

APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>RH</i>
CITY MANAGER	<i>mo</i>

Report to City Council

TO: Mayor and City Council

FROM: Steve Curley, Fire Chief
Mike McCarty, Parks & Community Services Director
Rick Hartmann, Interim Public Works Director

AGENDA DATE: December 13, 2011

TITLE: APPROVE AND EXECUTE AGREEMENT FOR CONVEYANCE OF REAL PROPERTY FOR PARTIAL ACQUISITION OF APNs 478-120-003 & -004 FOR THE REDLANDS BOULEVARD FIRE STATION PROJECT – PROJECT NO. 11-43467830

RECOMMENDED ACTION

Staff recommends that the City Council:

1. Approve the Agreement for Conveyance of Property for the partial acquisition of APNs 478-120-003 & -004 for the Redlands Boulevard Fire Station Project.
2. Authorize a total purchase price of \$1,262,400, to be comprised of a combination of cash and fee credits.
3. Authorize the payment of \$276,000 representing the down payment plus escrow fees, consisting of \$55,200 from the Fire Capital Projects Fund (Account No. 434.67830) and \$220,800 from the Future Park Sites Land Acquisition Fund (Account No. 461.68227) when the Agreement has been signed by all parties.
4. Authorize establishment of an entitlement fund in the amount of \$130,000 to cover City entitlement fees and costs. The entitlement fund consists of \$26,000 from the Fire Capital Projects Fund (Account No. 434.67830) and \$104,000 from the Future Park Sites Land Acquisition Fund (Account No. 461.68227).
5. Authorize the City Manager to execute the Agreement in the form attached hereto upon concurrence by the property owners, and authorize the Public Works

Director and/or City Engineer to approve any changes that may be requested by the property owners or the City, subject to the approval of the City Attorney.

BACKGROUND

The Parks and Community Services and Fire departments have expressed a desire for facilities at the southwest corner of Redlands Boulevard and Brodiaea Avenue to provide service to the surrounding neighborhood. The selected site is a portion of parcel APN 478-120-003 & 004, in the southwest corner of Brodiaea Avenue and Redlands Boulevard. The site is in Specific Plan zoning with an area of approximately 7.54 acres which will be subdivided into a park site of 6.043 acres and a fire station site 1.5 acres. A 1.5 acre lot is adequate for a standard fire station.

During the September 2011 Closed Session, the City Council authorized staff to negotiate and acquire the property.

DISCUSSION

Planning and Parks & Community Services have contacted the owner regarding acquisition of the subject parcels over the past few years. The property owner rejected the potential sale of the property based on a somewhat lower value established by a prior appraisal.

Another appraisal report was prepared in April 2011 by Overland, Pacific & Cutler, Inc. to update the property value. The appraisal identified a value of \$276,000 for the 7.54 acres site based on the current depressed real estate values. The appraisal splits the parcel between the Park Site (80%) and Fire Station Site (20%) for resulting prorated values of \$220,800 and \$55,200, respectively. The current appraised value is a small fraction of the owner's original purchase price. Using the current parkland acquisition development impact fee and parkland development requirement (3 acres per 1000 population), staff calculated a valuation of \$1,262,400 for the subject site. The fire facilities development impact fee does not provide a separate allocation for land acquisition. Previously collected parkland and fire development impact fees and future fee credits are the source for the acquisition of this site.

The property owner has expressed a willingness to sell at the current value, either in cash or credits, similar to his original purchase price which occurred in the early 2000's before the last peak. After negotiation, the owner has agreed that the total purchase price for the partial acquisition of APN 478-120-003 & 004 shall be \$1,262,400 which will be in a combination of cash and fee credits as follows:

1. Cash Down Payment of \$276,000, consisting of \$55,200 from the Fire Acquisition Fund and \$220,800 from the Park Land Acquisition Fund.
2. An Entitlement Fund of \$130,000 to cover City fees and costs associated with planning entitlement applications for the property owner's projects in the City.

The fund will be established in house from the Park and Fire Capital Projects funds.

3. Balance of Offer Price in Fee Credits, consisting of 367 Park Land Single Family Residential Unit Fee Credits and 264 Fire Facilities Single Family Residential Unit Fee Credits.
4. The Entitlement Fund and Fee Credits shall be effective for 10 years and may be transferred or sold by the Grantor.

The final amount for partial acquisition of APNs 478-120-003 and -004 exceeds \$100,000 and, therefore, requires that the Agreement for Conveyance of Property be approved by the City Council.

ALTERNATIVES

1. Approve the Agreement for Conveyance of Property for the partial acquisition of APNs 478-120-003 & -004 for the Redlands Boulevard Fire Station Project, authorize a total purchase price of \$1,262,400, to be comprised of a combination of cash and fee credits, authorize a Purchase Order in the amount of \$276,000 for a cash down payment plus escrow fees, consisting of \$55,200 from the Fire Capital Projects Fund (Account No. 434.67830) and \$220,800 from the Future Park Sites Land Acquisition Fund (Account No. 461.68227) when the Agreement has been signed by all parties, authorize establishment of an entitlement fund in the amount of \$130,000 to cover City entitlement fees and costs. The entitlement fund consists of \$26,000 from the Fire Capital Projects Fund (Account No. 434.67830) and \$104,000 from the Future Park Sites Land Acquisition Fund (Account No. 461.68227), and authorize the City Manager to execute the Agreement in the form attached hereto upon concurrence by the property owners, and authorize the Public Works Director/City Engineer to approve any changes that may be requested by the property owners or the City, subject to the approval of the City Attorney. *This alternative allows the City to acquire the required land for City's Fire Station and Park projects.*
2. Do not approve the Agreement for Conveyance of Property for the partial acquisition of APNs 478-120-003 & -004 for the Redlands Boulevard Fire Station Project, do not authorize a total purchase price of \$1,262,400, to be comprised of a combination of cash and fee credits, do not authorize a Purchase Order in the amount of \$276,000 for a cash down payment plus escrow fees, consisting of \$55,200 from the Fire Capital Projects Fund (Account No. 434.67830) and \$220,800 from the Future Park Sites Land Acquisition Fund (Account No. 461.68227) when the Agreement has been signed by all parties, do not authorize establishment of an entitlement fund in the amount of \$130,000 to cover City entitlement fees and costs. The entitlement fund consists of \$26,000 from the Fire Capital Projects Fund (Account No. 434.67830) and \$104,000 from the Future Park Sites Land Acquisition Fund (Account No. 461.68227), do not authorize the City Manager to execute the Agreement in the form attached hereto upon concurrence by the property owners, and authorize the Public Works

Director/City Engineer to approve any changes that may be requested by the property owners or the City, subject to the approval of the City Attorney. *This alternative will result in delaying acquisition of land required for City Fire Station and Parks projects.*

FISCAL IMPACT

Funding for the proposed land acquisition is included in the Fiscal Year 2011/2012 budget. There is no impact to the General Fund.

AVAILABLE PROJECT FUNDS:

Fire Capital Projects Fund (Account No. 434.67830)	\$503,000
Future Park Sites Land Acquisition Fund (Account No. 461.68227)	<u>\$2,000,000</u>
Total Available Funds	\$2,503,000

ESTIMATED EXPENDITURES

Cash Down-payment.....	\$ 276,000
Entitlement Fund Establishment.....	\$ 130,000
Fee Credit Equivalence	\$ 857,000
Escrow and Miscellaneous Costs.....	\$ 50,000
Project Administration	\$ 60,000
Total Expenditures	<u>\$1,373,000</u>

ANTICIPATED PROJECT SCHEDULE:

Open Escrow.....	February 2012
Complete Land Acquisition.....	May 2012

CITY COUNCIL GOALS

PUBLIC SAFETY:

Provide a safe and secure environment for people and property in the community, control the number and severity of fire and hazardous material incidents, and provide protection for citizens who live, work and visit the City of Moreno Valley.

PUBLIC FACILITIES AND CAPITAL PROJECTS:

Ensure that needed public facilities, roadway improvements, and other infrastructure improvements are constructed and maintained.

POSITIVE ENVIRONMENT:

Create a positive environment for the development of Moreno Valley's future.

SUMMARY

The Parks and Community Services and Fire Departments have been planning land acquisitions for future park and fire facilities at the southwest corner of Redlands Boulevard and Brodiaea Avenue. The selected site is a portion of parcel APNs 478-

120-003 and -004. The site, approximately 7.54 acres in size, is in Specific Plan zoning area and will be subdivided into a park site of 6.043 acres and a fire station site of 1.5 acres. This acquisition is necessary for the City's Redlands Boulevard Fire Station and Park projects.

ATTACHMENTS/EXHIBITS

Attachment "A" – Location Map

Attachment "B" – Agreement for Conveyance of Real Property

Prepared By:
Henry Ngo
Senior Engineer, P.E.

Concurred By:
John Terell
Planning Official

Concurred By:
Prem Kumar, P.E.,
Deputy Public Works Director / Acting City Engineer

Department Head Concurrence:
Rick Hartmann
Interim Public Works Director

Department Head Approval:
Mike McCarty
Parks & Community Services Director

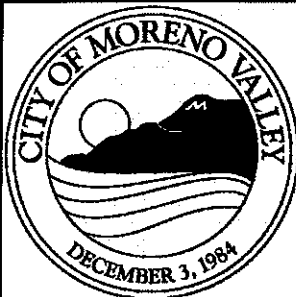
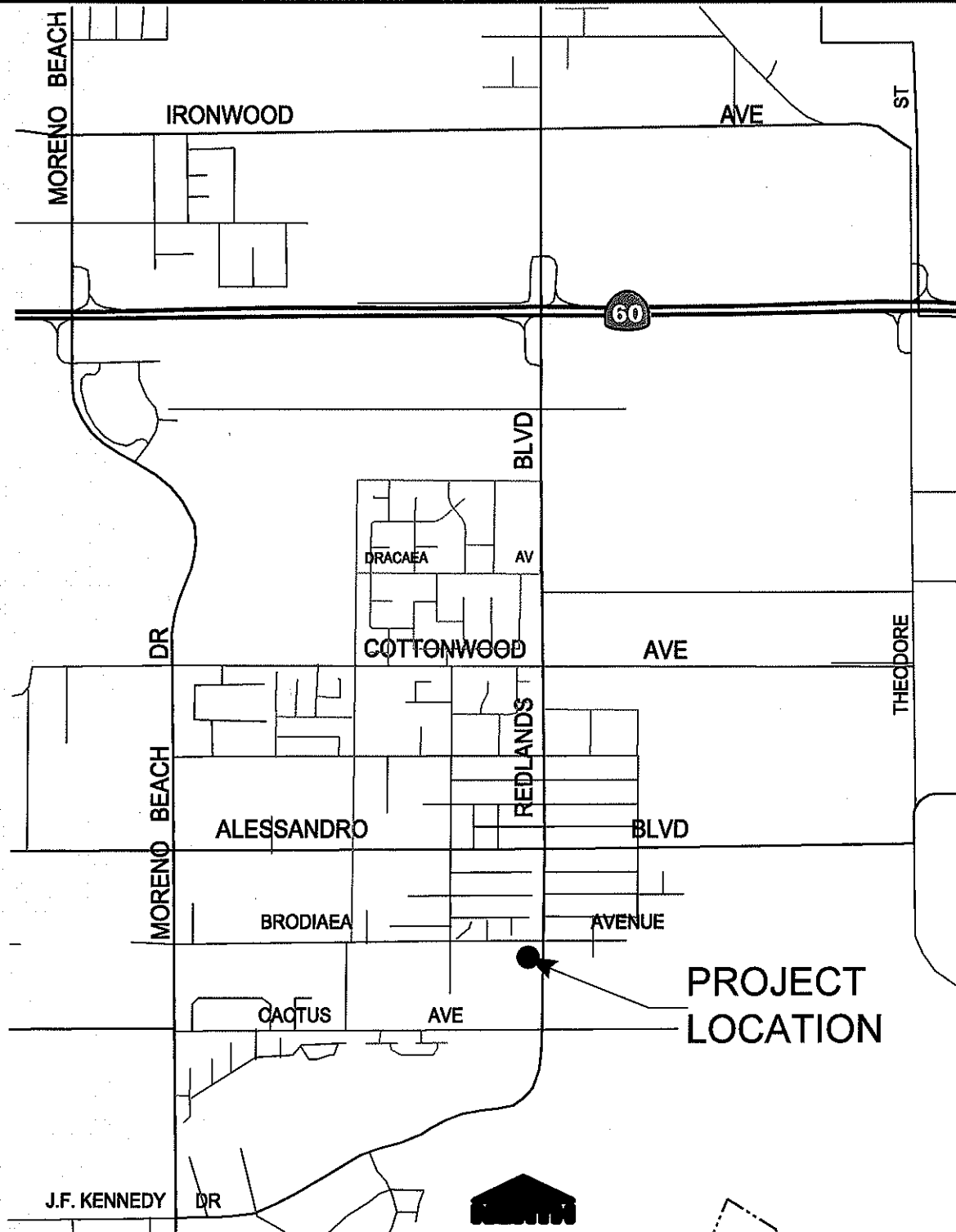
Department Head Approval:
Steve Curley
Fire Chief

Council Action	
Approved as requested:	Referred to:
Approved as amended:	For:
Denied:	Continued until:
Other:	Hearing set for:

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Date: 14 Nov 11 - 5:27 pm
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 User: depapa



LOCATION MAP

Public Works Department
 Capital Projects Division

Scale: None

ATTACHMENT "A"

REDLANDS BOULEVARD FIRE STATION

PROJECT NUMBER 11-43467830

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AGREEMENT FOR CONVEYANCE OF REAL PROPERTY

THIS AGREEMENT is entered into by and between SP/CCI, LLC, a California limited liability company ("Grantor") and CITY OF MORENO VALLEY, a municipal corporation ("Grantee").

RECITALS

A. Grantor own certain real property located at the southwest corner of Redlands Boulevard and Brodiaea Avenue, Moreno Valley, bearing Assessor Parcel No. 478-120-003 & 004 (the "Property").

B. Grantee desires to purchase a portion of the Property and Grantor desire to sell and convey a portion of the Property as described in Exhibit A and depicted in Exhibit B, both of which are attached hereto (the "Parcel").

C. The parties desire by this Agreement to provide the terms and conditions for the purchase and sale of the Parcel.

AGREEMENT

The parties therefore agree as follows:

1. PURCHASE.

Grantee agrees to buy and Grantor agree to sell and convey the Parcel for the purchase price and upon the terms and conditions hereinafter set forth. The Purchase Price, defined below, is acknowledged by both parties to be fair market value for the Parcel.

2. ESCROW.

Upon execution of this Agreement by all parties, Grantee shall open an escrow (the "Escrow") with Lawyers Title (the "Escrow Holder") for the purpose of consummating the purchase and sale of the Parcel. The parties hereto shall execute and deliver to Escrow Holder such escrow instructions prepared by Escrow Holder as may be required to consummate this transaction. Any such instructions shall not conflict with, amend, or supersede any provision of this Agreement. If there is any inconsistency between such instructions and this Agreement, this Agreement shall control unless the parties agree in writing otherwise. The Escrow Instructions shall include the following terms and conditions of sale:

2.1 Purchase Price.

The total purchase price for the Parcel shall be \$1,262,400, which will be in a combination of cash and fee credits as shown in attached Exhibit D. The cash portion of the purchase price and fee credits documentation shall be transferred by Grantee to Grantor through Escrow Holder at Close of Escrow.

Attachment "B"

2.2 Close of Escrow.

Escrow shall close on or before sixty (60) days following the execution of this Agreement (the "Close of Escrow"). If the Escrow is not in a condition to close by the Close of Escrow, any party who is not then in default may, in writing, demand the return of its/his/her money and/or documents. Thereupon, subject to the provisions in paragraph 3, all obligations and liabilities of the parties under this Agreement shall cease and terminate. If no such demand is made, Escrow shall be closed as soon as possible.

2.3 Condition of Title to the Parcel.

Grantor shall convey title to the Parcel to Grantee as evidenced by a CLTA Standard Form Policy or Binder of Title Insurance ("Title Policy") issued by a title insurance company to be selected by Grantee in an amount equal to the purchase price. The Title Policy shall show as exceptions with respect to the Parcel only matters approved in writing by Grantee. Any exceptions to title representing monetary liens or encumbrances are hereby disapproved by Grantee, and Escrow Holder is hereby authorized and instructed to cause the reconveyance, partial reconveyance, or subordination, as the case may be, of any such monetary exceptions to Grantee's title to the Parcel at or prior to the Close of Escrow.

2.4 Escrow and Closing Costs.

Grantee shall pay the cost of the Title Policy, all Escrow fees (including reconveyance fees, trustee's fees or forwarding fees for any partial reconveyance or subordination of a deed of trust or mortgage), and all recording costs incurred herein. All parties acknowledge that Grantee is exempt from payment of documentary transfer taxes.

2.5 Investigations.

Prior to the Close of Escrow, Grantee may, at its option, conduct, at Grantee's expense, any and all investigations, inspections, surveys, and tests of the Property including, without limitation, soils, groundwater, wells, percolation, geology, environmental, drainage, engineering and utilities investigations, inspections, surveys, and tests, which determines, in its sole discretion, are required to determine the suitability of the Parcel for Grantee's intended use thereof. If Grantee determines that the Parcel is not suitable for its intended use, Grantee may disapprove this item and terminate this Agreement as provided at Section 2.2 above. Grantor hereby grants to Grantee, and Grantee's employees, representatives, agents and independent contractors, a license to enter the Property for purposes of conducting such investigations, inspections, surveys, and tests. Grantee shall repair any damage to the Property resulting from such investigations, inspections, surveys, and tests conducted by Grantee or Grantee's employees, representatives, agents or independent contractors. Grantee's approval of any of such investigations, inspections, surveys, or tests shall not alter or diminish Grantor's representations or warranties under this

Agreement, and Grantor acknowledges and agrees that Grantee is relying upon Grantor's representations and warranties made herein, unless such representation or warranty is specifically waived in whole or in part by Grantor. Grantee to indemnify Grantor and provide a policy of general liability insurance of \$1,000,000 for Grantee's employees and agents during the investigative period and name Grantor as additional insured.

2.6 Deposit of Funds and Documents.

(a) Prior to Close of Escrow, Grantee shall deposit into Escrow (i) all Escrow and Closing Costs as described above; (ii) the cash portion of the purchase price to be paid to Grantor through Escrow; and (iii) such other documentation as is necessary to close Escrow in conformance herewith.

(b) Prior to the Close of Escrow, Grantor shall deposit into Escrow (i) the properly executed Grant Deed conveying the Parcel, a copy of which is attached to this Agreement as Exhibit C; and (ii) such other documents and sums, if any, as are necessary to close Escrow in conformance herewith.

2.7 Grantee's Conditions Precedent to Close of Escrow.

The Close of Escrow is subject to the following conditions:

(a) All representations and warranties of Grantor set forth in this Agreement shall be true and correct as of the Close of Escrow; and

(b) Grantor shall timely perform all obligations required by the terms of this Agreement to be performed by them.

2.8 Grantor's Conditions Precedent to Close of Escrow.

For the benefit of Grantor, the Close of Escrow shall be conditioned upon the timely performance by Grantee of all obligations required of Grantee by the terms of this Agreement.

3. REPRESENTATIONS AND WARRANTIES OF GRANTOR.

Grantor makes the following representations and warranties, each of which shall survive the Close of Escrow:

(a) Grantor holds title to an indefeasible estate in fee simple in the Property. Grantor is the sole owner of the Property and has good, absolute and marketable title to the Property and has full power and authority to own and sell and convey the Parcel over, under and/or through the Property to Grantee and to enter into and perform his/her/its obligations pursuant to this Agreement;

(b) The execution and delivery of this Agreement by Grantor, Grantor's performance hereunder, and the consummation of this transaction will not constitute a

violation of any order or decree or result in the breach of any contract or agreement to which Grantor are at present parties, or by which Grantor are bound;

(c) Grantor will not enter into any agreements or undertake any new obligations prior to Close of Escrow which will in any way burden, encumber or otherwise affect the Property without the prior written consent of Grantee;

(d) To Grantor's knowledge, no litigation and no governmental, administrative or regulatory act or proceeding regarding the environmental, health and safety aspects of the Property is pending, proposed or threatened;

(e) According to Grantor's knowledge, the Property is not in violation of any federal, state or local statute, regulation or ordinance relating to industrial hygiene or to environmental conditions on, under or about the Property, including, but not limited to, soil and groundwater conditions underlying the Property which could affect the Parcel or its use, and Grantor has not used, generated, manufactured, stored or disposed of on, under or about the Property, or transported to or from the Property, any flammable materials, explosives, radioactive materials, hazardous or contaminated materials or substances, toxic or noxious materials, substances or related materials or substances ("Hazardous Materials"). For the purpose of this Section, Hazardous Materials shall include, without limitation, substances defined as "hazardous substances," "hazardous materials," "toxic substances," "hazardous wastes," "extremely hazardous wastes," or "restricted hazardous wastes," or stated to be known to cause cancer or reproductive toxicity, under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. sections 9601 et seq; the Hazardous Materials Transportation Act, 49 U.S.C. sections 1801 et seq; the Resource Conservation and Recovery Act, 42 U.S.C. sections 6901 et seq; the Federal Water Pollution Control Act, 33 U.S.C. sections 1317 et seq; sections 25115, 25117, 25122.7, 25140, 25249.5, 25249.8, 25281, 25316 or 25501 of the California Health & Safety Code; or any substances so defined or stated in any of the regulations adopted and publications promulgated pursuant to said laws as they may be amended from time to time;

(f) In the event Grantee discovers Hazardous Materials, contaminated soil and/or water in, on or under the Property, Grantors shall be solely responsible for the removal and disposal of any and all such Hazardous Materials, contaminated soil and/or water; In the event Grantors fails to remove said Hazardous Materials, contaminated soil and/or water, Grantee or its designee shall have the right to remove and dispose of said Hazardous Materials, contaminated soil and/or water at Grantors' sole cost and expense. Grantors shall immediately reimburse Grantee for costs and expenses incurred by Grantee for the removal and disposal of any Hazardous Materials, contaminated soil and/or water upon receipt of a bill or invoices therefor. Grantors further agrees to indemnify and hold Grantee, its officers, employees, consultants and agents, harmless from any and all liability, costs, fines, penalties, charges and/or claims of any kind whatsoever related to the existence and removal of any Hazardous Materials, contaminated soil and/or water; and/or water at the site.

4. REPRESENTATIONS AND WARRANTIES OF GRANTEE.

A. Grantee shall save harmless and indemnify Grantor against any and all claims, demands, suits, judgments, expenses, and costs on account of injury to, or death of, persons, or loss of, or damage to, property of others, incurred during or proximately caused by acts or omissions of Grantee or Grantee's contractor in the performance of any work by Grantee or Grantee's contractor to construct the works of improvement for which the Parcel is conveyed.

5. ACKNOWLEDGMENT OF FULL BENEFITS AND RELEASE.

A. By execution of this Agreement, Grantor, on behalf of themselves and their respective heirs, executors, administrators, successors and assigns, hereby acknowledge that this Agreement provides full payment for the acquisition of the Parcel by Grantee, and Grantor hereby expressly and unconditionally waive any and all claims for damages, relocation assistance benefits, severance damages, interest, loss of goodwill, claims for inverse condemnation or unreasonable pre-condemnation conduct, or any other compensation or benefits, other than as already expressly provided for in this Agreement, it being understood that this is a complete and full settlement of all acquisition claims, liabilities, or benefits of any type or nature whatsoever relating to or in connection with the acquisition of the Parcel.

B. This Agreement arose out of Grantee's efforts to acquire the Parcel through its municipal authority. The parties agree that this Agreement is a settlement of claims in order to avoid litigation and shall not in any manner be construed as an admission of the fair market value of the Parcel or of the Property or of liability by any party to this Agreement. Grantor, on behalf of themselves and their respective heirs, executors, administrators, successors and assigns, hereby fully release Grantee, its successors, agents, representatives, and assigns, and all other persons and associations, known or unknown, from all claims and causes of action by reason of any damage which has been sustained, or may be sustained, as a result of Grantee's efforts to acquire the Parcel or to construct works of improvement thereon, or any preliminary steps thereto, except as set forth in Section 5 above. Grantor further release and agree to hold Grantee harmless from any and all claims by reason of any leasehold interest in the Property.

C. Grantor hereby acknowledge that they have been advised by their attorney and are familiar with the provisions of California Civil Code section 1542, which provides as follows:

These representations and warranties shall survive the Close of Escrow. "A general release does not extend to claims which the Creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor." Grantor acknowledge that they may have sustained damage, loss, costs or expenses which are presently unknown and unsuspected, and such damage, loss, costs or expenses which may have been sustained, may give rise to additional damage, loss, costs or expenses in the future.

Nevertheless, Grantor hereby acknowledge that this Agreement has been negotiated and agreed upon in light of that situation, and hereby expressly waive any and all rights which they may have under California Civil Code section 1542, or under any statute or common law or equitable principal of similar effect, except as set forth in Section 5 above.

This acknowledgment and release shall survive the Close of Escrow.

6. REMEDIES

If Grantor default under this Agreement, then Grantee may, at Grantee's option, terminate the Escrow or initiate an action for specific performance of this Agreement, or pursue any other rights or remedies that Grantee may have at law or in equity. If Grantee defaults under this Agreement, then Grantor may, at Grantor' option, terminate the Escrow or pursue any rights or remedies that Grantor may have at law or in equity.

7. MISCELLANEOUS.

A. Notice. Any notice to be given or other document or documents to be delivered to either party by the other hereunder may be delivered in person or may be deposited in the United States Mail in the State of California, duly registered or certified, with postage prepaid, and addressed as follows:

Grantor:	SP/CCI, Inc. A California Limited Liability Company c/o Nat Stowe Harty 43256 Via Siena Indian Wells, CA 92210
Grantee:	City of Moreno Valley 14177 Frederick Street PO Box 88005 Moreno Valley, CA 92552-0805 Attention: Henry Ngo, Senior Engineer, P.E.

Any party hereto may, from time to time, by written notice to the other parties, designate a different address, which shall be substituted for the one specified above. Any notice or other documents sent by registered or certified mail as aforesaid shall be deemed to have been effectively served or delivered at the expiration of twenty-four (24) hours following the deposit of said notice or other documents in the United States mail.

B. Time of Essence. Time is of the essence with respect to each and every provision hereof.

C. Assignment. Neither this Agreement, nor any interest herein, shall be assignable by any party without prior written consent of the other party.

D. Governing Law. All questions with respect to this Agreement, and the rights and liabilities of the parties hereto, shall be governed by the laws of the State of California.

E. Inurement. This Agreement shall inure to the benefit of, and shall be binding upon, the assigns, successors in interest, personal representatives, estates, heirs and legatees of each of the parties hereto.

F. Attorneys Fees. If any legal action, arbitration or other proceeding is brought for the interpretation or enforcement of this Agreement, or because of any alleged dispute, breach, default or misrepresentation in connection with the Agreement, the successful or prevailing party shall be entitled to recover actual attorneys fees (including fees for in-house counsel, paraprofessionals and similar personnel and disbursements) and other costs it incurs in that action or proceeding, in addition to any other relief to which it may be entitled. The parties agree that actual attorneys' fees shall be based on the attorneys fees actually incurred (based on the attorneys' customary hourly billing rates including, but not limited to, equivalent rates for in-house counsel) rather than the court or arbitrator making an independent inquiry concerning reasonableness. The venue of any such action, arbitration, lawsuit or other proceeding or litigation may, at the option of the City, be laid in Riverside County, California, and the parties waive any right to change of venue.

G. Entire Agreement. This Agreement contains the entire Agreement of the parties hereto, and supersedes any prior written or oral agreements between them concerning the subject matter contained herein. There are no representations, agreements, arrangements, or understandings, oral or written, between the parties hereto, relating to the subject matter contained in this Agreement which are not fully expressed herein.

H. Additional Documents. The parties hereto agree to execute any and all additional documents and instruments necessary to carry out the terms of this Agreement.

I. Confidentiality. Grantor will keep confidential the terms of this Agreement and refrain from disclosing or causing same to be disclosed to any person or entity not specifically released herein. In no event, however, shall Grantor be required to refrain from disclosing the terms of this Agreement where: (i) they are legally required to do so, whether by statute, court order, process or otherwise; or (ii) disclosure is required or necessary to enforce any right, duty, obligation or release arising under the terms of this Agreement; or (iii) disclosure is required or necessary in order for Grantor, or any of their agents or employees, to maintain or compile their personal or business books or records; or (iv) disclosure is necessary or required in order for Grantor, or any of their agents or employees, to prepare and file income tax returns or any other forms required by any governmental, administrative or regulatory entities, boards or authorities.

J. No Admissions. This Agreement is a compromise and settlement of outstanding claims between the parties relating to Grantee's acquisition of the Parcel and shall

never be treated as an admission by either party to the Agreement for any purpose in any judicial, arbitration or administrative proceeding between the parties. This paragraph shall not apply to any claim that one may have against the other for breach of any provision or covenant of this Agreement.

K. No Merger. All representations, warranties, acknowledgments, releases, covenants and obligations contained in this Agreement shall survive delivery and recordation of the Grant Deed for the Parcel. L. Ratification. This Agreement is subject to approval and ratification by the City Council of the City of Moreno Valley.

M. Broker. Grantor and Grantee each represent and warrant to the other that no broker, agent or finder has been engaged by it in connection with the transaction contemplated by this Agreement and that all negotiations relative to these instructions and this transaction have been carried out by such party directly with the other party without the intervention of any person in such a manner as to give rise to any valid claim against either of the parties for a broker's commission, finder's fee or other like payment. Each of the parties shall indemnify and defend the other party and hold it harmless from any and all loss, damage, liability or expense, including costs and reasonable attorneys' fees, which the other party may incur or sustain by reason of or in connection with any misrepresentation or breach of warranty by the indemnifying party with respect to the foregoing.

N. Counterparts. This Agreement may be signed in counterpart or duplicate copies, and any signed counterpart or duplicate copy shall be equivalent to a signed original for all purposes.

EXECUTED on the date or dates set forth below. This Agreement shall be effective as of the date signed by all parties.

DATED: _____

Grantor:

SP/CCI, LLC, a California Limited Liability Company

By: _____

Title: _____

DATED: _____

Grantee:

CITY OF MORENO VALLEY

By: _____

Its: City Manager

APPROVED AS TO FORM:

City Attorney

W:\CapProj\CapProj\PROJECTS\Henry - 11-43467830 - Highland (East End) Fire Station\CC Reports\Real Property\Attachment A - 12-13-11.doc

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EXHIBIT "A"
LEGAL DESCRIPTION
VACANT LAND
(APN 478-120-004,003)

IN THE STATE OF CALIFORNIA, COUNTY OF RIVERSIDE, CITY OF MORENO VALLEY, BEING THAT PORTION OF BLOCK 70 OF THE MAP OF THE TOWN OF MORENO, AS SHOWN BY THE MAP ON FILE IN BOOK 11, PAGE 19 OF MAPS, RECORDS OF SAN BERNARDINO COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT LAND DESCRIBED AS PARCELS 5 AND 6 IN A GRANT DEED TO SP/CCI, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, RECORDED APRIL 21, 2005 AS DOCUMENT #2005-0314749, OFFICIAL RECORDS OF RIVERSIDE COUNTY.

EXCEPTING THEREFROM ALL SAID LAND LYING SOUTHEASTERLY OF A LINE PARALLEL WITH AND 55 FEET NORTHWESTERLY OF, MEASURED AT RIGHT ANGLES, THE FOLLOWING DESCRIBED LINE;

COMMENCING AT THE CENTERLINE INTERSECTION OF BRODIAEA AVENUE AND REDLANDS BOULEVARD;

THENCE ALONG THE CENTERLINE OF REDLANDS BOULEVARD, SOUTH 00°26'32" WEST 478.88 FEET TO THE TRUE POINT OF BEGINNING;

THENCE SOUTH 60°10'11" WEST 359.47 FEET TO THE CENTERLINE OF RICHARDS AVENUE.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINS (7.54 ACRES), MORE OR LESS.

THE BEARINGS AND DISTANCES USED HEREON ARE BASED ON AN UNRECORDED SURVEY OF SAID LAND BY THE RIVERSIDE COUNTY FLOOD CONTROL DISTRICT, TITLED "RIGHT OF WAY - MORENO LINE F2" AND REFERENCED BY SAID DISTRICT AS "DWG. NO. 4-580/RW SHT. 1"

ALL AS SHOWN ON EXHIBIT "B", ATTACHED HERETO AND MADE A PART THEREOF.

THIS REAL PROPERTY DESCRIPTION HAS BEEN PREPARED BY ME, OR UNDER MY DIRECTION, IN CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYOR'S ACT.

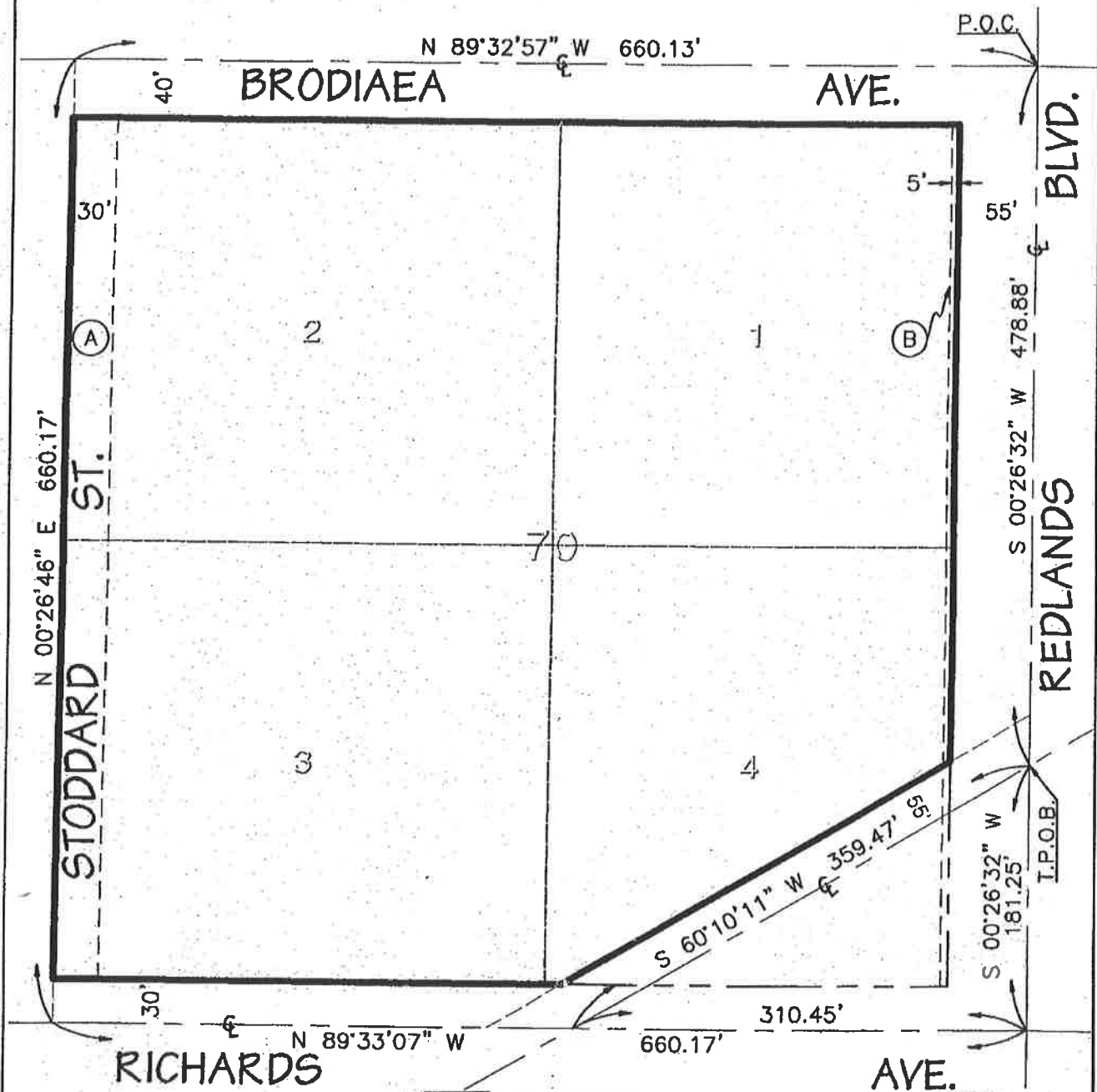


RICHARD C. MAHER, P.L.S. 7564 05/14/09
LICENSE EXPIRES 12-31-2009 DATE



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EXHIBIT "B"
PLAT TO ACCOMPANY LEGAL DESCRIPTION



LEGEND
T.P.O.B. TRUE POINT OF BEGINNING
P.O.C. POINT OF COMMENCEMENT



KDM MERIDIAN

22541 Aspen St., Ste C
Lake Forest, CA 92630
Phone: 949-768-0731
Fax: 949-768-3731

LAND DESCRIBED
AREA: 7.54 AC. ±

- (A) VACATION BY INSTRUMENT 23196, OFFICIAL RECORDS OF RIVERSIDE COUNTY
- (B) VACATION BY INSTRUMENT 63587, OFFICIAL RECORDS OF RIVERSIDE COUNTY

Richard C. Maher 5/14/09
RICHARD C. MAHER, PLS 7564 DATE
LICENSE RENEWAL 12/31/09



APN 478-120-004,003

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Recording requested by and when
recorded, mail to:
City Clerk
City of Moreno Valley
P.O. Box 88005
Moreno Valley, CA 92552-0805

Exempt from Recording Fee per
Govt. Code Sec. 6103
City of Moreno Valley
By:
A.P.N. 478 - 120 - 003 & 004

(Space above this line for Recorder's use)
DOCUMENTARY TRANSFER TAX IS NONE.
Public Agency exempt.
Revenue and Taxation Code Section 11922

GRANT DEED

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

SP/CCI, LLC, a California limited liability company

GRANTOR(S) hereby grant(s) and convey(s) to the CITY OF MORENO VALLEY, a municipal corporation, the real property in the City of Moreno Valley, County of Riverside, State of California, described on the attached Exhibit "A" and as illustrated on the plat attached hereto and marked Exhibit "B". IN WITNESS WHEREOF, this instrument has been executed this ____ day of _____, 20__.

Grantor(s):

STATE OF CALIFORNIA)
County of _____)ss.

On _____ before me,
_____ the undersigned. A Notary
Public in and for said State, personally
appeared _____ personally
known to me or proved to me on the basis of satisfactory
evidence to be the person(s) whose name (s) is/are
subscribed to the within instrument and acknowledged to me
that he/she/they executed the same in his/her/their authorized
capacity(ies), and that by his/her/their signature(s) on the
instrument the person(s), or entity upon behalf which the
person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

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EXHIBIT D

The total purchase price for the Parcel shall be \$1,262,400 which will be in a combination of cash and fee credits as follows:

1. Cash Down Payment of \$276,000, consisting of \$55,200 from the Fire Acquisition Fund and \$220,800 from the Park Land Acquisition Fund.
2. An Entitlement Fund of \$130,000 to cover City fees and costs associated with planning entitlement applications for the property owner's projects in the City. The fund will be established in house from the Park and Fire Capital Projects funds.
3. Balance of Offer Price in Fee Credits, consisting of 367 Park Land Single Family Residential Unit Fee Credits and 264 Fire Facilities Single Family Residential Unit Fee Credits.
4. The Entitlement Fund and Fee Credits shall be effective for 10 years and may be transferred or sold by the Grantor as outlined in the attached *Public Facilities Fee Credit and Entitlement Fund Agreement with SP/CCI, LLC, for Acquisition of Parcels APN 478-120-003 & -004*.

**PUBLIC FACILITIES FEE CREDIT AND
ENTITLEMENT FUND AGREEMENT
WITH SP/CCI, LLC FOR ACQUISITION OF
PARCELS APN 478-120-003 & -004**

This Public Facilities Fee Credit and Entitlement Fund Agreement ("PFF Agreement") is entered into between the City of Moreno Valley ("City") and SP/CCI, LLC, a California Limited Liability Company ("Developer"), as of _____, 2011 ("the Effective Date"), and sets forth the understanding of City and Developer with respect to the following:

1. Recitals.

1.1 Whereas, Developer is the owner of that certain real properties in the Cactus Corridor Specific Plan, and L'Aquila south of the Auto Mall in the City of Moreno Valley, County of Riverside, California (the "Project"); and

1.2 Whereas, this agreement between the City and Developer, relative to the partial acquisition of parcels APN 478-120-003 & -004 provides Developer credits for 367 Parkland (Quimby In-Lieu) Single Family Residential Unit (SFR) Fee Credits and 264 Fire Facilities Single Family Residential Unit (SFR) Fee Credits. The value of these credits shall be the fee for Parkland (Quimby In-Lieu) and Fire Facilities at time of building permit issuance.

1.3 Whereas, City agrees to a density transfer to Developer for other projects in the Cactus Corridor Specific Plan at least equivalent to the underlying zoning for the remainder portion of parcel 478-120-004 equal to approximately 0.658 acres, contingent on merger of said remainder parcel with adjacent properties by the Developer.

1.4 Whereas, City establishes an entitlement fund in the amount of \$130,000 to cover City fees and cost associated with planning entitlement applications for the property owner's projects in the City; and

Now, therefore, City and Developer, in consideration of their respective commitments below, agree as follows:

2. Fee Credits:

2.1 City and Developer have reached an understanding as to the terms of this PFF Agreement, specifically that the City shall apply the credits for 367 lots against the Parkland (Quimby In-Lieu) Fees, and 264 lots for Fire Facilities Fees in effect at the time of building permit issuance.

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2.2 City and Developer agree that the Fee Credits can be transferred or sold by the Developer subject to the provisions of Section 6.9 of this Agreement.

3. Entitlement Fund:

3.1 City establishes an entitlement fund in the amount of \$130,000 to cover City fees and cost associated with planning entitlement applications for the property owner's projects in the City. The entitlement fund can be transferred or sold by the Developer in the future subject to the provisions of Section 6.9 of this Agreement.

4. Timing and Validation of Public Facilities Fees and the Entitlement Fund:

4.1 City and Developer agree that the Public Facilities Fees and Entitlement Fund shall be effective for 10 years, effective from the date this agreement is fully executed

5. Enforcement.

5.1 Enforcement by Either Party. The City agrees that unless this PFF Agreement is amended or terminated by mutual agreement of City and Developer, this PFF Agreement shall be enforceable by any party hereto notwithstanding any change hereafter in any applicable General Plan, Specific Plan, City Ordinance, Rule or Regulation.

5.2 The Cumulative Remedies. In addition to any other rights or remedies, either party may institute a legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation, including suits for declaratory relief, specific performance, relief in the nature of mandamus and actions for damages. All the remedies described above shall be cumulative and not exclusive to one another, and the exercise of any one or more of the remedies herein shall not constitute a waiver or election with respect to any other available remedy.

5.3 Attorneys' Fees. In any arbitration, administrative proceedings, or any action in any courts of competent jurisdiction, brought by one or more parties to enforce any provision of this PFF Agreement, or to enforce any rights or remedies under this PFF Agreement, including any action for declaratory or equitable relief, the prevailing

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party shall be entitled to reasonable attorneys' fees and all reasonable costs, expenses and disbursements in connection with such action.

6. Miscellaneous Provisions.

6.1 Covenants, Conditions and Restrictions. The terms of this PFF Agreement shall be binding upon the parties, their successors and assigns. Any successor in interest of Developer may enforce the provisions of this PFF Agreement.

6.2 Governing Law. This PFF Agreement, including, without limitation, its existence, validity, construction and operation, and the rights of each of the parties hereunder, shall be determined in accordance with the laws of the State of California.

6.4 Recitals. The recitals in this PFF Agreement constitute part of this PFF Agreement and each party shall be entitled to rely on the truth and accuracy of each recital as an inducement to enter into this PFF Agreement.

6.5 Time. Time is of the essence for this PFF Agreement and for each and every term and condition hereof.

6.6 No Third Party Beneficiaries. This PFF Agreement is made and entered into for the sole protection and benefit of the parties and their successors and assigns. Except as expressly provided in this PFF Agreement, no other person shall have any rights or cause of action based upon any provision of this PFF Agreement.

6.7 Waiver. The failure of either party at any time to seek redress for any violation of this PFF Agreement, or to insist upon the strict performance of any term or condition of this PFF Agreement, shall not prevent any subsequent act or omission of the same or similar nature from having all the force and effect of the original breach or default, and such subsequent act or omission may be proceeded against by either party to the fullest extent provided by this PFF Agreement. No provision of this PFF Agreement shall be deemed to have been waived by either party unless the waiver is in writing and is signed by the party waiving its rights or claims.

6.8 Binding Effect. The covenants and agreements contained in this PFF Agreement shall inure to the benefit of, and shall be binding upon each of the parties and their respective heirs, administrators, successors and assign.

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6.9 Transfer of Credits. The Developer shall notify the City of any proposed transfer of credits at least 30 days prior to the effective date of said transfer. Such notification shall provide a copy of the transfer documentation, including the name and contact information for the transferee. Any transferee shall be subject to the provisions of this Agreement. The transferee may use the Fee Credits to defray Parkland or Fire impact fees on a per unit basis for any residential project in the City. The Entitlement Fund may be used for the Developer's projects in the City of Moreno Valley as mentioned in 1.1.

SIGNATURE PAGE TO FOLLOW

**PUBLIC FACILITIES FEE CREDIT AND
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EXECUTED on the date or dates set forth below. This Agreement shall be effective as of the date signed by all parties.

DATED: _____

Grantor:

SP/CCI, LLC, a California Limited Liability Company

By: Stowe Passco Development, LLC,

Its Manager

By: Stowe Properties, Inc.,

Its Manager

By: Nat S. Harty, President

DATED: _____

Grantee:

CITY OF MORENO VALLEY

By: _____

Its: _____

Attest: _____

City Clerk

(only needed if Mayor signs)

APPROVED AS TO FORM:

City Attorney

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STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

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

WITNESS my hand and official seal.

NOTARY PUBLIC

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

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

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NOTARY PUBLIC

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