox Box or Security Padlock; (iv) labeled keys to any other areas that may be required by the Chief; (v) a list with the names and telephone numbers for the emergency contact persons; (vi) floor plan of the interior building showing locations of shut offs; decals shall be installed/displayed as required by the Chief.

When hazardous materials as defined in Chapter 27 of the California Fire Code are stored or dispensed or other conditions exist on the premises where information is necessary for life saving or fire fighting purposes as determined by the Fire Chief, a Document Storage Box shall be installed in an accessible location unless otherwise authorized by the Chief. The approved City of Los Banos Fire Department document storage box shall be a "Knox Document Storage Cabinet". The "Knox Document Storage Cabinet" shall be obtained through the City of Los Banos Fire Department. The box shall contain, but not be limited to the following items as designated by the Chief: (i) blueprints; (ii) floor plans; (iii) MSDS hazardous materials information; (iv) any other emergency response related items as required by the Chief.

Amendment No 6

Chapter 9: Section 903 AUTOMATIC SPRINKLER SYSTEMS Automatic Fire Extinguishing Systems

Section 903.2 of the 2010 Edition of the California Fire Code is hereby amended to add Sections 903.2(a), through (m) to read as follows:

- (a) When required an Automatic Fire Extinguishing system or other approved combined system shall be installed in all occupancies and locations with a total floor space including mezzanine area of 5,000 square feet said fire-extinguishing system shall be installed.
- (b) Remodeling of Existing Structures. Building hereafter remodeled when the accumulative cost of remodeling exceeds \$100,000.00 and the total floor area is 5,000 square feet or more, sprinkler shall be installed through-out the structure.
- (c) Fire Control Room. An approved fire control room shall be provided for all buildings protected by an automatic fire extinguishing system. Said room shall contain all system control valves, fire alarm control panels and other fire equipment required by the chief. Fire control rooms shall be located within the building at a location approved by the chief, and shall be provided with a means to access the room directly from the exterior. Durable signage shall be provided on the exterior side of the access door to identify the fire control room.
- (d) When residential units require the installation of a NFPA 13D system, the systems water supply will be configured in accordance with the City of Los Banos Improvement Standards.
- (e) When residential units require the installation of a NFPA 13D system, the system will be a Looped Piping "Stand Alone" wet pipe system.
- (f) When residential units require the installation of a NFPA 13D system, the system riser must be located within the water heater closet to allow access to the riser flow switch.

(g) When residential units require the installation of a NFPA 13D system, the system is required to have a water flow detector located on the system riser. This flow detector will be interconnected with the dwellings smoke detector system. The activation of the flow switch will activate all smoke detectors within the dwelling.

(h) When residential units require the installation of a NFPA 13D system, an exterior waterflow alarm is required to be installed in the area of the electrical meter panel. This waterflow alarm will activate anytime the water flow detector is activated. The waterflow alarm will NOT activate upon activation of a smoke detector.

(i) When residential units require the installation of a NFPA 13D system, all pendent sprinkler heads within the living areas will be Concealed pendent sprinklers, flat plate 4.9 K-factor heads.

(j) When residential units require the installation of a NFPA 13D system, an inspector test/drain valve must be located on the system at the furthest point of the system from the riser. The inspector's test connections shall contain an orifice equal to or smaller than the smallest sprinkler installed in the system. This valve must be accessible to the home occupant and located behind a metal door cover. A sign attached to the front of the door must state " Fire Sprinkler Test/Drain.

(k) When residential units require the installation of a NFPA 13D system, a single upright "pilot" head will be installed at the highest point within the attic area. These heads shall be Intermediate-rated sprinklers. Multiple high peaked roof assemblies and/or area separation walls may require additional pilot heads.

(l) When residential units require the installation of a NFPA 13D system, fire sprinkler piping located in unheated attic spaces shall be completely covered with insulation per the NFPA 13D ANNEX A recommendations.

(m) Locking Devices Fire Department Connections. Every building equipped with a fire sprinkler system shall be required to install lockable type devices on Fire Department Connection. Said device shall be approved by the Fire Department (Knox Fire Department Connection).

EXCEPTIONS:

1. Where the California Fire Code and/or California Building are more restrictive, the most restrictive occupancy requirements will be followed.
2. Area separation walls, the extent and location of such wall shall provide a complete separation or division to limit the floor area to 5,000 square feet. Separation shall be of Four-hour fire-resistive construction. Four-hour separation walls shall be constructed in accordance with the current California Building Code.

Amendment No 7

Chapter 9: Section 904 ALTERNATIVE AUTOMATIC FIRE EXTINGUISHING SYSTEMS Installation of fixed Fire Protection Systems

Section 904 of the 2010 Edition of the California Fire Code is hereby amended to add Section 904(a) to read as follows:

(a) All fire extinguishing system required in this code and/or the California Building code shall be installed in accordance with the requirements of this Article, and the National Fire Protection Association standards and/or Factory Mutual Engineering.

Amendment No 8

Chapter 9: Section 906 PORTABLE FIRE EXTINGUISHERS

Section 906.1 of the 2010 Edition of the California Fire Code is hereby amended to add Section 906.1(a) as follows:

(a) The minimum approved portable fire extinguisher size for all occupancies shall be, 2-A:10-B:C rated. Unless more restrictive by code.

Amendment No. 9

Chapter 9: Section 907 FIRE ALARM AND DETECTION SYSTEMS Sprinkler System Supervision

Section 907.1 of the 2010 Edition of the California Fire Code is hereby amended to add Sections 907.1(a) through (f) to read as follows.

(a) All automatic sprinkler systems shall be supervised by an approved central station, proprietary or remote station service or a local alarm which will give an audible signal at a constantly attended location. All automatic fire sprinkler systems installed in Group R Division 1 occupancies as outlined in the 2010 California Building Code are required to be monitored by an approved central alarm monitoring station.

(b) Supervisory signal service alarms. Flow switches and/or tamper switches shall be installed on all fire sprinkler system to include gate valves, post indicator valves.

(c) Annunciator Panel. Annunciator panel means any arrangement of luminaries that indicate a fire condition by location or zone and is activated by a water flow or detection of the products of combustion.

(d) Equipment. Every building equipped with a fire alarm system activated by smoke detectors, rate of heat rise detection, water flow alarms, tamper switches, or pull station shall be equipped with an annunciator panel located within the Fire Control Room.

(e) When required in Section 907.1 (a) the fire alarm systems will meet the following occupancy requirements:

1. Strip malls & structures with multiple occupancies – All suites located within a structure equipped with a fire sprinkler system will be required to have a minimum of one (1) audio/visual notification device and one (1) manual pull station located in the area designated by the Los Banos Fire Department.

2. Suites or areas 5000 square feet or greater – All suites or areas 5000 square feet or greater, located within a building equipped with a fire sprinkler system are required to install a full occupant notification fire alarm system. This system will include an approved manual, combination automatic and manual or automatic fire alarm system in accordance with the provisions of this code and NFPA 72.

(f) Anytime an HVAC is required to be equipped with an automatic smoke detector as per the Uniform Mechanical Code, said smoke detector is required to have a remote test/reset switch located within the Fire Control Room.

Amendment No. 10

Chapter 19: Section 1903 LUMBER YARDS AND WOOD WORKING FACILITIES Wood Products, Pallet Storage and Use.

Section 1903.1 of the 2010 Edition of the California Fire Code is hereby amended to add Sections 1903.1.8 through 1903.1.12 to read as follows.

1903.1.8 Pallets and Palletized Packing boxes. Required permit to store pallets and or palletized items in excess of 30,000 board feet.

1903.1.9 Piles. Pallets shall be piled with due regard to the stability of piles and in no case higher than 12 feet in height. Where pallets are piled next to a property line the distance from the property line shall not be less than one half of the height of the pile and in no case less than five feet.

1903.1.10 Driveways. Driveways between and around storage piles shall be a minimum of 20 feet wide. And maintained free from accumulation of rubbish, weeds, equipment and materials. Driveways shall be so spaced that a maximum grid system unit of 50 feet by 50 feet is produced. Note exception: Modification of the driveways, clearance or widths required by this section shall be increased or decreased when, in the opinion of the Fire Chief, Clearances of widths are not adequate to provide fire apparatus access.

1903.1.11 Storage. Pallet storage, operating under permit, shall be surrounded with a suitable chain link fence of at least 6 feet in height.

1903.1.12 Fire Protection. An approved water supply and fire hydrants capable of supplying the required fire flows shall be provided to within 150 feet of all portions of the storage piles.

Amendment No. 11

Chapter 33: Section 3308 EXPLOSIVES AND FIREWORKS Fireworks and Pyrotechnic Special Effects Material (Definitions)

Section 3308 of the 2010 Edition of the California Fire Code is hereby amended to add Sub Section 3308.2 through 3308.5 to read as follows.

3308.2 Fireworks - Purpose. It is the intent of the City to reasonably regulate the sale, use, display, and discharge of dangerous and safe and sane fireworks within the City to protect the public health, safety, and general welfare.

3308.2.1. Definitions. For the purposes of this section, unless otherwise apparent from the context, certain words and phrases used in this section are defined as follows.

A. "Dangerous fireworks" means any fireworks specified as such in the State Fireworks Law, Section 12505 and 12561 of the Health and Safety Code of the State Of California, and such other fireworks as may be determined to be dangerous by the state fire marshal.

B. "Safe and Sane Fireworks" as defined in Section 12529 of the Health and Safety Code the State of California, means any fireworks, which do not come within the definition of "dangerous fireworks" or "exempt fireworks".

C. "Eligible Organization" means an organization which has met all of the following criteria for a continuous period of not less than two full years preceding submittal of an application for permit required by this section 16 (and which continues to do so thereafter).

1. Internal Revenue Code Sections 501 (c) 3, 4, 6, 7, 8, 10, 19, 23, or 26, Section 501 (d), Section 501 (e);
2. The organization must be headquartered within and clearly affiliated or identified with the City of Los Banos;
3. The organization must be one which provides direct and regular community services and benefits to the citizens of the City of Los Banos;
4. The organization must hold its regularly scheduled meeting within the City of Los Banos; and
5. Has a minimum membership of ten (10) members continuously.

D. "Fireworks Stand" means any building, counter, or other structure of a temporary nature used in the sale or offering for sale of Safe and Sane fireworks pursuant to a permit duly issued.

3308.2.2. Possession, Sale, Use, Display, Discharge of Dangerous Fireworks.

A. It shall be unlawful to possess, sell, use, display, or discharge within the City of Los Banos "dangerous fireworks" except as permitted by the provisions of this Section.

B. It shall be unlawful for any person having lawful possession or control of private property, including but not limited to an owner, renter, lessee, to permit any person to possess, sell, use, display, or discharge within the City of Los Banos "dangerous fireworks" except as permitted by the provisions of this Section.

3308.2.3. Possession, Sale, Or Use Of Safe and Sane Fireworks. It shall be unlawful to possess, sell, use, display, or discharge within the City of Los Banos "safe and sane fireworks" except as permitted by the provisions of this Section.

3308.2.4. Permit for Sale of Safe and Sane Fireworks. It shall be unlawful for any person to possess, store, to offer for sale, or sell safe and sane fireworks within the City of Los Banos without a valid permit from the fire department. The fire chief shall have the authority to adopt reasonable rules and regulations for the granting of permits for the sale of safe and sane fireworks by eligible organizations. The fire chief shall also have the authority to adopt reasonable rules and regulations for the safe operation of firework stands.

3308.2.5. Application for Permit to Sell Safe and Sane Fireworks. Permits to sell safe and sane fireworks shall be issued by the fire department as follows:

A. All applications for permits shall be in writing and delivered to the fire chief on forms supplied by the fire department, and shall include all documentation and proof required by the rules and regulations established by the state fire marshal and the fire chief. All application materials must be complete to be accepted by the fire department.

B. Applications may be filed beginning the first business day of August of each year up to and including 5 p.m. the last working day in September of the same year or at other dates and times as determined by the fire chief.. No application shall be received after 5 p.m.

C. Applications shall be signed by a bona fide officer of the non-profit organization wherein the officer, on behalf of the organization and its agent, shall agree to abide by all state laws, all administrative regulations, all city ordinances, all rules and regulations promulgated by the fire chief and the terms and conditions of the permit.

D. Applications shall identify the name of the organization, the organization charter or mission statement, the address of the principal meeting place and mailing address, number of members, the purpose of the organization and the date it came into existence.

E. Application fees: the applicant shall pay a non-refundable twenty-five \$25.00 dollar fee. The fee is required to be paid at the time application is submitted.

F. Permit Fee: \$250.00 paid prior to permit issuance.

G. Except as provided in subsection (H), the maximum number of permits which may be issued and the maximum number of "safe and sane fireworks" stands that will be permitted pursuant to this section 16 during any one calendar year shall not exceed one permit for each five thousand (5,000) residents of the City of Los Banos, or fraction thereof, based on the State of California Census Estimate. The official Census Estimate shall be the latest estimate published before the end of the filing period.

H. The Los Banos Chamber of Commerce, Fourth of July Committee shall be exempted from the maximum number of permits set forth in subsection (G) and shall receive one permit (in addition to the maximum number of permits) for the sale of safe and sane fireworks upon meeting all other requirements set forth in this section, and so long as it continues to sponsor the Los Banos Fourth of July Celebration.

3308.2.6. Issuance of Permits. Only eligible organizations that have submitted a timely and complete application accepted by the fire chief and that have been drawn from a pool of accepted applications will be permitted to sell safe and sane fireworks.

A. If the number of accepted applications exceed the maximum number of permits which may be issued in a calendar year; accepted applicants for a permit will be selected by lot on the first working day of October at 1 p.m. at Fire Station One or at another time and location as determined by the fire chief. Successful and unsuccessful applicants will be notified by mail.

B. By April 1, each successful applicant shall provide to the fire chief; a site plan with the location of the fireworks stand; a written letter from the property owner indicating permission to sell safe and sane fireworks on the site; the permit fee; proof of insurance, one million dollars public liability, property damage, and product liability insurance policies with riders attached to the policies designating the City of Los Banos as an additional insured. Applicants that do not submit the required information by the April 1 deadline shall not be issued a permit.

C. Permits will be effective only when delivered by the fire department after the final inspection of the fireworks stand shows compliance with all the requirements established by the fire chief or this section for the operation of a fireworks stand.

D. A permit entitles the holder of the permit to one fireworks stand, which shall operate on the location identified on the permit.

E. Two or more qualified applicants may be issued a permit as a joint venture.

F. Permits issued pursuant to this section are valid only during the calendar year issued.

G. Permits issued pursuant to this section are not transferable.

3308.2.7. Fireworks Stands. When all application requirements have been completed, fees have been paid and the stand location has been approved, the fire department shall authorize the erection of the stand. The stand shall be inspected and approved by the fire chief or his/her designee, prior to the sale of any fireworks from said stand. The sale of fireworks from any other building or structure is prohibited. Temporary fireworks stands shall be subject to the following provisions:

A. Fireworks stands shall be located only upon property that is zoned for commercial or industrial uses.

B. Fireworks stands shall be located on improved property, i.e. paved, cement parking lots.

C. Fireworks stands shall be 35 feet from the public right-of-way and 35 feet away from existing structures.

D. No smoking signs shall be posted on all four sides and inside the fireworks stand indicating "No Smoking within 35 feet".

E. Fireworks stands shall not interfere with normal traffic patterns in private parking lots.

F. Fireworks stands shall be constructed of substantial material to provide security and safe sales operation.

G. Permits to sell safe and sane fireworks shall be posted in a conspicuous location within the interior portion of the fireworks stand.

H. A sign shall be affixed to the front of the exterior portion of the fireworks stand in letters at least six inch in height, identifying the name of the nonprofit organization to which the permit to sell safe and sane fireworks was issued.

I. No electrical service shall be allowed in or within 25 feet of the firework stand, to include fuel powered generators or similar equipment.

J. Fireworks stands shall have two working, currently serviced, two and one-half gallon water extinguishers. Extinguishers shall be readily accessible.

K. During hours of non operation fireworks shall be stored in an enclosed locked cargo container on site, in a location approved by the fire chief. The storage container shall have placards on all four sides and have signage posted indicating "No Smoking" within 35 feet.

L. Wholesale storage of safe and sane fireworks importer/distributors is not allowed in the city.

M. The fireworks stand shall be removed from the temporary location and all unsold stock and accompanying litter shall be removed from the location by five p.m., on July 5th. Failure to dismantle and/or remove any fireworks stand may result in the removal of the fireworks stand by the fire department or designee at the sole expense of the holder of the permit.

3308.2.8. Regulations.

A. Fireworks stands may be operated only from the hours of 8 a.m. to 8 p.m.

B. No safe and sane fireworks shall be sold before 12 noon on the twenty-eighth (28th) day of June or later than 8 p.m. on the fourth (4th) day of July.

C. It shall be unlawful to sell fireworks to persons under the age of 18 years old.

D. It shall be unlawful for the permitted organization to permit any person other than the permitted organization to operate the fireworks stand for which the permit is issued or to otherwise participate in the profits of the operation of such stand.

E. It shall be unlawful for the permitted organization to permit any person other than the individuals who are members of the permitted organization, their spouses or adult children, or volunteers whom no compensation is paid, to sell or otherwise participate in the sale of safe and sane fireworks at such stand.

F. No one under the age of 16 years old shall be allowed in the fireworks stand at any time.

G. Each organization which receives a permit must have at least two of its members attend an operator safety seminar provided by the fireworks company.

3308.2.9. Revocation of Permits

A. Any violation of this section or other city ordinances or policies, or the terms and conditions of the permit, or state laws or administrative regulation, or safety rules of the fire department, shall be grounds for the immediate revocation of the permit. All officers and members of the organization shall be responsible for compliance with all of the provisions of this section.

B. The fire chief or his designee shall be authorized to suspend immediately and without notice or formal hearing the permit of any holder of a permit which violates any rule, regulation or ordinance while operating or preparing to operate a fireworks stand during or immediately preceding any period of sale. If the fire chief or his designee establishes

that a violation has occurred too late to suspend the permit during the period of sale, he shall have power to suspend the holder of the permit from applying for future permits.

C. The decision of the fire chief or his designee to suspend the permit shall be subject to review by the city manager, forthwith. In view of the limited sales period each year, for suspensions affecting the sale period, such hearing shall be held at the earliest possible time that the holder of the permit, city manager or his designee, and the representative of the fire chief can schedule a meeting for such review. For suspensions after the sale period the hearing shall be within one month after the request for hearing, which request must be made within fifteen days after notice of the suspension. The city manager or his designee is authorized to set aside the suspension, or to modify the suspension by limiting its effect to only one or more days, or by setting aside the forfeiture for future years. The decision of the city manager or his designee shall be final.

3308.2.10. Seizure of Fireworks

The fire chief or the designee thereof, shall seize, take, remove, or cause to be removed, at the expense of the owner, all stocks of fireworks offered or exposed for sale, stored, or held in violation of this section.

3308.2.11. Restrictions.

A. It is unlawful for individuals under eighteen years of age to sell, purchase, or possess, "safe and sane fireworks."

B. It is unlawful for individuals under eighteen years of age to discharge, explode, fire, or set off any "safe and sane fireworks" unless such minor does so under the direct supervision of a person over 18 years of age and during the hours and on the days permitted by this section.

C. It shall be unlawful to discharge any "safe and sane fireworks" except from the first day of July to the fourth day of July during the hours of 9:00 a.m. to 10:00 p.m.

D. It shall be unlawful to ignite or otherwise use any "safe and sane fireworks," or permit the discharge thereof, upon, over, or onto the property of another without his/her consent.

E. It shall be unlawful for any person having the care, custody, or control of a minor (under 18 years old) to permit such minor to discharge, explode, fire, or set off any "dangerous fireworks," at any time, or to permit such minor to discharge or set off any "safe and sane fireworks" unless such minor does so under the direct supervision of a person over 18 years of age and during the hours and on the days permitted by this section.

F. It shall be unlawful to discharge any "safe and sane fireworks" except on private property and as otherwise provided in this section. No fireworks shall be discharged on

public, semipublic, or private open areas such as parking lots, vacant properties, or in a public street or right-of-way, or in public parks.

Exception: It shall be lawful to discharge Safe and Sane Fireworks in the public street only if street closure has been approved by the City Council for a block party. The applicant shall provide a site plan with the Street Closure application indicating the location in the street where Safe and Sane Fireworks are to be discharged. Said location shall be approved by the Fire Department.

G. Person or persons in violation of this section will be caused for immediate seizure of fireworks and citation. Improper use of fireworks or unsafe use of fireworks or use of fireworks in an area considered hazardous by the fire chief or designee shall cause immediate seizure of fireworks and citation.

3308.2.12. Permit for Public Displays of Fireworks. Public Display of fireworks, as defined in the State Fireworks Law, Section 12500 et seq of the Health and Safety Code, may be conducted subject to all the terms and provisions therein contained provided that a permit therefore has been granted by the fire chief. Such public displays, in addition, shall be subject to all rules and regulations contained in the Fire Code.

The fire chief shall have authority to adopt reasonable rules and regulations for the granting of permits for those activities contained in Section 12640 of the Health and Safety Code of the state of California, including supervised public displays of fireworks by a jurisdiction, fair association, amusement park, other organization, or for the use of fireworks by artisans in pursuit of their trade. Each such use or display shall be handled by a licensed pyrotechnic operator as defined by Section 12527 of the Health and Safety Code of the state of California, and shall be of such character and so located, discharged or fired as in the opinion of the fire chief or his designee, after proper investigation, will not be hazardous or endanger any person.

3308.2.13. Penalties for Violations. Any person violating any provision of this section shall be guilty of a misdemeanor and shall be subject to criminal prosecution, civil remedies, administrative fines and penalties, and any other remedies available to the city for enforcement of this code.

3308.2.14. Concurrent Authorities. This section is not the exclusive regulation for the fireworks within the City of Los Banos. This section shall supplement and be in addition to the other regulatory codes, statutes, regulations, and ordinances heretofore and hereinafter enacted by the City of Los Banos, the State of California, or any other legal entity or agency having jurisdiction.

Any provisions of the City of Los Banos in conflict herewith are hereby repealed. This section supersedes any conflicting provisions of the Uniform Fire Code and Uniform Building Code.

3308.3. Administrative Enforcement for Fireworks - Purpose and Scope

A. This Section provides for the imposition, enforcement, collection, and administrative review of all administrative fines, related to: (1) the possession, use, storage, sale and/or display of those fireworks classified as “dangerous fireworks” in California Health and Safety Code Sections 12500, *et seq.*, with the exception of a pyrotechnic licensee when operating pursuant to that license; and (2) the sale, use, and/or display of “safe and sane fireworks” as defined in California Health and Safety Code Sections 12500 *et seq.* on or at dates, times and/or locations other than those permitted by this Section.

B. The issuance of citations imposing administrative fines may be performed at the discretion of the officials of the city authorized hereunder; and the issuance of a citation to any person constitutes but one remedy to redress violations of this code by any person. By adopting this Section, the city does not intend to limit its authority to employ any other remedy, civil or criminal, to redress any violation of this code or state law by any person.

C. The imposition of fines related to “dangerous fireworks” under this Section shall be limited to persons who possess, sell, use and/or display, or the seizure of, 25 pounds or less (gross weight) of such dangerous fireworks.

D. Fines collected pursuant to this Section related to “dangerous fireworks” shall not be subject to Health and Safety Code Section 12706. However, the city shall provide cost reimbursement to the State Fire Marshal for the transportation and disposal of “dangerous fireworks” seized by the city where applicable. These costs will be included in any administrative fines imposed under this Section.

3308.4. Enforcement Procedures and Fines

Administrative enforcement including the amount of administrative fine for this Section shall be pursuant to the procedures set forth in Chapter 11 of Title 4 of the Los Banos Municipal Code.

3308.5. Manufacturing of Fireworks

The manufacturing of fireworks within the City is prohibited, except under special permit as required by local and state regulations.

Amendment No. 12

Chapter 34: Section 3403 FLAMMABLE AND COMBUSTIBLE LIQUIDS

Section 3403.1 of the 2010 Edition of the California Fire Code is hereby amended to add Sections 3403.1(a) through (b) to read as follows.

(a) Restricted Location and Fire Protection. The storage of flammable or combustible liquids in above ground tanks shall be restricted to those areas of the City as follows. Planned Industrial District (PM) and General Industrial (M) except as provided by use permits in the General Commercial District (C2) and Highway Commercial District (HC). All existing nonconforming tanks, which substantially comply with or are made to comply with the requirements of this code, may remain in use.

(b) Location of Bulk Plants or Terminals. The construction of new bulk plants and/or terminals for the storage of flammable, combustible, or hazardous liquids shall be restricted to those areas of the City in the Planned Industrial District (PM) and General Industrial District (M). All existing nonconforming bulk plants for the storage of flammable or combustible liquids, which substantially comply, with the requirements of this code may continue use.

Amendment No. 13

Chapter 38:Section 3801 LIQUEFIED PETROLEUM GASES

Section 3801.1 of the 2010 Edition of the California Fire Code is hereby amended to add Section 3801.1(a) to read as follows.

(a) Restricted Location and Installation. The storage of Liquefied Petroleum gas in above ground storage tanks shall be restricted to those areas of the city as follows. Planned Industrial District (PM) and General Industrial (M) except as provided by use permit in the General Commercial District (C2) and Highway Commercial District (HC). All existing nonconforming facility, which substantially comply with or are made to comply with the requirements of this code, may remain in use.

Section 4. Section 4-3.20 is renumbered to 4-3.8.

Section 5. The City Council finds that the changes made to the uniform codes are enacted to mitigate the threats posed to public peace, health and safety from earthquakes and fire. In this regard, the recitals set forth in this Ordinance are incorporated herein by reference a findings.

Section 6. To the extent that the terms and provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior city ordinance, motion, resolution, rule or regulation governing the same subject, the terms of this Ordinance shall prevail with the respect to the subject matter thereof and such inconsistent or conflicting provisions of prior ordinances, motions, resolutions, rules or regulations are hereby repealed.

Section 7. If any section, subsection, subdivision, paragraph, sentence, clause or phrase added by this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision,

paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses or phrases are declared unconstitutional, invalid or ineffective.

Section 8. This Ordinance shall go into effect and be in full force and operation thirty (30) days after its final passage and adoption. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in this Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, and aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

Introduced by Council Member _____ and seconded by Council Member _____ on the _____ day of _____, 200__.

Passed on the _____ day of _____, 200__, by the following vote:

AYES: COUNCIL MEMBERS

NOES: COUNCIL MEMBERS

ABSENT: COUNCIL MEMBERS

APPROVED:

MAYOR – City of Los Banos

ATTEST:

CITY CLERK – City of Los Banos

SUMMARY OF ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS BANOS, ADOPTING BY REFERENCE THE 2010 EDITION OF THE CALIFORNIA FIRE CODE TOGETHER WITH CERTAIN AMENDMENTS AND DELETIONS, AND AMENDING AND REORGANIZING TITLE 4 CHAPTER 3 OF THE LOS BANOS MUNICIPAL CODE.

On July 6, 2011 the Los Banos City Council introduced Ordinance No. _____, which if adopted will substantially revise Title 4, Chapter 3 of the Los Banos Municipal Code as it relates to the Los Banos Fire Prevention Code by adopting by reference all parts of the 2010 California Fire Code as follows: Part 9 – California Administrative Code;

Pursuant to California Government Code Section 50022.1 et seq. the City of Los Banos (“City”) may adopt by reference the 2010 California Fire Code, based on the International Fire Code, 2009 Edition, with errata, published by International Code Council (ICC), as adopted by the State of California pursuant to Title 24, Part 9 of the California Code of Regulations. The California Building Standards Commission publishes amended codes once every three years. One hundred and eighty days later, all cities and counties must follow the published standards unless the local jurisdiction amends them as allowed by law.

This Ordinance adopts the 2010 California Fire Code mandated by the State of California that are to become effective as of January 1, 2011, and adopts amendments to these regulations and standards based on local conditions for topography, climate and geology.

A copy of the complete text of the Ordinance is on file with the City Clerk, at 520 J Street.

The Ordinance shall go into effect and be in full force and operation thirty (30) days after its final passage and adoption. The City Council will consider adoption of this Ordinance at the regular City Council Meeting scheduled for July 22, 2011.

LUCILLE L. MALLONEE
CITY CLERK



City of
Los Banos

At the Crossroads of California

Agenda Staff Report

TO: Chairman & Redevelopment Agency Members
FROM: Elaine Post, RDA Director *EP*
DATE: July 6, 2011
SUBJECT: Request to fund up to \$1,000 worth of legal fees to the California Redevelopment Association to battle the Governor's Budget, namely bills ABX1 26 and ABXI 27
TYPE OF REPORT: Non-Consent

Recommendation:

Approve the request to fund up to \$1,000 worth of legal fees to the California Redevelopment Association to battle the Governor's Budget.

Background:

Governor Jerry Brown, in approving the California State Budget has approved ABXI 26 and ABXI 27, which calls for elimination of Redevelopment Agencies unless they agree to provide additional funding to the State, Merced County, and the Schools from taxes collected in the Redevelopment Area.

In 2010 voters unanimously approved Prop. 22 which clearly states the State cannot use property taxes from a Redevelopment Agency to help balance the budget. While legislators attempted to get redevelopment agencies dissolved and funds shifted to educational institutes as a way to pay the State's school debt, each attempt failed as many legislators agreed the move was constitutionally illegal.

As a way around the first proposed bills, legislators introduced ABXI 26 and 27. ABXI 26 dissolves Redevelopment Agencies effective October 1, 2011. ABXI 27 would allow

those agencies wanting to remain to do so if they agree to pay SERAF payments beginning with a large payment this fiscal year then followed by annual payments. For Los Banos this would mean a payment of more than \$1.6 million in fiscal 2011/12 and \$300,000 annually from 2012/13 forward.

In addition, a new oversight committee would need to be formed which would be in charge of dispensing of all RDA properties that had been purchased for low income housing (Ward Road, 2nd and F Street, 9 and F Street), as well as those lands purchased for redevelopment (Los Banos Rail Corridor) and buildings owned for renovation purposes (645 and 646 I Street). Once sold, the funds earned would be used to pay the State's bill of \$1.6 million.

The proposal mirrors the Governor's first proposal in that the RDA would be dissolved, and from this time forward, the RDA's property tax allocation would be sent directly to the County of Merced and distributed first to the Schools, then to pay the State and County for Administration, then to pay the RDA's bond debt. If any funds remain, these funds would be distributed amongst the other entities entitled to RDA property tax allocations.

With the reduction of property tax throughout the City, the RDA has also seen a decline and is currently budgeted with a \$240,000 deficit. RDA reserves are budgeted to offset the deficit. With the passage of ABXI 26, the RDA's reserves will be used to help pay the State's SERAF and future payments to the state and schools, as well as paying back to the RDA Housing Fund \$1.3 million which was borrowed last year to pay the State's SERAF payment. With a lack of incoming revenue and the high demand from the State, RDA staff members believe this measure will mean an end to the existing RDA.

Discussion:

The California Redevelopment Agency and League of Cities believes the move by the Governor to eliminate Redevelopment Agencies is against the law and unconstitutional. Plans are in the process to fight the Governor's actions on passing ABXI 26 and ABXI 27. A stay will be requested and the matter taken to court to decide the future of Redevelopment Agencies throughout California.

The Los Banos Redevelopment Agency has been asked to help contribute to the legal fund. Staff is asking the Agency Board if it will approve up to \$1,000 from the RDA to help pay for these fees.

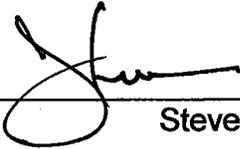
If the Los Banos Redevelopment Agency is no longer in existence the Rail Corridor properties will be sold and the City will lose any control over economic growth along the entire corridor. Properties on Ward Road, one section set aside for housing, the other for the City's Public Works Yard, will also be sold with all funds sent to pay the State's newly mandated fees. Projects that will remain unfunded by the RDA will include the

downtown renovation of the sidewalks; infrastructure improvements along the Corridor; and removal of buildings along the corridor.

Fiscal Impact:

\$1,000 from the Redevelopment Professional Services Budget.

Reviewed by:

A handwritten signature in black ink, appearing to read 'Steve Rath', written over a horizontal line.

Steve Rath, City Manager



City of
Los Banos

At the Crossroads of California

PLANNING DEPARTMENT

Date: July 1, 2011

Regarding: Notice of Public Hearing

Proposal: Site Plan Review #2011-01 – Los Banos Apartments

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held to consider Site Plan Review #2011-01 for the construction of a Community Building at the Los Banos Apartment complex for tenant use. The project site is located within the High Density Residential (R-3) zoning district at 44 West I Street; more specifically described as Assessor's Parcel Number: 027-060-009.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Planning Commission on Wednesday, July 13, 2011 at 7:00 p.m. in the Council Chambers of Los Banos City Hall located at 520 "J" Street. Questions regarding the above-referenced item may be directed to Paula Fitzgerald, Planning Director at City Hall or at (209) 827-7000, Ext. 114

Persons wishing to provide oral comments on the described proposal may do so at this meeting or may provide written comments on this matter prior to the public meeting. Written comments may be sent by U.S. Mail or hand delivered to the City of Los Banos City Hall at 520 "J" Street, Los Banos, California 93635. If no comments are received prior to or on the above date, it will be assumed that no comments are being offered. The public is also informed that should this matter, at some future date go to court, court testimony is limited to only those issues raised at the hearings per Government Code Section 65009.

THE CITY OF LOS BANOS

Paula Fitzgerald
Planning Director



City of
Los Banos
At the Crossroads of California

PLANNING DEPARTMENT

Date: July 1, 2011

Regarding: Notice of Public Hearing

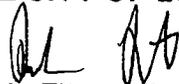
Proposal: Site Plan Review #2011-02 – Black Bear Diner

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held to consider Site Plan Review #2011-02 for the remodel of Ryan's Restaurant to a Black Bear Diner. The project includes additions to the rear and front of the building and an update to the existing façade. The project site is located within the Highway Commercial (H-C) zoning district at 955 W Pacheco Blvd; more specifically described as Assessor's Parcel Number 431-020-001.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Planning Commission on Wednesday, July 13, 2011 at 7:00 p.m. in the Council Chambers of Los Banos City Hall located at 520 "J" Street. Questions regarding the above-referenced item may be directed to Paula Fitzgerald, Planning Director at City Hall or at (209) 827-7000, Ext. 114.

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THE CITY OF LOS BANOS


Paula Fitzgerald
Planning Director



City of
Los Banos

At the Crossroads of California

PLANNING DEPARTMENT

Date: July 1, 2011

Regarding: Notice of Public Hearing

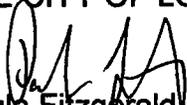
Proposal: Use Permit #2011-03

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos Planning Commission to consider a Use Permit for the use of a Type 21 alcohol license to permit the off-sale of general alcohol. The requested Use Permit is for Target located at 11405 W. Pacheco Blvd., more specifically described as Assessor's Parcel Number: 430-010-020.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Planning Commission to consider recommendation to the Los Banos City Council on Wednesday, July 13, 2011 at 7:00 p.m. in the Council Chambers of Los Banos City Hall located at 520 "J" Street. Questions regarding the above-referenced item may be directed to Paula Fitzgerald, Planning Director at City Hall or at (209) 827-7000, Ext. 114.

Persons wishing to provide oral comments on the described proposal may do so at this meeting or may provide written comments on this matter prior to the public meeting. Written comments may be sent by U.S. Mail or hand delivered to the City of Los Banos City Hall at 520 "J" Street, Los Banos, California 93635. If no comments are received prior to or on the above date, it will be assumed that no comments are being offered. The public is also informed that should this matter, at some future date go to court, court testimony is limited to only those issues raised at the hearings per Government Code Section 65009.

THE CITY OF LOS BANOS


Paula Fitzgerald
Planning Director