

AGENDA

**CITY COUNCIL OF THE CITY OF MORENO VALLEY
MORENO VALLEY COMMUNITY SERVICES DISTRICT
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF
MORENO VALLEY
BOARD OF LIBRARY TRUSTEES**

November 10, 2009

SPECIAL PRESENTATIONS – 6:00 P.M.

REGULAR MEETING – 6:30 P.M.

City Council Closed Session

First Tuesday of each month – 6:00 p.m.

City Council Study Sessions

Third Tuesday of each month – 6:00 p.m.

City Council Meetings

Second and Fourth Tuesdays – 6:30 p.m.

City Hall Council Chamber - 14177 Frederick Street

Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities, in compliance with the Americans with Disabilities Act of 1990. Any person with a disability who requires a modification or accommodation in order to participate in a meeting should direct such request to the City Clerk's office at 951.413.3001 at least 48 hours before the meeting. The 48-hour notification will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Bonnie Flickinger, Mayor Pro Tem
Jesse L. Molina, Council Member

Richard A. Stewart, Mayor

Robin N. Hastings, Council Member
William H. Batey II, Council Member

AGENDA
CITY COUNCIL OF THE CITY OF MORENO VALLEY
November 10, 2009

CALL TO ORDER

SPECIAL PRESENTATIONS

1. Morning Optimist Club of Moreno Valley Presentations to the STARS Afterschool Program Poster Contest Winners
2. Moreno Valley Chamber of Commerce Presentation to the Boy Scouts of America Inland Empire Council – 5 Nations District
3. All-Star Recycling Award presented by Waste Management

**AGENDA
JOINT MEETING OF THE
CITY COUNCIL OF THE CITY OF MORENO VALLEY
MORENO VALLEY COMMUNITY SERVICES DISTRICT
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF MORENO
VALLEY AND THE BOARD OF LIBRARY TRUSTEES**

**REGULAR MEETING - 6:30 PM
NOVEMBER 10, 2009**

CALL TO ORDER

(Joint Meeting of the City Council, Community Services District, Community Redevelopment Agency, and the Board of Library Trustees - actions taken at the Joint Meeting are those of the Agency indicated on each Agenda item)

PLEDGE OF ALLEGIANCE

INVOCATION - Pastor Ronderick Henry, New Direction Community Church

ROLL CALL

INTRODUCTIONS

PUBLIC COMMENTS ON MATTERS ON THE AGENDA WILL BE TAKEN UP AS THE ITEM IS CALLED FOR BUSINESS, BETWEEN STAFF'S REPORT AND CITY COUNCIL DELIBERATION (SPEAKER SLIPS MAY BE TURNED IN UNTIL THE ITEM IS CALLED FOR BUSINESS.)

PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA UNDER THE JURISDICTION OF THE CITY COUNCIL WILL BE HEARD PRIOR TO CITY COUNCIL REPORTS AND CLOSING COMMENTS. IN THE EVENT THAT THE AGENDA ITEM FOR SUCH PUBLIC COMMENTS HAS NOT BEEN CALLED BY 9:00 P.M., IT SHALL BE CALLED AS THE NEXT ITEM OF BUSINESS FOLLOWING THE CONCLUSION OF ANY ITEM BEING HEARD AT 9:00 P.M. Those wishing to speak should submit a BLUE speaker slip to the Bailiff. There is a three-minute time limit per person. All remarks and questions shall be addressed to the presiding officer or to the City Council and not to any individual Council member, staff member or other person.

JOINT CONSENT CALENDARS (SECTIONS A-D)

All items listed under the Consent Calendars, Sections A, B, C, and D are considered to be routine and non-controversial, and may be enacted by one motion unless a member of the Council, Community Services District, Redevelopment Agency or the Board of Library Trustees requests that an item be removed for

separate action. The motion to adopt the Consent Calendars is deemed to be a separate motion by each Agency and shall be so recorded by the City Clerk. Items withdrawn for report or discussion will be heard after public hearing items.

A. CONSENT CALENDAR-CITY COUNCIL

A.1 ORDINANCES - READING BY TITLE ONLY

Recommendation: Waive reading of all Ordinances.

A.2 MINUTES - REGULAR MEETING OF OCTOBER 27, 2009 (Report of: City Clerk's Department)

Recommendation:

Approve as submitted.

A.3 AUTHORIZATION TO AWARD THE CONSTRUCTION CONTRACT FOR CITYWIDE BRIDGE MAINTENANCE PROGRAM - PROJECT NO. 09-22679828 (Report of: Public Works Department)

Recommendation:

1. Award the construction contract for the Citywide Bridge Maintenance Program to Peterson-Chase General Engineering Construction, Inc. (Peterson-Chase), the lowest responsible bidder;
2. Authorize the City Manager to execute a contract with Peterson-Chase;
3. Authorize the issuance of a Purchase Order to Peterson-Chase in the amount of \$114,481 (\$91,585 base bid amount plus 25% contingency) when the contract has been signed by all parties;
4. Authorize the Public Works Director/City Engineer to execute any subsequent change orders to the contract with Peterson-Chase, up to but not to exceed the Purchase Order contingency of \$22,896, subject to the approval of the City Attorney; and
5. Authorize the Public Works Director/City Engineer to incrementally accept completed portions of work and pay retainage based on the acceptance of said work in accordance with the Public Contract Code, Section 7107.

A.4 AMENDMENT NO. 1 TO THE AGREEMENT FOR THE REIMBURSEMENT OF TRANSPORTATION UNIFORM MITIGATION FEE FUNDS BETWEEN RIVERSIDE COUNTY TRANSPORTATION COMMISSION AND THE CITY OF MORENO VALLEY FOR PERRIS BOULEVARD WIDENING FROM IRONWOOD AVENUE TO MANZANITA

AVENUE - PROJECT NO. 11-41570225 (Report of: Public Works Department)

Recommendation:

1. Accept and approve Amendment No. 1 to the Agreement for the reimbursement of Transportation Uniform Mitigation Fee (TUMF) funds between Riverside County Transportation Commission (RCTC) and the City of Moreno Valley for Perris Boulevard Widening from Ironwood Avenue to Manzanita Avenue;
2. Authorize the Public Works Director/City Engineer to execute Amendment No. 1 to the Agreement for the reimbursement of TUMF funds between RCTC and the City of Moreno Valley;
3. Authorize the Public Works Director/City Engineer to execute any subsequent amendments to the Transportation Uniform Mitigation Fee Program Agreement between RCTC and the City of Moreno Valley for Perris Boulevard Widening from Ironwood Avenue to Manzanita Avenue;
4. Increase the appropriation for the Perris Boulevard Widening – Ironwood to Manzanita project (account no. 415.70225) by \$36,847 to fund Right-of-way Phase expenditures prior to reimbursement by RCTC ; and
5. Appropriate \$133,816 from Fund 201 (DIF Arterial Streets) Fund Balance to Account No. 416.78726 (DIF, Perris Boulevard Widening – Ironwood to Manzanita) to provide matching funds for Right-of-Way Phase expenditures reimbursed by RCTC for Right-of-way Phase services for Perris Boulevard Widening from Ironwood Avenue to Manzanita Avenue.

A.5 ACCEPT AND APPROVE AMENDMENT NO. 2 TO THE AGREEMENT FOR THE REIMBURSEMENT OF TRANSPORTATION UNIFORM MITIGATION FEE FUNDS BETWEEN RIVERSIDE COUNTY TRANSPORTATION COMMISSION AND THE CITY OF MORENO VALLEY FOR PERRIS BOULEVARD WIDENING FROM PERRIS VALLEY STORM DRAIN LATERAL "B" TO CACTUS AVENUE - PROJECT NO. 11-41570125 (Report of: Public Works Department)

Recommendation:

1. Accept and approve Amendment No. 2 to the Agreement for the reimbursement of Transportation Uniform Mitigation Fee (TUMF) funds between Riverside County Transportation Commission (RCTC) and the City of Moreno Valley for Perris Boulevard Widening from Perris Valley Storm Drain Lateral "B" to Cactus Avenue;

2. Authorize the Public Works Director/City Engineer to execute Amendment No. 2 to the Agreement between RCTC and the City of Moreno Valley; and
3. Authorize the Public Works Director/City Engineer to execute any subsequent amendments to the TUMF Agreement between RCTC and the City of Moreno Valley for Perris Boulevard Widening from Perris Valley Storm Drain Lateral "B" to Cactus Avenue.

A.6 NOTICE OF COMPLETION AND ACCEPTANCE OF 2009 PAVEMENT RESURFACING PROJECT (PHASE I) - PROJECT NO. 08-12556330 (Report of: Public Works Department)

Recommendation:

1. Accept the work as complete for 2009 Pavement Resurfacing Project (Phase I), constructed by Hardy & Harper, Inc., 1312 East Warner Avenue, Santa Ana, CA 92705;
2. Direct the City Clerk to record the Notice of Completion within ten (10) calendar days at the office of the County Recorder of Riverside County, as required by Section 3093 of the California Civil Code;
3. Authorize the Financial and Administrative Services Director to release the retention to Hardy & Harper, Inc., thirty-five (35) calendar days after the date of recordation of the Notice of Completion, if no claims are filed against the project; and
4. Accept the improvements into the City's maintained road system.

A.7 TRACT 31212 PRIVATE DRIVEWAY – RELEASE THE FAITHFUL PERFORMANCE BOND AND THE MATERIAL AND LABOR BOND - DEVELOPER - WESTERN PACIFIC HOUSING, INC., A DELAWARE CORPORATION, CORONA, CA 92880 (Report of: Public Works Department)

Recommendation:

Authorize the City Engineer to execute the release of the Faithful Performance Bond and the Material and Labor Bond.

A.8 AUTHORIZATION TO AWARD THE CONSTRUCTION CONTRACT FOR PATRIOT PARK IMPROVEMENTS PROJECT - PROJECT NO. 08-28268628 (Report of: Public Works Department)

Recommendation:

1. Waive minor irregularities of the lowest Bidder's Proposal and award

the construction contract for the Patriot Park Improvements project to Desert Concepts Construction, Inc., 77-770 Country Club Drive, Suite D, Palm Desert, CA 92211, determined as the lowest responsive and responsible bidder;

2. Authorize the City Manager to execute a contract with Desert Concepts Construction, Inc., ;
3. Authorize the issuance of a Purchase Order to Desert Concepts Construction, Inc., in the amount of \$282,901.62 (\$246,001.41 base bid amount plus 15% contingency) when the contract has been signed by all parties;
4. Authorize the Public Works Director/City Engineer to execute any subsequent change orders to the contract with Desert Concepts Construction, Inc., up to but not to exceed the Purchase Order contingency of \$36,900.21 subject to the approval of the City Attorney;
5. Authorize the Public Works Director/City Engineer to incrementally accept completed portions of work and pay retainage based on the acceptance of said work in accordance with Public Contract Code, Section 7107;
6. Re-appropriate \$49,000 from Account No. 282.68627 (CDBG Sheila Street Sidewalk) to Account No. 282.68628 (CDBG Patriot Park); and
7. Appropriate \$25,000 from Fund 282 (CDBG) Fund Balance to Account No. 282.68628 (CDBG, Patriot Park).

A.9 RECEIPT OF QUARTERLY INVESTMENT REPORT - QUARTER ENDED SEPTEMBER 30, 2009 (Report of: Financial & Administrative Services Department)

Recommendation:

Receive and file the Quarterly Investment Report, in compliance with the City's Investment Policy.

A.10 CITY COUNCIL REPORTS ON REIMBURSABLE ACTIVITIES (Report of: City Clerk's Department)

Recommendation:

Receive and file the Reports on Reimbursable Activities for the period of October 21, 2009 – November 3, 2009.

B. CONSENT CALENDAR-COMMUNITY SERVICES DISTRICT

B.1 ORDINANCES - READING BY TITLE ONLY
Recommendation: Waive reading of all Ordinances.

B.2 MINUTES - REGULAR MEETING OF OCTOBER 27, 2009 (Report of: City Clerk's Department)

Recommendation:
Approve as submitted.

B.3 ADOPT RESOLUTION NO. CSD 2009-21 APPROVING THE GRANT APPLICATION FOR GRANT FUNDS FROM THE RECREATIONAL TRAILS PROGRAM (Report of: Parks and Community Services Department)

Recommendation:

Adopt Resolution No. CSD 2009-21 approving the grant application for grant funds from the Recreational Trails Program.

Resolution No. CSD 2009-21

Resolution of the Community Services District of the City Of Moreno Valley, California, Approving the Application for Grant Funds from the Recreational Trails Program

B.4 APPROVE RENEWAL OF AFTER SCHOOL EDUCATION AND SAFETY GRANT (Report of: Parks and Community Services Department)

Recommendation:

1. Authorize the City Manager to renew the After School Education and Safety Grant (ASES) with the California Department of Education for fiscal years 2010-2013; and
2. Authorize the City Manager to accept the funding in the amount of \$4,093,200 from the After School Education and Safety Grant (ASES) with the California Department of Education for fiscal years 2010-2013.

C. CONSENT CALENDAR - COMMUNITY REDEVELOPMENT AGENCY

C.1 ORDINANCES - READING BY TITLE ONLY
Recommendation: Waive reading of all Ordinances.

C.2 MINUTES - REGULAR MEETING OF OCTOBER 27, 2009 (Report of: City Clerk's Department)

Recommendation:
Approve as submitted.

- C.3 WORK AUTHORIZATION FOR RELOCATION OF SOUTHERN CALIFORNIA GAS CO. SUPPLY LINE ON OLD 215 (Report of: Economic Development Department)

Recommendation:
Authorize execution of a Collectible Work Authorization for Southern California Gas Co. in the amount of \$196,461 to proceed with the work necessary for the relocation of a high pressure natural gas line on Old 215.

D. CONSENT CALENDAR - BOARD OF LIBRARY TRUSTEES

- D.1 ORDINANCES - READING BY TITLE ONLY
Recommendation: Waive reading of all Ordinances.

- D.2 MINUTES - REGULAR MEETING OF OCTOBER 27, 2009 (Report of: City Clerk's Department)

Recommendation:
Approve as submitted.

E. PUBLIC HEARINGS

Questions or comments from the public on a Public Hearing matter are limited to five minutes per individual and must pertain to the subject under consideration. Those wishing to speak should complete and submit a GOLDENROD speaker slip to the Bailiff.

- E.1 CONTINUATION OF THE PUBLIC HEARING REGARDING THE MAIL BALLOT PROCEEDING FOR IDENTIFIED PROPERTIES WITHIN TPM 35629 - BALLOTING FOR NPDES AND CSD ZONE M (CONTINUED FROM AUGUST 25, 2009) (Report of: Public Works)

Recommendation: That the City Council:

1. Staff recommends that the Mayor and City Council, after conducting the Public Hearing and accepting public testimony:
 - a) Direct the City Clerk to tabulate the National Pollutant Discharge Elimination System ("NPDES") ballots for identified properties within Tentative Parcel Map ("TPM") 35629;
 - b) Verify and accept the results of the mail ballot proceeding as identified on the Official Tally Sheet and Assessor Parcel Number ("APN") listing;

c) Receive and file with the City Clerk's office the accepted Official Tally Sheet and APN listing; and

d) If approved, authorize and impose the NPDES maximum commercial/industrial regulatory rate to the identified properties within TPM 35629.

2. Staff recommends that the Mayor and City Council, acting in their capacities as President and Members of the Board of Directors of the CSD ("CSD Board"), after conducting the Public Hearing and accepting public testimony:

a) Direct the Secretary of the CSD Board (City Clerk) to tabulate the CSD Zone M ballots for identified properties within TPM 35629;

b) Verify and accept the result of the mail ballot proceeding as identified on the Official Tally Sheet and APN listing;

c) Receive and file with the City Clerk's office the accepted Official Tally Sheet and APN listing; and

d) If approved, authorize and impose the annual CSD Zone M (Commercial, Industrial, and Multifamily Improved Median Maintenance) charge to the identified properties within TPM 35629.

E.2 HEARING ON PROPOSED RESOLUTION OF NECESSITY, TO MAKE FINDING AND DETERMINATION AND TO AUTHORIZE EMINENT DOMAIN PROCEEDINGS TO ACQUIRE NECESSARY RIGHT OF WAY FOR DAY STREET ROADWAY IMPROVEMENTS FROM ALESSANDRO BOULEVARD TO COTTONWOOD AVENUE (PROJECT) - PROJECT NO. 02-89266920 (Report of: Public Works Department)

Recommendation: That the City Council:

1. Conduct hearing, allowing testimony, including property owners who have requested the right to appear and be heard. Close the hearing;

2. Approve and adopt the Planning Division's finding that the Project is consistent with the General Plan;

3. Find the adoption of the proposed Resolution of Necessity and acquisition of the roadway easement and temporary construction easement necessary for the Project are exempt from CEQA in that under §15061 (b) (3) of the CEQA Guidelines, this activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant impact on the environment and it

can be seen with certainty that there is no possibility this activity would have a significant effect on the environment. Further, it has been determined that the proposed activity is within the scope of and is consistent with the approved Negative Declaration (ND) prepared for the Project, that there have been no changes to the approved Project since the approval of the ND, and no changes to the circumstances under which the Project is to be undertaken that would alter the determination the Project is exempt;

4. Find that the proposed "Factual Summary to Support Findings Required in the Resolution," is true and correct as to the proposed Resolution of Necessity;
5. Find and determine that the statement, finding, and fact in the proposed Resolution of Necessity are true and correct;
6. If the City has not approved the "Agreement for Conveyance of Property" for the property necessary for the Project, adopt the following Resolution by a vote of two-thirds of all members of the City Council; and

Resolution No. 2009-107

A Resolution of the City Council of the City of Moreno Valley, California, Finding and Determining that the Public Interest and Necessity Require the Acquisition of Property for Public Street and Highway Purposes Including Related Improvements and Facilities; that the Acquisition and Taking of the Easements in the Herein-Described Property is Necessary for the Project; that the Project is Planned in a Manner that is Most Compatible with the Greatest Public Good and the Least Private Injury; Authorizing Proceedings to be Commenced in Eminent Domain; and Authorizing the Deposit of Necessary Funds and the Payment of Necessary Expenses and Fees for Acquisition of Said Property; and Authorizing Counsel to Obtain an Order for Prejudgment Possession of the Subject Property

7. Direct the City Attorney or retained counsel for the City to file appropriate actions in Eminent Domain, including Making Deposits of Probable Compensation and for Orders for Prejudgment Possession and for all other appropriate orders.

E.3 A PUBLIC HEARING ON A ZONE CHANGE (PA05-0069) FROM THE RESIDENTIAL 1 (SINGLE FAMILY - UP TO 1 UNIT PER ACRE) LAND USE DISTRICT TO THE RESIDENTIAL 2 (SINGLE FAMILY - UP TO 2 UNITS PER ACRE) DISTRICT, WHICH IS CONSISTENT WITH THE EXISTING RESIDENTIAL 2 GENERAL PLAN LAND USE DESIGNATION;

AND A TENTATIVE TRACT MAP NO. 32388 (PA05-0071) TO SUBDIVIDE APPROXIMATELY 9.5 ACRES LOCATED ON THE SOUTH SIDE OF MOUNTAIN RANCH ROAD AT NORTHSORE DRIVE INTO 14 SINGLE FAMILY LOTS (CONTINUED FROM SEPTEMBER 8, 2009) (Report of: Community Development Department)

Recommendation: That the City Council:

1. CONDUCT a public hearing for review of a proposed Zone Change from R1 to R2 and Tentative Tract Map No. 32388 to subdivide approximately 9.5 acres into 14 single family residential lots;
2. APPROVE Resolution No. 2009-84 ADOPTING a Mitigated Negative Declaration for the Zone Change and Tentative Tract Map No. 32388, in that, as designed and conditioned, this project will not result in significant environmental impacts;

Resolution No. 2009-84

A Resolution of the City Council of the City of Moreno Valley, California, Adopting a Mitigated Negative Declaration for a Zone Change (PA05-0069), and Tentative Tract Map No. 32388 (PA05-0071) to change the land use for 9.5 net acres located within Assessor's Parcel Number 474-250-003 from Residential 1 to Residential 2 in order to develop a 14 lot single family residential subdivision

3. INTRODUCE Ordinance No. 795 thereby APPROVING a Zone Change from Residential 1 (R1) to Residential 2 (R2) for the 9.5 acres of Assessor's Parcel Number 474-250-003 located south of Mountain Ranch Road at Northshore Drive (PA05-0069), based on the findings in the City Council Ordinance; and

Ordinance No. 795

An Ordinance of the City Council of the City of Moreno Valley, California, Approving Application PA05-0069 for an Amendment to the Official Zoning Atlas from Residential 1 to Residential 2 for the Approximately 9.5 Net Acres of Assessor's Parcel Number 474-250-003 in Order to Develop a 14 Lot Single Family Subdivision

4. APPROVE Resolution No. 2009-85 thereby APPROVING Tentative Tract Map No. 32388 (PA05-0071) to subdivide the 9.5 acres of Assessor's Parcel Number 474-250-003 located south of Mountain Ranch Road at Northshore Drive into 14 single family residential lots.

Resolution No. 2009-85

A Resolution of the City Council of the City of Moreno Valley, California, Approving Tentative Tract Map No. 32388 (PA05-0071) to Develop a 14 Lot Single Family Residential Subdivision on 9.5 Net Acres Located on the South Side of Mountain Ranch Road at Northshore Drive, Within Assessor's Parcel Number 474-250-003

- E.4 APPEAL BY PACIFIC COMMUNITIES (TR 23008) OF TRANSPORTATION UNIFORM MITIGATION FEES (TUMF) UNDER WESTERN RIVERSIDE COUNCIL OF GOVERNMENT'S (WRCOG) ADMINISTRATIVE PLAN POLICIES (Report of: Community Development Department)

Recommendation: That the City Council:

APPROVE Resolution No. 2009-108, thereby denying the request of Pacific Communities for an appeal of the requirement for TUMF fee payment for six residential lots within Tract Map 23008.

Resolution No. 2009-108

A Resolution of the City Council of the City of Moreno Valley, California, Denying an Appeal by Pacific Communities regarding payment of TUMF Fees for six residential lots within Tract 23008

F. ITEMS REMOVED FROM CONSENT CALENDARS FOR DISCUSSION OR SEPARATE ACTION

G. REPORTS

- G.1 CITY COUNCIL REPORTS ON REGIONAL ACTIVITIES (Informational Oral Presentation - not for Council action)

a) Report by Mayor Stewart on March Joint Powers Commission (MJPA)

- G.2 CONSIDERATION OF A REQUEST FROM COMMUNITY HEALTH SYSTEMS, INC. TO SPONSOR ITS 2ND ANNUAL HOLIDAY CELEBRATION HEALTH FAIR (Report of: City Clerk's Department)

Recommendation: That the City Council:

Consider the request of Community Health Systems, Inc. to sponsor its 2nd Annual Holiday Celebration Health Fair, in the amount of \$1,750.

- G.3 CONSIDERATION OF AN ORDINANCE EXTENDING ORDINANCE NO. 791 WHICH EXTENDED THE EXPIRATION DATE OF CERTAIN DISCRETIONARY PERMITS OR ENTITLEMENTS APPROVED BY THE

CITY ON OR AFTER JANUARY 1, 2006, AN ADDITIONAL TWELVE MONTHS (Report of: City Manager's Office)

Recommendation: That the City Council:

Introduce Ordinance No. 803, extending Ordinance No. 791 extending expiration date of certain discretionary permits or entitlements approved by the City on or after January 1, 2006, by an additional twelve months.

Ordinance No. 803

An Ordinance of the City Council of the City of Moreno Valley, California, Extending Ordinance No. 791, Extending the Expiration Date of Certain Discretionary Permits or Entitlements Approved by the City on or After January 1, 2006, by an Additional Twelve Months

G.4 PARTICIPATION AGREEMENT WITH BURLINGTON COAT FACTORY OF CALIFORNIA LLC (Report of: Economic Development Department)

Recommendation: That the City Council:

Adopt Resolution No. 2009-109, a resolution of the City of Moreno Valley approving and authorizing a Participation Agreement with Burlington Coat Factory of California, LLC.

Resolution No. 2009-109

Resolution of the City Council of the City of Moreno Valley Authorizing a Participation Agreement With Burlington Coat Factory of California, LLC

G.5 CITY MANAGER'S REPORT (Informational Oral Presentation - not for Council action)

H. LEGISLATIVE ACTIONS

H.1 ORDINANCES - 1ST READING AND INTRODUCTION

- H.1 .1 ORDINANCE NO. 804, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, AMENDING CHAPTER 36 OF TITLE 8 OF THE CITY OF MORENO VALLEY MUNICIPAL CODE BY ADDING A NEW SECTION 095 PROHIBITING THE STORAGE, USE, SALE, POSSESSION, AND HANDLING OF SAFE AND SANE FIREWORKS AND AMENDING SECTION 20 OF CHAPTER 36 OF TITLE 8 OF THE MORENO VALLEY MUNICIPAL CODE TO ADOPT APPENDIX CHAPTER 1 FROM THE 2007 CALIFORNIA FIRE CODE AS AMENDED BY THE CITY OF MORENO VALLEY (Report of: Fire Department)

Recommendation: That the City Council:

Staff recommends that the City Council introduce Ordinance No. 804, an Ordinance of the City Council of the City of Moreno Valley, California, amending Chapter 36 of Title 8 of the City of Moreno Valley Municipal Code by adding a new Section 095 prohibiting the storage, use, sale, possession, and handling of safe and sane fireworks and amending Section 20 of Chapter 36 of Title 8 of the Moreno Valley Municipal Code to adopt Appendix Chapter 1 from the 2007 California Fire Code as amended by the City of Moreno Valley.

Ordinance No. 804

An Ordinance of the City Council of the City of Moreno Valley, California, Amending Chapter 36 of Title 8 of the City of Moreno Valley Municipal Code by Adding a New Section 095 Prohibiting the Storage, Use, Sale, Possession, and Handling of Safe and Sane Fireworks and Amending Section 20 of Chapter 36 of Title 8 of the Moreno Valley Municipal Code to Adopt Appendix Chapter 1 from the 2007 California Fire Code in its Entirety as Amended by the City of Moreno Valley

H.2 ORDINANCES - 2ND READING AND ADOPTION

- H.2 .1 ORDINANCE NO. 802 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, APPROVING SPECIFIC PLAN AMENDMENT NO. 5 (P09-052) OF THE MORENO VALLEY AUTO MALL SPECIFIC PLAN NO. 209 TO INCLUDE MODIFICATION OF AN EXISTING FREEWAY PYLON SIGN AND ENTRY/TENANT MONUMENT SIGNS, VACATION OF A PORTION OF MOTOR WAY, ADDITION OF LANDSCAPE PARKWAYS, POP-OUTS AND SIDEWALKS, NEW DRIVEWAYS FOR A PROPOSED VEHICLE DISPLAY AREA ON MOTOR WAY AND FROM NORTHBOUND MORENO BEACH DRIVE AS WELL AS OTHER MINOR CLEAN-UP AND TEXT CHANGES TO THE SPECIFIC PLAN AND AN APPROVED SIGN PROGRAM (RECEIVED FIRST READING AND INTRODUCTION ON A 3-0-1-1 VOTE, STEWART RECUSED AND MOLINA ABSTAINED.

Recommendation: That the City Council:

Adopt Ordinance No. 802.

Ordinance No. 802

An Ordinance of the City Council of the City of Moreno Valley, California, Approving Specific Plan Amendment No. 5 (P09-052) of the Moreno Valley Auto Mall Specific Plan No. 209 to Include Modification of an Existing

Freeway Pylon Sign and Entry/Tenant Monument Signs, Vacation of a Portion of Motor Way, Addition of Landscape Parkways, Pop-Outs and Sidewalks, New Driveways for a Proposed Vehicle Display Area on Motor Way and from Northbound Moreno Beach Drive as Well as Other Minor Clean-Up and Text Changes to the Specific Plan and an Approved Sign Program

H.3 ORDINANCES - URGENCY ORDINANCES

- H.3 .1 ORDINANCE NO. 805, AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, AMENDING CHAPTER 36 OF TITLE 8 OF THE CITY OF MORENO VALLEY MUNICIPAL CODE BY ADDING A NEW SECTION 095 PROHIBITING THE STORAGE, USE, SALE, POSSESSION, AND HANDLING OF SAFE AND SANE FIREWORKS AND AMENDING SECTION 20 OF CHAPTER 36 OF TITLE 8 OF THE MORENO VALLEY MUNICIPAL CODE TO ADOPT APPENDIX CHAPTER 1 FROM THE 2007 CALIFORNIA FIRE CODE AS AMENDED BY THE CITY OF MORENO VALLEY (Report Of: Fire Department)

Recommendation: That the City Council:

Adopt Ordinance No. 805, an urgency Ordinance of the City Council of the City of Moreno Valley, California, amending Chapter 36 of Title 8 of the City of Moreno Valley Municipal Code by adding a new Section 095 prohibiting the storage, use, sale, possession, and handling of safe and sane fireworks and amending Section 20 of Chapter 36 of Title 8 of the Moreno Valley Municipal Code to adopt Appendix Chapter 1 from the 2007 California Fire Code as amended by the City of Moreno Valley.

Ordinance No. 805

An Urgency Ordinance of the City Council of the City of Moreno Valley, California, Amending Chapter 36 of Title 8 of the City of Moreno Valley Municipal Code by Adding a New Section 095 Prohibiting the Storage, Use, Sale, Possession, and Handling of Safe and Sane Fireworks and Amending Section 20 of Chapter 36 of Title 8 of the Moreno Valley Municipal Code to Adopt Appendix Chapter 1 from the 2007 California Fire Code in its Entirety as Amended by the City of Moreno Valley

H.4 RESOLUTIONS - NONE

PUBLIC COMMENTS ON ANY SUBJECT NOT ON THE AGENDA UNDER THE JURISDICTION OF THE CITY COUNCIL

Those wishing to speak should complete and submit a BLUE speaker slip to the

Bailiff. There is a three-minute time limit per person. All remarks and questions shall be addressed to the presiding officer or to the City Council and not to any individual Council member, staff member or other person.

**CLOSING COMMENTS AND/OR REPORTS OF THE CITY COUNCIL,
COMMUNITY SERVICES DISTRICT, OR COMMUNITY REDEVELOPMENT
AGENCY**

Materials related to an item on this Agenda submitted to the City Council/Community Services District/Community Redevelopment Agency or the Board of Library Trustees after distribution of the agenda packet are available for public inspection in the City Clerk's office at 14177 Frederick Street during normal business hours.

CLOSED SESSION

A Closed Session of the City Council, Community Services District and Community Redevelopment Agency of the City of Moreno Valley will be held in the City Manager's Conference Room, Second Floor, City Hall. The City Council will meet in Closed Session to confer with its legal counsel regarding the following matter(s) and any additional matter(s) publicly and orally announced by the City Attorney in the Council Chamber at the time of convening the Closed Session.

• PUBLIC COMMENTS ON MATTERS ON THE CLOSED SESSION AGENDA UNDER THE JURISDICTION OF THE CITY COUNCIL

There is a three-minute time limit per person. Please complete and submit a BLUE speaker slip to the City Clerk. All remarks and questions shall be addressed to the presiding officer or to the City Council and not to any individual Council member, staff member or other person.

The Closed Session will be held pursuant to Government Code:

1 SECTION 54956.9(b)(1) - CONFERENCE WITH LEGAL COUNSEL - SIGNIFICANT EXPOSURE TO LITIGATION

Number of Cases: 2

2 SECTION 54956.9(c) - CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION

Number of Cases: 2

3 SECTION 54957 - PUBLIC EMPLOYEE APPOINTMENT/ PUBLIC EMPLOYMENT

a) Interim City Manager

REPORT OF ACTION FROM CLOSED SESSION, IF ANY, BY CITY ATTORNEY

ADJOURNMENT

MINUTES
CITY COUNCIL OF THE CITY OF MORENO VALLEY
October 27, 2009

CALL TO ORDER

SPECIAL PRESENTATIONS

1. Officer of the Quarter - Officer William Davis and K-9, Max
2. American Public Works Association (APWA) 2009 Honorable Mention Award - Pigeon Pass Road Street Improvements
3. Proclamation Recognizing October as Dyslexia Awareness Month
4. Frank Chelbana Memorial Community Service Award

**MINUTES
JOINT MEETING OF THE
CITY COUNCIL OF THE CITY OF MORENO VALLEY
MORENO VALLEY COMMUNITY SERVICES DISTRICT
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF MORENO VALLEY
BOARD OF LIBRARY TRUSTEES**

**REGULAR MEETING – 6:30 PM
October 27, 2009**

CALL TO ORDER

Joint Meeting of the City Council of the City of Moreno Valley, Moreno Valley Community Services District, the Community Redevelopment Agency of the City of Moreno Valley and the Board of Library Trustees was called to order at 6:31 p.m. by Mayor Stewart in the Council Chamber located at 14177 Frederick Street.

PLEDGE OF ALLEGIANCE – The Pledge of Allegiance was led by Mayor Stewart

INVOCATION - Pastor Cathy Coiozzo, Renewed Life Fellowship

ROLL CALL

Council:

Richard A. Stewart	Mayor
Bonnie Flickinger	Mayor Pro Tem
William H Batey II	Council Member
Jesse L Molina	Council Member
Robin N. Hastings	Council Member

Staff:

Jane Halstead	City Clerk
Ewa Lopez	Deputy City Clerk
Steve Elam	Financial and Administrative Services Director
Robert Hansen	Interim City Attorney
Robert Gutierrez	City Manager
Rick Hartmann	Deputy City Manager
John Anderson	Police Chief
Steve Curley	Fire Chief
Chris Vogt	Public Works Director/City Engineer
Kyle Kollar	Community Development Director
Barry Foster	Economic Development Director
Chris Paxton	Human Resources Director
Becky(Rebecca) Guillan	Library Services Division Manager
Mike McCarty	Parks & Community Services Director

JOINT CONSENT CALENDARS (SECTIONS A-D) OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, MORENO VALLEY COMMUNITY SERVICES DISTRICT, COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF MORENO VALLEY AND THE BOARD OF LIBRARY TRUSTEES

Mayor Stewart opened the agenda items for the Consent Calendars for public comments; there being none, public comments were closed.

A. CONSENT CALENDAR-CITY COUNCIL

A.1 ORDINANCES - READING BY TITLE ONLY

Recommendation: Waive reading of all Ordinances.

A.2 MINUTES - REGULAR MEETING OF OCTOBER 13, 2009 (Report of: City Clerk's Department)

Recommendation:

Approve as submitted.

A.3 APPROVAL OF CHECK REGISTER FOR AUGUST, 2009 (Report of: Financial & Administrative Services Department)

Recommendation:

Adopt Resolution No. 2009-102, approving the Check Register for the month of August, 2009 in the amount of \$24,723,550.90.

Resolution No. 2009-102

A Resolution of the City Council of the City of Moreno Valley, California, Approving the Check Register for the Month of August, 2009

A.4 TRACT MAP 31213 - REDUCE FAITHFUL PERFORMANCE BOND AND ADOPT THE RESOLUTION AUTHORIZING ACCEPTANCE OF THE PUBLIC IMPROVEMENTS AS COMPLETE AND ACCEPTING BARBADOS LANE, SEQUOIA STREET, DOMINICAN AVENUE, WARHOL COURT, MONET STREET, DANUBE WAY AND THE PORTION OF DARWIN DRIVE, ALESSANDRO BOULEVARD, AND MORRISON STREET ASSOCIATED WITH THE PROJECT INTO THE CITY'S MAINTAINED STREET SYSTEM - DEVELOPER: WESTERN PACIFIC HOUSING, INC., IRVINE, CA 92606 (Report of: Public Works Department)

Recommendation:

1. Adopt Resolution No. 2009-103 authorizing the acceptance of the public improvements within Tract Map 31213 as complete and accepting Barbados Lane, Sequoia Street, Dominican Avenue, Warhol Court, Monet Street, Danube Way and the portion of Darwin Drive, Alessandro Boulevard, and Morrison Street associated with the project into the City's maintained street system; and

Resolution No. 2009-103

A Resolution of the City Council of the City of Moreno Valley, California, Authorizing the Acceptance of the Public Improvements as Complete within Tract Map 31213 and accepting Barbados Lane, Sequoia Street, Dominican Avenue, Warhol Court, Monet Street, Danube Way, and the portion of Darwin Drive, Alessandro Boulevard, and Morrison Street Associated with the project into the City's Maintained Street System

2. Authorize the City Engineer to execute the 90% reduction to the Faithful Performance Bond, exonerate the Material and Labor Bond in 90 days if there are no stop notices or liens on file with the City Clerk, and exonerate the final 10% of the Faithful Performance Bond in one year when all clearances are received.

A.5 APPROVE THE APPROPRIATION OF FUNDS AND AUTHORIZATION TO AWARD THE RETROFIT OF EMISSION CONTROL DEVICES ON CITY VEHICLES (Report of: Public Works Department)

Recommendation:

1. Approve the appropriation of \$32,841.58 from the Air Quality Grant Fund (Fund 137) fund balance for the retrofit of Emission Control Devices for nine (9) heavy-duty City vehicles;
2. Award to Ironman Parts & Service of Corona, CA, the Retrofit of Emission Control Devices on nine (9) existing, heavy-duty diesel City vehicles to conform to California Air Resources Board (ARB) Regulations; and
3. Authorize the Purchasing & Facilities Division Manager to issue a purchase order to Ironman Parts & Service in the amount of \$132,841.58.

A.6 NOTICE OF COMPLETION AND ACCEPTANCE OF THE AQUEDUCT BIKEWAY IMPROVEMENTS FROM INDIAN STREET TO FAY AVENUE - PROJECT NO. 05-12567524 (Also listed as Item B4) (Report of: Public Works Department)

Recommendation:

1. Accept the work as complete for the Aqueduct Bikeway Improvements from Indian Street to Fay Avenue, constructed by Rialto Construction Inc. dba L.R. Johnson Construction, Inc. (L.R. Johnson Construction), 340 N. Riverside Avenue, Rialto, CA 92376;
2. Direct the City Clerk to record the Notice of Completion within ten (10) calendar days at the Office of the County Recorder of Riverside County, as required by Section 3090 of the California Civil Code; and
3. Authorize the Financial and Administrative Services Director to release the retention to L.R. Johnson Construction thirty five (35) calendar days after the date of recordation of the Notice of Completion, if no claims are filed against the project.

- A.7 ADOPT A MITIGATED NEGATIVE DECLARATION (MND) FOR THE BOX SPRINGS ROAD IMPROVEMENTS PROJECT FROM APPROXIMATELY 500 FEET WEST OF CLARK STREET TO DAY STREET - PROJECT NO. 10-41570027 (Report of: Public Works Department)

Recommendation:

Adopt a Mitigated Negative Declaration (MND) for the Box Springs Road improvements project from approximately 500 feet west of Clark Street to Day Street, Project No. 10-41570027, in that mitigation measures included in the Initial Study and ultimately incorporated into the project specifications will reduce all potential environmental impacts to an acceptable level.

- A.8 ADOPT A MITIGATED NEGATIVE DECLARATION (MND) FOR THE IRONWOOD AVENUE IMPROVEMENTS PROJECT FROM DAY STREET TO BARCLAY DRIVE, A PORTION OF BOX SPRINGS ROAD WEST OF THE DAY STREET INTERSECTION, AND IMPROVEMENTS ON DAY STREET NORTH OF STATE ROUTE 60 - PROJECT NO. 10-41570027 (Report of: Public Works Department)

Recommendation:

Adopt a Mitigated Negative Declaration (MND) for the Ironwood Avenue improvements project from Day Street to Barclay Drive, a portion of Box Springs Road west of the Day Street intersection, and improvements on Day Street north of State Route 60, Project No. 10-41570027, in that mitigation measures included in the Initial Study and ultimately incorporated into the project specifications will reduce all potential environmental impacts to an acceptable level.

- A.9 ORDINANCE 801 - AN ORDINANCE AMENDING CHAPTER 2.12 OF THE CITY OF MORENO VALLEY MUNICIPAL CODE REGARDING

MODIFICATIONS TO THE TITLE OF THE FINANCE DEPARTMENT AND FINANCE DIRECTOR (RECEIVED FIRST READING AND INTRODUCTION ON OCTOBER 13, 2009 BY A 5-0 VOTE) (Report of: City Clerk's Department)

Recommendation:

Adopt Ordinance 801.

Ordinance No. 801

An Ordinance of the City Council of the City of Moreno Valley, California, Amending Chapter 2.12 of the City of Moreno Valley Municipal Code Regarding Modifications to the Title of the Finance Department and Finance Director

- A.10 ACCEPTANCE OF THE FBI'S INVITATION TO JOIN ICEP (OVERTIME REIMBURSEMENT OF \$50,668.00 PER YEAR) (Report of: Police Department)

Recommendation:

Accept the Federal Bureau of Investigation's (FBI) invitation for the Moreno Valley Police Department to join ICEP (Inland Empire Child Exploitation and Prostitution) Task Force.

- A.11 RESOLUTION FOR THE ABATEMENT OF PUBLIC NUISANCES (Report of: Community Development Department)

Recommendation:

Adopt Resolution No. 2009-104 of the City of Moreno Valley, California, confirming assessments on certain real properties as outlined in the Property Assessment List in the staff report for the abatement of nuisances.

Resolution No. 2009-104

A Resolution of the City Council of the City of Moreno Valley, California, Confirming Statements of Costs Against Real Property Located in the City of Moreno Valley, for Abatements of Public Nuisances and Direction that Said Statements of Costs Constitute a Lien Upon said Properties

- A.12 TENTATIVE PARCEL MAP 33532 LINE F – RELEASE THE FAITHFUL PERFORMANCE BONDS AND THE MATERIAL AND LABOR BONDS, RESCIND THE AGREEMENT FOR PUBLIC IMPROVEMENTS AND THE COOPERATIVE AGREEMENT FOR MORENO MASTER DRAINAGE PLAN LINE F, STAGE 2, BETWEEN THE RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, CITY OF MORENO VALLEY, AND MORENO VALLEY PROPERTIES, L.P., A

DELAWARE LIMITED PARTNERSHIP, SOUTH OF DELPHINIUM AVENUE TO NORTH OF IRIS AVENUE, AND FROM WEST OF THE FUTURE NASON STREET TO WEST OF OLIVER STREET - DEVELOPER: MORENO VALLEY PROPERTIES, L.P., A DELAWARE LIMITED PARTNERSHIP, MORENO VALLEY, CA. 92553 (Report of: Public Works Department)

Recommendation:

1. Adopt Resolution No. 2009-105 rescinding the Agreement for Public Improvements and rescinding the Cooperative Agreement between the Riverside County Flood Control and Water Conservation District (District), City of Moreno Valley, and Moreno Valley Properties, L.P., a Delaware limited partnership for Moreno Master Drainage Plan Line F, Stage 2 associated with Tentative Parcel Map 33532;

Resolution No. 2009-105

A Resolution of the City Council of the City Of Moreno Valley, California, Rescinding the Agreement for Public Improvements and the Cooperative Agreement for Moreno Master Drainage Plan Line F, Stage 2, between the Riverside County Flood Control and Water Conservation District, City of Moreno Valley, and Moreno Valley Properties, L.P., A Delaware Limited Partnership Associated with Tentative Parcel Map 33532

2. Authorize the City Engineer to execute the release of 100% of the Faithful Performance Bonds and 100% of the Material and Labor Bonds; and
3. Direct the City Clerk to forward the adopted Resolution to the Riverside County Recorder's office for recordation and send a copy of the adopted Resolution to Riverside County Flood Control and Water Conservation District.

A.13 CITY COUNCIL REPORTS ON REIMBURSABLE ACTIVITIES (Report of: City Clerk's Department)

Recommendation:

Receive and file the Reports on Reimbursable Activities for the period of October 7–20, 2009.

B. CONSENT CALENDAR-COMMUNITY SERVICES DISTRICT

B.1 ORDINANCES - READING BY TITLE ONLY

Recommendation: Waive reading of all Ordinances.

- B.2 MINUTES - REGULAR MEETING OF OCTOBER 13, 2009 (Report of: City Clerk's Department)

Recommendation:

Approve as submitted.

- B.3 A RESOLUTION APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A PURCHASE AND SALE AGREEMENT AND RELATED DOCUMENTS WITH RESPECT TO THE SALE OF THE SELLER'S PROPOSITION 1A RECEIVABLE FROM THE STATE; AND DIRECTING AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH (Report of: Financial & Administrative Services Department)

Recommendation:

Adopt Resolution No. CSD 2009-20 approving the form of and authorizing the execution and delivery of a Purchase and Sale Agreement and related documents with respect to the sale of the seller's Proposition 1A receivable from the State; and directing and authorizing certain other actions in connection therewith.

Resolution No. CSD 2009-20

A Resolution Approving the Form of and Authorizing the Execution and Delivery of a Purchase and Sale Agreement and Related Documents with Respect to the Sale of the Seller's Proposition 1A Receivable from the State; and Directing and Authorizing Certain Other actions in Connection Therewith

- B.4 NOTICE OF COMPLETION AND ACCEPTANCE OF THE AQUEDUCT BIKEWAY IMPROVEMENTS FROM INDIAN STREET TO FAY AVENUE - PROJECT NO. 05-12567524 (Also listed as Item A6) (Report of: Public Works Department)

Recommendation:

Authorize the President of the Board of Directors of the Community Services District (CSD) to accept the improvements into the CSD's maintained system.

C. CONSENT CALENDAR - COMMUNITY REDEVELOPMENT AGENCY

- C.1 ORDINANCES - READING BY TITLE ONLY

Recommendation: Waive reading of all Ordinances.

- C.2 MINUTES - REGULAR MEETING OF OCTOBER 13, 2009 (Report of: City Clerk's Department)

Recommendation:
Approve as submitted.

D. CONSENT CALENDAR - BOARD OF LIBRARY TRUSTEES

D.1 ORDINANCES - READING BY TITLE ONLY
Recommendation: Waive reading of all Ordinances.

D.2 MINUTES - REGULAR MEETING OF OCTOBER 13, 2009 (Report of: City Clerk's Department)

Recommendation:
Approve as submitted.

Motion to Approve Joint Consent Calendar Items A1-D2 by m/Council Member William H. Batey II, s/Mayor Pro Tem Bonnie Flickinger Approved by a vote of 5-0.

E. PUBLIC HEARINGS

E.1 AMENDMENT NO. 5 TO THE AUTO MALL SPECIFIC PLAN (SP NO. 209) TO MODIFY AN EXISTING FREEWAY PYLON SIGN AND ENTRY/TENANT MONUMENT SIGNS, VACATE A PORTION OF MOTOR WAY, ADD LANDSCAPE PARKWAYS, POP-OUTS AND SIDEWALKS, AND DRIVEWAYS FOR A NEW VEHICLE DISPLAY AREA ON MOTOR WAY AND FROM NORTHBOUND MORENO BEACH DRIVE AS WELL AS OTHER MINOR TEXT CHANGES AND CLEAN-UP ITEMS TO PHASES 1 AND 2 OF THE SPECIFIC PLAN AND SIGN PROGRAM. THE PROPOSED PROJECT SITE IS LOCATED PRIMARILY ON THE EAST SIDE OF MORENO BEACH DRIVE, IMMEDIATELY SOUTH OF HIGHWAY 60. THE APPLICANT IS THE CITY OF MORENO VALLEY REDEVELOPMENT AGENCY AND THE OWNER IS MORENO VALLEY AUTO MALL (Report of: Community Development Department)

Mayor Stewart recused himself due to a conflict of interest (left the Council Chamber).

Mayor Pro Tem Flickinger opened the public testimony portion of the public hearing. Public testimony was received from Deanna Reeder (opposed), Don Allard, representing MV Chevrolet (supported), Glen Moss, representing Moss Bros Auto Group (supported), Jose Dionisio Chavez, Mike Rios (opposed), Catusca Delgado (opposed), Francisco Cuevas (opposed), and Gloria Cuevas (opposed).

Recommendation: That the City Council:

1. RECOGNIZE that the proposed specific plan amendment qualifies for a categorical exemption pursuant to the California Environmental Quality Act (CEQA) Guideline Sections 15311, "Accessory Structures" and 15301, "Existing Facilities"

Motion to Approve by m/Council Member William H. Batey II, s/Council Member Robin N. Hastings
Approved by a vote of 4-0-1, Mayor Richard A. Stewart recused himself.

2. INTRODUCE Ordinance No. 802 for the fifth amendment to the Auto Mall Specific Plan No. 209 (P09-052) to modify an existing freeway pylon sign and various monument signs, vacate a portion of Motor Way, modify the existing streetscape to include landscape parkway pop-outs, sidewalks, and new driveways for a proposed vehicle display area along Motor Way and from Moreno Beach Drive as well as other minor text change and clean-up items to Specific Plan No. 209, attached as Exhibit A through C of this ordinance; and

Ordinance No. 802

An Ordinance of the City Council of the City of Moreno Valley, California, Approving Specific Plan Amendment No. 5 (P09-052) of the Moreno Valley Auto Mall Specific Plan No. 209 to Include modification of an existing freeway Pylon Sign and Entry/Tenant Monument Signs, vacation of a portion of Motor Way, addition of Landscape Parkways, Pop-outs and Sidewalks, New driveways for a proposed vehicle display area on Motor Way and from Northbound Moreno Beach Drive as well as other minor clean-up and text changes to the Specific Plan and an approved Sign Program

Motion to Approve by m/Council Member William H. Batey II, s/Council Member Robin N. Hastings
Approved by a vote of 3-0-1-1, Council Member Jesse L. Molina abstained, Mayor Stewart recused himself.

3. APPROVE Resolution No. 2009-106, to allow design modification of an existing pylon sign to a height of 85 feet above freeway grade, the modification of entry monument signs and addition of tenant monument signs, as well as other minor text changes to the approved sign program (P09-0343), attached as Exhibit A and B to the resolution.

Resolution No. 2009-106

A Resolution of the City Council of the City of Moreno Valley, California, Approving P09-0343 (Sign Program Amendment), to

modify an existing Pylon Sign and, Tennant/Entry Monument Signs within Phase 1 of the Moreno Valley Auto Mall Specific Plan No. 209 on approximately 57.84 acres of a 73.76 acre Specific Plan generally located on the east side of Moreno Beach Drive, just south of Highway 60

Motion to Approve by m/Council Member William H. Batey II, s/Council Member Robin N. Hastings
Approved by a vote of 3-0-1-1, Council Member Jesse L. Molina abstained, Mayor Stewart recused himself.

F. ITEMS REMOVED FROM CONSENT CALENDARS FOR DISCUSSION OR SEPARATE ACTION – None

G. REPORTS

- G.1 DUI CHECKPOINT POWERPOINT PRESENTATION (INFORMATIONAL ORAL PRESENTATION - NOT FOR COUNCIL ACTION) (Report of: Police Department)

Mayor Stewart opened the agenda item for public comments, which were received from Mike Rios, Raul Wilson, Daisy Murillo, Librada Murillo, Francisco Cuevas, Emilio Amaya, Daniel Morales, and Carlos Chavez.

No action required.

AGENDA ORDER

PUBLIC COMMENTS ON ANY SUBJECT NOT ON THE AGENDA UNDER THE JURISDICTION OF THE CITY COUNCIL

Thomas R. Jerele Sr. (representing Sundance Center)

- 1) Businesses on Sunnymead Blvd.
- 2) Thanked staff for responding to his inquiries
- 3) Construction work on Sunnymead Blvd.

Jahirul Khan (representing Dollar Plus Store, Sundance Plaza)

- 1) Construction and business on Sunnymead Blvd.

Daryl Terrell

- 1) Presented and submitted a proposed ordinance establishing a small local business opportunity program and employment program for Moreno Valley residents

Raul Wilson

- 1) Sports field
- 2) Condition of streets in Moreno Valley
- 3) Police Department

Harold Trubo (representing the Moreno Valley Chamber of Commerce)

- 1) Announced that the Chamber of Commerce is seeking nominations for a Moreno Valley 2010 Citizen of the Year and nominations for Small, Medium and Large Businesses of the Year

Mike Rios

- 1) Announced "Operation: Turkey Dinner" - asked for donations to help families celebrate Thanksgiving

Deanna Reeder

- 1) Public's input on Council's decisions

Pete Bleckert

- 1) Ironwood project between Heacock and Perris
- 2) Sunnymead Park

Librada Murillo (representing Moreno Valley Parents Association)

- 1) Council's priorities

George Brummer (representing AYSO (American Youth Soccer Organization))

- 1) Submitted handouts about AYSO and proposed Sports Council
- 2) Invited the City Council and staff to attend a soccer tournament at Mountain Middle School, which will take place on a Veterans Day weekend

AGENDA ORDER

G.2 MORENO VALLEY CERT POWERPOINT PRESENTATION
(INFORMATIONAL ORAL PRESENTATION - NOT FOR COUNCIL
ACTION) (Report of: Human Resources Department/Emergency
Operations & Volunteer Services Division)

Mayor Stewart opened the agenda item for public comments; there being none, public comments were closed.

No action required.

G.3 CITY MANAGER'S REPORT (INFORMATIONAL ORAL PRESENTATION - NOT FOR COUNCIL ACTION)

The City Manager announced the following:

1) The Government Finance Officers Association of the United States and Canada recently awarded the City the Certificate of Achievement for Excellence in Financial Reporting for its Comprehensive Annual Financial Report (CAFR). This certificate of achievement is the highest form of recognition in the area of governmental accounting and financial reporting. Commended the Financial & Administrative Department for the outstanding work on CAFR

2) On November 11 the City is holding a special Sunset Ceremony honoring Veterans Day at 4:30 p.m. at the Veterans Memorial at Civic Center

H. LEGISLATIVE ACTIONS

H.1 ORDINANCES - 1ST READING AND INTRODUCTION - NONE

H.2 ORDINANCES - 2ND READING AND ADOPTION - NONE

H.3 ORDINANCES - URGENCY ORDINANCES - NONE

H.4 RESOLUTIONS - NONE

CLOSING COMMENTS AND/OR REPORTS OF THE CITY COUNCIL, COMMUNITY SERVICES DISTRICT, OR COMMUNITY REDEVELOPMENT AGENCY

Council Member Batey

1) Cops and Clergy Car Show held at TownGate Center was a very successful and well attended event

2) Gave an update on soccer fields issue - Stated that the issue of developing soccer fields and other sports fields is a complex issue; had preliminary meetings with Parks and Community Services Department staff to develop long term solutions; recommendations will be brought back to the Council soon; staff is in the process of contacting sports organizations to disseminate information and get their input

3) Stated that everyone has own opinion and own desires and the Council is working very hard with available resources to provide as many facilities as possible for the public; there is no preferential treatment; problems between sports groups and organizations could be addressed with Sports Council, and the Code of Conduct for everyone can be established

Mayor Pro Tem Flickinger - no comments

- 1) Stated that she will pass the comments this time due to the fact that it's already 10 p.m. and the Council still needs to meet for the closed session

Council Member Hastings

- 1) Thanked everyone for participating in an accreditation meeting of Moreno Valley Community College; the meeting was very well attended
- 2) The Foreclosure Prevention Workshop was held at Valley View High School last Saturday; about 70 residents attended to get assistance; also received many calls from Hope Now Alliance from Riverside for assistance; the service is free to the public
- 3) Received many calls on Employment Resource Center; emphasized that the City is working very hard to provide assistance to as many residents as possible;
- 4) Announced that Ironwood Improvement Community Meeting is scheduled for Monday, November 16, at Palm Middle School; thanked residents who e-mailed suggestions on how to make the road safer
- 5) Stated that Mr. Rios's idea is great; she will also be serving Thanksgiving dinner at the homeless center at the JPA campus; Community Assistance Program is also providing food for Thanksgiving; asked Mr. Rios to call her office to work on providing food to as many residents as possible
- 6) Appreciates Mr. Brummer's positive input on how we can move forward to get more sports fields

Council Member Molina

- 1) Drafted guidelines for starting Sports Council, a governing body; emphasized that everybody needs to get together and invite representatives from sports group in order to be on the same page

Mayor Stewart

- 1) Mayor's gala was held on October 17 - it was a fantastic event that showcased youths and the talent in Moreno Valley; the event raised over \$2,000 for the Boys Scouts
- 2) Was not involved in discussion and decision regarding Sunnymead Blvd. because of a conflict of interest
- 3) Responded to Mr. Terrell's suggestions regarding business assistance program – when a city gives assistance to business, the state and federal laws trigger the prevailing wages and other employment considerations; it's difficult to restrict who can be hired by businesses
- 3) Explained the process of requesting speed humps on streets; the process starts with a petition generated by residents; residents can contact the City's Traffic Division for the information
- 4) Regarding serving food to homeless - said that the March JPA is taking donations for homeless; donated to Riverside Mission and Union Rescue Mission in Los Angeles, organizations serving homeless

- 5) Halloween is coming up - there will be extra police patrol
- 6) Inquired about the cancellation of November 24 Council meeting due to a conflicting event, the Festival of Trees, which starts at 6 p.m. at the Riverside Convention Center to raise money for Pediatric and Neonatal Intensive Care Units at the Riverside County Regional Medical Center, located in Moreno Valley
- 7) Tonight is his 25th wedding anniversary

Adjourned to Closed Session at 10:08 p.m.

CLOSED SESSION

PUBLIC COMMENTS ON MATTERS ON THE CLOSED SESSION AGENDA UNDER THE JURISDICTION OF THE CITY COUNCIL

The City Attorney announced that the following item needs to be added to the Closed Session, based on the findings that the information and the need to take immediate action arose after the posting of the agenda:

Government Code Section 54957 - Public Employee Appointment and/or Public Employment concerning the Interim City Manager's position

Motion to Add the item to Closed Session Agenda by m/Mayor Pro Tem Bonnie Flickinger, s/Council Member William H. Batey II
Approved by a vote of 5-0.

Mayor Stewart opened Closed Session agenda items for public comments, which were received by Deanna Reeder (Interim City Manager's position).

REPORT OF ACTION FROM CLOSED SESSION, IF ANY, BY CITY ATTORNEY

None

ADJOURNMENT

There being no further business to conduct, the meeting was adjourned at 10:56 p.m. by unanimous informal consent.

Submitted by:

Jane Halstead, City Clerk, CMC
Secretary, Moreno Valley Community Services District
Secretary, Community Redevelopment Agency of the City of Moreno Valley
Secretary, Board of Library Trustees

Approved by:

Richard A. Stewart
President, Moreno Valley Community Services District
Chairperson, Community Redevelopment Agency of the City of Moreno Valley
Chairperson, Board of Library Trustees
enl



APPROVALS	
BUDGET OFFICER	<i>my</i>
CITY ATTORNEY	<i>SA</i>
CITY MANAGER	<i>PA</i>

Report to City Council

TO: Mayor and City Council

FROM: Chris A. Vogt, P.E., Public Works Director/City Engineer

AGENDA DATE: November 10, 2009

TITLE: Authorization to Award the Construction Contract for Citywide Bridge Maintenance Program
Project No. 09-22679828

RECOMMENDED ACTION

Staff recommends that the City Council:

1. Award the construction contract for the Citywide Bridge Maintenance Program to Peterson-Chase General Engineering Construction, Inc. (Peterson-Chase), the lowest responsible bidder.
2. Authorize the City Manager to execute a contract with Peterson-Chase in the form attached hereto.
3. Authorize the issuance of a Purchase Order to Peterson-Chase in the amount of \$114,481 (\$91,585 base bid amount plus 25% contingency) when the contract has been signed by all parties.
4. Authorize the Public Works Director/City Engineer to execute any subsequent change orders to the contract with Peterson-Chase, up to but not to exceed the Purchase Order contingency of \$22,896, subject to the approval of the City Attorney.
5. Authorize the Public Works Director/City Engineer to incrementally accept completed portions of work and pay retainage based on the acceptance of said work in accordance with the Public Contract Code, Section 7107.

BACKGROUND

California Department of Transportation (Caltrans) performs bridge inspections for bridges owned and maintained by the City of Moreno Valley on a periodic basis. The bridge inspections assess conditions of the bridges and make recommendations for maintenance and repair. Consulting firm PBS&J was retained by the City to review and verify findings in the Caltrans bridge inspection reports and to make detailed recommendations and prepare contract documents for the bridges within the City that need maintenance and repair. The City received \$300,000 in funding from the State's Proposition 1B program for bridge maintenance in support of this project.

This project involves maintenance and repairs for six bridges within the City of Moreno Valley. Four of these bridges will receive Methacrylate deck treatment to seal cracks. These four bridges include the John F. Kennedy Drive Bridge, west of Kitching Street (Bridge No.56C0332), the Oleander Flood Control Channel Bridge at Perris Boulevard (Bridge No. 56C0511), the Krameria Street Bridge (Bridge No. 56C0396), and the Perris Valley Storm Drain Bridge at Perris Boulevard (Bridge No. 56C0464). The project also includes repair of a masonry wall at the Moreno Beach Drive Storm Drain Channel Bridge (Bridge No. 56C0419). Additionally the project includes replacement of an approach metal beam guard railing and repair of a bridge rail at the Redlands Boulevard Overcrossing at SR-60 (Bridge No.56C0488).

The project was advertised for bids on August 20, 2009.

DISCUSSION

Formal bidding procedures have been followed in conformance with the Public Contract Code (PCC) and the City Clerk opened bids at 2:00 p.m., on September 30, 2009, for the subject project. The nine (9) valid bids received are as follows:

	<u>CONTRACTORS</u>	<u>Bid Amount</u>
1.	Peterson-Chase General Engineering Construction, Inc.	\$91,585
2.	Truesdell Corporation	\$95,095
3.	J. McLoughlin Engineering... ..	\$98,700
4.	Beador Construction Company, Inc.....	\$118,695
5.	American Civil Constructors... ..	\$125,300
6.	Abbott Contracting.....	\$135,875
7.	R.J. Bullard Construction, Inc.....	\$143,725
8.	ATOM Engineering Construction.....	\$146,895
9.	Penhall Company... ..	\$158,620
	Engineer's Estimate	\$164,000

Staff has reviewed the bid by Peterson-Chase and finds it to be the lowest responsible bidder in possession of a valid license and bid bond. No outstanding issues were identified through review of the references submitted by Peterson-Chase.

ALTERNATIVES

1. Award the construction contract for the Citywide Bridge Maintenance Program to Peterson-Chase, the lowest responsible bidder; authorize the City Manager to execute a contract with Peterson-Chase in the form attached hereto; authorize the issuance a Purchase Order to Peterson-Chase in the amount of \$114,481 (\$91,585 base bid amount plus 25% contingency) when the contract has been signed by all parties; authorize the Public Works Director/City Engineer to execute any subsequent change orders to the contract with Peterson-Chase, up to but not to exceed the Purchase Order contingency of \$22,896, subject to the approval of the City Attorney; and authorize the Public Works Director/City Engineer to incrementally accept completed portions of work and pay retainage based on the acceptance of said work in accordance the Public Contract Code, Section 7107. *This alternative will allow much needed improvements.*

2. Do not award the construction contract for the Citywide Bridge Maintenance Program to Peterson-Chase, the lowest responsible bidder; do not authorize the City Manager to execute a contract with Peterson-Chase in the form attached hereto; do not authorize the issuance a Purchase Order to Peterson-Chase in the amount of \$114,481 (\$91,585 base bid amount plus 25% contingency) when the contract has been signed by all parties; do not authorize the Public Works Director/City Engineer to execute any subsequent change orders to the contract with Peterson-Chase, up to but not to exceed the Purchase Order contingency of \$22,896, subject to the approval of the City Attorney; and do not authorize the Public Works Director/City Engineer to incrementally accept completed portions of work and pay retainage based on the acceptance of said work in accordance the Public Contract Code, Section 7107. *This alternative will delay the completion of much needed improvements.*

FISCAL IMPACT

This project is included in the Fiscal Year 2009-2010 Capital Improvement Budget and is funded by Proposition 1B (Fund 226) funds. There is no impact to the General Fund.

AVAILABLE CONSTRUCTION FUNDS:

Fiscal Year 2009/2010 Budget (Account No. 226.79828)	<u>\$258,000</u>
Total Available Funds	<u>\$258,000</u>

ESTIMATED CONSTRUCTION RELATED COSTS:

Construction Costs (plus 25% contingency)	\$114,481
Construction Geotechnical Costs	\$ 10,000
Project Administration*	\$ 33,000
Miscellaneous	<u>\$ 1,000</u>
Total Estimated Construction Related Costs	<u>\$158,481</u>

* Public Works and consultant staff will provide Project Administration and inspection services.

ANTICIPATED PROJECT SCHEDULE:

Notice of Award.....	November 2009
Start Construction.....	December 2009
Complete Construction.....	April 2010

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.

POSITIVE ENVIRONMENT:

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

PUBLIC FACILITIES AND CAPITAL PROJECTS:

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

SUMMARY

The proposed project involves maintenance and repair of six bridges within the City. These repairs include applying Methacrylate Deck Treatment, repair of the masonry wall, replacement of the approach metal beam guard railing (MBGR) and bridge rail. The project is funded by the State’s Proposition 1B funding program.

NOTIFICATION

Local residents, law enforcement, fire department, hospitals, and schools in the area will be notified of the proposed construction.

ATTACHMENTS

- Attachment “A” – Vicinity Map
- Attachment “B” – Agreement with Peterson-Chase

Prepared By:
 Viren Shah, P.E.
 Consultant Project Manager

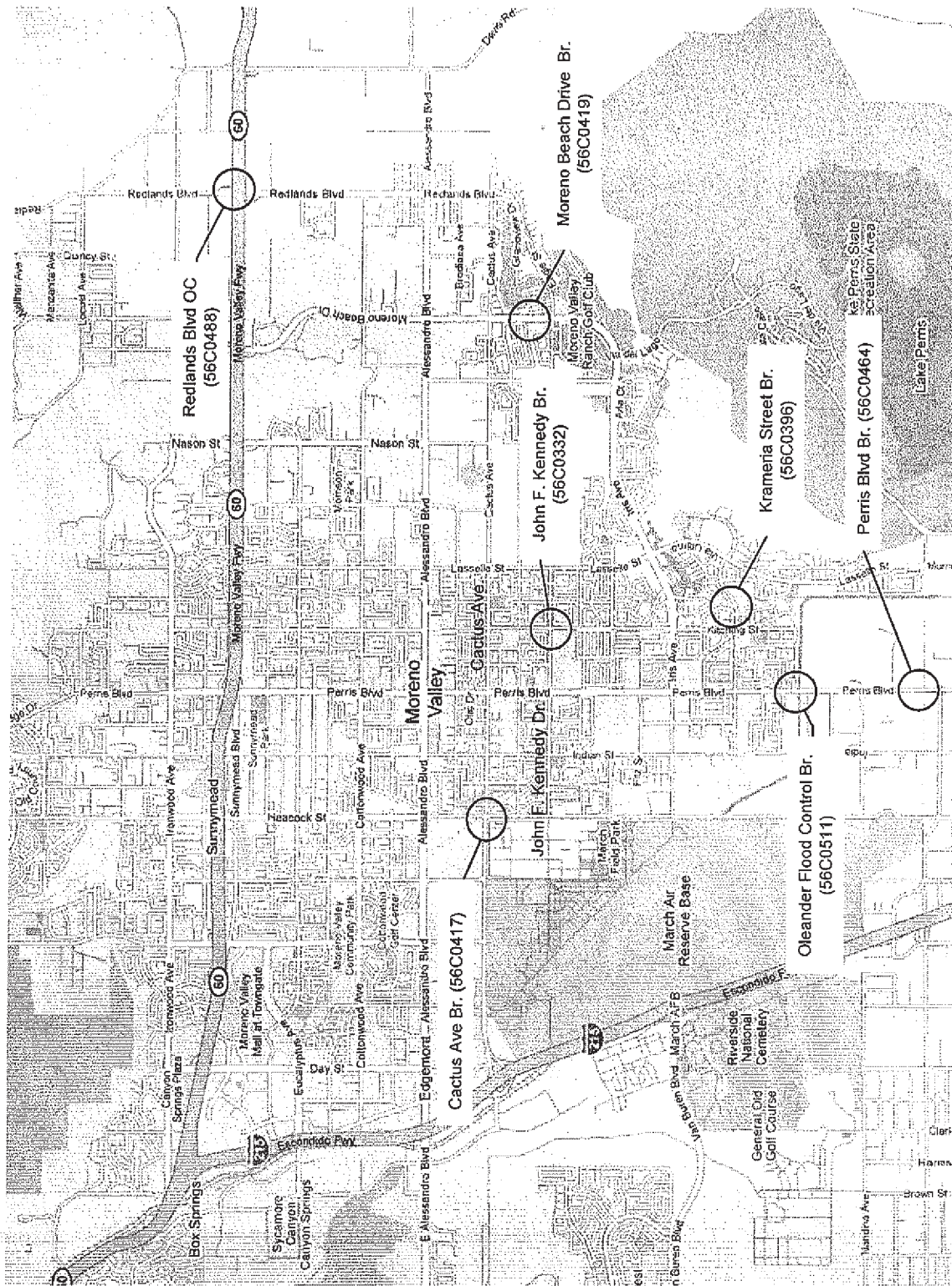
Department Head Approval:
 Chris A. Vogt, P.E.
 Public Works Director/City Engineer

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

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

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VICINITY MAP: MORENO VALLEY CITYWIDE BRIDGE MAINTENANCE PROGRAM

Attachment "A" – Location Map

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AGREEMENT

PROJECT NO. 09-22679828

CITYWIDE BRIDGE MAINTENANCE PROGRAM

THIS Contract Agreement, made and entered into as of the date signed by the City Manager, by and between the City of Moreno Valley, a municipal corporation, County of Riverside, State of California, hereinafter called the "City" and Peterson-Chase General Engineering Construction, Inc. hereinafter called the "Contractor."

That the City and the Contractor for the consideration hereinafter named, agree as follows:

1. The written Agreement includes all of the following:
 - a. Any and all Contract Change Orders issued after execution of this Agreement
 - b. Addenda Nos. One (1) inclusive, issued prior to the opening of the Bids
 - c. The bound Bid Documents
 - d. The Special Provisions which include the General Provisions and Technical Provisions, all of which are parts of this Agreement
 - e. The project Plans
 - f. The Standard Plans
 - g. The Standard Specifications
 - h. Reference Specifications, all of which are essential parts of this Agreement
 - i. The Bidder's Proposal which includes the Bidder's Bond and Noncollusion Affidavit

In the event of any conflict in the provisions thereof, the terms of said Bid Documents as set forth above shall control, each over the other, in the order provided. The above items are incorporated in this Agreement as though set forth in full.

2. The Contractor shall furnish all materials, tools, equipment and labor, except as otherwise provided in the Plans or Special Provisions, and will perform all the work which is necessary to complete in a good, workmanlike and substantial manner the above said project in accordance with the Bid Documents for this project, the Bid Documents which are hereby specifically referred to and by such reference made a part hereof.

3. The City will pay the Contractor and the Contractor agrees to receive and accept the prices set forth in the Bid Schedule as full compensation for the work required under the bid items awarded by the City, to wit, the Base Bid Item(s) and Additive Bid Item(s) in the sum total amount of \$91,585, subject to additions or reductions of the quantities of the various bid items at the unit prices bid, for furnishing all materials and for doing all the work contemplated and embraced under this Contract Agreement; for all loss or damages arising out of the nature of the work aforesaid, or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work, until the work is accepted by the City Council; for all expenses incurred by or in consequence of the suspension or discontinuance of work; and for well and faithfully completing the work, the whole thereof, in the manner and in accordance with the Bid Documents therefore and the requirements of the Engineer under them.

4. The Contractor hereby agrees to commence work pursuant to this Contract within fifteen (15) calendar days after the date of authorization specified in the Notice to Proceed. The Contractor agrees to diligently prosecute the contracted work, including corrective items of work, day to day thereafter, to completion, within **Eighty (80) working days** after said date in the "Notice to Proceed with Construction," except as adjusted by subsequent Contract Change Order(s).

Attachment "B"

**AGREEMENT
PROJECT NO. 09-22679828**

5. The City and Contractor hereby agree that in case all construction called for under the Contract is not completed within the time hereinabove specified, including City caused delays or extensions, damages will be sustained by the City and that, it is and will be impracticable or extremely difficult to ascertain and determine the actual amount of damages the City will sustain in the event of, and by reason of, such delay.

It is, therefore, agreed that such damages shall be presumed to be in the amount of \$400.00 per calendar day, and that the Contractor will pay to the City, or City may retain from amounts otherwise payable to Contractor, said amount for each calendar day by which the Contractor fails to complete the work, including corrective items of work, under this Contract Agreement within the time hereinabove specified and as adjusted by Contract Change Order(s). The Contractor will not be assessed liquidated damages for delay(s) occasioned by the failure of the City or of the owner of a utility to provide for the removal or relocation of utility facilities.

6. The Contractor shall name as additional insured, the City of Moreno Valley, the Community Redevelopment Agency of the City of Moreno Valley (RDA), and the Moreno Valley Community Services District (CSD), and shall furnish the City with a certificate of insurance evidencing liability insurance policy or policies which shall provide coverage for owned and non-owned automobiles; manufacturers and Contractor's liability; broad form property damage in any case where the Contractor has any property belonging to the City in his care, custody or control; owners and Contractor's protective liability; blanket contractual liability; products and completed operations coverage; coverage for collapse, explosion, and where any excavation, digging or trenching is done with power equipment; and shall bear an endorsement containing the following Provisions:

Solely as respect to work done by or on behalf of the named insured for the City of Moreno Valley, it is agreed that the City of Moreno Valley, the Community Redevelopment Agency of the City of Moreno Valley (RDA), and the Moreno Valley Community Services District (CSD), its officers, employees and agents, are added as additional insured under this policy and the coverage provided hereunder shall be primary insurance and not contributing with any other insurance available to the City of Moreno Valley, California, the Community Redevelopment Agency of the City of Moreno Valley, and the Moreno Valley Community Services District, its officers, employees and agents; under any third party liability policy.

It is further agreed that the other insurance provision(s) of the policy are amended to conform therewith.

The endorsements shall be signed by a person authorized by the insurer to bind coverage on its behalf. Insurance companies providing insurance here under shall be rated (A minus: VII - Admitted) or better in Best's Insurance Rating Guide and shall be legally licensed and qualified to conduct insurance business in the State of California.

The terms of the insurance policy or policies issued to provide the below insurance coverage(s) shall not be amended or canceled by the carrier without thirty (30) days prior written notice by certified or registered mail of amendments or cancellation to the City, except that cancellation for non-payment of premium shall require (10) days prior written notice by certified or registered mail. In the event the said insurance is canceled, the Contractor shall, prior to the cancellation date, submit to the City Clerk new evidence of insurance in the amounts established.

All liability insurance policies shall bear an endorsement or shall have an attached rider which provides that the City of Moreno Valley will be notified by certified or registered mail at least 30 days prior to the effective date of cancellation, non-renewal, or material alteration of such policy.

**AGREEMENT
PROJECT NO. 09-22679828**

All liability insurance shall cover comprehensive general liability for both bodily injury (including death) and property damage, including but not limited to aggregate products, aggregate operations, aggregate protective and aggregate contractual with the following minimum limits:

	Each Person	Each Occurrence	Aggregate
Bodily Injury	\$500,000.00	\$1,000,000.00	\$2,000,000.00
Property Damage	---	\$1,000,000.00	\$2,000,000.00

A combined single limit for Bodily Injury Liability and Property Damage Liability of \$2,000,000.00 for each occurrence will be considered equivalent to the above minimum limits for Comprehensive General Liability.

Property Damage Insurance shall cover full replacement value for damages to any property caused directly or indirectly by or from acts or activities of the Contractor or its sub-contractors or any person acting for the Contractor or under its control or direction.

The Contractor shall procure and maintain, at its sole expense, and throughout the term of this Contract Agreement and any extension thereof, Public Liability and Property Damage Insurance coverage for owned and non-owned automotive equipment operated. Such coverage limits shall not be less than \$1,000,000 combined single limit.

Any deductibles or self-insured retention must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the City, its officers, officials, employees and volunteers; or the contractor shall procure a bond guaranteeing payment of losses and related investigation, claim administration, and defense expenses.

The Contractor shall also furnish the City with a certificate evidencing Worker's Compensation Insurance with limits as established by the State of California.

The Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

7. The Contractor hereby agrees to provide and maintain in effect two (2) good and sufficient Surety Bonds for one hundred percent (100%) each of the contract price. The bonds shall be a "Faithful Performance Bond" which shall guarantee the faithful performance of all work and a "Labor and Materials Payment Bond" which shall secure the payment of the claims of labor, mechanics, or materialmen for all work under the Contract pursuant to Section 3247 of the Civil Code.

8. The Contractor, the Contractor's heirs, executors, administrators, successors, or assigns guarantee that all work performed under this Contract fully meets the requirements thereof as to quality of workmanship and materials furnished. If any defects in materials or workmanship become evident within a period of one year from the date of the acceptance of the work by the City Council, the Contractor shall, at his or her own expense, make any repair(s) or replacement(s) necessary to restore the work to full compliance with the Plans and Specifications.

9. The Contractor and any agents or subcontractors of the Contractor shall pay the prevailing rates of per diem wages established by the California Department of Industrial Relations. The Contractor and any

**AGREEMENT
PROJECT NO. 09-22679828**

agents or subcontractors of the Contractor shall also adhere to the California Labor Code, Division 2, Part 7, "Public Works and Public Agencies," and the California Administrative Code, Title 8, Group 3, "Payment of Prevailing Wages upon Public Works," all of which are made a part of the Contract documents.

10. The Contractor agrees that he or she and its subcontractors shall maintain and keep books, payrolls, invoices of materials, records on a current basis, and recording all transactions pertaining to this Agreement in a form in accordance with generally acceptable accounting principles. Said books and records shall be made available to the City of Moreno Valley, County, the State of California, the Federal Government and to any authorized representative thereof for purposes of audit and inspection at all reasonable times and places. All such books, payrolls, invoices of materials, and records shall be retained for such periods of time as required by law, provided, however, notwithstanding any shorter period of retention, all books, records, and supporting detail shall be retained for a period of at least three years after expiration of the term of this Agreement.

11. Pursuant to California Public Contract Code Section 22300, the Contractor will be permitted the substitution of securities for any monies withheld by the City of Moreno Valley to ensure performance under Contract. At the request and expense of the Contractor, securities equivalent to the amount withheld shall be deposited with the City of Moreno Valley, or with a state or federally chartered bank as the escrow agent, who shall pay such monies to the Contractor. Securities eligible for substitution under this section shall include those listed in Section 16430 of the Government Code, bank or savings and loan certificates of deposit, interest-bearing demand deposit accounts, and standby letters of credit. The Contractor shall be the beneficial owner of any securities substituted for monies withheld and shall receive any dividends or interest thereon. The Contractor shall give the City written notice within thirty (30) days after the Contract is awarded that it desires to substitute securities for money that would ordinarily be withheld. If the substituted securities are deposited into an escrow, the escrow shall be governed by a written escrow Contract Agreement in a form which is substantially similar to the Contract Agreement set forth in Section 22300, of the Public Contract Code.

12. The Contractor agrees to indemnify, defend, and save the City of Moreno Valley, the Community Redevelopment Agency of the City of Moreno Valley (RDA), and the Moreno Valley Community Services District (CSD), its officers, agents, and employees harmless from any and all liability, claims, damages or injuries to any person, including injury to the Contractor's employees and all claims which arise from or are connected with the negligent performance of or failure to perform the work or other obligations of this Contract Agreement, or are caused or claimed to be caused by the negligent acts of the Contractor its officers, agents, employees, sub-contractors or suppliers, and all expenses of investigating and defending against the same; provided, however, that this indemnification and hold harmless shall not include any claims arising from the sole negligence or willful misconduct of the City, RDA, and CSD, its officers, agents, or employees.

The obligation to indemnify, defend and hold harmless set forth herein shall include, without limitation, any and all attorney's fees incurred by the party to be indemnified, defended, or held harmless, whether in a judicial or administrative action or in arbitration, and whether the issue is between the parties or involves one or more third parties.

13. The parties do for themselves, their heirs, executors, administrators, successors and assigns agree to the full performance of all of the provisions herein contained. The Contractor may not, either voluntarily or by action of law, assign any obligation assumed by the Contractor hereunder without prior written consent of the City.

**AGREEMENT
PROJECT NO. 09-22679828**

14. Should either party bring any legal or equitable action for the purpose of protecting or enforcing its rights under this Contract Agreement, the prevailing party in such action shall recover in addition to all other relief, its reasonable attorney's fees and court costs to be fixed by the court.

In addition to the foregoing award of attorney's fees, the prevailing party shall be entitled to its attorneys' fees incurred in any post judgment proceedings to enforce any judgments in connection with this Contract Agreement. The Provision is separate and several and shall survive the merge of this Provision into any judgment.

15. By my signature hereunder, as Contractor, I certify that I am aware of the Provisions of Section 3700, of the Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the Provisions of that code, and I will comply with such Provisions before commencing the performance of the work of this Contract.

16. The effective date of this Contract Agreement shall be the date of the Award of Contract by the City of Moreno Valley.

17. Contractors are required by law to be licensed and regulated by the Contractors' State License Board. Any questions concerning a Contractor may be referred to the Registrar, Contractors' State License Board, 3132 Bradshaw Road, Sacramento, CA 95826. Mailing address: P.O. Box 26000, Sacramento, CA 95826.

(SIGNATURE PAGE FOLLOWS)

**AGREEMENT
PROJECT NO. 09-22679828**

CITY OF MORENO VALLEY,
Municipal Corporation

Peterson-Chase General
Engineering Construction, Inc.

BY: _____
City Manager

License No./
Classification: 615876 / General Contractor

Expiration Date: March 31, 2011

DATE: _____

Federal I.D. No.: 33-0445961

<u>INTERNAL USE ONLY</u>	
APPROVED AS TO LEGAL FORM:	

City Attorney	

Date	
RECOMMENDED FOR APPROVAL:	

Department Head	

Date	

PRINT NAME: _____

SIGNATURE: _____

TITLE: _____

DATE: _____
Date

PRINT NAME: _____

SIGNATURE: _____

TITLE: _____

DATE: _____
Date

SIGNING INSTRUCTION TO THE CONTRACTOR:

All signatures on the Contract Agreement on behalf of the Contractor must be acknowledged before a notary public. Attach Notary Certificates following this page.

General Partners must sign on behalf of the partnership.

In the event that the contracting firm is a corporation, two (2) corporate officer's having authority from the corporation MUST sign (two (2) signatures total). If the corporation has a corporate resolution stating that one person is authorized to sign on behalf of all officers, attach corporate resolution immediately following the notary certificates. Corporate Seal may be affixed hereto.

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of _____

On _____ before me, _____
(Here insert name and title of the officer)

personally appeared _____

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

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

WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

AGREEMENT SIGNATURE PAGE

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____

Document Date _____

Additional Information

CAPACITY CLAIMED BY THE SIGNER

- Individual(s)
 Corporate Officer

(Title)

- Partner (s)
 Attorney-in-Fact
 Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they, is/are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document.

BOND NO. _____

PREMIUM \$ _____

**FAITHFUL PERFORMANCE BOND
(100% of Total Contract Amount)**

PROJECT NO. 09-22679828

CITYWIDE BRIDGE MAINTENANCE PROGRAM

KNOW ALL MEN AND WOMEN BY THESE PRESENTS:

THAT WHEREAS, the City Council of the City of Moreno Valley, State of California, known as "City," has awarded to Peterson-Chase General Engineering Construction, Inc., as Principal hereinafter designated as "Contractor" and have entered into an Agreement whereby the Contractor agrees to construct or install and complete certain designated public improvements, which said Agreement, effective on the date signed by the City Manager, and identified as **Project No. 09-22679828**, is hereby referred to and made a part hereof; and

WHEREAS, said Contractor under the terms of said Agreement is required to furnish a bond guaranteeing the faithful performance of said Agreement;

NOW THEREFORE, we the undersigned Contractor and _____, as Surety, are held and firmly bound unto the City of Moreno Valley, County of Riverside in the penal sum of _____ dollars, (\$ _____), lawful money of the United States, to be paid to the said City or its certain attorney, its successors and assigns; for which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally liable (CCP 995.320 (a)(1)), firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if the above bound Contractor, his or her or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in said Agreement and any alterations thereof made as therein provided, on his or her or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City of Moreno Valley, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect. In the event suit is brought upon this bond by the City and judgement is recovered, the Surety shall pay all costs incurred by the City in such suit, including a reasonable attorney fee to be fixed by the court.

The Surety hereby stipulates and agrees that no change, extension of time, alteration; or addition to the terms of the Agreement or to the work to be performed thereunder, or the Provisions accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Agreement or to the work or the Provisions.

(SIGNATURE PAGE FOLLOWS)

**FAITHFUL PERFORMANCE BOND
PROJECT NO. 09-22679828**

BOND NO. _____

IN WITNESS WHEREOF, we have hereunto set our hands, and seals on this _____ day
of _____ 20_____.

CONTRACTOR (Principal)

SURETY

Contractor Name: _____

Name: _____

Address: _____

Address: _____

Telephone No.: _____

Telephone No.: _____

Print Name: _____

Print Name: _____

Attorney-in-Fact

Signature: _____

Signature: _____

Approved as to Form this

_____ day of _____ 20_____

City Attorney
City of Moreno Valley

NOTE:

- The bond shall be executed by an admitted Surety insurer (CCP 995.311) and the Surety must be registered as an admitted insurer in at least one county in the State of California.
- The bond shall include an attached Notary Certificate for the Attorney-in-Fact and the Contractor.
- The bond shall include an attached original Power of Attorney duly authorizing the Attorney-in-Fact to act for the Surety (CCP 1305).
- The bond shall include the address at which the Principal (contractor) and Surety may be served with notices, papers and other documents (CCP 995.320 (a)(2)).

Corporate Seal maybe affixed hereto.

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of _____

On _____ before me, _____
(Here insert name and title of the officer)

personally appeared _____

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

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

WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

FAITHFUL PERFORMANCE BOND SIGNATURE PAGE

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____

Document Date _____

Additional Information

CAPACITY CLAIMED BY THE SIGNER

- Individual(s)
 Corporate Officer

(Title)

- Partner (s)
 Attorney-in-Fact

Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they, is/are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document.

BOND NO. _____

PREMIUM \$ _____

**LABOR AND MATERIALS PAYMENT BOND
(100% of Total Contract Amount)**

PROJECT NO. 09-22679828

CITYWIDE BRIDGE MAINTENANCE PROGRAM

KNOW ALL MEN AND WOMEN BY THESE PRESENTS

THAT WHEREAS, the City Council of the City of Moreno Valley, State of California, known as "City", has awarded to **Peterson-Chase General Engineering Construction, Inc.**, as Principal hereinafter designated as "Contractor" and have entered into an Agreement whereby the Contractor agrees to construct or install and complete certain designated public improvements, which said Agreement, effective on the date signed by the City Manager, and identified as **Project No. 09-22679828**, is hereby referred to and made a part hereof; and

WHEREAS, said Contractor under the terms of said Agreement is required to furnish a bond to secure the payment of claims of laborers, mechanics, materialmen, and other persons, as provided by law;

NOW, THEREFORE, we the undersigned Contractor and _____, as Surety are held and firmly bound unto the City of Moreno Valley, County of Riverside, in the penal sum of _____ dollars, (\$ _____), lawful money of the United States, for which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally liable (CCP 995.320 (a)(1)), firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if said Contractor, his or her or its heirs, executors, administrator, successors or assigns, or subcontractors, shall fail to pay any of the persons described in the State of California Civil Code, Section 3181, or amounts due under the Unemployment Insurance Code with respect to work or labor performed by any such claimant, or any amounts required to be deducted, withheld, and paid over to the Franchise Tax Board from the wages of employees of the Contractor and his or her subcontractors, pursuant to Section 13020, of the Unemployment Insurance Code, with respect to such work and labor, that the Surety or Sureties herein will pay for the same in an amount not exceeding the sum specified in this bond, otherwise the above obligation shall be void. In the event suit is brought upon this bond by the City or other person entitled to bring such an action and judgement is recovered, the Surety shall pay all costs incurred by the City in such suit, including a reasonable attorney fee to be fixed by the court.

This bond shall inure to the benefit of any of the persons described in the State of California Civil Code Section 3181, to give a right of action to such persons or their assigns in any suit brought upon this bond.

(SIGNATURE PAGE FOLLOWS)

**LABOR AND MATERIALS PAYMENT BOND
PROJECT NO. 09-22679828**

BOND NO. _____

IN WITNESS WHEREOF, we have hereunto set our hands, and seals on this _____ day
of _____ 20____.

CONTRACTOR (Principal)

SURETY

Contractor Name: _____

Name: _____

Address: _____

Address: _____

Telephone No.: _____

Telephone No.: _____

Print Name: _____

Print Name: _____

Attorney-in-Fact

Signature: _____

Signature: _____

Approved as to Form this

_____ day of _____ 20____

City Attorney
City of Moreno Valley

NOTE:

- The bond shall be executed by an admitted Surety insurer (CCP 995.311) and the Surety must be registered as an admitted insurer in at least one county in the State of California.
- The bond shall include an attached Notary Certificate for the Attorney-in-Fact and the Contractor.
- The bond shall include an attached original Power of Attorney duly authorizing the Attorney-in-Fact to act for the Surety (CCP 1305).
- The bond shall include the address at which the Principal (contractor) and Surety may be served with notices, papers and other documents (CCP 995.320 (a)(2)).

Corporate Seal maybe affixed hereto

W:\CapProj\CapProj\PROJECTS\Wiren - 09-22679828 - Bridge Maintenance\Specifications\2 Agreement - Basic Specs 06-09_R.DOC

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of _____

On _____ before me, _____
(Here insert name and title of the officer)

personally appeared _____

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

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

WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

**LABOR AND MATERIALS PAYMENT BOND
SIGNATURE PAGE**

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____

Document Date _____

CAPACITY CLAIMED BY THE SIGNER

- Individual(s)
 Corporate Officer

(Title)

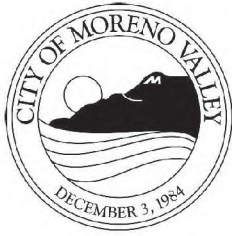
- Partner (s)
 Attorney-in-Fact
 Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they, is/are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document.

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APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>Rut</i>
CITY MANAGER	<i>ph</i>

Report to City Council

TO: Mayor and City Council

FROM: Chris A. Vogt, Public Works Director/City Engineer

AGENDA DATE: November 10, 2009

TITLE: AMENDMENT NO. 1 TO THE AGREEMENT FOR THE REIMBURSEMENT OF TRANSPORTATION UNIFORM MITIGATION FEE FUNDS BETWEEN RIVERSIDE COUNTY TRANSPORTATION COMMISSION AND THE CITY OF MORENO VALLEY FOR PERRIS BOULEVARD WIDENING FROM IRONWOOD AVENUE TO MANZANITA AVENUE
PROJECT NO. 11-41570225

RECOMMENDED ACTION

Staff recommends that the City Council:

1. Accept and approve Amendment No. 1 to the Agreement for the reimbursement of Transportation Uniform Mitigation Fee (TUMF) funds between Riverside County Transportation Commission (RCTC) and the City of Moreno Valley for Perris Boulevard Widening from Ironwood Avenue to Manzanita Avenue.
2. Authorize the Public Works Director/City Engineer to execute Amendment No. 1 to the Agreement for the reimbursement of TUMF funds between RCTC and the City of Moreno Valley in the form attached hereto.
3. Authorize the Public Works Director/City Engineer to execute any subsequent amendments to the Transportation Uniform Mitigation Fee Program Agreement between RCTC and the City of Moreno Valley for Perris Boulevard Widening from Ironwood Avenue to Manzanita Avenue.
4. Increase the appropriation for the Perris Boulevard Widening – Ironwood to Manzanita project (account no. 415.70225) by \$36,847 to fund Right-of-way Phase expenditures prior to reimbursement by RCTC
5. Appropriate \$133,816 from Fund 201 (DIF Arterial Streets) Fund Balance to Account No. 416.78726 (DIF, Perris Boulevard Widening – Ironwood to Manzanita) to provide

matching funds for Right-of-Way Phase expenditures reimbursed by RCTC for Right-of-way Phase services for Perris Boulevard Widening from Ironwood Avenue to Manzanita Avenue.

BACKGROUND

Perris Boulevard is an existing partially improved north/south arterial street between the limits of Ironwood Avenue and Manzanita Avenue in the City of Moreno Valley. The existing improvements vary in width consisting of a two-lane road with shoulders in some areas to other areas that are fully built out but striped only for two lanes.

Through a Memorandum of Understanding with the Western Riverside Council of Governments (WRCOG), RCTC was designated to distribute the TUMF Regional program funds that relate to the regional arterial streets and highways. On September 15, 2006, the City and RCTC entered into the "Agreement for the Funding of TUMF Regional Arterial Improvements with the City of Moreno Valley Perris Boulevard Widening from Ironwood Avenue to Manzanita Avenue Project 5105" (TUMF Agreement).

The current TUMF Agreement specifies that the TUMF funds will be used for the Project Approvals & Environmental Document (PA&ED) and Plans, Specifications, & Estimate (PS&E) phases of the project. TUMF funds can be used also for the Right-of-way (ROW) Phase which includes the acquisition of rights-of-way and utility relocations and the Construction Phase which includes construction and construction support costs. These additional phases are not currently included in the TUMF Agreement with RCTC.

DISCUSSION

This project proposes to widen and improve Perris Boulevard between Ironwood Avenue and Manzanita Avenue to an arterial street standard of four travel lanes (two in each direction) with a minimum curb-to-curb width of 76 feet within a minimum 100-foot right-of-way. The proposed widening will require utility relocations and acquisition of right-of-way in areas where the necessary width had not been previously dedicated.

The current Agreement does not include funds for the ROW Phase and therefore must be amended. RCTC has prepared Amendment No. 1 to revise the Agreement to add the ROW Phase and designate a maximum amount of \$631,000 of TUMF funds for this phase. On October 14, 2009, RCTC approved Amendment No. 1 (06-72-041-01) to Agreement 06-72-041-00 for the project.

The City's current TUMF budget for this project is less than the amount provided by RCTC in the current amendment. Staff is requesting that the City's budget be amended by increasing the appropriation by \$36,847. These are monies that, when expended by the City and then invoiced, are reimbursed to the City from RCTC.

In accordance with the terms of the original TUMF Agreement and Amendment No. 1, the City is required to match the \$631,000 amount with \$743,000 from other local agency sources. The City's current FY 2009/2010 budget does not include sufficient local agency matching funds to meet this requirement. Staff is requesting that the City's budget be amended by appropriating \$133,816 from Fund 201 (DIF Arterial Streets) Fund Balance. This will provide budgeted funds sufficient to meet the required match.

ALTERNATIVES

1. Accept and approve Accept and approve Amendment No. 1 to the Agreement for the reimbursement of Transportation Uniform Mitigation Fee (TUMF) funds between Riverside County Transportation Commission (RCTC) and the City of Moreno Valley for Perris Boulevard Widening from Ironwood Avenue to Manzanita Avenue, authorize the Public Works Director/City Engineer to execute Amendment No. 1 to the Agreement for the reimbursement of TUMF funds between RCTC and the City of Moreno Valley in the form attached hereto, authorize the Public Works Director/City Engineer to execute any subsequent amendments to the Transportation Uniform Mitigation Fee Program Agreement between RCTC and the City of Moreno Valley for Perris Boulevard Widening from Ironwood Avenue to Manzanita Avenue, increase the appropriation for the Perris Boulevard Widening – Ironwood to Manzanita project (account no. 415.70224) by \$36,847 to fund Right-of-way Phase expenditures prior to reimbursement by RCTC, and appropriate \$133,816 from Fund 201 (DIF Arterial Streets) Fund Balance to Account No. 416.78726 (DIF, Perris Boulevard Widening – Ironwood to Manzanita) to provide matching funds for Right-of-way Phase expenditures reimbursed by RCTC for Right-of-way Phase services for Perris Boulevard Widening from Ironwood Avenue to Manzanita Avenue. *This alternative will allow the acquisition of right-of-way for the construction of needed improvements.*
2. Do not accept and approve Amendment No. 1 to the Agreement for the reimbursement of Transportation Uniform Mitigation Fee (TUMF) funds between Riverside County Transportation Commission (RCTC) and the City of Moreno Valley for Perris Boulevard Widening from Ironwood Avenue to Manzanita Avenue, do not authorize the Public Works Director/City Engineer to execute Amendment No. 1 to the Agreement for the reimbursement of TUMF funds between RCTC and the City of Moreno Valley in the form attached hereto, do not authorize the Public Works Director/City Engineer to execute any subsequent amendments to the Transportation Uniform Mitigation Fee Program Agreement between RCTC and the City of Moreno Valley for Perris Boulevard Widening from Ironwood Avenue to Manzanita Avenue, do not increase the appropriation for the Perris Boulevard Widening – Ironwood to Manzanita project (account no. 415.70225) by \$36,847 to fund Right-of-way Phase expenditures prior to reimbursement by RCTC, and do not appropriate \$133,816 from Fund 201 (DIF Arterial Streets) Fund Balance to Account No. 416.78726 (DIF, Perris Boulevard Widening – Ironwood to Manzanita) to provide matching funds for Right-of-way Phase expenditures reimbursed by RCTC for Right-of-way Phase services for Perris Boulevard Widening from Ironwood Avenue to

Manzanita Avenue. *This alternative will delay the acquisition of right-of-way for the construction of needed improvements.*

FISCAL IMPACT

AVAILABLE BUDGETED FUNDS:

Fiscal Year 2009/2010 Funds (Account 415.70225)	\$594,153
Fiscal Year 2009/2010 Funds (Account 416.78726)	\$585,443
Fiscal Year 2009/2010 Funds (Account 417.79226)	\$23,741
Requested Appropriation Increase to Account 415.70225	\$36,847
Requested Appropriation from Fund 201 Fund Balance	\$133,816

Approving this amendment has no impact on the City's General Fund.

The reimbursement and local match amounts included in the TUMF Agreement and Amendment No. 1 are summarized as follows:

PHASE	TUMF	LOCAL	TOTAL
PA&ED (Original Agreement)	\$134,000	\$76,000	\$210,000
PS&E (Original Agreement)	\$336,000	\$204,000	\$540,000
ROW (Amendment No. 1)	\$631,000	\$743,000	\$1,374,000
TOTAL	\$1,101,000	\$1,023,000	\$2,124,000

ANTICIPATED SCHEDULE:

PA&ED Phase	Environmental Approved
PS&E Phase	Plans Completed
Begin ROW Phase	July, 2009
Complete ROW Phase	December, 2010

CITY COUNCIL GOALS

ADVOCACY:

Develop cooperative intergovernmental relationships and be a forceful advocate of City policies, objectives and goals to appropriate external governments, agencies and corporations.

REVENUE DIVERSIFICATION AND PRESERVATIONS:

Develop a variety of city revenue sources and policies to create a stable revenue base and fiscal policies to support essential city services, regardless of economic climate.

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 incident, 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

Approval of Amendment No. 1 to the TUMF agreement and related recommended actions will allow the City to proceed to formally request, and for RCTC to obligate funds in the amount of \$631,000 for the Right-of-way Phase of the Perris Boulevard Widening from Ironwood Avenue to Manzanita Avenue project. The City will then proceed to acquire necessary rights-of-way and provide for necessary utility relocations for the project.

ATTACHMENTS

Attachment "A" – Location Map

Attachment "B" – Amendment No. 1 to Agreement for the Funding of TUMF Regional Arterial Improvements with the City of Moreno Valley

Attachment "C" – Budget Appropriation Adjustment Form

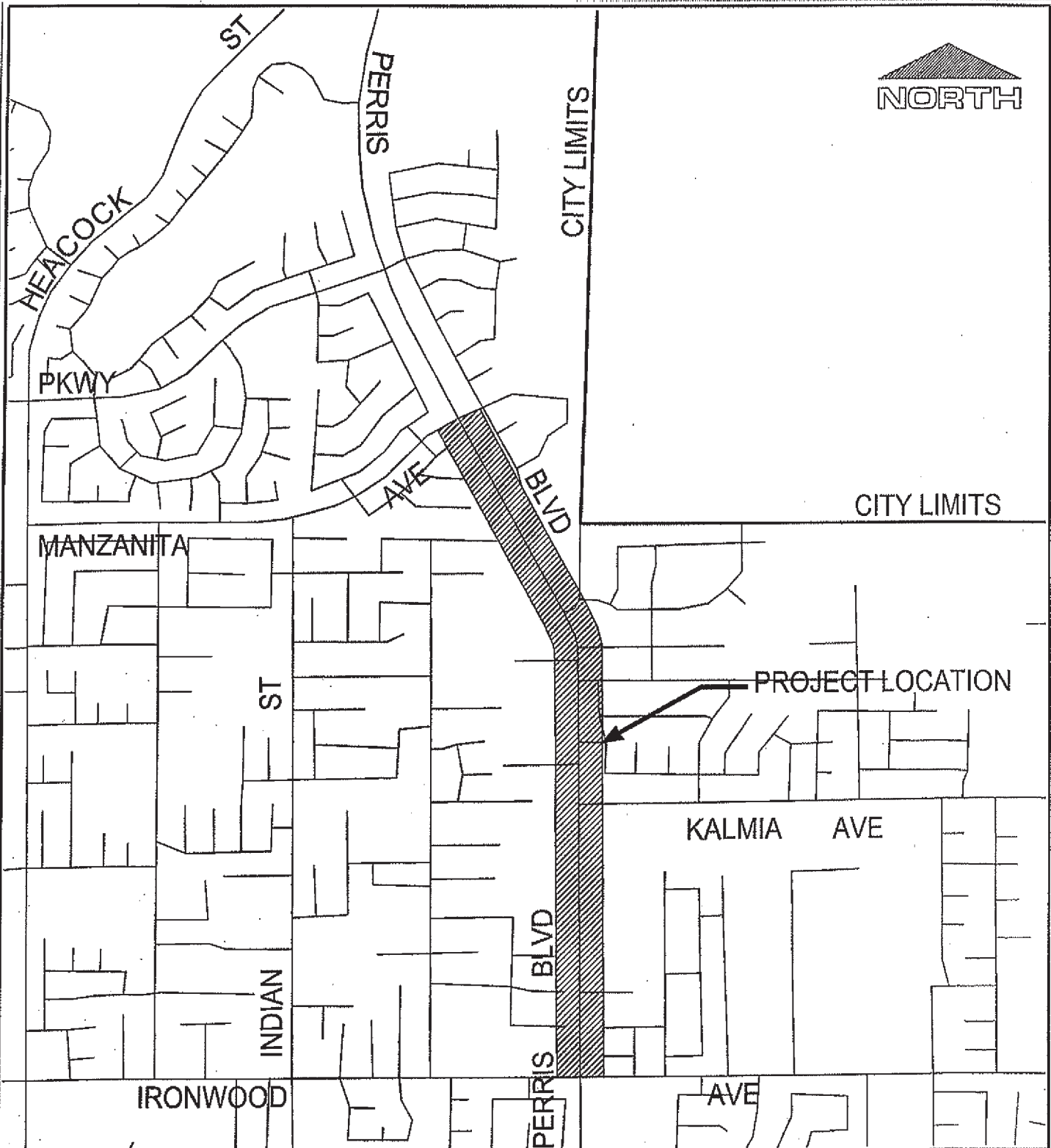
Prepared By:
 Michael D. Myers, P.E.
 Consultant Project Manager

Department Head Approval:
 Chris A. Vogt, P.E.
 Public Works Director/City Engineer

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

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

W:\CapProj\CapProj\PROJECTS\MikeM - 11-41570225 - Perris Blvd.- Ironwood to Manzanita & TS\CC Reports\TUMF Amendment No. 1\Staff Report - Amendment No. 1 (CC 11-10-09).doc



Public Works Department
Capital Projects Division

LOCATION MAP



ATTACHMENT "A"
Scale: None

PERRIS BLVD IMPROVEMENTS FROM
IRONWOOD AVE TO MANZANITA AVE
PROJECT NO. 11-41570225

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**AMENDMENT NO. 1
TO
AGREEMENT FOR THE FUNDING OF TUMF REGIONAL ARTERIAL
IMPROVEMENTS WITH THE CITY OF MORENO VALLEY**

1. PARTIES AND DATE

This Amendment No. 1 to Agreement No. 06-72-041-00 is made and entered into as of this _____ day of _____, 2009, by and between the RIVERSIDE COUNTY TRANSPORTATION COMMISSION ("Commission") and the CITY OF MORENO VALLEY ("City").

2. RECITALS

- 2.1 The Commission and the City have entered into an agreement entitled "Agreement for the Funding of TUMF Regional Arterial Improvements with the City of Moreno Valley" dated September 15, 2006 (the "Master Agreement"). The Master Agreement provides the terms and conditions, scope of work, schedule and funding amount for the PA&ED and PS&E phases related to the Perris Blvd Widening, from Ironwood Avenue to Manzanita Avenue (hereinafter the "Project"). The Project is more specifically described in Exhibit "B" of the Master Agreement.
- 2.2 The parties now desire to amend the Master Agreement in order to increase the Funding Amount set forth in Section 3.2 of the Master Agreement to provide funding for the right of way phase of the Project.

3. TERMS

- 3.1 The Recitals set forth above are true and correct and are incorporated into this Amendment by this reference, as though fully set forth herein.
- 3.2 The Funding Amount, as set forth in Section 3.2 of the Master Agreement, shall be increased from Four Hundred Seventy Thousand Dollars and No Cents (\$470,000) to One Million One Hundred and One Thousand Dollars

and No Cents (\$1,101,000). The increase in the Funding Amount is for the purpose of providing funding for the right of way phase of the Project.

- 3.3 The funding allocations identified in Exhibit "A" of the Master Agreement shall be replaced by the funding allocations identified in Exhibit "A" attached to this Amendment and incorporated herein by reference. The Funding Amount shall be utilized as specified in the attached Exhibit "A" and in accordance with the terms of the Master Agreement.
- 3.4 The Project shall be completed expeditiously, within the term of the Master Agreement.
- 3.5 Except as amended by this Amendment, all provisions of the Master Agreement, including without limitation the indemnity and insurance provisions, shall remain in full force and effect and shall govern the actions of the parties under this Amendment.

[Signatures on following page]

**SIGNATURE PAGE
TO
AGREEMENT NO. 06-72-041-01**

IN WITNESS WHEREOF, the parties hereto have executed the Agreement on the date first herein above written.

**RIVERSIDE COUNTY
TRANSPORTATION COMMISSION**

CITY OF MORENO VALLEY

By: _____
Robert E. Magee, Chair

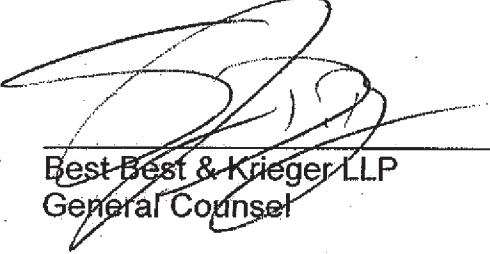
By: _____

Name: _____

Its: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: 

Best Best & Krieger LLP
General Counsel

By: _____
City Attorney

ATTEST:

By: _____
City Clerk

EXHIBIT "A"

FUNDING: Identify TUMF, local, state and/or federal funding for each Phase of Work. Delete those Phases which are not part of this Agreement.

PHASE	TUMF	LOCAL	TOTAL
PA&ED	\$134,000	\$76,000	\$210,000
PS&E	\$336,000	\$204,000	\$540,000
RIGHT OF WAY	\$631,000	\$743,000	\$1,374,000
CONSTRUCTION	N/A	N/A	N/A
TOTAL	\$1,101,000	\$1,023,000	\$2,124,000

Exhibit A

RV PUB/PCHO/765311.2

Budget Appropriation Adjustment Form



City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552
www.moval.org

1 Date: October 5, 2009
2 Department: Public Works
3 Division: Capital Projects Division

4 **Type of Adjustment:**

- 5 A) New/Additional Appropriations (Expense) from Reserves/Fund Balance
6 Required Signatures: 1: City Council
- 7 B) New/Additional Appropriations (Expense) with offsetting Revenue (no net budgetary impact).
8 Required Signatures: 1: Requestor 2: Dept. Head 3: Bdgt. Officer 4: FASD Director 5: City Manager
- 9 C) Transfers between Funds & Departments (no net budgetary impact)
10 Required Signatures: 1: Requestor 2: Dept. Head 3: Bdgt. Officer 4: FASD Director 5: City Manager
- 11 D) Transfers between Capital Improvement Plan (CIP) projects (no net budgetary impact)
12 Required Signatures: 1: Requestor 2: Dept. Head 3: Bdgt. Officer 4: FASD Director 5: City Manager
- 13 E) Transfers between Division, Business Units & Object Codes within the same Department & Fund (no net budgetary impact)
14 Required Signatures: 1: Requestor 2: Dept. Head 3: Bdgt. Officer 4: FASD Director

Council Action Date

Council Action No.

15 Revenue Fund Balance

Fund	Program/ Business Unit	Account/ Object Code	Current Budget	Increase/ (Decrease)	Revised/ Budget	Justification/Reason for Budget Appropriation Adjustment
17	415	415	3911		(\$36,847)	Additional funds are needed to complete the right of way phase for the Perris Blvd/Ironwood to Manzanita project.
18	416	416	3911		(\$133,816)	
19					\$0	
20					\$0	
21	TOTAL			\$0	(\$170,663)	(\$170,663)

22 **Expense**

Fund	Program/ Business Unit	Account/ Object Code	Current Budget	Increase/ (Decrease)	Revised/ Budget	Justification/Reason for Budget Appropriation Adjustment
24	415	70225	7200	\$594,153	\$36,847	Additional funds are needed to complete the right of way phase for the Perris Blvd/Ironwood to Manzanita project. The TUMF allocation for the project is \$631,000. The City required match of \$734,000 consists of \$719,259 in DIF Arterial Streets and \$24,741 in DIF Traffic Signals.
25	416	78726	7200	\$585,443	\$133,816	
26					\$0	
27					\$0	
28	TOTAL			\$1,179,596	\$170,663	\$1,350,259

29 **Transfer OUT (From)**

Fund	Program/ Business Unit	Account/ Object Code	Current Budget	Increase/ (Decrease)	Revised/ Budget	Justification/Reason for Budget Appropriation Adjustment
31		6923			\$0	
32		6923			\$0	
33	TOTAL			\$0	\$0	

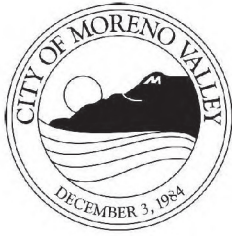
34 **Transfer IN (To)**

Fund	Program/ Business Unit	Account/ Object Code	Current Budget	Increase/ (Decrease)	Revised/ Budget	Justification/Reason for Budget Appropriation Adjustment
35		4701			\$0	
36		4701			\$0	
38	TOTAL			\$0	\$0	

39 Prepared by: Requestor Linda Wilson Extension: 3132 Date: 10/05/09
40 Authorization: Department Head _____ Extension: _____ Date: _____
41 Approval as to Funds: Budget Officer _____ Extension: _____ Date: _____
42 Authorization: Fin. & Admin. Svcs. Dir. _____ Extension: _____ Date: _____
43 Authorization: City Manager _____ Extension: _____ Date: _____

Attachment "C"

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APPROVALS	
BUDGET OFFICER	<i>hy</i>
CITY ATTORNEY	<i>RA</i>
CITY MANAGER	<i>RA</i>

Report to City Council

TO: Mayor and City Council

FROM: Chris A. Vogt, Public Works Director/City Engineer

AGENDA DATE: November 10, 2009

TITLE: ACCEPT AND APPROVE AMENDMENT NO. 2 TO THE AGREEMENT FOR THE REIMBURSEMENT OF TRANSPORTATION UNIFORM MITIGATION FEE FUNDS BETWEEN RIVERSIDE COUNTY TRANSPORTATION COMMISSION AND THE CITY OF MORENO VALLEY FOR PERRIS BOULEVARD WIDENING FROM PERRIS VALLEY STORM DRAIN LATERAL "B" TO CACTUS AVENUE PROJECT NO. 11-41570125

RECOMMENDED ACTION

Staff recommends that the City Council:

1. Accept and approve Amendment No. 2 to the Agreement for the reimbursement of Transportation Uniform Mitigation Fee (TUMF) funds between Riverside County Transportation Commission (RCTC) and the City of Moreno Valley for Perris Boulevard Widening from Perris Valley Storm Drain Lateral "B" to Cactus Avenue.
2. Authorize the Public Works Director/City Engineer to execute Amendment No. 2 to the Agreement between RCTC and the City of Moreno Valley in the form attached hereto.
3. Authorize the Public Works Director/City Engineer to execute any subsequent amendments to the TUMF Agreement between RCTC and the City of Moreno Valley for Perris Boulevard Widening from Perris Valley Storm Drain Lateral "B" to Cactus Avenue.

BACKGROUND

Perris Boulevard is an existing partially improved north/south arterial street between the limits of Perris Valley Storm Drain Lateral "B" (Southerly City Limits) and Cactus Avenue

in the City of Moreno Valley. The existing improvements vary in width consisting of a two-lane road with shoulders in some areas to other areas that are fully built out.

Through a Memorandum of Understanding with the Western Riverside Council of Governments (WRCOG), RCTC was designated to distribute the TUMF Regional program funds that relate to the regional arterial system of streets and highways. On September 15, 2006, the City and RCTC entered into the Agreement for the Funding of TUMF Regional Arterial Improvements with the City of Moreno Valley for Perris Boulevard Widening from Ramona Expressway to Cactus Avenue, Project 5106 (TUMF Agreement).

The TUMF Agreement specifies that the TUMF funds will be used for the Project Approval & Environmental Document (PA&ED) and Plans, Specifications, & Estimate (PS&E) phases of the project. TUMF funds can also be used for the acquisition of right of way (including utility relocations) and construction of roadway improvements, such as sidewalk, concrete curb and gutter, paving, and traffic signal modifications.

The project, as set forth in the TUMF Agreement, encompasses Perris Boulevard from Ramona Expressway to Cactus Avenue. On March 13, 2008, RCTC and the City amended the agreement to change the Project limits and reduce the funding amount. Pursuant to Amendment No. 1, the project boundaries and description changed to "Perris Boulevard Widening from Perris Valley Storm Drain Lateral "B" to Cactus Avenue, Project 5106".

DISCUSSION

This project proposes to widen and improve Perris Boulevard between Perris Valley Storm Drain Lateral "B" (Southerly City Limits) and Cactus Avenue to an arterial street standard of six (6) travel lanes (three (3) in each direction) with a curb-to-curb width of 86 feet (86') within a 110 foot (110') right of way. The proposed widening will require utility relocations and acquisition of right of way in areas where the necessary width had not been previously dedicated.

The current Agreement does not include funds for the Right of Way Phase and therefore must be amended. RCTC has prepared Amendment No. 2 (06-72-040-02) to Agreement 06-72-041-00 to add the Right of Way Phase and designate a maximum amount of \$1,521,000 of TUMF funds for this phase. On October 14, 2009, RCTC approved Amendment No. 2 for the project.

In accordance with the terms of the TUMF Agreement, the City is required to match this amount with \$696,000 from other local agency sources. The City's current FY 2009/2010 budget includes \$696,000 in Development Impact Fee (DIF) funds for this project, the amount of the required match.

The reimbursement and local match amounts included in the TUMF Agreement, Amendment No. 1, and Amendment No. 2 are summarized below:

PHASE	TUMF	LOCAL	TOTAL
PA&ED*	\$303,000	\$141,000	\$444,000
PS&E*	\$677,000	\$310,000	\$987,000
RIGHT OF WAY	\$1,521,000	\$696,000	\$2,217,000
TOTAL	\$2,501,000	\$1,147,000	\$3,648,000

**Funding already approved and obligated as part of the original Agreement and Amendment No. 1 to Agreement*

ALTERNATIVES

1. Accept and approve Amendment No. 2 to the Agreement for the reimbursement of Transportation Uniform Mitigation Fee (TUMF) funds between Riverside County Transportation Commission (RCTC) and the City of Moreno Valley for Perris Boulevard Widening from Perris Valley Storm Drain Lateral “B” to Cactus Avenue, authorize the Public Works Director/City Engineer to execute Amendment No. 2 to the Agreement between RCTC and the City of Moreno Valley in the form attached hereto, and authorize the Public Works Director/City Engineer to execute any subsequent amendments to the TUMF Agreement between RCTC and the City of Moreno Valley for Perris Boulevard Widening from Perris Valley Storm Drain Lateral “B” to Cactus Avenue. *This alternative will allow the design and construction of needed improvements.*
2. Do not accept and approve Amendment No. 2 to the Agreement for the reimbursement of Transportation Uniform Mitigation Fee (TUMF) funds between Riverside County Transportation Commission (RCTC) and the City of Moreno Valley for Perris Boulevard Widening from Perris Valley Storm Drain Lateral “B” to Cactus Avenue, do not authorize the Public Works Director/City Engineer to execute Amendment No. 2 to the Agreement between RCTC and the City of Moreno Valley in the form attached hereto, and do not authorize the Public Works Director/City Engineer to execute any subsequent amendments to the TUMF Agreement between RCTC and the City of Moreno Valley for Perris Boulevard Widening from Perris Valley Storm Drain Lateral “B” to Cactus Avenue. *This alternative will delay the design and construction of needed improvements.*

FISCAL IMPACT

The City’s current FY 2009/2010 budget includes \$1,923,687 budgeted in TUMF account 415.70125 for this project. The City’s current FY 2009/2010 budget includes \$704,327 in account 416.78526 (DIF – Arterial Streets) for this project, an amount sufficient to meet the required agreement maximum match amount.

Approving this amendment has no impact on the City’s General Fund.

ANTICIPATED SCHEDULE:

Complete PA&ED Phase.....November 2009

Complete PS&E PhaseNovember 2009
 Begin Right of Way PhaseOctober 2009
 Complete Right of Way PhaseDecember 2009

CITY COUNCIL GOALS

ADVOCACY:

Develop cooperative intergovernmental relationships and be a forceful advocate of City policies, objectives and goals to appropriate external governments, agencies and corporations.

REVENUE DIVERSIFICATION AND PRESERVATION:

Develop a variety of city revenue sources and policies to create a stable revenue base and fiscal policies to support essential city services, regardless of economic climate.

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 incident, 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

Approval of Amendment No. 2 to the TUMF Agreement will allow RCTC to obligate funds in the amount of \$1,521,000 for the Right of Way Phase of the Perris Boulevard Widening from Perris Valley Storm Drain Lateral “B” to Cactus Avenue project. The City will then proceed to acquire necessary right of way for the improvements and subsequently submit statements for reimbursement.

ATTACHMENTS

- Attachment “A” –Amendment No. 2 to Agreement for the Funding of TUMF Regional Arterial Improvements with the City of Moreno Valley
- Attachment “B” – Location Map

Prepared By:
 Larry Gonzales
 Senior Engineer, P.E.

Department Head Approval:
 Chris A. Vogt, P.E.
 Public Works Director/City Engineer

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

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

W:\CapProj\CapProj\PROJECTS\Larry - 11-41570125 Perris Blvd. from PVSD Lateral B to Cactus Ave\CC Reports\TUMF - Amendment No. 2 (CC 11-10-09).doc

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**AMENDMENT NO. 2
TO
AGREEMENT FOR THE FUNDING OF TUMF REGIONAL ARTERIAL
IMPROVEMENTS WITH THE CITY OF MORENO VALLEY**

1. PARTIES AND DATE

This Amendment No. 2 to Agreement No. 06-72-040-00 is made and entered into as of this _____ day of _____, 200__, by and between the RIVERSIDE COUNTY TRANSPORTATION COMMISSION ("Commission") and the City of Moreno Valley ("City").

2. RECITALS

- 2.1 The Commission and the City have entered into an agreement entitled "Agreement for the Funding of TUMF Regional Arterial Improvements with the City of Moreno Valley" dated September 15, 2006 (the "Master Agreement"). The Master Agreement provides the terms and conditions, scope of work, schedule and funding amount for the PA&ED and PS&E phases related to the Perris Blvd. Widening, from Ramona Expressway to Cactus Avenue (hereinafter the "Project"). The Project is more specifically described in Exhibit "B" of the Master Agreement.
- 2.2 The Commission and the City have entered into an Amendment No. 1 to the Master Agreement, dated March 13, 2008, for the purpose of changing the Project limits and reducing funding for the PA&ED and PS&E phases of work.
- 2.3 The parties now desire to amend the Master Agreement in order to increase the Funding Amount set forth in Section 3.2 of the Master Agreement to provide funding for the right of way phase of the Project.

3. TERMS

- 3.1 The Recitals set forth above are true and correct and are incorporated into this Amendment by this reference, as though fully set forth herein.
- 3.2 The Funding Amount, as set forth in Section 3.2 of the Master Agreement, shall be increased from Nine Hundred Eighty Thousand Dollars and No Cents (\$980,000) to Two Million Five Hundred One Thousand Dollars and No Cents (\$2,501,000). The increase in the Funding Amount is for the purpose of providing funding for the right of way phase of the Project.
- 3.3 The funding allocations identified in Exhibit "A" of the Master Agreement shall be replaced by the funding allocations identified in Exhibit "A" attached to this Amendment and incorporated herein by reference. The Funding Amount shall be utilized as specified in the attached Exhibit "A" and in accordance with the terms of the Master Agreement.
- 3.4 The Project shall be completed expeditiously, within the term of the Master Agreement.
- 3.5 Except as amended by this Amendment, all provisions of the Master Agreement, as amended by Amendment No. 1, including without limitation the indemnity and insurance provisions, shall remain in full force and effect and shall govern the actions of the parties under this Amendment.

[Signatures on following page]

**SIGNATURE PAGE
TO
AGREEMENT NO. 06-72-040-02**

IN WITNESS WHEREOF, the parties hereto have executed the Agreement on the date first herein above written.

**RIVERSIDE COUNTY
TRANSPORTATION COMMISSION**

CITY OF MORENO VALLEY

By: _____
Robert E. Magee, Chair

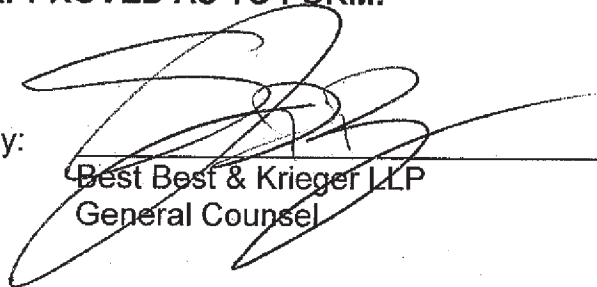
By: _____

Name: _____

Its: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By:  _____
Best Best & Krieger LLP
General Counsel

By: _____
City Attorney

ATTEST:

By: _____
City Clerk.

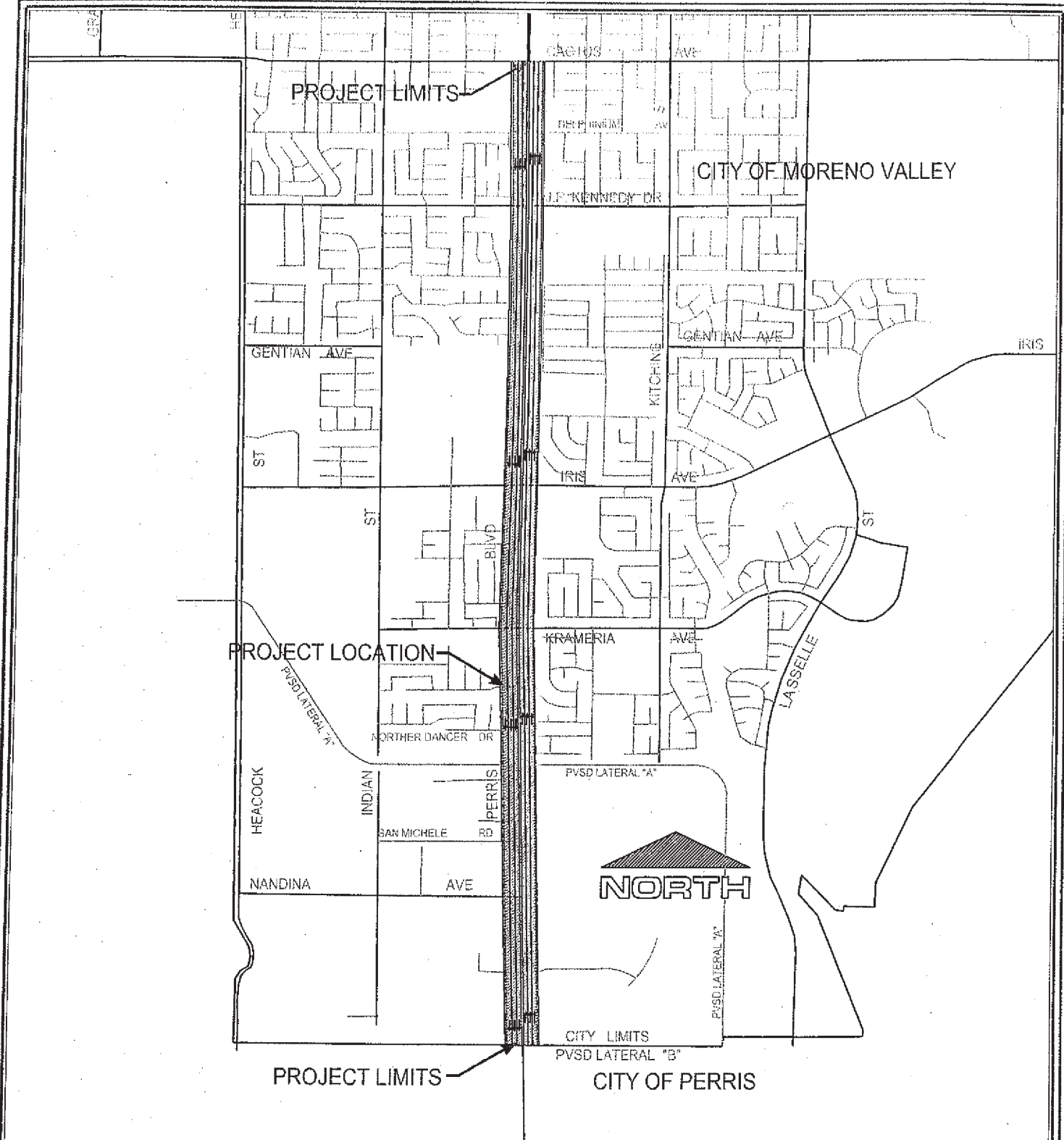
EXHIBIT "A"

FUNDING: Identify TUMF, local, state and/or federal funding for each Phase of Work. Delete those Phases which are not part of this Agreement.

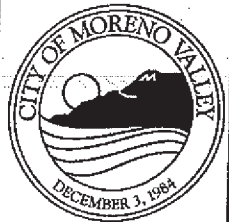
PHASE	TUMF	LOCAL	TOTAL
PA&ED	\$303,000	\$141,000	\$444,000
PS&E	\$677,000	\$310,000	\$987,000
RIGHT OF WAY	\$1,521,000	\$696,000	\$2,217,000
CONSTRUCTION	N/A	N/A	N/A
TOTAL	\$2,501,000.	\$1,147,000	\$3,648,000

Exhibit A

RV PUB\PCHO\765310.3



LOCATION MAP



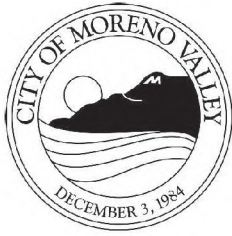
Public Works Department
Capital Projects Division

Scale: Not to scale

ATTACHMENT "B"

PERRIS BOULEVARD WIDENING PVSD LATERAL "B" TO CACTUS AVE.

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APPROVALS	
BUDGET OFFICER	<i>hy</i>
CITY ATTORNEY	<i>RS</i>
CITY MANAGER	<i>RA</i>

Report to City Council

TO: Mayor and City Council

FROM: Chris A. Vogt, P.E., Public Works Director/City Engineer

AGENDA DATE: November 10, 2009

TITLE: NOTICE OF COMPLETION AND ACCEPTANCE OF 2009 PAVEMENT RESURFACING PROJECT (PHASE I)
PROJECT NO. 08-12556330

RECOMMENDED ACTION

Staff recommends that the City Council:

1. Accept the work as complete for 2009 Pavement Resurfacing Project (Phase I), constructed by Hardy & Harper, Inc., 1312 East Warner Avenue, Santa Ana, CA 92705.
2. Direct the City Clerk to record the Notice of Completion within ten (10) calendar days at the office of the County Recorder of Riverside County, as required by Section 3093 of the California Civil Code.
3. Authorize the Financial and Administrative Services Director to release the retention to Hardy & Harper, Inc., thirty-five (35) calendar days after the date of recordation of the Notice of Completion, if no claims are filed against the project.
4. Accept the improvements into the City's maintained road system.

BACKGROUND

On April 14, 2009, the City Council awarded the construction contract to Hardy & Harper, Inc., for the 2009 Pavement Resurfacing Project (Phase I). A Purchase Order in the amount of \$1,614,600 (the bid amount plus 15% contingency) was issued to the Contractor.

DISCUSSION

Hardy & Harper, Inc. completed the construction of 2009 Pavement Resurfacing Project (Phase I) on September 8, 2009. The project improved Eucalyptus Avenue (Towngate Boulevard to Heacock Street), Town Circle (Heritage Way to Centerpointe Drive), Heritage Way (Town Circle to Towngate Boulevard) and Indian Street (St. Thomas Avenue to Katrina Avenue). The Contractor completed the work in seventy (70) working days.

The original contract total was for \$1,404,000. A Purchase Order in the amount of \$1,614,600 was issued. One Contract Change Order increased the contract total by \$103,002.63. The final contract total cost is \$1,507,002.63, which did not exceed the amount of the approved purchase order.

ALTERNATIVES

1. Accept the work as complete for 2009 Pavement Resurfacing Project (Phase I), constructed by Hardy & Harper, Inc., 1312 East Warner Avenue, Santa Ana, CA 92705, direct the City Clerk to record the Notice of Completion within ten (10) calendar days at the office of the County Recorder of Riverside County, as required by Section 3093 of the California Civil Code, authorize the Financial and Administrative Services Director to release the retention to Hardy & Harper, Inc., thirty-five (35) calendar days after the date of recordation of the Notice of Completion, if no claims are filed against the project, and accept the improvements into the City's maintained road system. *This alternative will result in payment to the contractor and acceptance of the improvements into the City's maintained road system.*
2. Do not accept the work as complete for 2009 Pavement Resurfacing Project (Phase I), constructed by Hardy & Harper, Inc., 1312 East Warner Avenue, Santa Ana, CA 92705, do not direct the City Clerk to record the Notice of Completion within ten (10) calendar days at the office of the County Recorder of Riverside County, as required by Section 3093 of the California Civil Code, do not authorize the Financial and Administrative Services Director to release the retention to Hardy & Harper, Inc., thirty-five (35) calendar days after the date of recordation of the Notice of Completion, if no claims are filed against the project, and do not accept the improvements into the City's maintained road system. *This alternative will result in delaying payment to the contractor, delaying acceptance of the improvements into the City's maintained road system, and incurring extra cost to the City.*

FISCAL IMPACT

The construction phase of this project is included in Fiscal Year 2008-2009 and 2009-2010 Capital Improvements Project Budget and is financed by Proposition 1B (Fund 226). There is no impact to the General Fund.

AVAILABLE BUDGET:

2009 Pavement Resurfacing Project (Phase 1) (Acct. No. 226.79728).....	<u>\$2,161,000</u>
Total Budget.....	<u>\$2,161,000</u>

FINAL CONSTRUCTION RELATED COSTS:

Construction Contract.....	\$1,507,003
Materials Testing and Surveying Services	\$43,000
Project Administration, Engineering and Inspection	<u>\$62,000</u>
Total Project Construction Costs.....	<u>\$1,612,003</u>

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

Hardy & Harper, Inc. completed the construction of the 2009 Pavement Resurfacing Project (Phase I) on September 8, 2009. The City Council is requested to accept the work as complete, direct the City Clerk to record the Notice of Completion, authorize the release of retention to Hardy & Harper, Inc., and accept the improvements into the City’s maintained road system.

ATTACHMENTS

Attachment “A” – Location Map

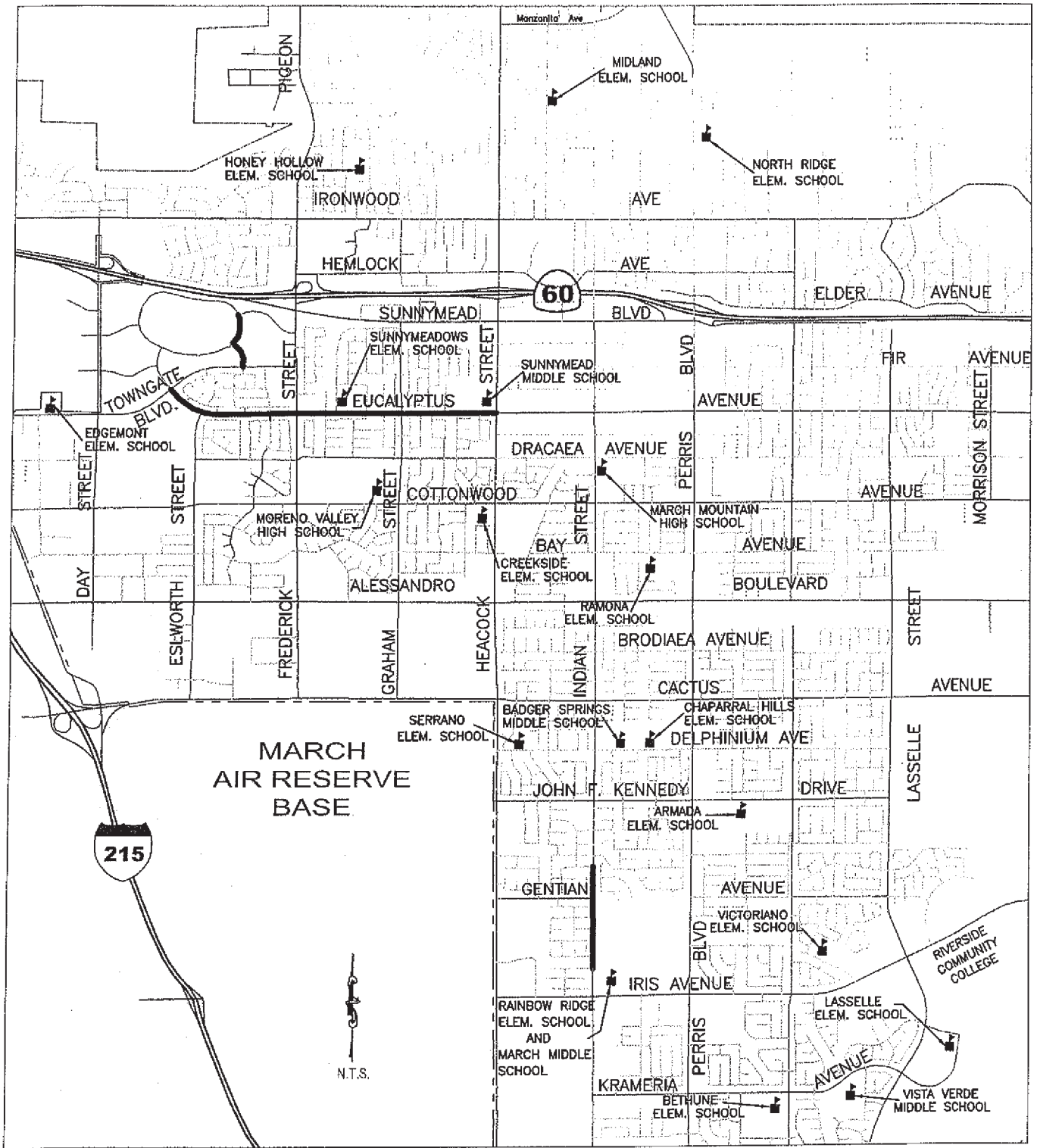
Prepared By:
 Bruce E. Blank, P.E., L.S.
 Consultant Project Manager

Department Head Approval:
 Chris A. Vogt, P.E.
 Public Works Director/City Engineer

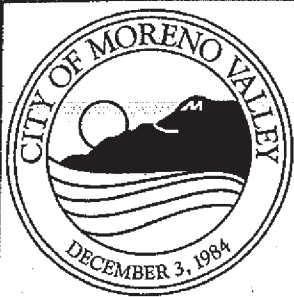
Concurred By:
 Prem Kumar, P.E.
 Deputy Public Works Director/Assistant City Engineer

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

W:\CapProj\CapProj\PROJECTS\Bruce - 08-12556330 - 2008-2009 Pavement Resurfacing Project\CC Reports\Notice of Completion Ph I CC 11-10-09.doc



W:\CAPMPO\LOCAL\PROJECTS\AVM\AVM - 09-1255-001 - 2025-2029 PAVEMENT RESURFACING PROJECT\AVM\AVM_13_25.DWG



LOCATION MAP

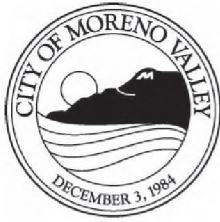
Public Works Department
Capital Projects Division

Scale: None

ATTACHMENT "A"

PAVEMENT RESURFACING PROGRAM

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APPROVALS	
BUDGET OFFICER	<i>my</i>
CITY ATTORNEY	<i>set</i>
CITY MANAGER	<i>RM</i>

Report to City Council

TO: Mayor and City Council

FROM: Chris A. Vogt, P.E., Public Works Director/City Engineer

AGENDA DATE: November 10, 2009

TITLE: TRACT 31212 PRIVATE DRIVEWAY – RELEASE THE FAITHFUL PERFORMANCE BOND AND THE MATERIAL AND LABOR BOND

DEVELOPER – WESTERN PACIFIC HOUSING, INC.
A DELAWARE CORPORATION
2280 WARDLOW CIRCLE, SUITE 100
CORONA, CA 92880

RECOMMENDED ACTION

Staff recommends that the City Council:

Authorize the City Engineer to execute the release of the Faithful Performance Bond and the Material and Labor Bond.

ADVISORY BOARD/COMMISSION RECOMMENDATION

Not applicable.

BACKGROUND

On November 25, 2003, the City Council of the City of Moreno Valley approved Tentative Tract Map 31212. The tentative tract map was a proposal to subdivide 146 lots. On September 28, 2004, the City Council of the City of Moreno Valley approved the Public Improvement Agreement and Bonds for Tract 31212.

Part of the Conditions of Approval for this project required the developer to construct a private driveway for the property located at the southwesterly corner of Morrison Street

and Cottonwood Avenue, because their existing circular drive approach was interrupted by the public improvements. The developer had been unable to reach a fair and equitable agreement with the land owner of the private property, and requested the City bond for this portion of the project separately. The City provided the developer and landowner five years to reach a fair and equitable agreement.

On October 10, 2006, City Council accepted the Agreement for Private Improvements. The developer entered into the Agreement, provided surety bonds and agreed to perform and complete all of the required improvements within sixty (60) months of the date the agreement is executed. The private improvements included asphalt pavement, driveway approach, retaining wall, wrought iron fence, landscaping, and irrigation. Accompanying the agreement were a Faithful Performance Bond in the amount of \$163,000 and a Material & Labor Bond in the amount of \$81,500 issued by Safeco Insurance Company of America.

DISCUSSION

On February 21, 2008, the developer and land owner executed a Settlement Agreement and General Release. Since both parties have entered into the agreement, City staff has determined that it is no longer necessary to require the developer to construct the private driveway improvements and consider the condition of approval satisfied. It is therefore appropriate to release the Faithful Performance Bond in the amount of \$163,000 and the Material and Labor Bond in the amount of \$81,500 issued by Safeco Insurance Company of America.

ALTERNATIVES

1. Authorize the City Engineer to execute the release of the Faithful Performance Bond, and the Material and Labor Bond. *It is no longer required for the developer to construct the private driveway improvements because both the developer and land owner have entered into an alternate Settlement Agreement and General Release.*
2. Do not authorize the City Engineer to release the Faithful Performance Bond, and release the Material and Labor Bond. *It is no longer required for the developer to construct the private driveway improvements because both the developer and land owner have entered into an alternate Settlement Agreement and General Release.*

FISCAL IMPACT

No fiscal impact is anticipated.

CITY COUNCIL GOALS

Not applicable

NOTIFICATION

Publication of agenda

EXHIBITS

Exhibit "A" - Vicinity Map

Exhibit "B" - Agreement for Private Improvements

Exhibit "C" - Faithful Performance Bond

Exhibit "D" - Material and Labor Bond

Exhibit "E" - Settlement Agreement and General Release

Prepared By
Anitra N. Holt
Management Analyst

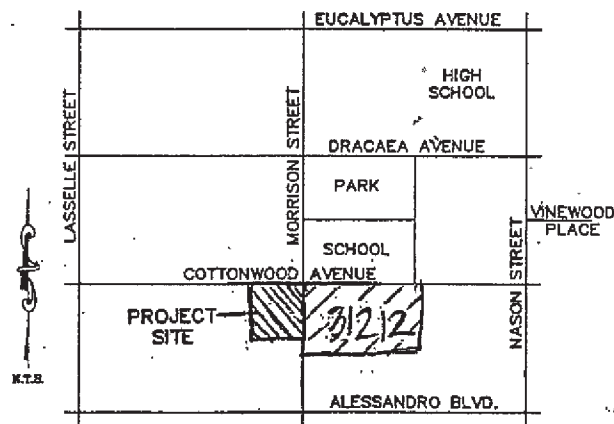
Department Head Approval
Chris A. Vogt, P.E.
Public Works Director/City Engineer

Concurred By
Mark W. Sambito, P.E.
Engineering Division Manager

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

W:\LandDev\MANAGEMENT ASSISTANT\Staff Reports\2009\11-10-09 TR 31212 - 100% Bond Exoneration.doc

Approximate Location of Private Driveway



**CITY OF MORENO VALLEY
PUBLIC WORKS - LAND DEVELOPMENT
EXHIBIT "A"**

**TRACT 31212
PRIVATE DRIVEWAY
VICINITY MAP**

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RECORDING REQUESTED BY:
City of Moreno Valley

WHEN RECORDED, RETURN TO:

CITY OF MORENO VALLEY
City Clerk
P. O. Box 88005
Moreno Valley, CA 92552-0805

No recording fee per Government Code, Section 6103

This space for Recorder's use only.

**AGREEMENT FOR PRIVATE IMPROVEMENTS
PROJECT NO. TRACT 31212 PRIVATE DRIVEWAY**

**Recorded October 7, 2004, Book 365 of Maps, Pages 21-26
No. 2004-0797665**

This Agreement, made and entered into by and between the City of Moreno Valley, State of California, hereinafter called City, and **WESTERN PACIFIC HOUSING, INC.**, herein after called Contractor, on the date signed by the Mayor of the City.

WITNESSETH:

FIRST: Contractor, for and in consideration of the approval by the City of the final map of that certain land division, or that certain other land development project, known as **TRACT 31212 PRIVATE DRIVEWAY** agrees, at Contractor's own expense, to furnish all labor, equipment and material necessary, and within **SIXTY (60)** months from the date this Agreement is executed, to perform and complete in a good and workmanlike manner, all of the required improvements in accordance with those improvement plans for said project, in accordance with the conditions of approval for Tract 31212 (LD58-LD61), which have been approved by the City Engineer, and are on file in the office of the City Engineer, and to do all work incidental thereto in accordance with the standards set forth in City ordinances and regulations, and pay all costs of engineering necessary in connection therewith, which are expressly made a part of this Agreement. All of the above required work shall be done under the inspection of and to the satisfaction of the City Engineer, and shall not be deemed complete until approved and accepted as complete by the City. If the developer has not reached an agreement with the homeowner to complete the driveway within the five (5) year period (from the date of this agreement), and the Developer provides documentation to the City that it has negotiated in good-faith, the City may decide that the Developer will no longer be obligated for the driveway improvements, the Developer's bonds/surety (Faithful Performance, and Material and Labor) will be taken to City Council for 100% release, and the City will drop its involvement with the issue. If the developer fails to negotiate in good faith, the City will call the bonds. If the Developer reaches an agreement with the property owner and builds the extended driveway, Developer further agrees to guarantee the required improvements for a period of one year following acceptance by the City and during this one year period to repair and replace, to the satisfaction of the City Engineer, any defective work or labor done or defective materials furnished. Contractor shall complete the improvements described in this paragraph pursuant to Section 66462, Government Code. Contractor shall also complete any offsite improvements required as a condition of approval and with plans approved by the City Engineer at such time as the City acquires an interest in the land which will permit the improvements to be made, and the Contractor waives the 120 day time limitation set forth in Section 66462.5, Government Code. The estimated cost of said work and improvements, pursuant to the Preliminary Estimate of Cost labeled Exhibit A attached hereto, is the sum of **ONE HUNDRED SIXTY THREE THOUSAND AND NO/100 Dollars (***\$163,000.00***)**.

SECOND: Contractor agrees to pay to the City the actual cost of such inspection of the works and improvements as may be required by the City Engineer. Contractor further agrees that, if suit is brought upon this Agreement or any bond guaranteeing the completion of the required improvements, all costs and reasonable expenses and fees incurred by the City in successfully enforcing such obligations shall be paid by Contractor and guaranteed by the surety in addition to the face amount of the security, including reasonable attorney's fees, and that, upon entry of judgment, such costs, expenses and fees shall be taxed as costs and included in any judgment rendered.

THIRD: City shall not, nor shall any officer or employee of City, except for its or their sole negligence, be liable or responsible for any accident, loss or damage happening or occurring to the works specified in this Agreement prior to the completion and approval thereof, nor shall City or any officer or employee thereof, be liable for any persons or property injured by reason of the nature of the work, or by reason of the acts or omissions of Contractor, his agents or employees, in the performance of the work, and all of said liabilities are assumed by Contractor. Contractor agrees to protect, defend and hold harmless City and the officers and employees thereof from all loss, liability or claim because of, or arising out of the acts or omissions of Contractor, his agents and employees, in the performance of this Agreement, or arising out of the use of any patent or patented article in the performance of this Agreement.

EXHIBIT "B"

Item No. A.7

FOURTH: The Contractor hereby grants to the City and/or to any authorized agent or employee of the City, the irrevocable permission to enter upon the lands of the above-referenced land division for the purpose of completing the improvements. This permission shall terminate in the event that the Contractor has completed the work within the time specified or any extension thereof granted by the City.

FIFTH: Contractor agrees at all times, up to the completion and acceptance of the improvements by the City, to give good and adequate warning to the traveling public of each and every dangerous condition caused by the construction of the improvements, and to protect the traveling public from such defective or dangerous conditions. The contractor shall keep all traveled ways that are a part of, or affected by the construction of this project free and clear of mud, dirt and debris and shall provide twice monthly street sweeping service. A copy of the contract for street sweeping service shall be provided to the City. The Contractor's obligation under this provision shall be secured by the bonds securing performance of this Agreement.

SIXTH: The Contractor, his agents and employees, shall give notice to the City Engineer at least 48 hours before beginning any work and shall furnish said City Engineer all reasonable facilities for obtaining full information with respect to the progress and manner of work.

SEVENTH: If the Contractor, or his agents or employees, neglects, refuses, or fails to prosecute the work with such diligence as to insure its completion within the specified time, or within such extensions of time as have been granted by the City, or if the Contractor violates, neglects, refuses, or fails to perform satisfactorily any of the provisions of the plans and specifications, he shall be in default of this Agreement and notice in writing of such default shall be served upon him. The City Council shall have the power, on recommendation by the City Engineer, to terminate all rights of the Contractor because of such default. The determination by the City Engineer of the question as to whether any of the terms of the Agreement or specifications have been violated, or have not been performed satisfactorily, shall be conclusive upon the Contractor, and any and all parties who may have any interest in the Agreement or any portion thereof. The foregoing provisions of this section shall be in addition to all other rights and remedies available to the City under law.

EIGHTH: Contractor agrees to file with City, prior to the date this Agreement is executed, a good and sufficient improvement security in an amount not less than the estimated cost of the work and improvements for the faithful performance of the terms and conditions of this Agreement, and good and sufficient security for payment of labor and materials in the amount prescribed by City ordinances and regulations to secure the claims to which reference is made in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code of the State of California. Contractor agrees to renew each and every said bond or bonds with good and sufficient sureties or increase the amounts of said bond or bonds, or both, within ten (10) days after being notified by the City Engineer that the sureties or amounts are insufficient. Notwithstanding any other provision herein, if Contractor fails to take such action as is necessary to comply with said notice, he shall be in default of this Agreement unless all required improvements are completed within ninety (90) days of the date on which the City Engineer notified the Contractor of the insufficiency of the security or the amount of the bonds or both.

NINTH: It is further agreed by and between the parties hereto, including the surety or sureties on the bonds securing this Agreement that, in the event it is deemed necessary to extend the time of completion of the work contemplated to be done under this Agreement, extensions of time **may** be granted by the City from time to time, either at its own option, or upon request of Contractor, and such extensions shall in no way affect the validity of this Agreement or release the surety or sureties on said bonds, Contractor further agrees to maintain the aforesaid bonds in full force and effect during the terms of this Agreement, including any extensions of time as may be granted therein.

TENTH: It is understood and agreed by the parties hereto that if any part, term or provision of this Agreement is by the courts held to be unlawful and void, the validity of the remaining portions shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term or provision held to be invalid.

AGREEMENT FOR PROJECT NO. TRACT 31212 PRIVATE DRIVEWAY
PRIVATE IMPROVEMENTS

PAGE THREE

ELEVENTH: Any notice or notices required or permitted to be given pursuant to this Agreement shall be served on the other party by mail, postage prepaid, at the following addresses:

City:
City Engineer
P.O. Box 88005
14177 Frederick
Moreno Valley, CA 92552-0805

Contractor:
Western Pacific Housing, Inc.
16755 Von Karman Avenue, Suite 200
Irvine, CA 92606

IN WITNESS WHEREOF Contractor has affixed his name, address and seal.

Date approved by the City: October 10, 2006

WESTERN PACIFIC HOUSING, INC.:

By: [Signature] ASST. VICE PRESIDENT
Title

By: [Signature] VICE PRESIDENT
Title

ATTEST:
CITY CLERK
OF THE CITY OF MORENO VALLEY

By: [Signature]
City Clerk

(SEAL)

CITY OF MORENO VALLEY

By: [Signature]
Mayor

APPROVED AS TO FORM:
CITY ATTORNEY

Date: 10/10/06

By: [Signature]
City Attorney

NOTE: TWO SIGNATURES ARE REQUIRED FOR CORPORATIONS UNLESS CORPORATE DOCUMENTS ARE PROVIDED THAT INDICATE OTHERWISE.

SIGNATURES OF CONTRACTOR MUST BE EXECUTED IN QUADRUPPLICATE AND THE EXECUTION OF THE ORIGINAL COPY MUST BE ACKNOWLEDGED BEFORE A NOTARY
ORIGINAL - CITY CLERK; PINK - CONTRACTOR; GREEN - PUBLIC WORKS/LAND DEVELOPMENT; BLUE - PROJECT FILE

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of ORANGE } ss.

On AUGUST 18, 2006 before me, MELISSA SEMINARO, NOTARY PUBLIC,
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared MARRIET RAPISTA & TODD FUNK
Name(s) of Signer(s)

personally known to me
 ~~proved to me on the basis of satisfactory evidence~~



to be the person(s) whose name(s) ~~is/are~~ subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(ies), and that by ~~his/her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Melissa Seminario
Signature of Notary Public

OPTIONAL

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

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

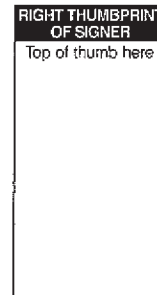
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____



ENGINEER'S ESTIMATE

DATE:
 PREPARED BY: Guy Pegan
 PROJECT:

**TEMPORARY DRIVEWAY CONSTRUCTION
 FOR GONZALEZ FAMILY**

M. J. Pegan
 8/1/06

TYPE	QUANTITY	UNIT	UNIT PRICE	TOTAL
Roadway Excavation	40	C.Y.	20.00	800
A.B. Class II	0	Thickness (ft.)		
	0	S.F.	55.00	0
A.C.	0	Thickness (ft.)		
	0	S.F.	90.00	0
A.B. Class II	0	Thickness (ft.)		
	0	S.F.	55.00	0
A.C.	0	Thickness (ft.)		
	0	S.F.	90.00	0
Grind & Pave	0	S.F.	3.25	
A.C. Cap	0	Ton	90.00	0
A.C. Overlay	0	Ton	90.00	0
Slurry Seal	0	S.Y.	2.25	0
Sawcut	0	L.F.	1.50	0
Utility Trench	0	L.F.	17.00	0
Trench Paving	0	S.F.	12.00	0
Curb and Gutter - 6"	0	L.F.	22.00	0
Curb and Gutter - 8"	0	L.F.	25.00	0
Curb Only - 6"	0	L.F.	18.00	0
Curb Only - 8"	0	L.F.	20.00	0
Cross Gutter and Spandrel	0	S.F.	15.00	0
Sidewalk	0	S.F.	7.00	0
Driveway Approach - 6"	192	S.F.	14.00	2,688
Driveway Approach - 8"	0	S.F.	16.00	0
Wheelchair Ramp	0	EA.	1,200.00	0
P.C.C. Paving - 6"	0	S.F.	14.00	0
P.C.C. Paving - 8"	0	S.F.	16.00	0
A.C. Berm - 6"	0	L.F.	10.00	0
A.C. Berm - 8"	0	L.F.	15.00	0
Redwood Header	0	L.F.	6.00	0
Walls - Masonry: 6' Maximum	0	L.F.	100.00	0
Walls - Retaining: 6' Maximum	300	L.F.	150.00	45,000
1/2 Alley Apron	0	S.F.	16.00	0
Adjust M.H. to Grade	0	EA.	800.00	0
Adjust Water Valve to Grade	0	EA.	400.00	0
Erosion Control	0	A.C.	10,000.00	0
Chain Link Fence	0	L.F.	20.00	0
Wrought Iron Fence	300	L.F.	45.00	13,500
Landscaping & Irrigation	1500	S.F.	6.00	9,000
P.C.C. Paving - 4"	6020	S.F.	9.00	54,180
Rock Removal	1	L.S.	10,000.00	10,000
		SUBTOTAL:		135,168

DATE: 07/27/06
 PREPARED BY: Guy Pegan
 PROJECT: Gonzalez Drwy.

M. J. [Signature]
 8/1/06

STORM DRAIN SYSTEM

TYPE	QUANTITY	UNIT	UNIT PRICE	TOTAL
12" Reinforced Concrete Pipe	0	L.F.	130.00	0
18" Reinforced Concrete Pipe	0	L.F.	140.00	0
24" Reinforced Concrete Pipe	0	L.F.	160.00	0
30" Reinforced Concrete Pipe	0	L.F.	180.00	0
36" Reinforced Concrete Pipe	0	L.F.	190.00	0
42" Reinforced Concrete Pipe	0	L.F.	210.00	0
48" Reinforced Concrete Pipe	0	L.F.	250.00	0
54" Reinforced Concrete Pipe	0	L.F.	300.00	0
60" Reinforced Concrete Pipe	0	L.F.	350.00	0
12" HDPE	0	L.F.	45.00	0
18" HDPE	0	L.F.	50.00	0
24" HDPE	0	L.F.	55.00	0
30" HDPE	0	L.F.	60.00	0
36" HDPE	0	L.F.	70.00	0
42" HDPE	0	L.F.	80.00	0
48" HDPE	0	L.F.	90.00	0
54" HDPE	0	L.F.	125.00	0
50" HDPE	0	L.F.	140.00	0
4" PVC SCH. 40	0	L.F.	25.00	0
4" PVC SCH. 80	0	L.F.	30.00	0
6" PVC SCH. 40	0	L.F.	30.00	0
6" PVC SCH. 80	0	L.F.	35.00	0
8" PVC SCH. 40	0	L.F.	40.00	0
8" PVC SCH. 80	0	L.F.	48.00	0
Manhole No. 1	0	EA.	5000.00	0
Manhole No. 2	0	EA.	5500.00	0
Manhole No. 3	0	EA.	6500.00	0
Manhole No. 4	0	EA.	7000.00	0
24" X 24" Grate basin	0	EA.	2500.00	0
18" X 18" Grate Basin	0	EA.	2100.00	0
6" Wide Strip Basin	0	EA.	3000.00	0
Catch Basin (3.5')	0	EA.	3100.00	0
Transition Structure	0	EA.	5500.00	0
Junction Structure	0	EA.	6000.00	0
Inlet Structure (Drop)	0	EA.	5000.00	0
12" NDS Catch Basin	0	EA.	35.00	0
ADS Pipe Cleanout	0	EA.	10.00	0
Grate Inlet	0	EA.	1500.00	0
Rip Rap	0	TON	60.00	0
Parkway Drain	0	EA.	3500.00	0

MJ 8/01/06

Removal/Relocation- Catch Basin	0 EA.	5000.00	0
Outlet Structure	0 EA.	8000.00	0
Concrete Collar (to 48")	0 EA.	3000.00	0
Headwall	0 E.A.	5500.00	0
Concrete Pipe Slope Anchor	0 EA.	2500.00	0
Reinforced Concrete Structure	0 C.Y.	500.00	0
Terrace Drain	0 S.F.	10.00	0
Down Drain	0 S.F.	10.00	0
Under Sidewalk Drain	0 E.A.	600.00	0
Curb Outlet	0 E.A.	250.00	0
"V" Gutter	0 S.F.	10.00	0
		SUBTOTAL	0

DATE: 08/01/06
 PREPARED BY: Guy Pegan
 PROJECT: Gonzalez Drwy.

M. J. 8/1/06

WATER SYSTEM

TYPE	QUANTITY	UNIT	UNIT PRICE	TOTAL
12" PVC C-900	0	L.F.	44.00	0
10" PVC C-900	0	L.F.	38.00	0
8" PVC C-900	0	L.F.	32.00	0
6" PVC C-900	0	L.F.	28.00	0
4" PVC C-900	0	L.F.	24.00	0
12" Gate Valve	0	EA.	2,000.00	0
10" Gate Valve	0	EA.	1,200.00	0
8" Gate Valve	0	EA.	1,000.00	0
6" Gate Valve	0	EA.	800.00	0
4" Gate Valve	0	EA.	600.00	0
12" Butterfly Valve	0	EA.	1,800.00	0
10" Butterfly Valve	0	EA.	1,000.00	0
8" Butterfly Valve	0	EA.	800.00	0
6" Butterfly Valve	0	EA.	520.00	0
4" Butterfly Valve	0	EA.	330.00	0
10" Double Check Detector Ass'y	0	EA.	5,000.00	0
6" Post Indicator Valve	0	EA.	500.00	0
8" Water Check Valve	0	EA.	800.00	0
6" Fire Hydrants	0	EA.	2,000.00	0
4" Fire Hydrants	0	E.A.	1,200.00	0
Misc. Fittings (Tees, Crosses, Etc.) L/S				
4"	0	EA.	120.00	0
6"	0	EA.	160.00	0
8"	0	EA.	200.00	0
10"	0	EA.	240.00	0
12"	0	EA.	280.00	0
Service Connections	0	EA.	300.00	0
Fire Dept. Connection	0	E.A.	500.00	0
Service Connections 1"	0	E.A.	350.00	0
Service Connections 1 1/2"	0	E.A.	1,100.00	0
Service Connections 2"	0	E.A.	1,300.00	0
Dbl. Detector Chk 6"	0	E.A.	2,600.00	0
Dbl. Detector Chk 8"	0	E.A.	3,600.00	0
Dbl. Detector Chk 10"	0	E.A.	4,400.00	0
Dbl. Dectector Chk 12"	0	E.A.	5,000.00	0
5/8" Meter	0	E.A.	80.00	0
1" Meter	0	E.A.	150.00	0
1/2" Meter	0	E.A.	270.00	0
2" Meter	0	E.A.	350.00	0
Post Indicator Valve	0	E.A.	800.00	0
Blow Off 6"	0	E.A.	1,800.00	0
Blow Off 4"	0	E.A.	1,600.00	0
Air Vac & Air Release	0	EA.	850.00	0

Air Vac Release 2"	0 E.A.	2,000.00	0
Air Vac Release 1"	0 E.A.	1,800.00	0
Hot Tap 8"	0 EA.	2,500.00	0
Hot Tap Water Service	0 E.A.	330.00	0
12" BFV	0 EA.	1,000.00	0
8" BFV	0 EA.	500.00	0
Thrust Block	0 C.Y.	150.00	0
Jack & Bore	0 E.A.	300.00	0
Joint at Existing @ Existing 8"	0 E.A.	650.00	0
Trench Paving	0 S.F.	5.00	0
		SUBTOTAL	0

DATE: 08/01/06
 PREPARED BY: Guy Pegan
 PROJECT: Gonzalez Drwy.

M. J. 8/1/06

SEWER SYSTEM

TYPE	QUANTITY	UNIT	UNIT PRICE	TOTAL
12" V.C. Pipe	0	L.F.	44.00	0
10" V.C. Pipe	0	L.F.	38.00	0
8" V.C. Pipe	0	L.F.	32.00	0
6" V.C. Pipe	0	L.F.	28.00	0
4" V.C. Pipe	0	L.F.	24.00	0
12" SDR - 35	0	L.F.	33.00	0
10" SDR - 35	0	L.F.	21.00	0
8" SDR - 35	0	L.F.	17.00	0
6" SDR - 35	0	L.F.	13.00	0
4" SDR - 35	0	L.F.	9.00	0
Standard Manholes 48"	0	EA.	2,000.00	0
Standard Manholes 48" Extra Depth	0	EA.	2,500.00	0
Standar Manhole 60"	0	EA.	2,800.00	0
Shallow Manhole	0	EA.	2,000.00	0
Drop Manholes	0	EA.	1,700.00	0
Clean-outs	0	EA.	600.00	0
Clean Out Lateral	0	EA.	90.00	0
Wyes	0	EA.	90.00	0
Pavement Replacement	0	S.F.	3.00	0
Adjust Manhole to Grade	0	EA.	300.00	0
Tie into Manhole	0	EA.	1,000.00	0
Rechanel Existing Manhole	0	EA.	1,200.00	0
Concrete Encasement	0	L.F.	20.00	0
Join Existing 8" Pipe	0	EA.	400.00	0
Join Existing 12" Pipe	0	EA.	600.00	0
TV Sewer	0	L.F.	0.50	0
Trench Paving	0	S.F.	5.00	0
			SUBTOTAL	0

Sheet 5 of 5
08/01/06
Guy Pegan
Gonzalez Drwy.

DATE:
PREPARED BY:
PROJECT:

CITY OF MORENO VALLEY
PUBLIC WORKS DEPARTMENT - LAND DEVELOPMENT DIVISION
ONSITE IMPROVEMENT COMPUTATION SHEET
TEMPORARY DRIVEWAY CONSTRUCTION

MJP 8/1/06

IMPROVEMENT TYPE:

ON-SITE IMPROVEMENT :	\$135,168
STORM DRAIN :	\$0
WATER SYSTEM :	\$0
SEWER SYSTEM :	\$0
TOTAL COST OF IMPROVEMENTS:	\$135,168
20% CONTINGENCY:	\$27,034
<u>GRAND TOTAL:</u>	\$162,202

BOND AMOUNT: \$163,000

CHECKED BY: Mark Sambito

Assumptions:

This estimate was done without the benefit of a design drawing. All quantities were estimated and based on standard engineering practice and reasonable assumptions.

- Assumed concrete driveway 430 feet long, 14 feet average width and 4" thick
- Assumed 6-inch thick concrete drive approach, 16 feet wide
- Assumed retaining wall length of 300 feet, average height of 4 feet
- Assumed Wrought Iron fencing 400 feet long, 6 feet high
- Assumed rock removal cost lump sum of \$10,000
- Assumed 40 cubic yards of grading
- Assumed landscaping and irrigation area of 300 feet long by an average of 5 feet wide
- Assumes that irrigation water is provided by Gonzalez. Also assumes tie-in point for water and timer is nearby.
- Cost of encroachment permit as of 7/31/06, \$77.00
- Cost for inspection within public right-of-way as of 7/31/06, \$190.00
- Chain Link fencing along Morrison exists and is not required to be replaced.

NOTE: Please be advised that the total for this estimate is based on the City's estimated prevailing wage unit costs in addition to the 20% contingency. Actual non-prevailing wage prices may be lower.

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FAITHFUL PERFORMANCE BOND (Page 2 of 2)

PROJECT NO. Tract 31212 Private Driveway

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications. Surety further stipulates and agrees that the provisions of Section 2845 of the Civil Code are not a condition precedent to Surety's obligations hereunder and are hereby waived by Surety.

When the work covered by the agreement is complete, the City Council of the City of Moreno Valley will accept the work and thereupon the amount of the obligation of this bond is reduced by 90%, with the remaining 10% held as security for the one-year maintenance period provided for in the agreement(s).

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety above named on August 15, 2006.

NAME OF PRINCIPAL: Western Pacific Housing, Inc., a DELAWARE CORPORATION, dba
Company Name D.R. HORTON, AMERICA'S BUILDER

AUTHORIZED SIGNATURE(S): By [Signature] ASST. V.P.
Name Barbara M. Murakami Title
[Signature] VICE PRESIDENT
Name TODD FUNK Title
Name _____ Title

NAME OF SURETY: Safeco Insurance Company of America
Company Name _____

AUTHORIZED SIGNATURE: By: [Signature]
Anett Cardinale C/O WILLIS OF FLORIDA
3000 BAYPORT DRIVE, #300
TAMPA, FL 33607
INQUIRIES: (813) 281-2095
ITS ATTORNEY-IN-FACT

ATTACH NOTARIAL ACKNOWLEDGMENT OF SIGNATURE OF PRINCIPAL AND ATTORNEY-IN-FACT.
BOND COMPANY - ATTACH POWER OF ATTORNEY

Approved as to form:
Date: _____
[Signature]
City Attorney
City of Moreno Valley

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

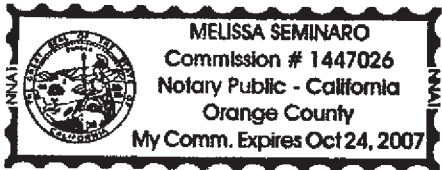
County of ORANGE

On 11/1/2006 before me, MELISSA SEMINARO, NOTARY PUBLIC,
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared BARBARA MURAKAMI & TODD P. FUNK
Name(s) of Signer(s)

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/hers~~ their authorized capacity(ies), and that by ~~his/hers~~ their signature(s) 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.

Place Notary Seal Above

Melissa Seminario
Signature of Notary Public

OPTIONAL

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

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

- Signer's Name: _____
- Individual
 - Corporate Officer — Title(s): _____
 - Partner — Limited General
 - Attorney in Fact
 - Trustee
 - Guardian or Conservator
 - Other: _____



Signer Is Representing: _____

- Signer's Name: _____
- Individual
 - Corporate Officer — Title(s): _____
 - Partner — Limited General
 - Attorney in Fact
 - Trustee
 - Guardian or Conservator
 - Other: _____



Signer Is Representing: _____

STATE OF Florida }
COUNTY OF Hillsborough } SS.

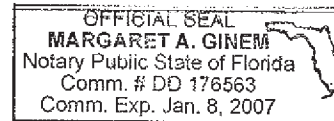
On August 15, 2006, before me, Margaret A. Ginem

PERSONALLY APPEARED Anett Cardinale

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

WITNESS my hand and official seal.

Signature Margaret A. Ginem
Margaret A. Ginem



This area for Official Notarial Seal

OPTIONAL

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

CAPACITY CLAIMED BY SIGNER

INDIVIDUAL
 CORPORATE OFFICER

TITLE(S)

PARTNER(S) LIMITED
 GENERAL
 ATTORNEY-IN-FACT
 TRUSTEE(S)
 GUARDIAN/CONSERVATOR
 OTHER: _____

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)
Safeco Insurance Company of America

DESCRIPTION OF ATTACHED DOCUMENT

TITLE OF TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE



POWER OF ATTORNEY

Safeco Insurance Company of America
General Insurance Company of America
Safeco Plaza
Seattle, WA 98185

No. 10171

KNOW ALL BY THESE PRESENTS:

That SAFECO INSURANCE COMPANY OF AMERICA and GENERAL INSURANCE COMPANY OF AMERICA, each a Washington corporation, does each hereby appoint

*****NELA BARNOLA; ANETT CARDINALE; DAVID H. CARR; JAMES W. DUNN; MARGARET A. GINEM; M. L. GRAY; PAMELA L. MORGAN; GLORIA ROBB; DENISE TAYLOR; Tampa, Florida*****

its true and lawful attorney(s)-in-fact, with full authority to execute on its behalf fidelity and surety bonds or undertakings and other documents of a similar character issued in the course of its business, and to bind the respective company thereby.

IN WITNESS WHEREOF, SAFECO INSURANCE COMPANY OF AMERICA and GENERAL INSURANCE COMPANY OF AMERICA have each executed and attested these presents

this 7th day of March, 2006

Handwritten signature of Stephanie Daley-Watson

STEPHANIE DALEY-WATSON, SECRETARY

Handwritten signature of Mike Peters

MIKE PETERS, PRESIDENT, SURETY

CERTIFICATE

Extract from the By-Laws of SAFECO INSURANCE COMPANY OF AMERICA and of GENERAL INSURANCE COMPANY OF AMERICA:

"Article V, Section 13. - FIDELITY AND SURETY BONDS ... the President, any Vice President, the Secretary, and any Assistant Vice President appointed for that purpose by the officer in charge of surety operations, shall each have authority to appoint individuals as attorneys-in-fact or under other appropriate titles with authority to execute on behalf of the company fidelity and surety bonds and other documents of similar character issued by the company in the course of its business... On any instrument making or evidencing such appointment, the signatures may be affixed by facsimile. On any instrument conferring such authority or on any bond or undertaking of the company, the seal, or a facsimile thereof, may be impressed or affixed or in any other manner reproduced; provided, however, that the seal shall not be necessary to the validity of any such instrument or undertaking."

Extract from a Resolution of the Board of Directors of SAFECO INSURANCE COMPANY OF AMERICA and of GENERAL INSURANCE COMPANY OF AMERICA adopted July 28, 1970.

"On any certificate executed by the Secretary or an assistant secretary of the Company setting out,

- (i) The provisions of Article V, Section 13 of the By-Laws, and
(ii) A copy of the power-of-attorney appointment, executed pursuant thereto, and
(iii) Certifying that said power-of-attorney appointment is in full force and effect,

the signature of the certifying officer may be by facsimile, and the seal of the Company may be a facsimile thereof."

I, Stephanie Daley-Watson, Secretary of SAFECO INSURANCE COMPANY OF AMERICA and of GENERAL INSURANCE COMPANY OF AMERICA, do hereby certify that the foregoing extracts of the By-Laws and of a Resolution of the Board of Directors of these corporations, and of a Power of Attorney issued pursuant thereto, are true and correct, and that both the By-Laws, the Resolution and the Power of Attorney are still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the facsimile seal of said corporation

this 15th day of August, 2006



Handwritten signature of Stephanie Daley-Watson

STEPHANIE DALEY-WATSON, SECRETARY

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MATERIAL AND LABOR BOND

City of Moreno Valley
County of Riverside
State of California
(Government Code Section 66499.2)

Public Improvements	<u>Mahoghany Fields Tract 31212 Private Driveway</u>	Project No.	<u>Tract 31212 Private Driveway</u>
Bond No.	<u>6416417</u>	Premium	<u>Included in Performance Bond</u>
Surety	<u>Safeco Insurance Company of America</u>	Principal	<u>Western Pacific Housing, Inc.</u>
Address	<u>2055 Sugarloaf Circle</u>	Address	<u>16755 Von Karman Ave., Ste. 200</u>
City/Zip	<u>Duluth, 30097</u>	City/Zip	<u>Irvine, 92606</u>

WHEREAS, the City Council of the City of Moreno Valley, County of Riverside, State of California, and Western Pacific Housing, Inc. (hereinafter designated as "Principal") have entered into, or are about to enter into the attached agreement whereby Principal agrees to install and complete the above-designated public improvements, relating to Tract 31212 Private Driveway, which agreement is hereby referred to and made a part hereof; and,

WHEREAS, under the terms of said agreement, principal is required before entering upon the performance of the work, to file a good and sufficient payment bond with the City of Moreno Valley to secure the claims to which reference is made in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code of the State of California.

NOW, THEREFORE, we the Principal, and the undersigned as corporate Surety, are held and firmly bound unto the City of Moreno Valley and all contractors, subcontractors, laborers, material persons and other persons employed in the performance of the aforesaid agreement and referred to in the aforesaid Civil Code in the sum of Eighty One Thousand Five Hundred Dollars and 00/100 Dollars (\$81,500.00), lawful money of the United States, for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that said Surety will pay the same in an amount not exceeding the amount hereinabove set forth, also in case suit is brought upon this bond, will pay, in addition to the face amount hereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgement therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

EXHIBIT "D"

RISK MANAGEMENT
Approved

D. Coakley

8/30/06

MATERIAL AND LABOR BOND (Page 2 of 2)

PROJECT NO. Tract 31212 Private Driveway



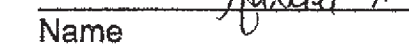
Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or the specifications accompanying the same shall in any manner affect its obligation on this bond, and it does hereby waive notice of any such change, extension, alteration or addition. Surety further stipulates and agrees that the provision of Section 2845 of the Civil Code are not a condition precedent to the Surety's obligations hereunder and hereby waived by the Surety.


In witness whereof, this instrument has been duly executed by the Principal and Surety above named, on
August 15, 2006

NAME OF PRINCIPAL: Western Pacific Housing, Inc.
Company Name


AUTHORIZED SIGNATURE(S):

By:		_____	_____
	Name		Title
		_____	_____
	Name		Title
		_____	_____
	Name		Title

NAME OF SURETY: Safeco Insurance Company of America
Company Name

AUTHORIZED SIGNATURE: By:  _____
M.L. Gray
C/O WELLS OF FLORIDA
3000 BAYPORT DRIVE, #300
TAMPA, FL 33607
INQUIRIES: (813) 281-2095
ITS ATTORNEY-IN-FACT

**ATTACH NOTARIAL ACKNOWLEDGMENT OF SIGNATURE OF PRINCIPAL AND ATTORNEY-IN-FACT.
BOND COMPANY – ATTACH POWER OF ATTORNEY**

Approved as to form:
Date: 10/11/06


City Attorney
City of Moreno Valley

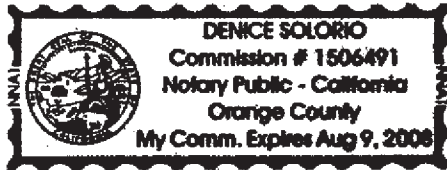
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of Orange } ss.

On August 25, 2006 before me, Denice Solorio Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared Todd Funk and Harriet Rapista
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.
[Signature]
Signature of Notary Public

OPTIONAL

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

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

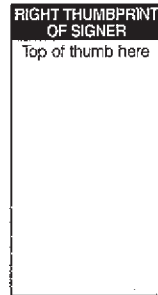
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____



STATE OF Florida }
COUNTY OF Hillsborough } SS.

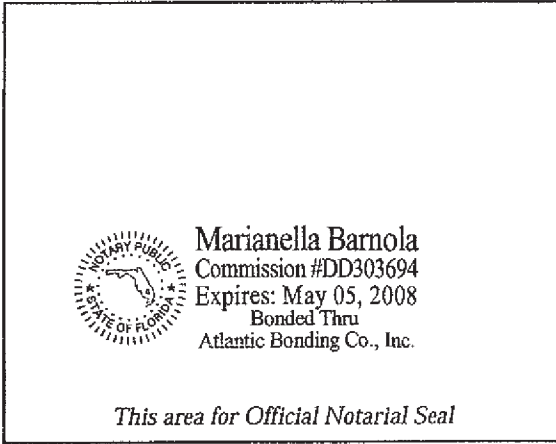
On August 15, 2006, before me, Marianella Barnola

PERSONALLY APPEARED M.L. Gray

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

WITNESS my hand and official seal.

Signature *Marianella Barnola*
Marianella Barnola



OPTIONAL

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

- CAPACITY CLAIMED BY SIGNER**
- INDIVIDUAL
 - CORPORATE OFFICER

TITLE(S)
 - PARTNER(S) LIMITED
 - GENERAL
 - ATTORNEY-IN-FACT
 - TRUSTEE(S)
 - GUARDIAN/CONSERVATOR
 - OTHER: _____

DESCRIPTION OF ATTACHED DOCUMENT

TITLE OF TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)
Safeco Insurance Company of America



POWER OF ATTORNEY

Safeco Insurance Company of America
General Insurance Company of America
Safeco Plaza
Seattle, WA 98185

No. 10171

KNOW ALL BY THESE PRESENTS:

That SAFECO INSURANCE COMPANY OF AMERICA and GENERAL INSURANCE COMPANY OF AMERICA, each a Washington corporation, does each hereby appoint

*****NELA BARNOLA; ANETT CARDINALE; DAVID H. CARR; JAMES W. DUNN; MARGARET A. GINEM; M. L. GRAY; PAMELA L. MORGAN; GLORIA ROBB; DENISE TAYLOR; Tampa, Florida*****

its true and lawful attorney(s)-in-fact, with full authority to execute on its behalf fidelity and surety bonds or undertakings and other documents of a similar character issued in the course of its business, and to bind the respective company thereby.

IN WITNESS WHEREOF, SAFECO INSURANCE COMPANY OF AMERICA and GENERAL INSURANCE COMPANY OF AMERICA have each executed and attested these presents

this 7th day of March 2006

Handwritten signature of Stephanie Daley-Watson

STEPHANIE DALEY-WATSON, SECRETARY

Handwritten signature of Mike Peters

MIKE PETERS, PRESIDENT, SURETY

CERTIFICATE

Extract from the By-Laws of SAFECO INSURANCE COMPANY OF AMERICA and of GENERAL INSURANCE COMPANY OF AMERICA:

"Article V, Section 13. - FIDELITY AND SURETY BONDS ... the President, any Vice President, the Secretary, and any Assistant Vice President appointed for that purpose by the officer in charge of surety operations, shall each have authority to appoint individuals as attorneys-in-fact or under other appropriate titles with authority to execute on behalf of the company fidelity and surety bonds and other documents of similar character issued by the company in the course of its business... On any instrument making or evidencing such appointment, the signatures may be affixed by facsimile. On any instrument conferring such authority or on any bond or undertaking of the company, the seal, or a facsimile thereof, may be impressed or affixed or in any other manner reproduced; provided, however, that the seal shall not be necessary to the validity of any such instrument or undertaking."

Extract from a Resolution of the Board of Directors of SAFECO INSURANCE COMPANY OF AMERICA and of GENERAL INSURANCE COMPANY OF AMERICA adopted July 28, 1970.

"On any certificate executed by the Secretary or an assistant secretary of the Company setting out,

- (i) The provisions of Article V, Section 13 of the By-Laws, and
(ii) A copy of the power-of-attorney appointment, executed pursuant thereto, and
(iii) Certifying that said power-of-attorney appointment is in full force and effect,

the signature of the certifying officer may be by facsimile, and the seal of the Company may be a facsimile thereof."

I, Stephanie Daley-Watson, Secretary of SAFECO INSURANCE COMPANY OF AMERICA and of GENERAL INSURANCE COMPANY OF AMERICA, do hereby certify that the foregoing extracts of the By-Laws and of a Resolution of the Board of Directors of these corporations, and of a Power of Attorney issued pursuant thereto, are true and correct, and that both the By-Laws, the Resolution and the Power of Attorney are still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the facsimile seal of said corporation

this 15th day of August 2006



Handwritten signature of Stephanie Daley-Watson

STEPHANIE DALEY-WATSON, SECRETARY

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SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement ("Agreement") is entered into by and between MARIA GONZALEZ, DIONISIO GONZALEZ and ROMULO GONZALEZ ("the Gonzalezes") and WESTERN PACIFIC HOUSING, INC. ("WPH") with respect to the following:

1. On May 1, 2007, the Gonzalezes filed a complaint in the Superior Court of California, County of Riverside, Case No. RIC470725, against D.R. Horton and City of Moreno Valley, alleging causes of action for negligence, trespass, nuisance and inverse condemnation.

2. WPH and the City of Moreno Valley filed Answers to the Complaint on August 6, 2007 and September 6, 2007, respectively, denying the material allegations thereof.

3. The Gonzalezes, WPH and the City of Moreno Valley desire to settle the referenced litigation, none of the parties admitting any liability or fault, whether as alleged or otherwise.

IT IS THEREFORE AGREED AS FOLLOWS:

COVENANTS AND AGREEMENTS

1. In consideration of the mutual promises and releases contained herein, the Gonzalezes will file a Dismissal with prejudice of the entire action in exchange for payment by WPH in the amount of One Hundred Seventy Five Thousand Dollars (\$175,000.00), made payable to the Gonzalezes and their counsel of record.

2. This settlement is the resolution of a disputed claim. Each party acknowledges and agrees that the other party, in entering into the settlement, denies any fault, liability or wrongdoing, whether as alleged or otherwise.

3. The Gonzalezes, for themselves, and for their executors, assigns, administrators, successors, parent, subsidiaries agents, employees, attorneys, trustees, insurers and all others claiming by or through them, hereby release and forever discharge WPH, the City of Moreno Valley, and their respective executors, assigns, administrators, successors, parent, subsidiaries, agents, employees, attorneys, trustees, insurers and any and all others acting on their behalf, from any and all known and/or unknown claims, demands, allegations, liabilities or causes of action, whether previously alleged or otherwise, of any nature whatsoever, that the Gonzalezes had, have, or may have against WPH

and the City of Moreno Valley. The Gonzalezes agree that this release relieves WPH and the City of Moreno Valley of any and all obligations to perform, oversee and/or ensure any work or construction occurs at or around plaintiffs' subject property.

4. The Gonzalezes hereto acknowledge that they are aware that they may hereafter discover facts different from, or in addition to, those they know or believe to be true with respect to the claims, causes of action, and liabilities herein released and they agree the Agreement herein shall be and remain in all respects a complete and general release as to all matters released herein as specified in Paragraph 3 above, notwithstanding any such unknown or additional facts.

5. The Gonzalezes, being aware of the provisions of California Civil Code §1542, expressly agree to waive the same. Said section provides as follows:

A general release does not extend to claims which the creditor does not know or suspect 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.

The Gonzalezes, being advised by counsel, voluntarily waive the provisions of said section. In accord with Paragraph 3 above, this provision shall be a general release of any and all claims by the Gonzalezes, whether known or unknown, which exist as of the date of this Agreement.

6. The parties, their attorneys and representatives agree that the terms and provisions of this Agreement shall remain confidential and the parties shall not disclose or represent the terms or provisions of this Agreement to the mass media, to any jury verdict reporting agency, to the press, to any person, firm, corporation or any other entity. Notwithstanding any other provision contained in this paragraph and in this Agreement, the parties may disclose the amount or terms of this settlement to their attorneys, accountants, Internal Revenue Service, Franchise Tax Board, other governmental taxing authorities, or as required by law.

7. The Gonzalezes represent and warrant that they have not heretofore assigned or transferred or purported to assign or transfer to any person, or entity any claim, cause of action, or any other matter herein released.

8. This Agreement shall inure to the benefit of and bind the parties hereto, their agents, employees, parents, subsidiaries, successors or assigns, and any and all persons or entities claiming by or through or acting on behalf of any party hereto.

9. There are no third parties intended to be benefited by this Agreement, except as expressed herein.

10. This Agreement may be executed in any number of counterparts, any such counterpart, when executed, shall constitute an original of the Agreement, and all such counterparts together shall constitute one and the same Agreement.

11. If any provision of this Agreement or application thereof is held invalid, such invalidity shall not affect other provisions of the Agreement. To this end, the provisions of this Agreement are severable.

12. This Agreement constitutes the sole and exclusive agreement between the parties and the subject matter hereof. There are no representations made or relied upon other than as contained herein. This Agreement shall not be amended except by agreement in writing signed by all of the parties.

13. The parties hereto acknowledge each has read this Agreement, that each fully understands its rights, privileges and duties under this Agreement, and that each enters this Agreement freely and voluntarily. Each party further acknowledges each has had the opportunity to consult an attorney of its choice to explain the terms of this Agreement and the consequences of signing it.

14. In the event of a dispute hereunder, any litigation concerning the making, performance or execution of this Agreement or any other dispute between the parties shall be adjudicated by a Court having jurisdiction over the matter located in Riverside County, California. The prevailing party in any such action shall be entitled to recover their reasonable attorneys fees and costs.


15. This Agreement and the provisions contained herein should not be construed or interpreted for or against any party hereto because that party drafted or caused that party's legal representative to draft any of its provisions.

16. Each of the parties hereto understands that the releases contained herein include all claims for costs, expenses and attorney fees, taxable or otherwise, incurred by any of the parties hereto.

Dated: 02-06-2008 Maria Gonzalez
Maria Gonzalez


Dated: ⁰²⁻⁰⁶02-06-2008 Dionisio Gonzalez
Dionisio Gonzalez

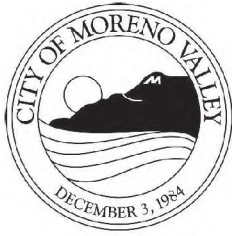
Dated: 07-06-2008


Romulo Gonzalez

Dated: 02-21-08

WESTERN PACIFIC HOUSING, INC.

By: 
Title: William E. Mayer
Vice President



APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>RL</i>
CITY MANAGER	<i>PH</i>

Report to City Council

TO: Mayor and City Council

FROM: Chris A. Vogt, Public Works Director/City Engineer

AGENDA DATE: November 10, 2009

TITLE: AUTHORIZATION TO AWARD THE CONSTRUCTION CONTRACT FOR THE PATRIOT PARK IMPROVEMENTS PROJECT
PROJECT NO. 08-28268628

RECOMMENDED ACTION

Staff recommends that the City Council:

1. Waive minor irregularities of the lowest Bidder's Proposal and award the construction contract for the Patriot Park Improvements project to Desert Concepts Construction, Inc., 77-770 Country Club Drive, Suite D, Palm Desert, CA 92211, determined as the lowest responsive and responsible bidder.
2. Authorize the City Manager to execute a contract with Desert Concepts Construction, Inc., in the form attached hereto.
3. Authorize the issuance of a Purchase Order to Desert Concepts Construction, Inc., in the amount of \$282,901.62 (\$246,001.41 base bid amount plus 15% contingency) when the contract has been signed by all parties.
4. Authorize the Public Works Director/City Engineer to execute any subsequent change orders to the contract with Desert Concepts Construction, Inc., up to but not to exceed the Purchase Order contingency of \$36,900.21 subject to the approval of the City Attorney.
5. Authorize the Public Works Director/City Engineer to incrementally accept completed portions of work and pay retainage based on the acceptance of said work in accordance with Public Contract Code, Section 7107.
6. Re-appropriate \$49,000 from Account No. 282.68627 (CDBG Sheila Street Sidewalk) to Account No. 282.68628 (CDBG Patriot Park).

7. Appropriate \$25,000 from Fund 282 (CDBG) Fund Balance to Account No. 282.68628 (CDBG, Patriot Park).

BACKGROUND

The project involves the construction of the Patriot Park improvements on Community Services District (CSD) vacant one-half acre property at the southeasterly corner of Perris Boulevard and Filaree Avenue.

The Planning Division of the Community Development Department determined on December 2, 2008, that this project qualifies as a Class I Categorical Exemption as defined in both Section 15301C of the California Environmental Quality Act (CEQA) and Section 4.1B of the City's Rules and Procedures for implementation of CEQA. In accordance with the National Environmental Policy Act (NEPA) the Planning Division prepared a project Environmental Assessment and on August 30, 2008, Housing and Urban Development (HUD) approved the Finding of No Significant Impact (FONSI) and released the funds.

The City has previously retained PBS&J (Civil Engineering) and P&D Consultants, Inc. (Landscape Architecture) for professional consultant design services for preparation of plans for the Patriot Park Improvements. The design phase was completed, plans were approved by the City Engineer/Director of Public Works and notice was placed in multiple newspapers of local circulation and posted with area construction project plan rooms.

DISCUSSION

This project is part of the City's on-going Community Development Block Grant (CDBG) funded programs which provides various types of improvements in specified target areas throughout the City. This same CDBG program provided funding for the recently completed construction of sidewalk, curb and gutter improvements along the frontage of this project as well as sidewalk along the westerly side of Sheila Street, where none existed, southerly from the project to Gentian Avenue. The proposed park improvements include play apparatus, a decomposed granite walking path, natural turf play area, and picnic tables and benches together with landscaping, irrigation, area lighting, and perimeter fencing for this approximately one-half acre park.

This project includes certain materials, special equipment and products that require long lead times to obtain. Staff will purchase these items, which include play apparatus, electrical service cabinet, light poles and fixtures and the park monument sign, in accordance with the City's Procurement policies. These items will be installed by the contractor.

The Notice Inviting Bid (NIB) and the proposal form included a schedule of "Base Bid" items together with a schedule for "Alternate Additive/Deductive Bid" items. The

“Alternate Additive/Deductive Bid” items include the construction of a tubular steel fence with a tubular steel roller gate along the southerly project boundary, adjacent to the existing alley, which matches the fence on the three other sides of the park. This is in lieu of constructing a chain link fence at this location. Also included is new replacement chain link swing gate at the Sheila Street alley entrance. Staff is recommending award of a construction Bid contract to include the “Base Bid” plus the “Alternate Additive/Deductive Bid”.

Formal bidding procedures were followed in conformance with the Public Contract Code (PCC). The City Clerk opened bids at 2:00 p.m., October 6, 2009, for the subject project. Fifteen (15) bids were received as follows:

Bidders:

1. Desert Concepts Construction, Inc.....	\$246,001.41
2. FS Construction.....	\$246,659.50
3. Nature Tech Landscaping, Inc.	\$255,496.00
4. Rock Bottom, Inc.....	\$259,600.00
5. ASR Constructors, Inc.....	\$261,600.00
6. Mega Way Enterprises	\$263,928.00
7. New Legacy Development Corporation.....	\$277,927.50
8. America West Landscape, Inc.....	\$278,089.84
9. Roadway Engineering and Contracting, Inc.	\$285,052.80
10. C.S. Legacy Construction, Inc.....	\$293,312.00
11. Sierra Landscape Company.....	\$296,625.00
12. Malibu Pacific Tennis Courts, Inc.	\$297,850.00
13. Elite Landscaping, Inc.	\$306,728.00
14. WCCR Construction.....	\$317,749.00
15. Sunrise Landscape Company, Inc.....	\$338,086.42
 ENGINEER’S ESTIMATE	 \$283,247.50

Desert Concepts Construction, Inc. submitted the lowest bid, however the Bid Schedule submitted with its proposal included minor computational errors which when corrected in accordance with the provisions contained elsewhere in the Bidder’s Proposal did not change its status as lowest bidder and alone would not be cause for rejection of the bid. This correctable type of computational error can, at the discretion of the City Council, be considered a minor irregularity not affecting the validity of the proposal. Waiving such an irregularity would not provide the bidder with any significant competitive advantage. A minor irregularity may be waived by the City Council in awarding the construction contract to the lowest responsible and otherwise responsive bidder.

Staff has reviewed the bid by Desert Concepts Construction, Inc., and finds it to be the lowest responsible bidder in possession of a valid license and bid bond. No outstanding issues were identified through review of the references submitted by Desert Concepts Construction, Inc.

The award of construction contract, as recommended by staff, is in the total amount of \$246,001.41 (Base Bid \$226,839.41 plus Alternate Additive/Deductive Bid \$19,162.00. A Purchase Order in the amount of \$282,901.62 inclusive of a 15% contingency will be issued for this contract.

Summary of Desert Concepts, Inc. bid is:

Base Bid.....	\$226,839.41
Alternate Additive/Deductive Bid	\$19,162.00
Total	\$246,001.41

ALTERNATIVES

1. Waive minor irregularities of the lowest Bidder's Proposal and award the construction contract for the Patriot Park Improvements project to Desert Concepts Construction, Inc., 77-770 Country Club Drive, Suite D, Palm Desert, CA 92211, determined as the lowest responsive and responsible bidder, authorize the City Manager to execute a contract with Desert Concepts Construction, Inc., in the form attached hereto, authorize the issuance of a Purchase Order to Desert Concepts Construction, Inc., in the amount of \$282,901.62 (\$246,001.41 base bid amount plus 15% contingency) when the contract has been signed by all parties, authorize the Public Works Director/City Engineer to execute any subsequent change orders to the contract with Desert Concepts Construction, Inc., up to but not to exceed the Purchase Order contingency of \$36,900.21 subject to the approval of the City Attorney, authorize the Public Works Director/City Engineer to incrementally accept completed portions of work and pay retainage based on the acceptance of said work in accordance with Public Contract Code, Section 7107, re-appropriate \$49,000 from Account No. 282.68627 (CDBG Sheila Street Sidewalk) to Account No. 282.68628 (CDBG Patriot Park), and appropriate \$25,000 from Fund 282 (CDBG) Fund Balance to Account No. 282.68628 (CDBG, Patriot Park). *This alternative will allow much needed improvements.*
2. Do not waive minor irregularities of the lowest Bidder's Proposal and award the construction contract for the Patriot Park Improvements project to Desert Concepts Construction, Inc., 77-770 Country Club Drive, Suite D, Palm Desert, CA 92211, determined as the lowest responsive and responsible bidder, do not authorize the City Manager to execute a contract with Desert Concepts Construction, Inc., in the form attached hereto, do not authorize the issuance of a Purchase Order to Desert Concepts Construction, Inc., in the amount of \$282,901.62 (\$246,001.41 base bid amount plus 15% contingency) when the contract has been signed by all parties, do not authorize the Public Works Director/City Engineer to execute any subsequent change orders to the contract with Desert Concepts Construction, Inc., up to but not to exceed the Purchase Order contingency of \$36,900.21 subject to the approval of the City Attorney, do not authorize the Public Works Director/City Engineer to incrementally accept completed portions of work and pay retainage based on the acceptance of said work in accordance with Public Contract Code, Section 7107, do

not re-appropriate \$49,000 from Account No. 282.68627 (CDBG Sheila Street Sidewalk) to Account No. 282.68628 (CDBG Patriot Park), and do not appropriate \$25,000 from Fund 282 (CDBG) Fund Balance to Account No. 282.68628 (CDBG, Patriot Park). *This alternative will delay the completion of needed improvements.*

FISCAL IMPACT

The construction phase of this project is included in Fiscal Year 2009/2010 Capital Improvements Project Budget and will be financed by Community Development Block Grant (CDBG) funds (Fund 282).

The City’s current budget for this project is less than the amount of the construction contract and estimated construction support costs. Staff is requesting that the City’s budget for this project be amended by appropriating \$25,000 from Fund 282 (CDBG) available Fund Balance and re-appropriating the unexpended and unencumbered amount of \$49,000 of savings realized from Account No. 282.68627 (CDBG, Sheila Street Sidewalk) to Account No. 282.68628 (CDBG, Patriot Park).

AVAILABLE BUDGETED FUNDS:

Fiscal Year 2009/2010 Funds (Account 282.68628)	\$323,297
Requested Appropriation from Fund 282 Fund Balance	\$25,000
Requested Re-appropriation from Sheila Street Sidewalk (Acct. 282.68627)	<u>\$49,000</u>
Total Funding	\$397,297

ESTIMATED CONSTRUCTION RELATED COSTS:

Construction (includes 15% contingency)	\$282,900
City Purchased Equipment and Play Apparatus for Contractor Installation.....	\$56,000
Construction Geotechnical Services.....	\$5,500
Construction Survey Services	\$16,000
Project Administration	<u>\$35,000</u>
Total Estimated Construction Related Costs.....	\$395,400

ANTICIPATED PROJECT SCHEDULE:

Notice of Award (Anticipated).....	November 2009
Start Construction.....	December 2009
Complete Construction and Landscape Planting	March 2010
Complete Contractor Plant Establishment and Maintenance Period.....	June 2010

CITY COUNCIL GOALS

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

This project is located within the Community Development Block Grant (CDBG) target area and will utilize CDBG funds. This project will construct much need community improvements in the target area. The City Council is requested to approve the award of the construction contract to Desert Concepts Construction, Inc.

ATTACHMENTS

Attachment "A" – Location Map

Attachment "B" – Construction Contract with Desert Concepts Construction, Inc.

Attachment "C" – Budget Appropriation Adjustment Form

Prepared By:
 Michael D. Myers, P.E.
 Consultant Project Manager

Department Head Approval:
 Mike McCarty
 Parks and Community Services Director

Concurred By:
 Tony Hetherman
 Parks Project Coordinator

Department Head Approval
 Chris A. Vogt, P.E.
 Public Works Director/City Engineer

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

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

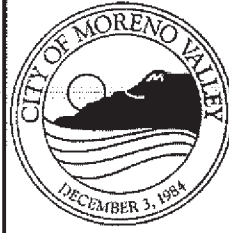
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**PROJECT
LOCATION**

LOCATION MAP



Public Works Department
Capital Projects Division

Scale: None

Attachment "A"

Patriot Park

PROJECT NUMBER 08-28268628

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AGREEMENT**PROJECT NO. 08-28268628****PATRIOT PARK
PARK IMPROVEMENTS PROJECT**

THIS Contract Agreement, made and entered into as of the date signed by the City Manager, by and between the City of Moreno Valley, a municipal corporation, County of Riverside, State of California, hereinafter called the "City" and **Desert Concepts Construction, Inc.**, hereinafter called the "Contractor."

That the City and the Contractor for the consideration hereinafter named, agree as follows:

1. The written Agreement includes all of the following:
 - a. Any and all Contract Change Orders issued after execution of this Agreement
 - b. Addenda Nos. none inclusive, issued prior to the opening of the Bids
 - c. The bound Bid Documents
 - d. Federal Provisions and Requirements
 - e. Any Federal Certifications, documentation and reports as required, including but not limited to Work Force Profile, Certification of Equal Employment Opportunity, Certification Regarding Debarment and Suspension, Contractor's Certification of Federal Contract Requirements, Certification of Nonsegregated Facilities
 - f. The Special Provisions which include the General Provisions and Technical Provisions, all of which are parts of this Agreement
 - g. The project Plans
 - h. The Standard Plans
 - i. The Standard Specifications
 - j. Reference Specifications, all of which are essential parts of this Agreement
 - k. The Bidder's Proposal which includes the Bidder's Bond and Noncollusion Affidavit

In the event of any conflict in the provisions thereof, the terms of said Contract Documents as set forth above shall control, each over the other, in the order provided. The above items are incorporated in this Agreement as though set forth in full.

2. The Contractor shall furnish all materials, tools, equipment and labor, except as otherwise provided in the Plans or Special Provisions, and will perform all the work which is necessary to complete in a good, workmanlike and substantial manner the above said project in accordance with the Bid Documents for this project, the Bid Documents which are hereby specifically referred to and by such reference made a part hereof.

3. The City will pay the Contractor and the Contractor agrees to receive and accept the prices set forth in the Bid Schedule as full compensation for the work required under the bid items awarded by the City, to wit, the Base Bid Item(s) and Additive Bid Item(s) in the sum total amount of **\$246,001.41**, subject to additions or reductions of the quantities of the various bid items at the unit prices bid, for furnishing all materials and for doing all the work contemplated and embraced under this Contract Agreement; for all loss or damages arising out of the nature of the work aforesaid, or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work, until the work is accepted by the City Council; for all expenses incurred by or in consequence of the suspension or discontinuance of work; and for well and faithfully completing the work, the whole thereof, in the manner and in accordance with the Bid Documents therefore and the requirements of the Engineer under them.

Attachment "B"

AGREEMENT
PROJECT NO. 08-28268628

4. The Contractor hereby agrees to order materials pursuant to this Contract within 7 calendar days after the date of authorization specified in the "Notice to Proceed with Order of Materials." The Contractor hereby agrees to commence work pursuant to this Contract within 14 calendar days after the date of authorization specified in the "Notice to Proceed with Construction." The Contractor agrees to diligently prosecute the contracted work, including corrective items of work, but excluding the 60 calendar day plant maintenance work, day to day thereafter, to completion within **seventy (70) working days** after said date in the "Notice to Proceed with Construction," except as adjusted by subsequent Contract Change Order(s). Said 70 days working period does not include the additional 60 calendar day plant maintenance work period. The Contractor agrees to diligently prosecute the plant maintenance work, day to day, for **sixty (60) calendar days** after the date of approval of plant establishment.

5. The City and Contractor hereby agree that in case all ordering of materials and construction called for under the Contract is not completed within the time hereinabove specified, including City caused delays or extensions, damages will be sustained by the City and that, it is and will be impracticable or extremely difficult to ascertain and determine the actual amount of damages the City will sustain in the event of, and by reason of, such delay.

It is, therefore, agreed that such damages shall be presumed to be in the amount of \$750.00 per calendar day, and that the Contractor will pay to the City, or City may retain from amounts otherwise payable to Contractor, said amount for each calendar day by which the Contractor fails to complete the work, including corrective items of work, under this Contract Agreement within the time hereinabove specified and as adjusted by Contract Change Order(s). The Contractor will not be assessed liquidated damages for delay(s) occasioned by the failure of the City or of the owner of a utility to provide for the removal or relocation of utility facilities.

6. The Contractor shall name as additional insured, the City of Moreno Valley, the Community Redevelopment Agency of the City of Moreno Valley (RDA), and the Moreno Valley Community Services District (CSD), and shall furnish the City with a certificate of insurance evidencing liability insurance policy or policies which shall provide coverage for owned and non-owned automobiles; manufacturers and Contractor's liability; broad form property damage in any case where the Contractor has any property belonging to the City in his care, custody or control; owners and Contractor's protective liability; blanket contractual liability; products and completed operations coverage; coverage for collapse, explosion, and where any excavation, digging or trenching is done with power equipment; and shall bear an endorsement containing the following Provisions:

Solely as respect to work done by or on behalf of the named insured for the City of Moreno Valley, it is agreed that the City of Moreno Valley, the Community Redevelopment Agency of the City of Moreno Valley (RDA), and the Moreno Valley Community Services District (CSD), are added as additional insured under this policy and the coverage provided hereunder shall be primary insurance and not contributing with any other insurance available to the City of Moreno Valley, California, the Community Redevelopment Agency of the City of Moreno Valley, and the Moreno Valley Community Services District, its officers, employees and agents; under any third party liability policy.

It is further agreed that the other insurance provision(s) of the policy are amended to conform therewith.

The endorsements shall be signed by a person authorized by the insurer to bind coverage on its behalf. Insurance companies providing insurance here under shall be rated (A minus: VII - Admitted) or better in Best's Insurance Rating Guide and shall be legally licensed and qualified to conduct insurance business in the State of California.

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The terms of the insurance policy or policies issued to provide the below insurance coverage(s) shall not be amended or canceled by the carrier without thirty (30) days prior written notice by certified or registered mail of amendments or cancellation to the City, except that cancellation for non-payment of premium shall require (10) days prior written notice by certified or registered mail. In the event the said insurance is canceled, the Contractor shall, prior to the cancellation date, submit to the City Clerk new evidence of insurance in the amounts established.

All liability insurance policies shall bear an endorsement or shall have an attached rider which provides that the City of Moreno Valley will be notified by certified or registered mail at least 30 days prior to the effective date of cancellation, non-renewal, or material alteration of such policy.

All liability insurance shall cover comprehensive general liability for both bodily injury (including death) and property damage, including but not limited to aggregate products, aggregate operations, aggregate protective and aggregate contractual with the following minimum limits:

	Each Person	Each Occurrence	Aggregate
Bodily Injury	\$500,000.00	\$1,000,000.00	\$2,000,000.00
Property Damage	---	\$1,000,000.00	\$2,000,000.00

A combined single limit for Bodily Injury Liability and Property Damage Liability of \$2,000,000.00 for each occurrence will be considered equivalent to the above minimum limits for Comprehensive General Liability.

Property Damage Insurance shall cover full replacement value for damages to any property caused directly or indirectly by or from acts or activities of the Contractor or its sub-contractors or any person acting for the Contractor or under its control or direction.

The Contractor shall procure and maintain, at its sole expense, and throughout the term of this Contract Agreement and any extension thereof, Public Liability and Property Damage Insurance coverage for owned and non-owned automotive equipment operated. Such coverage limits shall not be less than \$1,000,000 combined single limit.

Any deductibles or self-insured retention must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the City, its officers, officials, employees and volunteers; or the contractor shall procure a bond guaranteeing payment of losses and related investigation, claim administration, and defense expenses.

The Contractor shall also furnish the City with a certificate evidencing Worker's Compensation Insurance with limits as established by the State of California.

The Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

7. The Contractor hereby agrees to provide and maintain in effect two (2) good and sufficient Surety Bonds for one hundred percent (100%) each of the contract price. The bonds shall be a "Faithful Performance Bond" which shall guarantee the faithful performance of all work and a "Labor and Materials Payment Bond" which shall secure the payment of the claims of labor, mechanics, or materialmen for all work under the Contract pursuant to Section 3247 of the Civil Code.

8. The Contractor, the Contractor's heirs, executors, administrators, successors, or assigns guarantee

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that all work performed under this Contract fully meets the requirements thereof as to quality of workmanship and materials furnished. If any defects in materials or workmanship become evident within a period of one year from the date of the acceptance of the work by the City Council, the Contractor shall, at his or her own expense, make any repair(s) or replacement(s) necessary to restore the work to full compliance with the Plans and Specifications.

9. The Contractor and any agents or subcontractors of the Contractor shall pay the prevailing rates of per diem wages established by the California Department of Industrial Relations and Prevailing Wage Rates as determined by the United States Secretary of Labor, whichever is higher. The Contractor and any agents or subcontractors of the Contractor shall also adhere to the California Labor Code, Division 2, Part 7, "Public Works and Public Agencies," and the California Administrative Code, Title 8, Group 3, "Payment of Prevailing Wages upon Public Works," all of which are made a part of the Contract documents.

The Contractor and any agents or subcontractors of the Contractor shall also adhere to the provisions of the Davis-Bacon Act. The payment of Prevailing Wage Rates as determined by the United States Secretary of Labor are made a part of the Agreement.

10. The Contractor agrees that he or she and its subcontractors shall maintain and keep books, payrolls, invoices of materials, records on a current basis, and recording all transactions pertaining to this Agreement in a form in accordance with generally acceptable accounting principles. Said books and records shall be made available to the City of Moreno Valley, County, the State of California, the Federal Government and to any authorized representative thereof for purposes of audit and inspection at all reasonable times and places. All such books, payrolls, invoices of materials, and records shall be retained for such periods of time as required by law, provided, however, notwithstanding any shorter period of retention, all books, records, and supporting detail shall be retained for a period of at least three years after expiration of the term of this Agreement.

11. Pursuant to California Public Contract Code Section 22300, the Contractor will be permitted the substitution of securities for any monies withheld by the City of Moreno Valley to ensure performance under Contract. At the request and expense of the Contractor, securities equivalent to the amount withheld shall be deposited with the City of Moreno Valley, or with a state or federally chartered bank as the escrow agent, who shall pay such monies to the Contractor. Securities eligible for substitution under this section shall include those listed in Section 16430 of the Government Code, bank or savings and loan certificates of deposit, interest-bearing demand deposit accounts, and standby letters of credit. The Contractor shall be the beneficial owner of any securities substituted for monies withheld and shall receive any dividends or interest thereon. The Contractor shall give the City written notice within thirty (30) days after the Contract is awarded that it desires to substitute securities for money that would ordinarily be withheld. If the substituted securities are deposited into an escrow, the escrow shall be governed by a written escrow Contract Agreement in a form which is substantially similar to the Contract Agreement set forth in Section 22300, of the Public Contract Code.

12. The Contractor agrees to indemnify, defend, and save the City of Moreno Valley, the Community Redevelopment Agency of the City of Moreno Valley (RDA), and the Moreno Valley Community Services District (CSD), its officers, agents, and employees harmless from any and all liability, claims, damages or injuries to any person, including injury to the Contractor's employees and all claims which arise from or are connected with the negligent performance of or failure to perform the work or other obligations of this Contract Agreement, or are caused or claimed to be caused by the negligent acts of the Contractor its officers, agents, employees, sub-contractors or suppliers, and all expenses of investigating and defending against the same; provided, however, that this indemnification and hold harmless shall not include any claims arising from the sole negligence or willful misconduct of the City, RDA, and the (CSD), its officers, agents, or employees.

AGREEMENT
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The obligation to indemnify, defend and hold harmless set forth herein shall include, without limitation, any and all attorney's fees incurred by the party to be indemnified, defended, or held harmless, whether in a judicial or administrative action or in arbitration, and whether the issue is between the parties or involves one or more third parties.

13. The parties do for themselves, their heirs, executors, administrators, successors and assigns agree to the full performance of all of the provisions herein contained. The Contractor may not, either voluntarily or by action of law, assign any obligation assumed by the Contractor hereunder without prior written consent of the City.

14. Should either party bring any legal or equitable action for the purpose of protecting or enforcing its rights under this Contract Agreement, the prevailing party in such action shall recover in addition to all other relief, its reasonable attorney's fees and court costs to be fixed by the court.

In addition to the foregoing award of attorney's fees, the prevailing party shall be entitled to its attorneys' fees incurred in any post judgement proceedings to enforce any judgments in connection with this Contract Agreement. The Provision is separate and several and shall survive the merge of this Provision into any judgement.

15. By my signature hereunder, as Contractor, I certify that I am aware of the Provisions of Section 3700, of the Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the Provisions of that code, and I will comply with such Provisions before commencing the performance of the work of this Contract.

16. The effective date of this Contract Agreement shall be the date of the Award of Contract by the City of Moreno Valley.

17. Contractors are required by law to be licensed and regulated by the Contractors' State License Board. Any questions concerning a Contractor may be referred to the Registrar, Contractors' State License Board, 3132 Bradshaw Road, Sacramento, CA 95826. Mailing address: P.O. Box 26000, Sacramento, CA 95826.

18. If the Contractor or Subcontractor is performing work on section 3, Housing and Urban Development Act of 1968, projects for which the amount of the assistance exceeds \$200,000 and the contract or subcontract exceeds \$100,000:

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

AGREEMENT
PROJECT NO. 08-28268628

D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

(SIGNATURE PAGE FOLLOWS)

**AGREEMENT
PROJECT NO. 08-28268628**

CITY OF MORENO VALLEY,
Municipal Corporation

Desert Concepts Construction, Inc.

BY: _____
City Manager

License No./
Classification: _____

Expiration Date: _____

DATE: _____

Federal I.D. No.: _____

INTERNAL USE ONLY

ATTEST:

City Clerk
(only needed if Mayor signs)

APPROVED AS TO LEGAL FORM:

City Attorney

Date

RECOMMENDED FOR APPROVAL:

Department Head
(if contract exceeds \$15,000)

Date

PRINT NAME: _____

SIGNATURE: _____

TITLE: _____

DATE: _____
Date

PRINT NAME: _____

SIGNATURE: _____

TITLE: _____

DATE: _____
Date

SIGNING INSTRUCTION TO THE CONTRACTOR:

All signatures on the Contract Agreement on behalf of the Contractor must be acknowledged before a notary public.

General Partners must sign on behalf of the partnership.

In the event that the contracting firm is a corporation, two (2) corporate officer's having authority from the corporation MUST sign (two (2) signatures total). If the corporation has a corporate resolution stating that one person is authorized to sign on behalf of all officers, attach corporate resolution immediately following the notary certificates. Corporate Seal may be affixed hereto.

ATTACHED AS PART OF THE AGREEMENT ARE THE FOLLOWING:

1. Federal Provisions and Requirements
2. Davis-Bacon Wage Determination, General Decision: CA _____ Date: _____

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

SAMPLE

State of California

County of _____

On _____ before me, _____
(Here insert name and title of the officer)

personally appeared _____

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

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

WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)

ADDITIONAL OPTIONAL INFORMATION

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/~~they~~, is/are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document.

DESCRIPTION OF THE ATTACHED DOCUMENT

AGREEMENT SIGNATURE PAGE

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____

Document Date _____

Additional Information

CAPACITY CLAIMED BY THE SIGNER

- Individual(s)
 Corporate Officer

(Title)

- Partner (s)
 Attorney-in-Fact
 Other _____

Equal Employment
Opportunity Certification
Excerpt From 41 CFR §60-1.4(b)

U.S. Department of Housing
and Urban Development
Office of Housing
Federal Housing Commissioner

Department of Veterans Affairs

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause.

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin, such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; the selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (3) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- (6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: **Provided, however,** that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work:

Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant order of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and Federally-assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed

Firm Name and Address

By

Title

upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (Contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

Excerpt from HUD Regulations

200.410 Definition of term "applicant".

- (a) In multifamily housing transactions where controls over the mortgagor are exercised by the Commissioner either through the ownership of corporate stock or under the provisions of a regulatory agreement, the term "applicant" as used in this subpart shall mean the mortgagor.
- (b) In transactions other than those specified in paragraph (a) of this section, the term "applicant" as used in this subpart shall mean the builder, dealer or contractor performing the construction, repair or rehabilitation work for the mortgagor or other borrower.

200.420 Equal Opportunity Clause to be included in contracts and subcontracts.

- (a) The following equal opportunity clause shall be included in each contract and subcontract which is not exempt:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of the nondiscrimination clause.

(2) The contractor will in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided, advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notices in conspicuous places available to employees and applicants for employment.

The contractor will comply with all provisions of Executive Order 10925 of March 6, 1961, as amended, and of the regulations, and relevant orders of the President's Committee on Equal Employment Opportunity created thereby.

(5) The contractor will furnish all information and reports required by Executive Order 10925 of March 6, 1961, as amended, and by the regulations, and orders of the said Committee, or pursuant thereto, and will permit access to his books, records, and accounts by HUD and the Committee for purposes of investigation to ascertain compliance with such regulations, and orders.

(6) In the event of the contractor's non-compliance with the nondiscrimination clause of this contract or with any of the said regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or Federally-assisted construction contracts in accordance with procedures authorized in Executive Order 10925 of March 6, 1961, as amended, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order or by regulations, or order of the President's Committee on Equal Employment Opportunity, or as otherwise provided by law.

(7) The contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by regulations, or orders of the President's Committee on Equal Employment Opportunity issued pursuant to Section 303 of Executive Order 10925 of March 6, 1961, as amended, so that such provisions will be binding upon each subcontractor or vender. The contractor will take such action with respect to any subcontract or purchase orders as HUD may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vender as a result of such direction by HUD, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

200.425 Modification in and exemptions from the regulations in this subpart.

- (a) The following transactions and contracts are exempt from the regulations in this subpart:

(1) Loans, mortgages, contracts and subcontract not exceeding \$10,000.

(2) Contract and subcontracts not exceeding \$100,000 for standard commercial supplies or raw material;

(3) Contracts and subcontracts under which work is to be or has been performed outside the United States and where no recruitment of workers within the United States is involved. To the extent that work pursuant to such contracts is done within the United States, the equal opportunity clause shall be applicable;

(4) Contracts for the sale of Government property where no appreciable amount of work is involved; and

(5) Contracts and subcontracts for an indefinite quantity which are not to extend for more than one year if the purchaser determines that the amounts to be ordered under any such contract or subcontract are not reasonably expected to exceed \$100,000 in the case of contracts or subcontracts for standard commercial supplies and raw materials, or \$10,000 in the case of all other contracts and subcontracts.

CONTRACTOR'S SECTION 3 AFFIRMATIVE ACTION PLAN

PROJECT NO. 08-28268628

**Patriot Park
Park Improvements Project**

The undersigned contractor agrees to implement the following affirmative action steps directed at increasing the utilization of lower-income residents and business concerns located within the City of Moreno Valley.

1. Take affirmative action to ensure that employees or applicants for employment or training are not discriminated against because of race, color, religion, sex, or national origin.
2. Send a notice of Contractor's Section 3 commitment to each labor organization or representative of workers, and post a copy of the notice at a conspicuous place available to employees and applicants for employment or training.
3. To the greatest extent feasible, make a good faith effort to recruit for employment or training lower-income residents from the city, and to award contracts to business concerns which are located in or owned in substantial part by persons residing in the city through use of: Local advertising media, signs placed at the project site, and notification to community organizations and public or private institutions operating within or serving the project area such as Service Employment and Redevelopment (SER), Opportunities Industrialization Center (OIC), Urban League, Concentrated Employment Program, U.S. Employment Service, Chamber of Commerce, labor unions, trade associations, and business concerns.
4. Maintain a file of all low-income area residents who applied for employment or training either on their own or on referral from any source, and the action taken with respect to each area resident.
5. Maintain a file of all business concerns located in the city who submitted a bid for work on the project, and the action taken with respect to each bid.
6. Maintain records, including copies of correspondence, memoranda, etc., which document that affirmative action steps have been taken.
7. Incorporate the Section 3 clause provisions in all subcontracts, and require subcontractors to submit a Section 3 Affirmative Action Plan.
8. List project work force needs for the project by occupation, trade, skill level, and number of positions on the work force profile forms.
9. List information related to subcontracts to be awarded.

Company Name

Signature

Address

Title

Date

NOTICE of SECTION 3 COMMITMENT

PROJECT NO. 08-28268628

**Patriot Park
Park Improvements Project**

TO: _____
(Name of Labor Union, Worker's Representative, etc.)

(Address)

The undersigned currently holds a contract with the City of Moreno Valley involving Community Development Block Grant funds from the U.S. Department of Housing and Urban Development, or a subcontract with a prime contractor holding such contract.

You are advised that under the provisions of the above contract or subcontract, and in accordance with Section 3 of the Housing and Urban Development Act of 1968, the undersigned is obliged, to the greatest extent feasible, to give opportunities for employment and training to lower-income persons residing within the city where the project is located, and to award contracts for work on the project to business concerns which are located in or are owned in substantial part by persons residing in the city.

This notice is furnished to you pursuant to the provisions of the above contract or subcontract and Section 3 of the Housing and Urban Development Act of 1968.

A copy of this notice will be posted by the undersigned in a conspicuous place available to employees or applicants for employment.

Name of Contractor

Address

Signature

Title

Date

**Race and Ethnic Data
Reporting Form**

U.S. Department of Housing
and Urban Development
Office of Administration

OMB Approval No. 2535-0113
(exp. 08/31/2003)

Program Title: _____

Grantee/Recipient Name: _____

Grantee Reporting Organization: _____

Reporting Period From (mm/dd/yyyy): _____ To (mm/dd/yyyy): _____

Racial Categories	Total Number of Racial Categories Reported	Total Number of Ethnic Category Responses (Hispanic or Latino)
American Indian or Alaska Native		
Asian		
Black or African American		
Native Hawaiian or Other Pacific Islander		
White		
American Indian or Alaska Native <i>and</i> White		
Asian <i>and</i> White		
Black or African American <i>and</i> White		
American Indian or Alaska Native <i>and</i> Black or African American		
* Other multi-racial categories: [Per the form instructions, write in a description using the box on the right]		
Balance of individuals reporting more than one race		
Total:		
* If the aggregate count of any reported multi-racial category that is not listed above exceeds 1% of the total population being reported, you should separately indicate each such category here. Also indicate the total number of such other multi-racial categories reported, the population percentage, and the total number of positive ethnic category responses.		

Public reporting burden for this collection is estimated to average 1.15 hours per response, including the time for reviewing instructions, searching existing data sources, gathering the data needed, and completing and reviewing the information collection instrument. HUD may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number.

Instructions for the Race and Ethnic Data Reporting form (HUD-27061)

A. General Instruction:

This form is intended to be used by two categories of respondents: (1) applicants requesting funding from the Department of Housing and Urban Development (HUD); and (2) organizations who receive HUD Federal financial assistance that are required to report race and ethnic information.

In compliance with OMB direction to revise the standards for collection of racial data, HUD has revised its standards as depicted on this form. The revised standards are designed to acknowledge the growing diversity of the U. S. population. Using the revised standards, HUD offers organizations that are responding to HUD data requests for racial information, the option of selecting one or more of nine racial categories to identify the racial demographics of the individuals and/or communities they serve, or are proposing to serve. HUD's collection of racial data treats ethnicity as a separate category from race and has changed the terminology for certain racial and ethnic groups from the way it has been requested in the past using two distinct ethnic categories. The revised definitions of ethnicity and race have been standardized across the Federal government and are provided below.

1. The two ethnic categories as revised by the Office of Management and Budget (OMB) are defined below.

Hispanic or Latino. A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. The term "Spanish origin" can be used in addition to "Hispanic" or "Latino."

Not Hispanic or Latino. A person not of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.

2. The five racial categories as revised by the Office of Management and Budget are defined below:

American Indian or Alaska Native. A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliations or community attachment.

Asian. A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

Black or African American. A person having origins in any of the black racial groups of Africa. Terms such as "Haitian" or "Negro" can be used in addition to "Black" or "African American."

Native Hawaiian or Other Pacific Islander. A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

White. A person having origins in any of the original peoples of Europe, the Middle East or North Africa.

Note: The information required to be reported may be collected and submitted to HUD via the use of this form or by other means, such as summary reports or via electronic reporting mechanisms. The primary goal to be achieved is the provision of the summary racial and ethnic data of the population(s) proposed to be served or that is being served by your organization in a consistent manner across all HUD programs.

form HUD-27061 (2/2003)

B. Specific Instructions for Completing the Form:

Organizations using this form should collect the individual responses from the community of individuals you intend to serve or those that you are serving, as applicable. After the individual collections are gathered, you should report (via this form or by the use of other means such as electronic reports that provide the summary data required by this form) the aggregate totals of the racial and ethnic data that you collect via the applicable categories as described below:

Total Number of Racial Categories Reported: Under this column you should indicate the total number of responses collected in the blocks next to the applicable categories.

Total Number of Ethnic Category Responses (Hispanic or Latino): Under this column you should indicate the total number of responses collected in the blocks next to the applicable racial categories (e.g., you would enter the total number of Asian respondents that indicated they are Hispanic or Latino. When collecting this information from beneficiaries of the Federal financial assistance all respondents should be required to indicate their ethnic category, which requires either a "yes" or "no" response.

Other multi-racial categories: Next to this racial category, indicate all racial categories (if any) identified by respondents that do not fit the nine racial categories above, and which have a total count that exceeds one percent of the total population being reported. You must identify each such racial category, including the actual count, the percentage of the total population (in parenthesis), and the actual count for the ethnic categories.

For example, if you obtain data that indicates that the total population being served is 200 and includes 10 Cajun Americans and 12 Creole Americans, and those numbers of Cajun and Creole Americans each equates to more than one percent of the total population being served, and 2 of the Cajun Americans indicate they belong to the Hispanic/Latino ethnic category and 3 of the Creole Americans indicate they belong to the Hispanic/Latino ethnic category, you should complete the form as follows:

Racial Categories	Total Number of Racial Categories Reported	Total Number of Ethnic Category Responses (Hispanic or Latino)
* Other multi-racial categories: [Per the form instruction, write in a description using the box on the right]	Cajun American 10 (5%) Creole American 12 (6%)	2 3

How the percentage should be applied will vary by program depending on whether the program is required to provide data on the total community, or on the beneficiaries/individuals that are being served or that are proposed to be served.

Balance of individuals reporting more than one race: This block is intended to capture the balance of any racial categories that are not included in the list of nine above, and are not included under "Other multi-racial categories." Indicate the total number of all racial categories reported that do not fit the nine racial categories above, and do not equate to one percent of the total population being reported. Be sure to also indicate the total number of all such ethnic categories.

Total: On the last row of the form you should indicate the aggregate totals of all the information you have gathered including the total of all racial categories and the total of all the ethnic categories.

WORK FORCE PROFILE

	Total Employees	A	B	C	D	E	F	G	H	I	J
Office/Administrators											
Professionals											
Technicians											
Protective Services											
Para-Professionals											
Office/Clerical											
Skilled Crafts											
Service/Maintenance											
TOTAL											

PERCENTAGES *

	A	B	C	D	E	F	G	H	I	J
Office/Administrators										
Professionals										
Technicians										
Protective Services										
Para-Professionals										
Office/Clerical										
Skilled Crafts										
Service/Maintenance										
TOTAL										

* Rounded to nearest tenth

A - White Male
 B - Black Male
 C - Hispanic Male
 D - Asian American Male
 E - American Indian Male
 F - White Female
 G - Black Female
 H - Hispanic Female

I - Asian American Female
 J - American Indian Female
 Total Minorities Employed:
 Percentage of Work Force:

Section 3 – HUD Act of 1968
COMBINED WORK FORCE PROFILE

EEO-4 CATEGORY	TOTAL	WHITE	BLACK	HISPANIC	ASIAN AMERICAN	AMERICAN INDIAN	WOMEN
Official/Administrators							
Professionals							
Technicians							
Protective Services							
Para-Professionals							
Office/Clerical							
Skilled Crafts							
Service/Maintenance							
TOTAL							

PERCENTAGES

EEO-4 CATEGORY	WHITE	BLACK	HISPANIC	ASIAN AMERICAN	AMERICAN INDIAN	WOMEN
Official/Administrators						
Professionals						
Technicians						
Protective Services						
Para-Professionals						
Office/Clerical						
Skilled Crafts						
Service/Maintenance						
TOTAL						

Section 3 – HUD Act of 1968
 COMBINED WORK FORCE PROFILE (continued)
 UTILIZATIONS

Computed using Riverside County Population statistics

	WHITE	BLACK	HISPANIC	COMBINED ASIAN AMERICAN AND AMERICAN INDIAN	WOMEN
Official/Administrators					
Professionals					
Technicians					
Protective Services					
Para-Professionals					
Office/Clerical					
Skilled Crafts					
Service/Maintenance					
TOTAL					

NEW HIRES

EEO-4 CATEGORY	# OF HIRES	A	B	C	D	E	F	G	H	I	J	TOTAL % MINORITY	TOTAL FEMALE
Official/Administrators													
Professionals													
Technicians													
Protective Services													
Para-Professionals													
Office/Clerical													
Skilled Crafts													
Service/Maintenance													
TOTAL													

A - White Male
 B - Black Male
 C - Hispanic Male
 D - Asian American Male
 E - American Indian Male
 F - White Female
 G - Black Female
 H - Hispanic Female
 I - Asian American Female
 J - American Indian Female

	NUMBER OF HIRES	PERCENTAGE
White		
Black		
Hispanics		
Asian American		
American Indian		
TOTAL		
TOTAL MINORITIES		

Section 3 -- HUD Act of 1968
TERMINATIONS

EEO-4 CATEGORY	# OF TERMINATIONS	A	B	C	D	E	F	G	H	I	J	TOTAL % MINORITY	TOTAL FEMALE
Official/Administrators													
Professionals													
Technicians													
Protective Services													
Para-Professionals													
Office/Clerical													
Skilled Crafts													
Service/Maintenance													
TOTAL													

A - White Male
 B - Black Male
 C - Hispanic Male
 D - Asian American Male
 E - American Indian Male
 F - White Female
 G - Black Female
 H - Hispanic Female
 I - Asian American Female
 J - American Indian Female

	NUMBER OF TERMINATIONS	PERCENTAGE
White		
Black		
Hispanics		
Asian American		
American Indian		
TOTAL		
TOTAL MINORITIES		

PROMOTIONS

EEO-4 CATEGORY	# OF PROMOTIONS	A	B	C	D	E	F	G	H	I	J	TOTAL MINORITY	TOTAL FEMALE
Official/Administrators													
Professionals													
Technicians													
Protective Services													
Para-Professionals													
Office/Clerical													
Skilled Crafts													
Service/Maintenance													
TOTAL													

D - Asian American Male
 E - American Indian Male
 F - White Female
 G - Black Female
 H - Hispanic Female
 I - Asian American Female
 J - American Indian Female

	NUMBER OF PROMOTIONS	PERCENTAGE
White		
Black		
Hispanics		
Asian American		
American Indian		
TOTAL		
TOTAL MINORITIES		

BOND NO. _____

PREMIUM \$ _____

**FAITHFUL PERFORMANCE BOND
(100% of Total Contract Amount)**

PROJECT NO. 08-28268628

**PATRIOT PARK
PARK IMPROVEMENTS PROJECT**

KNOW ALL MEN AND WOMEN BY THESE PRESENTS:

THAT WHEREAS, the City Council of the City of Moreno Valley, State of California, known as "City," has awarded to Desert Concepts Construction, Inc., as Principal hereinafter designated as "Contractor" and have entered into an Agreement whereby the Contractor agrees to construct or install and complete certain designated public improvements, which said Agreement, effective on the date signed by the City Manager, and identified as **Project No. 08-28268628**, is hereby referred to and made a part hereof; and

WHEREAS, said Contractor under the terms of said Agreement is required to furnish a bond guaranteeing the faithful performance of said Contract Agreement;

NOW THEREFORE, we the undersigned Contractor and _____, as Surety, are held and firmly bound unto the City of Moreno Valley, County of Riverside in the penal sum of _____ dollars, (\$ _____), lawful money of the United States, to be paid to the said City or its certain attorney, its successors and assigns; for which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally liable (CCP 995.320 (a)(1)), firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if the above bound Contractor, his or her or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in said Contract Agreement and any alterations thereof made as therein provided, on his or her or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City of Moreno Valley, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect. In the event suit is brought upon this bond by the City and judgement is recovered, the Surety shall pay all costs incurred by the City in such suit, including a reasonable attorney fee to be fixed by the court.

The Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Agreement or to the work to be performed thereunder, or the Provisions accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Agreement or to the work or the Provisions.

(SIGNATURE PAGE FOLLOWS)

**FAITHFUL PERFORMANCE BOND
PROJECT NO. 08-28268628**

BOND NO. _____

IN WITNESS WHEREOF, we have hereunto set our hands, and seals on

this _____ day of _____ 20_____.

CONTRACTOR (Principal)

SURETY

Name: _____

Name: _____

Address: _____

Address: _____

Telephone No.: _____

Telephone No.: _____

Print Name: _____

Print Name: _____

Attorney-in-Fact

Signature: _____

Signature: _____

Approved as to Form this

_____ day of _____ 20_____

City Attorney
City of Moreno Valley

NOTE:

- The bond shall be executed by an admitted Surety insurer (CCP 995.311) and the Surety must be registered as an admitted insurer in at least one county in the State of California.
- The bond shall include an attached Notary Certificate for the Attorney-in-Fact and the Contractor.
- The bond shall include an attached original Power of Attorney duly authorizing the Attorney-in-Fact to act for the Surety (CCP 1305).
- The bond shall include the address at which the Principal (contractor) and Surety may be served with notices, papers and other documents (CCP 995.320 (a)(2)).

Corporate Seal may be affixed hereto.

CALIFORNIA ALL-PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT

SAMPLE

State of California

County of _____

On _____ before me, _____
(Here insert name and title of the officer)

personally appeared _____

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

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

WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)

DESCRIPTION OF THE ATTACHED DOCUMENT

FAITHFUL PERFORMANCE BOND
SIGNATURE PAGE
(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____

Document Date _____

Additional Information

CAPACITY CLAIMED BY THE SIGNER

- Individual(s)
- Corporate Officer

(Title)

- Partner (s)
- Attorney-in-Fact
- Other _____

ADDITIONAL OPTIONAL INFORMATION
INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they, is/are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document.

BOND NO. _____

PREMIUM \$ _____

**LABOR AND MATERIALS PAYMENT BOND
(100% of Total Contract Amount)**

PROJECT NO. 08-28268628

**PATRIOT PARK
PARK IMPROVEMENTS PROJECT**

KNOW ALL MEN AND WOMEN BY THESE PRESENTS

THAT WHEREAS, the City Council of the City of Moreno Valley, State of California, known as "City", has awarded to **Desert Concepts Construction, Inc.**, as Principal hereinafter designated as "Contractor" and have entered into an Agreement whereby the Contractor agrees to construct or install and complete certain designated public improvements, which said Agreement, effective on the date signed by the City Manager, and identified as **Project No. 08-28268628**, is hereby referred to and made a part hereof; and

WHEREAS, said Contractor under the terms of said Agreement is required to furnish a bond to secure the payment of claims of laborers, mechanics, materialmen, and other persons, as provided by law;

NOW, THEREFORE, we the undersigned Contractor and _____, as Surety are held and firmly bound unto the City of Moreno Valley, County of Riverside, in the penal sum of _____ dollars, (\$ _____), lawful money of the United States, for which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally liable (CCP 995.320 (a)(1)), firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if said Contractor, his or her or its heirs, executors, administrator, successors or assigns, or subcontractors, shall fail to pay any of the persons described in the State of California Civil Code, Section 3181, or amounts due under the Unemployment Insurance Code with respect to work or labor performed by any such claimant, or any amounts required to be deducted, withheld, and paid over to the Franchise Tax Board from the wages of employees of the Contractor and his or her subcontractors, pursuant to Section 13020, of the Unemployment Insurance Code, with respect to such work and labor, that the Surety or Sureties herein will pay for the same in an amount not exceeding the sum specified in this bond, otherwise the above obligation shall be void. In the event suit is brought upon this bond by the City or other person entitled to bring such an action and judgement is recovered, the Surety shall pay all costs incurred by the City in such suit, including a reasonable attorney fee to be fixed by the court.

This bond shall inure to the benefit of any of the persons described in the State of California Civil Code Section 3181, to give a right of action to such persons or their assigns in any suit brought upon this bond.

(SIGNATURE PAGE FOLLOWS)

**LABOR AND MATERIALS PAYMENT BOND
PROJECT NO. 08-28268628**

BOND NO. _____

IN WITNESS WHEREOF, we have hereunto set our hands and seals on

this _____ day of _____, 20____.

CONTRACTOR (Principal)

SURETY

Name: _____

Name: _____

Address: _____

Address: _____

Telephone No.: _____

Telephone No.: _____

Print Name: _____

Print Name: _____

Attorney-in-Fact

Signature: _____

Signature: _____

Approved as to Form this

_____ day of _____, 20____

City Attorney
City of Moreno Valley

NOTE:

- The bond shall be executed by an admitted Surety insurer (CCP 995.311) and the Surety must be registered as an admitted insurer in at least one county in the State of California.
- The bond shall include an attached Notary Certificate for the Attorney-in-Fact and the Contractor.
- The bond shall include an attached original Power of Attorney duly authorizing the Attorney-in-Fact to act for the Surety (CCP 1305).
- The bond shall include the address at which the Principal (contractor) and Surety may be served with notices, papers and other documents (CCP 995.320 (a)(2)).

Corporate Seal may be affixed hereto.

CALIFORNIA ALL-PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT

SAMPLE

State of California

County of _____

On _____ before me, _____
(Here insert name and title of the officer)

personally appeared _____

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

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

WITNESS my hand and official seal.

(Notary Seal)

Signature of Notary Public

ADDITIONAL OPTIONAL INFORMATION
INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

DESCRIPTION OF THE ATTACHED DOCUMENT

LABOR AND MATERIALS PAYMENT BOND
SIGNATURE PAGE
(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____

Document Date _____

Additional Information

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/~~they~~, is/~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document.

CAPACITY CLAIMED BY THE SIGNER

- Individual(s)
- Corporate Officer

(Title)

- Partner (s)
- Attorney-in-Fact
- Other _____

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Budget Appropriation Adjustment Form



City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552
www.moval.org

1 Date: October 5, 2009
2 Department: Public Works
3 Division: Capital Projects Division

4 **Type of Adjustment:**

- 5 A) New/Additional Appropriations (Expense) from Reserves/Fund Balance
6 Required Signatures: 1: City Council
- 7 B) New/Additional Appropriations (Expense) with offsetting Revenue (no net budgetary impact).
8 Required Signatures: 1: Requestor 2: Dept. Head 3: Bdgt. Officer 4: FASD Director 5: City Manager
- 9 C) Transfers between Funds & Departments (no net budgetary impact)
10 Required Signatures: 1: Requestor 2: Dept. Head 3: Bdgt. Officer 4: FASD Director 5: City Manager
- 11 D) Transfers between Capital Improvement Plan (CIP) projects (no net budgetary impact)
12 Required Signatures: 1: Requestor 2: Dept. Head 3: Bdgt. Officer 4: FASD Director 5: City Manager
- 13 E) Transfers between Division, Business Units & Object Codes within the same Department & Fund (no net budgetary impact)
14 Required Signatures: 1: Requestor 2: Dept. Head 3: Bdgt. Officer 4: FASD Director

Council Action Date

Council Action No.

15 Revenue Fund Balance

16 Fund	Program/ Business Unit	Account/ Object Code	Current Budget	Increase/ (Decrease)	Revised/ Budget	Justification/Reason for Budget Appropriation Adjustment
17 282	282	3911	\$25,000	(\$25,000)	\$0	Additional funds are needed to construct Patriot Park (formerly Sheila St. Park).
18					\$0	
19					\$0	
20					\$0	
21	TOTAL		\$25,000	(\$25,000)	\$0	

22 **Expense**

23 Fund	Program/ Business Unit	Account/ Object Code	Current Budget	Increase/ (Decrease)	Revised/ Budget	Justification/Reason for Budget Appropriation Adjustment
24 282	68627	7200	\$93,166	(\$49,000)	\$44,166	The Sheila St. Sidewalk project is complete. Remaining funds are sufficient for the warranty period. Additional funds are needed to construct Patriot Park (formerly Sheila St. Park).
25 282	68628	7200	\$323,297	\$74,000	\$397,297	
26					\$0	
27					\$0	
28	TOTAL		\$416,463	\$25,000	\$441,463	

29 **Transfer OUT (From)**

30 Fund	Program/ Business Unit	Account/ Object Code	Current Budget	Increase/ (Decrease)	Revised/ Budget	Justification/Reason for Budget Appropriation Adjustment
31		6923			\$0	
32		6923			\$0	
33	TOTAL		\$0	\$0	\$0	

34 **Transfer IN (To)**

35 Fund	Program/ Business Unit	Account/ Object Code	Current Budget	Increase/ (Decrease)	Revised/ Budget	Justification/Reason for Budget Appropriation Adjustment
36		4701			\$0	
37		4701			\$0	
38	TOTAL		\$0	\$0	\$0	

39 Prepared by: Requestor Linda Wilson Extension: 3132 Date: 10/05/09

40 Authorization: Department Head _____ Extension: _____ Date: _____

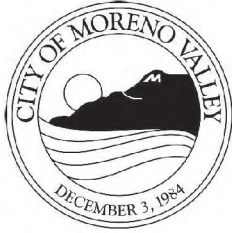
41 Approval as to Funds: Budget Officer _____ Extension: _____ Date: _____

42 Authorization: Fin. & Admin. Svcs. Dir. _____ Extension: _____ Date: _____

43 Authorization: City Manager _____ Extension: _____ Date: _____

Attachment "C"

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APPROVALS	
BUDGET OFFICER	<i>my</i>
CITY ATTORNEY	<i>Ret</i>
CITY MANAGER	<i>PA</i>

Report to City Council

TO: Mayor and City Council

FROM: Steve Elam, City Treasurer

AGENDA DATE: November 10, 2009

TITLE: RECEIPT OF QUARTERLY INVESTMENT REPORT – QUARTER ENDED SEPTEMBER 30, 2009

RECOMMENDED ACTION

Staff recommends that the City Council receive and file the attached Quarterly Investment Report, in compliance with the City's Investment Policy.

BACKGROUND

In response to the Orange County bankruptcy and investment problems, and in order to deal with tightening regulations and controls over local investment of public funds, Senate Bills 866 and 564 were signed into law and became effective January 1, 1996, creating California Government Code Sections 53601 and 53646 respectively. The City's Investment Policy, adopted November 22, 2005 (and revised most recently on February 24, 2009), is in full compliance with the requirements of both of the above-mentioned Code Sections in addressing the types of investments allowed, the governing restrictions on these investments, the third-party custodian arrangement for certain investments, and the quarterly reporting requirements.

DISCUSSION

The attached Quarterly Investment Report presents the City's cash and investments for the quarter that ended September 30, 2009. This is the first quarterly report submitted for the 2009-10 fiscal year and is in compliance with California Government Code Section 53646 regarding the reporting of detailed information on all securities,

investments, and monies of the City, as well as the reporting of the market value of the investments held. All of the investments contained within the portfolio are in full compliance with the City's Investment Policy and Government Code Section 53601 as to the types of investments allowed. As stated in the attached report, there is more than adequate liquidity within the portfolio for the City to meet its budgeted expenditures over the next six months.

The City's investment approach is primarily passive, as discussed in past meetings with the Finance Sub-Committee of the Council. Utilizing a passive approach, securities purchased for investment are typically held to maturity and not actively traded, whereby the market value becomes immaterial to the portfolio return. The City's cash flow requirements are evaluated on an ongoing basis, with short-term needs accommodated through the City's pooled investment funds with the State Local Agency Investment Fund (LAIF). LAIF is a pool of public funds managed by the State Treasurer of California, providing 24-hour liquidity while yielding a rate of return approximately equivalent to a one-year treasury bill. With the combined use of a conservative approach to evaluating cash flow needs and LAIF liquidity, the City will not have to liquidate securities at current market rates that are intended to be held for longer-term investment. This is especially important considering that the average maturity of the general portfolio is 1.53 years.

An exception to the passive investment approach has been the City's recent strategy to reduce holdings in corporate notes that are not issued under the Temporary Liquidity Guarantee Program (TLGP) administered by the Federal Deposit Insurance Corporation (FDIC), given the destabilization of the financial markets. Consistent with this strategy, corporate notes with a principal value of \$12 million were sold during the first quarter at a net gain of \$127,090. The proceeds from these sales were immediately reinvested in instruments that do not have the current risk associated with corporate notes, although they will provide a lower yield. The City has reduced its holdings in non-TLGP corporate notes from \$50 million in September 2008 to \$8 million (par value) as of September 30, 2009, which represents just 3% of the City's general portfolio. Staff will continue to look for opportunities to further reduce exposure to this market sector during the current fiscal year.

In accordance with California Government Code Section 53646, the City is properly reporting investments of all bond proceeds and Deferred Compensation Plan funds. These funds are not managed by the City Treasurer as part of the pooled investment program and were not included in the City's investment reports prior to the current legislation. Bond proceeds are held and invested by a Trustee; Deferred Compensation Plan funds are held and invested by the respective plan administrators.

FISCAL IMPACT

None

CITY COUNCIL GOALS

Revenue Diversification and Preservation. Develop a variety of City revenue sources and policies to create a stable revenue base and fiscal policies to support essential City services, regardless of economic climate.

SUMMARY

The attached Quarterly Investment Report presents the City's cash and investments for the quarter that ended September 30, 2009. This report is in compliance with California Government Code Section 53646 regarding the reporting of detailed information on all securities, investments, and monies of the City, as well as the reporting of the market value of the investments held. All of the investments contained within the portfolio are in full compliance with the City's Investment Policy and Government Code Section 53601 as to the types of investments allowed. It is recommended that the City Council receive and file the attached Quarterly Investment Report.

ATTACHMENTS/EXHIBITS

Attachment 1 - Treasurer's Cash and Investments Report – September 30, 2009

Prepared By:
Patrick Beckner
Treasury Programs Supervisor

Department Head Approval:
Steve Elam
City Treasurer

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

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CITY OF MORENO VALLEY
Treasurer's Cash and Investments Report
September 2009



General Portfolio	Book Value	Market Value	Par Value	Average Maturity
Bank Accounts	5,840,953	5,840,953	5,840,953	
State of California LAIF Pool Investments	97,351,877	97,478,896	97,351,877	
	127,959,182	126,945,460	127,920,000	
Total General Portfolio	231,152,012	230,265,309	231,112,830	1.53 Years

Bond Proceeds with Fiscal Agents	Book Value	Market Value	Par Value	Average Maturity
Construction Funds	14,517,605	14,517,605	14,517,605	
Principal & Interest Accounts	2,566,843	2,566,843	2,566,843	
Debt Service Reserve Funds	8,907,562	8,907,562	8,907,562	
Custody Accounts	0	0	0	
Arbitrage Rebate Accounts	14,809	14,809	14,809	
Other Accounts	534,746	534,746	534,746	
Total Bond Proceeds	26,541,565	26,541,565	26,541,565	0.00 Years

Deferred Compensation Funds	Book Value	Market Value	Par Value
Nationwide	7,208,137	7,208,137	7,208,137
ICMA	3,453,883	3,453,883	3,453,883
Total Deferred Compensation Funds	10,662,020	10,662,020	10,662,020
Total Investment Portfolio	268,355,597	267,468,894	268,316,415

1. I hereby certify that the investments are in compliance with the investment policy adopted by the City Council. There are no items of non-compliance for this period.
2. The market values for the specific investments in the General Portfolio are provided by the City's investment custodian.
3. The market value for LAIF is provided by the State Treasurer.
4. The market values for investments held by fiscal agents and the deferred compensation plans are provided by each respective trustee or fiscal agent.
5. The City has the ability to meet its budgeted expenditures for the next six months pending any future action by City Council or any unforeseen catastrophic event.


 Steve Elam
 City Treasurer

GENERAL PORTFOLIO

Issuer	CUSIP	Credit Rating S & P Moody's	Purchase Date	Maturity Date	Book Value	Market Value	Par Value	Stated Rate	Yield	Price	Days to Maturity	Percent of Portfolio	Weight to Average Maturity	Market Valuation Source
IK ACCOUNTS														
Is Fargo Bank			09/30/09	10/01/09	5,840,953	5,840,953	5,840,953			1.00000	1	0.025273	0.0252732	
SLATE OF CALIFORNIA LOCAL AGENCY INVESTMENT FUND (LAIF)														
General Fund			09/30/09	10/01/09	38,584,713	38,635,056	38,584,713	0.925%	0.925%	1.00000	1	0.166952	0.1669518	LAIF
Community Services Districts			09/30/09	10/01/09	20,149,365	20,123,110	20,149,365	0.925%	0.925%	1.00000	1	0.087071	0.0870705	LAIF
Redevelopment Agency			09/30/09	10/01/09	38,644,054	38,694,475	38,644,054	0.925%	0.925%	1.00000	1	0.167209	0.1672086	LAIF
TOTAL STATE OF CALIFORNIA LAIF POOL					97,351,877	97,478,896	97,351,877							
INVESTMENTS														
MONEY MARKET ACCOUNTS														
MMkt Acct-Highmark US Gvmt			09/30/09	10/01/09	0	0	0			0.00000	1	0.000000	0.0000000	Union Bank
TOTAL MONEY MARKET ACCOUNTS					0	0	0							
CORPORATE BONDS AND NOTES (TEMPORARY LIQUIDITY GUARANTEE PROGRAM)														
Morgan Stanley	61757UA7	A+	06/02/09	09/22/11	1,015,610	1,016,200	1,000,000	2.000%	1.310%	101.56100	722	0.004327	3.1240152	Union Bank
Wells Fargo Bank N.A.	949744AA4	A-	05/01/09	12/09/11	1,037,390	1,035,620	1,000,000	3.000%	1.530%	103.73900	800	0.004327	3.4615127	Union Bank
Bank of America	06050BAG6	A-	05/26/09	04/30/12	1,011,650	1,014,030	1,000,000	2.100%	1.690%	101.16500	943	0.004327	4.0802581	Union Bank
U.S. Bancorp	91160HAC1	A+	06/15/09	05/15/12	990,140	1,004,930	1,000,000	1.800%	2.150%	99.01400	958	0.004327	4.1451615	Union Bank
Citibank	17314JAG8	A+	06/04/09	06/04/12	996,990	1,006,610	1,000,000	1.875%	2.000%	99.69900	978	0.004327	4.2316993	Union Bank
TOTAL CORPORATE BONDS (TEMPORARY LIQUIDITY GUARANTEE PROGRAM)					5,051,780	5,077,390	5,000,000							
CORPORATE BONDS AND NOTES														
Lehman Bros Holding	52517FPN5	A+	06/08/07	01/27/10	972,030	170,000	1,000,000	4.250%	5.400%	97.20300	119	0.004327	0.5149000	Union Bank
International Lease Finance (AIG)	459745FP5	AA-	12/02/05	04/15/10	998,210	971,170	1,000,000	5.000%	5.090%	99.64500	197	0.004327	0.8523975	Union Bank
International Lease Finance (AIG)	459745FP5	AA-	03/26/07	04/15/10	998,210	971,170	1,000,000	5.000%	5.000%	99.99700	197	0.004327	0.8523975	Union Bank
American General Finance (AIG)	02635PSV6	A+	08/08/06	05/15/10	978,490	960,580	1,000,000	4.875%	5.510%	97.84900	227	0.004327	0.9822042	Union Bank
Lehman Bros Holding	52517PA35	A+	08/25/06	07/26/10	972,450	170,000	1,000,000	4.500%	5.286%	97.24500	299	0.004327	1.2937404	Union Bank
American General Finance (AIG)	02635PSF1	A+	06/08/07	09/01/10	972,900	916,590	1,000,000	4.625%	5.550%	97.29000	336	0.004327	1.4538353	Union Bank
American General Finance (AIG)	02635PSK0	A+	05/29/07	03/15/11	952,470	860,700	1,000,000	4.000%	5.400%	95.24700	531	0.004327	2.2975791	Union Bank
Lehman Bros Holding	52517PR60	A+	02/06/07	02/06/12	996,000	170,000	1,000,000	5.250%	5.340%	99.60000	859	0.004327	3.7167993	Union Bank
TOTAL CORPORATE BONDS					7,840,760	5,190,210	8,000,000							
U.S. GOVERNMENT AGENCY SECURITIES														
Fed Home Loan Bank	3133XSKM9	AAA	11/03/08	11/03/09	1,000,000	1,002,500	1,000,000	3.110%	3.110%	100.00000	34	0.004327	0.1471143	Union Bank
Fed Farm Credit	31331V3B	AAA	09/07/06	12/07/09	1,000,970	1,008,750	1,000,000	5.125%	5.095%	100.09700	68	0.004327	0.2942286	Union Bank
Fed Home Loan Bank	3133XPY57	AAA	04/28/08	03/12/10	995,080	1,010,940	1,000,000	2.750%	3.020%	99.50800	163	0.004327	0.7052882	Union Bank
Fed Home Loan Bank	3133XB5Q4	AAA	03/29/05	03/29/10	1,000,000	1,020,630	1,000,000	4.515%	4.515%	100.00000	180	0.004327	0.7788404	Union Bank
Fed Farm Credit	31331XM02	AAA	01/26/07	05/26/10	1,000,000	1,030,000	1,000,000	5.000%	5.000%	100.00000	238	0.004327	1.0298000	Union Bank
Fed Farm Credit	31331GG52	AAA	12/11/08	06/11/10	1,000,000	1,010,310	1,000,000	2.000%	2.000%	100.00000	254	0.004327	1.0990303	Union Bank
Fed Home Loan Bank	3133XCJ38	AAA	11/29/05	08/10/10	989,860	1,034,690	1,000,000	4.700%	4.940%	98.98600	314	0.004327	1.3586437	Union Bank
Fed Home Loan Bank	3133XQMW9	AAA	04/15/08	10/15/10	1,000,000	1,025,630	1,000,000	3.050%	3.050%	100.00000	380	0.004327	1.6442185	Union Bank
Fed Home Loan Bank	3133XQ5X1	AAA	04/28/08	10/28/10	1,000,000	1,025,940	1,000,000	3.220%	3.220%	100.00000	393	0.004327	1.7350832	Union Bank
Fed Home Loan Bank	3133XQZ54	AAA	05/05/08	11/05/10	1,000,000	1,002,810	1,000,000	3.000%	3.000%	100.00000	401	0.004327	1.7004681	Union Bank
Fed Ag Mtg Co	307692AA1	AAA	06/05/06	01/14/11	976,000	1,038,490	1,000,000	4.875%	5.470%	97.60000	471	0.004327	2.0379656	Union Bank
Fed Home Loan Mtg Corp	3128X81U7	AAA	02/18/09	02/18/11	1,000,000	1,005,680	1,000,000	2.000%	2.000%	100.00000	506	0.004327	2.1894068	Union Bank
Fed Home Loan Mtg Corp	3128X81N0	AAA	02/25/09	02/25/11	1,000,000	1,005,500	1,000,000	2.000%	2.000%	100.00000	513	0.004327	2.2196950	Union Bank
Fed Natl Mtg Assn	31398AVL3	AAA	03/02/09	03/02/11	999,750	1,004,060	1,000,000	2.000%	2.010%	99.97500	518	0.004327	2.2413295	Union Bank
Fed Natl Mtg Assn	31398AWA6	AAA	04/01/09	04/01/11	1,000,000	1,007,500	1,000,000	2.050%	2.050%	100.00000	548	0.004327	2.3711362	Union Bank
Fed Farm Credit	31331YK82	AAA	05/19/08	05/02/11	996,360	1,036,560	1,000,000	3.250%	3.380%	99.63600	579	0.004327	2.5052698	Union Bank
Fed Home Loan Bank	31331YR22	AAA	06/01/09	06/01/11	1,000,000	1,006,560	1,000,000	1.300%	1.300%	100.00000	609	0.004327	2.6350766	Union Bank
Fed Home Loan Bank	3133XREI6	AAA	06/09/08	06/09/11	1,000,000	1,023,130	1,000,000	3.600%	3.600%	100.00000	617	0.004327	2.6696917	Union Bank
Fed Home Loan Bank	3133XQR4	AAA	07/14/08	07/14/11	1,000,000	1,030,310	1,000,000	4.125%	4.125%	100.00000	652	0.004327	2.8211329	Union Bank
Fed Farm Credit	31331GE54	AAA	08/17/09	07/29/11	1,914,600	1,921,210	1,920,000	1.330%	1.480%	99.71875	667	0.008308	5.5411896	Union Bank
Fed Natl Mtg Assn	3136FHBU8	AAA	02/18/09	08/18/11	1,000,000	1,005,940	1,000,000	2.000%	2.000%	100.00000	687	0.004327	2.9725740	Union Bank
Fed Home Loan Bank	3133XUHC2	AAA	08/24/09	08/24/11	1,000,000	1,006,250	1,000,000	1.375%	1.380%	100.00000	693	0.004327	2.9983354	Union Bank
Fed Natl Mtg Assn	3136FHCK3	AAA	09/09/11	09/09/11	1,000,000	1,006,250	1,000,000	2.150%	2.150%	100.00000	709	0.004327	3.0677656	Union Bank
Fed Home Loan Bank	3133XHH3	AAA	10/26/06	10/26/11	1,000,000	1,003,440	1,000,000	5.300%	5.300%	100.00000	756	0.004327	3.2711295	Union Bank
Fed Home Loan Bank	3133XRW30	AAA	10/28/08	10/28/11	1,000,000	1,030,310	1,000,000	4.000%	4.000%	100.00000	758	0.004327	3.2797833	Union Bank

GENERAL PORTFOLIO

Issuer	CU51P	Credit Rating S & P Moody's	Purchase Date	Maturity Date	Book Value	Market Value	Par Value	Stated Rate	Yield	Price	Days to Maturity	Percent of Portfolio	Weight to Average Maturity	Market Valuation Source
Fed Natl Mtg Assn	3136FH40	AAA	08/17/09	11/17/11	999,375	1,007,500	1,000,000	1.550%	1.580%	99.93750	778	0.004327	3.3663211	Union Bank
Fed Natl Mtg Assn	3136FX99	AAA	12/15/08	12/15/11	1,000,000	1,004,060	1,000,000	3.010%	3.010%	100.00000	806	0.004327	3.4874741	Union Bank
Fed Natl Mtg Assn	3136FHGE9	AAA	03/23/09	12/23/11	1,000,000	1,008,750	1,000,000	2.250%	2.250%	100.00000	814	0.004327	3.520892	Union Bank
Fed Home Loan Bank	3133XW46	AAA	02/23/09	02/23/12	1,000,000	1,020,000	1,000,000	2.100%	2.100%	100.00000	845	0.004327	3.6562228	Union Bank
Fed Natl Mtg Assn	3136F8U37	AAA	02/08/08	02/08/12	1,000,000	1,011,250	1,000,000	3.570%	3.570%	100.00000	861	0.004327	3.7254531	Union Bank
Fed Home Loan Bank	3133XT272	AAA	02/10/09	02/10/12	1,000,000	1,023,750	1,000,000	2.250%	2.250%	100.00000	863	0.004327	3.7341068	Union Bank
Fed Natl Mtg Assn	3136FHAQ8	AAA	02/17/09	02/17/12	1,000,000	1,006,190	1,000,000	2.450%	2.520%	100.00000	870	0.004327	3.7643951	Union Bank
Fed Home Loan Mtg Corp	3128X8JB9	AAA	02/17/09	02/17/12	998,000	1,006,190	1,000,000	2.450%	2.520%	100.00000	870	0.004327	3.7643951	Union Bank
Fed Home Loan Mtg Corp	3128X8MS8	AAA	03/02/09	03/02/12	997,800	1,011,230	1,000,000	2.350%	2.430%	99.78000	884	0.004327	3.8249716	Union Bank
Fed Home Loan Mtg Corp	3128X8RR5	AAA	03/19/09	03/19/12	1,000,000	1,010,400	1,000,000	2.625%	2.625%	100.00000	901	0.004327	3.8985287	Union Bank
Fed Home Loan Mtg Corp	3133XUQR7	AAA	09/21/09	03/21/12	1,000,000	1,000,310	1,000,000	1.000%	1.000%	100.00000	903	0.004327	3.9071825	Union Bank
Fed Home Loan Mtg Corp	3128X5N61	AAA	03/26/07	03/26/12	1,000,000	1,021,710	1,000,000	5.000%	5.000%	100.00000	908	0.004327	3.9288169	Union Bank
Fed Home Loan Mtg Corp	3133XKFR3	AAA	04/19/07	04/19/12	1,000,000	1,025,000	1,000,000	5.020%	5.020%	100.00000	932	0.004327	4.0326623	Union Bank
Fed Natl Mtg Assn	3136FHNF8	AAA	05/07/09	05/04/12	1,000,000	1,001,560	1,000,000	1.625%	2.300%	100.00000	947	0.004327	4.0975657	Union Bank
Fed Home Loan Mtg Corp	3128X8A93	AAA	05/11/09	05/11/12	1,000,000	1,004,300	1,000,000	2.050%	2.050%	100.00000	954	0.004327	4.1278539	Union Bank
Fed Home Loan Bank	3133XLAG5	AAA	06/01/07	06/01/12	1,000,000	1,031,880	1,000,000	5.300%	5.300%	100.00000	975	0.004327	4.2187186	Union Bank
Fed Natl Mtg Assn	3136FHUY9	AAA	06/01/09	06/01/12	1,000,000	1,003,440	1,000,000	2.120%	2.120%	100.00000	975	0.004327	4.2187186	Union Bank
Fed Farm Credit	3131XG30	AAA	06/29/07	06/21/12	1,005,380	1,100,000	1,000,000	5.450%	5.325%	100.53800	995	0.004327	4.3052564	Union Bank
Fed Home Loan Mtg Corp	3128X8DC3	AAA	01/06/09	07/06/12	1,000,000	1,004,440	1,000,000	2.300%	2.300%	100.00000	1,010	0.004327	4.3701598	Union Bank
Fed Natl Mtg Assn	3136F9YP2	AAA	07/23/08	07/23/12	1,000,000	1,028,750	1,000,000	4.220%	4.220%	100.00000	1,027	0.004327	4.4437169	Union Bank
Fed Home Loan Bank	3133XSK11	AAA	08/01/07	08/01/12	1,000,000	1,096,560	1,000,000	5.250%	5.250%	100.00000	1,036	0.004327	4.4826259	Union Bank
Fed Home Loan Bank	3133XT42	AAA	02/13/09	08/13/12	1,000,000	1,023,130	1,000,000	2.450%	2.450%	100.00000	1,048	0.004327	4.5345817	Union Bank
Fed Natl Mtg Assn	3136FHAK1	AAA	02/27/09	08/27/12	1,000,000	1,010,630	1,000,000	2.625%	2.625%	100.00000	1,062	0.004327	4.5951581	Union Bank
Fed Natl Mtg Assn	3136FHCU7	AAA	03/10/09	09/10/12	1,000,000	1,005,630	1,000,000	2.500%	2.500%	100.00000	1,076	0.004327	4.657346	Union Bank
Fed Natl Mtg Assn	3136FHDS1	AAA	03/24/09	09/24/12	1,000,000	1,005,940	1,000,000	2.650%	2.650%	100.00000	1,090	0.004327	4.7163111	Union Bank
Fed Home Loan Mtg Corp	3128X8WT5	AAA	04/29/09	10/29/12	1,000,000	1,000,940	1,000,000	2.000%	2.000%	100.00000	1,090	0.004327	4.7163111	Union Bank
Fed Home Loan Mtg Corp	3128X8WZ1	AAA	04/29/09	10/29/12	1,000,000	1,007,270	1,000,000	2.350%	2.350%	100.00000	1,125	0.004327	4.867523	Union Bank
Fed Natl Mtg Assn	3136FHJU0	AAA	04/29/09	10/29/12	999,150	1,008,750	1,000,000	2.250%	2.280%	99.91500	1,125	0.004327	4.8677523	Union Bank
Fed Home Loan Bank	3128X7SV7	AAA	05/23/08	11/23/12	1,000,000	1,031,680	1,000,000	3.700%	3.700%	100.00000	1,150	0.004327	4.9759245	Union Bank
Fed Home Loan Mtg Corp	3128X7SV7	AAA	05/23/08	11/23/12	992,500	1,031,680	1,000,000	3.700%	3.880%	99.25000	1,150	0.004327	4.9759245	Union Bank
Fed Natl Mtg Assn	3136FHWA9	AAA	06/10/09	12/10/12	1,000,000	1,002,190	1,000,000	2.250%	2.250%	100.00000	1,167	0.004327	5.0494817	Union Bank
Fed Home Loan Mtg Corp	3128X8I45	AAA	06/11/09	12/11/12	999,400	1,001,600	1,000,000	2.000%	2.020%	99.94000	1,168	0.004327	5.0538086	Union Bank
Fed Home Loan Bank	3133XTRK4	AAA	06/19/09	12/18/12	1,000,000	1,004,690	1,000,000	2.100%	2.100%	100.00000	1,175	0.004327	5.0840968	Union Bank
Fed Home Loan Bank	3133XNTV1	AAA	01/07/08	01/07/13	1,000,000	1,011,560	1,000,000	4.625%	4.625%	100.00000	1,195	0.004327	5.1706346	Union Bank
Fed Farm Credit	31331GK65	AAA	01/14/09	01/14/13	1,007,520	1,015,630	1,000,000	2.500%	2.300%	100.75200	1,202	0.004327	5.2009229	Union Bank
Fed Home Loan Bank	31398ALB6	AAA	01/18/08	01/18/13	1,000,000	1,039,690	1,000,000	4.000%	4.000%	100.00000	1,206	0.004327	5.2182304	Union Bank
Fed Farm Credit	3131Y5B7	AAA	02/01/08	02/01/13	1,000,000	1,010,630	1,000,000	3.790%	3.790%	100.00000	1,220	0.004327	5.2788069	Union Bank
Fed Home Loan Bank	3133XUDM2	AAA	08/14/09	02/14/13	1,000,000	1,007,500	1,000,000	2.400%	2.400%	100.00000	1,233	0.004327	5.3350565	Union Bank
Fed Natl Mtg Assn	3136FH451	AAA	08/20/09	02/19/13	1,000,000	1,010,940	1,000,000	2.375%	2.380%	100.00000	1,238	0.004327	5.3566909	Union Bank
Fed Farm Credit	31331GNG0	AAA	02/25/09	02/25/13	1,000,000	1,007,500	1,000,000	3.000%	3.000%	100.00000	1,244	0.004327	5.3826523	Union Bank
Tennessee Valley Authority	880591CW0	AAA	06/09/09	03/19/13	1,125,400	1,131,240	1,000,000	6.000%	2.900%	112.54000	1,262	0.004327	5.4605363	Union Bank
Fed Natl Mtg Assn	3136F86Y6	AAA	03/19/08	03/19/13	1,000,000	1,017,500	1,000,000	4.000%	4.000%	100.00000	1,266	0.004327	5.4778439	Union Bank
Fed Home Loan Mtg Corp	3128X8T25	AAA	04/08/09	04/08/13	1,000,000	1,007,370	1,000,000	2.500%	2.500%	100.00000	1,286	0.004327	5.5643817	Union Bank
Fed Farm Credit	31331GVY8	AAA	05/08/09	04/08/13	1,000,000	1,002,810	1,000,000	2.200%	2.200%	100.00000	1,286	0.004327	5.5643817	Union Bank
Fed Natl Mtg Assn	3133XQVY5	AAA	05/13/08	05/13/13	1,000,000	1,023,750	1,000,000	4.125%	4.125%	100.00000	1,321	0.004327	5.7158229	Union Bank
Fed Home Loan Mtg Corp	3128X8B84	AAA	05/13/09	05/13/13	1,000,000	1,009,180	1,000,000	2.400%	2.400%	100.00000	1,321	0.004327	5.7158229	Union Bank
Fed Home Loan Mtg Corp	31331GXNA	AAA	06/03/09	06/03/13	1,000,000	1,019,060	1,000,000	4.000%	4.000%	100.00000	1,328	0.004327	5.7461111	Union Bank
Fed Farm Credit	3128X7RC0	AAA	06/03/09	06/03/13	1,000,000	1,008,440	1,000,000	2.700%	2.700%	100.00000	1,342	0.004327	5.8066876	Union Bank
Fed Home Loan Mtg Corp	3128X7VR2	AAA	06/10/08	06/10/13	1,000,000	1,024,820	1,000,000	4.000%	4.000%	100.00000	1,349	0.004327	5.8369758	Union Bank
Fed Farm Credit	31331YV64	AAA	06/10/08	06/10/13	1,000,000	1,026,560	1,000,000	4.300%	4.300%	100.00000	1,349	0.004327	5.8369758	Union Bank
Home Loan Mtg Corp	3133F2Y90	AAA	12/26/08	06/15/13	999,000	1,003,000	1,000,000	3.000%	3.024%	99.90000	1,354	0.004327	5.8586103	Union Bank
Home Loan Mtg Corp	3128X8416	AAA	07/23/09	07/23/13	1,000,000	1,004,140	1,000,000	2.400%	2.400%	100.00000	1,392	0.004327	6.0230321	Union Bank
Home Loan Bank	3133XKTE0	AAA	07/29/08	07/29/13	1,000,000	1,035,310	1,000,000	4.625%	4.625%	100.00000	1,398	0.004327	6.1095935	Union Bank
Home Loan Bank	3133XUEC3	AAA	08/12/09	08/12/13	1,000,000	1,006,560	1,000,000	2.650%	2.650%	100.00000	1,412	0.004327	6.0495699	Union Bank
Home Loan Bank	3133XKYG9	AAA	10/29/08	08/20/13	1,000,000	1,029,380	1,000,000	4.625%	4.625%	100.00000	1,420	0.004327	6.1441851	Union Bank
Home Loan Mtg Corp	3128X9R03	AAA	09/03/09	09/03/13	1,000,000	1,009,410	1,000,000	3.000%	3.000%	100.00000	1,434	0.004327	6.2047615	Union Bank
Farm Credit	31331G174	AAA	09/24/09	09/24/13	1,000,000	1,002,500	1,000,000	2.800%	2.800%	100.00000	1,455	0.004327	6.2956263	Union Bank
Natl Mtg Assn	3136FHGG4	AAA	03/30/09	09/30/13	1,000,000	1,009,380	1,000,000	3.000%	4.500%	100.00000	1,461	0.004327	6.3215876	Union Bank
Farm Credit	31331GDF3	AAA	10/15/10	10/15/13	1,000,000	1,030,940	1,000,000	4.250%	4.250%	100.00000	1,476	0.004327	6.3864910	Union Bank

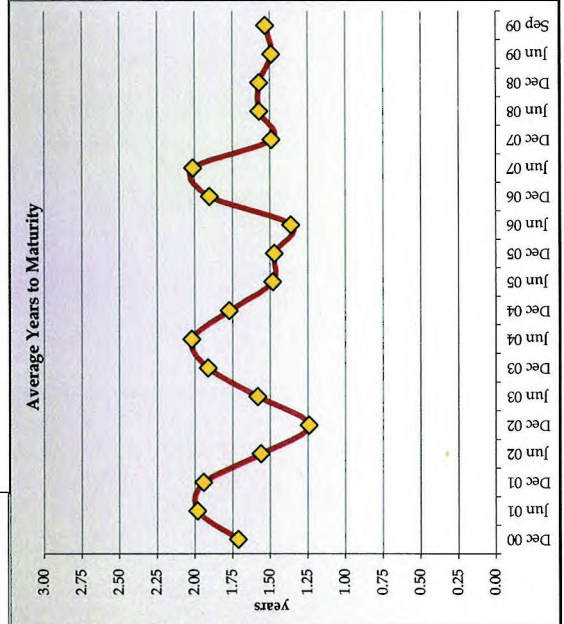
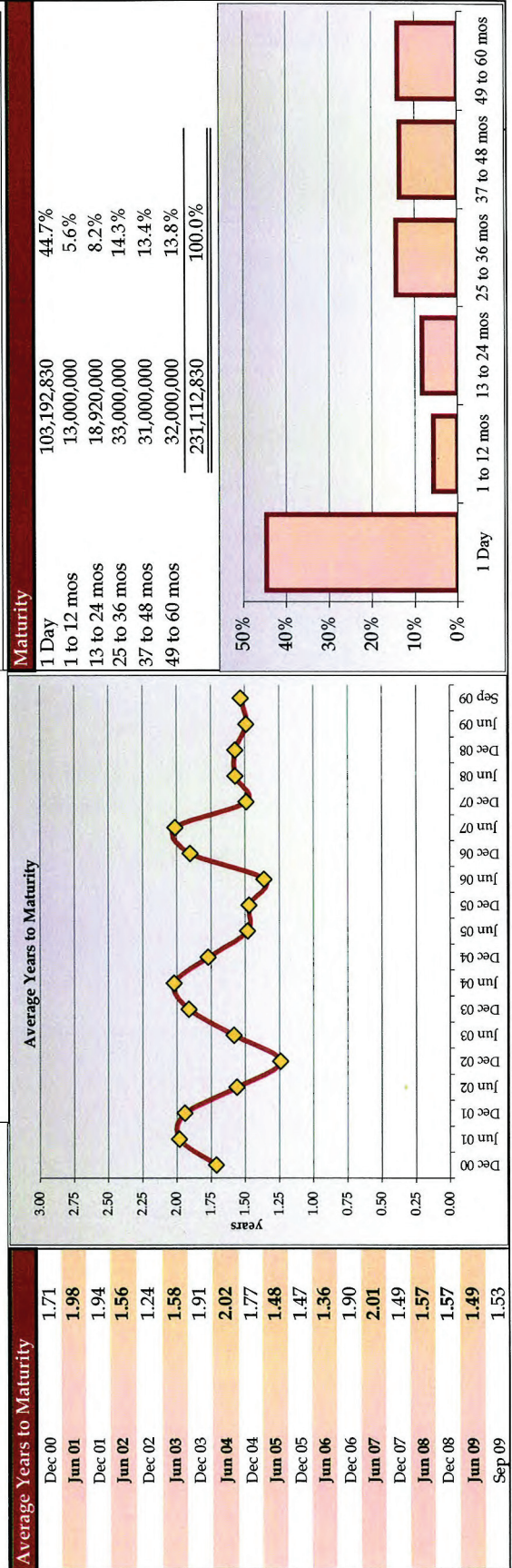
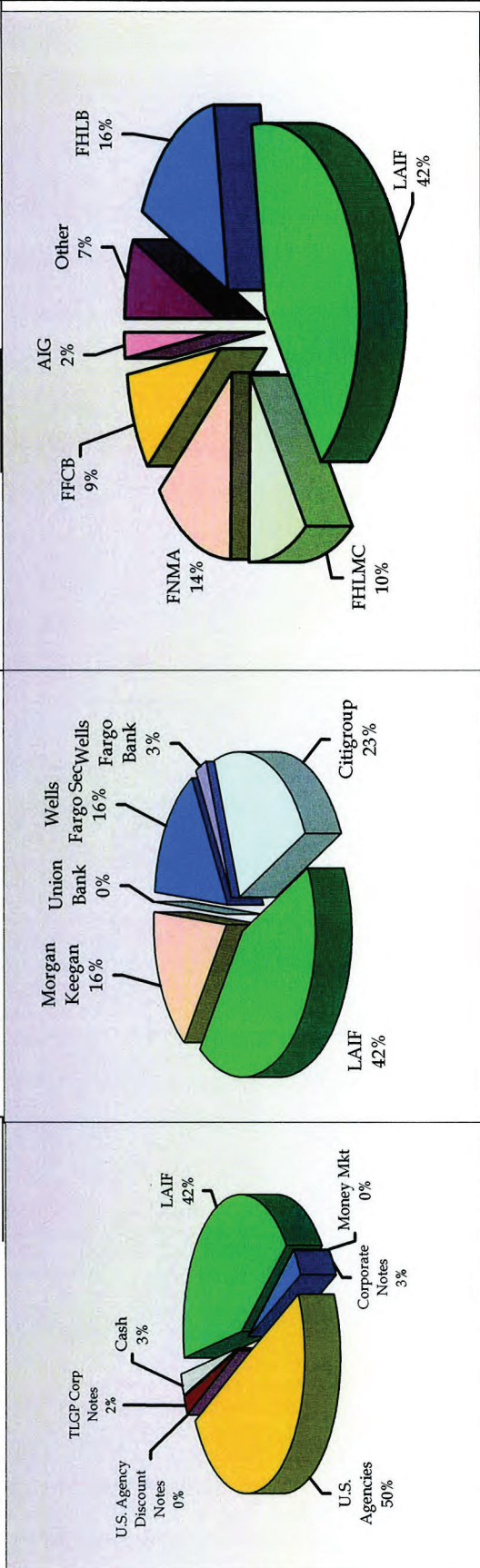
GENERAL PORTFOLIO

Issuer	CUSIP	Credit Rating S & P Moody's	Purchase Date	Maturity Date	Book Value	Market Value	Par Value	Stated Rate	Yield	Price	Days to Maturity	Percent of Portfolio	Weight to Average Maturity	Market Valuation Source
Home Loan Bank	3133XSLV8	AAA	11/26/08	11/26/13	1,000,000	1,032,810	1,000,000	3.500%	3.500%	100.00000	1,518	0.004327	6.5682204	Union Bank
Home Loan Bank	3133XSMU9	AAA	11/26/08	11/26/13	1,000,000	1,033,440	1,000,000	4.050%	4.050%	100.00000	1,518	0.004327	6.5682204	Union Bank
Home Loan Bank	3133XHW57	AAA	06/18/09	12/13/13	1,080,060	1,102,500	1,000,000	4.875%	2.960%	108.00600	1,535	0.004327	6.6417775	Union Bank
Home Farm Credit	31331GYG8	AAA	07/16/09	12/23/13	1,000,000	1,000,310	1,000,000	3.000%	3.000%	100.00000	1,545	0.004327	6.6850464	Union Bank
Fed Home Loan Bank	3133XSRU4	AAA	01/07/09	01/27/14	998,000	995,630	1,000,000	3.000%	3.000%	100.00000	1,560	0.004327	6.7499498	Union Bank
Fed Natl Mtg Assn	3136F93Z4	AAA	01/28/09	01/28/14	1,000,000	997,190	1,000,000	2.000%	2.000%	100.00000	1,581	0.004327	6.8408145	Union Bank
Fed Farm Credit	31331GLP2	AAA	02/03/09	01/30/14	997,500	1,000,310	1,000,000	3.100%	3.150%	99.75000	1,583	0.004327	6.8494683	Union Bank
Fed Farm Credit	31331GMV8	AAA	02/12/09	02/12/14	1,000,000	1,006,880	1,000,000	3.240%	3.240%	100.00000	1,596	0.004327	6.9057179	Union Bank
Fed Home Loan Bank	3133XSZ43	AAA	02/18/09	02/18/14	1,000,000	1,013,440	1,000,000	3.000%	3.000%	100.00000	1,602	0.004327	6.9316792	Union Bank
Fed Natl Mtg Assn	3136FHDF9	AAA	03/18/09	03/18/14	1,000,000	1,013,440	1,000,000	3.200%	3.200%	100.00000	1,630	0.004327	7.0528322	Union Bank
Fed Natl Mtg Assn	3128XQM7	AAA	03/24/09	03/24/14	999,000	1,016,080	1,000,000	2.375%	2.426%	99.90000	1,636	0.004327	7.0787935	Union Bank
Fed Natl Mtg Assn	3136FHWH1	AAA	06/08/09	04/07/14	996,406	999,380	1,000,000	2.900%	2.980%	99.64000	1,650	0.004327	7.1393700	Union Bank
Fed Natl Mtg Assn	3136FHGK5	AAA	04/14/09	04/14/14	1,000,000	988,440	1,000,000	3.160%	3.160%	100.00000	1,657	0.004327	7.1696582	Union Bank
Fed Natl Mtg Assn	3136FHMK8	AAA	05/01/09	05/01/14	1,000,000	1,008,750	1,000,000	3.000%	3.000%	100.00000	1,659	0.004327	7.1783120	Union Bank
Fed Home Loan Mtg Corp	3128X8YU0	AAA	05/05/09	05/05/14	1,000,000	998,130	1,000,000	3.125%	3.125%	100.00000	1,674	0.004327	7.2432154	Union Bank
Fed Natl Mtg Assn	3136FHPX7	AAA	05/14/09	05/14/14	1,000,000	997,810	1,000,000	2.250%	2.920%	100.00000	1,678	0.004327	7.2605229	Union Bank
Fed Natl Mtg Assn	3136FHXH3	AAA	06/10/09	06/10/14	1,000,000	1,001,250	1,000,000	2.000%	3.160%	100.00000	1,687	0.004327	7.2994649	Union Bank
Fed Home Loan Mtg Corp	3128X8K76	AAA	06/16/14	06/16/14	1,000,000	1,002,450	1,000,000	3.130%	3.125%	100.00000	1,720	0.004327	7.4422523	Union Bank
Fed Farm Credit	31331GYT0	AAA	06/17/09	06/17/14	1,000,000	1,015,940	1,000,000	3.750%	3.750%	100.00000	1,721	0.004327	7.4465792	Union Bank
Fed Home Loan Mtg Corp	3128X8M82	AAA	06/25/09	06/25/14	1,000,000	1,000,420	1,000,000	3.450%	3.450%	100.00000	1,729	0.004327	7.4811944	Union Bank
Fed Natl Mtg Assn	3136FHF59	AAA	07/01/09	07/01/14	1,000,000	1,000,000	1,000,000	4.000%	4.000%	100.00000	1,735	0.004327	7.5071557	Union Bank
Fed Home Loan Mtg Corp	3128X8Y89	AAA	07/02/09	07/02/14	999,531	1,011,460	1,000,000	3.400%	3.410%	99.95300	1,736	0.004327	7.5114826	Union Bank
Fed Home Loan Bank	3133XTXW1	AAA	07/09/09	07/09/14	1,000,000	1,002,190	1,000,000	2.500%	3.690%	100.00000	1,743	0.004327	7.5417708	Union Bank
Fed Natl Mtg Assn	31398AYN6	AAA	07/28/09	07/28/14	1,000,000	1,010,000	1,000,000	3.000%	3.000%	100.00000	1,762	0.004327	7.6239818	Union Bank
Fed Home Loan Bank	3133XUBN2	AAA	08/08/09	08/05/14	1,000,000	1,008,440	1,000,000	3.200%	3.200%	100.00000	1,770	0.004327	7.6585969	Union Bank
Fed Home Loan Mtg Corp	3128X9AE0	AAA	08/26/09	08/26/14	1,000,000	1,006,520	1,000,000	3.625%	3.630%	100.00000	1,791	0.004327	7.7494616	Union Bank
Fed Home Loan Bank	3133XUPX5	AAA	09/15/09	09/15/14	1,000,000	1,010,000	1,000,000	3.100%	3.100%	100.00000	1,811	0.004327	7.8359994	Union Bank
Fed Home Loan Bank	3133XUNV1	AAA	09/15/09	09/15/14	1,000,000	998,130	1,000,000	2.250%	2.300%	100.00000	1,811	0.004327	7.8359994	Union Bank

TOTAL U.S. GOVERNMENT AGENCY SECURITIES	115,066,642	116,677,860	114,920,000	558	days
TOTAL INVESTMENTS	127,959,182	126,945,460	127,920,000		
TOTAL GENERAL PORTFOLIO	231,152,012	230,265,309	231,112,830	1.00000	1.53

PORTFOLIO CHARACTERISTICS (Par Value)

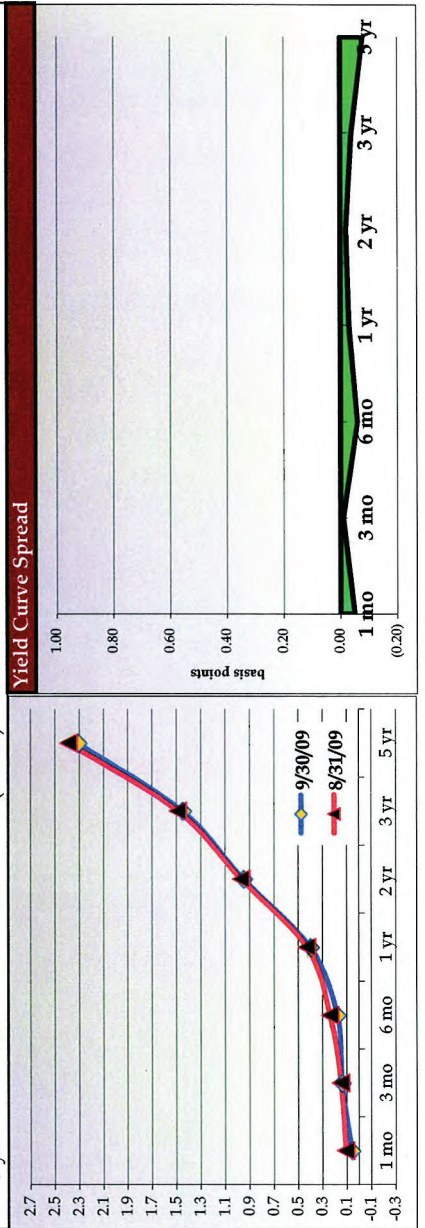
Sector	Par Value	Broker/Dealer	Issuer
Cash	5,840,953	Citigroup	FHLB 37,000,000
Money Markets	0	LAIF	LAIF 97,351,877
LAIF	97,351,877	Morgan Keegan	FHLMC 24,000,000
U.S. Agency Discount Notes	0	Union Bank	FNMA 32,000,000
U.S. Agencies	114,920,000	Wells Fargo Sec	FFCB 19,920,000
Corporate Notes (TLGP)	5,000,000	Wells Fargo Bank	AIG 5,000,000
Corporate Notes	8,000,000		Other 15,840,953
	231,112,830		231,112,830



BENCHMARKS			
Month	1 Year Treasury	LAIF	Moreno Valley
Dec 99	5.98	5.64	5.98
Jun 00	6.30	6.35	6.18
Dec 00	5.32	6.54	6.20
Jun 01	3.72	4.96	5.60
Dec 01	2.17	3.26	4.71
Jun 02	2.06	2.69	3.94
Dec 02	1.32	2.20	3.29
Jun 03	1.09	1.70	2.49
Dec 03	1.26	1.55	2.60
Jun 04	2.09	1.47	2.62
Dec 04	2.75	2.13	2.81
Jun 05	3.45	2.97	3.17
Dec 05	4.38	3.81	3.53
Jun 06	5.21	4.70	4.11
Dec 06	5.00	5.13	4.47
Jun 07	4.91	5.25	4.82
Dec 07	3.34	4.80	4.79
Jun 08	2.36	2.89	3.91
Dec 08	0.37	2.35	3.55
Jun 09	0.56	1.38	2.42
Sep 09	0.40	0.75	2.12

MARKET DATA
Treasury Yield Curve

	9/30/09	8/31/09	Change (bps)
1 mo	0.06	0.11	(0.0500)
3 mo	0.14	0.15	(0.0100)
6 mo	0.18	0.24	(0.0600)
1 yr	0.40	0.43	(0.0300)
2 yr	0.95	0.97	(0.0200)
3 yr	1.45	1.49	(0.0400)
5 yr	2.31	2.39	(0.0800)



SUMMARY OF AUTHORIZED INVESTMENTS

Investment Type	GOVERNMENT CODE			CITY OF MORENO VALLEY INVESTMENT POLICY			Minimum Requirements	
	Maximum Maturity	Maximum % of Portfolio	Minimum Requirements	Amount Invested (Par Value)	% of Portfolio	Maximum Maturity		Maximum % of Portfolio
Cash				5,840,953	3%	N/A	No Limit	None
Local Agency Bonds	5 years	No Limit	None	0	0%	5 years	No Limit	None
U.S. Treasury Obligations	5 years	No Limit	None	0	0%	5 years	70%	"AAA" rating
State of California Obligations	5 years	No Limit	None	0	0%	5 years	10%	"AA" rating
CA Local Agency Obligations	5 years	No Limit	None	0	0%	5 years	10% (5% per issuer)	"AA" rating
U.S. Agencies	5 years	No Limit	None	114,920,000	50%	5 years	70% (50% per issuer)	"AAA" rating
Bankers Acceptances	180 days	40%	None	0	0%	180 days	20% (10% per issuer)	Eligible for purchase by Fed Reserve Bank
Commercial Paper	270 days	25%	A1/P1/F1 rating	0	0%	270 days	15%	"A1/P1/F1" rating
Negotiable CD's	5 years	30%	A1/P1/F1 rating	0	0%	5 years	0	None
Repurchase Agreements	1 year	No Limit	None	0	0%	1 year	20% (10% per issuer)	None
Reverse Repurchase Agreements	92 days	20%	None	0	0%	92 days	Not Allowed	None
Corporate Obligations	5 years	30%	"A" rating	13,000,000	6%	5 years	30% (10% per issuer)	"A" rating
Mutual Funds	N/A	20%	"AAA" rating by 2 of 3 rating agencies	0	0%	3 years AWM*	15% (10% per issuer)	"AAA" rating by 2 of 3 rating agencies
Money Market Mutual Funds	N/A	20%	"AAA" rating by 2 of 3 rating agencies	0	0%	3 years AWM*	15% (10% per issuer)	"AAA" rating by 2 of 3 rating agencies
Collateralized Bank Deposits	5 years	No Limit	None	0	0%	2 years	20% (\$500,000 per issuer)	None
Mortgage Pass-Through Securities	5 years	20%	"AA" rating	0	0%	2 years	20% (\$500,000 per issuer)	"AA" rating
Time Deposits (Certificates of Deposit)	5 years	No Limit	None	0	0%	2 years	20% (\$500,000 per issuer)	Top 25% of peer group
County Pooled Investment Funds	N/A	No Limit	None	0	0%	3 years AWM*	20% (10% per issuer)	AAAf/S1
Local Agency Investment Fund (LAIF)	N/A	No Limit	None	97,351,877	42%	N/A	50%	None
				231,112,830	101%			

* - AWM = Average Weighted Maturity

BOND PROCEEDS WITH FISCAL AGENTS

Account Name	Account Number	Investment	Issuer	Purchase Date	Maturity Date	Face Value	Cost Value	Market Value	Stated Rate	Yield	Price	% of Portfolio
redemption fund	20350200	money market fund	WF Govt Fund	09/30/09	10/01/09	291,847	291,847	291,847	0.01%	0.01%	1.0000	1.100%
redemption/prepay f	20350201	money market fund	WF Govt Fund	09/30/09	10/01/09	2,322	2,322	2,322	0.01%	0.01%	1.0000	0.009%
reserve fund	20350202	money market fund	WF Govt Fund	09/30/09	10/01/09	70,301	70,301	70,301	0.01%	0.01%	1.0000	0.265%
rebate fund	20350203	money market fund	WF Govt Fund	09/30/09	10/01/09	329	329	329	0.01%	0.01%	1.0000	0.001%
						364,799	364,799	364,799				1.374%
Wells Fargo												
Community Facilities District (A-A-1)												
Special tax funds	22631800	cash	cash	12/16/88	09/02/09	0	0	0	0.00%	0.00%	1.0000	0.000%
special tax funds	22631800	money market fund	WF Govt Fund	09/30/09	10/01/09	1,923,782	1,923,782	1,923,782	0.01%	0.01%	1.0000	7.248%
interest acct	22631801	money market fund	WF Govt Fund	09/30/09	10/01/09	0	0	0	0.01%	0.01%	1.0000	0.000%
reserve fund	22631804	money market fund	WF Govt Fund	09/30/09	10/01/09	1,028,699	1,028,699	1,028,699	0.01%	0.01%	1.0000	3.876%
admin exp acct	22631805	money market fund	WF Govt Fund	09/30/09	10/01/09	377	377	377	0.01%	0.01%	1.0000	0.001%
debt service acct	22631809	money market fund	WF Govt Fund	09/30/09	10/01/09	535,790	535,790	535,790	0.01%	0.01%	1.0000	2.019%
special tax funds	22631900	money market fund	WF Govt Fund	09/30/09	10/01/09	405,316	405,316	405,316	0.01%	0.01%	1.0000	1.527%
interest acct	22631901	money market fund	WF Govt Fund	09/30/09	10/01/09	16,153	16,153	16,153	0.01%	0.01%	1.0000	0.061%
reserve fund	22631904	money market fund	WF Govt Fund	09/30/09	10/01/09	366,244	366,244	366,244	0.01%	0.01%	1.0000	1.380%
admin exp acct	22631905	money market fund	WF Govt Fund	09/30/09	10/01/09	72	72	72	0.01%	0.01%	1.0000	0.000%
cost of issuance	22631906	money market fund	WF Govt Fund	09/30/09	10/01/09	2	2	2	0.01%	0.01%	1.0000	0.000%
						4,276,435	4,276,435	4,276,435				
Wells Fargo												
CID # 5												
Series B Revenue	22333500	money mkt fund	WF Govt Fund	09/30/09	10/01/09	150,243	150,243	150,243	0.01%	0.01%	1.0000	0.566%
Series A Principal	22333501	money mkt fund	WF Govt Fund	09/30/09	10/01/09	12,301	12,301	12,301	0.01%	0.01%	1.0000	0.046%
Series B reserve	22333503	money mkt fund	WF Govt Fund	09/30/09	10/01/09	522,482	522,482	522,482	0.01%	0.01%	1.0000	1.969%
Series A interest	22333504	money mkt fund	WF Govt Fund	09/30/09	10/01/09	625	625	625	0.01%	0.01%	1.0000	0.002%
Series B interest	22333505	money mkt fund	WF Govt Fund	09/30/09	10/01/09	457,656	457,656	457,656	0.01%	0.01%	1.0000	1.724%
						1,143,307	1,143,307	1,143,307				
Wells Fargo												
1997 COPs Refunding City Hall												
delivery cost fund	12526001	money mkt fund	WF Govt Fund	09/30/09	10/01/09	0	0	0	0.01%	0.01%	1.0000	0.000%
						0	0	0				
Wells Fargo												
1997 Lease Revenue Bonds - Public Safety												
expense fund	12526107	money mkt fund	WF Govt Fund	09/30/09	10/01/09	14,067	14,067	14,067	0.01%	0.01%	1.0000	0.053%
reserve account	12526103	money mkt fund	WF Govt Fund	09/30/09	10/01/09	407,462	407,462	407,462	0.01%	0.01%	1.0000	1.535%
lease revenue	125256100	money mkt fund	WF Govt Fund	09/30/09	10/01/09	0	0	0	0.01%	0.01%	1.0000	0.000%
rebate account	12526104	money mkt fund	WF Govt Fund	09/30/09	10/01/09	14,480	14,480	14,480	0.01%	0.01%	1.0000	0.055%
						436,009	436,009	436,009				
Wells Fargo												
2007 Redevelopment Agency Tax Allocation Bonds Series A												
debt service fund	22631700	money mkt fund	WF Govt Fund	09/30/09	10/01/09	2	2	2	0.01%	0.01%	1.0000	0.000%
						2	2	2				
Wells Fargo												
2005 Lease Revenue Bond												
bond fund	18042800	money mkt fund	WF Govt Fund	09/30/09	10/01/09	389	389	389	0.01%	0.01%	1.0000	0.001%
reserve fund	18042804	money mkt fund	WF Govt Fund	09/30/09	10/01/09	2,992,828	2,992,828	2,992,828	0.01%	0.01%	1.0000	11.276%
construction fund	18042806	money mkt fund	WF Govt Fund	09/30/09	10/01/09	7,671,734	7,671,734	7,671,734	0.01%	0.01%	1.0000	28.905%
						10,664,951	10,664,951	10,664,951				40.182%
Wells Fargo												
2007 Taxable Lease Revenue Bonds - Electric Utility												
interest fund	22277601	money mkt fund	WF Govt Fund	09/30/09	10/01/09	105	105	105	0.01%	0.01%	1.0000	0.000%
construction fund	22277604	money mkt fund	WF Govt Fund	09/30/09	10/01/09	6,845,766	6,845,766	6,845,766	0.01%	0.01%	1.0000	25.793%
capital interest fund	22277605	money mkt fund	WF Govt Fund	09/30/09	10/01/09	122,106	122,106	122,106	0.01%	0.01%	1.0000	0.460%
cost of issuance	22277606	money mkt fund	WF Govt Fund	09/30/09	10/01/09	368,005	368,005	368,005	0.01%	0.01%	1.0000	1.387%
						7,335,983	7,335,983	7,335,983				
Wells Fargo												
Automall Refinancing												
revenue fund	20350300	revenue	WF Govt Fund	09/30/09	10/01/09	1,139,953	1,139,953	1,139,953	0.01%	0.01%	1.0000	4.295%
reserve fund	20350303	reserve	WF Govt Fund	09/30/09	10/01/09	1,178,145	1,178,145	1,178,145	0.01%	0.01%	1.0000	4.439%
admin expenses	20350304	admin expenses	WF Govt Fund	09/30/09	10/01/09	1,981	1,981	1,981	0.01%	0.01%	1.0000	0.007%
						2,320,079	2,320,079	2,320,079				8.741%
						26,541,565	26,541,565	26,541,565				100.000%

Type	Summary of Bond Proceeds with Fiscal Agents
1	Construction Funds 14,517,605
2	Principal & Interest Accounts 2,566,843
3	Debt Service Reserve Funds 8,907,562
4	Custody Accounts 0
5	Arbitrage Rebate Accounts 14,809
6	Other Accounts 534,746
	Total Fiscal Agent Funds 26,541,565

GENERAL INVESTMENT PORTFOLIO AND BOND PROCEEDS BY ISSUER			
Issuer Name	Par Value	Percent of Portfolio	% Allowed
Cash in Financial Institutions	5,840,953	2%	no limit
State of California LAIF Pool	97,351,877	37.78%	50.00%
Highmark U.S. Government Money Market	0	0.00%	15.00%
Wells Fargo Government Fund	26,541,565	10.30%	NA
Federal Agriculture Mortgage Corp	1,000,000	0.39%	50.00%
Federal Home Loan Bank	37,000,000	14.36%	50.00%
Federal Home Loan Mortgage Corp	24,000,000	9.31%	50.00%
Federal Farm Credit Bank	19,920,000	7.73%	50.00%
Federal National Mortgage Assoc.	32,000,000	12.42%	50.00%
American General Finance	5,000,000	1.94%	10.00%
Bank of America (TLGP)	1,000,000	0.39%	110.00%
Citibank (TLGP)	1,000,000	0.39%	10.00%
Lehman Bros	3,000,000	1.16%	10.00%
Morgan Stanley	1,000,000	0.39%	10.00%
Tennessee Valley Authority	1,000,000	0.39%	10.00%
U.S. Bancorp (TLGP)	1,000,000	0.39%	10.00%
US Treasury Notes	0	0.00%	10.00%
Wells Fargo Bank N.A. (TLGP)	1,000,000	0.39%	10.00%
Total	257,654,395	99.61%	



Report to City Council

TO: Mayor and City Council

FROM: Jane Halstead, City Clerk

AGENDA DATE: November 10, 2009

TITLE: CITY COUNCIL REPORTS ON REIMBURSABLE ACTIVITIES

RECOMMENDED ACTION

Staff recommends that the City Council receive and file the Reports on Reimbursable Activities for the period of October 21, 2009 – November 3, 2009.

<i>Reports on Reimbursable Activities</i> October 21, 2009 – November 3, 2009		
Council Member	Date	Meeting
William H. Batey II	10/28/09	UCR Citizens University Committee
	11/3/09	Moreno Valley Hispanic Chamber of Commerce Adelante
Bonnie Flickinger	10/28/09	UCR Citizens University Committee
Robin N. Hastings	10/28/09	Moreno Valley Chamber of Commerce Wake-Up
Jesse L. Molina		None
Richard A. Stewart		None

Prepared By:
Cindy Miller
Executive Assistant to the Mayor/City Council

Department Head Approval:
Jane Halstead
City Clerk

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

\\Zurich\shared\InterDept\Council-Clerk\City Clerk Files\Council Office\AB 1234 Reports\2009\111009.doc

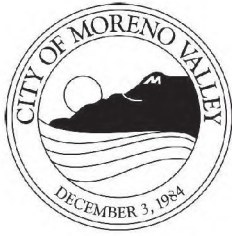
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**MINUTES - REGULAR MEETING OF OCTOBER 27, 2009
(Report of: City Clerk's Department)**

Recommendation: Approve as submitted.

SEE AGENDA ITEM A.2

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APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>But</i>
CITY MANAGER	<i>RM</i>

Report to City Council

TO: Mayor and City Council, acting in their capacity as President and Board of Directors of the Moreno Valley Community Services District

FROM: Michael McCarty, Director of Parks and Community Services

AGENDA DATE: November 10, 2009

TITLE: ADOPT RESOLUTION NO. CSD 2009-21 APPROVING THE GRANT APPLICATION FOR GRANT FUNDS FROM THE RECREATIONAL TRAILS PROGRAM

RECOMMENDED ACTION

Staff recommends that the Mayor and City Council, acting in their capacity as President and Board of Directors of the Moreno Valley Community Services District:

1. Adopt Resolution No. CSD 2009-21 approving the grant application for grant funds from the Recreational Trails Program.

ADVISORY BOARD/COMMISSION RECOMMENDATION

At the regular meeting of the Recreational Trails Board on May 28, 2008, the Board voted (6 Ayes, 0 Noes, 3 Absent) to recommend to the City Council, acting in their capacity as President and Board of Directors of the Moreno Valley Community Services District, approval of a Resolution approving the grant application for grant funds from the Recreational Trails Program.

BACKGROUND

At the City Council meeting of July 8, 2008, Resolution No. CSD 2008-19 was adopted as a requirement of the Recreational Trails Program grant application. The application was submitted to the State of California. On December 1, 2008, staff received a letter from the State requesting a correction to paragraph 5 of the Resolution by replacing the words "(designated position)" with the words "Parks Maintenance Division Manager."

DISCUSSION

The grant application project is a trail head facility, which falls under the Non-Motorized Projects section of the RTP. The project site is the Moreno Valley Equestrian Center (MVEC), located at 11150 Redlands Boulevard, Moreno Valley, California. The MVEC is a 40-acre site serving as a main trail head facility for the City of Moreno Valley's master planned, multi-use trail system. The scope of the grant application project involves the design and construction of a restroom/information building with ADA parking, and several, onsite multi-use trails of various lengths serving as trail linkages. Currently, no restroom/information building or onsite trail linkages exist at the MVEC; which is becoming a problem as the MVEC is being used more frequently, especially on busy weekends.

ALTERNATIVES

1. Approve staff recommendation as submitted and adopt Resolution No. CSD 2009-21.
2. Not accept adoption of Resolution No. CSD 2009-21.

FISCAL IMPACT

The \$588,650 from the RTP would be utilized to fund the design and construction of a restroom/information building and several, onsite multi-use trails of various lengths serving as trail linkages. This grant requires a matching contribution of 12% which equals \$70,638 in matching contributions. The funding for this matching contribution will be available in fiscal years 2009/2010 and 2010/2011 as follows:

2009/2010

Development Impact Fees/Parkland Improvement – Fund 205	\$32,000
---	----------

2010/2011

Development Impact Fees/Parkland Improvements – Fund 205	\$16,000
California Conservation Corp - Account No. 76210.6255	\$ 3,638
Moreno Valley Trail Seekers volunteer labor and donations	<u>\$19,000</u>

Total	<u>\$70,638</u>
-------	-----------------

CITY COUNCIL GOALS

Revenue Diversification and Preservation. Develop a variety of City revenue sources and policies to create a stable revenue base and fiscal policies to support essential City services, regardless of economic climate.

Public Facilities and Capital Projects. Ensure that needed public facilities, roadway improvements, and other infrastructure improvements are constructed and maintained.

Community Image, Neighborhood Pride and Cleanliness. Promote a sense of community pride and foster an excellent image about our City by developing and executing programs that will result in quality development, enhanced neighborhood preservation efforts, including home rehabilitation and neighborhood restoration.

SUMMARY

A solution to the deficiency of not having a restroom/information building and onsite trail linkages at the MVEC is to seek RTP grant funding to design and construct these amenities, all of which may not be built without receiving RTP grant funding. The amenities will serve the needs of patrons who use the MVEC including mountain bikers, hikers, joggers, equestrians and users of the "Hound Town Dog Park". Approval of the Resolution and filing of grant application for grant funds from the RTP 2009 grant cycle will allow an opportunity not only to fill a deficiency, but also to provide sustainable amenities for future generations to use and enjoy.

NOTIFICATION

Posting of the agenda.

ATTACHMENTS/EXHIBITS

- Attachment 1: Resolution CSD No. 2008-19
- Attachment 2: Resolution CSD No. 2009-21

Prepared By:
 Steve Kupsak
 Parks Maintenance Division Manager

Department Head Approval:
 Michael McCarty
 Parks and Community Services Director

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

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RESOLUTION NO. CSD 2008-19

RESOLUTION OF THE COMMUNITY SERVICES DISTRICT OF THE CITY OF MORENO VALLEY, CALIFORNIA, APPROVING THE APPLICATION FOR GRANT FUNDS FROM THE RECREATIONAL TRAILS PROGRAM

WHEREAS, the "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users" provides funds to the State of California for Grants to federal, state, local and non-profit organizations to acquire, develop and/or maintain motorized and non-motorized trail Projects; and

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility for the administration of the program within the State, setting up necessary procedures governing Project Application under the program; and

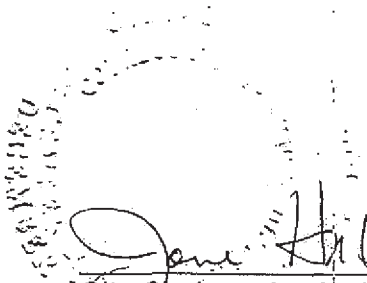
WHEREAS, said procedures established by the State Department of Parks and Recreation require the Applicant to certify by resolution the approval of Application before submission of said Application to the State; and

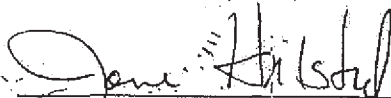
WHEREAS, the Applicant will enter into a Contract with the State of California to complete the Project;

NOW, THEREFORE, THE COMMUNITY SERVICES DISTRICT OF THE CITY OF MORENO VALLEY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

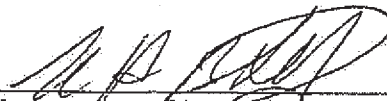
1. Approves the filing of an Application for the Recreational Trails Program; and
2. Certifies that the Project is consistent with the Applicant's general plan or the equivalent planning document; and
3. Certifies that said Applicant has or will have available prior to commencement of any work on the Project included in this Application, sufficient funds to operate and maintain the Project; and
4. Certifies that the Applicant has reviewed, understands, and agrees to the General Provisions contained in the Contract shown in the Procedural Guide; and
5. Appoints the (designated position) as agent to conduct all negotiations, execute and submit all documents, including, but not limited to Applications, agreements, amendments, payment requests and so on, which may be necessary for the completion of the Project; and
6. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

APPROVED AND ADOPTED this 8TH day of July, 2008.





City Clerk, acting in the capacity of
Secretary of the Moreno Valley
Community Services District



Mayor of the City of Moreno Valley,
Acting in the capacity of President of the
Moreno Valley Community Services District

APPROVED AS TO FORM:



City Attorney, acting in the capacity
of General Counsel of the Moreno
Valley Community Services District

RESOLUTION JURAT

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF MORENO VALLEY)

I, JANE HALSTEAD, Secretary of the Moreno Valley Community Services District, Moreno Valley, California do hereby certify that CSD Resolution No. 2008-19 was duly and regularly adopted by the Board of Directors of the Moreno Valley Community Services District at a regular meeting held on the 8th day of July, 2008, by the following vote:

AYES: Boardmembers Stewart, White, Flickinger, and Vice-President West

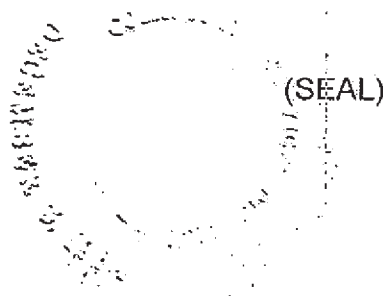
NOES: None

ABSENT: President Batey

ABSTAIN: None



SECRETARY



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RESOLUTION NO. CSD 2009-21

RESOLUTION OF THE COMMUNITY SERVICES DISTRICT OF THE CITY OF MORENO VALLEY, CALIFORNIA, APPROVING THE APPLICATION FOR GRANT FUNDS FROM THE RECREATIONAL TRAILS PROGRAM

WHEREAS, the "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users" provides funds to the State of California for Grants to federal, state, local and non-profit organizations to acquire, develop and/or maintain motorized and non-motorized trail Projects; and

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility for the administration of the program within the State, setting up necessary procedures governing Project Application under the program; and

WHEREAS, said procedures established by the State Department of Parks and Recreation require the Applicant to certify by resolution the approval of Application before submission of said Application to the State; and

WHEREAS, the Applicant will enter into a Contract with the State of California to complete the Project;

NOW, THEREFORE, THE COMMUNITY SERVICES DISTRICT OF THE CITY OF MORENO VALLEY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

1. Approves the filing of an Application for the Recreational Trails Program; and
2. Certifies that the Project is consistent with the Applicant's general plan or the equivalent planning document; and
3. Certifies that said Applicant has or will have available prior to commencement of any work on the Project included in this Application, sufficient funds to operate and maintain the Project; and
4. Certifies that the Applicant has reviewed, understands, and agrees to the General Provisions contained in the Contract shown in the Procedural Guide; and
5. Appoints the **Parks Maintenance Division Manager** as agent to conduct all negotiations, execute and submit all documents, including, but not limited to Applications, agreements, amendments, payment requests and so on, which may be necessary for the completion of the Project; and
6. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

APPROVED AND ADOPTED this _____ day of _____, 2009.

Mayor of the City of Moreno Valley,
Acting in the capacity of President of the
Moreno Valley Community Services District

City Clerk, acting in the capacity of
Secretary of the Moreno Valley
Community Services District

APPROVED AS TO FORM:

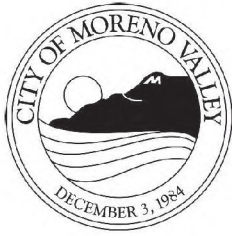
City Attorney, acting in the capacity
of General Counsel of the Moreno
Valley Community Services District

RESOLUTION JURAT

[Clerk's office will prepare]

[NOTE: Any attachments or exhibits to this resolution should follow this jurat.]

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

Report to City Council

TO: Mayor and City Council, acting in their capacity as President and Board of Directors of the Moreno Valley Community Services District

FROM: Mike McCarty, Director of Parks and Community Services

AGENDA DATE: November 10, 2009

TITLE: APPROVE RENEWAL OF AFTER SCHOOL EDUCATION AND SAFETY GRANT

RECOMMENDED ACTION

Staff recommends that the City Council, acting in their capacity as President and Board of Directors of the Moreno Valley Community Services District:

1. Authorize the City Manager to renew the After School Education and Safety Grant (ASES) with the California Department of Education for fiscal years 2010 - 2013.
2. Authorize the City Manager to accept the funding in the amount of \$4,093,200 from the After School Education and Safety Grant (ASES) with the California Department of Education for fiscal years 2010-2013.

ADVISORY BOARD/COMMISSION RECOMMENDATION

N/A

BACKGROUND

The After School Learning and Safe Neighborhoods Partnership Program began in 1998. Proposition 49 was passed by California voters in 2002, changing the name to After School Education and Safety (ASES), which staff refers to as the S.T.A.R.S. (Students, Teachers, Achieving, Real, Success) program, and effective July 1, 2006 increasing annual funding from \$121 million up to \$550 million. Applicants awarded an

ASES grant receive a three-year renewable direct grant awarded in one-year increments.

As a result of staff's efforts to provide an increased level of service for Moreno Valley youth through diverse funding, staff submitted competitive grant applications in partnership with Moreno Valley Unified School District (MVUSD) and Val Verde Unified School District (VVUSD) to the After School Partnerships Office, CDE. The City of Moreno Valley is the fiscal agent for the grant. The City of Moreno Valley Parks and Community Services Department received a three-year direct grant that was awarded in three one-year increments of \$4,950,000 from the State Department of Education.

DISCUSSION

The focus of the S.T.A.R.S., grant submitted by the City, in partnership with MVUSD and VVUSD, is to provide literacy, academic enrichment, and safe, constructive alternatives for students kindergarten through grade nine at no cost to the participants. The school sites receiving grant funding were chosen based, in part, on the percentage of students eligible for free and reduced lunches. The program requirements are to operate after school a minimum of 15 hours per week and at least until 6:00 p.m., beginning immediately upon the conclusion of the regular school day; operate every regular school day during the school year; and offer a daily nutritious snack that meets the requirements of the U.S. Department of Agriculture (USDA) National School Lunch Program for meal supplements funded through the Child and Adult Care Food program. The program elements are an educational and literacy component and an educational enrichment aspect. The educational and literacy component must include tutoring and/or homework assistance designed to help students meet state standards in one or more of the following core academic subjects: language arts, mathematics, history and social science, science, or computer training. The educational enrichment aspect must offer an array of additional services, programs, and activities that reinforce and complement the regular academic program of participating students to support positive youth development.

This is a direct grant in that awards are calculated on the combined projected enrollment and days of operation of each school in the grant. Schools are not reimbursed on actual program attendance. Payments will be issued in three increments as follows: 65 percent will be issued within 30 days of receipt of the signed Grant Award Notification, 25 percent will be issued on receipt of mid-year reports and 10 percent will be issued at the end of the grant award period on receipt of a close-out report. The S.T.A.R.S program requires a local match of one-third of the state grant amount. As proposed, the in-kind budget match will include cost of facilities, janitorial services, management staffing, volunteers, supplies, parks and recreation programs and community development.

ALTERNATIVES

1. Approve the acceptance of the S.T.A.R.S. grant funding in the amount of up to \$4,093,200.
2. Approve the acceptance of the S.T.A.R.S. grant funding in an amount less than the \$4,093,200 offered for fiscal years 2010/2013 from the California Department of Education, After School Partnerships Office, for the After School Education and Safety (ASES) Program and reduce the number of children served. This option would limit our chances of increased funding in the future.
3. Not accept the renewal of the grant and decline the grant funding. Staff will attempt to return to a fee-based after school program.

FISCAL IMPACT

The proposed grant would fund all direct program expenditures at 100 percent through grant funding.

SUMMARY

This grant funding would allow the City, in partnership with MVUSD and VVUSD, to provide after school care for students kindergarten through grade nine where they receive extended learning opportunities in a safe physical and emotional environment. This program also provides city-wide reading program, spelling program, and other similar activities, all which benefit the community as a whole.

NOTIFICATION

Posting of the Agenda.

ATTACHMENTS/EXHIBITS

Attachment A: ASES Renewal Grant Application 2010-2013

Prepared By:
Christine Peterson
Program Supervisor

Department Head Approval:
Michael McCarty
Director of Parks and Community Services

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

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After School Education and Safety Grant Renewal Request Checklist

**RENEWAL REQUEST FORMS MUST BE RECEIVED BY AFTER SCHOOL PROGRAMS
OFFICE NO LATER THAN 5:00 p.m. on November 20, 2009**

MAIL OR DELIVER TO: **After School Programs Office
California Department of Education
Renewal Request
1430 N Street, Suite 6408
Sacramento, CA 95814-5901
AND
*Regional Lead**

COPIES: Provide the California Department of Education (CDE) with one original After School Education and Safety (ASES) Grant Renewal Request Form with original signatures and one copy. *Provide **one copy** of the Renewal Request Form to the respective Regional Lead (RL). (The contact list of RL, CDE consultants and analysts is posted on the After School Program Office Web page at <http://www.cde.ca.gov/ls/ba/as/>.) See section "E" in the renewal instructions for information on the Renewal Request Form preparation and submission.

Items must be submitted in the following order. When all of the items on this sheet are checked off, staple this sheet as the last page of your Renewal Request Form. Since original signatures are required, do not FAX or send the application electronically.

- Form A.1 Renewal Request Form Information Package
- Options and Rationale
- Program Goals
- Program Content
- Attendance
- Form A.2.a List of Schools and Choices for Renewal for After School Programs
- Form A.2.b List of Schools and Choices for Renewal for Before School Programs
- Form A.3 Signatures/Approvals and Certification
- Form B
- Form C Certification
- Form E.1.a and/or E.1.b
- One copy sent to respective RL

Please staple this Checklist for the Renewal Package as the last page of the request form.

FOR the CDE
USE ONLY:

2010

—R2010—

Year

Application #

**After School Education and Safety Program
Renewal Request Form**

Return to: After School Programs Office
California Department of Education
ASES Renewal Request
1430 N Street, Suite 6408
Sacramento, CA 95814-5901

**For Grant Period
July 1, 2010, through
June 30, 2013**

**Must be RECEIVED by
November 20, 2009**

ASES RENEWAL REQUEST FORM INFORMATION

Public Agency Name (name of fiscal agent for collaborative) City of Moreno Valley		Current Grant ID number: 09 23939 2186 EZ	
County: Riverside	Total Amount Requested (Totals from Forms E.1 and E.2): \$4,093,200	Total Matching Funds \$1,364,400	
Superintendent or Designated Agency Representative: Robert G. Gutierrez		Grant Contact: Michael McCarty	
Agency Name: City of Moreno Valley		Agency Name: City of Moreno Valley	
Address: 14177 Frederick St., P.O. Box 88005		Address: 14075 Frederick St., P.O. Box 88005	
City: Moreno Valley	Zip: 92552	City: Moreno Valley	Zip: 92552
Phone: (951) 413-3020	FAX:	Phone: (951) 413-3280	FAX: 413-3719
E-mail: Bobg@moval.org		E-mail: MikeM@moval.org	

Certification: I have reviewed the assurances included on pages 5-6 in the ASES Grant Renewal Instructions and agree as the authorized representative of the Public Agency, and on behalf of the ASES Program Collaborative to fulfill and uphold all current and future legislative requirements for the ASES Program.

Signature of Superintendent/ Designated Representative

City of Moreno Valley
Public Agency Name

OPTIONS AND RATIONALE

Renewal Options: Please complete corresponding forms on the following pages.

1. Renew a currently approved school at the **existing funding level**.
 - Complete a listing of all schools requesting funding at the existing level.
 - Indicate status **R** (renew) in the first column.
 - Include all schools on grant calculator Form E.1.a and/or E.1.b.
 - Obtain principal's signature for each school on Form A.3.

2. Renew a currently approved school at a **lower funding level** due to lower than anticipated attendance.
 - Complete Form A.2.a and/or A.2.b listing all currently funded schools requesting a decrease in funding.
 - Indicate status **D** (decrease) in the first column.
 - Include all schools on the grant calculator Form E.1.a and/or E.1.b.
 - Obtain principal's signature for each school on Form A.3.

California Department of Education
After School Education and Safety Program

Program Goals:

What were the goals for your program during 2007–10?

California *Education Code* Section 8484 requires that programs submit one or more of the following measures to demonstrate program effectiveness. Select which measure(s) you will submit for the years 2010–11, 2011–12, 2012–13.

- STAR
- Positive behavioral change
- Skill development
- Homework completion

What are the goals for your program for 2010–13?

Program Content:

Describe your educational and literacy element.

Describe your educational enrichment element.

Describe how activities and strategies used in the after school program directly build on and support what is included in the regular school day program and how they are linked to state standards.

Attendance

Describe a plan to maintain future ASES Program attendance levels for students who attend regularly in the current year and during the next grant period.

Describe strategies planned to increase attendance levels for students who do not attend regularly in the current year and during the next grant period.

Regular School Day Attendance: State your 2010-13 program goals related to attendance of the reported students in the regular school day program. Please state your goals in measurable terms. Provide amendments from the previous grant award (if any).

List all currently approved schools, even if not renewing and review the data using the After School Support and Information System (ASSIST) Program. Copy the sites from ASSIST into an Excel file and key in the status column and current funding amount column to print a hard copy to be included with this package, or you may enter the data in the form on this page.

LIST OF SCHOOLS OPERATING AFTER SCHOOL PROGRAMS				
BASE GRANT				
Status R=Renew C=Cancel D=Decrease	CDS* Code	School Name Please List Schools	Type E=Elementary M=Middle/ Junior High	Funding Amount
R	33671246032288	Armada	E	112,500
R	33671246107890	Bear Valley	E	112,500
R	33671246108716	Box Springs	E	112,500
R	33671246103501	Butterfield	E	112,500
R	33671246106967	Chaparral Hills	E	112,500
R	33671246107080	Cloverdale	E	99,900
R	33671246106942	Creekside	E	82,350
R	33671246032304	Edgemont	E	103,950
R	33671246108724	Hendrick Ranch	E	112,500
R	33671246105514	Honey Hollow	E	112,500
R	33671240108134	La Jolla	E	112,500
R	33671246032312	Midland	E	112,500
R	33671246032320	Moreno	E	112,500
R	33671246104582	Ramona	E	102,600
R	33671246110928	Seneca	E	98,550
R	33671246106041	Serrano	E	112,500
R	33671246032338	Sunnymead	E	98,550
R	33671246103519	Sunnymeadows	E	112,500

R	33671240102731	Towngate	E	112,500
R	33671246108674	Badger Springs	M	66,150
R	33671246109979	Landmark	M	87,750
R	33671246107643	Mountain View	M	67,500
R	33671246110027	Palm	M	58,050
R	33671246108690	Sunnymead	M	52,650
R	33752420109124	Avalon	E	112,500
R	33752420106096	Columbia	E	112,500
R	33752420109116	Lasselle	E	112,500
R	33752426114458	Manuel L Real	E	112,500
R	33752426109565	Mary McLeod Bethune	E	112,500
R	33752420117424	May Ranch	E	112,500
R	33752426032866	Mead Valley	E	112,500
R	33752426108039	Rainbow Ridge	E	101,250
R	33752420106104	Red Maple	E	112,500
R	33752420100958	Sierra Vista	E	83,700
R	33752420112094	Triple Crown	E	112,500
R	33752426032874	Val Verde	E	112,500
R	33752426108047	Victoriano	E	112,500
R	33752420100941	Lakeside	M	68,850
R	33752420112102	March	M	70,200
R	33752426111447	Tomas Rivera	M	82,350
R	33752426111033	Vista Verde	M	68,850

SIGNATURES and APPROVALS Attach as many extra sheets as necessary.

School Principal Approval: The principal of each school site involved in the renewal request must sign.

School Name	Printed Name of Principal	Signature of Principal
Armada Elementary	Dr. John Lawson	
Bear Valley Elementary	Lillian Saldana	
Box Springs Elementary	Samuel Stager	
Butterfield Elementary	Tia May	
Chaparral Elementary	Kirk Skorpanich	
Cloverdale Elementary	Ken Sims	
Creekside Elementary	Andrea Aragon	
Edgemont Elementary	Melissa Bazanos	
Hendrick Ranch Elementary	Robert Gordon	
Honey Hollow Elementary	Dolores Vasquez	
La Jolla Elementary	Wade Hamilton	
Midland Elementary	Todd Flowers	
Moreno Elementary	Jones	
Ramona Elementary	Sandra Bunting	
Seneca Elementary	Emilio Gallegos	
Serrano Elementary	Martha Palomino	
Sunnymead Elementary	Maria Torres	
Sunnymeadows Elementary	Cheryl Smith	
Towngate Elementary	Paula Rynders	
Badger Springs Middle	Rose Ann Gasser	
Landmark Middle	Christopher Schiermeyer	
Mountain View Middle	Debbie Fay	
Palm Middle	N. Ross	
Sunnymead Middle	Lilia F. Villa	

SIGNATURES and APPROVALS Attach as many extra sheets as necessary

School Principal Approval: The principal of each school site involved in the renewal request must sign.

School Name	Printed Name of Principal	Signature of Principal
Avalon Elementary	Marilyn Lezine	
Columbia Elementary	Deborah Bryant	
May Ranch Elementary	Jim Owen	
Lasselle Elementary	Margaret Jones	
Manuel L. Real Elementary	Paz Enciso	
Mary McLeod Bethune Elem.	Kimberly Hendricks	
Mead Valley Elementary	Ruth Salazar	
Rainbow Ridge Elementary	Tim Tanner	
Red Maple Elementary	Susan Kester	
Sierra Vista Elementary	Corby Warren	
Triple Crown Elementary	Laura Muehlebach	
Val Verde Elementary	Anu Menon	
Victoriano Elementary	Richard Aleksak	
Lakeside Middle	Robert Block	
March Middle	Wendy Pospichal	
Tomas Rivera Middle	Ernesto Lizarraga	
Vista Verde Middle	Dr. Gary Roughton	

School District Approval: The superintendent, or designee, at each school district involved in the renewal request must sign.

School District Name	Printed Name of Superintendent	Signature of Superintendent
Moreno Valley Unified	Rowena Lagrosa	
Val Verde Unified	Dr. Alan Jensen	

Assurances and Certifications

The CDE General Assurances and Certifications, which is required for grants supported by state or federal funds, can be found on the Funding Forms Web page at <http://www.cde.ca.gov/fg/fo/fm/>.

Initial	Certified Assurances for an After School Component
	Please initial by each assurance listed below to indicate that the applicant agency agrees to abide by and assure compliance with all ASES Program and state funding and legal requirements.
	The applicant receiving state funding for the ASES Program agrees:
	To include an educational and literacy element designed to provide tutoring and/or homework assistance in one or more of the following core content subject areas: language arts, mathematics, history and social science, science, and computer training.
	To have an educational enrichment element that may include, but is not limited to, fine arts, recreation, physical fitness, and prevention activities. Such activities might involve the visual and performing arts, music, physical activity, health promotion, general recreation, career awareness and work preparation activities, community service-learning, and other youth development activities based on students' needs and interests.
	To show proof that the application has been approved by the school district and the principal of each participating school for each school site.
	That the public agency or LEA partner will act as the fiscal agent.
	To follow all fiscal reporting and auditing standards required by the CDE.
	To establish qualifications for each staff position that, at a minimum, ensure that all staff members who directly supervise pupils meet the minimum qualifications for an instructional aide, pursuant to the policies of the school district.
	That the program will maintain a pupil-to-staff member ratio of no more than 20:1.
	That all staff and volunteers will fulfill health screening and fingerprint clearance requirements in current law according to district policy.
	That each partner in the application will share responsibility for the quality of the program.
	To collaborate and coordinate with the regular school day program.
	That the after school program will begin operation immediately upon the end of the regular school day and operate for a minimum of 15 hours per week and until at least 6:00 p.m., on every regular school day.
	That a regular school day is any day that students attend and instruction takes place.
	That information regarding the after school program will be available in a form and language that is easily understandable to all parents.

Initial	<p align="center">Certified Assurances for an After School Component</p> <p>Please initial by each assurance listed below to indicate that the applicant agency agrees to abide by and assure compliance with all ASES program and state funding and legal requirements.</p>
	To plan the program through a collaborative process that includes parents, youth, and representatives of participating public school sites, governmental agencies (e.g., city and county parks and recreation departments), local law enforcement, community organizations, and the private sector.
	That if the site is not located on a school campus, it must be as accessible and available as the school site with safe transportation being provided to enrolled pupils.
	Applicants shall agree that snacks made available through a program shall conform to the nutrition standards in Article 2.5 (Commencing with Section 49430) of Chapter 9 of Part 27.
	That elementary students should participate every day that the after school component operates.
	That middle/junior high students attend a minimum of three days per week and nine hours, but the program must operate all five days.
	To keep accurate attendance records and report actual attendance to the CDE twice per fiscal year.
	To maintain an attendance level of at least 75 percent of the attendance goal as stated in the application.
	To allow participation of any student of a participating school regardless of their ability to pay a fee.
	To establish an early release policy for students attending the ASES after school component; however, the after school component must remain open until at least 6:00 p.m.
	To expend no more than 15 percent of funding on administrative costs, including up to 5 percent for indirect costs, and to expend at least 85 percent of funding directly for pupils.
	To provide at least 33 percent cash or in-kind local matching funds from the school district, government agencies, community organizations, or the private sector for each dollar received in grant funds and not more than 25 percent of the match requirement will be fulfilled by facilities or space usage.
	That state categorical funds for remedial education activities shall not be eligible as matching funds for after school components.
	To provide a safe physical and emotional environment and opportunities for relationship-building and to promote active pupil engagement.
	To supplement, but not supplant existing funding for after school programs with ASES grant funds.
	To participate in a statewide evaluation process as determined by the CDE and provide all required information on a timely basis.
	To provide information for the statewide independent evaluation.
	To respond to any additional surveys or other methods of data collection that may be required throughout the life of the program.
	To annually provide participating pupils' regular school day and program attendance and STAR test results.
	To use standardized procedures and collection tools developed by the CDE for evaluation purposes. Locally developed tools or protocols will not be accepted.

Initial	Certified Assurances for an After School Component
	<p>Please initial by each assurance listed below to indicate that the applicant agency agrees to abide by and assure compliance with all ASES program and state funding and legal requirements.</p>
	<p>Non-Discrimination, as the duly authorized representative of the applicant, I certify that the applicant will comply with all federal statutes relating to nondiscrimination, including: Title VI of the Civil Rights Act of 1964 (45 USC sections 2000d through 2000d-4) prohibiting discrimination on the basis of race, color, or national origin; Title IX of the Education Amendments of 1972 (20 USC sections 1681-1683) prohibiting discrimination on the basis of sex; Section 504 of the Rehabilitation Act of 1973 (20 USC Section 794) prohibiting discrimination on the basis of handicap; and The Age Discrimination Act (42 USC Section 6101, et seq.) prohibiting discrimination on the basis of age.</p>
	<p>Costs, as the duly authorized representative of the applicant, I certify that the applicant will comply with the general cost principles set forth in federal regulations 34 <i>CFR</i> Section 74.27 and 34 <i>CFR</i> Section 80.22, and the Office of Management and Budget circulars applicable to my entity.</p>
	<p>Records, as the duly authorized representative of the applicant, I certify that the applicant will make reports to the state or federal agency designated in the application as may reasonably be necessary to enable those agencies to perform their duties. The applicant will maintain and provide access to all records used in the preparation of such reports for a period of five years. Such records shall include, but not be limited to, records which fully disclose the amount and disposition by the recipient of funds, the total cost of the activity for which the funds are used, the share of the cost provided from other sources, and such other records as will facilitate an effective audit. The recipient shall maintain such records for five years after the completion of the activities for which the funds are used.</p>
	<p>Availability of Community Programs, I assure that all schools included in this application have 50 percent or more of the students eligible for free and reduced-cost meals or that the communities have been surveyed for eligible programs for schools with fewer than 50 percent of the students eligible for free and reduced-cost meals.</p>
	<p>Applicable Law, as the duly authorized representative of the applicant, I certify that the applicant will comply with all state and federal statutes, regulations, program plans, and eligibility requirements applicable to each program under which federal and state funds are made available through the application.</p>

Signature of Authorized Representative	Title	Date

CERTIFICATION AND DESIGNATION OF PUBLIC AGENCY

An applicant must designate a public agency or local education agency partner to act as the fiscal agent. A "public agency" means a county board of supervisors or, where the city is incorporated or has a charter, a city council. Applicants agree to follow all fiscal report and auditing standards required by the California Department of Education.

Designated Public Agency	Name of Authorized Representative of Public Agency	Signature of Authorized Representative of Public Agency
City of Moreno Valley	Robert G. Gutierrez	

Certification: As the authorized representative of the Public Agency, and on behalf of the After School Education and Safety Program Collaborative, I agree to fulfill all of the above agreements and conditions. I further agree to uphold all current and future legislative requirements for the ASES Program.

Signature of Public Agency Representative on behalf of the ASES Program Collaborative	Public Agency Name
	City of Moreno Valley

California Department of Education
After School Education and Safety Program

After School Base Grant Amount Calculator
After School Base Grant Calculation

BASE GRANT INFORMATION

SCHOOL INFORMATION

CDS Code	School Name	Renew This School	Current Grant Amount	Number of students to be served per day	Amount Requested (Based on \$7.50 per day for 180 days)	Is Requested Amount Less than or Equal to Current Grant
33671246032288	Armada Elementary	Renew This School	112,500	84	112,500	Equal
33671246107890	Bear Valley Elementary	Renew This School	112,500	84	112,500	Equal
33671246108716	Box Springs Elementary	Renew This School	112,500	84	112,500	Equal
33671246103501	Butterfield Elementary	Renew This School	112,500	84	112,500	Equal
33671246106967	Chaparral Hills Elementary	Renew This School	112,500	84	112,500	Equal
33671246107080	Cloverdale Elementary	Renew This School	99,900	74	99,900	Equal
33671246106942	Creekside Elementary	Renew This School	82,350	61	82,350	Equal
33671246032304	Edgemont Elementary	Renew This School	103,950	77	103,950	Equal
33671246108724	Hendrick Ranch Elementary	Renew This School	112,500	84	112,500	Equal
33671246105514	Honey Hollow Elementary	Renew This School	112,500	84	112,500	Equal
33671240108134	La Jolla Elementary	Renew This School	112,500	84	112,500	Equal
33671246032312	Midland Elementary	Renew This School	112,500	84	112,500	Equal

California Department of Education
After School Education and Safety Program

33671246032320	Moreno Elementary	Renew This School	112,500	84	112,500	Equal
33671246104582	Ramona Elementary	Renew This School	102,600	76	102,600	Equal
33671246110928	Seneca Elementary	Renew This School	98,550	73	98,550	Equal
33671246106041	Serrano Elementary	Renew This School	112,500	84	112,500	Equal
33671246032338	Sunnymead Elementary	Renew This School	98,550	73	98,550	Equal
33671246103519	Sunnymeadows Elementary	Renew This School	112,500	84	112,500	Equal
33671240102731	Towngate Elementary	Renew This School	112,500	84	112,500	Equal
33671246108674	Badger Springs Middle	Renew This School	66,150	49	66,150	Equal
33671246109979	Landmark Middle	Renew This School	87,750	65	87,750	Equal
33671246107643	Mountain View Middle	Renew This School	67,500	50	67,500	Equal
33671246110027	Palm Middle	Renew This School	58,050	43	58,050	Equal
33671246108690	Sunnymead Middle	Renew This School	52,650	39	52,650	Equal
33752420109124	Avalon Elementary	Renew This School	112,500	84	112,500	Equal
33752420106096	Columbia Elementary	Renew This School	112,500	84	112,500	Equal
33752420109116	Lasselle Elementary	Renew This School	112,500	84	112,500	Equal
33752426114458	Manual L Real Elementary	Renew This School	112,500	84	112,500	Equal
33752426109565	Mary Mcleod Bethune Elementary	Renew This School	112,500	84	112,500	Equal

California Department of Education
After School Education and Safety Program

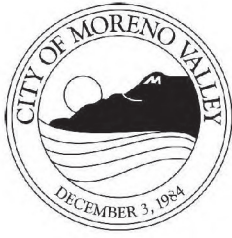
33752420117424	May Ranch Elementary	Renew This School	112,500	84	112,500	Equal
33752426032866	Mead Valley Elementary	Renew This School	112,500	84	112,500	Equal
33752426108039	Rainbow Ridge Elementary	Renew This School	101,250	75	101,250	Equal
33752420106104	Red Maple Elementary	Renew This School	112,500	84	112,500	Equal
33752420100958	Sierra Vista Elementary	Renew This School	83,700	62	83,700	Equal
33752420112094	Triple Crown Elementary	Renew This School	112,500	84	112,500	Equal
33752426032874	Val Verde Elementary	Renew This School	112,500	84	112,500	Equal
33752426108047	Victoriano Elementary	Renew This School	112,500	84	112,500	Equal
33752420100941	Lakeside Middle	Renew This School	68,850	51	68,850	Equal
33752420112102	March Middle	Renew This School	70,200	52	70,200	Equal
33752426111447	Tomas Rivera Middle	Renew This School	82,350	61	82,350	Equal
33752426111033	Vista Verde Middle	Renew This School	68,850	51	68,850	Equal

**MINUTES - REGULAR MEETING OF OCTOBER 27, 2009
(Report of: City Clerk's Department)**

Recommendation: Approve as submitted.

SEE AGENDA ITEM A.2

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APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>Rut</i>
CITY MANAGER	<i>RA</i>

Report to City Council

TO: Mayor and City Council Acting in the Capacity of Chairperson and Agency Members of the Community Redevelopment Agency Board of the City of Moreno Valley

FROM: Barry Foster, Economic Development Director

AGENDA DATE: November 10, 2009

TITLE: WORK AUTHORIZATION FOR RELOCATION OF SOUTHERN CALIFORNIA GAS CO. SUPPLY LINE ON OLD 215

RECOMMENDED ACTION

Staff recommends that the Redevelopment Agency Board authorize execution of a Collectible Work Authorization for Southern California Gas Co. in the amount of \$196,461 to proceed with the work necessary for the relocation of a high pressure natural gas line on Old 215.

BACKGROUND

As part of the relocation of Robertson's Ready Mix (Robertson's) and the realignment of the Old 215 roadway, the Redevelopment Agency (RDA) is funding a project for Southern California Gas Co. (the Gas Co.) to relocate an 8" high-pressure natural gas supply line. The project will provide for the necessary relocation of approximately 840 feet of the gas line into the new roadway alignment for Old 215 that is being undertaken by the contractor for Andland Properties LLC (Andland)—the Developer of the Gateway project near the SE corner of Old 215 and Alessandro. Old 215 was recently closed and Andland's contractor has started the improvement project. Andland has agreed to work with the Gas Co. in properly locating the new gas line alignment into the new roadway and will actually undertake the trenching for the new gas line location.

DISCUSSION

On September 1, 2009, the City Council approved a Memorandum of Understanding with Robertson's regarding the project of constructing the Old 215 public improvements,

including the RDA's funding of the gas line relocation. With that action the RDA also took the necessary budget action for allocating \$225,000 for the project.

The Gas Co. will use a third party contractor for the majority of the gas line relocation project. The total estimated cost for the relocation of the gas line is \$196,461. Prior to ordering the materials for the project, the Gas Co. requires payment for the estimated cost of the project. Please note there is a 4 to 5 week lead time in ordering pipe for the project so timing is very important. The Gas Co. has provided the Redevelopment Agency with a Collectible Work Authorization in the amount of \$196,461 and is requesting payment of that amount before initiating the project.

ALTERNATIVES

1. Approve authorization and execution of the Collectible Work Authorization, including payment of \$196,461.
2. Reject or pursue a modification of the terms of the Agreement which will delay the project and cause construction problems with the Old 215 road improvements.

FISCAL IMPACT

The funding for the relocation of the gas line is available in 892.80129.7200.

Fund	Business Unit	Amount
892	80129.7200	\$196,461

ATTACHMENTS

ATTACHMENT 1: Southern California Gas. Co. Collectible Work Authorization

Prepared By:
Barry Foster
Economic Development Director

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



**SOUTHERN CALIFORNIA GAS COMPANY
COLLECTIBLE WORK AUTHORIZATION**

Date Prepared 8/27/2009
 Estimate Prepared By ANTHONY BARROZO
Purchaser Name and Job Address
 Name MORENO VALLEY REDEVELOPMENT AGENCY
 Address OLD 215 FRONTAGE ROAD
 City MORENO VALLEY State CA Zip 92552
 Phone # 951-413-3458
 Purchaser's SS# _____

WO # 80612
 IO # _____
 Work Request # 1922036
 ML 8031 Phone # 909-335-7582
Billing Name and Address, If Different
 Name MORENO VALLEY REDEVELOPMENT AGENCY
 Address 14177 FREDERICK STREET
 City MORENO VALLEY State CA Zip 92552
 Phone # 951-413-3458
 Or Federal Tax ID # _____

Purchaser requests and authorizes The Gas Company to perform the following work:
RELOCATE BY REPLACEMENT APPROXIMATELY 840' OF 6" HIGH PRESSURE SUPPLY LINE.
CITY TO PROVIDE EXCAVATION ALONG NEWLY ALIGNED FRONTAGE ROAD, SURVEYING.

TOTAL COMPANY LABOR	TOTAL MATERIALS	TOTAL THIRD PARTY CHARGES (Including Contractor Labor)	TOTAL PAVING, PERMIT, & OTHER	SUBTOTAL	ITCCA	TOTAL ESTIMATES
7,315.00	23,919.00	131,403.00	1,148.00	163,785.00	32,676.00	196,461.00

Purchaser agrees to pay The Gas Company the actual cost - the estimated amount is due and payable in advance and any additional balance within 30 days of invoice.

The estimated cost of the Work is furnished only for the convenience of the Purchaser. It is intended to reflect The Gas Company's general past experience of the cost of similar work under favorable conditions. Because of unforeseen contingencies and other factors, the actual cost may be considerably higher or lower than this estimate. Therefore, the estimate is not a warranty by The Gas Company of the actual cost. The actual cost shall include overhead costs contained in The Gas Company's appropriate billing formula. Purchaser agrees to pay within 30 days of invoice any additional amounts whenever The Gas Company determines the cost of Work completed exceeds any amounts previously paid. When labor costs exceed the estimate, The Gas Company may, but is not obligated to notify Purchaser, and cease all Work until approval for the increased cost is obtained from Purchaser. If the total actual cost is less than the deposit(s), The Gas Company will refund the difference (without interest). Purchaser agrees that if The Gas Company brings any action to enforce the provisions of this Agreement, it shall be entitled to recover its attorney's fees and costs, in addition to any other relief to which it is entitled.

Purchaser agrees that any excavation made by Purchaser that is to be entered by Gas Company employees, agents or subcontractors shall conform to all requirements of the State of California construction safety orders, particularly the provisions of Article 6, Sections 1539 through 1547, which relate to the safe construction of trenches and excavations. Purchaser further agrees to take all reasonable care in protecting The Gas Company's property from damage, including the use of procedures which will not place any undue strain on pipes during excavation and backfill or cause damage to pipe protective coatings.

Purchaser shall indemnify, defend and hold The Gas Company harmless from and against any and all liability (including attorney's fees incurred in defending against such liability or in enforcing this provision) arising out of or in any way connected with the violation of or compliance with any local, state or federal environmental law or regulation as a result of pre-existing conditions at the Job Address. Purchaser agrees that The Gas Company may stop Work, terminate the Work, redesign it to a different location or take other action reasonably necessary to complete the Work if a pre-existing environmental issue is encountered.

AGREED AND ACCEPTED _____
 (DATE)
 THE GAS COMPANY BY _____
 NAME (PRINT)

 SIGNATURE

PURCHASER MORENO VALLEY REDEVELOPMENT AGENCY
 (NAME OF COMPANY)

 PURCHASER OR AUTHORIZED REPRESENTATIVE (PRINT) _____ TITLE

 SIGNATURE OF PURCHASER OR AUTHORIZED REPRESENTATIVE

PAYMENT INFORMATION

AMOUNT RECEIVED _____ CASH CHECK CHECK # _____

DATE PAYMENT TURNED IN:	BY (NAME OF EMPLOYEE):	PAYMENT TURNED IN AT:

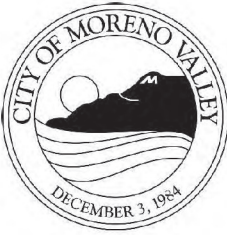
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**MINUTES - REGULAR MEETING OF OCTOBER 27, 2009
(Report of: City Clerk's Department)**

Recommendation: Approve as submitted.

SEE AGENDA ITEM A.2

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APPROVALS	
BUDGET OFFICER	<i>hy</i>
CITY ATTORNEY	<i>Ret</i>
CITY MANAGER	<i>PA</i>

Report to City Council

TO: Mayor and City Council and the City Council Acting in their Capacity as the President and Members of the Board of Directors of the Moreno Valley Community Services District ("CSD")

FROM: Chris A. Vogt, P.E., Public Works Director/City Engineer

AGENDA DATE: November 10, 2009

TITLE: CONTINUATION OF THE PUBLIC HEARING REGARDING THE MAIL BALLOT PROCEEDING FOR IDENTIFIED PROPERTIES WITHIN TPM 35629—BALLOTING FOR NPDES AND CSD ZONE M

RECOMMENDED ACTION

1. Staff recommends that the Mayor and City Council, after conducting the Public Hearing and accepting public testimony:
 - a. Direct the City Clerk to tabulate the National Pollutant Discharge Elimination System ("NPDES") ballots for identified properties within Tentative Parcel Map ("TPM") 35629;
 - b. Verify and accept the results of the mail ballot proceeding as identified on the Official Tally Sheet and attached Assessor Parcel Number ("APN") listing;
 - c. Receive and file with the City Clerk's office the accepted Official Tally Sheet and APN listing; and
 - d. If approved, authorize and impose the NPDES maximum commercial/industrial regulatory rate to the identified properties within TPM 35629.

2. Staff recommends that the Mayor and City Council, acting in their capacities as President and Members of the Board of Directors of the CSD ("CSD Board"), after conducting the Public Hearing and accepting public testimony:
 - a. Direct the Secretary of the CSD Board (City Clerk) to tabulate the CSD Zone M ballots for identified properties within TPM 35629;
 - b. Verify and accept the result of the mail ballot proceeding as identified on the Official Tally Sheet and attached APN listing;
 - c. Receive and file with the City Clerk's office the accepted Official Tally Sheet and APN listing; and
 - d. If approved, authorize and impose the annual CSD Zone M (Commercial, Industrial, and Multifamily Improved Median Maintenance) charge to the identified properties within TPM 35629.

ADVISORY BOARD/COMMISSION RECOMMENDATION

N/A

BACKGROUND

To comply with the 1972 Federal Clean Water Act, Land Development, a division of the Public Works Department, requires that new development projects participate in the appropriate NPDES regulatory rate to fund federally mandated programs. The City Council adopted the residential regulatory rate on June 10, 2003, and the commercial/industrial regulatory rate on January 10, 2006.

The CSD was formed simultaneously with City incorporation in 1984. The designation of zones within the CSD was established to allocate the cost of special services to those parcels receiving the benefit. Each zone provides specific services to designated areas. Along with other zone services, the CSD provides street lighting maintenance, landscape maintenance, and improved median landscape maintenance.

DISCUSSION

Conditions of Approval for TPM 35629 require that the development provide a funding source to help support the NPDES program and for the annual maintenance for the proposed medians adjacent to the project. The Conditions of Approval for this development indicate that the funding sources are to be in effect prior to map recordation. Approving the NPDES maximum commercial/industrial regulatory rate and the annual CSD Zone M charge through a mail ballot proceeding shall fulfill these requirements.

Four separate owners are listed on parcels that shall be reconfigured for identified properties within TPM 35629: Westcoast Prop Partners, Sinclair Prop Partners, Sand Prop Partners, and HF Educational Partners. In compliance with Proposition 218, which requires that any new or proposed increase in property-related assessments, fees, or charges be submitted to property owners for approval, Special Districts ("SD"), a division of the Public Works Department, is conducting a mail ballot proceeding to allow the property owners the decision to approve or oppose the NPDES maximum commercial/industrial regulatory rate and the annual CSD Zone M charge. SD mailed ballot materials to each owner for this mail ballot proceeding.

Since March 24, 2009, the original date of the Public Hearing, the developer, on behalf of the property owners, has submitted three separate requests to continue the Public Hearing. The latest request continued the Public Hearing to November 10, 2009. Copies of the correspondences requesting continuation of the Public Hearings are included as Attachment 4.

New development projects are subject to the current NPDES Permit requirements for stormwater management as mandated by the Federal Clean Water Act. Public agencies obtain Permits to discharge urban stormwater runoff from municipally owned drainage facilities, including streets, highways, storm drains, and flood control channels. If approved

by the identified property owners of TPM 35629, the City will annually inspect site design, source and treatment control Best Management Practices, monitor maintenance records for those on-site facilities, and perform annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements, as administered by the State. The City will also be authorized to levy the NPDES maximum commercial/industrial regulatory rate of \$205, which is subject to an annual inflation adjustment, to each associated APN (and any division thereof) and shall be placed on the Riverside County property tax bill beginning in 2010/11 and then each following year or as a monthly charge on a utility bill.

SD conditions commercial, industrial, and multifamily developments along designated arterial streets to participate in the median maintenance program in compliance with the citywide Arterial Median Maintenance Policy, approved by the CSD Board in February 2003 and modified January 2006. Staff manages private landscape maintenance firms to ensure that landscape preservation activities are completed on a regular schedule. Landscape maintenance includes, but is not limited to, mowing, trimming, pruning, weeding, fertilizing, replacing plant material(s) as necessary, removing litter, maintaining the irrigation systems, repairing decorative hardscape, paying water and electric utility charges, staff support, and other items necessary for the satisfactory maintenance of the landscaped medians. The annual CSD Zone M levy amount shall be assessed to each associated APN (and any division thereof) on the Riverside County property tax bill once the medians are constructed. The CSD Zone M charge will be levied each following year at the proposed rate, which is subject to an annual inflation adjustment.

ALTERNATIVES

1. **Conduct the Public Hearing**, tabulate the ballots, verify, and accept the results of the mail ballot proceeding as identified on the Official Tally Sheet and attached APN listing, receive and file with the City Clerk's office the accepted Official Tally Sheet, and if approved, authorize and impose the NPDES maximum commercial/industrial regulatory rate and the annual CSD Zone M charge to the identified properties within TPM 35629. *This alternative will fulfill the 45-day noticing period and Public Hearing requirements as mandated by Proposition 218.*
2. **Do not conduct the Public Hearing**, tabulate the ballots, verify, or accept the results for the identified properties within TPM 35629. *This alternative would be contrary to Proposition 218 mandates. The project has been conditioned to provide a funding source to help support the NPDES program and provide funding for the annual maintenance for the medians adjacent to the project. Noncompliance with the conditions of approval shall occur if the mail ballot proceeding to authorize the NPDES maximum commercial/industrial regulatory rate and the annual CSD Zone M charge is not completed.*

FISCAL IMPACT

The FY 2008/09 NPDES maximum commercial/industrial regulatory rate and CSD Zone M charge for each parcel are listed on the following page. Prior to development of APN 488-350-001, which is also part of TPM 35629, SD shall ballot the property owner for NPDES and Zone M.

Assessor Parcel Number	2008/09 NPDES Maximum Commercial/Industrial Rate*	2008/09 CSD Zone M Annual Charge*
488-350-002 (and any division thereof)	\$205	\$17,285.40
488-360-001 (and any division thereof)	\$205	\$0.00
488-360-002 (and any division thereof)	\$205	\$0.00
488-360-003 (and any division thereof)	\$205	\$0.00
488-360-004 (and any division thereof)	\$205	\$0.00
488-360-005 (and any division thereof)	\$205	\$0.00
488-360-006 (and any division thereof)	\$205	\$0.00
488-360-007 (and any division thereof)	\$205	\$0.00
488-360-008 (and any division thereof)	\$205	\$4,077.60
488-360-009 (and any division thereof)	\$205	\$3,405.60
488-360-010 (and any division thereof)	\$205	\$3,405.60
488-360-011 (and any division thereof)	\$205	\$6,811.20
488-360-012 (and any division thereof)	\$205	\$6,501.60

*The NPDES maximum commercial/industrial regulatory rate and the annual CSD Zone M charge may be subject to an annual inflation adjustment in subsequent years based on the annual percentage change calculated for the previous calendar year in the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics.

The NPDES rates collected from property owners support the current Permit programs, which reduces the level of General Fund support necessary to remain in compliance with unfunded federal mandates, as administered by the State. The annual CSD Zone M charge paid by the adjacent property owners provides the necessary funding for the maintenance of newly constructed medians within the CSD. There is no impact on the General Fund for newly constructed medians.

CITY COUNCIL GOALS

Advocacy

Management of the stormwater will ensure that water pollutants are discharged in compliance with federal mandates and City policies.

Community Image, Neighborhood Pride, and Cleanliness

The Zone M program allows the CSD an opportunity to enhance the appearance of newly developed areas within the City.

Revenue Diversification and Preservation

The annual CSD Zone M charge and the NPDES maximum commercial/industrial regulatory rate provide funding for program costs, which include maintenance and administration.

SUMMARY

The action before the City Council/CSD Board is to accept public testimony, tabulate the ballots, verify, and accept the results of the mail ballot proceeding for identified properties within TPM 35629.

NOTIFICATION

On December 22, 2008, SD mailed a ballot packet to Westcoast Prop Partners, Sinclair Prop Partners, Sand Prop Partners, and HF Educational Partners, the property owners of the identified properties within TPM 35629. The packet included a cover letter, map of the project area, the NPDES commercial/industrial rate schedule, notice to the property owner, instructions, ballots, and postage-paid envelopes for returning the ballots to the City Clerk. (See Attachment 1.)

Ballot documents were originally mailed to the property owners with a February 10, 2009, Public Meeting date and a February 24, 2009, Public Hearing date. An updated notice was mailed to each property owner on January 23, 2009, which reflected the revised dates of the Public Meeting on March 10, 2009, and the Public Hearing on March 24, 2009. (See Attachment 2.)

Newspaper advertising for the March 10, 2009, Public Meeting and March 24, 2009, Public Hearing was published in The Press-Enterprise on February 20, 2009. Additionally, the Public Hearing notification was published on March 6 and again on March 13, 2009. The City Attorney determined that new notification was not necessary regarding the continuation of the Public Hearing since the revised Public Hearing date was announced during the regular City Council meeting.

ATTACHMENTS

- Attachment 1: Ballot materials mailed to Westcoast Prop Partners, Sinclair Prop Partners, Sand Prop Partners, and HF Educational Partners packet
 Attachment 2: Revised notice to the property owners
 Attachment 3: TPM 35629
 Attachment 4: Letters requesting continuation of the Public Hearing

Prepared by:
 Jennifer A. Terry,
 Management Analyst

Department Head Approval:
 Chris A. Vogt, P.E.,
 Public Works Director/City Engineer

Concurred by:
 Sue Anne Maxinoski,
 Special Districts Division Manager

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

W:\SpecialDist\jennifert\Ballots for FY 08.09\M NPDES\TPM 35629 Skechers - PA07-0090\Stfprt 11.10.09 PH Continuation.doc

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TEL: 951.413.3480
FAX: 951.413.3498
WWW.MORENO-VALLEY.CA.US



14325 FREDERICK STREET, SUITE 9
P. O. BOX 88005
MORENO VALLEY, CA 92552-0805

December 22, 2008

Highland Fairview
14225 Corporate Way
Moreno Valley, CA 92553

Attention: Danette Fenstermacher, Chief Operating Officer & Executive Vice President

Subject: Mail Ballot Proceeding for parcels owned by Westcoast Prop Partners, HF Educational Partners, Sand Prop Partners, and Sinclair Prop Partners within Tentative Parcel Map (TPM) 35629, located on the north side of Eucalyptus Ave. between Redlands Blvd. and Theodore St., for approval of the National Pollutant Discharge Elimination System (NPDES) Maximum Commercial/Industrial Regulatory Rate and inclusion into and approval of the annual charge for the Community Services District (CSD) Zone M (Commercial, Industrial, and Multifamily Improved Median Maintenance) program

Dear Ms. Fenstermacher,

Conditions of Approval for TPM 35629 require that this development provide a funding source to help support the NPDES program and provide funding for the annual maintenance for the medians adjacent to your project. Approving the NPDES maximum commercial/industrial regulatory rate and the annual CSD Zone M charge through a mail ballot proceeding shall fulfill these requirements.

Please have the appropriate property owner sign and return their corresponding ballots in the enclosed postage-paid envelopes. The City Clerk's office must receive the ballots prior to the close of the Public Hearing on February 10, 2009.

NPDES Maximum Commercial/Industrial Regulatory Rate

Newly developed and/or modified properties within the City of Moreno Valley are subject to the current NPDES Permit requirements for stormwater management as mandated by the Federal Clean Water Act. The City will annually inspect site design, source control and treatment control Best Management Practices, verify monitoring and maintenance records for those on-site facilities, and perform annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements, as administered by the State.

For fiscal year (FY) 2008/09, the NPDES maximum commercial/industrial regulatory rate is \$205 per parcel. (Please refer to the enclosed rate schedule.) Beginning in FY 2009/10, the maximum regulatory rate shall be subject to an annual adjustment based on the percentage change calculated for the previous calendar year in the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics. Upon approval of the maximum regulatory rate, the annual levy amount will be assessed to parcels associated with TPM 35629 (and any division thereof) and will be placed on the 2009/10 Riverside County property tax bill or as a monthly charge on a utility bill.

ATTACHMENT 1

Letter to D. Fenstermacher
December 22, 2008
Page 2

CSD Zone M (Commercial, Industrial, and Multifamily Improved Median Maintenance)

In compliance with the Citywide Arterial Median Maintenance Policy, approved by the CSD Board in March 2003 and revised January 2006, commercial, industrial, and multifamily developments along designated arterial streets are to participate in the median maintenance program. Special Districts' staff manages private landscape maintenance firms to ensure that landscape preservation activities are completed on a regular schedule. The annual CSD Zone M charge was established to cover administration and service costs for the landscape maintenance. Services include, but are not limited to: mowing, trimming, pruning, weeding, fertilizing, replacing plant material(s) as necessary, removing litter, maintaining the irrigation systems, paying water and electric utility charges, staff support, and other items necessary for the satisfactory maintenance of the landscaped medians.

For FY 2008/09 the annual CSD Zone M charge is \$17,285.40 for APN 488-350-002, \$4,077.60 for APN 488-360-008, \$3,405.60 for APN 488-360-009, \$3,405.60 for APN 488-360-010, \$6,811.20 for APN 488-360-011, and \$6,501.60 for APN 488-360-012. The CSD Zone M charge shall be proportionally adjusted if an APN is subdivided or if development occurs adjacent to the proposed medians. Beginning in FY 2009/10, the CSD Zone M charge shall be subject to an annual adjustment based on the percentage change calculated for the previous calendar year in the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics. The annual CSD Zone M charge shall be placed on the Riverside County property tax bill beginning in fiscal year 2009/10.

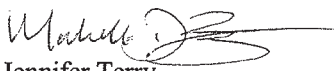
Ballot Process

In accordance with the legislative requirements of Proposition 218, Special Districts is submitting the enclosed Notice to Property Owner – Mail Ballot Proceeding for each property owner. The formal notices provide Public Meeting and Public Hearing dates, times and location, instructions for marking the enclosed ballots, and information on the services and charges.

If you have any questions about the proposed programs, charges, or this process, please contact Jennifer Terry, Management Analyst, Monday through Thursday from 7:30 a.m. to 5:30 p.m. and Friday from 8:00 a.m. to 5:00 p.m. at 951.413.3505.

Sincerely,

Chris A. Vogt, P.E.
Public Works Director/City Engineer


for Jennifer Terry
Management Analyst

Enclosures

c: Sue Maxinoski, Special Districts Division Manager
Marshall Eyerman, Special Districts Program Manager

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COMMON INTEREST, COMMERCIAL, INDUSTRIAL AND QUASI-PUBLIC USE NPDES RATE SCHEDULE
 Adopted by the City Council on January 10, 2006

LEVEL I		LEVEL II	
NPDES Administration (Not covered by CSA 152)		Site Design, Source Control and Treatment Control BMPs Monitoring and Maintenance	
Costs associated with personnel, administration and management of the storm water management program. Administrative tasks include development and filing of various stormwater reports and data collection and management. Level I is levied on all parcels conditioned for the NPDES Rate Schedule.	Costs associated with stormwater and non-stormwater runoff monitoring, inspection of the project's site design, source control and treatment control BMPs; evaluation of site stormwater compliance activities, review of site-specific technical reports and treatment control BMP maintenance records.	Per Month \$2.67	Per Year \$32.00
PROPOSED PARCEL RATE		PROPOSED PARCEL RATE	
\$2.67		\$12.58	
\$151.00		\$151.00	

Inflation Factor Adjustments

FY 2006/2007 - 4.5% = (\$33.00 & \$158.00)
 FY 2007/2008 - 3.1% = (\$34.00 & \$163.00)
 FY 2008/2009 - 4.2% = (\$35.00 & \$170.00)

Fiscal Year (FY) 2005/2006 - Base Year Calculation, subject to an annual inflation factor based on the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics

NOTICE TO PROPERTY OWNER - MAIL BALLOT PROCEEDING
National Pollutant Discharge Elimination System (NPDES)
Maximum Commercial/Industrial Regulatory Rate
Community Services District (CSD) Zone M
(Commercial, Industrial, and Multifamily Improved Median Maintenance)
Parcels owned by Westcoast Prop Partners within Tentative Parcel Map (TPM) 35629

I. BACKGROUND

The City shall provide the services necessary to meet mandates of the Federal Clean Water Act. The current NPDES Permit, as administered by the State, regulates the volume and amount of pollutants in stormwater runoff from residential/commercial developments.

NPDES Maximum Commercial/Industrial Maximum Regulatory Rate provides financial support for inspecting site design and source and treatment control Best Management Practices, monitoring maintenance records for those on-site facilities, and performing annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements, as administered by the State.

The CSD was formed simultaneously with City incorporation and established Zones to allocate the costs of special benefit services to those parcels designated to receive selective programs. The CSD Zone M program provides ongoing maintenance to improved medians adjacent to commercial, industrial, and multifamily developments in designated areas of the City.

In November of 1996, California voters passed the Right to Vote on Taxes Act ("Proposition 218"). As a result, any new or proposed increase in a property-related charge requires approval of the charge by the property owner of record. In compliance with Proposition 218 legislation, Special Districts is conducting a mail ballot proceeding to provide the owner of Assessor Parcel Numbers (APNs) 488-350-002, 488-360-003, and 488-360-004 (and any division thereof) the opportunity to express support or opposition to the approval of the NPDES regulatory rate and services and inclusion into and approval of the annual charge for the CSD Zone M program.

II. NOTICE - PUBLIC MEETING AND PUBLIC HEARING

To provide for public comments on this mail ballot proceeding, the City Council has scheduled one (1) Public Meeting and one (1) Public Hearing at their regular meetings, which will be held at the Moreno Valley City Hall Council Chamber as follows:

PUBLIC MEETING

TUESDAY, January 27, 2009
**6:30 P.M. (or as soon thereafter
as the matter may be called)**

PUBLIC HEARING

TUESDAY, February 10, 2009
**6:30 P.M. (or as soon thereafter
as the matter may be called)**

LOCATION

**(FOR BOTH THE PUBLIC MEETING
& PUBLIC HEARING)**

**MORENO VALLEY CITY HALL
COUNCIL CHAMBER
14177 FREDERICK STREET
MORENO VALLEY, CA 92553**

III. CHARGE INFORMATION

1. **Name of the Charges for APNs 488-350-002, 488-360-003, and 488-360-004 (and any division thereof):**

NPDES Maximum Commercial/Industrial Regulatory Rate
CSD Zone M (Commercial, Industrial, and Multifamily Improved Median Maintenance)

2. **Maximum Annual Levy Amounts for APNs 488-350-002, 488-360-003, and 488-360-004 (and any division thereof):**

For fiscal year (FY) 2008/09, the NPDES maximum commercial/industrial regulatory rate is \$205 per parcel. The total parcel charges levied for NPDES for FY 2008/09 was \$389,445.

For FY 2008/09 the annual CSD Zone M charge is \$17,285.40 for APN 488-350-002. The total CSD Zone M charges levied for FY 2008/09 was \$88,908.

Beginning in FY 2009/10, the NPDES Maximum Commercial/Industrial Regulatory Rate and the CSD Zone M charge shall be subject to an annual adjustment based on the percentage change calculated for the previous calendar year in the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics.

3. **Duration of the Proposed Charges:**

Upon approval of the NPDES Maximum Commercial/Industrial Regulatory Rate, the annual levy amount will be assessed to APNs 488-350-002, 488-360-003, and 488-360-004 (and any division thereof) and shall be placed on the 2009/10 Riverside County property tax bill or as a monthly charge on a utility bill. The CSD Zone M annual levy amount shall be assessed to APN 488-350-002 (and any division thereof) on the Riverside County property tax bill beginning in FY 2009/10. The NPDES Maximum Commercial/Industrial regulatory rate and the CSD Zone M charge will be levied each following year at the proposed rate, which may include an annual inflation adjustment.

4. **Reason for the Charges:**

NPDES Maximum Commercial/Industrial Regulatory Rate

In compliance with the Federal Clean Water Act, the City of Moreno Valley shall annually inspect site design, source control and treatment control Best Management Practices, verify monitoring and maintenance records for those on-site facilities, and perform annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements, as administered by the State.

CSD Zone M Charge

Commercial, industrial, and multifamily developments along designated arterial streets are conditioned to participate in the improved median maintenance program in compliance with the Citywide Arterial Median Maintenance Policy approved by the CSD Board in March 2003 and revised in January 2006. Special Districts' staff manages private landscape maintenance firms to ensure that landscape preservation activities are completed on a regular schedule. The annual CSD Zone M charge was established to cover administration and service costs for the landscape maintenance. Services include, but are not limited to: mowing, trimming, pruning, weeding, fertilizing, replacing plant material(s) as necessary, removing litter, maintaining the irrigation systems, paying water and electric utility charges, staff support, and other items necessary for the satisfactory maintenance of the landscaped medians.

5. **Calculation of the Charges:**

Each fiscal year, the City of Moreno Valley shall determine the type of services necessary to comply with NPDES Permit requirements and levy the rate applicable for that service. The annual CSD Zone M charge includes maintenance and administration costs and may be subject to an annual adjustment. The CSD Zone M charge shall be proportionally adjusted if the APN is subdivided or if development occurs adjacent to the proposed medians.

IV. QUESTIONS REGARDING THESE PROCEEDINGS

If you have questions about the proposed programs, charges, or this process, please contact Jennifer Terry, Management Analyst, Special Districts, a Division of the Public Works Department, Monday through Thursday from 7:30 a.m. to 5:30 p.m. and Friday 8:00 a.m. to 5:00 p.m. at (951) 413-3505.

V. SUMMARY OF BALLOT PROCEEDINGS

Please follow the instructions listed below and on the following page to complete and return your ballots. Procedures for the completion, return, and tabulation of the ballots are on file in the City Clerk's office of the City of Moreno Valley.

1. Mark the enclosed ballots in support or opposition to the proposed programs and annual charges **by placing an appropriate valid mark in the corresponding box. A list containing appropriate valid markings is attached for reference.**
2. **Sign your name** on the ballots. *Ballots received without a signature will be considered invalid and will not be counted.*
3. Mail or personally deliver your ballots in a sealed envelope to the City Clerk's office, 14177 Frederick Street, Moreno Valley, California 92553. For your convenience, two postage-paid envelopes have been included for return of the ballots.
4. Ballots must be **received** by the City Clerk prior to the close of the Public Hearing to be held on **Tuesday, February 10, 2009**, at the Moreno Valley City Hall Council Chamber. The Public Hearing will be held at 6:30 p.m. or as soon thereafter as the matter may be called. Ballots received after the close of the Public Hearing cannot be legally counted.
5. **Upon the close of the Public Hearing:**
Approval of the NPDES Maximum Commercial/Industrial maximum regulatory rate will be confirmed if a majority of the APNs are marked in favor of the rate. The inclusion into the CSD Zone M program and the annual charge will be confirmed if the ballot is marked in favor of the charge.

Not approving the NPDES commercial/industrial regulatory rate to meet federally mandated NPDES Permit requirements, as administered by the State, shall result in noncompliance with the Conditions of Approval.

If the ballot is not marked in favor of the CSD Zone M annual charge, then the charge will not be levied on the property tax bill, the City will not maintain the landscaping, and noncompliance of the Conditions of Approval shall result.

BALLOT MARKS

Appropriate ballot markings include any one of the following for either the YES/Approved or NO/Not Approved blank box:



A check mark substantially inside a box;



An X mark substantially inside a box;



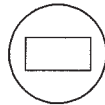
A dot or oval mark substantially inside a box;



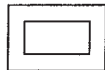
A completely shaded or filled mark substantially inside a box;



A line, single or dashed, or combination of lines, through the box area. Lines may be any one of the following marks: horizontal, vertical, or diagonal. The mark may either run from side to side or corner to corner. All valid lines must be substantially within the box area and not marking any part of another blank box on the ballot;



A circle around the box and/or associated clause; or



A square or rectangle around the box and/or associated clause.

Balloting marks shall not extend past one box area into any portion of another nor surround the perimeter or any portion of more than one box area. Markings that extend past one box area into any portion of another or surround the perimeter or any portion of more than one box area shall be considered invalid and not counted.

Ballot Mark Revisions (Changes)

An error or desire to revise (change) a selection made on the ballot may be completed and returned any time prior to the conclusion of public testimony at the Public Hearing. **The revision must be initialed by the record owner(s) of property. Initials must be clearly printed and placed at the right top corner of the revised selection.**

OFFICIAL MAIL BALLOT

**National Pollutant Discharge Elimination System (NPDES)
Maximum Commercial/Industrial Regulatory Rate for Parcels owned by
Westcoast Prop Partners within Tentative Parcel Map (TPM) 35629**

YES* – as the property owner of the parcels listed below within TPM 35629, **I approve** the NPDES maximum commercial/industrial regulatory rate and services. The City will annually inspect site design, source control and treatment control Best Management Practices, verify monitoring and maintenance records for those on-site facilities, and perform annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements, as administered by the State. For fiscal year (FY) 2008/09, the NPDES maximum commercial/industrial regulatory rate is \$205 per parcel. Beginning in FY 2009/10, the maximum regulatory rate shall be subject to an annual adjustment based on the percentage change calculated for the previous calendar year in the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics. Upon approval of the maximum regulatory rate, the annual levy amount will be assessed to each parcel listed below (and any division thereof) and shall be placed on the 2009/10 Riverside County property tax bill or as a monthly charge on a utility bill.

NO** – as the property owner of the parcels listed below within TPM 35629, **I do not approve** the NPDES maximum commercial/industrial regulatory rate and services. I understand that not approving the NPDES maximum commercial/industrial regulatory rate to fund federally mandated NPDES Permit requirements, as administered by the State, shall result in noncompliance with the project's Conditions of Approval.

Assessor Parcel Number	YES*	NO**	NPDES Maximum Commercial/Industrial Regulatory Rate
488-350-002 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$205
488-360-003 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$205
488-360-004 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$205

This ballot must be received by the City Clerk of the City of Moreno Valley prior to the close of the Public Hearing to be held on February 10, 2009, at the Moreno Valley City Hall Council Chamber, 14177 Frederick Street, Moreno Valley, California. The Public Hearing will be held at 6:30 p.m. or as soon thereafter as the matter may be called.

PROPERTY OWNER SIGNATURE

DATE

Please remember to mark the appropriate box, sign and date the ballot and return to the City Clerk's Office in the enclosed envelope

Llame al (951) 413-3480 para obtener información verbal en Español.

OFFICIAL MAIL BALLOT

**Community Services District (CSD) Zone M
(Commercial, Industrial, and Multifamily Improved Median Maintenance)
Parcel owned by Westcoast Prop Partners
within Tentative Parcel Map (TPM) 35629**

* **Yes**, as the property owner of the parcel listed below within TPM 35629, **I approve** the annual CSD Zone M charge for said parcel for fiscal year (FY) 2008/09. The CSD Zone M charge shall be proportionally adjusted if the APN is subdivided or if development occurs adjacent to the proposed median. Beginning in FY 2009/10, the CSD Zone M charge shall be subject to an annual adjustment based on the percentage change calculated for the previous calendar year in the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics. The annual CSD Zone M charge shall be placed on the Riverside County property tax bill beginning in fiscal year 2009/10.

** **No**, as the property owner of the parcel listed below within TPM 35629, **I do not approve** the annual CSD Zone M charge. I understand that not incorporating said APN into the CSD Zone M program is a violation of the Conditions of Approval. The CSD Zone M charge shall not be levied on the Riverside County property tax bill.

Assessor Parcel Number	YES*	NO**	CSD Zone M Annual Charge
488-350-002 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$17,285.40

This ballot must be received by the Secretary of the Board (City Clerk) of the Moreno Valley Community Services District prior to the close of the Public Hearing on February 10, 2009, at the Moreno Valley City Hall Council Chamber, 14177 Frederick Street, Moreno Valley, California. The Public Hearing will be held at 6:30 p.m. or as soon thereafter as the matter may be called.






PROPERTY OWNER SIGNATURE




DATE

Please remember to mark the appropriate box, sign and date the ballot and return to the City Clerk's Office in the enclosed envelope

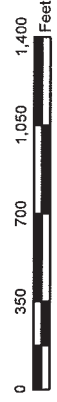
Llame al (951) 413-3480 para obtener información verbal en Español.

TPM 35629 for parcels owned by Westcoast Prop Partners

-  Median
-  Landscaped Areas
-  Roads
-  Parcels
-  City Boundary

- APN**
-  488350002
 -  488360003
 -  488360004

Map reflects all changes indicated on Riverside County Assessor Maps as of December 17, 2008.



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The information shown on this map was compiled from the Riverside County GIS and the City of Moreno Valley GIS. The land base and facility information on this map is for display purposes only and should not be relied upon without independent verification as to its accuracy. Data and information on this map is subject to update and modification. Riverside County and City of Moreno Valley will not be held responsible for any claims, losses or damages resulting from the use of this map. This map is not to be recycled or resold.



**NOTICE TO PROPERTY OWNER - MAIL BALLOT PROCEEDING
National Pollutant Discharge Elimination System (NPDES)
Maximum Commercial/Industrial Regulatory Rate
Community Services District (CSD) Zone M
(Commercial, Industrial, and Multifamily Improved Median Maintenance)
Parcels owned by HF Educational Partners within Tentative Parcel Map (TPM) 35629**

I. BACKGROUND

The City shall provide the services necessary to meet mandates of the Federal Clean Water Act. The current NPDES Permit, as administered by the State, regulates the volume and amount of pollutants in stormwater runoff from residential/commercial developments.

NPDES Maximum Commercial/Industrial Maximum Regulatory Rate provides financial support for inspecting site design and source and treatment control Best Management Practices, monitoring maintenance records for those on-site facilities, and performing annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements, as administered by the State.

The CSD was formed simultaneously with City incorporation and established Zones to allocate the costs of special benefit services to those parcels designated to receive selective programs. The CSD Zone M program provides ongoing maintenance to improved medians adjacent to commercial, industrial, and multifamily developments in designated areas of the City.

In November of 1996, California voters passed Proposition 218 ("The Right to Vote on Taxes Act"). As a result, any new or proposed increase in a property-related charge requires approval of the charge by the property owner of record. In compliance with Proposition 218 legislation, Special Districts is conducting a mail ballot proceeding to provide the owner of Assessor Parcel Numbers (APNs) 488-360-006, 488-360-007, 488-360-008, 488-360-009, and 488-360-010 (and any division thereof) the opportunity to express support or opposition to the approval of the NPDES regulatory rate and services and inclusion into and approval of the annual charge for the CSD Zone M program.

II. NOTICE - PUBLIC MEETING AND PUBLIC HEARING

To provide for public comments on this mail ballot proceeding, the City Council has scheduled one (1) Public Meeting and one (1) Public Hearing at their regular meetings, which will be held at the Moreno Valley City Hall Council Chamber as follows:

PUBLIC MEETING

***TUESDAY, January 27, 2009
6:30 P.M. (or as soon thereafter
as the matter may be called)***

PUBLIC HEARING

***TUESDAY, February 10, 2009
6:30 P.M. (or as soon thereafter
as the matter may be called)***

LOCATION

**(FOR BOTH THE PUBLIC MEETING
& PUBLIC HEARING)**

**MORENO VALLEY CITY HALL
COUNCIL CHAMBER
14177 FREDERICK STREET
MORENO VALLEY, CA 92553**

III. CHARGE INFORMATION

1. **Name of the Charges for APNs 488-360-006, 488-360-007, 488-360-008, 488-360-009, and 488-360-010 (and any division thereof):**

NPDES Maximum Commercial/Industrial Regulatory Rate
CSD Zone M (Commercial, Industrial, and Multifamily Improved Median Maintenance)

2. **Maximum Annual Levy Amounts for APNs 488-360-006, 488-360-007, 488-360-008, 488-360-009, and 488-360-010 (and any division thereof):**

For fiscal year (FY) 2008/09, the NPDES maximum commercial/industrial regulatory rate is \$205 per parcel. The total parcel charges levied for NPDES for FY 2008/09 was \$389,445.

For FY 2008/09 the annual CSD Zone M charge is \$4,077.60 for APN 488-360-008, \$3,405.60 for 488-360-009, and \$3,405.60 for APN 488-360-010. The total CSD Zone M charges levied for FY 2008/09 was \$88,908.

Beginning in FY 2009/10, the NPDES Maximum Commercial/Industrial Regulatory Rate and the CSD Zone M charge shall be subject to an annual adjustment based on the percentage change calculated for the previous calendar year in the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics.

3. **Duration of the Proposed Charges:**

Upon approval of the NPDES Maximum Commercial/Industrial Regulatory Rate, the annual levy amount will be assessed to each associated APN (and any division thereof) and shall be placed on the 2009/10 Riverside County property tax bill or as a monthly charge on a utility bill. The annual CSD Zone M levy amount shall be assessed to each associated APN (and any division thereof) on the Riverside County property tax bill beginning in FY 2009/10. The NPDES Maximum Commercial/Industrial regulatory rate and the CSD Zone M charge will be levied each following year at the proposed rate, which may include an annual inflation adjustment.

4. **Reason for the Charges:**

NPDES Maximum Commercial/Industrial Regulatory Rate

In compliance with the Federal Clean Water Act, the City of Moreno Valley shall annually inspect site design, source control and treatment control Best Management Practices, verify monitoring and maintenance records for those on-site facilities, and perform annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements, as administered by the State.

CSD Zone M Charge

Commercial, industrial, and multifamily developments along designated arterial streets are conditioned to participate in the improved median maintenance program in compliance with the Citywide Arterial Median Maintenance Policy approved by the CSD Board in March 2003 and revised in January 2006. Special Districts' staff manages private landscape maintenance firms to ensure that landscape preservation activities are completed on a regular schedule. The annual CSD Zone M charge was established to cover administration and service costs for the landscape maintenance. Services include, but are not limited to: mowing, trimming, pruning, weeding, fertilizing, replacing plant material(s) as necessary, removing litter, maintaining the irrigation systems, paying water and electric utility charges, staff support, and other items necessary for the satisfactory maintenance of the landscaped medians.

5. **Calculation of the Charges:**

Each fiscal year, the City of Moreno Valley shall determine the type of services necessary to comply with NPDES Permit requirements and levy the rate applicable for that service. The annual CSD Zone M charge includes maintenance and administration costs and may be subject to an annual adjustment. The CSD Zone M charge shall be proportionally adjusted if an APN is subdivided or if development occurs adjacent to the proposed median.

IV. QUESTIONS REGARDING THESE PROCEEDINGS

If you have questions about the proposed programs, charges, or this process, please contact Jennifer Terry, Management Analyst, Special Districts, a Division of the Public Works Department, Monday through Thursday from 7:30 a.m. to 5:30 p.m. and Friday 8:00 a.m. to 5:00 p.m. at (951) 413-3505.

V. SUMMARY OF BALLOT PROCEEDINGS

Please follow the instructions listed below and on the following page to complete and return your ballots. Procedures for the completion, return, and tabulation of the ballots are on file in the City Clerk's office of the City of Moreno Valley.

1. Mark the enclosed ballots in support or opposition to the proposed programs and annual charges **by placing an appropriate valid mark in the corresponding box. A list containing appropriate valid markings is attached for reference.**
2. **Sign your name** on the ballots. *Ballots received without a signature will be considered invalid and will not be counted.*
3. Mail or personally deliver your ballots in a sealed envelope to the City Clerk's office, 14177 Frederick Street, Moreno Valley, California 92553. For your convenience, two postage-paid envelopes have been included for return of the ballots.
4. Ballots must be **received** by the City Clerk prior to the close of the Public Hearing to be held on **Tuesday, February 10, 2009**, at the Moreno Valley City Hall Council Chamber. The Public Hearing will be held at 6:30 p.m. or as soon thereafter as the matter may be called. Ballots received after the close of the Public Hearing cannot be legally counted.
5. **Upon the close of the Public Hearing:**
Approval of the NPDES Maximum Commercial/Industrial maximum regulatory rate and inclusion into the CSD Zone M program and the maximum annual levy amounts will be confirmed if a majority of the APNs are marked in favor of the charge.

Not approving the NPDES commercial/industrial regulatory rate to meet federally mandated NPDES Permit requirements, as administered by the State, shall result in noncompliance with the Conditions of Approval.

If the ballot is not marked in favor of the CSD Zone M annual charge, then the charge will not be levied on the property tax bill, the City will not maintain the landscaping, and noncompliance of the Conditions of Approval shall result.

BALLOT MARKS

Appropriate ballot markings include any one of the following for either the YES/Approved or NO/Not Approved blank box:



A check mark substantially inside a box;



An X mark substantially inside a box;



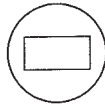
A dot or oval mark substantially inside a box;



A completely shaded or filled mark substantially inside a box;



A line, single or dashed, or combination of lines, through the box area. Lines may be any one of the following marks: horizontal, vertical, or diagonal. The mark may either run from side to side or corner to corner. All valid lines must be substantially within the box area and not marking any part of another blank box on the ballot;



A circle around the box and/or associated clause; or



A square or rectangle around the box and/or associated clause.

Balloting marks shall not extend past one box area into any portion of another nor surround the perimeter or any portion of more than one box area. Markings that extend past one box area into any portion of another or surround the perimeter or any portion of more than one box area shall be considered invalid and not counted.

Ballot Mark Revisions (Changes)

An error or desire to revise (change) a selection made on the ballot may be completed and returned any time prior to the conclusion of public testimony at the Public Hearing. The revision must be initialed by the record owner(s) of property. Initials must be clearly printed and placed at the right top corner of the revised selection.

OFFICIAL MAIL BALLOT

**National Pollutant Discharge Elimination System (NPDES)
Maximum Commercial/Industrial Regulatory Rate for Parcels owned by
HF Educational Partners within Tentative Parcel Map (TPM) 35629**

YES* – as the property owner of the parcels listed below within TPM 35629, **I approve** the NPDES maximum commercial/industrial regulatory rate and services. The City will annually inspect site design, source control and treatment control Best Management Practices, verify monitoring and maintenance records for those on-site facilities, and perform annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements, as administered by the State. For fiscal year (FY) 2008/09, the NPDES maximum commercial/industrial regulatory rate is \$205 per parcel. Beginning in FY 2009/10, the maximum regulatory rate shall be subject to an annual adjustment based on the percentage change calculated for the previous calendar year in the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics. Upon approval of the maximum regulatory rate, the annual levy amount will be assessed to each parcel listed below (and any division thereof) and shall be placed on the 2009/10 Riverside County property tax bill or as a monthly charge on a utility bill.

NO** – as the property owner of the parcels listed below within TPM 35629, **I do not approve** the NPDES maximum commercial/industrial regulatory rate and services. I understand that not approving the NPDES maximum commercial/industrial regulatory rate to fund federally mandated NPDES Permit requirements, as administered by the State, shall result in noncompliance with the project's Conditions of Approval.

Assessor Parcel Number	YES*	NO**	NPDES Maximum Commercial/Industrial Regulatory Rate
488-360-006 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$205
488-360-007 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$205
488-360-008 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$205
488-360-009 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$205
488-360-010 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$205

This ballot must be received by the City Clerk of the City of Moreno Valley prior to the close of the Public Hearing to be held on February 10, 2009, at the Moreno Valley City Hall Council Chamber, 14177 Frederick Street, Moreno Valley, California. The Public Hearing will be held at 6:30 p.m. or as soon thereafter as the matter may be called.

PROPERTY OWNER SIGNATURE DATE

Please remember to mark the appropriate box, sign and date the ballot and return to the City Clerk's Office in the enclosed envelope

Llame al (951) 413-3480 para obtener información verbal en Español.

OFFICIAL MAIL BALLOT

**Community Services District (CSD) Zone M
(Commercial, Industrial, and Multifamily Improved Median Maintenance)
Parcel owned by HF Educational Partners
within Tentative Parcel Map (TPM) 35629**

* **Yes**, as the property owner of the parcels listed below within TPM 35629, **I approve** the annual CSD Zone M charge for said parcels for fiscal year (FY) 2008/09. The CSD Zone M charge shall be proportionally adjusted if the APNs subdivide or if development occurs adjacent to the proposed median. Beginning in FY 2009/10, the CSD Zone M charge shall be subject to an annual adjustment based on the percentage change calculated for the previous calendar year in the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics. The annual CSD Zone M charge shall be placed on the Riverside County property tax bill beginning in fiscal year 2009/10.

** **No**, as the property owner of the parcels listed below within TPM 35629, **I do not approve** the annual CSD Zone M charge. I understand that not incorporating said APNs into the CSD Zone M program is a violation of the Conditions of Approval. The CSD Zone M charge shall not be levied on the Riverside County property tax bill.

Assessor Parcel Number	YES*	NO**	CSD Zone M Annual Charge
488-360-008 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$4,077.60
488-360-009 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$3,405.60
488-360-010 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$3,405.60






This ballot must be received by the Secretary of the Board (City Clerk) of the Moreno Valley Community Services District prior to the close of the Public Hearing on February 10, 2009, at the Moreno Valley City Hall Council Chamber, 14177 Frederick Street, Moreno Valley, California. The Public Hearing will be held at 6:30 p.m. or as soon thereafter as the matter may be called.






PROPERTY OWNER SIGNATURE DATE

Please remember to mark the appropriate box, sign and date the ballot and return to the City Clerk's Office in the enclosed envelope

Llame al (951) 413-3480 para obtener información verbal en Español.

TPM 35629 for parcels owned by HF Educational Partners

-  Median
-  Landscaped Areas
-  Roads
-  Parcels
-  City Boundary

APN	Symbol
488360006	
488360007	
488360008	
488360009	
488360010	

Map reflects all changes indicated
on Riverside County Assessor Maps
as of December 17, 2008.



G:\V\PSD\TPM 35629 HFEP.mxd

The information shown on this map was compiled from the Riverside County GIS and the City of Moreno Valley GIS. The base and facility information on this map is for display purposes only and should not be relied upon for design or construction purposes. The information on this map is subject to update and modification. Riverside County and City of Moreno Valley will not be held responsible for any claims, losses or damages resulting from the use of this map. This map is not to be reprinted or resold.



NOTICE TO PROPERTY OWNER - MAIL BALLOT PROCEEDING
National Pollutant Discharge Elimination System (NPDES)
Maximum Commercial/Industrial Regulatory Rate
Community Services District (CSD) Zone M
(Commercial, Industrial, and Multifamily Improved Median Maintenance)
Parcels owned by Sand Prop Partners within Tentative Parcel Map (TPM) 35629

I. BACKGROUND

The City shall provide the services necessary to meet mandates of the Federal Clean Water Act. The current NPDES Permit, as administered by the State, regulates the volume and amount of pollutants in stormwater runoff from residential/commercial developments.

NPDES Maximum Commercial/Industrial Maximum Regulatory Rate provides financial support for inspecting site design and source and treatment control Best Management Practices, monitoring maintenance records for those on-site facilities, and performing annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements, as administered by the State.

The CSD was formed simultaneously with City incorporation and established Zones to allocate the costs of special benefit services to those parcels designated to receive selective programs. The CSD Zone M program provides ongoing maintenance to improved medians adjacent to commercial, industrial, and multifamily developments in designated areas of the City.

In November of 1996, California voters passed the Right to Vote on Taxes Act ("Proposition 218"). As a result, any new or proposed increase in a property-related charge requires approval of the charge by the property owner of record. In compliance with Proposition 218 legislation, Special Districts is conducting a mail ballot proceeding to provide the owner of Assessor Parcel Numbers (APNs) 488-360-005 and 488-360-011 (and any division thereof) the opportunity to express support or opposition to the approval of the NPDES regulatory rate and services and inclusion into and approval of the annual charge for the CSD Zone M program.

II. NOTICE - PUBLIC MEETING AND PUBLIC HEARING

To provide for public comments on this mail ballot proceeding, the City Council has scheduled one (1) Public Meeting and one (1) Public Hearing at their regular meetings, which will be held at the Moreno Valley City Hall Council Chamber as follows:

PUBLIC MEETING

TUESDAY, January 27, 2009
6:30 P.M. (or as soon thereafter
as the matter may be called)

PUBLIC HEARING

TUESDAY, February 10, 2009
6:30 P.M. (or as soon thereafter
as the matter may be called)

LOCATION
(FOR BOTH THE PUBLIC MEETING
& PUBLIC HEARING)

MORENO VALLEY CITY HALL
COUNCIL CHAMBER
14177 FREDERICK STREET
MORENO VALLEY, CA 92553

III. CHARGE INFORMATION

1. **Name of the Charges for APNs 488-360-005 and 488-360-011 (and any division thereof):**

NPDES Maximum Commercial/Industrial Regulatory Rate
CSD Zone M (Commercial, Industrial, and Multifamily Improved Median Maintenance)

2. **Maximum Annual Levy Amounts for APNs 488-360-005 and 488-360-011 (and any division thereof):**

For fiscal year (FY) 2008/09, the NPDES maximum commercial/industrial regulatory rate is \$205 per parcel. The total parcel charges levied for NPDES for FY 2008/09 was \$389,445.

For FY 2008/09 the annual CSD Zone M charge is \$6,811.20 for APN 488-360-011. The total CSD Zone M charges levied for FY 2008/09 was \$88,908.

Beginning in FY 2009/10, the NPDES Maximum Commercial/Industrial Regulatory Rate and the CSD Zone M charge shall be subject to an annual adjustment based on the percentage change calculated for the previous calendar year in the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics.

3. **Duration of the Proposed Charges:**

Upon approval of the NPDES Maximum Commercial/Industrial Regulatory Rate, the annual levy amount will be assessed to APNs 488-360-005 and 488-360-011 (and any division thereof) and shall be placed on the 2009/10 Riverside County property tax bill or as a monthly charge on a utility bill. The CSD Zone M annual levy amount shall be assessed to APN 488-360-011 (and any division thereof) on the Riverside County property tax bill beginning in FY 2009/10. The NPDES Maximum Commercial/Industrial regulatory rate and the CSD Zone M charge will be levied each following year at the proposed rate, which may include an annual inflation adjustment.

4. **Reason for the Charges:**

NPDES Maximum Commercial/Industrial Regulatory Rate

In compliance with the Federal Clean Water Act, the City of Moreno Valley shall annually inspect site design, source control and treatment control Best Management Practices, verify monitoring and maintenance records for those on-site facilities, and perform annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements, as administered by the State.

CSD Zone M Charge

Commercial, industrial, and multifamily developments along designated arterial streets are conditioned to participate in the improved median maintenance program in compliance with the Citywide Arterial Median Maintenance Policy approved by the CSD Board in March 2003 and revised in January 2006. Special Districts' staff manages private landscape maintenance firms to ensure that landscape preservation activities are completed on a regular schedule. The annual CSD Zone M charge was established to cover administration and service costs for the landscape maintenance. Services include, but are not limited to: mowing, trimming, pruning, weeding, fertilizing, replacing plant material(s) as necessary, removing litter, maintaining the irrigation systems, paying water and electric utility charges, staff support, and other items necessary for the satisfactory maintenance of the landscaped medians.

5. **Calculation of the Charges:**

Each fiscal year, the City of Moreno Valley shall determine the type of services necessary to comply with NPDES Permit requirements and levy the rate applicable for that service. The annual CSD Zone M charge includes maintenance and administration costs and may be subject to an annual adjustment. The CSD Zone M charge shall be proportionally adjusted if the APN is subdivided or if development occurs adjacent to the proposed medians.

IV. QUESTIONS REGARDING THESE PROCEEDINGS

If you have questions about the proposed programs, charges, or this process, please contact Jennifer Terry, Management Analyst, Special Districts, a Division of the Public Works Department, Monday through Thursday from 7:30 a.m. to 5:30 p.m. and Friday 8:00 a.m. to 5:00 p.m. at (951) 413-3505.

V. SUMMARY OF BALLOT PROCEEDINGS

Please follow the instructions listed below and on the following page to complete and return your ballots. Procedures for the completion, return, and tabulation of the ballots are on file in the City Clerk's office of the City of Moreno Valley.

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4. Ballots must be **received** by the City Clerk prior to the close of the Public Hearing to be held on **Tuesday, February 10, 2009**, at the Moreno Valley City Hall Council Chamber. The Public Hearing will be held at 6:30 p.m. or as soon thereafter as the matter may be called. Ballots received after the close of the Public Hearing cannot be legally counted.
5. **Upon the close of the Public Hearing:**
Approval of the NPDES Maximum Commercial/Industrial maximum regulatory rate will be confirmed if a majority of the APNs are marked in favor of the rate. The inclusion into the CSD Zone M program and the annual charge will be confirmed if the ballot is marked in favor of the charge.

Not approving the NPDES commercial/industrial regulatory rate to meet federally mandated NPDES Permit requirements, as administered by the State, shall result in noncompliance with the Conditions of Approval.

If the ballot is not marked in favor of the CSD Zone M annual charge, then the charge will not be levied on the property tax bill, the City will not maintain the landscaping, and noncompliance of the Conditions of Approval shall result.

BALLOT MARKS

Appropriate ballot markings include any one of the following for either the YES/Approved or NO/Not Approved blank box:



A check mark substantially inside a box;



An X mark substantially inside a box;



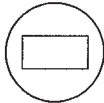
A dot or oval mark substantially inside a box;



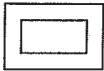
A completely shaded or filled mark substantially inside a box;



A line, single or dashed, or combination of lines, through the box area. Lines may be any **one of the following marks**: horizontal, vertical, or diagonal. The mark may either run from side to side or corner to corner. All valid lines must be substantially within the box area and not marking any part of another blank box on the ballot;



A circle around the box **and/or** associated clause; or



A square or rectangle around the box **and/or** associated clause.

Balloting marks shall not extend past one box area into any portion of another nor surround the perimeter or any portion of more than one box area. Markings that extend past one box area into any portion of another or surround the perimeter or any portion of more than one box area shall be considered invalid and not counted.

Ballot Mark Revisions (Changes)

An error or desire to revise (change) a selection made on the ballot may be completed and returned any time **prior** to the conclusion of public testimony at the Public Hearing. **The revision must be initialed by the record owner(s) of property. Initials must be clearly printed and placed at the right top corner of the revised selection.**

OFFICIAL MAIL BALLOT

**National Pollutant Discharge Elimination System (NPDES)
Maximum Commercial/Industrial Regulatory Rate**

Parcels owned by Sand Prop Partners within Tentative Parcel Map (TPM) 35629

YES* – as the property owner of the parcels listed below within TPM 35629, **I approve** the NPDES maximum commercial/industrial regulatory rate and services. The City will annually inspect site design, source control and treatment control Best Management Practices, verify monitoring and maintenance records for those on-site facilities, and perform annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements, as administered by the State. For fiscal year (FY) 2008/09, the NPDES maximum commercial/industrial regulatory rate is \$205 per parcel. Beginning in FY 2009/10, the maximum regulatory rate shall be subject to an annual adjustment based on the percentage change calculated for the previous calendar year in the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics. Upon approval of the maximum regulatory rate, the annual levy amount will be assessed to each parcel listed below (and any division thereof) and shall be placed on the 2009/10 Riverside County property tax bill or as a monthly charge on a utility bill.

NO** – as the property owner of the parcels listed below within TPM 35629, **I do not approve** the NPDES maximum commercial/industrial regulatory rate and services. I understand that not approving the NPDES maximum commercial/industrial regulatory rate to fund federally mandated NPDES Permit requirements, as administered by the State, shall result in noncompliance with the project's Conditions of Approval.

Assessor Parcel Number	YES*	NO**	NPDES Maximum Commercial/Industrial Regulatory Rate
488-360-005 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$205
488-360-011 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$205

This ballot must be received by the City Clerk of the City of Moreno Valley prior to the close of the Public Hearing to be held on February 10, 2009, at the Moreno Valley City Hall Council Chamber, 14177 Frederick Street, Moreno Valley, California. The Public Hearing will be held at 6:30 p.m. or as soon thereafter as the matter may be called.

PROPERTY OWNER SIGNATURE DATE

Please remember to mark the appropriate box, sign and date the ballot and return to the City Clerk's Office in the enclosed envelope

Llame al (951) 413-3480 para obtener información verbal en Español.

OFFICIAL MAIL BALLOT

**Community Services District (CSD) Zone M
(Commercial, Industrial, and Multifamily Improved Median Maintenance)
Parcel owned by Sand Prop Partners within Tentative Parcel Map (TPM) 35629**

* **Yes**, as the property owner of the parcel listed below within TPM 35629, **I approve** the annual CSD Zone M charge for said parcel for fiscal year (FY) 2008/09. The CSD Zone M charge shall be proportionally adjusted if the APN is subdivided or if development occurs adjacent to the proposed median. Beginning in FY 2009/10, the CSD Zone M charge shall be subject to an annual adjustment based on the percentage change calculated for the previous calendar year in the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics. The annual CSD Zone M charge shall be placed on the Riverside County property tax bill beginning in fiscal year 2009/10.

** **No**, as the property owner of the parcel listed below within TPM 35629, **I do not approve** the annual CSD Zone M charge. I understand that not incorporating said APN into the CSD Zone M program is a violation of the Conditions of Approval. The CSD Zone M charge shall not be levied on the Riverside County property tax bill.

Assessor Parcel Number	YES*	NO**	CSD Zone M Annual Charge
488-360-011 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$6,811.20






This ballot must be received by the Secretary of the Board (City Clerk) of the Moreno Valley Community Services District prior to the close of the Public Hearing on February 10, 2009, at the Moreno Valley City Hall Council Chamber, 14177 Frederick Street, Moreno Valley, California. The Public Hearing will be held at 6:30 p.m. or as soon thereafter as the matter may be called.



PROPERTY OWNER SIGNATURE DATE

Please remember to mark the appropriate box, sign and date the ballot and return to the City Clerk's Office in the enclosed envelope

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TPM 35629 for parcels owned by Sand Prop Partners

-  Median
-  Landscaped Areas
-  Roads
-  Parcels
-  City Boundary

- APN**
-  488360005
 -  488360011

Map reflects all changes indicated
on Riverside County Assessor Maps
as of December 17, 2008.



G:\AVP\SDA\TPM 35629 SPP.mxd

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MORENO VALLEY
WHERE DREAMS SOAR



NOTICE TO PROPERTY OWNER - MAIL BALLOT PROCEEDING
National Pollutant Discharge Elimination System (NPDES)
Maximum Commercial/Industrial Regulatory Rate
Community Services District (CSD) Zone M
(Commercial, Industrial, and Multifamily Improved Median Maintenance)
Parcels owned by Sinclair Prop Partners within Tentative Parcel Map (TPM) 35629

I. BACKGROUND

The City shall provide the services necessary to meet mandates of the Federal Clean Water Act. The current NPDES Permit, as administered by the State, regulates the volume and amount of pollutants in stormwater runoff from residential/commercial developments.

NPDES Maximum Commercial/Industrial Maximum Regulatory Rate provides financial support for inspecting site design and source and treatment control Best Management Practices, monitoring maintenance records for those on-site facilities, and performing annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements, as administered by the State.

The CSD was formed simultaneously with City incorporation and established Zones to allocate the costs of special benefit services to those parcels designated to receive selective programs. The CSD Zone M program provides ongoing maintenance to improved medians adjacent to commercial, industrial, and multifamily developments in designated areas of the City.

In November of 1996, California voters passed the Right to Vote on Taxes Act ("Proposition 218"). As a result, any new or proposed increase in a property-related charge requires approval of the charge by the property owner of record. In compliance with Proposition 218 legislation, Special Districts is conducting a mail ballot proceeding to provide the owner of Assessor Parcel Numbers (APNs) 488-360-001, 488-360-002, and 488-360-012 (and any division thereof) the opportunity to express support or opposition to the approval of the NPDES regulatory rate and services and inclusion into and approval of the annual charge for the CSD Zone M program.

II. NOTICE - PUBLIC MEETING AND PUBLIC HEARING

To provide for public comments on this mail ballot proceeding, the City Council has scheduled one (1) Public Meeting and one (1) Public Hearing at their regular meetings, which will be held at the Moreno Valley City Hall Council Chamber as follows:

PUBLIC MEETING

TUESDAY, January 27, 2009
6:30 P.M. (or as soon thereafter
as the matter may be called)

PUBLIC HEARING

TUESDAY, February 10, 2009
6:30 P.M. (or as soon thereafter
as the matter may be called)

LOCATION
(FOR BOTH THE PUBLIC MEETING
& PUBLIC HEARING)

MORENO VALLEY CITY HALL
COUNCIL CHAMBER
14177 FREDERICK STREET
MORENO VALLEY, CA 92553

III. CHARGE INFORMATION

1. **Name of the Charges for APNs 488-360-001, 488-360-002, and 488-360-012 (and any division thereof):**

NPDES Maximum Commercial/Industrial Regulatory Rate
CSD Zone M (Commercial, Industrial, and Multifamily Improved Median Maintenance)

2. **Maximum Annual Levy Amounts for APNs 488-360-001, 488-360-002, and 488-360-012 (and any division thereof):**

For fiscal year (FY) 2008/09, the NPDES maximum commercial/industrial regulatory rate is \$205 per parcel. The total parcel charges levied for NPDES for FY 2008/09 was \$389,445.

For FY 2008/09 the annual CSD Zone M charge is \$6,501.60 for APN 488-360-012. The total CSD Zone M charges levied for FY 2008/09 was \$88,908.

Beginning in FY 2009/10, the NPDES Maximum Commercial/Industrial Regulatory Rate and the CSD Zone M charge shall be subject to an annual adjustment based on the percentage change calculated for the previous calendar year in the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics.

3. **Duration of the Proposed Charges:**

Upon approval of the NPDES Maximum Commercial/Industrial Regulatory Rate, the annual levy amount will be assessed to APNs 488-360-001, 488-360-002, and 488-360-012 (and any division thereof) and shall be placed on the 2009/10 Riverside County property tax bill or as a monthly charge on a utility bill. The CSD Zone M annual levy amount shall be assessed to APN 488-360-012 (and any division thereof) on the Riverside County property tax bill beginning in FY 2009/10. The NPDES Maximum Commercial/Industrial regulatory rate and the CSD Zone M charge will be levied each following year at the proposed rate, which may include an annual inflation adjustment.

4. **Reason for the Charges:**

NPDES Maximum Commercial/Industrial Regulatory Rate

In compliance with the Federal Clean Water Act, the City of Moreno Valley shall annually inspect site design, source control and treatment control Best Management Practices, verify monitoring and maintenance records for those on-site facilities, and perform annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements, as administered by the State.

CSD Zone M Charge

Commercial, industrial, and multifamily developments along designated arterial streets are conditioned to participate in the improved median maintenance program in compliance with the Citywide Arterial Median Maintenance Policy approved by the CSD Board in March 2003 and revised in January 2006. Special Districts' staff manages private landscape maintenance firms to ensure that landscape preservation activities are completed on a regular schedule. The annual CSD Zone M charge was established to cover administration and service costs for the landscape maintenance. Services include, but are not limited to: mowing, trimming, pruning, weeding, fertilizing, replacing plant material(s) as necessary, removing litter, maintaining the irrigation systems, paying water and electric utility charges, staff support, and other items necessary for the satisfactory maintenance of the landscaped medians.

5. **Calculation of the Charges:**

Each fiscal year, the City of Moreno Valley shall determine the type of services necessary to comply with NPDES Permit requirements and levy the rate applicable for that service. The annual CSD Zone M charge includes maintenance and administration costs and may be subject to an annual adjustment. The CSD Zone M charge shall be proportionally adjusted if the APN is subdivided or if development occurs adjacent to the proposed medians.

IV. QUESTIONS REGARDING THESE PROCEEDINGS

If you have questions about the proposed programs, charges, or this process, please contact Jennifer Terry, Management Analyst, Special Districts, a Division of the Public Works Department, Monday through Thursday from 7:30 a.m. to 5:30 p.m. and Friday 8:00 a.m. to 5:00 p.m. at (951) 413-3505.

V. SUMMARY OF BALLOT PROCEEDINGS

Please follow the instructions listed below and on the following page to complete and return your ballots. Procedures for the completion, return, and tabulation of the ballots are on file in the City Clerk's office of the City of Moreno Valley.

1. Mark the enclosed ballots in support or opposition to the proposed programs and annual charges **by placing an appropriate valid mark in the corresponding box. A list containing appropriate valid markings is attached for reference.**
2. **Sign your name** on the ballots. *Ballots received without a signature will be considered invalid and will not be counted.*
3. Mail or personally deliver your ballots in a sealed envelope to the City Clerk's office, 14177 Frederick Street, Moreno Valley, California 92553. For your convenience, two postage-paid envelopes have been included for return of the ballots.
4. Ballots must be **received** by the City Clerk prior to the close of the Public Hearing to be held on **Tuesday, February 10, 2009**, at the Moreno Valley City Hall Council Chamber. The Public Hearing will be held at 6:30 p.m. or as soon thereafter as the matter may be called. Ballots received after the close of the Public Hearing cannot be legally counted.
5. **Upon the close of the Public Hearing:**
Approval of the NPDES Maximum Commercial/Industrial maximum regulatory rate will be confirmed if a majority of the APNs are marked in favor of the rate. The inclusion into the CSD Zone M program and the annual charge will be confirmed if the ballot is marked in favor of the charge.

Not approving the NPDES commercial/industrial regulatory rate to meet federally mandated NPDES Permit requirements, as administered by the State, shall result in noncompliance with the Conditions of Approval.

If the ballot is not marked in favor of the CSD Zone M annual charge, then the charge will not be levied on the property tax bill, the City will not maintain the landscaping, and noncompliance of the Conditions of Approval shall result.

BALLOT MARKS

Appropriate ballot markings include any one of the following for either the YES/Approved or NO/Not Approved blank box:



A check mark substantially inside a box;



An X mark substantially inside a box;



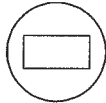
A dot or oval mark substantially inside a box;



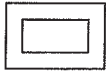
A completely shaded or filled mark substantially inside a box;



A line, single or dashed, or combination of lines, through the box area. Lines may be any one of the following marks: horizontal, vertical, or diagonal. The mark may either run from side to side or corner to corner. All valid lines must be substantially within the box area and not marking any part of another blank box on the ballot;



A circle around the box and/or associated clause; or



A square or rectangle around the box and/or associated clause.

Balloting marks shall not extend past one box area into any portion of another nor surround the perimeter or any portion of more than one box area. Markings that extend past one box area into any portion of another or surround the perimeter or any portion of more than one box area shall be considered invalid and not counted.

Ballot Mark Revisions (Changes)

An error or desire to revise (change) a selection made on the ballot may be completed and returned any time prior to the conclusion of public testimony at the Public Hearing. **The revision must be initialed by the record owner(s) of property. Initials must be clearly printed and placed at the right top corner of the revised selection.**

OFFICIAL MAIL BALLOT

**National Pollutant Discharge Elimination System (NPDES)
Maximum Commercial/Industrial Regulatory Rate for Parcels owned by
Sinclair Prop Partners within Tentative Parcel Map (TPM) 35629**

YES* – as the property owner of the parcels listed below within TPM 35629, **I approve** the NPDES maximum commercial/industrial regulatory rate and services. The City will annually inspect site design, source control and treatment control Best Management Practices, verify monitoring and maintenance records for those on-site facilities, and perform annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements, as administered by the State. For fiscal year (FY) 2008/09, the NPDES maximum commercial/industrial regulatory rate is \$205 per parcel. Beginning in FY 2009/10, the maximum regulatory rate shall be subject to an annual adjustment based on the percentage change calculated for the previous calendar year in the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics. Upon approval of the maximum regulatory rate, the annual levy amount will be assessed to each parcel listed below (and any division thereof) and shall be placed on the 2009/10 Riverside County property tax bill or as a monthly charge on a utility bill.

NO** – as the property owner of the parcels listed below within TPM 35629, **I do not approve** the NPDES maximum commercial/industrial regulatory rate and services. I understand that not approving the NPDES maximum commercial/industrial regulatory rate to fund federally mandated NPDES Permit requirements, as administered by the State, shall result in noncompliance with the project's Conditions of Approval.

Assessor Parcel Number	YES*	NO**	NPDES Maximum Commercial/Industrial Regulatory Rate
488-360-001 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$205
488-360-002 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$205
488-360-012 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$205

This ballot must be received by the City Clerk of the City of Moreno Valley prior to the close of the Public Hearing to be held on February 10, 2009, at the Moreno Valley City Hall Council Chamber, 14177 Frederick Street, Moreno Valley, California. The Public Hearing will be held at 6:30 p.m. or as soon thereafter as the matter may be called.

PROPERTY OWNER SIGNATURE

DATE

Please remember to mark the appropriate box, sign and date the ballot and return to the City Clerk's Office in the enclosed envelope

Llame al (951) 413-3480 para obtener información verbal en Español.

OFFICIAL MAIL BALLOT

**Community Services District (CSD) Zone M
(Commercial, Industrial, and Multifamily Improved Median Maintenance)
Parcel owned by Sinclair Prop Partners within Tentative Parcel Map (TPM) 35629**

* **Yes**, as the property owner of the parcel listed below within TPM 35629, **I approve** the annual CSD Zone M charge for said parcel for fiscal year (FY) 2008/09. The CSD Zone M charge shall be proportionally adjusted if the APN is subdivided or if development occurs adjacent to the proposed median. Beginning in FY 2009/10, the CSD Zone M charge shall be subject to an annual adjustment based on the percentage change calculated for the previous calendar year in the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics. The annual CSD Zone M charge shall be placed on the Riverside County property tax bill beginning in fiscal year 2009/10.

** **No**, as the property owner of the parcel listed below within TPM 35629, **I do not approve** the annual CSD Zone M charge. I understand that not incorporating said APN into the CSD Zone M program is a violation of the Conditions of Approval. The CSD Zone M charge shall not be levied on the Riverside County property tax bill.

Assessor Parcel Number	YES*	NO**	CSD Zone M Annual Charge
488-360-012 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$6,501.60

This ballot must be received by the Secretary of the Board (City Clerk) of the Moreno Valley Community Services District prior to the close of the Public Hearing on February 10, 2009, at the Moreno Valley City Hall Council Chamber, 14177 Frederick Street, Moreno Valley, California. The Public Hearing will be held at 6:30 p.m. or as soon thereafter as the matter may be called.

PROPERTY OWNER SIGNATURE




DATE

Please remember to mark the appropriate box, sign and date the ballot and return to the City Clerk's Office in the enclosed envelope

Llame al (951) 413-3480 para obtener información verbal en Español.

TPM 35629 for parcels owned by Sinclair Prop Partners

-  Median
-  Landscaped Areas
-  Roads
-  Parcels
-  City Boundary

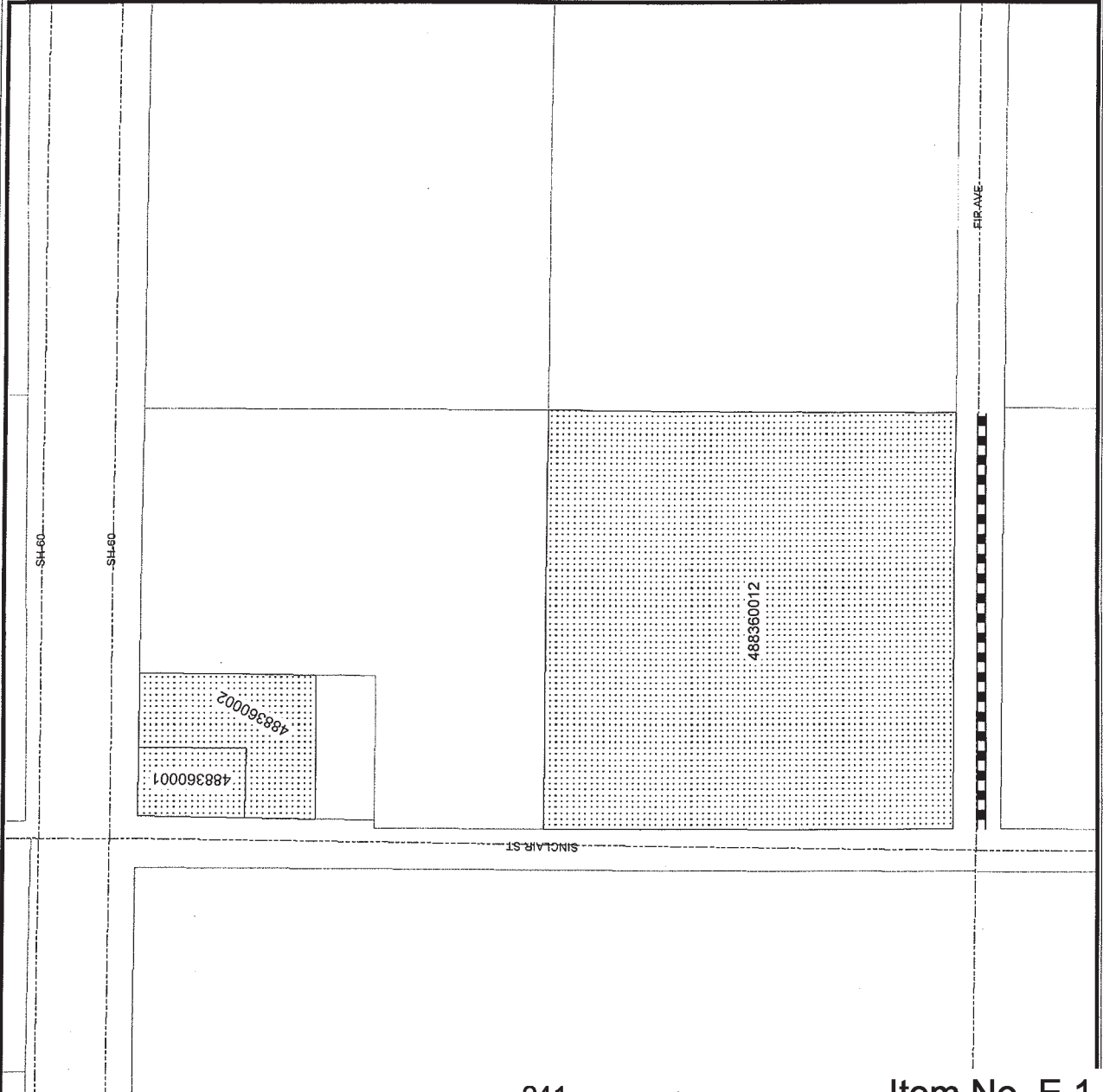
- APN**
-  488360001
 -  488360002
 -  488360012

Map reflects all changes indicated on Riverside County Assessor Maps as of December 17, 2006.



G:\AVP\SDA\TPM 35629 Sinclair PP.mxd

The information shown on this map was compiled from the Riverside County GIS and the City of Moreno Valley GIS. The land base and facility information on this map is for display purposes only and should not be relied upon without independent verification as to its accuracy. Data and information on this map is subject to update and modification. Riverside County and City of Moreno Valley will not be held responsible for any claims, losses or damages resulting from the use of this map. This map is not to be recycled or resold.



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January 23, 2009

Highland Fairview
14225 Corporate Way
Moreno Valley, CA 92553

Attention: Danette Fenstermacher, Chief Operating Officer & Executive Vice President

Subject: Rescheduling of the Public Meeting and Public Hearing for the Mail Ballot Proceeding for parcels owned by Westcoast Prop Partners, HF Educational Partners, Sand Prop Partners, and Sinclair Prop Partners within Tentative Parcel Map (TPM) 35629

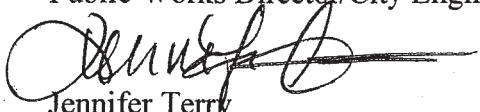
Dear Ms. Fenstermacher,

The Special Districts Division originally scheduled the Public Meeting on January 27 and the Public Hearing on February 10, 2009 for the National Pollutant Discharge Elimination System (NPDES) Rate and for inclusion into Community Services District (CSD) Zone M (Commercial, Industrial, and Multifamily Improved Median Maintenance). Due to circumstances outside of the Special Districts Division's control, the Public Meeting has been rescheduled for March 10, 2009 and the Public Hearing has been rescheduled for March 24, 2009. Attached is a revised Notice to Property Owner for each property owner listing the new dates of the Public Meeting and Public Hearing, all other mail ballot documents remain unchanged. Ballots that have already been returned will remain in the custody of the City Clerk until the March 24, 2009 Public Hearing.

If you have any questions regarding the rescheduling of the Public Meeting and Public Hearing, please contact Jennifer Terry, Management Analyst, Monday through Thursday from 7:30 a.m. to 5:30 p.m. and Friday from 8:00 a.m. to 5:00 p.m. at 951.413.3505.

Sincerely,

Chris A. Vogt, P.E.
Public Works Director/City Engineer


Jennifer Terry
Management Analyst

Enclosures

c: Sue Maxinoski, Special Districts Division Manager
Marshall Eyerman, Special Districts Program Manager

NOTICE TO PROPERTY OWNER - MAIL BALLOT PROCEEDING
National Pollutant Discharge Elimination System (NPDES)
Maximum Commercial/Industrial Regulatory Rate
Community Services District (CSD) Zone M
(Commercial, Industrial, and Multifamily Improved Median Maintenance)
Parcels owned by HF Educational Partners within Tentative Parcel Map (TPM) 35629

I. BACKGROUND

The City shall provide the services necessary to meet mandates of the Federal Clean Water Act. The current NPDES Permit, as administered by the State, regulates the volume and amount of pollutants in stormwater runoff from residential/commercial developments.

NPDES Maximum Commercial/Industrial Maximum Regulatory Rate provides financial support for inspecting site design and source and treatment control Best Management Practices, monitoring maintenance records for those on-site facilities, and performing annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements, as administered by the State.

The CSD was formed simultaneously with City incorporation and established Zones to allocate the costs of special benefit services to those parcels designated to receive selective programs. The CSD Zone M program provides ongoing maintenance to improved medians adjacent to commercial, industrial, and multifamily developments in designated areas of the City.

In November of 1996, California voters passed Proposition 218 ("The Right to Vote on Taxes Act"). As a result, any new or proposed increase in a property-related charge requires approval of the charge by the property owner of record. In compliance with Proposition 218 legislation, Special Districts is conducting a mail ballot proceeding to provide the owner of Assessor Parcel Numbers (APNs) 488-360-006, 488-360-007, 488-360-008, 488-360-009, and 488-360-010 (and any division thereof) the opportunity to express support or opposition to the approval of the NPDES regulatory rate and services and inclusion into and approval of the annual charge for the CSD Zone M program.

II. NOTICE - PUBLIC MEETING AND PUBLIC HEARING

To provide for public comments on this mail ballot proceeding, the City Council has scheduled one (1) Public Meeting and one (1) Public Hearing at their regular meetings, which will be held at the Moreno Valley City Hall Council Chamber as follows:

PUBLIC MEETING

TUESDAY, March 10, 2009
**6:30 P.M. (or as soon thereafter
as the matter may be called)**

PUBLIC HEARING

TUESDAY, March 24, 2009
**6:30 P.M. (or as soon thereafter
as the matter may be called)**

LOCATION
**(FOR BOTH THE PUBLIC MEETING
& PUBLIC HEARING)**

**MORENO VALLEY CITY HALL
COUNCIL CHAMBER
14177 FREDERICK STREET
MORENO VALLEY, CA 92553**

III. CHARGE INFORMATION

1. **Name of the Charges for APNs 488-360-006, 488-360-007, 488-360-008, 488-360-009, and 488-360-010 (and any division thereof):**

NPDES Maximum Commercial/Industrial Regulatory Rate
CSD Zone M (Commercial, Industrial, and Multifamily Improved Median Maintenance)

2. **Maximum Annual Levy Amounts for APNs 488-360-006, 488-360-007, 488-360-008, 488-360-009, and 488-360-010 (and any division thereof):**

For fiscal year (FY) 2008/09, the NPDES maximum commercial/industrial regulatory rate is \$205 per parcel. The total parcel charges levied for NPDES for FY 2008/09 was \$389,445.

For FY 2008/09 the annual CSD Zone M charge is \$4,077.60 for APN 488-360-008, \$3,405.60 for 488-360-009, and \$3,405.60 for APN 488-360-010. The total CSD Zone M charges levied for FY 2008/09 was \$88,908.

Beginning in FY 2009/10, the NPDES Maximum Commercial/Industrial Regulatory Rate and the CSD Zone M charge shall be subject to an annual adjustment based on the percentage change calculated for the previous calendar year in the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics.

3. **Duration of the Proposed Charges:**

Upon approval of the NPDES Maximum Commercial/Industrial Regulatory Rate, the annual levy amount will be assessed to each associated APN (and any division thereof) and shall be placed on the 2009/10 Riverside County property tax bill or as a monthly charge on a utility bill. The annual CSD Zone M levy amount shall be assessed to each associated APN (and any division thereof) on the Riverside County property tax bill beginning in FY 2009/10. The NPDES Maximum Commercial/Industrial regulatory rate and the CSD Zone M charge will be levied each following year at the proposed rate, which may include an annual inflation adjustment.

4. **Reason for the Charges:**

NPDES Maximum Commercial/Industrial Regulatory Rate

In compliance with the Federal Clean Water Act, the City of Moreno Valley shall annually inspect site design, source control and treatment control Best Management Practices, verify monitoring and maintenance records for those on-site facilities, and perform annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements, as administered by the State.

CSD Zone M Charge

Commercial, industrial, and multifamily developments along designated arterial streets are conditioned to participate in the improved median maintenance program in compliance with the Citywide Arterial Median Maintenance Policy approved by the CSD Board in March 2003 and revised in January 2006. Special Districts' staff manages private landscape maintenance firms to ensure that landscape preservation activities are completed on a regular schedule. The annual CSD Zone M charge was established to cover administration and service costs for the landscape maintenance. Services include, but are not limited to: mowing, trimming, pruning, weeding, fertilizing, replacing plant material(s) as necessary, removing litter, maintaining the irrigation systems, paying water and electric utility charges, staff support, and other items necessary for the satisfactory maintenance of the landscaped medians.

5. **Calculation of the Charges:**

Each fiscal year, the City of Moreno Valley shall determine the type of services necessary to comply with NPDES Permit requirements and levy the rate applicable for that service. The annual CSD Zone M charge includes maintenance and administration costs and may be subject to an annual adjustment. The CSD Zone M charge shall be proportionally adjusted if an APN is subdivided or if development occurs adjacent to the proposed median.

IV. QUESTIONS REGARDING THESE PROCEEDINGS

If you have questions about the proposed programs, charges, or this process, please contact Jennifer Terry, Management Analyst, Special Districts, a Division of the Public Works Department, Monday through Thursday from 7:30 a.m. to 5:30 p.m. and Friday 8:00 a.m. to 5:00 p.m. at (951) 413-3505.

V. SUMMARY OF BALLOT PROCEEDINGS

Please follow the instructions listed below and on the following page to complete and return your ballots. Procedures for the completion, return, and tabulation of the ballots are on file in the City Clerk's office of the City of Moreno Valley.

1. Mark the enclosed ballots in support or opposition to the proposed programs and annual charges **by placing an appropriate valid mark in the corresponding box. A list containing appropriate valid markings is attached for reference.**
2. **Sign your name** on the ballots. *Ballots received without a signature will be considered invalid and will not be counted.*
3. Mail or personally deliver your ballots in a sealed envelope to the City Clerk's office, 14177 Frederick Street, Moreno Valley, California 92553. For your convenience, two postage-paid envelopes have been included for return of the ballots.
4. Ballots must be **received** by the City Clerk prior to the close of the Public Hearing to be held on **Tuesday, March 24, 2009**, at the Moreno Valley City Hall Council Chamber. The Public Hearing will be held at 6:30 p.m. or as soon thereafter as the matter may be called. Ballots received after the close of the Public Hearing cannot be legally counted.
5. **Upon the close of the Public Hearing:**
Approval of the NPDES Maximum Commercial/Industrial maximum regulatory rate and inclusion into the CSD Zone M program and the maximum annual levy amounts will be confirmed if a majority of the APNs are marked in favor of the charge.

Not approving the NPDES commercial/industrial regulatory rate to meet federally mandated NPDES Permit requirements, as administered by the State, shall result in noncompliance with the Conditions of Approval.

If the ballot is not marked in favor of the CSD Zone M annual charge, then the charge will not be levied on the property tax bill, the City will not maintain the landscaping, and noncompliance of the Conditions of Approval shall result.

BALLOT MARKS

Appropriate ballot markings include any one of the following for either the YES/Approved or NO/Not Approved blank box:



A check mark substantially inside a box;



An X mark substantially inside a box;



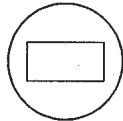
A dot or oval mark substantially inside a box;



A completely shaded or filled mark substantially inside a box;



A line, single or dashed, or combination of lines, through the box area. Lines may be any **one of the following marks**: horizontal, vertical, or diagonal. The mark may either run from side to side or corner to corner. All valid lines must be substantially within the box area and not marking any part of another blank box on the ballot;



A circle around the box and/or associated clause; or



A square or rectangle around the box and/or associated clause.

Balloting marks shall not extend past one box area into any portion of another nor surround the perimeter or any portion of more than one box area. Markings that extend past one box area into any portion of another or surround the perimeter or any portion of more than one box area shall be considered invalid and not counted.

Ballot Mark Revisions (Changes)

An error or desire to revise (change) a selection made on the ballot may be completed and returned any time prior to the conclusion of public testimony at the Public Hearing. **The revision must be initialed by the record owner(s) of property. Initials must be clearly printed and placed at the right top corner of the revised selection.**

NOTICE TO PROPERTY OWNER - MAIL BALLOT PROCEEDING
National Pollutant Discharge Elimination System (NPDES)
Maximum Commercial/Industrial Regulatory Rate
Community Services District (CSD) Zone M
(Commercial, Industrial, and Multifamily Improved Median Maintenance)
Parcels owned by Westcoast Prop Partners within Tentative Parcel Map (TPM) 35629

I. BACKGROUND

The City shall provide the services necessary to meet mandates of the Federal Clean Water Act. The current NPDES Permit, as administered by the State, regulates the volume and amount of pollutants in stormwater runoff from residential/commercial developments.

NPDES Maximum Commercial/Industrial Maximum Regulatory Rate provides financial support for inspecting site design and source and treatment control Best Management Practices, monitoring maintenance records for those on-site facilities, and performing annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements, as administered by the State.

The CSD was formed simultaneously with City incorporation and established Zones to allocate the costs of special benefit services to those parcels designated to receive selective programs. The CSD Zone M program provides ongoing maintenance to improved medians adjacent to commercial, industrial, and multifamily developments in designated areas of the City.

In November of 1996, California voters passed the Right to Vote on Taxes Act ("Proposition 218"). As a result, any new or proposed increase in a property-related charge requires approval of the charge by the property owner of record. In compliance with Proposition 218 legislation, Special Districts is conducting a mail ballot proceeding to provide the owner of Assessor Parcel Numbers (APNs) 488-350-002, 488-360-003, and 488-360-004 (and any division thereof) the opportunity to express support or opposition to the approval of the NPDES regulatory rate and services and inclusion into and approval of the annual charge for the CSD Zone M program.

II. NOTICE - PUBLIC MEETING AND PUBLIC HEARING

To provide for public comments on this mail ballot proceeding, the City Council has scheduled one (1) Public Meeting and one (1) Public Hearing at their regular meetings, which will be held at the Moreno Valley City Hall Council Chamber as follows:

PUBLIC MEETING

TUESDAY, March 10, 2009
**6:30 P.M. (or as soon thereafter
as the matter may be called)**

PUBLIC HEARING

TUESDAY, March 24, 2009
**6:30 P.M. (or as soon thereafter
as the matter may be called)**

LOCATION
**(FOR BOTH THE PUBLIC MEETING
& PUBLIC HEARING)**

**MORENO VALLEY CITY HALL
COUNCIL CHAMBER
14177 FREDERICK STREET
MORENO VALLEY, CA 92553**

III. CHARGE INFORMATION

1. **Name of the Charges for APNs 488-350-002, 488-360-003, and 488-360-004 (and any division thereof):**

NPDES Maximum Commercial/Industrial Regulatory Rate
CSD Zone M (Commercial, Industrial, and Multifamily Improved Median Maintenance)

2. **Maximum Annual Levy Amounts for APNs 488-350-002, 488-360-003, and 488-360-004 (and any division thereof):**

For fiscal year (FY) 2008/09, the NPDES maximum commercial/industrial regulatory rate is \$205 per parcel. The total parcel charges levied for NPDES for FY 2008/09 was \$389,445.

For FY 2008/09 the annual CSD Zone M charge is \$17,285.40 for APN 488-350-002. The total CSD Zone M charges levied for FY 2008/09 was \$88,908.

Beginning in FY 2009/10, the NPDES Maximum Commercial/Industrial Regulatory Rate and the CSD Zone M charge shall be subject to an annual adjustment based on the percentage change calculated for the previous calendar year in the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics.

3. **Duration of the Proposed Charges:**

Upon approval of the NPDES Maximum Commercial/Industrial Regulatory Rate, the annual levy amount will be assessed to APNs 488-350-002, 488-360-003, and 488-360-004 (and any division thereof) and shall be placed on the 2009/10 Riverside County property tax bill or as a monthly charge on a utility bill. The CSD Zone M annual levy amount shall be assessed to APN 488-350-002 (and any division thereof) on the Riverside County property tax bill beginning in FY 2009/10. The NPDES Maximum Commercial/Industrial regulatory rate and the CSD Zone M charge will be levied each following year at the proposed rate, which may include an annual inflation adjustment.

4. **Reason for the Charges:**

NPDES Maximum Commercial/Industrial Regulatory Rate

In compliance with the Federal Clean Water Act, the City of Moreno Valley shall annually inspect site design, source control and treatment control Best Management Practices, verify monitoring and maintenance records for those on-site facilities, and perform annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements, as administered by the State.

CSD Zone M Charge

Commercial, industrial, and multifamily developments along designated arterial streets are conditioned to participate in the improved median maintenance program in compliance with the Citywide Arterial Median Maintenance Policy approved by the CSD Board in March 2003 and revised in January 2006. Special Districts' staff manages private landscape maintenance firms to ensure that landscape preservation activities are completed on a regular schedule. The annual CSD Zone M charge was established to cover administration and service costs for the landscape maintenance. Services include, but are not limited to: mowing, trimming, pruning, weeding, fertilizing, replacing plant material(s) as necessary, removing litter, maintaining the irrigation systems, paying water and electric utility charges, staff support, and other items necessary for the satisfactory maintenance of the landscaped medians.

5. **Calculation of the Charges:**

Each fiscal year, the City of Moreno Valley shall determine the type of services necessary to comply with NPDES Permit requirements and levy the rate applicable for that service. The annual CSD Zone M charge includes maintenance and administration costs and may be subject to an annual adjustment. The CSD Zone M charge shall be proportionally adjusted if the APN is subdivided or if development occurs adjacent to the proposed medians.

IV. QUESTIONS REGARDING THESE PROCEEDINGS

If you have questions about the proposed programs, charges, or this process, please contact Jennifer Terry, Management Analyst, Special Districts, a Division of the Public Works Department, Monday through Thursday from 7:30 a.m. to 5:30 p.m. and Friday 8:00 a.m. to 5:00 p.m. at (951) 413-3505.

V. SUMMARY OF BALLOT PROCEEDINGS

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5. **Upon the close of the Public Hearing:**
Approval of the NPDES Maximum Commercial/Industrial maximum regulatory rate will be confirmed if a majority of the APNs are marked in favor of the rate. The inclusion into the CSD Zone M program and the annual charge will be confirmed if the ballot is marked in favor of the charge.

Not approving the NPDES commercial/industrial regulatory rate to meet federally mandated NPDES Permit requirements, as administered by the State, shall result in noncompliance with the Conditions of Approval.

If the ballot is not marked in favor of the CSD Zone M annual charge, then the charge will not be levied on the property tax bill, the City will not maintain the landscaping, and noncompliance of the Conditions of Approval shall result.

BALLOT MARKS

Appropriate ballot markings include any one of the following for either the YES/Approved or NO/Not Approved blank box:



A check mark substantially inside a box;



An X mark substantially inside a box;



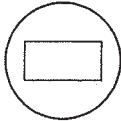
A dot or oval mark substantially inside a box;



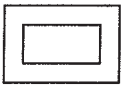
A completely shaded or filled mark substantially inside a box;



A line, single or dashed, or combination of lines, through the box area. Lines may be any one of the following marks: horizontal, vertical, or diagonal. The mark may either run from side to side or corner to corner. All valid lines must be substantially within the box area and not marking any part of another blank box on the ballot;



A circle around the box and/or associated clause; or



A square or rectangle around the box and/or associated clause.

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Ballot Mark Revisions (Changes)

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NOTICE TO PROPERTY OWNER - MAIL BALLOT PROCEEDING
National Pollutant Discharge Elimination System (NPDES)
Maximum Commercial/Industrial Regulatory Rate
Community Services District (CSD) Zone M
(Commercial, Industrial, and Multifamily Improved Median Maintenance)
Parcels owned by Sand Prop Partners within Tentative Parcel Map (TPM) 35629

I. BACKGROUND

The City shall provide the services necessary to meet mandates of the Federal Clean Water Act. The current NPDES Permit, as administered by the State, regulates the volume and amount of pollutants in stormwater runoff from residential/commercial developments.

NPDES Maximum Commercial/Industrial Maximum Regulatory Rate provides financial support for inspecting site design and source and treatment control Best Management Practices, monitoring maintenance records for those on-site facilities, and performing annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements, as administered by the State.

The CSD was formed simultaneously with City incorporation and established Zones to allocate the costs of special benefit services to those parcels designated to receive selective programs. The CSD Zone M program provides ongoing maintenance to improved medians adjacent to commercial, industrial, and multifamily developments in designated areas of the City.

In November of 1996, California voters passed the Right to Vote on Taxes Act ("Proposition 218"). As a result, any new or proposed increase in a property-related charge requires approval of the charge by the property owner of record. In compliance with Proposition 218 legislation, Special Districts is conducting a mail ballot proceeding to provide the owner of Assessor Parcel Numbers (APNs) 488-360-005 and 488-360-011 (and any division thereof) the opportunity to express support or opposition to the approval of the NPDES regulatory rate and services and inclusion into and approval of the annual charge for the CSD Zone M program.

II. NOTICE - PUBLIC MEETING AND PUBLIC HEARING

To provide for public comments on this mail ballot proceeding, the City Council has scheduled one (1) Public Meeting and one (1) Public Hearing at their regular meetings, which will be held at the Moreno Valley City Hall Council Chamber as follows:

PUBLIC MEETING

TUESDAY, March 10, 2009
**6:30 P.M. (or as soon thereafter
as the matter may be called)**

PUBLIC HEARING

TUESDAY, March 24, 2009
**6:30 P.M. (or as soon thereafter
as the matter may be called)**

LOCATION
**(FOR BOTH THE PUBLIC MEETING
& PUBLIC HEARING)**

**MORENO VALLEY CITY HALL
COUNCIL CHAMBER
14177 FREDERICK STREET
MORENO VALLEY, CA 92553**

III. CHARGE INFORMATION

1. **Name of the Charges for APNs 488-360-005 and 488-360-011 (and any division thereof):**

NPDES Maximum Commercial/Industrial Regulatory Rate
CSD Zone M (Commercial, Industrial, and Multifamily Improved Median Maintenance)

2. **Maximum Annual Levy Amounts for APNs 488-360-005 and 488-360-011 (and any division thereof):**

For fiscal year (FY) 2008/09, the NPDES maximum commercial/industrial regulatory rate is \$205 per parcel. The total parcel charges levied for NPDES for FY 2008/09 was \$389,445.

For FY 2008/09 the annual CSD Zone M charge is \$6,811.20 for APN 488-360-011. The total CSD Zone M charges levied for FY 2008/09 was \$88,908.

Beginning in FY 2009/10, the NPDES Maximum Commercial/Industrial Regulatory Rate and the CSD Zone M charge shall be subject to an annual adjustment based on the percentage change calculated for the previous calendar year in the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics.

3. **Duration of the Proposed Charges:**

Upon approval of the NPDES Maximum Commercial/Industrial Regulatory Rate, the annual levy amount will be assessed to APNs 488-360-005 and 488-360-011 (and any division thereof) and shall be placed on the 2009/10 Riverside County property tax bill or as a monthly charge on a utility bill. The CSD Zone M annual levy amount shall be assessed to APN 488-360-011 (and any division thereof) on the Riverside County property tax bill beginning in FY 2009/10. The NPDES Maximum Commercial/Industrial regulatory rate and the CSD Zone M charge will be levied each following year at the proposed rate, which may include an annual inflation adjustment.

4. **Reason for the Charges:**

NPDES Maximum Commercial/Industrial Regulatory Rate

In compliance with the Federal Clean Water Act, the City of Moreno Valley shall annually inspect site design, source control and treatment control Best Management Practices, verify monitoring and maintenance records for those on-site facilities, and perform annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements, as administered by the State.

CSD Zone M Charge

Commercial, industrial, and multifamily developments along designated arterial streets are conditioned to participate in the improved median maintenance program in compliance with the Citywide Arterial Median Maintenance Policy approved by the CSD Board in March 2003 and revised in January 2006. Special Districts' staff manages private landscape maintenance firms to ensure that landscape preservation activities are completed on a regular schedule. The annual CSD Zone M charge was established to cover administration and service costs for the landscape maintenance. Services include, but are not limited to: mowing, trimming, pruning, weeding, fertilizing, replacing plant material(s) as necessary, removing litter, maintaining the irrigation systems, paying water and electric utility charges, staff support, and other items necessary for the satisfactory maintenance of the landscaped medians.

5. **Calculation of the Charges:**

Each fiscal year, the City of Moreno Valley shall determine the type of services necessary to comply with NPDES Permit requirements and levy the rate applicable for that service. The annual CSD Zone M charge includes maintenance and administration costs and may be subject to an annual adjustment. The CSD Zone M charge shall be proportionally adjusted if the APN is subdivided or if development occurs adjacent to the proposed medians.

IV. QUESTIONS REGARDING THESE PROCEEDINGS

If you have questions about the proposed programs, charges, or this process, please contact Jennifer Terry, Management Analyst, Special Districts, a Division of the Public Works Department, Monday through Thursday from 7:30 a.m. to 5:30 p.m. and Friday 8:00 a.m. to 5:00 p.m. at (951) 413-3505.

V. SUMMARY OF BALLOT PROCEEDINGS

Please follow the instructions listed below and on the following page to complete and return your ballots. Procedures for the completion, return, and tabulation of the ballots are on file in the City Clerk's office of the City of Moreno Valley.

1. Mark the enclosed ballots in support or opposition to the proposed programs and annual charges **by placing an appropriate valid mark in the corresponding box. A list containing appropriate valid markings is attached for reference.**
2. **Sign your name** on the ballots. *Ballots received without a signature will be considered invalid and will not be counted.*
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5. **Upon the close of the Public Hearing:**
Approval of the NPDES Maximum Commercial/Industrial maximum regulatory rate will be confirmed if a majority of the APNs are marked in favor of the rate. The inclusion into the CSD Zone M program and the annual charge will be confirmed if the ballot is marked in favor of the charge.

Not approving the NPDES commercial/industrial regulatory rate to meet federally mandated NPDES Permit requirements, as administered by the State, shall result in noncompliance with the Conditions of Approval.

If the ballot is not marked in favor of the CSD Zone M annual charge, then the charge will not be levied on the property tax bill, the City will not maintain the landscaping, and noncompliance of the Conditions of Approval shall result.

BALLOT MARKS

Appropriate ballot markings include any one of the following for either the YES/Approved or NO/Not Approved blank box:



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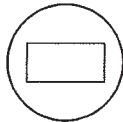
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The City shall provide the services necessary to meet mandates of the Federal Clean Water Act. The current NPDES Permit, as administered by the State, regulates the volume and amount of pollutants in stormwater runoff from residential/commercial developments.

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1. **Name of the Charges for APNs 488-360-001, 488-360-002, and 488-360-012 (and any division thereof):**

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CSD Zone M (Commercial, Industrial, and Multifamily Improved Median Maintenance)

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For FY 2008/09 the annual CSD Zone M charge is \$6,501.60 for APN 488-360-012. The total CSD Zone M charges levied for FY 2008/09 was \$88,908.

Beginning in FY 2009/10, the NPDES Maximum Commercial/Industrial Regulatory Rate and the CSD Zone M charge shall be subject to an annual adjustment based on the percentage change calculated for the previous calendar year in the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics.

3. **Duration of the Proposed Charges:**

Upon approval of the NPDES Maximum Commercial/Industrial Regulatory Rate, the annual levy amount will be assessed to APNs 488-360-001, 488-360-002, and 488-360-012 (and any division thereof) and shall be placed on the 2009/10 Riverside County property tax bill or as a monthly charge on a utility bill. The CSD Zone M annual levy amount shall be assessed to APN 488-360-012 (and any division thereof) on the Riverside County property tax bill beginning in FY 2009/10. The NPDES Maximum Commercial/Industrial regulatory rate and the CSD Zone M charge will be levied each following year at the proposed rate, which may include an annual inflation adjustment.

4. **Reason for the Charges:**

NPDES Maximum Commercial/Industrial Regulatory Rate

In compliance with the Federal Clean Water Act, the City of Moreno Valley shall annually inspect site design, source control and treatment control Best Management Practices, verify monitoring and maintenance records for those on-site facilities, and perform annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements, as administered by the State.

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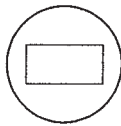
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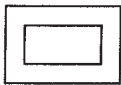
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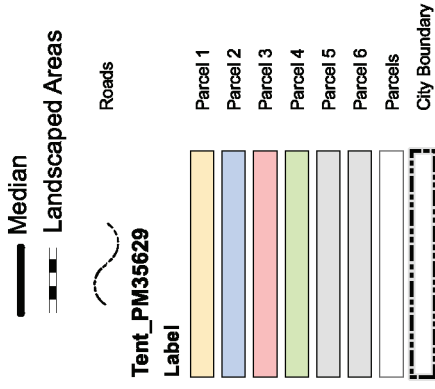
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Tentative Parcel Map 35629



Map reflects all changes indicated on Riverside County Assessor Maps as of December 29, 2008.

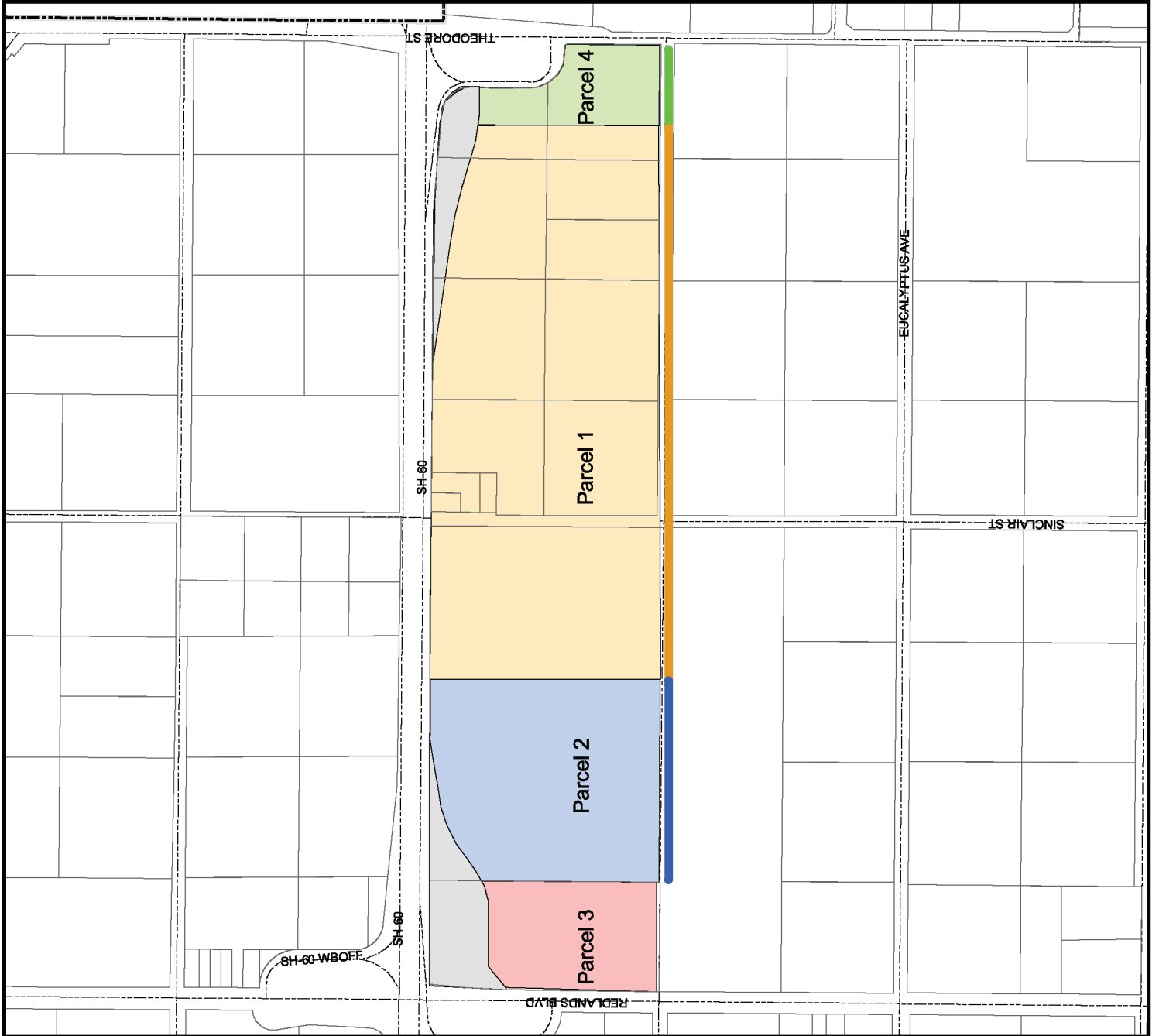


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The information shown on this map was compiled from the Riverside County GIS and the City of Moreno Valley GIS. The land base and facility information on this map is for display purposes only and should not be relied upon without independent verification as to its accuracy. Data and information on this map is subject to update and modification. Riverside County and City of Moreno Valley will not be held responsible for any claims, losses or damages resulting from the use of this map. This map is not to be recycled or resold.



ATTACHMENT 3



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HIGHLAND FAIRVIEW PROPERTIES

14225 Corporate Way
Moreno Valley, CA 92553

Tel: (714) 824-8001 Fax: (714) 824-8002

March 24, 2009

Mr. Rick C. Hartmann
Deputy City Manager
City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552-0805

Re: Continuance Request for CSD Zone M Voting

Dear Rick,

Highland Fairview is requesting a 60 day continuance for the voting of the ballot proceeding for identified properties within Tentative Parcel Map (TPM) 35629 for approval of the National Pollutant Discharge Elimination System (NPDES) maximum commercial/industrial regulatory maintenance rate and CSD Zone Z incorporation of the median maintenance.

Thank you for your attention to this matter.

Sincerely,

Danette Fenstermacher
Executive Vice President & Chief Operating Officer

Jennifer Terry

From: Sue Maxinoski
Sent: Wednesday, April 29, 2009 2:09 PM
To: 'Danette Fenstermacher'
Cc: Jennifer Terry; Rick Hartmann
Subject: RE: Public Hearing for TPM 35629

Danette - Thank you for sending this email. We will include this with our staff report on May 26 to continue the public hearing.

Sue

From: Danette Fenstermacher [mailto:dfenstermacher@highlandfairview.com]
Sent: Wednesday, April 29, 2009 1:49 PM
To: Sue Maxinoski
Cc: wpeterson@highlandfairview.com; Iddo
Subject: Public Hearing for TPM 35629

Sue--Per our conversation, please delay the inclusion of the following item to the City Council Hearing of August 25, 2009.

(Taken from the City Council Agenda for March 10, 2009)

"PUBLIC MEETING REGARDING THE MAIL BALLOT PROCEEDING FOR IDENTIFIED PROPERTIES WITHIN TPM 35629 - BALLOTING FOR NPDES AND CSD ZONE M (Report of: Public Works Department)

Recommendation: That the City Council:

1. Staff recommends that the Mayor and Members of the Moreno Valley City Council accept public comments regarding the mail ballot proceeding for identified properties within Tentative Parcel Map (TPM) 35629 for approval of the National Pollutant Discharge Elimination System (NPDES) maximum Commercial / industrial regulatory rate.

2. Staff recommends that the President and Members of the Board of Directors of the Moreno Valley Community Services District ("CSD Board") accept public comments regarding the mail ballot proceeding for identified properties within TPM 35629 for inclusion into and approval of the annual charge for CSD Zone M (Commercial, Industrial, and Multifamily Improved Median Maintenance)."

Best Regards,

Danette

Danette Fenstermacher
COO & Executive Vice President

Highland Fairview
danette@highlandfairview.com
714-824-8001
714-824-8002 (fax)
951-271-6703 (cell)



CITY OF MORENO VALLEY
SPECIAL DISTRICTS HIGHLAND FAIRVIEW

2009 AUG 25 PM 2: 50
14225 Corporate Way
Moreno Valley, CA 92553
Tel: 951.867.5300

August 24, 2009

Mr. Rick Hartmann
Deputy City Manager
City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552

SUBJECT: Continuance Request for NPDES and CSD Zone M Voting – TPM 35629
City Council Agenda Item E.1, August 25, 2009

Dear Rick,

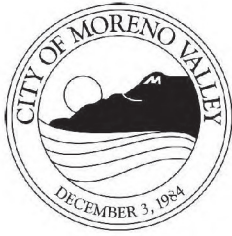
Highland Fairview hereby requests a continuance of the public hearing to November 10, 2009 regarding the mail ballot proceeding for identified properties within Tentative Parcel Map (TPM) 35629 relating to: 1) the National Pollutant Discharge Elimination System (NPDES) maximum commercial/industrial regulatory maintenance rate, and 2) the Community Services District (CSD) Zone M (Commercial, Industrial and Multifamily Improved Median Maintenance) charges.

Thank you for your assistance.

Sincerely,

Danette Fenstermacher
Executive Vice President & Chief Operating Officer

xc: Sue Maxinoski, Special Districts
Jennifer Terry, Special Districts ✓



APPROVALS	
BUDGET OFFICER	<i>hy</i>
CITY ATTORNEY	<i>RA</i>
CITY MANAGER	<i>RA</i>

Report to City Council

TO: Mayor and City Council

FROM: Chris A. Vogt, P.E., Public Works Director/City Engineer

AGENDA DATE: November 10, 2009

TITLE: HEARING ON PROPOSED RESOLUTION OF NECESSITY, TO MAKE FINDING AND DETERMINATION AND TO AUTHORIZE EMINENT DOMAIN PROCEEDINGS TO ACQUIRE NECESSARY RIGHT OF WAY FOR DAY STREET ROADWAY IMPROVEMENTS FROM ALESSANDRO BOULEVARD TO COTTONWOOD AVENUE (PROJECT)
PROJECT NO. 02-89266920

RECOMMENDED ACTION

Staff recommends that the City Council:

1. Conduct hearing, allowing testimony, including property owners who have requested the right to appear and be heard. Close the hearing.
2. Approve and adopt the Planning Division's finding that the Project is consistent with the General Plan.
3. Find the adoption of the proposed Resolution of Necessity and acquisition of the roadway easement and temporary construction easement necessary for the Project are exempt from CEQA in that under §15061 (b) (3) of the CEQA Guidelines, this activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant impact on the environment and it can be seen with certainty that there is no possibility this activity would have a significant effect on the environment. Further, it has been determined that the proposed activity is within the scope of and is consistent with the approved Negative Declaration (ND) prepared for the Project, that there have been no changes to the approved Project since the approval of the ND, and no changes to the circumstances under which the Project is to be undertaken that would alter the determination the Project is exempt.

4. Find that the proposed "Factual Summary to Support Findings Required in the Resolution," is true and correct as to the proposed Resolution of Necessity.
5. Find and determine that the statement, finding, and fact in the proposed Resolution of Necessity is true and correct.
6. If the City has not approved the "Agreement for Conveyance of Property" for the property necessary for the Project, adopt the following Resolution by a vote of two-thirds of all members of the City Council, Resolution No. 2009-107 - A Resolution Of The City Council Of The City Of Moreno Valley, California, Finding And Determining That The Public Interest And Necessity Require The Acquisition Of Property For Public Street And Highway Purposes Including Related Improvements And Facilities; That The Acquisition And Taking Of The Easements In The Herein-Described Property Is Necessary For The Project; That The Project Is Planned In A Manner That Is Most Compatible With The Greatest Public Good And The Least Private Injury; Authorizing Proceedings To Be Commenced In Eminent Domain; And Authorizing The Deposit Of Necessary Funds And The Payment Of Necessary Expenses And Fees For Acquisition Of Said Property; And Authorizing Counsel To Obtain An Order For Prejudgment Possession Of The Subject Property [APN: [291-191-004](#)].
7. Direct the City Attorney or retained counsel for the City to file appropriate actions in Eminent Domain, including Making Deposits of Probable Compensation and for Orders for Prejudgment Possession and for all other appropriate orders.

BACKGROUND

This Project involves the rehabilitation of Day Street from Alessandro Boulevard to Cottonwood Avenue, including street, signing, striping, waterline, and other related road improvements. Street improvements are an authorized activity under Section 319 of the Moreno Valley Community Redevelopment Agency's (RDA) Redevelopment plan.

On September 11, 2007, the environmental document, which is a Negative Declaration (ND), was approved by the City Council. On September 17, 2007, the ND was filed with the Riverside County Clerk.

In closed sessions on March 18, 2008 and February 3, 2009, the City Council approved appraisals for the fair market value of the right of way for all properties sought to be acquired, and the City Council authorized staff to proceed with negotiations to purchase all required easements.

Negotiations to acquire right of way have been successfully completed with all of the property owners, with the exception of the property owner of Assessor Parcel Number (APN) 291-191-004. Consequently, it is necessary to consider proceeding with eminent domain actions seeking to acquire the roadway easement (1,144 square feet) and temporary construction easement (811 square feet).

DISCUSSION

The City has been progressing in the steps necessary for the completion of design and acquisition of right of way in order to begin construction of the Project by March 2010.

Following the Council's authorizations on March 18, 2008 and February 3, 2009, offer letters required under Government Code § 7267.2 were sent to the property owners for acquisition of easements necessary for the Project. To date the City has acquired easements from all but one of the property owners. City staff is continuing good faith negotiations in an attempt to reach agreement with the remaining owner, who owns the property identified by APN 291-191-004 (Odufalu). If the owner executes an "Agreement for Conveyance of Property," staff will present the agreement to the City for approval, and if the agreement is approved, it will eliminate the need to adopt the Resolution of Necessity.

At the hearing on the proposed Resolution of Necessity, the City Council will consider evidence presented by staff, property owners and other interested parties, and decide if the requirements set out below are met. The Council may elect to adopt the Resolution of Necessity by a two-thirds vote of all members of the City Council. The amount of compensation to be paid will not be an issue at the hearing nor in determining whether to adopt the Resolution of Necessity. The issues the City Council must consider to adopt the Resolution of Necessity are whether:

(a) The public interest and necessity require the Project (Day Street Roadway Improvements from Alessandro Boulevard to Cottonwood Avenue).

(b) The Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

(c) The property sought to be acquired is necessary for the Project.

(d) The offer required by Government Code § 7267.2 has been made to the owner of record.

There is no requirement for the City Council to consider concerns from property owners who do not request to appear at the hearing in a timely manner and who have been advised with notification that failure to file a written request in a timely manner to appear and to be heard will result in waiver of that right.

Staff has carefully analyzed the requirement for the proposed Project and, based on that analysis, has concluded the acquisition of the roadway easement and temporary construction easement as identified in the proposed Resolution of Necessity are necessary to implement the Project.

It is also necessary that the Council find that the adoption of the proposed Resolution of Necessity and acquisition of the roadway easement and temporary construction

easement necessary for the Project are exempt from CEQA in that under §15061 (b) (3) of the CEQA Guidelines, this activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant impact on the environment and it can be seen with certainty that there is no possibility this activity would have a significant effect on the environment. Further, it has been determined that the proposed activity is within the scope of and is consistent with the approved ND prepared for the Project, that there have been no changes to the approved Project since the approval of the ND, and no changes to the circumstances under which the Project is to be undertaken that would alter the determination the Project is exempt.

It is also necessary to obtain orders for possession from the Court prior to judgment to allow the work to commence in or about April 2010. Recent changes in the state eminent domain law have increased the advance time necessary to obtain possession prior to judgment. To be able to commence the work in a timely manner, the City Council will have to authorize counsel to deposit funds equal to the appraised fair market value of the interests to be acquired and to seek and obtain orders for possession prior to judgment. The property in question is vacant and no residents, business, or agricultural use will be displaced by the action.

Staff is requesting the adoption of the proposed Resolution of Necessity for the property necessary for which the City Council has not approved an "Agreement for Conveyance of Property," authorizing the filing of eminent domain proceedings, obtaining orders for the deposit of funds for the probable amount of compensation, and seeking orders for possession prior to judgment to allow the work to proceed in a timely manner. Staff is providing the City Council with a proposed "Factual Summary to Support Findings Required in the Resolution," attached to this report as Attachment "B" to support the findings necessary for the adoption of the Resolution of Necessity.

City Attorney Department staff will serve as Eminent Domain Counsel relating to preparation and recommended approval of the Resolution of Necessity and related documents prerequisite to filing the eminent domain actions.

ALTERNATIVES

1. Conduct hearing, allowing testimony, including property owners who have requested the right to appear and be heard and close the hearing, approve and adopt the Planning Division's finding that the Project is consistent with the General Plan, find the adoption of the proposed Resolution of Necessity and acquisition of the roadway easement and temporary construction easement necessary for the Project are exempt from CEQA in that under §15061 (b) (3) of the CEQA Guidelines, this activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant impact on the environment and it can be seen with certainty that there is no possibility this activity would have a significant effect on the environment. Further, it has been determined that the proposed activity is within the scope of and is consistent with the approved Negative Declaration (ND) prepared for the Project, that there have been no changes to the approved Project since the

approval of the ND, and no changes to the circumstances under which the Project is to be undertaken that would alter the determination the Project is exempt, find that the proposed "Factual Summary to Support Findings Required in the Resolution," is true and correct as to the proposed Resolution of Necessity, find and determine that the statement, finding, and fact in the proposed Resolution of Necessity is true and correct, if the City has not approved the "Agreement for Conveyance of Property" for the property necessary for the Project, adopt the following Resolution by a vote of two-thirds of all members of the City Council, Resolution No. 2009- A Resolution Of The City Council Of The City Of Moreno Valley, California, Finding And Determining That The Public Interest And Necessity Require The Acquisition Of Property For Public Street And Highway Purposes Including Related Improvements And Facilities; That The Acquisition And Taking Of The Easements In The Herein-Described Property Is Necessary For The Project; That The Project Is Planned In A Manner That Is Most Compatible With The Greatest Public Good And The Least Private Injury; Authorizing Proceedings To Be Commenced In Eminent Domain; And Authorizing The Deposit Of Necessary Funds And The Payment Of Necessary Expenses And Fees For Acquisition Of Said Property; And Authorizing Counsel To Obtain An Order For Prejudgment Possession Of The Subject Property [APN: 291-191-004], and direct the City Attorney or retained counsel for the City to file appropriate actions in Eminent Domain, including Making Deposits of Probable Compensation and for Orders for Prejudgment Possession and for all other appropriate orders. *This alternative will allow the filing of an eminent domain action to acquire property necessary so the project will proceed without interruption.*

2. Do not conduct hearing, allowing testimony, including property owners who have requested the right to appear and be heard and close the hearing, do not approve and adopt the Planning Division's finding that the Project is consistent with the General Plan, do not find the adoption of the proposed Resolution of Necessity and acquisition of the roadway easement and temporary construction easement necessary for the Project are exempt from CEQA in that under §15061 (b) (3) of the CEQA Guidelines, this activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant impact on the environment and it can be seen with certainty that there is no possibility this activity would have a significant effect on the environment. Further, it has been determined that the proposed activity is within the scope of and is consistent with the approved Negative Declaration (ND) prepared for the Project, that there have been no changes to the approved Project since the approval of the ND, and no changes to the circumstances under which the Project is to be undertaken that would alter the determination the Project is exempt, do not find that the proposed "Factual Summary to Support Findings Required in the Resolution," is true and correct as to the proposed Resolution of Necessity, do not find and determine that the statement, finding, and fact in the proposed Resolution of Necessity is true and correct, if the City has not approved the "Agreement for Conveyance of Property" for the property necessary for the Project, do not adopt the following Resolution by a vote of two-thirds of all members of the City Council, Resolution No. 2009- A Resolution Of The City Council Of The City Of Moreno Valley, California, Finding And Determining

That The Public Interest And Necessity Require The Acquisition Of Property For Public Street And Highway Purposes Including Related Improvements And Facilities; That The Acquisition And Taking Of The Easements In The Herein-Described Property Is Necessary For The Project; That The Project Is Planned In A Manner That Is Most Compatible With The Greatest Public Good And The Least Private Injury; Authorizing Proceedings To Be Commenced In Eminent Domain; And Authorizing The Deposit Of Necessary Funds And The Payment Of Necessary Expenses And Fees For Acquisition Of Said Property; And Authorizing Counsel To Obtain An Order For Prejudgment Possession Of The Subject Property [APN: 291-191-004], and do not direct the City Attorney or retained counsel for the City to file appropriate actions in Eminent Domain, including Making Deposits of Probable Compensation and for Orders for Prejudgment Possession and for all other appropriate orders. *This alternative will delay the construction of needed improvements.*

FISCAL IMPACT

The Court action(s) authorized by the proposed Resolution of Necessity will require a deposit of funds equal to the amounts of the projected just compensation for the roadway easement and temporary construction easement sought in the eminent domain action (the probable compensation). The final just compensation will be determined through further negotiations and settlement or by the final disposition of the court proceeding through entry of judgments and final orders of condemnation in the action after trial. Additional court costs, appraisal, and legal expenses for the eminent domain filing will also accrue.

The Project is funded through RDA 2007 Tax Allocation Bonds (Fund 897). There is no impact to the General Fund.

Acquisition costs were budgeted in FY 2009/2010. The costs to proceed with filing the Resolution of Necessity can be paid from the existing budget. If the property goes to trial, the expenses for such will be estimated and addressed at the appropriate time.

REMAINING BUDGETED FUNDS:

Fiscal Year 2009/2010 (Account No. 897.91724).....	\$2,629,000
Total Available Funds.....	\$2,629,000

ESTIMATED DESIGN//RIGHT OF WAY COSTS

Balance of Design Costs	\$32,000
Right of Way & Utility Relocation.....	\$195,000
Construction*	\$2,054,000
Construction Surveying, Geotechnical, and Inspection Services Costs*	\$185,000
Project / Construction Management Administration**	\$145,000
Total Estimated Costs	\$2,611,000

**Estimates include approximately 10% contingency*

***Public Works and consultant staff will provide Project / Construction Management Administration*

ANTICIPATED PROJECT SCHEDULE

Complete Right of Way Acquisition Phase* February 2010
Construction Start Date** April 2010
Construction End Date January 2011

**Contingent upon agreement with remaining property owner*

***Contingent on obtaining agreement with remaining property owner and if not attained commencing eminent domain action and successfully obtaining order for possession prior to judgment.*

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

Staff is requesting the above recommended actions relating to and including adoption of the Resolution of Necessity to authorize eminent domain proceedings for the Project because settlement with the property owner has not been reached to date.

ATTACHMENTS

Attachment "A" - Resolution No. 2009-107 - A Resolution Of The City Council Of The City Of Moreno Valley, California, Finding And Determining That The Public Interest And Necessity Require The Acquisition Of Property For Public Street And Highway Purposes Including Related Improvements And Facilities; That The Acquisition And Taking Of The Easements In The Herein-Described Property Is Necessary For The Project; That The Project Is Planned In A Manner That Is Most Compatible With The Greatest Public Good And The Least Private Injury; Authorizing Proceedings To Be Commenced In Eminent Domain; And Authorizing The Deposit Of Necessary Funds And The Payment Of Necessary Expenses And Fees For Acquisition Of Said Property; And Authorizing Counsel To Obtain An Order For Prejudgment Possession Of The Subject Property [APN: 291-191-004]

Attachment "B" - Factual Summary to Support Findings Required in the Resolution

Attachment "C" - Proposed Improvements Fronting APN 291-191-004

Prepared By:
Lorenz R. Gonzales
Senior Engineer, P.E.

Department Head Approval:
Chris A. Vogt, P.E.
Public Works Director/City Engineer

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

Concurred By:
John Terell
Planning Division Manager/Planning Official

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

W:\CapProj\CapProj\PROJECTS\Larry - 02-89266920 - Day St\CC Reports\111009 Resolution of Necessity Staff Report\02-892.66920 Day St. Resolution of Necessity Staff Rpt (CC 11-10-09).doc

RESOLUTION NO. 2009-107

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, FINDING AND DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF PROPERTY FOR PUBLIC STREET AND HIGHWAY PURPOSES INCLUDING RELATED IMPROVEMENTS AND FACILITIES; THAT THE ACQUISITION AND TAKING OF THE EASEMENTS IN THE HEREIN-DESCRIBED PROPERTY IS NECESSARY FOR THE PROJECT; THAT THE PROJECT IS PLANNED IN A MANNER THAT IS MOST COMPATIBLE WITH THE GREATEST PUBLIC GOOD AND THE LEAST PRIVATE INJURY; AUTHORIZING PROCEEDINGS TO BE COMMENCED IN EMINENT DOMAIN; AND AUTHORIZING THE DEPOSIT OF NECESSARY FUNDS AND THE PAYMENT OF NECESSARY EXPENSES AND FEES FOR ACQUISITION OF SAID PROPERTY; AND AUTHORIZING COUNSEL TO OBTAIN AN ORDER FOR PREJUDGMENT POSSESSION OF THE SUBJECT PROPERTY.

WHEREAS, notice and a reasonable opportunity to appear and be heard has been given to the person who appears to be the owner of the hereinafter described parcel of property in accordance with CCP Section 1245.235, relating to whether the public interest and necessity require the herein-described project; the project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; and the property sought to be acquired is necessary for the project; and said hearing was held and conducted before the City Council on November 10, 2009, at the time and place indicated in the notice of hearing; and

WHEREAS, the City Council has considered all matters necessary to be considered

Resolution No. 2009-
Date Adopted: November 10, 2009

1
Attachment "A"

and duly presented at said hearing; and

WHEREAS, at least two-thirds of the City Council do hereby vote to adopt this Resolution;

NOW, THEREFORE, THE CITY COUNCIL DOES HEREBY FIND, DETERMINE, RESOLVE, DECLARE AND ORDER as follows:

Section 1. Pursuant to the provisions of the California Constitution, including Article I, Section 19 thereof, and as authorized by Government Code, Sections 37350, 37350.5, 37351, 40401 and 40404 and pursuant to the applicable provisions of California Code of Civil Procedure, Sections 1230.010, et seq, and other applicable provisions of law, the City of Moreno Valley is authorized to acquire the permanent and temporary easement interests in the parcel of real property which is shown on the maps attached hereto; and described more fully in the description set forth in Exhibits "A - Right of Way Easement" and "B - Temporary Construction Easement" attached hereto; said real property sometimes being hereinafter referred to as "the property" and more commonly known as Assessor's Parcel No. 291-191-004. And said Exhibits, as attached hereto and incorporated herein by this reference, describe the general location and extent of the parcel of property, including the easement interests therein, being taken.

Section 2. Acquisition of the hereinabove described parcel of property sought to be condemned herein or of one or more interest therein, is for a public use, to wit: for the widening and improvement of Day Street, from Alessandro Boulevard to Cottonwood Avenue, for street and highway purposes, for construction, reconstruction, operation, removal, replacement, widening, relocation, repair and maintenance of public street and highway and incidental improvements, uses and purposes, including drains, sewers and utilities, and all

Resolution No. 2009-
Date Adopted: November 10, 2009

improvements described in the construction plans, including any modifications thereof, and for uses and purposes consistent therewith and related thereto, and including, without limitation by this reference, the right to enter upon and for ingress and egress upon, to and from said parcel of property, said proposed acquisition and use being hereinafter referred to as "the Project".

Section 3. The interests in the parcel of property sought to be condemned herein, which constitutes only a portion of a larger parcel of property, is described herein, and the Property is situated in the City of Moreno Valley, County of Riverside, State of California.

Section 4. The City Council further hereby declares, finds, determines and resolves as follows:

(a) The public interest and necessity require the project;

(b) The Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;

(c) The Parcel of Property, or the interest to be acquired therein, is necessary for the Project; and

(d) The offer required by Government Code §7267.2 has been made to the property owner or owners of record.

Section 5. In the event any of the Property or the interests to be acquired therein is already appropriated to an existing and different public use, the City Council hereby finds that the herein-described public use or uses are more necessary than said existing public use, and acquisition hereby is permitted under the provisions of California Code of Civil Procedure, Sections 1240.610, et seq.

Resolution No. 2009-
Date Adopted: November 10, 2009

Section 6. The City Attorney is authorized to make such minor changes in the descriptions of the Property, and in the pleadings to be filed which have been authorized herein, as deemed necessary, for the conduct of the condemnation action or other proceedings required to acquire the Property.

Section 7. The City Council finds and determines that the purposes for which the above-described property is to be taken are public purposes and the uses therefor are authorized by law, and the taking of said property or property interest is necessary to such uses.

Section 8. The City Council hereby authorizes and directs the preparation and prosecution of proceedings in the name of the City of Moreno Valley in the Superior Court of the State of California, for the County of Riverside, or in any other court having jurisdiction thereof, as may be necessary for the acquisition of the Property and property interests by condemnation in accordance with the provisions of the Constitution and laws of the State of California relating to eminent domain, to obtain easements in, over, under, across, along, through, and within the Property, as described herein, and to obtain an order permitting the City, as plaintiff, to take immediate possession of the Property for use in construction and completion of the Project, and to obtain all other proper orders and judgment as may be necessary.

Section 9. The City Attorney, and/or the firm retained as counsel to represent the City in the proceedings, are hereby authorized to prepare and prosecute in the name of the City such proceeding or proceedings as are necessary to such acquisition; and to prepare and file such pleadings, briefs and other documents, and to make such arguments and to take such actions as may be necessary in the opinion of said attorneys to

Resolution No. 2009-
Date Adopted: November 10, 2009

acquire for said City possession including prejudgment possession and title and ownership of the Property and real property interests sought herein. Said attorneys are specifically authorized to take whatever steps and procedures are available to them under the eminent domain law of the State of California (Code of Civil Procedure, Title 7, Chapters 1-12, Sections 1230.010 and following).

Section 10. Deposit in court and payment of money out of proper funds of the City for probable just compensation according to law, for jury fees, reporter's fees, and other litigation expenses, is hereby authorized.

APPROVED AND ADOPTED this 10th day of November, 2009.

Richard Stewart, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Resolution No. 2009-
Date Adopted: November 10, 2009

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FACTUAL SUMMARY TO SUPPORT
FINDINGS REQUIRED IN RESOLUTION NO. 2009-

a) Notice and reasonable opportunity to appear and be heard has been given to the property owner affected by the Resolution of Necessity by the mailing of the Notice of Intent to Adopt Resolution of Necessity to Acquire Certain Real Property or Interest in Property by Eminent Domain on October 5, 2009, in conformance with and as required by statute.

b) The public interest and necessity require this project:

Day Street from Alessandro Boulevard to Cottonwood Avenue and the adjoining streets have experienced rapid and heavy increases in traffic volume and the heavy use of the existing street improvements creates significant traffic congestion and constitutes traffic safety hazards. Future growth of the region and development within the area will further add traffic volume. The existing right of way for Day Street in the area of the Project is insufficient to allow the street improvements as designed to be completed that is necessary to accommodate future increases in anticipated traffic volumes.

It is also necessary to complete the roadway improvements to comply with the City's General Plan and Circulation Element and to provide for more efficient and safe vehicular travel.

The proposed roadway easement and temporary construction easement will provide sufficient right of way to allow the improvement of Day Street from Alessandro Boulevard to Cottonwood Avenue (Project). Without the acquisition of the roadway easement and temporary construction easement, the Project cannot be completed as planned and the goals and policies of the General Plan cannot be implemented.

The Project involves the widening and rehabilitation of Day Street from Alessandro Boulevard to Cottonwood Avenue, including street, signing, striping, waterline, and other related road improvements. Street improvements are an authorized activity under Section 319 of the Moreno Valley Community Redevelopment Agency's (RDA) Redevelopment plan.

The implementation of the Project will implement the City's General Plan and the City Council's goals to create proper and free flowing streets and highways to further implement the Circulation Element of the General Plan.

It is further necessary to adopt the Resolution of Necessity to permit the City to file an eminent domain proceeding, deposit the amount of probable compensation, and obtain an order for possession prior to judgment to allow possession to occur by January 2010, to meet the time schedule for the improvements to Day Street from Alessandro Boulevard to Cottonwood Avenue.

Attachment "B"

c) The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury:

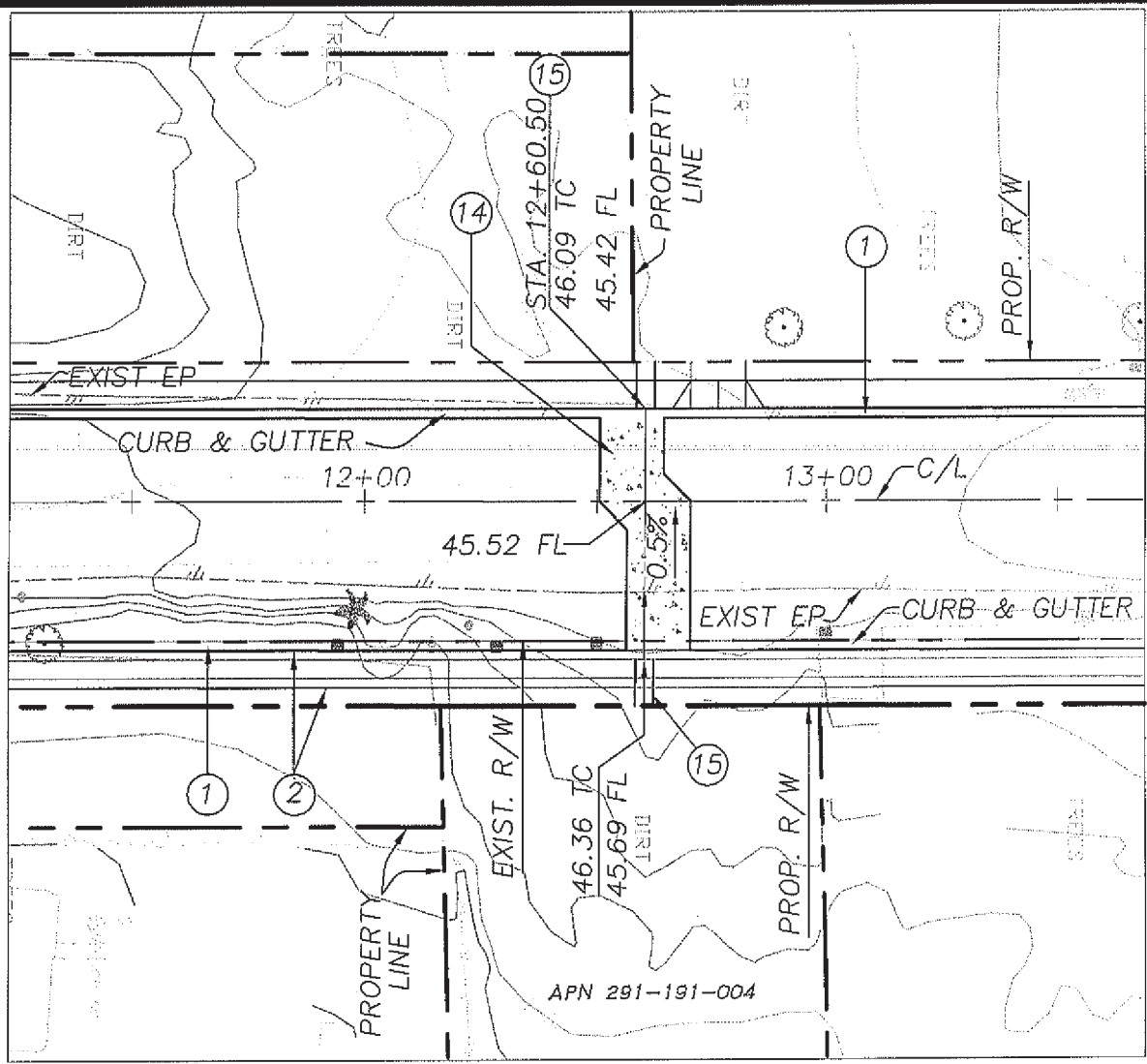
The design of the improvements for the Project in the area contemplated has been carefully considered to minimize the impact of the Project on adjacent privately owned property while addressing the need for proper traffic flow, circulation and safety. The improvements contemplated by the Project to complete the work of the Project require the acquisition of the roadway easement and temporary construction easement for the installation, operation, and maintenance of the proposed roadway improvements. The roadway easement and temporary construction easement acquisitions are designed to require the take of the minimum amount of property interests necessary to accomplish and permit the construction of the Project. The Project was planned and located in such a manner that the property to be taken in the action is vacant and no residents, businesses, or agricultural uses will be displaced by the Project - thereby minimizing private injury.

d) The fee and easement interests are necessary to the project:

The existing right of way for the Project is not large enough to allow for the construction of the proposed roadway improvements. The additional right of way is necessary to allow for the construction, operation, and maintenance of the proposed roadway improvements. The Project will improve traffic safety and circulation in the area.

e) All required offers have been made to the property owner in conformance with and in the manner required by § 7267.2 of the California Government Code.

Date: 01 Oct 09 ... 11:02 am
File: W:\CapProj\PROJECTS\Larry - 02-48268020 - Day St\Design Photos\AutoCAD & PDF's\Right of Way Exhibit\Final RW Exhibit AutoCAD STAFF_RPT_0_05.dwg
User: cadswis



DAY STREET

SCALE: 1"=40'

CONSTRUCTION NOTES:

- ① — CONSTRUCT TYPE 8 INTEGRAL CURB AND GUTTER PER CITY OF MORENO VALLEY STD. NO. 201
- ② — CONSTRUCT PCC SIDEWALK PER CITY OF MORENO VALLEY STD. NO. 210
- ⑭ — CONSTRUCT CROSS GUTTER PER CITY OF MORENO VALLEY STD. NO. 209, AND DETAIL "I" ON SHEET 2
- ⑮ — CONSTRUCT MODIFIED SIDEWALK OUTLET STRUCTURE PER CITY OF MORENO VALLEY STD. NOS. 301A AND 301B PER DETAIL "A" ON SHEET 2

APN No. 291-191-004

Address: 13956 Day Street, Moreno Valley, CA 92553

ATTACHMENT "C"

PROPOSED IMPROVEMENTS FRONTING APN 291-191-004

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Department Name
Division Name

MEMORANDUM

To: Mayor Stewart and City Council Members
From: Kyle Kollar, Community Development Director
Date: November 3, 2009
Subject: Required Noticing for Public Hearing Item E.3

Item E.3 was continued from the September 8, 2009 City Council meeting to comply with City Council rules which require a tie vote with less than a full council to automatically be continued to a meeting with a full council.

Since the item was not continued to a specific date at the September 8, 2009 meeting, noticing for the November 10, 2009 meeting was required.

A newspaper notice for the November 10, 2009 public hearing for this item was published on October 30, 2009. Mailing notices were sent on the same date, to property owners within 300 feet of the project site.

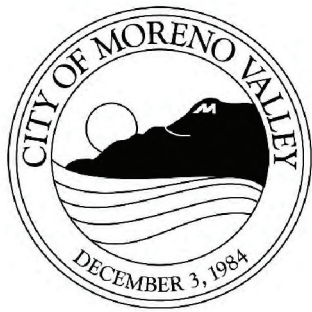
jb

Attachments/Enclosures

c: PA05-0069 and PA05-0071

W:\Planning\jeffreyb\2005\PA05-0071 - TTM 32388\City Council

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Notice of PUBLIC HEARING

This may affect your property. Please read.
Notice is hereby given that a Public Hearing will be held by the City Council of the City of Moreno Valley on the following item(s):

**CASE: PA05-0069 (Change of Zone, R1 to R2)
PA05-0071 (Tentative Tract Map No. 32388)**

APPLICANTS AND

OWNERS: Elie Abinader, John Klaeb and Naji Doumit

REPRESENTATIVE: Foresight Engineering

LOCATION: On the south side of Mountain Ranch Road at Northshore Drive.

PROPOSAL: Change of Zone from R1 to R2 and Tentative Tract Map No. 32388 to subdivide approximately 9.5 acres into 14 lots for single-family residential development. The proposed project includes perimeter street improvements and off-site utility and infrastructure improvements. Proposed residential lot sizes range from 20,000 square feet to 39,000 square feet. The proposed use and density are consistent with the existing Residential 2 General Plan land use designation and the proposed Residential 2 zoning district. This item was continued from the September 8, 2009 meeting to comply with City Council rules which require a tie vote with less than a full council to automatically be continued to a meeting with a full council.

ENVIRONMENTAL DETERMINATION: The City of Moreno Valley has prepared an initial study for this project in accordance with the California Environmental Quality Act. On the basis of the initial study, approval of a Mitigated Negative Declaration is recommended.

COUNCIL DISTRICT: District 3

STAFF RECOMMENDATION: Approval

Any person interested in any listed proposal may contact the Community Development Department, Planning Division, at 14177 Frederick St., Moreno Valley, California, during normal business hours (7:30 a.m. to 5:30 p.m., Monday through Thursday) or may telephone (951) 413-3206 for further information. The associated documents will be available for public inspection at the above address.

In the case of public hearing items, any person may also appear and be heard in support of or in opposition to the project or recommendation of adoption of the

environmental determination at the time of the hearing.

The City Council, at the hearing or during deliberations, could approve changes or alternatives to the proposal.

If you challenge any of these items in court, you may be limited to raising only those items 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.



LOCATION MAP North ↑

CITY COUNCIL HEARING

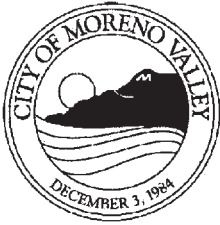
City Council Chambers, City Hall
14177 Frederick Street
Moreno Valley, CA 92553

DATE/TIME: November 10, 2009 at 6:30 PM

CONTACT PLANNER: Jeff Bradshaw

PHONE: (951) 413-3224

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APPROVALS	
BUDGET OFFICER	<i>mg</i>
CITY ATTORNEY	<i>kt</i>
CITY MANAGER	<i>ph</i>

Report to City Council

TO: Mayor and City Council

FROM: Kyle Kollar, Community Development Director

AGENDA DATE: November 10, 2009 (continued from September 8, 2009)

TITLE: A public hearing on a Zone Change (PA05-0069) from the Residential 1 (Single Family - up to 1 unit per acre) land use district to the Residential 2 (Single Family - up to 2 units per acre) district, which is consistent with the existing Residential 2 General Plan land use designation; and a Tentative Tract Map No. 32388 (PA05-0071) to subdivide approximately 9.5 acres located on the south side of Mountain Ranch Road at Northshore Drive into 14 single family lots.

RECOMMENDED ACTION

Staff and the Planning Commission recommend that the City Council:

1. **CONDUCT** a public hearing for review of a proposed Zone Change from R1 to R2 and Tentative Tract Map No. 32388 to subdivide approximately 9.5 acres into 14 single family residential lots;
2. **APPROVE** Resolution No. 2009-84 ADOPTING a Mitigated Negative Declaration for the Zone Change and Tentative Tract Map No. 32388, in that, as designed and conditioned, this project will not result in significant environmental impacts;
3. **INTRODUCE** Ordinance No. 795 thereby APPROVING a Zone Change from Residential 1 (R1) to Residential 2 (R2) for the 9.5 acres of Assessor's Parcel Number 474-250-003 located south of Mountain Ranch Road at Northshore Drive (PA05-0069), based on the findings in the City Council Ordinance (Attachment No. 3); and
4. **APPROVE** Resolution No. 2009-85 thereby APPROVING Tentative Tract Map No. 32388 (PA05-0071) to subdivide the 9.5 acres of Assessor's Parcel Number

474-250-003 located south of Mountain Ranch Road at Northshore Drive into 14 single family residential lots.

ADVISORY BOARD/COMMISSION RECOMMENDATION

The Planning Commission at its June 25, 2009 meeting approved Planning Commission Resolution No. 2009-20 recommending by a 4-1 vote that the City Council adopt a Mitigated Negative Declaration for PA05-0069 (Zone Change) and PA05-0071 (Tentative Tract Map No. 32388), and approve the project as described above.

Commissioner De Jong voted against the project. He stated that the applicant had not provided a compelling enough reason or information to support the zone change in light of the arguments and concerns raised by neighboring property owners that were opposed to the change in zone. He stated that the project would be a better project if it was developed under the existing R1 zone for a total of nine lots.

The Planner Commissioners in support of the project voted to recommend approval due to the proximity of similarly zoned homes to the north and west and viewed the project as an extension of existing half-acre development. The commissioners felt that the proposed project would not result in any significant increase in impacts compared to development under the existing zoning and would be compatible with surrounding development as designed and conditioned. The extension of proposed sewer lines to the northerly boundary of the development along with the completion of perimeter streets were also noted as reasons to support the project. The commissioners also felt that the neighbors that spoke against the project were more focused on the impacts of any development of the project site than they were on identifying specific concerns about the proposed change in zone from R1 to R2.

BACKGROUND

This project includes an application for a zone change and a tentative tract map to subdivide the 9.5 acres of Assessor's Parcel Map 474-250-003. The proposed density of the map requires approval of a change in zone. The Planning Commission has recommended approval of both the zone change and the tentative tract map. As a legislative action, the Zone Change requires City Council review and action.

Zone Change

The proposed zone change would replace the existing Residential 1 (R1) land use district with the Residential 2 (R2) land use district. While this represents a potential doubling of permitted density, the proposed district is consistent with the existing General Plan land use designation of Residential 2.

The proposed 20,000 square foot minimum lot size under the Residential 2 land use district is compatible with the predominant Residential 2 land use district for surrounding properties and with the developed pattern of land uses in the surrounding area,

specifically the area through which the project will take access. There is no access from the subject site to the adjacent large lot residential to the south and east. The proposed Residential 2 land use district represents a logical extension of existing development.

Tentative Tract Map

Tentative Tract Map 32388 as proposed will subdivide the approximately 9.5 acres (net) of Assessor's Parcel Number 474-250-003 into 14 single-family residential lots in the R2 zone (proposed). The proposed design provides residential lots exceeding the 20,000 square foot minimum for the R2 zone; with all lots also meeting the associated lot width (100 feet) and lot depth (120 feet) requirements. The proposed lots range in size from 20,000 to 39,068 square feet.

The grading design has taken into consideration the opportunities and constraints of the complex site topography. The knoll that occupies much of the eastern portion of the site is preserved in portions of Lots 9 through 14. The recommended conditions of approval require development of a uniform fencing plan (P14) for this area and recordation of legal documents to establish use restrictions and long-term maintenance provisions (P8).

Split level foundation pads are placed close to the street for lots along the west and south site boundaries, with the balance of the lot graded to gently transition to the exterior tract boundary. This design and layout is intended to soften the transition to existing adjoining residential development.

The tract design includes a water quality basin located in the southwest corner of the site at the rear of Lots 5 and 6. The recommended conditions of approval require creation of a homeowners association (LD35) to provide for long-term maintenance of the basin and development of a fence/wall plan (P14) that considers privacy and aesthetics for the neighbors.

The tract design proposes an easement along the east boundary of Lot 6. This easement will contain storm drain and sewer lines and will also serve as access to the water quality basin.

This project has been reviewed and meets and exceeds the minimum criteria of the proposed R2 zone. Density for the tract is approximately 1.5 dwelling units per net acre, where up to 2.0 dwelling units per acre is permitted.

Architectural plans for the future residences will be reviewed administratively under a future model home complex application or as individual custom homes.

Further detail on the project and advisory board consideration can be found in the attached Planning Commission staff report and minutes.

DISCUSSION

In addition to City notification of the Planning Commission public hearing, the applicant conducted an outreach program involving mailed notices to residents within 300 feet of the site.

Prior to the Planning Commission public hearing on June 25, 2009, staff received six inquiries in response to the applicant's outreach letter. These inquiries involved questions about project timing, nuisances during the construction period, impacts to common animals observed on the site, intent for walls and fences on the common property lines, proposed pad grades, drainage design, location of the off-site easement, logistics related to existing fences and landscaping, provisions for access during construction of off-site utilities, ability to connect to the proposed sewer line, anticipated sale price of proposed homes, consideration of adjoining equestrian uses in future landscaping; ability to extend the cul-de-sac to the east site boundary, and ability to extend utilities to an adjoining property, condition of existing roadways, water pressure, increased traffic and available of sewer in the future. Each of the concerns was responded to by e-mail or in telephone conversations. None of the individuals who inquired about the project expressed a specific objection to the project.

A public hearing for the project was conducted on June 25, 2009. There were seven speakers at this meeting. The concerns raised by the speakers were similar to those raised during the inquiries leading up to hearing as outlined previously. Several of the speakers indicated their opposition to the zone change and the proposed density of the project.

Following public testimony, the Planning Commissioners discussed the project, and determined that two conditions of approval should be added to address potential conflicts with existing or future adjacent homes owners who might keep large animals. These conditions require solid block walls at the project's eastern and southern boundaries and prohibit oleander plants and trees within the project. The applicant agreed to the addition of the new Planning conditions (conditions P23 and P24).

Staff's recommendation for approval of the project is based in part on its location which requires access through existing tract homes in the R2 zone. The project's location was viewed as an extension of these established neighborhoods. The tract map as designed and conditioned provides for a transition at the eastern and southern property lines from the R2 to the R1 zone through placement of larger lots and the water quality basin and preservation of the existing knoll.

Overall, the Planning Commission was pleased with the project as designed and conditioned and recommended City Council approval of the Zone Change and Tentative Tract Map.

ALTERNATIVES

1. The City Council could deny the project. If denial of the project is chosen, it is recommended that the item be continued in order to complete the necessary resolution and findings for a denial.
2. The City Council could approve the project.
3. The City Council could modify the project as presented.
4. The City Council could refer the project back to the Planning Commission with direction.

FISCAL IMPACT

Not applicable.

CITY COUNCIL GOALS

Not applicable.

SUMMARY

This project proposes a Zone Change from the Residential 1 (Single Family - up to 1 unit per acre) land use district to the Residential 2 (Single Family - up to 2 units per acre) district, which is consistent with the existing Residential 2 General Plan land use designation. The change in land use will permit the subdivision of 9.5 acres located on the south side of Mountain Ranch Road at Northshore Drive into 14 single family residential lots, as proposed by Tentative Tract Map No. 32388.

NOTIFICATION

Notice of the proposed Zone Change and Tentative Tract Map was provided to all affected property owners as well as property owners of record within 300' of the properties covered under these applications. The public hearing notice for this project was also posted on the property sites and published in the local newspaper.

ATTACHMENTS/EXHIBITS

1. Public Hearing Notice
2. Resolution for Environmental Action
3. Ordinance for Zone Change
4. Resolution for Tentative Tract Map
5. Planning Commission Staff Report dated June 25, 2009 (excluding exhibits)
6. Planning Commission Minutes for Item #730 from June 25, 2009 Meeting

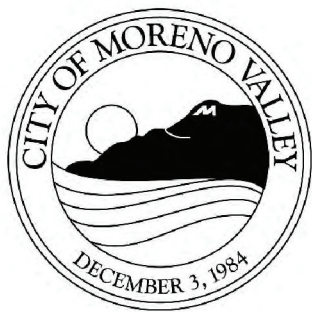
- 7. Mitigated Negative Declaration
- 8. Initial Study Checklist
- 9. Reduced Copy of Tentative Tract Map
- 10. Aerial Photograph
- 11. Letter to Planning Commission from adjacent property owner
- 12. Outreach Letter from Applicant to Neighboring property owners

Prepared By:
Jeff Bradshaw
Associated Planner

Department Head Approval:
Kyle Kollar
Community Development Director

Concurred By:
John C. Terrell, AICP
Planning Official

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



Notice of PUBLIC HEARING

This may affect your property. Please read.
Notice is hereby given that a Public Hearing will be held by the City Council of the City of Moreno Valley on the following item(s):

**CASE: PA05-0069 (Change of Zone, R1 to R2)
PA05-0071 (Tentative Tract Map No. 32388)**

APPLICANTS AND

OWNERS: Elie Abinader, John Klaeb and Najji Doumit

REPRESENTATIVE: Foresight Engineering

LOCATION: On the south side of Mountain Ranch Road at Northshore Drive.

PROPOSAL: Change of Zone from R1 to R2 and Tentative Tract Map No. 32388 which proposes to subdivide approximately 9.5 acres into 14 lots for single-family residential development. The proposed project includes perimeter street improvements (Mountain Ranch Road) and off-site utility and infrastructure improvements (sewer and storm drain). Proposed residential lot sizes range from 20,000 square feet to 39,000 square feet. The proposed use and density are consistent with the existing Residential 2 General Plan land use designation and the proposed Residential 2 zoning district.

ENVIRONMENTAL DETERMINATION: The City of Moreno Valley has prepared an initial study for this project in accordance with the California Environmental Quality Act. Potential impacts have been identified with respect to aesthetics, biological resources, geology and soils, and hazards (wildfire). All identified impacts are determined to be reduced to below a level of significance through the application of project design features, recommended conditions of approval, and standard City requirements. On the basis of the initial study, approval of a Mitigated Negative Declaration is recommended.

COUNCIL DISTRICT: District 3

STAFF RECOMMENDATION: Approval

Any person interested in any listed proposal may contact the Community Development Department, Planning Division, at 14177 Frederick St., Moreno Valley, California, during normal business hours (7:30 a.m. to 5:30 p.m., Monday through Thursday) or may telephone (951) 413-3206 for further information. The associated documents will be available for public inspection at the above address.

In the case of public hearing items, any person may also

appear and be heard in support of or in opposition to the project or recommendation of adoption of the environmental determination at the time of the hearing.

The City Council, at the hearing or during deliberations, could approve changes or alternatives to the proposal.

If you challenge any of these items in court, you may be limited to raising only those items 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.



LOCATION MAP North ↑

CITY COUNCIL HEARING

City Council Chambers, City Hall
14177 Frederick Street
Moreno Valley, CA 92553

DATE/TIME: September 8, 2009 at 6:30 PM

CONTACT PLANNER: Jeff Bradshaw

PHONE: (951) 413-3224

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RESOLUTION NO. 2009-84

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, ADOPTING A MITIGATED NEGATIVE DECLARATION FOR A ZONE CHANGE (PA05-0069), AND TENTATIVE TRACT MAP NO. 32388 (PA05-0071) TO CHANGE THE LAND USE FOR 9.5 NET ACRES LOCATED WITHIN ASSESSOR'S PARCEL NUMBER 474-250-003 FROM RESIDENTIAL 1 TO RESIDENTIAL 2 IN ORDER TO DEVELOP A 14 LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION.

WHEREAS, an Initial Study and Mitigated Negative Declaration have been prepared pursuant to the requirements of the California Environmental Quality Act (CEQA, Public Resources Code sections 21000-21177), CEQA Guidelines (14 California Code of Regulations sections 15000-15387), and any other applicable requirements, for the project, as described in the title of this Resolution; and

WHEREAS, the Mitigated Negative Declaration was duly noticed and circulated for public review for a period of 20 days from June 5, 2009 through June 25, 2009 and no comments were received; and

WHEREAS, on June 25, 2009, the Planning Commission of the City of Moreno Valley held a meeting to consider the application. At said meeting, the Planning Commission recommended that the City Council adopt a Mitigated Negative Declaration for the Zone Change and Tentative Tract Map No. 32388; and

WHEREAS, on September 8, 2009, the City Council of the City of Moreno Valley held a public hearing to consider the environmental documentation mentioned above; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

- A. This City Council hereby specifically finds that all of the facts set forth above in this Resolution are true and correct.
- B. Based upon substantial evidence presented to this City Council during the above-referenced meeting on September 8, 2009, including written and oral staff reports, and the record from the public hearing, this City Council hereby specifically finds as follows:

ATTACHMENT 2

1. Independent Judgment and Analysis – The Initial Study and Negative Declaration represent the City’s independent judgment and analysis.

FACT: A public hearing was conducted by the City Council on September 8, 2009, during which opportunity was given to address the adequacy of the Mitigated Declaration. All comments on the Initial Study and Mitigated Negative Declaration raised during the public and agency comment period and at the Public Hearing(s) on the project were considered by the City Council.

2. Less than Significant Impacts to the Environment – The proposed Negative Declaration determines that there is not substantial evidence that the project will have a significant effect on the environment.

FACT: An Initial Study of the potential environmental impacts associated with the project has been completed in accordance with the provisions of the California Environmental Quality Act (CEQA). A Mitigated Negative Declaration has been prepared, concluding that as designed and conditioned, the project will not result in significant impacts to the environment.

BE IT FURTHER RESOLVED that the City Council of the City of Moreno Valley, California, DOES HEREBY APPROVE Resolution No. 2009-____, adopting a Mitigated Negative Declaration for PA05-0069 (Zone Change), and PA05-0071 (Tentative Tract Map No. 32388).

APPROVED AND ADOPTED this 8th day of September, 2009.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

RESOLUTION JURAT

[Clerk's office will prepare]

[NOTE: Any attachments or exhibits to this resolution should follow this jurat.]

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ORDINANCE NO. 795

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, APPROVING APPLICATION PA05-0069 FOR AN AMENDMENT TO THE OFFICIAL ZONING ATLAS FROM RESIDENTIAL 1 TO RESIDENTIAL 2 FOR THE APPROXIMATELY 9.5 NET ACRES OF ASSESSOR'S PARCEL NUMBER 474-250-003 IN ORDER TO DEVELOP A 14 LOT SINGLE FAMILY SUBDIVISION.

The City Council of the City of Moreno Valley does ordain as follows:

SECTION 1.

1.1 Pursuant to the provisions of law, public hearings were held before the City of Moreno Valley Planning Commission and the City Council.

1.2 The matter was fully discussed and the public and other agencies presented testimony and documentation.

1.3 Page 37 of the City of Moreno Valley Official Zoning Atlas shall be modified to reflect the changes proposed as part of the Zone Change (PA05-0069).

1.4. An Initial Study has been completed for PA05-0069 (Zone Change). Based upon the Initial Study, a determination has been made that this project will not result in the potential for significant impacts to the environment. Therefore, the adoption of a Mitigated Negative Declaration is recommended.

SECTION 2: FINDINGS

2.1 With respect to the proposed Zone Change to page 37 of the City of Moreno Valley Official Zoning Atlas, and based upon substantial evidence presented to the City Council during the public hearing on September 8, 2009, including written and oral staff reports, and the record from the public hearing, the City Council hereby specifically finds as follows:

1. Conformance with General Plan Policies – The proposed use is consistent with the General Plan, and its goals, objectives, policies and programs.

FACT: The proposed zone change from Residential 1 to Residential 2 would change the land use district to a higher density within the acceptable density under the existing Residential 2 General Plan land use designation. The proposed one-half acre minimum lot size under the Residential 2 land use district is compatible with the predominant Residential 2 land use designation for surrounding properties and with the developed pattern of land uses in this area.

ATTACHMENT 3

The project has been conditioned to avoid disturbance of a locally prominent knoll, to address geologic issues related to rockfall potential, and to incorporate construction methods and fuel modification provisions to address location within a designated high fire hazard severity zone.

2. Health, Safety and Welfare – The proposed amendment will not adversely affect the public health, safety or general welfare.

FACT: An initial study of the potential environmental impacts of the proposed zone change has been conducted in accordance with the provisions of the California Environmental Quality Act (CEQA). While the proposed zone change, in and of itself, does not raise potential health, safety or welfare concerns, design features and conditions of approval for the related development proposal address site-specific health, safety and welfare issues related to wastewater treatment, rockfall hazard, and risk of wildland fire. A Mitigated Negative Declaration has been considered and prepared, and there is no evidence that the proposed land use change will have a significant effect on public health or be materially injurious to surrounding properties or the environment as a whole.

3. Conformance with Title 9 – The proposed amendment to change the zoning atlas is consistent with the purposes and intent of Title 9.

FACT: With the proposed zone change, the proposed residential development will be located within a compatible zone in accordance with Municipal Code Section 9.02.020. The proposed Residential 2 land use district represents a logical extension of existing development at this density, and is consistent with the existing General Plan land use designation.

SECTION 3: ZONE CHANGE

3.1 Based on the findings contained in Section 2 of this Ordinance, the City Council hereby adopts a Zone Change to change the land use from Residential 1 to Residential 2 for approximately 9.5 net acres located within Assessor's Parcel Number 474-250-003, located on the south side of Mountain Ranch Road at Northshore Drive, subject to the attached revised Zoning Map included as Exhibit A.

SECTION 4 EFFECT OF ENACTMENT:

4.1 Except as specifically provided herein, nothing contained in this ordinance shall be deemed to modify or supersede any prior enactment of the City Council which addresses the same subject addressed herein.

SECTION 5 NOTICE OF ADOPTION:

5.1 Within fifteen days after the date of adoption hereof, the City Clerk shall certify to the adoption of this ordinance and cause it to be posted in three public places within the city.

SECTION 6 EFFECTIVE DATE:

6.1 This ordinance shall take effect thirty days after the date of its adoption.

APPROVED AND ADOPTED this _____ day of September, 2009.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

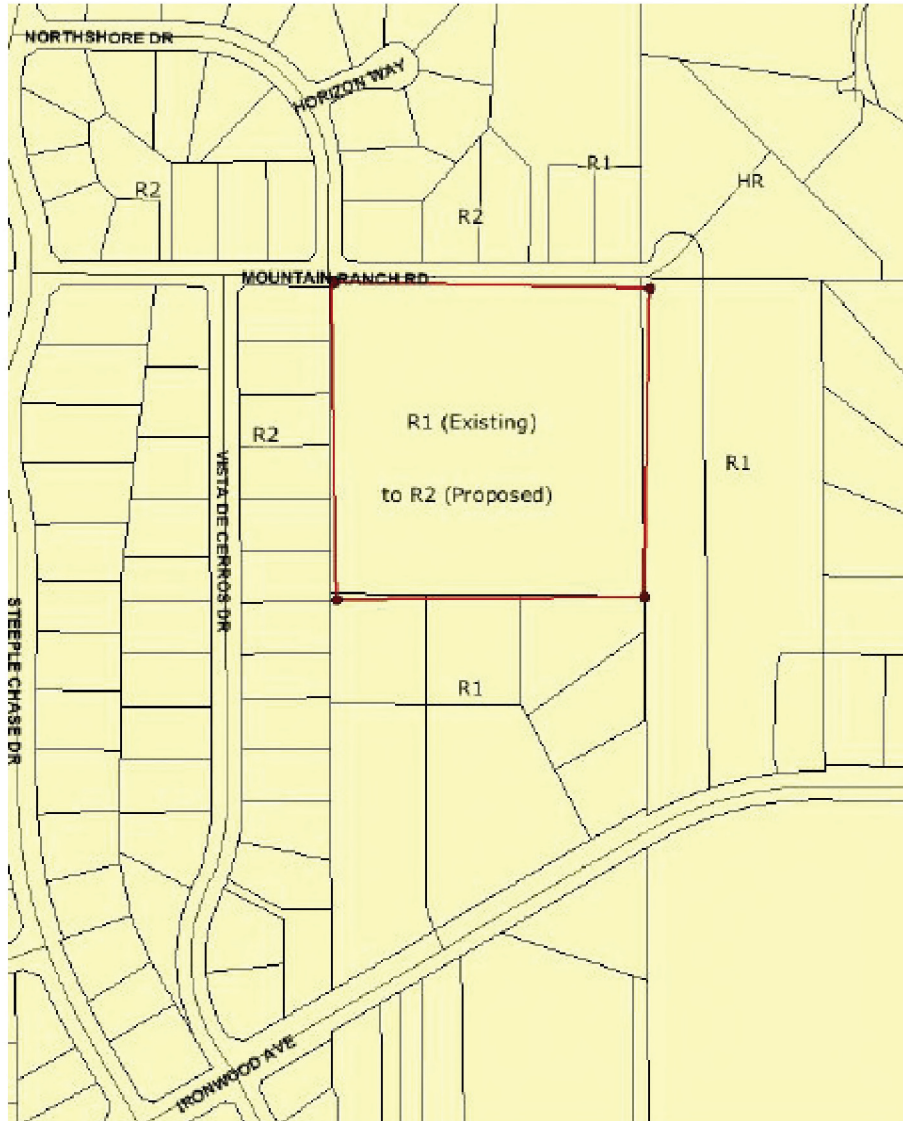
ORDINANCE JURAT

[Clerk's office will prepare]

[NOTE: Any attachments or exhibits to this ordinance should follow this jurat.]



CHANGE OF ZONE
Application No. PA05-0069
Ordinance No. _____



ADOPTED _____

EFFECTIVE _____

EXHIBIT A

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RESOLUTION NO. 2009-85

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, APPROVING TENTATIVE TRACT MAP NO. 32388 (PA05-0071) TO DEVELOP A 14 LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION ON 9.5 NET ACRES LOCATED ON THE SOUTH SIDE OF MOUNTAIN RANCH ROAD AT NORTSHORE DRIVE, WITHIN ASSESSOR'S PARCEL NUMBER 474-250-003.

WHEREAS, the applicants, Elie Abinader, John Klaeb and Naji Doumit, have filed an application for the approval of Tentative Tract Map No. 32388 (PA05-0071) for development of a 14 lot single family residential subdivision on 9.5 net acres located on the south side of Mountain Ranch Road at Northshore Drive. Approval of this project is subject to approval of a Zone Change (PA05-0069) from Residential 1 to Residential 2;

WHEREAS, on June 25, 2009, the Planning Commission of the City of Moreno Valley held a public hearing to consider the subject application. At said meeting, the Planning Commission recommended City Council approval of the environmental documentation prepared for the project and approval of PA05-0071;

WHEREAS, on September 8, 2009, the City Council of the City of Moreno Valley held a public hearing to consider the subject applications and the environmental documentation prepared for the project.

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

WHEREAS, there is hereby imposed on the proposed project certain fees, dedications, reservations and other exactions pursuant to state law and City ordinances;

WHEREAS, pursuant to Government Code Section 66020(d)(1), NOTICE IS HEREBY GIVEN that this project is subject to certain fees, dedications, reservations and other exactions as provided herein.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS WITH RESPECT TO PA06-0025:

- A. This City Council hereby specifically finds that all of the facts set forth above in this Resolution are true and correct.

ATTACHMENT 4

B. Based upon substantial evidence presented during the above-referenced public hearing, including written and oral staff reports, and the record from the public hearing, the City Council finds that:

1. That the proposed land division is consistent with applicable general and specific plans;

FACT: The proposed land division would create a subdivision for single-family residential use, consistent with the general intent of the Residential 2 designation for this site. The proposal for 14 residential lots on a parcel of approximately 9.5 net acres corresponds to a density of approximately 1.5 units per acre, which is consistent with the intensity of use envisioned under the General Plan. As designed and conditioned, the proposal is consistent with applicable goals, objectives, policies and programs of the General Plan. The project site is not within a specific plan area.

2. That the design or improvement of the proposed land division is consistent with applicable general and specific plans;

FACT: The proposed subdivision would create 14 lots for single family residential development, together with associated road, drainage and water quality facility improvements. The proposed design preserves a locally prominent knoll, completes the adjacent public road, and extends sewer and storm drain facilities to the site. As designed and conditioned, the proposed land division is consistent with General Plan provisions related to project design and improvement. The project site is not within a specific plan area.

3. That the site of the proposed land division is physically suitable for the type of development;

FACT: The project site is physically complex. The proposed type of development is consistent with the existing General Plan land use designation and the pattern of development in the surrounding area. The proposed lot layout, internal street access and grading design have carefully considered the physical opportunities and constraints of this site. Taking into consideration the proposed subdivision design and conditions of approval, the project site is physically suitable for the proposed type of development.

4. That the site of the proposed land division is physically suitable for the proposed density of the development;

FACT: The project site is physically complex. The proposed intensity of development is consistent with the existing General Plan land use designation and the pattern of development in the surrounding area. The proposed lot layout, internal street access and grading design have carefully considered the physical opportunities and constraints of this site. Taking into consideration the proposed subdivision design and conditions of approval, the project site is physically suitable for the proposed density of development.

5. That the design of the proposed land division or the proposed improvements are not likely to cause substantial environmental damage or substantially and unavoidably injure fish or wildlife or their habitat;

FACT: An initial study of the potential environmental impacts associated with the project has been conducted in accordance with the provisions of the California Environmental Quality Act (CEQA). A habitat assessment and general biological resources evaluation was conducted by a qualified biologist in support of the CEQA analysis for this project. A Mitigated Negative Declaration has been considered and prepared, concluding that as designed and conditioned, the proposed subdivision would not result in significant environmental impacts, including impacts to fish and wildlife resources.

6. That the design of the proposed land division or the type of improvements are unlikely to cause serious public health problems;

FACT: Eastern Municipal Water District will provide water and sewer services to the subdivision. The project design and conditions address geologic hazards related to rockfall potential and location within a high fire hazard severity zone.

7. That the design of the land division or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision;

FACT: The tentative tract map has been designed to complete the adjacent segment of Mountain Ranch Road and to complete an on-site cul-de-sac to serve the proposed lots. The proposed development would not conflict with any existing public access easements. Project design and conditions of approval provide for

new easements associated with extension of utility services to the site.

8. The proposed land division and the associated design and improvements are consistent with applicable ordinances of the City;

FACT: The proposed single-family residential subdivision conforms to basic City Municipal Code zoning provisions as to the type (single-family residential) and intensity (1.5 units per acre where 2 units per acre is allowed) of use permitted in the Residential 2 district. The proposed design reflects unique circumstances of the site location with respect to complex site topography, a locally prominent knoll, geologic hazards, and wildland fire hazards. Reflecting current standards for wastewater handling, the proposed improvements will extend sewer service to an area where lots of comparable size are currently served by on-site disposal systems. As designed and conditioned, the proposed land division and associated improvements are consistent with applicable City of Moreno Valley ordinances.

9. That the design of the land division provides, to the extent feasible, for future passive or natural heating and cooling opportunities in the subdivision; and

FACT: The design of this subdivision does not conflict with or preclude opportunities to incorporate passive heating or cooling elements in future building design, building placement, or landscaping design.

10. That the effect of the proposed land division on the housing needs of the region were considered and balanced against the public service needs of the residents of Moreno Valley and available fiscal and environmental resources.

FACT: The project does not exceed the planned density, the associated public service demand, or the demand for environmental resources envisioned by the Moreno Valley General Plan. The project will supplement the City's fiscal resources by paying impact fees for public facilities. Additionally, future residents will pay Community Services District fees, property tax, sales tax and other taxes and fees that will be used to provide police, fire and other public services.

C. FEES, DEDICATIONS, RESERVATIONS, AND OTHER EXACTIONS

1. Impact, mitigation and other fees are due and payable under currently applicable ordinances and resolutions. These fees may include but are not limited to: Development Impact Fee, Transportation Uniform Mitigation Fee (TUMF), Multi-species Habitat Conservation Plan (MSHCP) Mitigation Fee, Stephens Kangaroo Habitat Conservation fee, Underground Utilities in lieu Fee, Area Drainage Plan fee, Bridge and Thoroughfare Mitigation fee (Future) and Traffic Signal Mitigation fee. The final amount of fees payable is dependent upon information provided by the applicant and will be determined at the time the fees become due and payable.

Unless otherwise provided for by this resolution, all impact fees shall be calculated and collected at the time and in the manner provided in Chapter 3.32 of the City of Moreno Valley Municipal Code or as so provided in the applicable ordinances and resolutions. The City expressly reserves the right to amend the fees and the fee calculations consistent with applicable law.

2. DEDICATIONS, RESERVATIONS, AND OTHER EXACTIONS

The adopted Conditions of Approval for PA05-0071, incorporated herein by reference, may include dedications, reservations, and exactions pursuant to Government Code Section 66020 (d) (1).

3. The City expressly reserves the right to establish, modify or adjust any fee, dedication, reservation or other exaction to the extent permitted and as authorized by law.

Pursuant to Government Code Section 66020(d)(1), NOTICE IS FURTHER GIVEN that the 90 day period to protest the imposition of any impact fee, dedication, reservation, or other exaction described in this resolution begins on the effective date of this resolution and any such protest must be in a manner that complies with Section 66020(a) and failure to timely follow this procedure will bar any subsequent legal action to attack, review, set aside, void or annul imposition.

Your right to protest the fees, dedications, reservations, or other exactions does not apply to planning, zoning, grading, or other similar application processing fees or service fees in connection with this project and it does not apply to any fees, dedication, reservations, or other exactions of which you have been given a notice similar to this nor does it revive challenges to any fees for which the Statute of Limitations has previously expired.

BE IT FURTHER RESOLVED that the City Council of the City of Moreno Valley, California, DOES HEREBY APPROVE Resolution No. 2009-_____, adopting a Mitigated Negative Declaration for PA05-0071 (Tentative Tract Map No. 32388), in that this application will not result in significant impacts; and approving PA05-0071 (Tentative Tract Map No. 32388), subject to the attached conditions of approval included as Exhibit A.

APPROVED AND ADOPTED this 8th day of September, 2009.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

RESOLUTION JURAT

[Clerk's office will prepare]

[NOTE: Any attachments or exhibits to this resolution should follow this jurat.]

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**CITY OF MORENO VALLEY
PLANNING COMMISSION RECOMMENDED
CONDITIONS OF APPROVAL FOR PA05-0071
TENTATIVE TRACT Map NO. 32388
ASSESSOR'S PARCEL NUMBER: 474-250-003**

Approval Date:
Expiration Date:

The conditions of approval include requirements from the following:

- **Planning (P), including School District (S), Post Office (PO), Building (B)**
- **Fire Prevention Bureau (F)**
- **Public Works – Land Development (LD)**
- **Public Works – Special Districts (SD)**
- **Public Works – Transportation Engineering (TE)**
- **Parks and Community Services (PCS)**
- **Police Department(PD)**

Note: All Special conditions are in bold lettering. All other conditions are standard to all or most development projects.

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division

General Conditions

P1. Tentative Tract Map No. 32388 is approved for the subdivision of approximately 9.5 net acres into 14 single-family residential lots and one lettered lot for a water quality basin in the R2 zone (based upon concurrent approval of related change of zone from R1 to R2 under PA05-0069).

P2. This tentative map shall expire three years after the approval date of this tentative map unless extended as provided by the City of Moreno Valley Municipal Code; otherwise it shall become null and void and of no effect whatsoever in the event the applicant or any successor in interest fails to properly file a final map before the date of expiration. (MC 9.02.230, 9.14.050, 080)

EXHIBIT A

Timing Mechanisms for Conditions (see abbreviation at beginning of affected condition):

R - Map Recordation	GP - Grading Permits	CO - Certificate of Occupancy or building final
WP - Water Improvement Plans	BP - Building Permits	P - Any permit

Governing Document (see abbreviation at the end of the affected condition):

GP - General Plan	MC - Municipal Code	CEQA - California Environmental Quality Act
Ord - Ordinance	DG - Design Guidelines	Ldscp – Landscape Requirements
Res - Resolution	CFC - California Fire Code	CBC - California Building Code
	SBM - Subdivision Map Act	

Conditions of Approval for PA05-0071

Tentative Tract Map 32388

Page 2 of 35

- P3. The site shall be developed in accordance with the approved tentative map on file in the Community Development Department – Planning Division, the Municipal Code regulations, the General Plan, and the conditions contained herein. (MC 9.14.020)
- P4. The Community Development Director and the City Engineer may allow improvements to be completed in stages (phasing) provided that the improvements necessary to adequately serve or mitigate the impacts of each phase of development are completed prior to issuance of a Certificate of Occupancy for that phase. (MC 9.08.220)
- P5. If potential historic, archaeological, or paleontological resources are uncovered during excavation or construction activities at the project site, work in the affected area will cease immediately and a qualified person meeting the Secretary of the Interior's standards (36CFR61) shall be consulted by the applicant to evaluate the find, and as appropriate, recommend alternative measures to avoid, minimize or mitigate negative effects on the historic, prehistoric, or paleontological resource. Determinations and recommendations by the consultant shall be implemented as deemed appropriate by the Community Development Director, in consultation with the State Historic Preservation Officer (SHPO) and any and all affected Native American Tribes before any further work commences in the affected area.
- If human remains are discovered, work in the affected area shall cease immediately and the County Coroner shall be notified. If it is determined that the remains might be those of a Native American, the California Native American Heritage Commission and appropriate tribal representatives shall be notified. Appropriate measures as provided by State law shall be implemented. (DG, CEQA)
- P6. Any undeveloped portion of the site shall be maintained in a manner that provides for the control of weeds, erosion and dust. (MC 9.02.030)
- P7. All landscaped areas shall be maintained in a healthy and thriving condition, free from weeds, trash and debris. (MC 9.02.030)

Prior to Recordation of Final Map

- P8. Prior to final map approval, subdivision phasing (including any proposed common open space or improvement phasing, if applicable), shall be subject to Planning Division approval. Any proposed phasing shall provide for adequate vehicular access to all lots in each phase as determined by the City Transportation Engineer or designee and shall substantially conform to the intent and purpose of the subdivision approval. (MC 9.14.080)

- P9. Prior to final map approval, the developer shall obtain Planning Division approval of documents containing the following provisions, which shall demonstrate that the project will be developed and maintained in accordance with the intent and purpose of this approval:**
- a. Restriction upon any further subdivision of lots within this subdivision;**
 - b. Restrictions upon grading and improvements for the preserved knoll (affects Lots 9 through 14);**
 - c. Restrictions on use of fuel modification areas;**
 - d. Restrictions on use of the drainage/utility easements;**
 - e. Provisions for access and maintenance of the water quality basin, open space on Lots 9 through 14, drainage/utility easements, access easements, and fuel modification easements.**
 - f. Covenants, Conditions and Restrictions, including provisions relating to maintenance of the water quality basin, open space on Lots 9 through 14, drainage easements, utility easements, access easements, and fuel modification easements; and**
 - *g. Oleander plants or trees shall be prohibited within the project. This restriction and disclosure shall be included within the document(s) referenced above and the grant deed of the properties.**

The approved documents shall be recorded at the same time that the subdivision map is recorded. The approved documents shall be binding on the land, the subdivider, and future landowners, and shall include a provision which prohibits termination or substantial amendment without the consent of the City. (MC 9.14.090)

- P10. The applicant shall obtain Planning Division approval of fuel modification plans.**

Prior to Grading

- P11. Prior to the issuance of a grading permit, a pre-construction survey for burrowing owl shall be conducted in accordance with requirements of the Riverside County Multi-species Habitat Conservation Plan. The survey shall be conducted by a qualified biologist using accepted protocols. The survey shall be submitted to the Planning Division for review and approval prior to issuance of grading permits.**
- P12. Prior to approval of grading plans, the plans shall reflect:**
- a. An extent of grading consistent with that represented on the preliminary grading plan provided for Planning Commission review;**
 - b. Maximized application of feasible low impact site design practices for water quality purposes (such as avoidance of directly connected**

- impervious surface areas, use of permeable pavements, and use of landscaped areas for nuisance runoff filtration and infiltration);
- c. Locations of rock outcroppings, with designation of those to be removed and those to be preserved in place;
 - d. Clear delineation of grading limits, including notations for physical barriers to be installed for the duration of construction activity; and
 - e. Requirements for a pre-construction meeting to advise construction personnel of defined construction limits and the requirement to avoid any encroachment into the preserved knoll on Lots 9 through 14.
- P13. Manufactured slopes shall be no steeper than 2:1.
- P14. Prior to approval of grading plans, the applicant shall obtain Planning Division approval of wall/fence plans. Plans shall conform to the provisions of Municipal Code Section 9.08.070 and shall specifically reflect:
- a. A six (6) foot high decorative wall with pilasters at locations adjacent to public right-of-way (affects Lots 1 and 13);
 - b. A six (6) foot high decorative open iron or steel fence with pilasters to define the open space area on Lots 9 through 14. Plans shall consider placement of gates to accommodate passive open space use and access for maintenance and fuel modification activities;
 - c. Fence/wall treatments for drainage/utility/access easements that consider adjoining residential uses (avoid creation of a walled alley effect);
 - d. Fence/wall treatments for Lot B that take into consideration privacy and aesthetics for adjoining residential lots (both on-site and off-site);
 - e. All fencing shall be constructed of non-combustible materials;
 - f. Retaining walls or catchment walls that are visible from public areas or adjoining properties shall incorporate architectural treatments consistent with any freestanding wall adjoining or atop the retaining wall; and
 - g. Coordination of perimeter fence/wall treatments with existing residential lots to the west, south and east (applies to Lots 1 through 4, Lots 7 through 9, Lot 10 and Lot B). The finished condition shall provide a single wall or fence at the common property line.
 - *h. A six foot solid wall of decorative materials shall be provided along the eastern property line of lots 9 and 10 and along the southern property line of lots 6 to 9 and Lot 'B'. The solid wall shall end at the toe of slope of the rock outcropping located on lots 9 and 10. View fencing of tubular steel or wrought iron shall be permitted within the rock outcropping along the project's eastern boundary, however, a solid wall or fence is not permitted within the rock outcropping.

- P15. Prior to approval of grading plans, landscape and irrigation plans shall be submitted to the Planning Division for review and approval. The plans shall be prepared in accordance with the City's Municipal Code and landscape guidelines, and include:**
- a. Street trees.**
 - b. Treatments for all cut or fill slopes over 3 feet in height. Man-made slopes greater than 10 feet in height shall be "land formed" to conform to the natural terrain and shall be landscaped and stabilized to minimize visual scarring (MC 9.08.080, DG); and**
 - c. The water quality basin.**
- P16. Prior to issuance of grading permits, the developer shall pay the applicable Stephens' Kangaroo Rat (SKR) Habitat Conservation Plan mitigation fee. (Ord)
- P17. Prior to approval of precise grading plans, all site plans, grading plans, landscape and irrigation plans, and street improvement plans shall be coordinated for consistency with this approval.

Prior to Issuance of Building Permits

- P18. Future improvements shall be subject to approval of a model home complex for a traditional tract development, or individual custom home reviews if lots are sold individually. Design shall incorporate a building configuration conforming to the driveway and pad limits reflected on the preliminary grading plan as reviewed and approved by the Planning Commission. Building form, building materials, and exterior colors shall consider compatibility with both surrounding development and preserved open space.**
- P19. The developer or developer's successor-in-interest shall pay all applicable fees, including but not limited to Development Impact Fees (DIF), Transportation Uniform Mitigation Fees (TUMF), Multiple Species Habitat Conservation Plan (MSHCP) fees, and park in-lieu fees. (Ord)

Prior to Occupancy Release

- P20. Prior to occupancy release for the first residence, the applicant shall provide certification of implementation of fuel modification measures consistent with the approved fuel modification plan.**
- P21. All required landscaping and irrigation, including street trees, slope plantings, and basin plantings shall be installed per the approved plans on file in the Community Development Department – Planning Division.

P22. All required fences and walls shall be constructed per the approved plans on file in the Community Development Department – Planning Division. (MC 9.080.070)

Building and Safety Division

B1. The project shall comply with the current California Codes (CBC, CEC, CMC and the CPC) as well as all other City ordinances. All new projects shall provide a soils report. Plans shall be submitted to the Building and Safety Division as a separate submittal.

B2. Prior to the issuance of a building permit, the applicant shall submit a properly completed “Waste Management Plan” (WMP), as required, to the Compliance Official (Building Official) as part of the building or demolition permit process.

SCHOOL DISTRICT

S1. Prior to issuance of building permits, the applicant shall provide to the Community Development Director a written certification by the affected school district that either: (1) the project has complied with the fee or other exaction levied on the project by the governing board of the district, pursuant to Government Code Section 65996; or (2) the fee or other requirement does not apply to the project.

UNITED STATES POSTAL SERVICE

PO1. Prior to the issuance of building permits, the applicant shall contact the U.S. Postal Service to determine the appropriate type and location of mailboxes.

***Condition of Approval modified by Planning Commission at public hearing on June 25, 2009.**

FIRE PREVENTION BUREAU

The following fire protection measures shall be provided in accordance with Moreno Valley City Ordinances and/or recognized fire protection standards:

- F1. Final fire and life safety conditions will be addressed when the Fire Prevention Bureau reviews building plans. These conditions will be based on occupancy, use, California Building Code (CBC), California Fire Code (CFC), and related codes, which are in force at the time of building plan submittal.
- F2. Single Family Dwellings. Schedule "A" fire prevention approved standard fire hydrants (6" x 4" x 2 ½") located at each intersection of all residential streets and spaced no more than 500 feet apart in any direction, more than 250 feet from any portion of the building as measured along approved emergency vehicular travel ways. Minimum fire flow shall be 1500 GPM for 2 hours duration of 20 PSI. Where new water mains are extended along streets where hydrants are not needed for protection of structures or similar fire problems, serving one and two-family residential developments, standard fire hydrants shall be provided at spacing not to exceed 1000 feet along the tract boundary for transportation hazards. (CFC 508.3 MVMC 8.36.050 and 8.36.100 Section E).
- F3. Maximum cul-de-sac or dead end road length shall not exceed 660 feet. The Fire Chief, based on City street standards, shall determine minimum turning radius for fire apparatus based upon fire apparatus manufacture specifications. (CFC 503.1)
- F4. During phased construction, dead end roadways and streets which have not been completed shall have a turn-around capable of accommodating fire apparatus. (CFC 503.1 and 503.2.5)
- F5. Prior to issuance of Building Permits, the applicant/developer shall provide the Fire Prevention Bureau with an approved site plan for Fire Lanes and signage. (MVMC 8.36.050 and CFC 501.3)
- F6. Prior to construction and issuance of building permits, all locations where structures are to be built shall have an approved Fire Department emergency vehicular access road (all weather surface) capable of sustaining an imposed load of 80,000 lbs. GVW, based on street standards approved by the Public Works Director and the Fire Prevention Bureau. (CFC 501.4 and MVMC 8.36.050 Section A)
- F7. Prior to construction and issuance of Building Permits, fire lanes and fire apparatus access roads shall have an unobstructed width of not less the twenty-four (24) or thirty (30) feet as approved by the Fire Prevention Bureau and an unobstructed vertical clearance of not less the thirteen (13) feet six (6) inches. (CFC 503.2.1.1 and MVMC 8.36.050)

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- F8. Prior to construction, all roads, driveways and private roads shall not exceed 12 percent grade. (CFC 503.2.7 and MVMC 8.36.050)
- F9. If construction is phased, each phase shall provide an approved emergency vehicular access way for fire protection prior to any building construction. (CFC 501.4 and MVMC 8.36.050 Section A)
- F10. Prior to construction, all locations where structures are to be built shall have an approved Fire Department access based on street standards approved by the Public Works Director and the Fire Prevention Bureau. (CFC 501.3 and MVMC 8.36.050)
- F11. Prior to building construction, dead end roadways and streets which have not been completed shall have a turnaround capable of accommodating fire apparatus. (CFC 503.2.5 and MVMC 8.36.050)
- F12. Prior to issuance of Building Permits, the applicant/developer shall participate in the Fire Impact Mitigation Program. (Fee Resolution as adopted by City Council)
- F13. Prior to issuance of Building Permits, the applicant/developer shall furnish one copy of the water system plans to the Fire Prevention Bureau for review. Plans shall:
- a) Be signed by a registered civil engineer or a certified fire protection engineer;
 - b) Contain a Fire Prevention Bureau approval signature block; and
 - c) Conform to hydrant type, location, spacing of new and existing hydrants and minimum fire flow required as determined by the Fire Prevention Bureau.

After the local water company signs the plans, the originals shall be presented to the Fire Prevention Bureau for signatures. The required water system, including fire hydrants, shall be installed, made serviceable, and be accepted by the Moreno Valley Fire Department prior to beginning construction. They shall be maintained accessible.

Existing fire hydrants on public streets are allowed to be considered available. Existing fire hydrants on adjacent properties shall not be considered available unless fire apparatus access roads extend between properties and easements are established to prevent obstruction of such roads. (CFC 508.1 and MVMC 8.36.100)

- F14. Prior to issuance of Certificate of Occupancy or Building Final, "Blue Reflective Markers" shall be installed to identify fire hydrant locations in accordance with City specifications. (CFC 510.1)
- F15. Prior to issuance of Certificate of Occupancy or Building Final, all residential dwellings shall display street numbers in a prominent location on the street side of the residence in such a position that the numbers are easily visible to approaching

emergency vehicles. The numbers shall be located consistently on each dwelling throughout the development. The numerals shall be no less than four (4) inches in height and shall be low voltage lighted fixtures. (CFC 505.1)

- F16. Prior to Certificate of Occupancy or Building Final, all structures shall have fire retardant roofing materials (Class A roofs) as described in CBC Chapter 7A and CFC Chapter 47.**
- F17. Prior to issuance of Certificate of Occupancy or Building Final, the applicant/developer shall install a fire sprinkler system based on square footage and type of construction, occupancy or use. Fire sprinkler plans shall be submitted to the Fire Prevention Bureau for approval prior to installation. (CFC Chapter 9)**
- F18. Prior to issuance of Certificate of Occupancy or Building Final, the applicant/developer must submit a simple plot plan, a simple floor plan, and other plans as requested, each as an electronic file in .dwg format, to the Fire Prevention Bureau. Alternate file formats may be acceptable with approval by the Fire Chief.
- F19. Prior to issuance of Building Permits, fuel modification plans shall be submitted to the Fire Prevention Bureau for review and approval for all open space areas adjacent to the wildland vegetation interface. (CFC Chapter 47)**
- F20. Prior to issuance of Building Permits, plans for structural protection from vegetation fires shall be submitted to the Fire Prevention Bureau for review and approval. Measures shall include, but are not limited to: noncombustible barriers (cement or block walls), fuel modification zones, etc. (CFC Chapter 47)**
- F21. The angle of approach and departure for any means of Fire Department access shall not exceed 1 ft drop in 20 ft (0.3 m drop in 6 m), and the design limitations of the fire apparatus of the Fire Department shall be subject to approval by the AHJ. (CFC 503.2.7 and MVMC 8.36.050 Section I)
- F22. Prior to issuance of the building permit for development, independent paved access to the nearest paved road, maintained by the City shall be designed and constructed by the developer within the public right of way in accordance with City Standards. (MVMC 8.36.050)
- F23. Prior to construction, "private" driveways over 150 feet in length shall have a turn-around as determined by the Fire Prevention Bureau capable of accommodating fire apparatus. Driveway grades shall not exceed 12 percent. (CFC 503 and MVMC 8.36.050)

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- F24. Complete plans and specifications for fire alarm systems, fire-extinguishing systems (including automatic sprinklers or standpipe systems), clean agent systems (or other special types of automatic fire-extinguishing systems), as well as other fire-protection systems and appurtenances thereto shall be submitted to the Moreno Valley Fire Prevention Bureau for review and approval prior to system installation. Submittals shall be in accordance with CFC Chapter 9 and associated accepted national standards.
- F25. Approval of the safety precautions required for buildings being constructed, altered or demolished shall be required by the Fire Chief in addition to other approvals required for specific operations or processes associated with such construction, alteration or demolition. (CFC Chapter 14)
- F26. Construction or work for which the Fire Prevention Bureau's approval is required shall be subject to inspection by the Fire Chief and such construction or work shall remain accessible and exposed for inspection purposes until approved. (CFC Section 106)
- F27. The Fire Prevention Bureau shall maintain the authority to inspect, as often as necessary, buildings and premises, including such other hazards or appliances designated by the Fire Chief for the purpose of ascertaining and causing to be corrected any conditions which would reasonably tend to cause fire or contribute to its spread, or any violation of the purpose or provisions of this code and of any other law or standard affecting fire safety. (CFC Section 106)
- F28. Permit requirements issued, which designate specific occupancy requirements for a particular dwelling, occupancy, or use, shall remain in effect until such time as amended by the Fire Chief. (CFC Section 104)
- F29. In accordance with the California Fire Code Appendix Chapter 1, 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 as approved by the Fire Chief. (CFC Section 102.7)
- F30. Any alterations, demolitions, or change in design, occupancy and use of buildings or site will require plan submittal to the Fire Prevention Bureau with review and approval prior to installation. (CFC Appendix Chapter 1)
- F31. Emergency and Fire Protection Plans shall be provided when required by the Fire Prevention Bureau. (CFC Section 105)

PUBLIC WORKS DEPARTMENT

Land Development Division

The following are the Public Works Department – Land Development Division Conditions of Approval for this project and shall be completed at no cost to any government agency. All questions regarding the intent of the following conditions shall be referred to the Public Works Department – Land Development Division.

General Conditions

- LD1. (G) The developer shall comply with all applicable City ordinances and resolutions including the City's Municipal Code (MC) and if subdividing land, the Government Code (GC) of the State of California, specifically Sections 66410 through 66499.58, said sections also referred to as the Subdivision Map Act (SMA). (MC 9.14.010)
- LD2. (G) If the project involves the subdivision of land, maps may be developed in phases with the approval of the City Engineer. Financial security shall be provided for all improvements associated with each phase of the map. The boundaries of any multiple map increment shall be subject to the approval of the City Engineer. The City Engineer may require the dedication and construction of necessary utilities, streets or other improvements outside the area of any particular map, if the improvements are needed for circulation, parking, access, or for the welfare or safety of the public. (MC 9.14.080, GC 66412 and 66462.5) If the project does not involve the subdivision of land and it is necessary to dedicate right-of-way/easements, the developer shall make the appropriate offer of dedication by separate instrument. The City Engineer may require the construction of necessary utilities, streets or other improvements beyond the project boundary, if the improvements are needed for circulation, parking, access, or for the welfare or safety of the public.
- LD3. (G) It is understood that the tentative map correctly shows all existing easements, traveled ways, and drainage courses, and that their omission may require the map or plans associated with this application to be resubmitted for further consideration. (MC 9.14.040)
- LD4. (G) In the event right-of-way or offsite easements are required to construct offsite improvements necessary for the orderly development of the surrounding area to meet the public health and safety needs, the developer shall make a good faith effort to acquire the needed right-of-way in accordance with the Land Development Division's administrative policy. In the event that the developer is unsuccessful, he shall enter into an agreement with the City to acquire the necessary right-of-way or offsite easements and complete the improvements at such time the City acquires

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the right-of-way or offsite easements which will permit the improvements to be made. The developer shall be responsible for all costs associated with the right-of-way or easement acquisition. (GC 66462.5)

- LD5. (G) If improvements associated with this project are not initiated within two years of the date of approval of the Public Improvement Agreement, the City Engineer may require that the improvement cost estimate associated with the project be modified to reflect current City construction costs in effect at the time of request for an extension of time for the Public Improvement Agreement or issuance of a permit.
- LD6. (G) The developer shall monitor, supervise and control all construction and construction supportive activities, so as to prevent these activities from causing a public nuisance, including but not limited to, insuring strict adherence to the following:
- a. Removal of dirt, debris, or other construction material deposited on any public street no later than the end of each working day.
 - b. Observance of working hours as stipulated on permits issued by the Public Works Department.
 - c. The construction site shall accommodate the parking of all motor vehicles used by persons working at or providing deliveries to the site.
 - d. All dust control measures per South Coast Air Quality Management District (SCAQMD) requirements shall be adhered to during the grading operations.

Violation of any condition or restriction or prohibition set forth in these conditions shall subject the owner, applicant, developer or contractor(s) to remedies as noted in the City Municipal Code 8.14.090. In addition, the City Engineer or Building Official may suspend all construction related activities for violation of any condition, restriction or prohibition set forth in these conditions until such time as it has been determined that all operations and activities are in conformance with these conditions.

- LD7. (G) The developer shall protect downstream properties from damage caused by alteration of drainage patterns, i.e., concentration or diversion of flow. Protection shall be provided by constructing adequate drainage facilities, including, but not limited to, modifying existing facilities or by securing a drainage easement. (MC 9.14.110)
- LD8. (G) Public drainage easements, when required, shall be a minimum of 25 feet wide and shall be shown on the map and plan, and noted as follows: "Drainage Easement – no structures, obstructions, or encroachments by land fills are allowed." In addition, the grade within the easement area shall not exceed a 3:1 (H:V) slope, unless approved by the City Engineer.

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- LD9. (G) For single family residential subdivisions, all lots shall drain toward the street unless otherwise approved by the City Engineer. Residential lot drainage to the street shall be by side yard swales and include yard drain pipes and inlet grates (or stubbed and capped if area is not yet landscaped) that convey flows to the street in accordance to City Standard No. 303 independent of adjacent lots. No over the sidewalk drainage shall be allowed, all drainage shall be directed to a driveway or drainage devices located outside the right-of-way. (MC 9.14.110)
- LD10. (G) A detailed drainage study shall be submitted to the City Engineer for review and approval at the time of any improvement or grading plan submittal. The study shall be prepared by a registered civil engineer and shall include existing and proposed hydrologic conditions. Hydraulic calculations are required for all drainage control devices and storm drain lines. (MC 9.14.110)
- LD11. (G) Water quality basins designed to meet Water Quality Management Plan (WQMP) requirements for single-family residential development may not be used as a construction best management practice. The water quality basin shall be maintained for the entire duration of project construction and be used to treat runoff from those developed portions of the project. The water quality basin shall be protected from upstream construction related runoff by having proper best management practices in place and maintained. The water quality basin shall be graded per the approved design drawings and once landscaping and irrigation has been installed, it and its maintenance shall be turned over to an established Homeowner's Association. The Homeowner's Association shall enter into an agreement with the City for basin maintenance.
- LD12. (G) The final conditions of approval issued by the Planning Division subsequent to Planning Commission approval shall be photographically or electronically placed on mylar sheets and included in the Grading and Street Improvement plan sets on twenty-four (24) inch by thirty-six (36) inch mylar and submitted with the plans for plan check. These conditions of approval shall become part of these plan sets and the approved plans shall be available in the field during grading and construction.
- LD13. (G) Upon approval of the tentative tract map or plot plan by the Planning Commission, the Developer shall submit the approved tentative tract map or plot plan on compact disk in (.dxf) digital format to the Land Development Division of the Public Works Department.

Prior to Grading Plan Approval or Grading Permit

- LD14. (GPA) Prior to approval of the grading plans, plans shall be drawn on twenty-four (24) inch by thirty-six (36) inch mylar and signed by a registered civil engineer and other registered/licensed professional as required.

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LD15. (GPA) Prior to approval of grading plans, the developer shall ensure compliance with the City Grading ordinance, these Conditions of Approval and the following criteria:

- a. The project street and lot grading shall be designed in a manner that perpetuates the existing natural drainage patterns with respect to tributary drainage area and outlet points. Unless otherwise approved by the City Engineer, lot lines shall be located at the top of slopes.
- b. Any grading that creates cut or fill slopes adjacent to the street shall provide erosion control, sight distance control, and slope easements as approved by the City Engineer.
- c. A grading permit shall be obtained from the Public Works Department – Land Development Division prior to commencement of any grading outside of the City maintained road right-of-way.
- d. All improvement plans are substantially complete and appropriate clearance and at-risk letters are provided to the City. (MC 9.14.030)
- e. The developer shall submit a soils and geologic report to the Public Works Department – Land Development Division. The report shall address the soil's stability and geological conditions of the site.

LD16. (GPA) Prior to grading plan approval, the developer shall select and implement treatment control best management practices (BMPs) that are medium to highly effective for treating Pollutants of Concern (POC) for the project. Projects where National Pollution Discharge Elimination System (NPDES) mandates water quality treatment control best management practices (BMPs) shall be designed per the City of Moreno Valley guidelines or as approved by the City Engineer.

LD17. (GPA) Prior to approval of the grading plans for project sites which are one acre or larger, the developer shall obtain the WQMP number from the City's Land Development Division, if a WQMP is required, and as a condition of the State Water Quality Control Board, a Notice of Intent (NOI) for an NPDES permit must be filed and a Waste Discharge Identification (W.D.I.D.) permit number obtained from the State Water Quality Control Board. (Clean Water Act)

LD18. (GPA) Prior to the grading plan approval, or issuance of a building permit, if a grading permit is not required, the Developer shall submit two (2) copies of the final project-specific Water Quality Management Plan (WQMP) for review by the City Engineer that :

- a. Addresses Site Design Best Management Practices (BMPs) such as minimizing impervious areas, maximizing permeability, minimizes directly connected impervious areas to the City's street and storm drain systems, and conserves natural areas;
- b. Incorporates Source Control BMPs and provides a detailed description of their implementation;

- c. Incorporates Treatment Control BMPs and provides information regarding design considerations;
- d. Describes the long-term operation and maintenance requirements for BMPs requiring maintenance; and
- e. Describes the mechanism for funding the long-term operation and maintenance of the BMPs.

A copy of the final WQMP template can be obtained on the City's Website or by contacting the Land Development Division of the Public Works Department

LD19. (GPA) Prior to the grading plan approval, or issuance of a building permit, if a grading permit is not required, the Developer shall record a "Stormwater Treatment Device and Control Measure Access and Maintenance Covenant," to provide public notice of the requirement to implement the approved final project-specific WQMP and the maintenance requirements associated with the WQMP.

A boilerplate copy of the "Stormwater Treatment Device and Control Measure Access and Maintenance Covenant," can be obtained by contacting the Land Development Division of the Public Works Department

LD20. (GPA) Prior to the grading plan approval, or issuance of a building permit, if a grading permit is not required, the Developer shall secure approval of the final project-specific WQMP from the City Engineer. The final project-specific WQMP shall be submitted at the same time of grading plan submittal.

LD21. (GPA) Prior to the grading plan approval, or issuance of a building permit as determined by the City Engineer, the approved final project-specific WQMP shall be incorporated by reference or attached to the project's Storm Water Pollution Prevention Plan as the Post-Construction Management Plan.

LD22. (GPA) Prior to grading plan approval, the developer shall prepare a Storm Water Pollution Prevention Plan (SWPPP) in conformance with the state's Construction Activities Storm Water General Permit. A copy of the current SWPPP shall be kept at the project site and be available for review upon request. The SWPPP shall be submitted to the Storm Water Program Manager on compact disk(s) in Microsoft Word format.

LD23. (GPA) Prior to the approval of the grading plans, the developer shall pay applicable remaining grading plan check fee.

LD24. (GPA/MA) Prior to the later of either grading plan or final map approval, resolution of all drainage issues shall be as approved by the City Engineer.

LD25. (GP) Prior to issuance of a grading permit, if the fee has not already been paid prior to map approval or prior to issuance of a building permit if a grading permit is not

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required, the developer shall pay Area Drainage Plan (ADP) fees. The developer shall provide a receipt to the City showing that ADP fees have been paid to Riverside County Flood Control and Water Conservation District. (MC 9.14.100)

LD26. (GP) Prior to issuance of a grading permit, security, in the form of a cash deposit (preferable), letter of credit, or performance bond shall be required to be submitted as a guarantee of the completion of the grading required as a condition of approval of the project.

LD27. (GP) Prior to issuance of a grading permit, the developer shall pay the applicable grading inspection fees.

Prior to Map Approval or Recordation

LD28. (MA) Prior to approval of the map, the developer shall submit a copy of the Covenants, Conditions and Restrictions (CC&Rs) to the Land Development Division for review and approval. The CC&Rs shall include, but not be limited to, access easements, reciprocal access, private and/or public utility easements as may be relevant to the project. In addition, for single-family residential development, the developer shall submit bylaws and articles of incorporation for review and approval as part of the maintenance agreement for any water quality basin.

LD29. (MA) Prior to approval of the map, all street dedications shall be irrevocably offered to the public and shall continue in force until the City accepts or abandons such offers, unless otherwise approved by the City Engineer. All dedications shall be free of all encumbrances as approved by the City Engineer.

LD30. (MA) Prior to approval of the map, security shall be required to be submitted as a guarantee of the completion of the improvements required as a condition of approval of the project. A public improvement agreement will be required to be executed.

LD31. (MA) Prior to approval of the map, the developer shall enter into an agreement with the City and Riverside County Flood Control and Water Conservation District establishing the terms and conditions covering the inspection, operation and maintenance of Master Drainage Plan facilities. (MC 9.14.110)

LD32. (MR) Prior to recordation of the map the developer shall comply with the requirements of the City Engineer based on recommendations of the Riverside County Flood Control District regarding the construction of County Master Plan Facilities. (MC 9.14.110)

LD33. (MR) Prior to recordation of the map, if the developer chooses to construct the project in construction phases, a Construction Phasing Plan for the construction of on-site public and private improvements shall be reviewed and approved by the City

Engineer. This approval must be obtained prior to the Developer submitting a Phasing Plan to the California State Department of Real Estate.

LD34. (MR) Prior to recordation of the map, if applicable, the developer shall have all street names approved by the City Engineer. (MC 9.14.090)

LD35. (MR) Prior to recordation of the final map, this project is subject to requirements under the current permit for storm water activities required as part of the National Pollutant Discharge Elimination System (**NPDES**) as mandated by the Federal Clean Water Act. Following are the requirements:

- a. Establish a Home Owners Association (HOA) to finance the maintenance of the "Water Quality Ponds/Bio-swales". Any lots which are identified as "Water Quality Ponds/Bio-Swales" shall be owned in fee by the HOA.
- b. Dedicate a maintenance easement to the City of Moreno Valley.
- c. Execute a maintenance agreement between the City of Moreno Valley and the HOA. The maintenance agreement must be approved by City Council.
- d. Establish a trust fund per the terms of the maintenance agreement.
- e. Provide a certificate of insurance per the terms of the maintenance agreement.
- f. Select one of the following options to meet the financial responsibility to provide storm water utilities services for the required continuous operation, maintenance, monitoring system evaluations and enhancements, remediation and/or replacement, all in accordance with Resolution No. 2002-46.
 - i. Participate in the mail ballot proceeding in compliance with Proposition 218, for the Residential NPDES Regulatory Rate Schedule and pay all associated costs with the ballot process, or
 - ii. Establish an endowment to cover future maintenance costs for the Residential NPDES Regulatory Rate Schedule.
- g. Notify the Special Districts Division of the intent to record the final map 70 days prior to City Council action authorizing recordation of the final map and the financial option selected. (California Government Code & Municipal Code

LD36. (MR) Prior to recordation of the Final Map, the Grading Plan (s) and Landscape and Irrigation Plan (s) prepared for the "Water Quality Ponds/Bio-Swales" shall be drawn on twenty-four (24) inch by thirty-six (36) inch mylar and signed by a registered civil engineer or other registered/licensed professional as required. The developer, or the developer's successors or assignees shall secure the initials of the Engineering Division Manager or his designee on the mylars prior to the plans being approved by the City Engineer. (MC 9.14.100.C.2)

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LD37. (MR) Prior to recordation of the map, the developer shall submit the map, on compact disks, in (.dxf) digital format to the Land Development Division of the Public Works Department.

Prior to Improvement Plan Approval or Construction Permit

LD38. (IPA) Prior to approval of the improvement plans, the improvement plans shall be drawn on twenty-four (24) inch by thirty-six (36) inch mylar and signed by a registered civil engineer and other registered/licensed professional as required.

LD39. (IPA) Prior to approval of the improvement plans, the developer shall submit clearances from all applicable agencies, and pay all outstanding plan check fees. (MC 9.14.210)

LD40. (IPA) All public improvement plans prepared and signed by a registered civil engineer in accordance with City standards, policies and requirements shall be approved by the City Engineer in order for the Public Improvement Agreement and accompanying security to be executed.

LD41. (IPA) Prior to approval of the improvement plans, securities and a public improvement agreement shall be required to be submitted and executed as a guarantee of the completion of the improvements required as a condition of approval of the project.

LD42. (IPA) The street improvement plans shall comply with all applicable City standards and the following design standards throughout this project:

- a. Corner cutbacks in conformance with City Standard 208 shall be shown on the final map or, if no map is to be recorded, offered for dedication by separate instrument.
- b. Lot access to major thoroughfares shall be restricted except at intersections and approved entrances and shall be so noted on the final map. (MC 9.14.100)
- c. The minimum centerline and flow line grades shall be one percent unless otherwise approved by the City Engineer. (MC 9.14.020)
- d. All street intersections shall be at ninety (90) degrees plus or minus five (5) degrees or as approved by the City Engineer. (MC 9.14.020)
- e. All reverse curves shall include a minimum tangent of one hundred (100) feet in length.

LD43. (IPA) Prior to approval of the improvement plans, the plans shall indicate any restrictions on trench repair pavement cuts to reflect the City's moratorium on

disturbing newly-constructed pavement less than three years old and recently slurry sealed streets less than one year old. Pavement cuts for trench repairs may be allowed for emergency repairs or as specifically approved in writing by the City Engineer.

- LD44. (IPA) Prior to approval of the improvement plans, the developer is required to bring any existing access ramps adjacent to and fronting the project to current ADA (Americans with Disabilities Act) requirements. However, when work is required in an intersection that involves or impacts existing access ramps, those access ramps in that intersection shall be retrofitted to comply with current ADA requirements, unless approved otherwise by the City Engineer.
- LD45. (IPA) Prior to approval of the improvement plans, drainage facilities with sump conditions shall be designed to convey the tributary 100-year storm flows. Secondary emergency escape shall also be provided. (MC 9.14.110)
- LD46. (IPA) Prior to the approval of the improvement plans, the hydrology study shall show that the 10-year storm flow will be contained within the curb and the 100-year storm flow shall be contained within the street right-of-way. In addition, one lane in each direction shall not be used to carry surface flows during any storm event for street sections equal to or larger than a minor arterial. When any of these criteria is exceeded, additional drainage facilities shall be installed. (MC 9.14.110 A.2)
- LD47. (IPA) The project shall be designed to accept and properly convey all off-site drainage flowing onto or through the site. All storm drain design and improvements shall be subject to review and approval of the City Engineer. In the event that the City Engineer permits the use of streets for drainage purposes, the provisions of the Development Code will apply. Should the quantities exceed the street capacity or the use of streets be prohibited for drainage purposes, as in the case where one travel lane in each direction shall not be used for drainage conveyance for emergency vehicle access on streets classified as minor arterials and greater, the developer shall provide adequate facilities as approved by the Public Works Department – Land Development Division. (MC 9.14.110)
- LD48. (CP) All work performed within the City right-of-way requires a construction permit. As determined by the City Engineer, security may be required for work within the right-of-way. Security shall be in the form of a cash deposit or other approved means. The City Engineer may require the execution of a public improvement agreement as a condition of the issuance of the construction permit. All inspection fees shall be paid prior to issuance of construction permit. (MC 9.14.100)
- LD49. (CP) Prior to issuance of a construction permit, all public improvement plans prepared and signed by a registered civil engineer in accordance with City standards, policies and requirements shall be approved by the City Engineer.

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LD50. (CP) Prior to issuance of construction permits, the developer shall submit all improvement plans on compact disks, in (.dxf) digital format to the Land Development Division of the Public Works Department.

LD51. (CP) Prior to issuance of construction permits, the developer shall pay all applicable inspection fees.

Prior to Building Permit

LD52. (BP) Prior to issuance of building permits, if the project involves a subdivision, the map shall be recorded (excluding model homes). (MC 9.14.090)

LD53. (BP) Prior to issuance of a building permit (excluding model homes), an approval by the City Engineer is required of the water quality control basin(s). The developer shall provide certification to the line, grade, flow test and system invert elevations.

LD54. (BP) Prior to issuance of a building permit, all pads shall meet pad elevations per approved plans as noted by the setting of "Blue-top" markers installed by a registered land surveyor or licensed engineer.

LD55. (BP) Prior to issuance of a building permit, the developer shall submit for review and approval, a Waste Management Plan (WMP) that shows data of waste tonnage, supported by original or certified photocopies of receipts and weight tags or other records of measurement from recycling companies and/or landfill and disposal companies. The Waste Management Plan shall contain the following:

- a. The estimated volume or weight of project waste to be generated by material type. Project waste or debris may consist of vegetative materials including trees, tree parts, shrubs, stumps, logs, brush, or any other type of plants that are cleared from a site. Project waste may also include roadwork removal, rocks, soils, concrete and other material that normally results from land clearing.
- b. The maximum volume or weight of such materials that can be feasibly diverted via reuse and recycling.
- c. The vendor(s) that the applicant proposes to use to haul the materials.
- d. Facility(s) the materials will be hauled to, and their expected diversion rates.
- e. Estimated volume or weight of clearing, grubbing, and grading debris that will be landfilled.

Approval of the WMP requires that at least fifty (50) percent of all clearing, grubbing, and grading debris generated by the project shall be diverted, unless the developer is granted an exemption. Exemptions for diversions of less than fifty (50) percent will be reviewed on a case by case basis. (AB939, MC 8.80)

Prior to Certificate of Occupancy

- LD56. (CO) Prior to issuance of the last certificate of occupancy or building final, the developer shall pay all outstanding fees.
- LD57. (BP) The City of Moreno Valley has an adopted Development Impact Fee (DIF) nexus study. All projects unless otherwise exempted shall be subject to the payment of the DIF prior to issuance of occupancy. The fees are subject to the provisions of the enabling ordinance and the fee schedule in effect at the time of occupancy.
- LD58. (BP) The City of Moreno Valley has an adopted area wide Transportation Uniform Mitigation Fee (TUMF). All projects unless otherwise exempted shall be subject to the payment of the TUMF prior to issuance of occupancy. The fees are subject to the provisions of the enabling ordinance and the fee schedule in effect at the time of occupancy.
- LD59. (CO) Prior to issuance of a certificate of occupancy or building final, the developer shall construct all public improvements in conformance with applicable City standards, except as noted in the Special Conditions, including but not limited to the following applicable improvements:
- a. Street improvements including, but not limited to: pavement, base, curb and/or gutter, cross gutters, spandrel, sidewalks, drive approaches, pedestrian ramps, street lights, signing, striping, under sidewalk drains, landscaping and irrigation, medians, redwood header boards, pavement tapers/transitions and traffic control devices as appropriate.
 - b. Storm drain facilities including, but not limited to: storm drain pipe, storm drain laterals, open channels, catch basins and local depressions.
 - c. City-owned utilities.
 - d. Sewer and water systems including, but not limited to: sanitary sewer, potable water and recycled water.
 - e. Under grounding of existing and proposed utility lines less than 115,000 volts.
 - f. Relocation of overhead electrical utility lines including, but not limited to: electrical, cable and telephone.
- LD60. (CO) Prior to issuance of a certificate of occupancy or building final, all existing and new utilities adjacent to and on-site shall be placed underground in accordance with City of Moreno Valley ordinances. (MC 9.14.130)
- LD61. (CO) Prior to issuance of a certificate of occupancy or building final for residential projects, the last 20% or last 5 units (whichever is greater, unless as otherwise determined by the City Engineer) of any Map Phase, punch list work for

improvements and capping of streets in that phase must be completed and approved for acceptance by the City.

LD62. (CO) Prior to issuance of a certificate of occupancy or building final, in order to treat for water quality the sub-area tributary to the basin, the Developer must comply with the following:

- a. The water quality basin and all associated treatment control BMPs and all hardware per the approved civil drawing must be constructed, certified and approved by the City Engineer including, but not limited to, piping, forebay, aftbay, trash rack, etc.) Landscape and irrigation plans are not approved for installation at this time.
- b. Provide the City with an Engineer's Line and Grade Certification.
- c. Perform and pass a flow test per City test procedures.

LD63. (CO) Prior to issuance of a certificate of occupancy or building final for the last 20% of the permitted structures or the last five (5) permitted units (whichever is greater) for any Phase of the development , the Developer shall:

- a. Notify City Staff (Land Development Division) prior to construction and installation of all structural BMPs so that an inspection(s) can be performed.
- b. Demonstrate that all structural BMPs described in the approved final project-specific WQMP have been constructed and installed in conformance with the approved plans and specifications;
- c. Demonstrate that Developer is prepared to implement all non-structural BMPs described in the approved final project-specific WQMP; and
- d. Demonstrate that an adequate number of copies of the approved final project-specific WQMP are available for future owners/occupants.
- e. Clean and repair the water quality basin, including regrading to approved civil drawing if necessary.
- f. Provide City with updated Engineer's Line and Grade Certification.
- g. Obtain approval from City to install irrigation and landscaping.
- h. Complete installation of irrigation and landscaping.

Prior to Acceptance of Streets into the City Maintained Road System

LD64. (AOS) Aggregate slurry, as defined in Section 203-5 of Standard Specifications for Public Works Construction, may be required just prior to acceptance of the entire tract street(s) into the City maintained road system at the discretion of the City Engineer. If slurry is required, the developer/contractor must provide a slurry mix design submittal for City Engineer approval. The latex additive shall be Ultra Pave 70 (for anionic – per project geotechnical report) or Ultra Pave 65 K (for cationic – per project geotechnical report) or an approved equal. The latex shall be added at the emulsion plant after weighing the asphalt and before the addition of mixing water. The latex shall be added at a rate of two to two-and-one-half (2 to 2½) parts

to one-hundred (100) parts of emulsion by volume. Any existing striping shall be removed prior to slurry application and replaced per City standards.

SPECIAL CONDITIONS

- LD65. (GP) Prior to rough grading plan approval, the plan shall clearly show that any slope near the public right-of-way has a minimum set-back area at 2% maximum of 2' before the start of the top or toe of slope. If the vertical height of the slope exceeds 10', this set-back area shall be 3' minimum.**
- LD66. (GP) Prior to rough grading plan approval, the plan shall clearly show and label the "Rock Outcrop" area and note that no grading will be allowed within this area. The "Rock Outcrop" area shall be consistent with that shown on the approved tentative tract map.**
- LD67. (GP) Prior to rough grading plan approval, the developer shall follow the recommendations in the Report of Geotechnical Engineering Investigation dated February 14, 2005 and submitted by Quartech Consultants (QCI), including addendums. The report addresses the rock fall potential. The report delineates any unbuildable areas of the map and/or outlines any necessary protective measures required by this map for the design as shown on the plans, such as the construction of a catchment wall. Catchment wall details shall be provided and reflected on the rough grading plans.**
- LD68. Prior to and for the duration of rough grading, rockfall mitigation shall be assessed by a registered engineering geologist. These measures may include, but not be limited to, one or a combination of the following:**
- a. Geologically map and paint mark the individual, round, perched rocks and rate the rock exposures for high, moderate or low rockfall potential.**
 - b. Removal of the loose, round, perched rocks.**
 - c. Establishment of a buffer zone for rock catchment and/or construction of fences, ditches, walls, etc.**
 - d. Surface protection on the weathered and broken areas may include provision of shotcrete to bind the loose rocks and/or construction of concrete wedge in the front and/or around the rocks.**
 - e. Anchored cable nets and mesh to restrain loose rock which is difficult to remove.**
 - f. Periodic inspection of the slope areas by an engineering geologist to serve as a basic slope maintenance requirement.**

Proposed measures shall be subject to review and approval by the City Engineer and Community Development Director prior to implementation.

- LD69. (GP) Prior to rough grading plan approval, the grading plans shall clearly demonstrate that drainage is properly collected and conveyed. The plans shall show all necessary on-site and off-site drainage improvements to properly collect and convey drainage entering, within and leaving the project. This may include, but not be limited to on-site and perimeter drainage improvements to properly convey drainage within and along the project site, and downstream off-site improvements. The developer will be required to obtain the necessary permission for offsite construction including easements. Drainage improvements may include the construction of an onsite storm drain system within Street "A", a drainage easement through Lot 6 to the map south boundary, an offsite storm drain from the south map boundary within proposed offsite easements to Ironwood Avenue, and within Ironwood Avenue to its connection with an existing storm drain at the intersection of Ironwood Avenue and Vista de Cerros Drive.**
- LD70. (GP) Prior to rough grading plan approval, the plan shall clearly demonstrate that any sump catch basins, including but not limited to those on Street "A", as shown on the tentative map, are designed such that there is an emergency escape for drainage overflow in the event that the basin inlets become clogged. This might include, but not be limited to, over sizing the catch basin inlets, providing an approved emergency overflow path, or other method as approved by the City Engineer during the design/plan check stage.**
- LD71. Prior to final map approval, the developer shall secure any off-site easements from the off-site property owner(s) to ensure the proper drainage and utility connections for this project. This includes, but is not limited to, the proposed utility easement across APN 474-250-039 for proposed storm drain and sanitary sewer lines to Ironwood Avenue.**
- LD72. Prior to final map approval, the map shall show all existing and proposed easements within the map boundary including the private drainage easement across Lots 10-14, a five-foot wide drainage easement along the east, west and south property lines, a utility easement across the east side of Lot 6 which shall also accommodate an access driveway to the proposed water quality basin on Lot B, all as labeled on the approved tentative tract map. In accordance with the standard condition of approval, the final map shall record prior to issuance of a building permit, excluding model homes.**
- LD73. Prior to final map approval, the map shall dedicate 50' feet of right-of-way for the construction of Street "A" per City Standard No. 108B Modified, street knuckle per City Standard No. 122, cul-de-sac per City Standard No. 124, and corner cut backs per City Standard No. 208. The map shall dedicate 28' of right-of way for the construction of Mountain Ranch Road per City Standard No. 108B along the project's north frontage.**

LD74. Prior to final map approval, the developer shall guarantee the construction of the following improvements by entering into a public improvement agreement and posting security. The improvements shall be completed prior to occupancy of the first building or as otherwise determined by the City Engineer.

- a. Mountain Ranch Road, Short Local Street, City Standard 108B (56' RW / 36' CC) shall be constructed to half-width plus an additional 12' north of the centerline, along the map's north frontage. Improvements shall consist of, but not be limited to, pavement, base, curb, gutter, sidewalk, driveway approaches, drainage facilities including under sidewalk drains and curb cores, any necessary offsite improvement transition/joins to existing, streetlights, pedestrian ramps, and dry and wet utilities.**
- b. Street "A", Short Local, City Standard 108B Modified (56' RW / 36' CC) shall be constructed to full-width. Improvements shall consist of, but not be limited to, pavement, base, curb, gutter, sidewalk on the west and south sides (and as shown on the approved tentative tract map), driveway approaches, storm drain and catch basins, curb cores, streetlights, pedestrian ramps, and dry and wet utilities..**
- c. Pavement core samples of existing pavement may be taken and findings submitted to the City for review and consideration of a lesser width of pavement improvements. The City will determine the adequacy of the existing pavement structural section. If the existing pavement section is found to be adequate, then a lesser width than that specified above for street pavement improvements may be allowed, as approved by the City Engineer. If the existing pavement section is found to be inadequate, the Developer shall construct the streets to the limits as listed above.**
- d. The developer shall install all necessary on-site and off-site drainage improvements to properly collect and convey drainage entering, within and leaving the project. This may include, but not be limited to on-site and perimeter drainage improvements to properly convey drainage within and along the project site including offsite flows entering across the east property line, and downstream off-site improvements of master plan storm drain lines. The developer shall construct the following storm drain lines: onsite storm drain system within Street "A" and a drainage easement through Lot 6 to the map south boundary, an offsite storm drain from the south map boundary within proposed offsite easements to Ironwood Avenue, and within Ironwood Avenue to its connection with an existing storm drain near the intersection of Ironwood Avenue and Vista de Cerros Drive. A portion of the proposed**

storm drain in Ironwood Avenue, upstream of its connection to an existing storm drain, is Line R-1 of the Sunnymead Area Drainage Plan.

LD75. It may be necessary for the developer to remove/relocate/reconstruct driveways, fences, gates, landscaping and other items, as required, for the installation of offsite storm drain and sewer improvements. It may be necessary for the developer to grade or construct on private property in which case the developer will be required to obtain right-of-entry.

LD76. The Applicant shall select and implement treatment control BMPs that are medium to highly effective for treating Pollutants of Concern (POC) for the project. POC include project pollutants associated with a 303(d) listing or a TMDL for receiving waters. Project POC include: Nutrients, Oxygen Demanding Substances, and Pathogens (Bacteria and Viruses). Exhibit C of the document, "Riverside County Water Quality Management Plan for Urban Runoff" dated July 24, 2006 shall be consulted for determining the effectiveness of proposed treatment BMPs.

LD77. Overall, the proposed treatment control concept is accepted as the conceptual treatment control BMP for the proposed site. The Applicant has proposed to incorporate the use of a Water Quality basin. Final design details of the Water Quality Basin must be provided in the first submittal of the F-WQMP and must comply with the City's design detail requirements. The size of the treatment control BMP is to be determined using the procedures set forth in Exhibit C of the Riverside County Guidance Document. The Applicant acknowledges that more area than currently shown on the plans may be required to treat site runoff as required by the WQMP guidance.

LD78. The Applicant shall substantiate the applicable Hydrologic Condition of Concern (HCOC) (WQMP Section IV) in the F-WQMP. The HCOC designates that the project will comply with Condition A; therefore, the condition must be addressed in the F-WQMP.

LD79. The Applicant shall record with the County-Clerk Recorder a "Covenant and Agreement" that informs future property owners of the requirements to implement the approved F-WQMP. The "Covenant and Agreement" shall be in a form acceptable to the City of Moreno Valley. The Applicant may propose, subject to approval by the City of Moreno Valley, the recording of alternative documents to inform future owners of the requirements to implement the approved F-WQMP. Documents shall be approved by the City of Moreno Valley and recorded with the County-Clerk Recorder prior to issuance of building or grading permits.

LD80. The Applicant shall, prior to building or grading permit closeout or the issuance of a certificate of occupancy, demonstrate:

- a. That all structural BMPs have been constructed and installed in conformance with the approved plans and specifications;**
- b. That all structural BMPs described in the F-WQMP have been implemented in accordance with approved plans and specifications;**
- c. That the applicant is prepared to implement all non-structural BMPs included in the FWQMP, conditions of approval, and building/grading permit conditions; and**
- d. That an adequate number of copies of the approved F-WQMP are available for the future owners/occupants of the project.**

PUBLIC WORKS DEPARTMENT

Special Districts Division

The following items are Special Districts' Conditions of Approval for project **PA05-0071**; this project shall be completed at no cost to any Government Agency. All questions regarding Special Districts' conditions including but not limited to, intent, requests for change/modification, variance and/or request for extension of time shall be sought from the Special Districts Division of the Public Works Department 951.413.3480. The applicant is fully responsible for communicating with each designated Special Districts staff member regarding their conditions.

General Conditions

- SD1.** The parcel(s) associated with this project have been incorporated into the Moreno Valley Community Services Districts Zones A (Parks & Community Services) and C (Arterial Street Lighting). All assessable parcels therein shall be subject to annual Zone A and Zone C charges for operations and capital improvements.
- SD2.** Any damage to existing landscape easement areas due to project construction shall be repaired/replaced by the developer, or developer's successors in interest, at no cost to the Moreno Valley Community Services District.

Prior to Recordation of Final Map

- SD3.** (R) This project has been identified to be included in the formation of a Community Facilities District (Mello-Roos) for **Public Safety** services, including but not limited to Police, Fire Protection, Paramedic Services, Park Rangers, and Animal Control services. The property owner(s) shall not protest the formation; however, they retain the right to object to the rate and method of maximum special tax. In compliance with Proposition 218, the developer shall agree to approve the mail ballot proceeding (special election) for either formation of the CFD or annexation into an existing district that may already be established. The Developer must notify

Special Districts of intent to record the final map 70 days prior to City Council action authorizing recordation of the map. (California Government Code)

- SD4. (R) This project is conditioned to provide a funding source for the capital improvements, energy charges and maintenance for residential street lighting. In order for the Developer to meet the financial responsibility to maintain the defined service, one of the following options shall be selected:
- a. Participate in the mail ballot proceeding in compliance with Proposition 218, for Moreno Valley Community Services District **Zone B** (Residential Street Lighting), and pay all associated costs with the ballot process; or
 - b. Establish a Home Owners Association (HOA) to maintain the residential streetlights; or
 - c. Establish an endowment to cover future maintenance costs for the residential streetlights.

The Developer must notify Special Districts of the intent to record the final map 70 days prior to City Council action authorizing recordation of the map and the financial option selected to fund the continued maintenance.

- SD5. *Residential* (R) If Land Development, a Division of the Public Works Department, requires this project to supply a funding source necessary to provide, but not limited to, stormwater utilities services for the required continuous operation, maintenance, monitoring, system evaluations and enhancements, remediation and/or replacement, the developer must notify Special Districts of intent to record final map 70 days prior to City Council action authorizing recordation of the map and the financial option selected to fund the continued maintenance. (California Government Code)
- SD6. (R) Prior to recordation of the final map, the developer, or the developer's successors or assignees, shall record with the County Recorder's Office a **Declaration of Covenant and Acknowledgement of Assessments** for each assessable parcel therein, whereby the developer covenants and acknowledges the existence of the Moreno Valley Community Services District, its established benefit zones, and that said parcel(s) is (are) liable for payment of annual benefit zone charges and the appropriate National Pollutant Discharge Elimination System (NPDES) maximum regulatory rate schedule when due. A copy of the recorded Declaration of Covenant and Acknowledgement of Assessments shall be submitted to the Special Districts Division.

**For a copy of the Declaration of Covenant and Acknowledgement of the Assessments form, please contact Special Districts, phone 951.413.3480.

Prior to Building Permit Issuance

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SD7. (BP) This project has been identified to be included in the formation of a Map Act Area of Benefit Special District for the construction of **major thoroughfares and/or freeway** improvements. The property owner(s) shall participate in such District, and pay any special tax, assessment, or fee levied upon the project property for such District. At the time of the public hearing to consider formation of the district, the property owner(s) will not protest the formation, but the property owners(s) will retain the right to object if any eventual assessment is not equitable, that is, if the financial burden of the assessment is not reasonably proportionate to the benefit which the affected property obtains from the improvements which are to be installed. (Street & Highway Code, GP Objective 2.14.2, MC 9.14.100)

Prior to Certificate of Occupancy

SD8. (CO) Prior to issuance of a Certificate of Occupancy or building final, the developer shall submit a letter to Special Districts from the Utility service responsible for providing final electrical energy connections and energization of the streetlights for the development project. The letter must identify, by pole number, each streetlight in the development and state the corresponding date of its electrical energization.

SD9. (CO) Prior to issuance of a Certificate of Occupancy or building final, the developer shall submit, in a form acceptable to Special Districts, the current list of all Assessor's Parcel Numbers assigned to the recorded map. Please forward to:

City of Moreno Valley
Special Districts
14325 Frederick Street – Suite 9
P. O. Box 88005
Moreno Valley, CA 92552-0805

SD10. (CO) Prior to the issuance of the first Certificate of Occupancy or building final for this project, the developer shall pay Advanced Energy fees for all applicable Zone B (Residential Street Lighting) and/or Zone C (Arterial Street Lighting and Intersection Lighting) streetlights required for this development. The developer shall provide a receipt to the Special Districts Division showing that the Advanced Energy fees have been paid in full for the number of streetlights to be accepted into the CSD Zone B and/or Zone C program. Payment shall be made to the City of Moreno Valley, as collected by the Land Development Division, based upon the Advanced Energy fee rate at the time of payment and as set forth in the current Listing of City Fees, Charges and Rates, as adopted by City Council. Any change in the project which may increase the number of streetlights to be installed will require payment of additional Advanced Energy fees at the then current fee.

PUBLIC WORKS DEPARTMENT

Transportation Engineering Division

General Conditions

- TE1. Mountain Ranch Road is classified as a Short Local Street (56'RW/36'CC) per City Standard Plan No. 108B.**
- TE2. Street "A" is designated as a Short Local Street (56'RW/36'CC) per City Standard Plan No. 108B modified to remove 6' of R/W and sidewalk on the east and north sides. The section shall have a 50'RW/36'CC, 10' parkway with sidewalk on the west and south, 4' parkway on the east and north.**
- TE3. Knuckles shall be constructed to City of Moreno Valley Standard Plan No. 122.
- TE4. Cul-de-sacs shall be designed and constructed per City Standard Plan No. 123 and/or 124.
- TE5. Driveways shall conform to Section 9.16.250, and Table 9.16.250A of the City's Development Code – Design Guidelines and City Standard Plan No. 117 for residential driveway approach.
- TE6. During construction activity, developer is responsible for regularly scheduled street sweeping per approved street sweeping schedule. Failure to provide regularly scheduled street sweeping during construction activity at the approved times shall result in re-inspection fees (amounts to be determined by City Engineer) and/or project suspension until street sweeping is provided.
- TE7. Conditions of approval may be modified if project is phased or altered from any approved plans.

Prior to Improvement Plan Approval or Construction Permit

- TE8. Sight distance at driveways and on streets shall conform to City of Moreno Valley Standard No. 125 A, B and C at the time of preparation of final grading, landscape, and street improvements.
- TE9. Prior to the final approval of the street improvement plans, a signing and striping plan shall be prepared per City of Moreno Valley Standard Plans - Section 4 for all streets to include provisions for street sweeping during construction activity. Street sweeping signs coordinated with City of Moreno Valley Street Sweeping schedules shall be included in the signing and striping plan.

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TE10. Prior to final approval of the street improvement plans, the developer shall submit to the City a contract between the developer and a street sweeping company for sweeping the streets during the warranty period, for the day shown on the posted street sweeping signage. The contract shall include a contact person and phone number for said contact person.

TE11. Prior to issuance of a construction permit, construction traffic control plans prepared by a qualified, Registered Civil or Traffic engineer may be required.

Prior to Acceptance of Streets into the City-maintained Road System

TE12. Prior to the acceptance of streets into the City-maintained road system, all signing and striping and traffic calming measures shall be installed per current City Standards and the approved plans.

PARKS AND COMMUNITY SERVICES DEPARTMENT

The following items are Parks and Community Services Department Conditions of Approval for project **PA05-0071**. All questions regarding Parks and Community Services Department Conditions including but not limited to, intent, requests for change/modification, variance and/or request for extension of time shall be sought from the Parks and Community Services Department 951.413.3280 and Special Districts Division of the Public Works Department 951.413.3480.

PCS1. SPECIFIC CONDITIONS OF APPROVAL: NA

PCS2. Parks and Community Services Department
Standard Park and Community Services Project Conditions: NA

PCS3. (R) If Special Districts, a Division of the Public Works Department, requires this project to supply a funding source for the continued maintenance, enhancement, and or retrofit of neighborhood parks, open spaces, linear parks, and/or trails systems, the Developer must notify Special Districts of intent to record the final map 70 days prior to recordation of the final map and the financial option selected to fund the continued maintenance. (California Government Code, GP Chapter 2.7)

PCS3b. (BP) If Special Districts, a Division of the Public Works Department, requires this project to supply a funding source for the continued maintenance, enhancement, and or retrofit of neighborhood parks, open spaces, linear parks, and/or trails systems, the Developer must notify Special Districts of intent to request building permits 70 days prior to their issuance and the financial option selected to fund the continued maintenance. (California Government Code, GP Chapter 2.7)

PCS4. The parcel(s) associated with this project have been incorporated into the Moreno Valley Community Services Districts Zone A (Parks and Community Services). All assessable parcels therein shall be subject to the annual Zone A charge for operations and capital improvements.

PCS5. (R) Prior to recordation of the final map, the developer, or the developer's successors or assignees, shall supply a copy of the recorded Declaration of Covenant and Acknowledgement of Assessments to the Parks and Community Services Department.

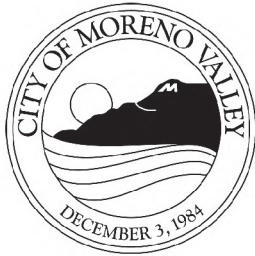
PCS6. (BP) Prior to release of building permit, the developer, or the developer's successors or assignees shall supply a copy of the recorded Declaration of Covenant and Acknowledgement of Assessments to the Parks and Community Services Department.

Conditions of Approval for PA05-0071
Tentative Tract Map 32388
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PCS7. (BP) This project is subject to current Development Impact Fees, payable no later than time of Occupancy or Final.

POLICE DEPARTMENT

- PD1. Prior to the start of any construction, temporary security fencing shall be erected. The fencing shall be a minimum of six (6) feet high with locking, gated access and shall remain through the duration of construction. Security fencing is required if there is: construction, unsecured structures, unenclosed storage of materials and/or equipment, and/or the condition of the site constitutes a public hazard as determined by the Public Works Department. If security fencing is required, it shall remain in place until the project is completed or the above conditions no longer exist. (MC 9.08.080)
- PD2. Prior to the issuance of grading permits, a temporary project identification sign shall be erected on the site in a secure and visible manner. The sign shall be conspicuously posted at the site and remain in place until occupancy of the project. The sign shall include the following:
- a. The name (if applicable) and address of the development.
 - b. The developer's name, address, and a 24-hour emergency telephone number. (MC 9.08.080)
- PD3. Addresses are to be in plain view, visible from the street and visible at night.



PLANNING COMMISSION STAFF REPORT

Cases: PA05-0069 – Change of Zone
PA05-0071 – Tentative Tract Map 32388

Date: June 25, 2009

Applicant: Elie Abinader, John Klaeb, and Naji Doumit

Representative: Foresight Engineering

Location: South side of Mountain Ranch Road at Northshore Drive

Proposal: Tentative Tract Map 32388 proposes to subdivide approximately 9.5 acres into 14 lots for single-family residential development. The accompanying change of zone would modify the existing Residential 1 land use district to the Residential 2 district, which is consistent with the existing Residential 2 General Plan land use designation.

Redevelopment Area: No

Recommendation: Approval

SUMMARY

Tentative Tract Map 32388 proposes to subdivide approximately 9.5 acres into 14 lots for single-family residential development. The proposed project includes perimeter street improvements (Mountain Ranch Road) and off-site utility and infrastructure improvements (sewer and storm drain). Proposed residential lot sizes range from 20,000 square feet to 39,000 square feet. The proposed use and density are consistent with the existing Residential 2 General Plan land use designation and the proposed Residential 2 zoning district.

ATTACHMENT 5

PROJECT DESCRIPTION

Zone Change

The proposed zone change would replace the existing Residential 1 (R1) land use district with the Residential 2 (R2) land use district. While this represents a potential doubling of permitted intensity, the proposed district is consistent with the existing General Plan land use designation of Residential 2.

The proposed 20,000 square foot minimum lot size under the Residential 2 land use district is compatible with the predominant Residential 2 land use district for surrounding properties and with the developed pattern of land uses in the surrounding area and in the area through which the project will take access. The proposed Residential 2 land use district represents a logical extension of existing development.

Tentative Tract Map

Tentative Tract Map 32388 as proposed will subdivide the approximately 9.5 acres (net) of Assessor's Parcel Number 474-250-003 into 14 single-family residential lots in the R2 zone (proposed). The proposed design provides residential lots exceeding the 20,000 square foot minimum for the R2 zone; with all lots also meeting the associated lot width (100 feet) and lot depth (120 feet) requirements.

The grading design has taken into consideration the opportunities and constraints of the complex site topography. The knoll that occupies much of the eastern portion of the site is preserved in portions of Lots 9 through 14. The recommended conditions of approval require development of a uniform fencing plan (P14) for this area and recordation of legal documents to establish use restrictions and long-term maintenance provisions (P8). Split level foundation pads are placed close to the street for lots along the west and south site boundaries, with the balance of the lot graded to gently transition to the exterior tract boundary. This design and layout is intended to soften the transition to existing adjoining residential development.

The tract design includes a water quality basin located in the southwest corner of the site at the rear of Lots 5 and 6. The recommended conditions of approval require creation of a homeowners association (LD35) to provide for long-term maintenance of the basin and development of a fence/wall plan (P14) that considers privacy and aesthetics for the neighbors.

The tract design proposes an easement along the east boundary of Lot 6. This easement will contain storm drain and sewer lines and will also serve as access to the water quality basin.

This project has been reviewed and meets and exceeds the minimum criteria of the proposed R2 zone. Density for the tract is approximately 1.5 dwelling units per net acre, where up to 2.0 dwelling units per acre is permitted.

Architectural plans for the future residences will be reviewed administratively under a future model home complex application or as individual custom homes.

Site

The project site is generally located northeast of Ironwood Avenue and Vista de Cerros Drive, lying on the south side of Mountain Ranch Road at Northshore Drive. The western third of the site is generally level with the eastern two-thirds characterized by a rocky knoll and several man-made basins. The site is vacant.

Surrounding Area

The surrounding area generally to the west and north is designated for single-family residential uses at the Residential 2 density, reflecting existing development. The surrounding area generally to the south and east is designated for single-family residential uses at the Residential 1 density, reflecting the dominant pattern of existing development and lot sizes for undeveloped parcels. The hillside area that lies to the northeast at the end of Mountain Ranch Road and extending uphill to Kalmia Avenue is designated for Hillside Residential uses, reflecting the steeply sloping terrain that is the lower slopes of the Reche Hills.

The project site is at the interface between existing Residential 1 and Residential 2 districts. Access to the project site is through existing development at Residential 2 densities. The proposed tract layout is sensitive to the existing lot pattern for adjoining properties. Overall, the proposed tentative tract map is compatible with existing and planned land uses, and the City's General Plan.

Access/Parking

The project site fronts Mountain Ranch Road, which is accessed by way of Steeplechase Drive or Vista de Cerros Drive from Ironwood Avenue. Four of the proposed lots will front Mountain Ranch Road, repeating the existing pattern of development on the north side of the street. A new interior street will provide access to the 10 remaining lots. The location and configuration of the internal street is constrained by the minimum lot depth requirement for the tier of lots along the west site boundary and the objective to preserve the knoll. To further the objective of preserving the knoll, and in recognition of the limited number of lots and substantial on-site parking on each lot, the design for the internal street is a reduced cross-section with sidewalk on only one side of the street.

Each lot, when developed, will be required to meet the parking standards for a single-family residence, which requires a minimum two (2) car garage to meet the off-street parking requirements of the Municipal Code.

Walls/Fences

The walls and fences for this tract are conditioned to be consistent with the provisions of the City's Municipal Code. Decorative block walls are required for the street side yards of all corner lots. The recommended conditions of approval (P14) address unique circumstances with the future walls and fences for this development, including the preserved knoll, retaining walls and catchment walls, and the water quality basin. Due to location in a high fire hazard severity zone, all walls and fences must be constructed of non-combustible materials.

REVIEW PROCESS

The application for this project was submitted in April 2005 and the project was first reviewed by the Project Review Staff Committee on May 10, 2005. Staff review focused on tract layout and design aspects related to grading, drainage, and water quality. The site design was improved by preserving the rocky knoll and in the process lot yield was increased by one developable lot.

The significant time span required to bring this matter to hearing reflected delays in submittal of technical studies and in obtaining authorization for an off-site easement.

ENVIRONMENTAL

An initial study was prepared to support the recommend environmental finding that a mitigated negative declaration is appropriate for this project. Issues of special discussion in the initial study are aesthetics, biological resources, geology and soils, and hazards (wildfire). All project impacts are less than significant when considering the project design, recommended conditions of approval, and established City programs and procedures. The following summarizes the discussion of focus issues from the initial study:

- Aesthetics – The project includes a locally-prominent knoll that will be preserved. Recommended conditions of approval P9, P12 and P14 address the implementing actions related to grading, fencing, open space easements, and long-term maintenance that will ensure preservation of this aesthetic feature. The initial study also acknowledges limited views of the valley floor that are enjoyed from the existing homes on the north side of Mountain Ranch Road. These views are interrupted by the on-site knoll, additional peaks in the area south of Ironwood Avenue, and by existing development to the south. While site development can be expected to further interrupt existing views, in the context of the currently limited nature of views, the potential impact is considered less than significant.
- Biological resources - The project site is within the plan area for the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP). The site is subject to MSHCP policies governing impacts to the burrowing owl. In accordance with implementing guidance, habitat assessment and burrow

surveys were conducted. While no owls were observed, the site does contain habitat that is suitable for burrowing owl. As required under the MSHCP, the project conditions of approval include a requirement for pre-construction surveys to update the status of the species on the site immediately prior to grading.

- Geology and soils – project review included evaluation of stability of exposed rocks on natural slopes to remain above proposed residential pads. The geologist's opinion is that the rocks on these natural slopes are stable, with a further recommendation for construction of a debris catchment wall adjacent to Lots 12 and 14. The recommended wall is identified on the preliminary grading plan and recommended condition of approval LD67 reinforces the requirement for this wall. Recommended condition of approval LD68 requires ongoing evaluation of rockfall hazard during grading. Established City procedures for plan check, permit issuance, and building inspection ensure incorporation of engineering recommendations in project design and construction.
- Hazards – the project site is in a designated high fire hazard severity zone. The recommended conditions of approval (F16, F17, F19, F20, P10 and P14) require specified structural treatments for future residences and fuel modification provisions to mitigate this risk.

The initial study has been made available for a 20-day public review period ending on June 24th. No comments were received as of the date of publication of this report. Any comments received by close of the review period will be addressed at the Planning Commission hearing.

NOTIFICATION

Public notice was sent to all property owners of record within 300' of the project. The public hearing notice for this project was also posted on the project site and published in the local newspaper. In addition to City notification, the applicant conducted an outreach program involving mailed notice to residents within 300 feet of the site.

As of the date of publication of this report, staff has received four inquiries in response to the applicant's outreach letter. These inquiries involved questions about project timing, nuisances during the construction period, impacts to common animals observed on the site, intent for walls and fences on the common property lines, proposed pad grades, drainage design, location of the off-site easement, logistics related to existing fences and landscaping, provisions for access during construction of off-site utilities, ability to connect to the proposed sewer line, anticipated sale price of proposed homes, consideration of adjoining equestrian uses in future landscaping; ability to extend the cul-de-sac to the east site boundary, and ability to extend utilities to an adjoining property. Each of the concerns was responded to by e-mail or in telephone conversations. None of the individuals who inquired about the project expressed a specific objection to the project.

REVIEW AGENCY COMMENTS

Staff received only one response to the Project Review Staff Committee transmittal; which was sent to all potentially affected reviewing agencies.

<u>Agency</u>	<u>Response Date</u>	<u>Comments</u>
Riverside County Flood Control and Water Conservation District	May 17, 2005	This project is within the Sunnymead Area Drainage Plan and is subject to associated fees

In addition to the City's transmittal process, the applicant has been working with Eastern Municipal Water District regarding provision of water and sewer services and the related easements. The applicant has provided evidence that EMWD has accepted the proposed off-site easement (e-mail dated January 30, 2009)

STAFF RECOMMENDATION

Staff recommends that the Planning Commission take the following action:

APPROVE Resolution No. 2009-20, recommending that the City Council:

1. **ADOPT** a Mitigated Negative Declaration for PA05-0069 (Change of Zone) and PA05-0071 (Tentative Tract Map 32388) in that, as designed and conditioned, this project will not result in significant environmental impacts;
2. **APPROVE** PA05-0069 (Change of Zone), based on the findings contained in the resolution and as shown on the attachment included as Exhibit A of the resolution; and
3. **APPROVE** PA05-0071 (Tentative Tract Map No. 32388), based on the findings contained in the resolution and subject to the conditions of approval attached as Exhibit B of the resolution.

Prepared by:

Approved by:

Kathleen Dale
Associate Planner

John C. Terrell, AICP
Planning Official

ATTACHMENTS:

1. Public Hearing Notice
2. Existing Zoning Exhibit
3. Planning Commission Resolution No. 2009-20
4. Negative Declaration
5. Initial Study (Figure 2 is aerial photograph of project site and vicinity)
6. Reduced Exhibits (TTM, 4 sheets, and Preliminary Grading, 1 sheet)

1 and that will be the location of the proposed sewer line and storm drain line that
2 would first of all provide adequate drainage as well as the extension of sewer
3 service to all the new lots.

4
5 There are no homes currently proposed for this site. Those would be part of a
6 future... should the tract be approved; part of a future administrative review either
7 as custom homes or as a subdivision model home complex depending on which
8 way the property were developed.

9
10 As I said earlier, the area to the north and the west are existing subdivisions in
11 the R2 Zone and the majority of those lots are of a similar size to those proposed
12 for this subdivision. To the south are existing single family homes in the R1 Zone
13 and to the east is vacant land and some additional existing homes in the R1
14 District. To the northeast is Hillside Residential and those properties are
15 currently vacant but there is an approved custom home on one of those lots.

16
17 The project would gain access via Mountain Ranch Road to Vista De Cerros and
18 the size of the subdivision in combination with the four other houses at the end of
19 Mountain Ranch Road would be well under the maximum number of homes that
20 are permitted with one access per the Fire Department standards. Up to 35
21 homes are allowed with one access point.

22
23 The walls and fences are conditioned to be compatible with the surroundings as
24 far as height and material. A portion of this site is in the high fire zone; severity
25 zone as much of the surrounding area and because of that any fencing shall be
26 non-combustible material, so that would most likely be block wall but there may
27 be some other materials that would fit that standard such as open fencing and
28 then the rocky knoll; portions of that area are actually within proposed lots, but
29 that area would be protected with the erection of view fencing that separate the
30 protected area from the balance of the proposed lots.

31
32 The Environmental Review was done relative to aesthetics, biological resources,
33 geology and hazards; primarily fire and as designed and conditioned, all of those
34 issues have been adequately addressed so that they are to or at less than a
35 significant level.

36
37 Public Notice of the project was provided to property owners within 300 feet of
38 the site and in the local newspaper as well as posting on the site. In addition, the
39 Applicant did a mailing of their own earlier. In combination between the
40 developers notice and the City's notice, we received a total of 6 enquiries relative
41 to the tract and they covered a number of issues. You have 2 letters that we
42 provided for you. The other enquiries were by phone and I believe they
43 adequately covered the various issues that were raised relative to views and
44 traffic and there were concerns about sewer line extensions and that sort of
45 thing.

1 With that, Staff recommends approval of a Resolution to recommend to the City
2 Council approval of the project. With that, Staff is available for any questions you
3 might have.
4

5 **CHAIR MARZOEKI** – Thank you, that was very thorough. I just have one
6 question. We're just looking at a Zone Change, but it's already R2 in the General
7 Plan, so there is no General Plan Amendment. Is that correct?
8

9 **PLANNING OFFICIAL TERELL** – That's correct
10

11 **CHAIR MARZOEKI** – Okay, do we have questions of Staff? No, so, what I will
12 do is open up the Public Testimony portion of this item and call the Applicant
13 forward. Please state your name and address for the record.
14

15 **APPLICANT QOBORSI** – Good evening. My name is Suhair Qoborsi. I'm with
16 Foresight Engineering and we are representing the Applicants on this project and
17 I'm here to introduce myself and will be available to answer any questions and
18 also to express our agreement with the Conditions of Approval that the City has
19 put on this project.
20

21 **CHAIR MARZOEKI** – Okay, thank you. Are there any questions of the
22 Applicant? Okay, I've got a number of Speaker Slips here, so you can come
23 back up and answer any concerns that the public does have after they are done
24 speaking; okay?
25

26 **APPLICANT QOBORSI** – Alright
27

28 **CHAIR MARZOEKI** – The first one up is Vicki Patterson followed by Deanna
29 Reeder.
30

31 **SPEAKER PATTERSON** – My name is Vicki Patterson. I live at 26268 Ironwood
32 Avenue. My property is directly south of this backing up to what will be the
33 retention basin and I've been in Moreno Valley since 1981, when we purchased
34 the house we are currently in. It is a forever home and not a speculative home
35 and I would like to maintain the lifestyle or the aesthetics. That's why we bought
36 into this area. When we bought into this area, we thoroughly searched Moreno
37 Valley; every back road and found this R1 and searched the existing zoning
38 around us and decided this was not going to be a densely populated area and we
39 were happy to move here. I'm strongly opposed to subdividing or changing the
40 zoning. I would like to maintain the R1 as is the properties to the east of me and
41 the south of me.
42

43 A couple of years ago we addressed the Planning Commission regarding the
44 property to the south and at that time they stated that the lines to maintain R1
45 should be at the back of the properties on the eastern side of Vista de Cerros, so
46 I'm hoping that they will remember that and stick with that. If they do not; if you

1 don't go with or if you should go ahead and approve the zoning of R2, I have
2 several concerns... what type of fencing will be put between me and my property.
3 During the construction, you are going to be coming all the down the east side of
4 my property to do the sewer lines. Will that encroach into my property at all or
5 impact into my landscaping or my fencing; what type of temporary fencing will be
6 put there. On your map it says you have contacted my neighbor and have his
7 permission, but no one has contacted us and again I'm not sure if it will impact
8 and to what extent it will impact me. My utilities are on my neighbor's property;
9 my water; some kind of electric box; my cable box, so what will be done to
10 relocate those during the construction.

11
12 Also, there is only one way in and out of our little area down there. It's just a little
13 dirt road and they will be putting the sewer line down the middle of that dirt road.
14 How will they address us getting to and from our homes during that time? What
15 type of lighting will be put in this tract? Will it be energy efficient; will it be low? I
16 like having night light. I don't want a lot of lights and noise and stuff, so will you
17 guys take that into consideration? You talked about the lots being at street level
18 and at the back of the properties maintaining level with the current properties, but
19 how much they be bringing in dirt and raising the grading and will that effect the
20 runoff onto my property being that we're downhill from it.

21
22 The retention basin that we're going to be putting in, when I talked to Foresight
23 Development, they told me that there would be no pumps or no noise generated
24 from this. I'd like that on record that they have told me that and that there will
25 only be someone going back there every couple of months for maintenance, so
26 will that area be gated to dissuade vandalism? On that map, it shows that my
27 fence encroaches into the property a little bit; my chain link fence and my chain
28 link fence is built off of the existing property markers, so I kind of challenge the
29 validity or would like to see that survey re-addressed, because there is a property
30 marker in the ground at the corner of that fence.

31
32 What other services will be run through this easement? Is it strictly sewer; will
33 there be gas, electric, cable or anything like that run through there that we should
34 know about? Will we be forced to look up to the sewer system and at what cost
35 to us? If we wanted to hook-up into the gas, would that be an option for us?
36 How long is the estimated work going to last while they are tearing up my road?
37 How long will be inconvenienced or my utilities be inconvenienced and the rock
38 outcrop that they talked about; what will be done to ensure that that is not
39 disturbed or you said that there would be fencing between there, but still, once a
40 tract is in, people take down fencing and change, so what will you do to ensure
41 that that is maintained?

42
43 Again, the report says that there is no big environmental impact. There will be.
44 They just plowed the fields for weed abatement and there is broken eggshells all
45 throughout the fields. I walk all the time. On a regular basis, we see raccoons,
46 possums, road runners, skunks, snakes, variety of lizards. We have seen

1 bobcats and coyotes in the area; rabbits, squirrels, doves, falcons, hawks, owls,
2 roadrunners, hummingbirds and various birds. I feed the birds every morning, so
3 it will be an environmental impact, so I feel very strongly about changing the
4 zoning in this area, so I hope that you guys will maintain it.

5
6 I do have neighbors to the east of me who area animal keeping and if the zoning
7 is changed and the houses are changed, what will you do to say that they can
8 still maintain their animals. Will these people have to sign some kind of waiver or
9 be notified so that they know moving in, because so often you see people who
10 say well they didn't know about the airport and then they complain, We want to
11 maintain the animals you know, so something should be done up front so that
12 they know that that's going on so that it doesn't impact my neighbors and their
13 rights.

14
15 **CHAIR MARZOEKI** – Can you wrap it up?

16
17 **SPEAKER PATTERSON** – That's good.

18
19 **COMMISSIONER GELLER** – Could I ask her a question?

20
21 **CHAIR MARZOEKI** – Sure

22
23 **COMMISSIONER GELLER** – I've listened to everything you've said and it
24 sounds to me like you don't want anything built there. Let me finish, there is a
25 reason I'm saying it. The change of zone is only going to add four houses.

26
27 **SPEAKER PATTERSON** – Five

28
29 **COMMISSIONER GELLER** – Four or five; whatever...okay... Everything you've
30 said has nothing to do with adding five houses. How are five houses going to do
31 all those things on your list? If nine go in or fourteen go in, they are still going to
32 put in the sewer and they still are going to do all those things that you talked
33 about.

34
35 **SPEAKER PATTERSON** – There is going to be more traffic. That section of
36 Ironwood is a very dangerous section of Ironwood. Are you guys going to put a
37 traffic light in at the end of Vista de Cerros?

38
39 **COMMISSIONER GELLER** – Four houses is essentially no traffic. I mean...

40
41 **SPEAKER PATTERSON** – Five houses

42
43 **COMMISSIONER GELLER** – Five houses is essentially no impact on traffic. I'm
44 just seeing if you had something specific.

45

1 **SPEAKER PATTERSON** – I think it is an impact on the traffic in the
2 neighborhood. I think maintaining the density that exists in that area is how I
3 feel.

4
5 **COMMISSIONER GELLER** – Okay

6
7 **CHAIR MARZOEKI** – Deanna Reeder followed by Susan Zeitz

8
9 **SPEAKER REEDER** – Hello my name is Deanna Reeder and I am not against
10 change. I am not against development but when you hear people talk about
11 Moreno Valley and Temecula, the reason Temecula gets the respect it gets is
12 because every cotton-picking developer that wants to come in and make more
13 money off of something, they don't let them do it. Here's our plan. You have to
14 stick to our plan. That's why they get respect. The plan for this area is one
15 house per acre. You need to stick to the plan. Everytime a developer wants to
16 put houses so they can make more money, we need to address that. It's not
17 acceptable. There is no reason whatsoever to put those in here except so that
18 developer can make money. That is not the reason to make a decision. Thank
19 you.

20
21 **CHAIR MARZOEKI** – Thank you. Susan Zeitz followed by David Zeitz.

22
23 **SPEAKER SUSAN ZEITZ** – Hi, I'm Susan Zeitz and I live at 26386 Ironwood
24 Avenue. I'm opposed to changing the current R1 Zone to R2 on the Tentative
25 Tract Map No. 32388. My three plus acre property is zoned R1 and shares the
26 property line of the 9 ½ acres being proposed for the subdivision to the west.
27 The properties to the northeast of us are also R1. Bordering us on the east is
28 five plus acres of R1 and east of that are more R1 properties of one acre or
29 larger. The three properties bordering the south property line are also R1. The
30 properties to the southeast of those three properties are also R1. The
31 undeveloped land south of these three south bordering properties was brought
32 before the Council within the past three years requesting the same zone change
33 R1 to R2. The vote was no. It was decided by the City Council to maintain the
34 R1 zoning in keeping with the rural nature and R1 zoning of the neighboring
35 properties to the north, south and the east.

36
37 That night it was said by the City Council that the line dividing R2 from R1 would
38 be drawn at the east property lines of the homes zoned R2, which are located on
39 the east side of Vista de Cerros. It was said there must be a line drawn in order
40 to maintain the rural nature of the area. This line is the west property line of the
41 Tentative Tract Map No. 32388, so according to the City Council this proposed
42 change should be voted a resounding no. It would not be in keeping with the
43 rural nature of our area. I know that those of us who bought large properties so
44 specifically just for all the advantages that come from owning them; foremost no
45 close neighbors and nature. I sent an email to the property representatives in
46 reply to their notice regarding this tract map. In it I told them we have animals

1 and all that come with them; dust, flies, smell and so would want to have the
2 largest buffer zone possible between the houses and our property. In addition, I
3 told them for safety reasons, I wanted a six foot solid preferably block wall to
4 separate our properties.

5
6 This would prevent accidents and damage in relationship to animal and humans
7 or animal to animal encounters. We have horses. I wouldn't want a child to be
8 able to reach through a fence and get bit. If the new property owners have dogs,
9 I don't want them chasing our horses or animals back and forth along the fence
10 line and barking at them. Horses will reach over a shorter fence and can lean on
11 or damage less forcible fences. I also ask that there be a stipulation put in and I
12 also asked them too, that a stipulation be put in that prevents the homeowners
13 from planting Oleanders anywhere close to the property line or even on the
14 property because they are deadly toxic to both humans and animals. I would
15 like the stipulation put into the construction documents.

16
17 I also agree with her... there is a difference... you say there is not really a
18 difference between 9 houses and 14. Yes, every house has an impact on the
19 local area, the environment, the animals and also the lighting of the night sky, the
20 animals... you know there is coyotes that come through there. There are
21 bobcats that come through there. There are hawks that nest in the trees
22 bordering our property on the east. All of these things... you the owls they hunt
23 at night. All of these things are going to be affected. Yes it is all about change.
24 Everything changes and nothing stays the same. Life is what happens when you
25 are making changes, but trying to minimalize the impact that it is going to have
26 on our environment; less innovative... you know they are doing innovative catch
27 basins for rain water. I'm all for that; anything that is natural.

28
29 Let's get rid of the stupid street lights. We don't need them. All it does on
30 Ironwood is it makes them go faster, so we don't really need a lot of street lights.
31 We need to keep this area as rural as possible. There should be that dividing
32 line that you guys said. Keep that area east of there rural. The properties all in
33 that whole area are big. They don't need more homes that close to the rural
34 area.

35
36 **CHAIR MARZOEKI** – Can you wrap it up?

37
38 **SPEAKER SUSAN ZEITZ** – Yup, I think so. And then, regarding the
39 Oleanders...they do have things in certain areas where they do have livestock or
40 animals, especially in Norco about the Oleanders, so those would be my... and
41 especially too the property that meets ours in the southwest corner, that is going
42 to be the most important one, the one that affects us the most. Thank you.

43
44 **CHAIR MARZOEKI** – Thank you. David Zeitz followed by Mike Ancheta.
45

1 **SPEAKER DAVID ZEITZ** – Hi my name is David Zeitz. I live at 26386 Ironwood
2 Avenue. My wife spoke before you here. You know where my property lays.
3 We do have large animals and small animals. One of my major concerns; what
4 she stated that the I think it was the Planning Commission and not the City
5 Council that stated that they needed to draw the line someplace and that's where
6 they drew the line at that point. It would be hard for me to believe that within a
7 half acre of the line they drew that they would change it again.

8
9 Also, with the changing from R1 to R2, will that eliminate property owners that
10 live in that area to be able to have large animals on that property? Being R1,
11 they can do that now. Being R2, would that eliminate that? Would that decrease
12 the value of my property, because now nobody around me can have large
13 animals? Again originally when we bought this property it was all R1. Many
14 changes have come. I'm not against anybody buying a piece of property and
15 improving it, but they bought this property knowing that it was R1 and they should
16 plan accordingly when they buy it and not try to change it afterwards. It's typical
17 of most people and I'm not against anybody trying to make money, but when they
18 buy into something, they should know what they are getting into ahead of time
19 and not trying to make changes. It's like marrying somebody and then wanting to
20 change them. It never works and ends up in divorce or in a big fight.

21
22 Again I would like to emphasize on the Oleanders. They are very toxic to all
23 animals and to children and I would like a stipulation that they would not be put in
24 within the reach of the animals or on the property. There are other cities that
25 have outlawed these plants and I would like to have that put in. As for the
26 grading on the property; if anybody ever goes out and looks at the property,
27 several years ago; probably decades, there were large ponds cut into that area.
28 That is something that may want to be looked into and to the grading. The ponds
29 still hold water at this time during the heavy rains, so I don't know if that was
30 taken into consideration by the Planning Commission. Did they look at the
31 property and know that they were there and how much they are going to have to
32 cut. Parts of the large outcroppings were rocks that were removed from these
33 ponds and moved, so that's another geological stipulation that they want to look
34 into that they were put there and how stable will they be when they start moving
35 earth from underneath them. Okay, that's it.

36
37 **CHAIR MARZOEKI** – Thank you. Mike Ancheta followed by Luis Aguayo

38
39 **SPEAKER ANCHETA** – It is the only thing I say you know It is good the progress
40 you know, but why do you make up 14 houses instead of nine. That's it.

41
42 **CHAIR MARZOEKI** – Thank you. Okay, Luis... he's outside. We'll put him to
43 the back. Okay, Keely Jones followed by Laura Smith

44
45 **SPEAKER JONES** – My name is Keely Jones and I live at 26360 Mountain
46 Ranch Road. It's the last house. It's on the hill facing the project. I'm not against

1 the project I don't think. I would like to know why we didn't pay closer attention to
2 the road coming off of Ironwood coming into the project where you have the
3 easement. Noticing everything is coming off of this proposed street. I would call
4 it a cul-de-sac sort of, coming into Mountain Ranch Road and then out to Vista
5 de Cerros or Steeplechase. I think one of the residents has already mentioned
6 something about this being a high fire area. It could be and these Lots 8, 9, 7;
7 something could happen back there and at the simultaneously something out on
8 Mountain Ranch Road could cause trouble. I think that it appears to me on the
9 map that the developer set out... they're saying that there is a declaration of
10 dedication coming up of off Ironwood. Could someone explain to me what that
11 means? Is it a dedicated street or... I would like to know.

12
13 **PLANNING OFFICIAL TEREILL** – I'm sorry; you're referring to the easement to
14 the south?

15
16 **SPEAKER JONES** – Well the easement after the cul-de-sac there; you know
17 there is an easement, but I'm talking about the road coming off of Ironwood that
18 says and I can't see it there very well, but it says declaration of dedication per
19 instrument I guess.

20
21 **PLANNING OFFICIAL TEREILL** – Right, there is a cul-de-sac dedicated but not
22 accepted by the City of Ironwood and then there is a piece from the end of
23 that cul-de-sac off of Ironwood with an easement and the easement is not for
24 street purposes. The easement is only for utilities because it goes through two
25 existing homes yards.

26
27 **SPEAKER JONES** – I understand that, but wouldn't you consider that to be a
28 safety factor there for these people that are going to be buying these homes just
29 beyond the mesa, just south of the mesa?

30
31 **PLANNING OFFICIAL TEREILL** – I'm not sure what... The numbers of homes
32 that are proposed here are well are under the number that is permitted on one
33 access point.

34
35 **SPEAKER JONES** – Well I almost got a redundant... I called the City Hall and
36 everybody is saying that but I've over there for 22 years and I'm retired now and
37 that's all I have and I would like to see you know access to this project coming
38 out from Ironwood.

39
40 **PLANNING OFFICIAL TEREILL** – Okay, well I guess I understand your concern.
41 We can address those with the other comments that we receive, but basically
42 that would be impacting existing homeowners to the south and their existing
43 yards and we can't require that. We can't require someone to put a street
44 through somebody else's yard, but I understand your concern. It would be better.
45 I understand that it would be better.

46

1 **SPEAKER JONES** – We could see if it's possible. I know that. Another is that
2 thing we are on septic tanks. We are not being offered any kind of improvement
3 on the north side, although I notice on the letter that people from the south side
4 will have an option and how much of my view will be affected. We have a
5 beautiful view and several of us on Mountain Ranch Road, we have a view that is
6 worth fighting for and I'm here tonight. My concern is that these concerns that I
7 brought up tonight are addressed. I will be for the project, but as it stands I am
8 against it. Thank you.

9
10 **CHAIR MARZOEKI** – Thank you. Laura Smith followed by Edward Arbello

11
12 **SPEAKER SMITH** – It's Lona Smith. My name is Lona Smith and I live at 26320
13 Mountain Ranch Road. I can shed a little light on the ponds across the street.
14 Our property is 3.2 acres and there is a cut ditch in our property that used to feed
15 to those ponds across the street. One thing I wanted to bring up was a drainage
16 issue that we have. We receive several hundred acres worth of rain water from
17 Crystal Hill and that feeds into our property and ultimately into a gunite ditch
18 behind two other properties and if you guys recall back when we did receive rain
19 it created a problem that the City ended up having to work on Mountain Ranch
20 Road because all of the drainage; all of the drain pipes were completely clogged
21 and they spent months on it and I wanted to make sure that I was here to say
22 that we don't claim any responsibility for any problems that arise to this proposed
23 tract.

24
25 The other thing that I wanted to say was that in the map provided it doesn't show
26 that Mountain Ranch is widened to the point of the eastern portion and currently
27 it's a very narrow street where you can't drive two cars side by side if there are
28 any cars parked on the street and this is kind of a safety issue. Currently our
29 road is in disrepair. It's very steep. An additional four houses is going to cause
30 additional runoff to the street with the pads and the final thing that I wanted to
31 bring up is the lighting. We don't have a whole lot of lighting on Mountain Ranch.
32 One of the things that they did suggest when I called the City was that the
33 concern was that lighting be matched for the area when they add to it and I
34 thought it was amusing because I just got something to vote on where I would
35 vote yes or nay on the increase for the taxes in the area to keep the lights on as
36 long as they are. I think it's an excellent time if you go forward with this to do
37 something with solar lighting or alternate energy efficient lighting and that's pretty
38 much all I had to say. Thanks.

39
40 **CHAIR MARZOEKI** – Okay thank you. Edward Arbello followed by Naji Doumit

41
42 **PLANNING OFFICIAL TEREEL** – Oh, Naji is the Applicant, so...

43
44 **CHAIR MARZOEKI** – Oh, that's the Applicant... oh okay... then followed by Luis
45 Aguayo. He's still outside? Do want to go get him.

1 **SPEAKER ARBELLO** – Good evening. My name is Ed Arbello. I live on Vista
2 de Cerros on the west side. My concerns are the traffic that is going to take
3 place during construction if this goes through. That's number one and when it
4 does go through, if it does go through, the additional traffic that will be on that
5 street... right now we have children that play on that street; a lot of skateboarders
6 come in there and we do have people that speed up and down that street
7 frequently and I think the impact of the traffic needs to be a concern and like I
8 said there a lot of children in there and it's just a problem and another thing is
9 that if it does go through, okay and I'm hoping it doesn't, because I like where I
10 live and it's peaceful and it is rural. If it does go through, I would like the
11 contractor to be responsible to put in a real low speed bump periodically up the
12 street so that it will eliminate speeders and another item that I have is percolation
13 in that area is terrible.

14
15 Every house on that street is having their... Well let me speak for myself. I have
16 my tank pumped probably three times or four times a year because of the
17 percolation and I do believe as I've been told that when these houses were being
18 built in '85 there were a lot of inspectors passing things without really doing
19 thorough checks. I know of three of my neighbors that already have had their
20 tanks completely reinstalled and I would like to see, if this does go through the
21 sewer system that is proposed to go up through my neighbor's property, be
22 routed from Ironwood and up Vista des Cerros around into Mountain Ranch into
23 the new project so that the people there have an opportunity to connect with the
24 City sewer system because it's really a pain. We do conserve our water so it
25 doesn't overflow the leech fields and I guess another thing that I really don't
26 understand is being in a situation where we are short on water and we're being
27 financially penalized if we use too much. Why are you adding more homes that
28 are going to increase the water supply?

29
30 That's another concern and also again, the rezoning. Five homes, it just means
31 more dollars in somebody's pocket. Those are my concerns as a resident there
32 and I've spoken to my other neighbors that couldn't be here and they agree with
33 me, so it's just not me and some of the ones that are here, there are more than
34 us that couldn't make it. That's all I have to say. Thank you.

35
36 **CHAIR MARZOEKI** – Thank you. Did Luis make it in?

37
38 **UNKNOWN SPEAKER** – He had to leave

39
40 **CHAIR MARZOEKI** – Okay, does anybody else want to speak on this item?
41 Okay, I'm going to call the Applicant back forward.

42
43 **PLANNING OFFICIAL TEREEL** – Okay, before you do that, I'll try to address
44 some of the questions that were more general and are more than what is
45 conditioned as opposed to the proposal. One talked about the water quality area
46 and that will be fenced, so there will be some protection there from potential

1 access from vandalism. And then about ensuring protection of the rock
2 outcroppings... on the map it's identified as an area that is not to be disturbed
3 and if we got applications for grading or for additions in the future if this
4 approved, we would refer to those plans and we wouldn't approve any additional
5 grading into those areas.
6

7 There was a statement saying that Temecula doesn't change its zoning. I'm
8 pretty sure that's not true, but we do need to evaluate any change on it's merits
9 and that's why this Planning Commission and City Council review these and
10 make sure that the changes and the benefit of the community as a whole as well
11 as not an imposition on the adjacent neighbors. So that's certainly a
12 consideration that they do always make in those circumstances and the Applicant
13 obviously is taking a risk. They don't have the right to change the zone but they
14 have the right to request a change of zone. We have done restrictions and the
15 CCNR's on some other projects to prohibit Oleanders and we could certainly do
16 that. I'm not sure if the Applicant will have any problem with that but that has
17 been done in other subdivisions that are adjacent to animal keeping areas.
18

19 There was a slope stability and rock stability study done for this project and it
20 determined that the existing rock outcroppings was in fact stable enough to allow
21 for grading around it. We talked about the easement already. That's an
22 easement for utilities only. The Applicant can identify if there are any utilities
23 beyond sewer and storm drain. The developer will be required to widen
24 Mountain Ranch Road to full width, so that would be I believe 36 feet side, so
25 that would be one lane way each direction plus parking on both sides and the
26 subdivision will have curb and gutter and drainage inlets where water may
27 currently be directed to the pond that is there, it would be directed through the
28 street system into a storm drain and that storm drain would connect to the down
29 stream area, so the water would be taken away from the site and not stored
30 there. There was a question about speed bumps on Vista de Cerros. The City
31 does have an existing program where neighborhoods can apply for... I think
32 they're called speed humps and there is a criterion for that and we've been
33 hesitant to require developers to do that in advance of review of a street in
34 connection with the City-wide standard for street humps, but that could be
35 applied for today. I don't know how long the waiting list is but there is a list for
36 that. As far as re-routing the sewer line; the sewer line is placed within the
37 easement that was identified many years for it. I'm not sure the feasibility or the
38 ability to re-route that elsewhere based on the existing easements in place and
39 with that I'll leave the rest of the questions for the Applicant to address.
40

41 **CHAIR MARZOEKI** – Thank you.
42

43 **APPLICANT QOBORSI** – Now you know why I didn't go into a lot of detail as Mr.
44 Terrell has fully described the project and I wanted to get a chance to get all the
45 questions and be able to answer them. With regards to and I'm going to go
46 through the questions one by one as much as possible. The type of fencing the

1 City has already put in the Conditions of Approval says that it has to be non-
2 combustible material. Due to the grading of the site, there is going to be
3 significant amount of retaining walls where it is needed and within the criterion of
4 the Municipal Code, so there will be retaining walls with block walls above them
5 or other non-combustible material depending on how the design phase goes and
6 this will be identified in more detail in the construction plans. Mrs. Patterson was
7 asking about the sewer work which is on the south side of the property and how
8 it's going to affect her landscaping or her fencing.

9
10 The easement for the utilities is right east of her property. Her fence might be
11 impacted and temporary fencing will go into place to ensure the security of her
12 property and then will be put back in place. Yes, the easement and the utilities
13 will be on the neighbor's property. I guess she has some utilities on her
14 neighbor's property and I guess during the design we will look and identify any
15 utilities that are shown and work with that, but for now we are going to be running
16 a sanitary sewer line and a storm drain line within that easement. We have
17 contacted the property owner and he gave us a letter of intent to provide that
18 easement for the utilities.

19
20 Dry utilities might go through it. We have not identified all... we are going to be
21 contacting the different agencies for electrical, cable and gas and identify which
22 route would be best for the project, so they may be coming through this
23 easement; they may be coming through Mountain Ranch. She had a question
24 regarding access during the sewer construction. Currently this is a dirt road that
25 comes to these different residences and access will be maintained to these
26 properties. If we had to re-grade around where the work area is, we will be doing
27 that, but that definitely will be maintained. The duration of construction will be
28 two to three months for that specific sewer and storm drain line. How will it affect
29 drainage? Basically the design of this site was quite interesting. I'm the Civil
30 Engineer who worked on it and given the nature of the terrain, we designed our
31 grading and ensured first of all that all storm drainage on the property will be
32 contained within the property. It will not overflow on any adjacent properties.
33 Half of it will go down to the new local street within it and the other half will go to
34 the rear of houses and then be contained within v-gutters and those v-gutters will
35 go along the perimeter of the project wherever it is needed and all the storm flow
36 will be directed to the water quality basin... not all of it; the first flash of rain.
37 That's what the Water Quality Board requires us to treat basically from pollutants
38 and that will go to the water quality basin and from there to a manhole that sends
39 it south to new storm drain pipe.

40
41 The more frequent storms or flows will bypass the water quality basin, because
42 we have already treated the first flash through the same manhole and through
43 the same route, so in terms of drainage, it will be contained within the property
44 and it will not affect adjacent houses and the flow; the drains that is coming to us,
45 which is very small from the east will also be contained with a v-gutter that is

1 going to carry it to same outlet point. So we've taken a lot of consideration of
2 drainage and took care of it thoroughly.

3
4 With regards to the water quality basin; yes, there will not be any pumps or noise.
5 It is all based on gravity. That was a big condition that the City put on us where
6 we had to dedicate this large area in order to treat pollutants and treat it in three
7 different stages, where we have an aft bay and an fore bay and then a sand filter,
8 so gravity flows throughout and it will be fenced with block walls and a gate and
9 the noise that they will experience will be very infrequent; meaning the trash
10 trucks that come every week will be more noisy than the maintenance needed for
11 this water quality basin. It is just going to be maybe two or three times a year for
12 trucks to come in through an access road within the new development to
13 maintain the basin. Will they be forced to connect to the sewer? I don't believe
14 so.

15
16 It's on the on whole a benefit for the community because we're going half a mile
17 with a new sewer line which going to be quite an expense for the project and
18 then we are going through the development all the way to north and maybe my
19 letter in the Outreach Program that we did, did not describe that the sewer line is
20 going to reach to Mountain Ranch and go east on Mountain Ranch in order to
21 service Lots 10 through 13, so it will be available for the other houses in the area,
22 but it is going to be their responsibility to apply to Eastern Municipal Water
23 District and if they need to do any extensions of new pipes from their properties
24 to the new manhole, then they would have to do it themselves, but once we're
25 done building the sewer line, it will become the public agencies dedicated to
26 EMWD and then they would have go to through the agency; the City and the
27 EMWD for any further connections, but all in all this should be a great benefit to
28 this area which is dependant on septic tanks and this developer is going through
29 this big expense of extending the line all the way to this property from Ironwood
30 to service the new homes and will definitely help the others connect later on.

31 The fence around the outcrop area is going to be in the conditions of approval; is
32 going to be some kind of a metal wrought iron fence and the chances for an
33 owner to just move it around, as Mr. Terrell said, they will be applying and it will
34 not be allowed. This outcrop area will be maintained. We are also going to be
35 building a catchment wall that was recommended by the Geo-Tech, although
36 their assessment was that the rock slide potential is very low and it is a stable
37 area, but as a further precaution, there will be a catchment wall along two
38 properties; 12 and 14 only and then there will be a metal fence all around that
39 area to protect it from any further grading.

40
41 With regards to the comments by the property owners to the east, they have
42 requested that the Oleanders be prohibited and we have no problem with that for
43 it to be stipulated since it is a danger for their animals and we are okay with that.
44 The wall they are requesting that there would be a wall between their property
45 and the new development and as is for Lot No. 10, there will be a split level wall
46 because of grading over there, so that has been met and if we need to, we can

1 go above that with a block wall, but as is, there is a six foot difference between
2 their property and Lot 10. Lot 9 will more or less meet in grade at that point and
3 we will be okay with building a block wall between Lot 9 and their property.
4 Between the outcrop area and the east there will be also some kind of a wall built
5 because of grade differentials.

6
7 Again a Geo-Tech was hired. Mr. David Zeitz commented on rock slide potential
8 and safety. A Geo-Technical company was hired and did their assessment that it
9 is stable enough and there is also a condition of approval where the City requires
10 there is monitoring during construction to ensure stability. Again Mr. Keely Jones
11 commented or talked about access from the south and again this not possible
12 due to the properties south of the project and all what we're going to be getting is
13 an easement for utilities. Yes, the sewer option or connection is available for the
14 houses north of Mountain Ranch, but they are going to have to work with EMWD
15 and the City in order to get the connection.

16
17 In terms of the view, obviously some partial loss of view might occur, although as
18 is with the rock outcrops and the nature of the terrain out there, the view is
19 obstructed by many features out there, but with the development, there will be
20 some partial loss of view. And Ms. Lona Smith commented on drainage.
21 Mountain Ranch Road is going to be developed to it's full width of 36 feet and it
22 will be a crown street with curbs and gutters on both sides of street, so any
23 drainage is going to be contained within Mountain Ranch and will be draining
24 towards to the west, so we have no concerns regarding drainage coming through
25 the new houses from the north or from the east.

26
27 Again we are designing v-gutters and we are containing drainage within the site
28 and any drainage from off-site we are containing it from the east and from the
29 other directions. We are not concerned about any drainage issues. Again
30 access-wise, Mr. Terrell had mentioned the widening of Mountain Ranch and that
31 it will be sufficient for one lane in each direction. Traffic concerns because of the
32 zone change from R1 to R2; I really cannot see the big concern of adding five
33 houses to the property and I think with that I have covered most of the questions.
34 If you have any questions I'll be glad to answer them.

35
36 **CHAIR MARZOEKI** – Do we have any questions of the Applicant?

37
38 **COMMISSIONER SALAS** – That's an existing easement right? That's an
39 existing easement?

40
41 **APPLICANT QOBORSI** – Which one?

42
43 **COMMISSIONER SALAS** – The sewer easement

44
45 **APPLICANT QOBORSI** – On the south?

1 **COMMISSIONER SALAS** – Yes

2
3 **APPLICANT QOBORSI** – No, there is a letter of intent from the owner of that
4 property to provide that easement

5
6 **COMMISSIONER SALAS** – So in other words, you are working with one of the
7 landowners to get the easement?

8
9 **APPLICANT QOBORSI**– Yes we have obtained that letter of intent and we will
10 be processing that easement during the design phase.

11
12 **COMMISSIONER SALAS** – Okay

13
14 **PLANNING OFFICIAL TERELL** – Just to clarify; that easement is an existing
15 easement for storm drain, so there is an existing easement there

16
17 **COMMISSIONER SALAS** – So there is an existing easement, but for storm
18 drain, not for sewer. Is that correct?

19
20 **PLANNING OFFICIAL TERELL** – Right... the sewer would be an addition. I
21 misspoke earlier. Clement had mentioned that the sewer really needs to go
22 through that easement because this site is lower than Vista de Cerros, so it
23 wouldn't be practical for the sewage to go uphill.

24
25 **COMMISSIONER SALAS** – It doesn't flow that way?

26
27 **PLANNING OFFICIAL TERELL** – No

28
29 **COMMISSIONER SALAS** – And the other thing is the south property line and I
30 see it is a darkened area. Is that a block wall all the way or just part of it block
31 wall or are you willing to put...

32
33 **APPLICANT QOBORSI** – Which area... along the south?

34
35 **COMMISSIONER SALAS** – Yes ma'am... Along the south that butts up to the
36 R1 property

37
38 **APPLICANT QOBORSI** – The dark lines in here are because of the different
39 features. Basically there is a v-gutter that goes along the inside or north of the
40 property line and then underneath it there is a sewer storm drain pipe that picks
41 up drainage from this inlet which picks up any drainage that comes to us from the
42 east and this pipe goes underneath the v-gutter and comes to this manhole and
43 routes the drainage out basically like a bike pass of any storm flow that comes to
44 us. There will be some retaining walls built along this line, but it is not needed
45 throughout because we are meeting grade at certain locations and we don't need
46 retention. Beyond that, we might be building you know vinyl; there are these new

1 vinyl fences or block walls or whatever the Municipal Code allows us. We know
2 now that it has to be a non-combustible material because of the fire hazards
3 concerned, so we will be looking into what materials are out there, but basically
4 in terms of walls; due to grading, it will be only within a certain length along the
5 property line.

6
7 **COMMISSIONER SALAS** – Okay... personally I'd like to see a block wall there
8 separating the R2 from the R1, but that is my opinion.

9
10 **CHAIR MARZOEKI** – Are there any other questions of the Applicant?

11
12 **COMMISSIONER BAKER** – What was the driving force in changing this from an
13 ideal situation of R1 where we would put 9 lots in here; correct and we're going to
14 14. Is that just to provide more housing or is that what fits this plot. Because if
15 we left 9 lots here, we wouldn't be going through this R1 to R2; is that correct or
16 am I reading this wrong?

17
18 **APPLICANT QOBORSI** – Correct

19
20 **COMMISSIONER BAKER** – I mean why screw it up. That's my opinion, but I'm
21 just thinking if it is R1 and I don't know what you guys agreed to earlier, but you
22 know I understand picking up five more houses. It generates a little more cash,
23 but you know I wondered what the driving force was to get five more houses in
24 this plot. Is that what fits in there or makes more money or what is the deal?

25
26 **APPLICANT QOBORSI** – Obviously the developer would like to have a feasible
27 project especially with all the requirements on this project for utility extensions
28 and retaining walls and so the main thing is the developer would like a profitable
29 project.

30
31 **COMMISSIONER BAKER** – Okay, so if you went with 9...

32
33 **APPLICANT QOBORSI** - I don't know if Naji has anything else to add but
34 basically yes, and then in the General Plan, it is already an R2 Zone and west
35 and north or it is R2 if I'm correct, so...

36
37 **COMMISSIONER BAKER** – I just wondered

38
39 **APPLICANT QOBORIS** – I hope I answered the question

40
41 **COMMISSIONER BAKER** – Okay

42
43 **CHAIR MARZOEKI** – Are there any other questions of the Applicant? Okay,
44 seeing none, I'll close Public Testimony portion of this item and open it up for
45 Commissioner Comments.

1 **PLANNING OFFICIAL TERELL** – Before you do that, a couple more items that
2 may have been covered but I think there is some additional information that
3 might help you in your deliberations. There was talk about the lighting. The
4 lighting standard before this subdivision if approved would be the same as the
5 standard subdivision lighting throughout town. I know on occasion, we have put
6 a condition to further control the spillage of light and certainly that would be an
7 appropriate condition to add to this subdivision should you want to. About
8 hooking up to the sewer system; there is no requirement for anyone to hook up to
9 the sewer system if their septic tank is maintained in good condition, so that
10 would not be a requirement just because the sewer line is there.

11
12 There was a question about large animals and the R2 zone does not allow large
13 animals, so just to clarify that this would not be an animal keeping area; just like
14 the areas to the north and west do not allow large animals. There was some
15 discussion on how the view would be affected. The two lots on the east end of
16 Mountain Ranch Road that are proposed are roughly 40,000 square feet. That is
17 the standard for the R1 zone, so any development on those lots we would
18 anticipate any block of view would be the same and then to the west there are
19 three lots and again those lots could easily comply with the R1 zone standard, so
20 it's really hard to say whether there would be three additional houses or two
21 there, but the addition of any homes would cause some blockage of view. And I
22 talked about the sewer line, so that's it. Thanks.

23
24 **CHAIR MARZOEKI** – Thank you. Any Commissioner Comments?

25
26 **COMMISSIONER GELLER** – I guess I'll start. I certainly have no problem
27 supporting an Oleander ban. I'll deal with a couple of things that I don't think
28 have been dealt with. Somewhere in every part of the City there is a transition
29 between animal keeping and non-animal keeping. I happen to live on animal
30 keeping adjacent to non-animal keeping and it's been that way for three or four
31 years and I'm not aware of any problems or complaints and it's too bad if they
32 don't like it. I mean as long as the people on our side maintain the animals within
33 the City's health and standards there is nothing the new houses can do and I'm
34 not aware where there have been problems, but yes I live on a street that is
35 adjacent to R5 and we are R1, so people do have animals right up to the block
36 wall that separates the two properties and I'm not aware of ever being a problem
37 that's not any different than other neighbors have.

38
39 Yes; the lighting has been addressed. The lighting is the lighting. I listened to
40 everything that everybody said and let's talk about what let's say is five houses. I
41 think from most perspectives, it's basically that's indistinguishable in terms of the
42 total lot size and everything else; you'd barely see the difference. Everyone has
43 this thing that oh they want to put in more houses. The fact is there is economic
44 viability of every project. First of all on this project they are giving away a bunch
45 of the land. The rock outcropping is unbuildable. It's a huge chunk of the land.

1 It's basically been given away, so actually the total density like I say is 1.5, which
2 isn't a significant departure from R1.

3
4 Number two is the huge utility extensions are staggeringly expensive. If they
5 ever succeed in building this project I don't think anyone is going to get rich from
6 it. I mean the cost of all the infrastructure they are required to do is staggering.
7 It's unbelievable. It's millions and millions of dollars. Five more lots make it
8 being economically viable and not and so I've listened to everything that
9 everybody said and I don't really... The complaints in general are all about any
10 houses at all. I didn't hear anything that I thought was really a significant issue
11 as to the zone change; why we should deny the zone change. I didn't hear
12 anything that really the five houses are going to make any difference.

13
14 Everyone one of the things that have been said; I think that all the real concerns
15 that people have, have been dealt with and there is always going to be
16 somewhere there is going to be a transition from one zone to the other. R1 is not
17 going to continue everywhere and like I say across the street in looking at the
18 aerial map, which is really a good indication of how everything fits in, I just don't
19 see it being incompatible, particularly with the huge amount of open space that
20 they have to leave for the rock outcropping, so like I say with all of the issues that
21 came up, I don't think any would be different whether they were building 9
22 houses or 14. There was nothing I heard that said wow these extra five houses
23 are going to be all the difference. Anytime any houses are built street safety is
24 an issue and that's what the Police are for.

25
26 Again, four or five any additional houses is not going to add to any traffic that is
27 going to measurable. Five detached single-family houses is not going to add
28 any measurable traffic and Mountain Ranch Road will be fully improved. That is
29 not trivial; both in cost and the benefit to all the neighbors. That is not a trivial
30 thing and that should resolve most of those traffic problems and if people are
31 speeding down your streets, there are remedies... the City will... well maybe they
32 will they have ways of dealing with speeding on any street, whether the houses
33 are built or not. Like I say, I always have a tough time in removing R1. We'd like
34 everyone to build large lot homes and it really would be nice, but both because of
35 the extensive infrastructure required in this project and "b' just the overall cost of
36 constructing one acre lots is unbelievable today. I mean, no one can afford a
37 house that's on an acre anymore; really.

38
39 Other issues that no one brought up in either direction were the larger the lot, in a
40 lot of ways is much more water consumption because you've got all this empty
41 land and you've got to landscape it or do something with it. Actually smaller lot
42 homes can reduce a lot of other issues and then the flooding will be resolved, so
43 actually the downstream neighbors are going to be much better off than they are
44 now when it's all done because they aren't going to have any more downstream
45 flooding. The law is very clear. You can't add to anybody's downstream flow but
46 here they are going to absorb it all. It is all going to be gone.

1 Right now, everything that goes on the property is allowed to drain into the
2 downstream neighbors but they are going to retain all the water they generate, so
3 actually the downstream neighbors are going to come much better if we ever do
4 get heavy rains again. So I cannot; I just don't see any rational reason not to
5 support this in its present form. I think they've jumped through the hoops and
6 again we have to look at each project on it's own merits and I just don't see that
7 this reduction in the zoning; you know particularly when we've heard people say
8 oh you shouldn't change the General Plan and here we're not changing the
9 General Plan, we're just changing the zoning. Sometimes we change the zoning
10 and not the General Plan and sometimes the other way around. I just don't see
11 that it is incompatible with this neighborhood in total. I just don't think anybody is
12 going to be harmed. I don't think any of the existing homeowners are going to be
13 harmed in any significant way if and when this project is ever built as approved.

14
15 As a matter fact, I think ultimately it will substantially help the people that are off
16 of Mountain Ranch Road adjacent to the project because they'll have a fully
17 improved street and again for the downstream neighbors they are going to have
18 much better water flow and potentially access to sewers, which may or may not
19 be significant at this moment, so I can't see any reason from what we've heard
20 and the report not to approve it. Thank you.

21
22 **CHAIR MARZOEKI** – Thank you

23
24 **COMMISSIONER SALAS** – Yes I think Commissioner Geller made a good point,
25 but he said co-existing between animals and non-animals and he said that the
26 residents that are right up to the block wall and I agree with that. I think that
27 should be a buffer between R1 and R2. It would help divide the property. I think
28 that the block wall gives the R1 people a little more privacy; a little more to keep
29 their R1 feeling. Not knowing what kind of fence is going to be put there, I think a
30 block wall is almost a necessity there and yes they can co-exist but with a solid
31 barrier there between the two, R1 and R2, I think that it would appease the R1
32 people a little but it would just help them out, so I agree with this project; we can
33 do it, but I'd like to see a block wall there.

34
35 **CHAIR MARZOEKI** – Thank you

36
37 **COMMISSIONER DE JONG** – I'm actually going to offer a different viewpoint
38 and although my voting record I think shows that I've been in favor of
39 development many, many times, zone changes are certainly discretionary and
40 I've really been weighing this heavily and the arguments that I've heard so far
41 tonight are indeed true; compelling, but I don't think there is enough compelling
42 reason in my mind to go ahead and change it. I think that it's reasonable
43 expectation I think when people live in the area that their quality of life shouldn't
44 be changed and addressed the way that I think that we've heard and although
45 Foresight Engineering has done a diligent job, I think that the project would be in

1 my mind a better project if it was remaining at the nine houses and I will not
2 support the zone change. Thank you.

3
4 **COMMISSIONER BAKER** - Yes I was just doing a little calculating here with that
5 rock crop area. I mean really ideally to keep this an R1, all you could put in there
6 if you keep in one acre as an R1, you can only put six or seven houses in this
7 project the way it is set up. Is that correct? Because you've got 9.5 acres and it
8 looks like you're taking about a sixth of it out with the rock crop out. I don't know
9 what that acreage is, but you can't even put nine houses on that property and be
10 a true R1 or am I looking at it wrong.

11
12 **PLANNING OFFICIAL TERELL** – Well I wouldn't call it wrong.

13
14 **COMMISSIONER BAKER** – Well it has to be an acre per lot right to be an R1?

15
16 **PLANNING OFFICIAL TERELL** – Yes but the rock outcropping can be within
17 those lots, so the acre could include or a portion of the lot can be the
18 outcropping. Really the existing lots... Commissioner Geller is correct also,
19 because of the configuration of the rock outcroppings they can't achieve two
20 units per acre; it's not possible, but if they were only allowed to achieve one unit
21 per acre, they could still use the rock outcropping to cover a portion of that
22 minimum lot size, so I have no doubt that they could easily put nine houses on
23 this parcel or property and still meet the R1 standards.

24
25 **COMMISSIONER BAKER** – Okay and I still know the expense of this utility. I've
26 done some of that work and I don't know what's going to be; several million
27 dollars running that. That's a half mile there and if you spread that over less than
28 the nine or even fourteen and I don't know what the charge is going to be even
29 on the fourteen houses. It's going to be astronomical on that project. Personally
30 myself, because none of the other areas on septic, I don't know how this thing is
31 going to fly and somebody is going to be able to afford to buy a house in that
32 tract with today's cost. I don't if anybody has done a cost study on what those
33 utilities are going to be, but that's going to be astronomical even on fourteen lots.

34
35 **COMMISSIONER GELLER** – Yes, that's not really our...

36
37 **COMMISSIONER BAKER** – Yes, I know that, but that's something you've got to
38 think about if we're getting to change that to an R2 and go through all those
39 hoops and this thing isn't even going to work financially, why do it.

40
41 **COMMISSIONER GELLER** - Well it's not our job to determine whether it's
42 financially feasible.

43
44 **COMMISSIONER BAKER** – But it's financially feasible, right...

45
46 **PLANNING OFFICIAL TERELL** – Finances as they say...

1 **COMMISSIONER BAKER** – Feasible, yes, let’s put it that way. And that’s out of
2 our deal too; feasibility?

3
4 **PLANNING OFFICIAL TERELL** – Right and to make it feasible obviously they
5 have to be able to develop the lots and sell them and in the nature of this
6 development regardless of the zoning will result in the need for the houses to be
7 very expensive in order to justify and really at the peak of the last boom we were
8 seeing some very large houses being here built in town on acreages of half an
9 acre and smaller and so it’s a question if probably if it’s feasible it’s just when it’s
10 feasible and as Commissioner Geller said it’s going to be feasible sooner with
11 fourteen lots than nine, but again making it feasible is not the Planning
12 Commission’s job.

13
14 **COMMISSIONER BAKER** – I under stand that... okay

15
16 **CHAIR MARZOEKI** – Is that it?

17
18 **COMMISSIONER BAKER** – That’s it

19
20 **CHAIR MARZOEKI** – Okay. Yes this is a difficult project because you listen to
21 what the neighbors have to say about the project and then you listen to what the
22 developer really has to say about the project or the engineer has to say about the
23 project as well. I know that we can’t take into consideration that it’s economically
24 feasible or anything like that, but staying an R1 is going to be very expensive and
25 the homes will be very expensive. Working for an engineering firm myself, I
26 understand all the stuff that goes on and the costs that are included in developing
27 a tract this small; this infill project. It’s very costly. I feel that it is compatible with
28 the neighborhood. I agree with Commissioner Geller on that, that it is
29 compatible. I see that there are some benefits to this as well. Yes you are
30 getting five additional homes that you probably wouldn’t get there but I see that
31 you are going to get the improvements to Mountain Ranch Road; helps with your
32 drainage issues that you are having right now; especially Mrs. Smith you have
33 some drainage issues right now, so it should help with those drainage issues.
34 It’s just a very difficult thing to do to you know to change this, but the land use
35 designation already in the General Plan is R2, so we’re only changing the zoning
36 and not the land use designation that was in the General Plan and I don’t know
37 why we had it in the General Plan as R2, but it was there.

38
39 **PLANNING OFFICIAL TERELL** – It’s been R2 in the General Plan since the first
40 City’s General Plan in 1987, so it was not changed, it was just kept the same.

41
42 **CHAIR MARZOEKI** – Okay, so the R1 is then from the Riverside County days?

43
44 **PLANNING OFFICIAL TERELL** – No the R1 zoning was put in place in 1992,
45 but the General Plan of R2 was put in place in 1987 and why there is a
46 difference... It is not uncommon in places to wait until a development comes

1 forward in order to permit the zoning to change. That's certainly occurred in
2 many places including here where there was a difference in the underlying land
3 use from the zoning. Under the County probably I think they had a combining
4 zone that was lower density that I think was called W2 or something like that and
5 I'd have to check the map to see if that applied to this particular property, but it
6 was a large lot similar to what was developed out there.

7
8 **CHAIR MARZOEKI** – Okay and I do agree with Commissioner Salas when you
9 talk about the block wall along the south end. I think that's great to have that
10 dividing line.

11
12 **COMMISSIONER GELLER** – The east end or the south side?

13
14 **CHAIR MARZOEKI** – I think it's the south side that actually abuts up to the R1
15 properties; yes...

16
17 **PLANNING OFFICIAL TERELL** – Yes, and that would include the east that the
18 Applicant has already talked about. To the east there is only a portion of the east
19 that would have a block wall because we wouldn't put a block wall over the rock
20 outcroppings, but certainly outside that area, I think the Applicant has already
21 agreed to that.

22
23 **COMMISSIONER GELLER** – Do you want to see if the Applicant is in agreement
24 to putting a block wall on the south, because I think they are running out of
25 materials anyway that are fire-resistant. I think they're choices are going to be
26 limited.

27
28 **CHAIR MARZOEKI** – Right I can see that. Okay... well I can open up the Public
29 Testimony portion and call the Applicant back forward. So is there a problem
30 with having a block wall on the south end of this project?

31
32 **APPLICANT KAVORSKY** - No we are in agreement with that.

33
34 **CHAIR MARZOEKI** – Okay

35
36 **PLANNING OFFICIAL TERELL** – Yes, again I think that would be where the lots
37 butt up to the adjacent... A lot of the south side of the property is the water
38 quality basin. Are we looking at having a block wall there also?

39
40 **COMMISSIONER SALAS** – That whole property; I think it should be divided all
41 the way down.

42
43 **PLANNING OFFICIAL TERELL** – Right, because they'll be a distance between
44 the homes where the water quality basin exists.

1 **COMMISSIONER SALAS** – Are you talking about the little pie right there on the
2 corner John?
3
4 **PLANNING OFFICIAL TERELL** – Correct
5
6 **CHAIR MARZOEKI** – And what are we proposing for that?
7
8 **PLANNING OFFICIAL TERELL** – Typically those are surrounded by wrought
9 iron fencing. It doesn't include a block wall.
10
11 **CHAIR MARZOEKI** – Does it have to do with access?
12
13 **PLANNING OFFICIAL TERELL** – It generally has to do with visibility because if
14 you put a block wall around it then it provides a place where people if they jump
15 over the wall, it's kind of a hiding place, so we try to discourage solid walls
16 around those and currently the standard has evolved. I know the Planning
17 Commission had concerns about the appearance of them but the later ones are
18 very attractive the way they are landscaped.
19
20 **CHAIR MARZOEKI** – Okay... I'm okay with that then
21
22 **COMMISSIONER GELLER** – Yes I think they have to use the metal because of
23 visibility; it's too bit an area to have this private from a security standpoint.
24
25 **CHAIR MARZOEKI** – Yes, that's true.
26
27 **COMMISSIONER SALAS** – John, I'm looking at the map. Isn't there an existing
28 house there or existing residence there?
29
30 **PLANNING OFFICIAL TERELL** – Yes there is.
31
32 **COMMISSIONER SALAS** – Yes there is there...I'm just saying, In other words,
33 for anybody to hide; whether they have to go through her yard to jump that fence
34 or else jump through that other fence over there...
35
36 **PLANNING OFFICIAL TERELL** – Or from the north...
37
38 **COMMISSIONER GELLER** – I don't see any reason that segment can't be block.
39
40 **COMMISSIONER SALAS** - Really I can't neither. I think it should be.
41
42 **PLANNING OFFICIAL TERELL** – I wasn't saying it couldn't, I was just trying to
43 clarify you're request just so the Applicant was clear.
44
45 **COMMISSIONER SALAS** – I'd like to see the block wall all the way through
46 myself.

1 **APPLICANT QOBORSI**– And we have no objection to that on the south side.
2
3 **CHAIR MARZOEKI** – Okay, but not on the water quality basin?
4
5 **COMMISSIONER SALAS** – No, on the water quality basin too
6
7 **PLANNING OFFICIAL TERELL** – My understanding is that the Applicant has
8 agreed to the whole south side and what we would do is we would end up with
9 open fencing on the north side.
10
11 **CHAIR MARZOEKI** – Okay...on the north side; okay. Okay, there were issues
12 brought up about the lighting standards and none of the Commissioners brought
13 that up so I would like to talk a little bit about that as well. We were looking at
14 some green standards. Does the City have green standards for lighting?
15
16 **PLANNING OFFICIAL TERELL** – We don't have a standard but we have other
17 subdivisions where land development... we do additional shielding on the lights.
18 Again if was added as a condition of approval.
19
20 **CHAIR MARZOEKI** – Okay, because I think that is something that we need to
21 talk about as well.
22
23 **PLANNING OFFICIAL TERELL** – I think there was some talk about using a
24 different kind of energy
25
26 **CHAIR MARZOEKI** – Solar I guess, huh
27
28 **PLANNING OFFICIAL TERELL** – Solar or LED's or whatever
29
30 **COMMISSIONER GELLER** – The problem is the sun is not shining at night
31
32 **PLANNING OFFICIAL TERELL** – Yes I'm not aware of solar ones but LED's
33 obviously are much more effective and right now there is not a policy on that
34 either by Edison who would have these street lights or the City's utility, but they
35 are looking into it right now so I'm sure that may well become the standard within
36 a short period of time and this property would have to meet whatever standards
37 are in place at the time of development.
38
39 **CHAIR MARZOEKI** – That's great. That's great, okay. I guess that's really all
40 that I have to say about this. Did anybody else want to address anything else
41 before we ask for a motion? No, okay, does somebody want to make a motion?
42
43 **UNKNOWN SPEAKER** – Can I ask a question?
44
45 **CHAIR MARZOEKI** – Okay, just this once. Just this once, come on up to the
46 microphone and say your name and address for the record.

1 **SPEAKER BRENDA ARBELLO** – My name is Brenda Arbello and I live on Vista
2 de Cerros, but you were talking about the cost of putting in all the improvements
3 of sewers and that sort of thing and I understand that. What is the option of
4 keeping it at one acre lots and having them put septic in? I mean that just
5 reduces all of that sewer and you know that's a huge cost.

6
7 **PLANNING OFFICIAL TERELL** – I'd defer to the Applicant, but my
8 understanding from what's been talked about is that the percolation is very poor
9 because of the rocky soil, so even one acre lots under the current standards may
10 not permit septic tanks. So we don't know the answer to that, but that's a good
11 point. They're not required to have sewers with half acre lots either, but I think
12 the idea is and they may want to answer this but based on the soil studies,
13 sewers may be required either way and I wouldn't be surprised if that was the
14 case.

15
16 **SPEAKER BRENDA ARBELLO** – All of us there are on septic

17
18 **COMMISSIONER SALAS** – Everybody there is on septic

19
20 **PLANNING OFFICIAL TERELL** – They are on septic currently; correct; yes

21
22 **SPEAKER BRENDA ARBELLO** - That's all

23
24 **CHAIR MARZOEKI** – Okay, thank you. So do we want to let the Applicant
25 address that?

26
27 **COMMISSIONER GELLER** – That's not what is in front of us

28
29 **CHAIR MARZOEKI** – Okay, well then I'll close Public Testimony

30
31 **PLANNING OFFICIAL TERELL** – I think the idea is you can consider that
32 obviously either under R2 or R1. The sewer system is not required so you're
33 approval doesn't require a sewer system but the Applicant has determined that's
34 what is necessary for this project if it's approved.

35
36 **CHAIR MARZOEKI** – Right, okay

37
38 **COMMISSIONER GELLER** – I'll make a motion. Okay and just so we're clear, I
39 think the changes that we had agreed to in addition to the CCNR's to prohibit
40 Oleander anywhere on the project and that the south side be covered by a block
41 wall designed with the approval of the...

42
43 **PLANNING OFFICIAL TERELL** – And the east side...

44
45 **COMMISSIONER GELLER** – And the east side designed with the approval of
46 the Community Development Director or whoever does those things.

1 **PLANNING OFFICIAL TERELL** – Yes that is done as part of the fence and wall
2 plan
3
4 **COMMISSIONER SALAS** – Is the heighth...are we going to name a heighth?
5
6 **COMMISSIONER GELLER** – 6 foot is the standard ...
7
8 **COMMISSIONER SALAS** – Is 6 feet the standard?
9
10 **PLANNING OFFICIAL TERELL** – 6 feet is the standard, yes
11
12 **COMMISSIONER GELLER** – Okay, is that it? I don't think we had agreed to any
13 other...
14
15 **PLANNING OFFICIAL TERELL** – So the lighting you hadn't agreed to
16
17 **CHAIR MARZOEKI** – Yes we had discussed it but does anybody have anything
18 to say about the lighting?
19
20 **COMMISSIONER GELLER** – I'll just say they put in new lights... I mean our
21 street has new lights because they didn't have lights before. They disappear... I
22 mean there is a pool of light and then it's dark on both sides and they don't have
23 anything special. I mean these bulbs that they use beam down and that's the
24 end of it. I mean it's amazing. You go between street light and street light and
25 its dark and they are built according to the modern standard you know the eight
26 widths apart and it is really dark. I mean the light just doesn't emit very far at all.
27 As a matter of fact, you could be driving and you'll think the bulb is not on until
28 drive under it, so I don't know if there is anything on the modern... These are the
29 brand new light fixtures and I don't know if there is anything more could be done
30 or should be done.
31
32 **CHAIR MARZOEKI** – Yes, except for the solar or the energy which will be part of
33 this also if they change it.
34
35 **COMMISSIONER SALAS** – So, John if the City of Moreno Valley accepts the
36 light efficient or LED or whatever; going green, will this tract be subject to
37 compliance with that even if it's not built by that time?
38
39 **PLANNING OFFICIAL TERELL** – Yes if it's not built by the time the standard
40 changes and I would anticipate that standard will probably change within the next
41 year or so, they would have to meet that new standard.
42
43 **CHAIR MARZOEKI** – Yes okay
44

1 **COMMISSIONER GELLER** – Okay, so those are the only changes, so I make a
2 motion that we **APPROVE** Resolution No. 2009-20, **RECOMMENDING** that the
3 City Council:

- 4 1. **ADOPT** a Mitigated Negative Declaration for PA05-0069 Change of zone and
5 PA005-0071 Tentative Tract Map No. 32388 in that, as designed and
6 Conditioned as amended this project will not result in significant
7 Environmental impacts,
- 8 2. **APPROVE** PA05-0069 Change of Zone based on the findings contained in
9 the Resolution and as shown on the attachment included as Exhibit A of the
10 Resolution; and,
- 11 3. **APPROVE** PA05-0071 Tentative Tract Map No. 32388 based on the findings
12 contained in the Resolution and subject to the Conditions of Approval as
13 amended attached as Exhibit B of the Resolution.

14
15 **CHAIR MARZOEKI** – We have a motion. Do we have a second?

16
17 **COMMISSIONER SALAS** – I'll second

18
19 **CHAIR MARZOEKI** – Is there any discussion? All those in favor?

20
21 Opposed – 1, Commissioner De Jong

22
23 **Motion carries 4 – 1, with one Opposed, (Commissioner De Jong) and two**
24 **absent (Vice Chair Riechers and Commissioner Dozier)**

25
26 **CHAIR MARZOEKI** – Staff wrap up please

27
28 **PLANNING OFFICIAL TERELL** – Yes this recommendation will be forwarded to
29 the City Council for final review and action and just for those in audience, there
30 will be a separate notice that will come out to everyone within 300 feet for that
31 Hearing, but we haven't scheduled it yet so I can't give you a specific date yet.

32
33 **CHAIR MARZOEKI** – Thank you. Good luck. Moving on to Item 800, Other
34 Business

NEGATIVE DECLARATION

PROJECT TITLE AND FILE NUMBER: Tentative Tract Map No. 33288 (PA05-0071) and Cahnge of Zone (R1 to R2, PA05-0069)

PROJECT APPLICANT: Elie Abinader, John Klaeb and Naji Doumit

TELEPHONE NUMBER: (714) 542-1214, Suhair Qoborsi, Foresight Engineering (Representative)

PROJECT LOCATION: South side of Mountain Ranch Road at Northshore Drive

PROJECT DESCRIPTION: Tentative Tract Map No. 32388 proposes to subdivide approximately 9.5 acres into 14 lots for single-family residential development. The proposed project includes perimeter street improvements (Mountain Ranch Road) and off-site utility and infrastructure improvements (sewer and storm drain). Proposed residential lot sizes range from 20,000 square feet to 39,000 square feet. The proposed use and density are consistent with the existing Residential 2 General Plan land use designation and the proposed Residential 2 zoning district.

FINDING

The City of Moreno Valley has reviewed the above project in accordance with the City of Moreno Valley's Guidelines for the Implementation of the California Environmental Quality Act, and has determined that an Environmental Impact Report need not be prepared because:

- [] The proposed project will not have a significant effect on the environment.
- [X] Although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because mitigation measures described in the attached Initial Study and hereby made a part of this Negative Declaration have been added to the project. The Final Conditions of Approval contain the final form and content of all mitigation measures.

This determination is based upon an Initial Study. The project file, including the Initial Study and related documents is available for review during normal business hours (8:00 a.m. to 5:00 p.m. Monday through Friday) at the City of Moreno Valley, Community Development Department, Planning Division, 14177 Frederick Street, Moreno Valley, California 92553, Telephone (951) 413-3206.

PREPARED BY: Kathleen Dale
Associate Planner

DATE: June 5, 2009

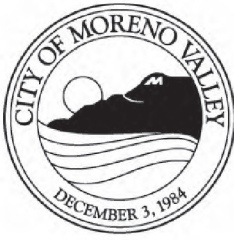
NOTICE

The public is invited to comment on the Negative Declaration. The appropriateness and adoption of the Negative Declaration is considered at the time of project approval in light of comments received.

DATE ADOPTED:

BY: City Council

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**INITIAL STUDY/
ENVIRONMENTAL CHECKLIST FORM
CITY OF MORENO VALLEY**

1. **Project Title:** Tentative Tract Map 32388 and Change of Zone from R1 to R2
Case Numbers PA05-0069 and PA05-0071
2. **Lead Agency Name and Address:** City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92553
3. **Contact Person and Phone Number:** Jeff Bradshaw, Associate Planner
951.413.3224
4. **Project Location:** On the south side of Mountain Ranch Road at Northshore Drive
5. **Project Sponsor's Name and Address:** Elie Abinader, John Klaeb and Naji Doumit
9634 Washburn Road
Downey, CA 90241
6. **General Plan Designation:** Residential 2 (R2) – intended for suburban style single-family residential development in a rural atmosphere, at a maximum density of two dwelling units per acre
7. **Zoning:** Existing zoning is Residential 1 (R1 – maximum density of one dwelling unit per acre). The proposed project includes a change of zone to Residential 2 (R2, maximum two dwelling units per acre). The proposed zone change is consistent with the existing General Plan land use designation of R2.
8. **Description of the Project:**

Tentative Tract Map No. 32388 proposes to subdivide approximately 9.5 acres into 14 lots for single-family residential development. The proposed project includes perimeter street improvements (Mountain Ranch Road) and off-site utility and infrastructure improvements (sewer and storm drain). Proposed residential lot sizes range from 20,000 square feet to 39,000 square feet. The proposed use and density are consistent with the existing Residential 2 General Plan land use designation and the proposed Residential 2 zoning district. While the preliminary grading plan identifies driveway and pad configurations on each of the lots, at this time, the requested approval does not include architectural plans.

ATTACHMENT 8

The site is vacant and is characterized by a locally prominent, rock-covered knoll. A series of basins were previously created on the site; the timing or purpose is not known. The proposed development plan preserves the knoll within portions of several of the residential lots that will be restricted to open space use.

The proposed development includes a lot in the southwest corner of the site for a water quality basin. A homeowners association will be required to provide for long-term management of the basin. If necessary, the association could also assume responsibilities for ongoing management of the preserved knoll and related fencing.

Off-site improvements will be located within an expanded easement across an adjoining residential parcel to the south (the applicant has obtained written consent from the affected owner), continuing in existing rights-of way. Work will occur within previously disturbed areas associated with existing homes and roads.

Figure 1 provides the proposed project layout.

9. Surrounding Land Uses and Setting:

Land use in the project area is a mix of residential subdivisions, and custom homes in hillside and rural settings. The surrounding properties are primarily designated for single-family residential uses at the R2 density. The hillside that rises to the northeast at the terminus of Mountain Ranch Road is designated for Hillside Residential uses.

The project site is bordered by Mountain Ranch Road on the north with established R2 subdivisions generally to the west and north. The area generally northeast of the site is characterized by custom hillside residential lots accessed by Mountain Ranch Road (two lots presently undeveloped) and Kalmia Avenue (all lots are developed). Land to the east and south is characterized by established rural residential development on lots ranging from approximately 0.6 acre to 5 acres in area.

Figure 2 provides a recent aerial photograph of the project site and vicinity.

10. Other public agencies whose approval is required (e.g. permits, financing approval, or participation agreement).

No known.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below () would be potentially affected by this project, involving at least one impact that is a “Potentially Significant Impact” as indicated by the checklist on the following pages.

<input type="checkbox"/>	Aesthetics	<input type="checkbox"/>	Hazards & Hazardous Materials	<input type="checkbox"/>	Public Services
<input type="checkbox"/>	Agricultural Resources	<input type="checkbox"/>	Hydrology/Water Quality	<input type="checkbox"/>	Recreation
<input type="checkbox"/>	Air Quality	<input type="checkbox"/>	Land Use/Planning	<input type="checkbox"/>	Transportation/Traffic
<input type="checkbox"/>	Biological Resources	<input type="checkbox"/>	Mineral Resources	<input type="checkbox"/>	Utilities/Service Systems
<input type="checkbox"/>	Cultural Resources	<input type="checkbox"/>	Noise	<input type="checkbox"/>	Mandatory Findings of Significance
<input type="checkbox"/>	Geology/Soils	<input type="checkbox"/>	Population/Housing	<input type="checkbox"/>	

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.	
I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.	X
I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.	
I find that the proposed project MAY have a “potential significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.	
I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.	

Kathleen Dale

Date

EVALUATION OF ENVIRONMENTAL IMPACTS

- 1) A brief explanation is required for all answers except “No Impact” answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A “No Impact” answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g. the project falls outside a fault rupture zone). A “No Impact” answer should be explained where it is based on project-specific factors as well as general standards (e.g. the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. “Potentially Significant Impact” is appropriate if there is substantial evidence that an effect may be significant. If there are one or more “Potentially Significant Impact” entries when the determination is made, an EIR is required.
- 4) “Negative Declaration: Potentially Significant Unless Mitigation Incorporated” applies where the incorporation of mitigation measures has reduced an effect from “Potentially Significant Impact” to a “Less Significant Impact.” The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section 17, “Earlier Analysis,” may be cross-referenced).
- 5) Earlier analysis may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063 (c) (3) (d). In this case, a brief discussion should identify the following:
 - (a) Earlier Analysis Used. Identify and state where they are available for review.
 - (b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - (c) Mitigation Measures. For effects that are “Less than Significant with Mitigation Measures Incorporated,” describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g. general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project’s environmental effects in whatever format is selected.
- 9) The analysis of each issue should identify: (a) the significance criteria or threshold used to evaluate each question; and (b) the mitigation measure identified, if any, to reduce the impact to less than significance.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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1. AESTHETICS. Would the project:				
a) Have a substantial adverse effect on a scenic vista?			X	
<p>The project site is located at the base of the hills that define the north edge of the City. The General Plan Conservation Element (Figure 7-2) recognizes a view corridor projected across this area, providing views of the upper slopes of the hills. In this context, the project site is an infill location within the developed landscape at the base of the hills. As designed and conditioned, the project will not have a substantial adverse effect on designated scenic vistas.</p> <p>Limited views of the valley floor are enjoyed from the existing homes on the north side of Mountain Ranch Road. These views are interrupted by the on-site knoll and additional peaks in the area south of Ironwood Avenue. The vertical depth of the view is confined by the existing development to the south. Future construction of homes, and landscaping, will create additional features that can be expected to further interrupt existing views. In the context of the currently limited nature of views, the potential impact is considered less than significant.</p>				
b) Substantially damage scenic resources, including, but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?			X	
<p>There are no state scenic highways in the vicinity of the site. The project area is visible from State Route 60, which is designated as a scenic route in the City of Moreno Valley General Plan. As designed and conditioned, the project will blend into the surrounding developed landscape and will not substantially damage scenic resources visible from a scenic highway.</p>				
c) Substantially degrade the existing visual character or quality of the site and its surroundings?			X	
<p>The project site is characterized by a locally-prominent knoll. Due to the nature of surrounding topography and development, this feature is only visible to residents and visitors in the immediate vicinity. The project design preserves the knoll within open space features of Lots 9 through 14. The project conditions of approval require preservation easements and a uniform fencing plan to ensure protection of the visual character of this locally prominent natural feature.</p>				
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?			X	
<p>The proposed project will introduce new street lights and various sources of light on the individual lots. Municipal Code requirements, including the shielding of lighting and restrictions on the intensity of exterior lighting, reduce the potential for substantial light and glare impacts on surrounding properties.</p>				
2. AGRICULTURE RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project?				
a) Convert Prime Farmland, Unique Farmland or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency to non-agricultural use?				X
<p>The site is not identified as Prime Farmland, Unique Farmland or Farmland of Statewide Importance on the official farmland maps prepared pursuant to the California Department of Conservation Farmland Mapping and Monitoring Program (Riverside County Important Farmland 2006, published October 2008).</p>				
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
<p>The site is not currently in agricultural use, or under Williamson Act control. There is no existing surrounding zoning for agricultural use, and no surrounding sites are under Williamson Act contract.</p>				
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?				X
<p>The site is surrounded by residential development. While historical photos indicate the level, western portion of the site may have been dry farmed in the past, the site is not currently under agricultural use and there are no known records of recent agricultural use. The proposed residential development does not present the potential for changes in the environment that would result in conversion of Farmland at this site or beyond the project limits.</p>				

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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3. **AIR QUALITY:** Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?				X
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The Air Quality Management Plan (AQMP) for the South Coast Air Basin sets forth a comprehensive program that will lead the air basin into compliance with all federal and state air quality standards. The AQMP control measures and related emission reduction estimates are based upon emissions projections for a future development scenario derived from land use, population, and employment characteristics defined in consultation with local governments. Accordingly, conformance with the AQMP for development projects is determined by demonstrating compliance with local land use plans and/or population projections. The proposed project is consistent with the existing General Plan land use designation and, on this basis, would not conflict with or obstruct implementation of the AQMP.

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation.			X	
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The proposed residential project will contribute emissions of criteria pollutants during both the construction and operation phases. Based upon the residential nature of the project, the limited scale of the project, and emissions control and reduction programs under the adopted AQMP, the proposed project does not present the potential to violate any air quality standard or contribute substantially to an existing or projected violation.

c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?			X	
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The South Coast Air Basin is in non-attainment status for ozone, carbon monoxide (CO), nitrogen dioxide (NO₂), and particulate matter (PM₁₀).

CEQA Section 21100 (e) addresses evaluation of cumulative effects, allowing the use of approved land use documents in a cumulative impact analysis. CEQA Guidelines Section 15064 (h)(3) further stipulates that for an impact involving a resource that is addressed by an approved plan or mitigation program, the lead agency may determine that a project's incremental contribution is not cumulatively considerable if the project complies with the adopted plan or program. In addressing cumulative effects for air quality, the AQMP is the most appropriate document to use because the AQMP sets forth a comprehensive program that will lead the air basin, including the project area, into compliance with all federal and state air quality standards. The AQMP compliance program includes control measures and related emission reduction estimates based upon emissions projections for a future development scenario derived from land use, population, and employment characteristics defined in consultation with local governments.

Since the proposed project is consistent with the existing Residential 2 land use designation under the City's General Plan and the project would not generate significant pollutant levels on an individual basis, it is appropriate to conclude that the proposed project would not result in a cumulatively considerable increase in criteria pollutant emissions for which the basin is in non-attainment status.

d) Expose sensitive receptors to substantial pollutant concentrations?				X
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The proposed residential project is not a source of substantial pollutants and there are no sources of substantial pollutants in the project vicinity that would expose future residents to substantial pollutant concentrations.

e) Create objectionable odors affecting a substantial number of people?				X
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The proposed residential project does not present the opportunity for creation of objectionable odors affecting a substantial number of people.

4. **BIOLOGICAL RESOURCES.** Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U. S. Fish and Wildlife Service?			X	
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A biological resources survey consisting of a records search and site inspection was conducted by a qualified biologist (P & D Consultants March 18, 2008). The biologist characterized the project site as disturbed by grading and discing, with a level field in the west portion of the site and hilly terrain in the east portion of the site. Surveys also included off-site areas to be disturbed due to utility extensions. No sensitive or special status species were observed or detected in the course of the field survey.

In light of observation of potentially suitable habitat for burrowing owl, a focused burrow survey was conducted in accordance with provisions of the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP). No owl burrows, potential owl

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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burrows, direct observations of burrowing owls or signs of burrowing owls were observed in the course of the focused burrow survey. As required under the MSHCP, the project conditions of approval include a requirement for pre-construction surveys to confirm status of the species on the site immediately prior to grading.

b) Have a substantially adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U. S. Wildlife Service?				X
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Several man-made basins are present on the site. On the basis of observations of plant species, soils and hydrology, the project biologist determined that the basins are not subject to regulation under applicable state and federal regulatory programs, nor are they subject to Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) policies directed at protection of riverine and riparian resources. The project biologist did not identify any sensitive natural communities on the site.

c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X
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There are no wetland resources on the site.

d) Interfere substantially with the movement of any resident or migratory fish or wildlife species or with established native resident migratory wildlife corridors, or impede the use of native wildlife nursery sites?				X
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There is no evidence that the site supports these habitat resources.

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?			X	
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The project site is removed from the hillsides and the San Jacinto Wildlife Preserve areas that are the focus of local biological resources preservation programs. The few pepper trees that are on the site will be replaced many times over by the street trees that will be required in accordance with City regulations, as monitored through established plan check and inspection procedures. Further tree plantings are also reasonably expected in conjunction with landscaping of future homes on the proposed lots.

f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservation Community Plan, other approved local, regional, or state habitat conservation plan?				X
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The project site is within the plan area for the Western Riverside Multiple Species Habitat Conservation Plan (MSHCP). The project site is outside the plan Criteria Area, does not support riparian resources, and is not within the special survey areas designated under the plan for narrow endemic plants, small mammals, or amphibians. Project surveys included a habitat assessment and burrow surveys for burrowing owl; conformance to MSHCP provisions for burrowing owl is addressed under item 4a, above. Standard City conditions of approval provide for collection of MSHCP fees prior to issuance of building permits. These fees provide for general support of MSHCP conservation and management programs.

The project site is also within the plan area for the Stephens' Kangaroo Rat Habitat Conservation Plan. Plan implementation is at a stage where all reserve lands have been acquired. Project obligations under this plan are now limited to a simple fee payment that funds long-term reserve management. Payment of SKR fees is a standard City condition of approval and must be complied with prior to issuance of grading permits.

5. CULTURAL RESOURCES. Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?				X
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b) Cause a substantial adverse change in the significance of archaeological resources pursuant to Section 15064.5?				X
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(a and b) The project site is within an area that is identified as potentially sensitive for prehistoric archaeological resources (Reche Hills Complex as identified on General Plan EIR Figure 5.10-2). In accordance with General Plan EIR Mitigation Measure C1, a cultural resources survey consisting of a records search and site inspection was conducted by a qualified archaeologist (Michael Brandman Associates, March 18, 2008). No pre-historic, historic, or Native American sites or isolated finds were identified on the project site (including disturbance areas for associated utility improvements). Survey efforts also included an inquiry to the Native American Heritage Commission and direct notification to eleven tribal entities. There were no responses from any tribal representatives.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				X
The project site is not within an area identified as potentially sensitive for paleontological resources (General Plan EIR Figure 5.10-3).				
d) Disturb any human remains, including those interred outside of formal cemeteries?				X
There is no reasonable basis to suspect that project activities will disturb human remains.				
6. GEOLOGY AND SOILS. Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving:				
(i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				X
According to geotechnical information developed as part of the City's General Plan, the project site is not on, or close to, any known earthquake fault. The project-specific geotechnical investigation (Quartech Consultants, February 14, 2005) did not reveal any new information that would indicate the existence of a fault or fault trace in proximity of the site. Accordingly, there is no risk of ground rupture due to faulting at the proposed project site.				
(ii) Strong seismic ground shaking?			X	
The project site is within a region that is susceptible to strong seismic ground shaking. The nearest known fault is the San Jacinto fault system, which is located about 2 miles to the northeast. The San Andreas fault system is located approximately 12 miles to the northeast of the site, and the Elsinore fault zone is located approximately 22 miles to the southwest of the site. Standard building code regulations require investigation of ground shaking hazards and incorporation of known engineering practices in project design to address any ground shaking hazards identified in the investigation. Established City procedures for plan check, permit issuance, and building inspection ensure incorporation of engineering recommendations in project design and construction.				
(iii) Seismic-related ground failure, including liquefaction?			X	
While ground-shaking intensity could possibly be moderately-high, water table and soil conditions that would also contribute to seismic-related failure are not present in the project area.				
(iv) Landslides?				X
Environmental conditions presenting the potential for landslide hazard are absent at the project site.				
(b) Result in substantial soil erosion or the loss of topsoil?			X	
In the construction phase, exposed soils on the project site may be prone to erosion as a result of exposure to both wind and rain. Established regulatory programs of the South Coast Air Quality Management District (SCAQMD) and the California Regional Water Quality Control Board (RWQCB) require implementation of known best management practices during construction. The Stormwater Pollution Prevention Plan required for compliance with RWQCB regulations details the applicable measures, the location of application, the timing of application, and responsibility for monitoring and maintenance of erosion control measures. Established City programs for grading permit issuance and construction inspection ensure that the erosion control plans are implemented during construction and that erosion impacts during project construction are less than significant.				
Once completed, the buildings, paving, landscaping, and water quality basin that will occupy the site will establish a condition presenting negligible potential for soil erosion.				
(c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?			X	
According to geotechnical information developed as part of the City's General Plan, the project site is not known to be exposed to any unstable geologic or soil conditions. The site-specific analysis included evaluation of stability of exposed rocks on natural slopes to remain above proposed residential pads. The geologist's opinion is that the rocks on these natural slopes are stable, with a further recommendation for construction of a debris catchment wall adjacent to Lots 12 and 14 (Quartech Consultants letter dated January 21, 2009). The recommended wall is identified on the preliminary grading plan. Established City procedures for plan check, permit issuance, and building inspection ensure incorporation of engineering recommendations in project design and construction.				

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
(d) Be located on expansive soil, as defined in Table 18-a-B of the Uniform Building Code (1994), creating substantial risks to life or property?			X	
The project site is not known to support expansive soils. As provided for in the conditions of approval, the applicant must provide a soils and geologic report to City Public Works Department prior to issuance of grading permits. In the unanticipated event the report identifies expansive soils, known engineering design practices will be recommended to alleviate the potential for substantial risks to life or property. Established City plan check and permit procedures provide for incorporation of engineering recommendations in project design and construction.				
(e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				X
The proposed project will be served by the regional sewer system operated by Eastern Municipal Water District. The proposed project will not be introducing septic tanks or alternative water disposal systems.				
7. HAZARDS AND HAZARDOUS MATERIALS. Would the project?				
a) Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials?				X
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the likely release of hazardous materials into the environment?				X
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
(a through c) The proposed residential uses will not involve the routine transport, use or disposal of hazardous materials.				
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result would it create a significant hazard to the public or the environment?				X
The project is not located on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.				
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X
The site is not within an airport land use plan or within two miles of a public airport or a public use airport.				
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
There are no private airstrips in the project area.				
g) Impair implementation of, or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
The proposed project would not have any direct effect on an adopted emergency response plan or emergency evacuation plan. The City's project review process includes routing of project plans to City Fire and Police representatives for consideration of emergency access requirements before development proposals are presented for decision-making body consideration. Access and circulation aspects of the proposed project design meet City standards for required emergency vehicle access and emergency egress of residents. Established City procedures for plan check, permit issuance, and construction inspection, ensure project implementation is consistent with the approved design.				
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?		X		
The project is within a Very High Fire Hazard Severity Zone as designated under the fire hazard mapping program by the California Department of Forestry and Fire Prevention. The project conditions of approval require designation of detailed fuel modification zones on the record map and also require sprinkler systems in each house and preparation and approval of a detailed fuel modification plan prior to map recordation. City procedures for plan check, permit issuance, construction inspection, and ongoing fire prevention inspections, provide an established mechanism to oversee implementation of required sprinkler systems and fuel modification measures.				

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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8. HYDROLOGY AND WATER QUALITY. Would the project:				
a) Violate any water quality standards or waste discharge requirements?			X	
<p>Both project construction and operation are subject to established regulatory programs directed at avoiding violations of water quality standards and waste discharge requirements. Project construction activities are subject to implementation of known best management practices (BMPs) as detailed in the required Storm Water Pollution Prevention Plan (SWPPP). The SWPPP details the applicable measures, the location and timing of application, and responsibility for monitoring and maintenance. Established City programs for grading permit issuance and construction inspection ensure that the SWPPP BMPs are implemented during construction and that erosion impacts during project construction are less than significant.</p> <p>For the operation phase, compliance with water quality standards is addressed through the water quality control basin and other source control features incorporated in project design. Established City programs for plan check, permit issuance and construction inspection ensure that water quality features are implemented in accordance with the approved design. Project conditions of approval and established City programs provide for ongoing maintenance of water quality features.</p>				
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?			X	
<p>Eastern Municipal Water District (EMWD) would provide water to the proposed project. EMWD sources of supply consist of a combination of local groundwater resources and imported surface water. Existing water supplies are adequate to serve the proposed project. Although the project would cover a majority of the site with impervious surfaces, landscaped areas and water quality basins will provide a means for continued groundwater recharge.</p>				
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?			X	
<p>Project design incorporates features to collect site runoff and moderate discharges into the downstream storm drain system (Foresight Engineering, January 20, 2009). The project will not alter site discharges in a manner that would result in substantial erosion or siltation on- or off-site. Project conditions of approval and established City procedures for plan check, permit issuance, and construction inspection ensure that improvements are implemented in accordance with the approved design.</p>				
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or surface runoff in a manner which would result in flooding on- or off site?			X	
<p>Project design incorporates features to collect site runoff and moderate discharges into the downstream storm drain system (Foresight Engineering, January 20, 2009). The project will not alter site discharges in a manner that would result in flooding on or off the site. Project conditions of approval and established City procedures for plan check, permit issuance, and construction inspection ensure that improvements are implemented in accordance with the approved design.</p>				
e) Create or contribute runoff which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?			X	
<p>Project design incorporates on-site features to collect site runoff and moderate discharges into the downstream storm drain system (Foresight Engineering, January 20, 2009). The increased rate and amount of site runoff in the developed condition will not exceed the capacity of downstream storm drain systems.</p> <p>As with any urban project, site runoff can be expected to contain minor amounts of pollutants (including pesticides, fertilizers and motor oil). As noted under item 8.a, above, project design incorporates source control and treatment features to control the quality of site runoff in accordance with established State and regional programs.</p>				
f) Otherwise substantially degrade water quality?			X	
<p>Established programs to protect water quality are discussed above under items 6.b and 8.a. The project location and proposed residential use do not present the potential for conditions that would otherwise substantially degrade water quality.</p>				

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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g) Place housing within a 100-year floodplain, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				X
The project site is not within the 100-year floodplain (Flood Insurance Rate Map Panel 065074 0010B).				
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				X
The project site is not within the 100-year floodplain (Flood Insurance Rate Map Panel 065074 0010B).				
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				X
The project site is not within the 100-year floodplain (Flood Insurance Rate Map Panel 065074 0010B). There are no sources of potential flooding in the project area that present the potential for impacts upon the proposed residential development. The proposed project does not include any sources of flooding that present the potential for impacts upon downstream properties.				
j) Inundation by seiche, tsunami, or mudflow?				X
The environmental factors presenting the risk of these hazards are not present in the project vicinity.				
9. LAND USE AND PLANNING. Would the project:				
a) Physically divide an established community?				X
The proposed project will establish residential uses of a type and intensity consistent with the existing General Plan land use designation and proposed zoning. The layout of the proposed tract respects the location and access of adjoining development. The location and nature of the proposed project do not present the potential to divide an established community.				
b) Conflict with an applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				X
The proposed tentative tract map is consistent with the existing General Plan land use designation of R2 and the proposed R2 zoning district. As designed and conditioned, the project will not conflict with the General Plan or other City land use policy.				
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				X
The project site is within the plan area for the Western Riverside Multiple Species Habitat Conservation Plan (MSHCP). The project site is outside the plan Criteria Area, does not support riparian resources, and is not within the special survey areas designated under the plan for narrow endemic plants, small mammals, or amphibians. Project surveys included a habitat assessment and burrow surveys for burrowing owl; conformance to MSHCP provisions for burrowing owl is addressed under item 4a, above. Standard City conditions of approval provide for collection of MSHCP fees prior to issuance of building permits. These fees provide for general support of MSHCP conservation and management programs.				
The project site is also within the plan area for the Stephens' Kangaroo Rat Habitat Conservation Plan. Plan implementation is at a stage where all reserve lands have been acquired. Project obligations under this plan are now limited to a simple fee payment that funds long-term reserve management. Payment of SKR fees is a standard City condition of approval and must be complied with prior to issuance of grading permits.				
10. MINERAL RESOURCES. Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X
(a and b) There are no designated mineral resources, active mines, or active mineral recovery programs at the site or in the surrounding area.				

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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11. NOISE. Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?			X	
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?			X	
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
d) A substantially temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
(a through d) The nature of the proposed single-family residential use does not present the potential for substantial permanent increases in noise levels or groundborne vibration. During construction, there will be additional noise from construction activities. Construction activity causing noise that constitutes a "nuisance" is prohibited between the hours of 7:00 AM and 8:00 PM (City Municipal Code Section 11.80.030.D.7). For the operation phase, there are no sources of noise in the project area that would expose future residents to excessive noise levels.				
e) For a project located within an airport land use plan, or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				X
The project is not located within the area of an adopted airport land use plan, or within two miles of a public airport or public use airport.				
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X
There is no private airstrip within the vicinity of the site, or within the City of Moreno Valley.				
12. POPULATION AND HOUSING. Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?			X	
The proposed 14-lot single-family residential project is at a density consistent with the adopted General Plan.				
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
There is no existing residential use on the subject site.				
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X
There is no existing residential use on the subject site.				
13. PUBLIC SERVICES. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered government facilities, need for new or physically altered government facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
a) Fire protection?			X	
b) Police protection?			X	
c) Schools?			X	
d) Parks?			X	
e) Other public facilities?			X	
(a through e) The various city departments and responsible outside agencies have participated in the project review process and have determined that the proposed project will not result in substantial adverse physical impacts associated with the provision of public services for the site. Standard conditions of approval include City Development Impact Fees and Moreno Valley Unified School District (MVUSD) fees to address individual and cumulative impacts of development upon public services. Established City and MVUSD plan check and permit issuance procedures ensure payment of fees prior to issuance of building permits.				

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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14. RECREATION.				
a) Would the project increase the use of existing neighborhood or regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?			X	
The project would most likely increase the use of parks. The impact of this project on parks is anticipated to be minimal. This project will be subject to development impact fees, which shall address the impact of the proposed 14-lot subdivision to recreational facilities.				
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?			X	
This project will be subject to development impact fees, which will address the impact of the proposed 14-lot subdivision to recreational facilities. The project site is within an area identified for future parkland acquisitions (General Plan Figure 4-2). City Parks and Community Services staff were involved in the review of this project and recommended only standard requirements for payment of impact fees and participation in the established City-wide assessment district (Zone A) for park development, operation and maintenance.				
15. TRANSPORTATION/TRAFFIC. Would the project:				
a) Cause an increase in the traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?			X	
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?				X
(a and b) The proposed project is consistent with the anticipated type and density of development under the existing General Plan land use designation. Recognizing the existing transportation network, project improvements, and the scale of the project, the City Traffic Engineering Division determined in the course of the preliminary project review process that the project would not result in an increase in traffic load that would exceed the capacity of the street system. Project conditions of approval and established City procedures for plan check, permit issuance, and construction inspection ensure that required street improvements are implemented in accordance with the approved design.				
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X
The proposed project would have no direct or indirect effect on air traffic patterns.				
d) Substantially increase hazards to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?				X
The proposed project will establish a new local cul-de-sac intersecting with Mountain Ranch Road and will complete improvements on the south side of Mountain Ranch Road. The proposed circulation system design has been evaluated and approved by City Transportation Engineering staff. There are no incompatible uses that present the potential for hazards in this regard.				
e) Result in inadequate emergency access?				X
The project as designed and conditioned is consistent with City standards. The site will be readily accessible for emergency access.				
f) Result in inadequate parking capacity?				X
The project as designed provides for off-street parking in accordance with City standards. Project conditions of approval and established City procedures for plan check, permit issuance, and construction inspection ensure that required improvements are implemented in accordance with the approved design.				
g) Conflict with adopted policies or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?				X
There is no conflict with adopted policies or programs supporting alternative transportation.				

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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16. UTILITIES AND SERVICE SYSTEMS. Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X
Eastern Municipal Water District has been advised of the proposed project and has not provided any indication of inadequate treatment capacity at the Moreno Valley Water Reclamation Facility.				
b) Require or result in construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
Eastern Municipal Water District has been advised of the proposed project and has not provided any indication of inadequate water or wastewater treatment capacity.				
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			X	
Project design incorporates features to collect site runoff and moderate discharges into the downstream storm drain system (Foresight Engineering, January 20, 2009). Impact analysis for this project has considered these off-site improvements and has not identified any potentially significant environmental effects.				
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				X
The water purveyor, Eastern Municipal Water District (EMWD), prepared an Urban Water Master Plan demonstrating that it has or will have sufficient water supplies available to serve development on the property consistent with the existing General Plan land use designation. EMWD has been advised of the proposed project and has not provided any indication of inadequate water supplies.				
e) Result in a determination by the wastewater treatment provider which serves or may serve the project determined that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				X
The wastewater treatment provider, Eastern Municipal Water District, has been advised of the proposed project and has not provided any indication of inadequate wastewater treatment capacity.				
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				X
The limited scale and residential nature of the project present negligible potential for generation of substantial volumes of solid waste. The project will be served by a landfill in the Badlands with sufficient permitted capacity to accommodate the project's solid waste disposal needs (Draft EIR for the General Plan Update).				
g) Comply with federal, state, and local statutes and regulations related to solid waste?				X
The limited scale and residential nature of the project do not present circumstances that would conflict with federal, state, and local statutes and regulations related to solid waste. Waste collection services in the City of Moreno Valley incorporate waste reduction provisions directed at compliance with State waste stream diversion regulations.				
17. MANDATORY FINDINGS OF SIGNIFICANCE.				
a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of an endangered, rare or threatened plant or animal, or eliminate important examples of the major periods of California history or prehistory?			X	
The project is a residential development at a density consistent with the existing General Plan land use designation. The project site does not support sensitive environmental resources that present the potential to substantially degrade the environment. The nature and scale of the proposed project do not present the potential to substantially degrade the environmental setting for existing development in the project vicinity.				
The project as conditioned is consistent with provisions of the Western Riverside County Multiple Species Habitat Conservation Plan and the Stephens' Kangaroo Rat Habitat Conservation Plan.				
The project site does not contain important archaeological or historical resources.				

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of the past projects, the effects of other current projects, and the effects of probable future projects)?			X	
--	--	--	---	--

The project is a residential development of limited scale at a density consistent with the existing General Plan land use designation. The proposed project will not disturb sensitive resources, will not exceed the capacity of service systems, and is consistent with applicable local, regional and State environmental programs and regulations.

The issue of a project's contribution of greenhouse gases and the connection to global warming has become a controversial aspect of the CEQA documentation process. Recognizing the limited project scale and resultant criteria air pollutant project emissions below applicable South Coast Air Quality Management District significance thresholds, the proposed project would not represent a cumulatively considerable contribution to pollutant emissions contributing to this phenomenon.

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?			X	
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The project consists of residential development at an infill location. The nature of the proposed project does not present the potential for substantial adverse effects on human beings.

Potential impacts of the project setting upon future residents, specifically location within a high fire hazard severity zone, have also been considered. As conditioned to incorporate fire attenuation measures in design of future residences and to develop and implement a fuel modification program, the proposed project would not expose local residents to substantial adverse effects in this regard.

PA05-0069 and 0071

Project Vicinity



City of Moreno Valley
 14177 Frederick Street
 Moreno Valley, CA 92553

DISCLAIMER: The information shown on this map was compiled from the Riverside County GIS and the City of Moreno Valley GIS. The aerial base and facility information on this map is for display purposes only and should not be used upon without independent verification as to its accuracy. Riverside County and City of Moreno Valley will not be held responsible for any claims, losses, or damages resulting from the use of this map.

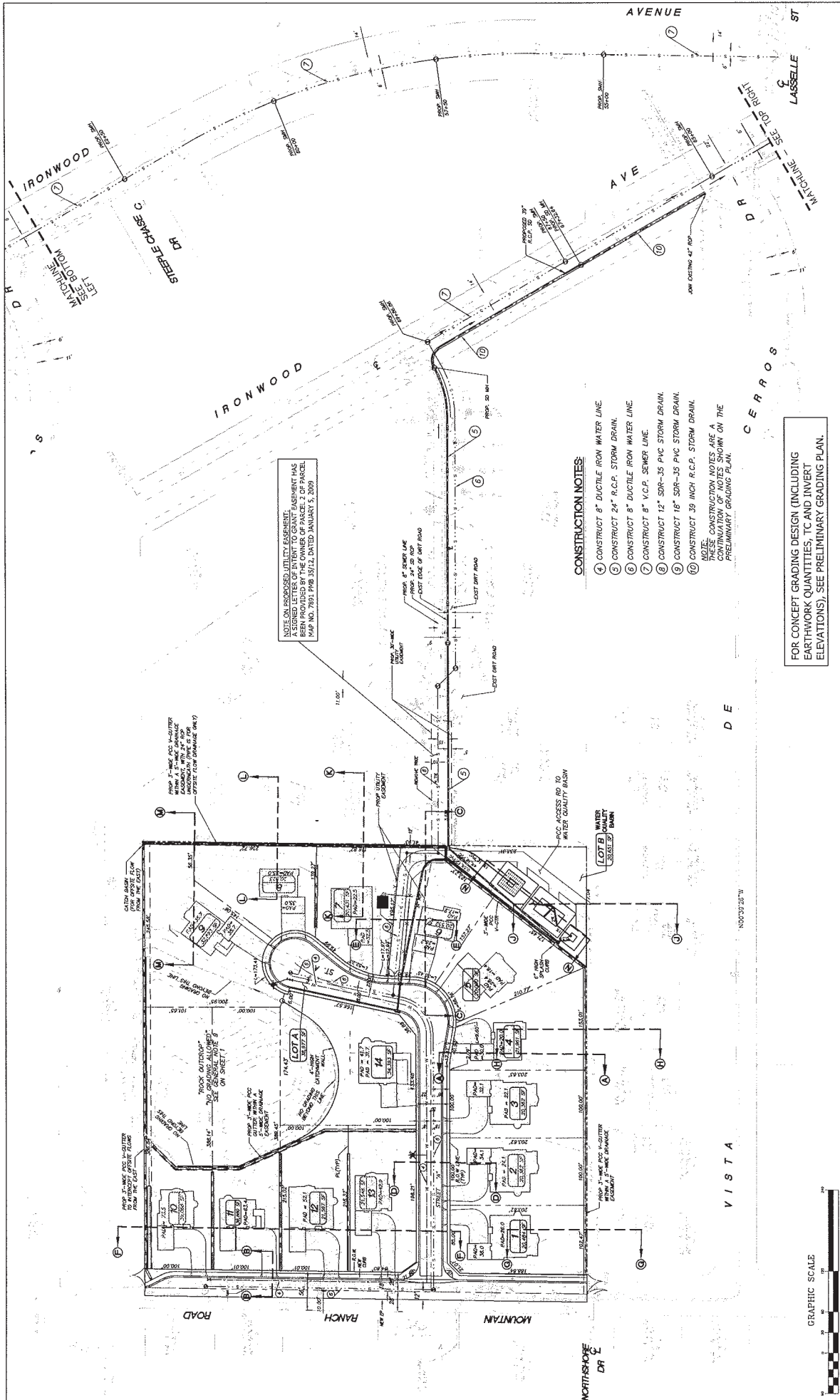


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City of Moreno Valley
Initial Study for PA05-0069 and 0071
Figure 2 – Aerial Photograph

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NOTE ON PROPOSED UTILITY EASEMENT:
 A SIGNED LETTER OF INTENT TO GRANT EASEMENT HAS BEEN FILED WITH THE COUNTY CLERK'S OFFICE UNDER MAP NO. 7931 PWB 35/12, DATED JANUARY 5, 2009

- CONSTRUCTION NOTES:**
- ④ CONSTRUCT 8" DUCTILE IRON WATER LINE
 - ⑤ CONSTRUCT 24" R.C.P. STORM DRAIN
 - ⑥ CONSTRUCT 8" DUCTILE IRON WATER LINE
 - ⑦ CONSTRUCT 8" V.C.P. SEWER LINE
 - ⑧ CONSTRUCT 12" SDR-35 PVC STORM DRAIN
 - ⑨ CONSTRUCT 18" SDR-35 PVC STORM DRAIN
 - ⑩ CONSTRUCT 36" 18" R.C.P. STORM DRAIN

NOTES:
 CONSTRUCTION NOTES ARE A CONTINUATION OF NOTES SHOWN ON THE PRELIMINARY GRADING PLAN.

FOR CONCEPT GRADING DESIGN (INCLUDING EARTHWORK QUANTITIES, TC AND INVERT ELEVATIONS), SEE PRELIMINARY GRADING PLAN.

CITY OF MORENO VALLEY
 DRAWING NO.
**TENTATIVE TRACT
 MAP NO. 32388**
 HORIZONTAL SCALE: 1" = 40'
 VERTICAL SCALE: 1/4" = 4'

CITY OF MORENO VALLEY
 PUBLIC WORKS DEPARTMENT
 APPROVED BY: _____ DATE: _____
 DESIGNED BY: _____ DRAWN BY: _____ CHECKED BY: _____

NO.	REVISION	DATE	BY	CHKD.

FORESIGHT ENGINEERING
 CIVIL ENGINEERING & LAND SURVEYING
 10000 N. 111TH AVENUE, SUITE 100
 DENVER, CO 80231
 TEL: (774) 244-7744 FAX: (774) 244-8817



PRIVATE ENGINEERING NOTE:
 CONSTRUCTION PRACTICES, CONTRACTOR'S METHODS AND MATERIALS WILL BE SUBJECT TO INSPECTION AND APPROVAL BY THE CITY OF MORENO VALLEY. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF MORENO VALLEY. THE ENGINEER'S RESPONSIBILITY IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE UTILITY SYSTEMS SHOWN ON THIS PLAN. THE ENGINEER DOES NOT WARRANT THE PERFORMANCE OF WORK IN THE PROJECT, NOR DOES THE ENGINEER WARRANT THE ACCURACY OF THE INFORMATION PROVIDED TO THE ENGINEER BY THE CLIENT.



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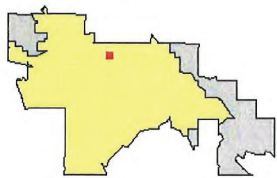
Aerial Photograph

Legend

-  Highways
-  Parcels
-  Roads
-  March Installation Area
-  Waterbodies
-  Sphere of Influence
-  Ortho Photography
- City Boundaries**
-  Callmesa
-  Moreno Valley
-  Perris
-  Riverside



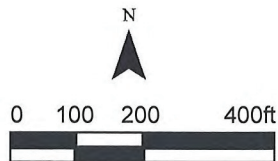
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City of Moreno Valley
14177 Frederick St
Moreno Valley, CA 92553

ATTACHMENT 10

DISCLAIMER: The information shown on this map was compiled from the Riverside County GIS and the City of Moreno Valley GIS. The land base and facility information on this map is for display purposes only and should not be relied upon without independent verification as to its accuracy. Riverside County and City of Moreno Valley will not be held responsible for any claims, losses, or damages resulting from the use of this map.



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Lona Smith & John S. Smith
26320 Mountain Ranch Road
Moreno Valley, CA 92555-1734
(951) 242-1978

June 24, 2009

City of Moreno Valley
Planning Department
14177 Frederick Street
Moreno Valley, CA 92553

Attn: Kathleen Dale and Jeffrey

Re: PA05-0069 Change of Zone R1 to R2 & PA05-0071 Tentative Tract Map No 32388

Dear Ms. Dale:

We are writing to you due to concerns about the above zone change and tentative tract map.

We live across the street from the proposed tract on Mountain Ranch Road. Mountain Ranch Road, beyond the South East corner lot on Vista De Cerros and Mountain Ranch, narrows. It is not a street that can accommodate both parking and two-way traffic. As it is, there are only four homes' residents accessing this narrow portion of Mountain Ranch. The developer's proposal allows only one way into the tract, and it is from the narrow Mountain Ranch Road.

Mountain Ranch is a steep road, and concrete curb and gutter should have been constructed with the tract. Additional smaller lots will increase run-off, and Mountain Ranch Road needs improvement up to the cul-de-sac. As it is, the street is in disrepair due to erosion of asphalt, and it has ruts and dips. We would hope that you would consider concrete curb and gutter on a widened street, wide enough to match the western, wider, portion of Mountain Ranch Road.

We are on over three acres on Mountain Ranch and have a natural watercourse through that property. When it rains, many properties have a natural watercourse through them; however, three lots within our tract on Mountain Ranch Road eventually accommodate hundreds of acres worth of run off from the hillsides above Kalmia near the private roads of Boulder Ridge, Early Way, and Crystal Hill. This has been a problematic in the past to the point where we have spent hundreds of thousands of dollars on defense due to legal battles as a result of the problems. We do not assume any responsibility of any run off that will be incurred as a result of or received by the proposed subdivision. As it is, the City of Moreno Valley has not enforced cleanup of the concrete ditch which is part of two of the Mountain Ranch Road properties, which in the past, lead to overflow and flooding combined with improper grading that the city allowed on Crystal Hill Road, confirmed in Council Meeting by Frank Smith (we would have to refer to notes for the exact date).

ATTACHMENT 11

With this proposal, you are requesting long-time residents to live with increased traffic on a narrow road without any benefit to the area. The developers only propose that sewer will be "available" to the homes just south of their proposed tract, along Ironwood. I would ask that you consider making sewer available along Mountain Ranch, where there will be increased traffic and run-off and where the entrance of the properties will be located. There has been plenty in the paper about new regulations on septic tanks, and it would only be appropriate that it be brought to the street that you are accessing for this new tract.

We currently do not enjoy steady nor static water pressure, and we regularly call Eastern Municipal Water with this problem. Generally, they send someone out and they claim the same thing each time that it is a problem with a pump at the station on Ironwood and Steeplechase. They have claimed the same story each time until we threaten to get the fire department involved, and that is when we get our pressure back. We do have a pressure gauge and take readings when there appears to be a problem, i.e. when our sprinklers will not run. Is there any improvement planned with regard to water supply?

On a final note, we are concerned about recently getting a ballot on increasing the fees on our lot to keep street lights on. We have minimal lighting on Mountain Ranch Road to begin with; so, we hope that an alternate form of energy can be used for lighting in this new tract as it would not conflict with uniform "appearance."

We still hope to attend the meeting, but we wanted to voice our concerns since there is a possibility that we will not be back in time.

Thank you,

Lona Smith and John S. Smith

Lona & John S. Smith
26320 Mountain Ranch Road
Moreno Valley, CA 92555-1734

(951) 242-1978

FORESIGHT ENGINEERING, Inc.

Civil Engineering & Land Surveying

May 21, 2009

Subject: Tentative Tract Map 32388, PA05-0071
9.9-Acre Land Southeast corner of Mountain Ranch & Northshore, Moreno Valley
Neighborhood Outreach

Dear Moreno Valley Neighbor,

This letter is a courtesy informational letter regarding the proposed development of the 9.9 acres of vacant land in the southeast corner of Mountain Ranch Road and Northshore Drive. This project is at the tentative map phase and has gone through numerous plan checks by the different departments in the City of Moreno Valley. The developer hired a team of professionals which include Surveyors, Civil Engineers, Environmental Planners and Archaeologists who have put in months of serious professional work to ensure that this tentative map adheres to the City and County standards and protects the well being of your neighborhood.

The tentative tract map subdivides the land into 14 single family homes. The minimum size of each lot is 20,000 square feet (SF), per City of Moreno Standards for Zone R2. The new homes will be custom homes on lots that range in area from 20,000 SF to 39,000 SF and are expected to raise the property values in the area. Rock outcrops exist over twenty percent (20%) of the project's land and those will not be disturbed and will remain as a natural monument in a prominent part of the community.

Public utilities will be provided by the developer to service the new homes. These utilities include new domestic water lines, fire water lines, sewer lines, and storm drain lines. The new public sewer line consists of 2,514 linear feet of sewer pipe outside and south of the property, within Ironwood Avenue and the public alley from the south and additional 1,212 feet within the new public roads inside the property and along Mountain Ranch Road. The new sewer line, as costly as it is to this project, will provide the necessary gravity sanitary sewer service to this new development and at the same time enable the properties south of this project to connect and convert from septic tanks to a gravity sewer pipes.

For storm drainage purposes, we are proposing to construct 1,200 linear feet of storm drain pipes and manholes along Ironwood Avenue and the public access from the south, and additional 1,000 linear feet of storm drain pipes and catch basins within the property. All storm flow draining over this new development will be contained within the property and routed to a water quality basin for clarification before it exits the property into the new public storm drain system to the south. This is in compliance with the City of Moreno Valley and County of Riverside regulations for storm water pollution prevention and in full conformance with the document; "Riverside County Water Quality Management Plan for Urban Runoff".

In addition to all the civil engineering design done on this project, the City requested that a Phase I archaeological survey, a cultural resources assessment, a general biological assessment and a burrowing owl assessment be performed for this property. These studies were performed to the City's satisfaction and the results were all negative to any subjects of concern.

Please provide us with your questions or comments **by June 2, 2009** either in writing by email at TTM32388@gmail.com or by regular mail to my attention at 17621 Irvine Blvd, Suite 210, Tustin, CA 92780, or by phone at (714) 542-1214. The City of Moreno Valley may schedule our project for a Public Hearing in late June and we wanted to provide you with as much information as possible at an early time and be able to address your comments in a timely manner.

17621 Irvine Blvd, Suite 210, Tustin, CA 92780
Tel. (714) 542-1214 Fax (714) 542-0117

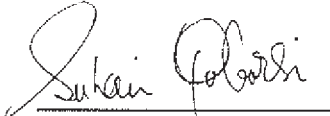
ATTACHMENT 12

If you wish to obtain information from the City regarding this Project, our Moreno Valley Case Planner is Ms. Kathleen Dale. Her direct number is (951) 413-3228. Reference numbers for this project are PA05-0071, Tentative Tract Map 32388.

Below is a vicinity map for the project and attached is an exhibit showing the project general site plan.

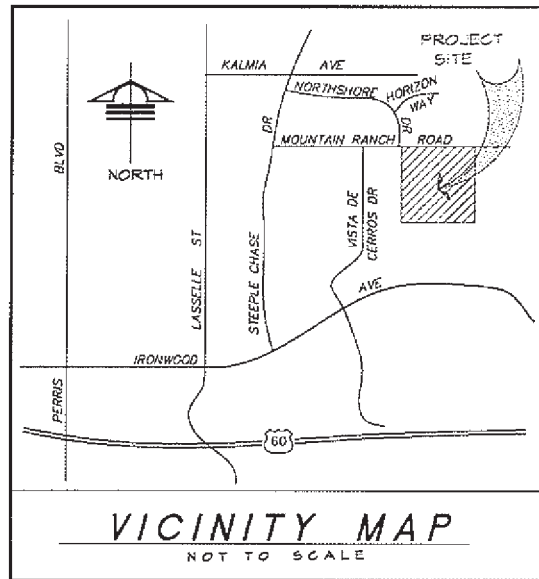
Sincerely,

Foresight Engineering, Inc.

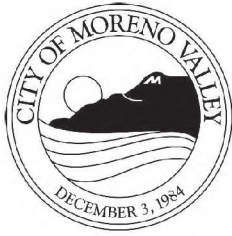


Suhair Qoborsi, P.E.
Civil Engineer
Vice President

Enclosure: General Site Plan – Proposed Improvements



MOUNTAIN RANCH DEVELOPMENT



APPROVALS	
BUDGET OFFICER	<i>my</i>
CITY ATTORNEY	<i>RS</i>
CITY MANAGER	<i>PA</i>

Report to City Council

TO: Mayor and City Council

FROM: Kyle Kollar, Community Development Director

AGENDA DATE: November 10, 2009

TITLE: Appeal by Pacific Communities (Tract 23008) of Transportation Uniform Mitigation Fees (TUMF) under Western Riverside Council of Government's (WRCOG) Administrative Plan Policies

RECOMMENDED ACTION

Staff recommends that the City Council:

APPROVE Resolution No. 2009-108, thereby denying the request of Pacific Communities for an appeal of the requirement for TUMF fee payment for six residential lots within Tract Map 23008.

ADVISORY BOARD/COMMISSION RECOMMENDATION

Not applicable.

BACKGROUND

In 2003, the TUMF program was adopted including an Administrative Plan to administer the program. The WRCOG Administrative Plan identifies the appeal process (Chapter X) for a developer to challenge the payment of TUMF fees for a project. (Exhibit 2)

Prior to the effective date of the TUMF fees in 2003, Pacific Communities obtained several building permits for residential lots. Most of these lots were constructed; however, the permits for six of the homes were not constructed under these building permits. Subsequently, the permits expired, and new building permits were issued. The construction of these homes has either reached the occupancy stage or will have reached the occupancy stage by the date of the hearing.

The primary reason that the TUMF fees apply is that the building permits expired and then new permits were issued. If the homes had been constructed under the original building permits, then the TUMF fees would not have applied. This application of the TUMF ordinance is consistent with past practice.

The Administrative Plan indicates that there should be a reasonable attempt to resolve this matter at a staff level. Staff attempted to do this by researching the various permits, discussing the matter with WRCOG staff, and discussion with the applicant. However, after reviewing all the circumstances pertaining to these permits, staff concluded that the fees apply based on the existing ordinances, and the TUMF Administrative Plan.

DISCUSSION

The Planning Division first informed Pacific Communities that the TUMF fees would be required in a letter dated May 18, 2009. The total TUMF fees for these lots are a total of \$58,872.00 (\$9,812 per lot). Pacific Communities summarized their position that TUMF fees should not be required in a letter dated July 14, 2009. (Exhibit 3) The Planning Division provided a written response on July 27, 2009 consistent with the procedures described in the TUMF Administrative Plan. (Exhibit 4) Subsequently, the TUMF fees were paid "under protest" for three of the lots.

The TUMF ordinance is clear that payment of the fee is required at occupancy, but could be paid as early as building permit. In this case, the building permit was issued after the adoption of the ordinance, thereby triggering the requirement for the fee. The applicant had considerable time to complete construction under the original building permits. The building permits were issued in April and May 2003. The new permits were not issued until May 2008. The permits could not be further extended under the applicable ordinances and codes.

Staff acknowledges that this is a difficult economic environment. The City Council recently approved a reduction in the DIF fees for single-family and affordable single-family residential by 50%. In addition, the WRCOG Executive Committee has voted to temporarily reduce TUMF fees by 50% for the calendar year 2010, which is in the process of being implemented by the City. These measures will provide relief to the applicant in the form of reduced fees for other homes that Pacific Communities may be working on. These reductions would apply to any fees that have not been paid prior to the effective date of the reductions.

ALTERNATIVES

The recommendation is to deny the appeal, and thereby require that the applicable TUMF fees be paid for the six lots. The City Council could uphold the appeal of the TUMF fees. However, TUMF fees have already been paid "under protest" for at least three of the lots and remitted to WRCOG. Before the date of this hearing, the TUMF

fees for all of the lots may have been paid. Therefore, the City would be in the position of having to request a refund of the monies from WRCOG. If the WRCOG Executive Committee does not agree with the findings for granting the appeal, WRCOG could choose not to refund the monies, and the City might be liable for the refund of the fees.

FISCAL IMPACT

The denial of the appeal would not likely have a fiscal impact. If the City upholds the appeal, but the WRCOG Executive Committee does not agree, the City might have liability for some or all of the \$ 58,582.00 in TUMF fees.

CITY COUNCIL GOALS

Not applicable.

SUMMARY

This is the first appeal of TUMF fees that the City Council has considered. The appeal process for TUMF fees is identified in the Administrative Plan of the TUMF program. The review has been completed consistent with the appeal process.

The appeal concerns the payment of TUMF fees for six lots. The building permits were issued in 2003 prior to the effective date of the ordinance implementing TUMF fees. Subsequently, the permits expired, and new building permits were issued.

The TUMF fees would apply in this case, because the permits expired and were re-issued. If the homes had been constructed under the original building permits, then the TUMF fees would not have been required. This approach is consistent with past interpretation of the TUMF fee ordinance.

NOTIFICATION

The City Attorney's office advised that the item would be a public hearing. The required public notice was completed prior to the meeting.

ATTACHMENTS/EXHIBITS

1. Resolution for Denial of Appeal
2. Chapter X of the WRCOG Administrative Plan
3. Letter from Pacific Communities dated July 14, 2009
4. City's response to Letter dated July 27, 2009

Prepared By:
Chris Ormsby, AICP
Senior Planner

Department Head Approval:
Kyle Kollar
Community Development Director

Concurred By:
John C. Terell
Planning Official

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

RESOLUTION NO. 2009-108

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, DENYING AN APPEAL BY PACIFIC COMMUNITIES REGARDING PAYMENT OF TUMF FEES FOR SIX RESIDENTIAL LOTS WITHIN TRACT 23008

WHEREAS, the applicant, Pacific Communities, applied for and pulled building permits for six residential lots within Tract 23008 in April and May of 2003 prior to the implementation of the TUMF fee ordinance; and

WHEREAS, the City requested payment of TUMF fees in 2009 prior to occupancy of the residential units as provided for by the TUMF ordinance; and

WHEREAS, the applicant, Pacific Communities, raised concerns regarding the payment of TUMF fees for these six residential lots in written correspondence; and

WHEREAS, the City followed the process described in the appeal section of the Administrative Plan (Section X) for the TUMF program for a disagreement pertaining to TUMF fees; and

WHEREAS, the applicant filed a formal appeal to the City Council under the Administrative Plan for the TUMF program; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

The City Council hereby denies the appeal in that the building permits were issued after the TUMF ordinance was in place, and fees were formally requested prior to payment at occupancy under the TUMF ordinance. This denial of the appeal affirms that TUMF fees will apply to the subject six lots within Tract 23008. City Council requests that planning staff forward the decision to the Western Riverside Council of Governments pursuant to the appeal process described in the TUMF Administrative Plan.

APPROVED AND ADOPTED this _____ day of _____, 2009.

Mayor

ATTACHMENT 1

1

Resolution No. 2009-_____
Date Adopted:

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

RESOLUTION JURAT

[Clerk's office will prepare]

[NOTE: Any attachments or exhibits to this resolution should follow this jurat.]

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amount owed plus interest and penalties from the first day of the month following the closing of the month being reported;

WRCOG staff will continue this notification until sixty (60) days after the close of the month. At which time, WRCOG will determine if an audit is necessary of the jurisdiction's TUMF account, general ledger and any other financial data. If an audit is conducted, WRCOG will investigate the amount owed and the cause of delay. Upon completion of the audit, WRCOG staff shall make any recommendations to resolve any outstanding issues;

If an audit is required due to reporting and remittance irregularities, the jurisdiction could incur the cost of the audit.

- E. **Riverside Transit Agency (RTA)** – In accordance with the Nexus Study 2.6% of funds received will be made available to the RTA to make capital facilities improvements for transit purposes as identified in the Nexus Study. The RTA shall provide a report to the WRCOG Executive Committee each year, which has been reviewed by the City Managers/County Executives and the technical committees, detailing its expenditures of TUMF Program funds received, as well as future commitments for transit facilities using TUMF Program revenues as determined by the RTA Board of Directors.

IX. Administrative Costs. The TUMF Ordinance authorizes WRCOG to expend funds generated from TUMF that are necessary and reasonable to carry out its responsibilities. The WRCOG Executive Committee adopted a series of policies that clarify the expenditure and retention of program funds for the Administration of the Program and they are as follows:

1. WRCOG will budget no more than one percent (1%) of the TUMF Program revenue for administration salaries and benefits;
2. Administration costs will be budgeted at whatever is reasonable and necessary, but not to exceed four percent (4%) of the TUMF revenues (inclusive of the one percent administrative salaries and benefit cap).
3. Beginning July 1, 2006, WRCOG shall take the administrative component from the revenue collected based on the total fee obligation inclusive of executed credit agreements.
4. Beginning July 1, 2006, all CFD's, SCIP and other financing mechanisms will pay the maximum (4%) administrative component in cash to WRCOG. When the administrative component is less than 4% then the surplus revenue will be allocated in accordance to their adopted percentages to the Multi-species Habitat Conservation Plan, RCTC, RTA and the Zones.
5. For refunds, whether it is because the project is no longer going forward or expiration of building permits (where no construction has commenced), the applicant is entitled to a refund less the administrative component.

X. Appeals. Appeals shall only be made in accordance with the provisions of this Section X.

- A. **Persons or Entities Who Having Standing to Appeal.** No person or entity shall have standing to avail themselves of this Section X, except those persons or individuals who are responsible for paying the TUMF and have an unresolved appealable issue or matter.

B. Appealable Issues and Matters. No issue or matter shall be heard or reviewed under this Section X unless the issue or matter is appealable. An issue or matter is appealable, if a qualified person or entity ("Appellant") has a good-faith dispute directly related to Appellant's Property ("TUMF Dispute") regarding (i) the amount of Appellant's TUMF obligation; (ii) the administration of TUMF Credits; (iii) exemption of Appellant's property from the TUMF Program; (iv) administration of TUMF reimbursements; or (v) TUMF refunds.

C. Appeal Process.

1. If a qualified person or entity has a TUMF Dispute, he or she shall first attempt to resolve the dispute informally with the staff of the local jurisdiction. If the TUMF Dispute remains unresolved after a reasonable attempt to address it at the local level, the qualified person or entity may submit a written appeal to the appropriate department of the local jurisdiction. The written appeal shall thoroughly identify the TUMF Dispute. If the staff of the local jurisdiction determines the issue or matter is not a TUMF Dispute, the written appeal shall be rejected. Staff's decision shall be provided in writing to the Appellant. In such cases, if the Appellant desires further review from the Board of Supervisors/City Council of the affected local jurisdiction, the Appellant must submit a written request for review to the Clerk of the Board/City Council within five (5) days of receiving staff's written decision. The decision of the Board/City Council shall be forwarded to the WRCOG Executive Committee in the same manner set forth in Paragraph 3 of this Section.
2. If the written appeal identifies a TUMF Dispute, the Appellant and staff from the local jurisdiction shall attempt to resolve the issue within thirty (30) days of the local jurisdiction's receipt of the appeal. At the request of the local jurisdiction, or on its own accord, WRCOG staff may also participate in such discussions. At the conclusion of the thirty (30) day period, staff of the local jurisdiction shall render a written decision on the appeal.
3. The issue or matter shall be heard by the Board of Supervisors/City Council of the affected local jurisdiction; provided, the Appellant submits a written request for further review to the Clerk of the Board/City Council within five (5) days of Appellant's receipt of the local jurisdiction's written decision regarding the Appellant's appeal. The Board/City Council shall forward its written decision to WRCOG for review and concurrence. If the WRCOG Executive Committee disagrees with the decision of the City Council/Board of Supervisors the WRCOG Executive Committee shall determine a proper course of action and notify the jurisdiction of its findings.

XI. Arbitration. When there is a dispute among the Zone members that can not be resolved and prevents the adoption of a project prioritization schedule, the matter shall be forwarded to the WRCOG TAC and WRCOG Executive Committee for a determination. Once the WRCOG Executive Committee takes action on the issue the decision is final.

If there is a dispute at the WRCOG Executive Committee level regarding project prioritization of a specific project(s) and a consensus cannot be reached, that project



July 14, 2009

City of Moreno Valley
Chris Ormsby
14177 Frederick Street
Moreno Valley CA 92552-0805

Re: TUMF FEE not imposed

Chris,

After our discussion yesterday I revisited WRCOG Administration Plan page 6 A. This being the page you/the City are using as the reference in making your decision that P.C.B. must pay TUMF in full prior to Certificate of Occupancy. WRCOG Administration Plan page 6 A. Expiration of Building Permits clearly states – If a building permit should expire and is therefore voided and no construction has commenced (each subject lot had poured slab in place), then the applicant is entitled to a refund of the TUMF fee collected which was paid as a condition of approval. The fee payer shall submit an application for a refund to the local jurisdiction who will forward it to WRCOG for processing. The applicant must pay the appropriate (refunded) TUMF in full if he reapplies for the permit. We did not reapply for a permit. **We paid permit renewal fees for the existing building permits.**

I do not understand where this paragraph applies to our circumstance. We are not entitled to a refund because we did not pay TUMF. We did not pay TUMF because it was not a condition of approval to pay TUMF and we were not conditioned to pay TUMF because we started prior to June 1, 2003. My request was for an extension of time (see attached).

The last paragraph states: If a development project is partially under construction at the time of the effective date of the TUMF ordinance, the TUMF shall be paid only on that portion of the development for which a building permit is next issued. I understand this to clearly state TUMF to apply to only building permits issued after the effective date of the TUMF ordinance. I cannot find anything directly applicable to your request. Such as: If a building permit is not subject to TUMF at the time of issuance: prior to June 1, 2003 and expires and is renewed after June 1, 2003, TUMF is required to be paid prior to issuance of building permit. Do you agree?

As an example, as you well know, when a TTM expiration date is extended new conditions of approval come with it and the developer has several days to appeal. This was not the case. In a matter of fact, this came as a huge surprise, had we known of this before we paid the permit fees we may have not proceeded as we did. Sales are very slow and profit is minimal if any.

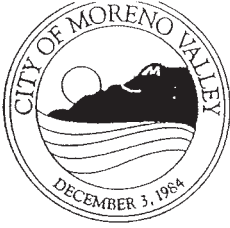
WRCOG Administration Plan page 6 A. is very clear: To pay TUMF fees is by condition of approval. Which P.C.B. did not receive or made aware of.

Please consider this request in accordance with WRCOG Administration Plan page 16 C. Appeal Process 1.

Sincerely Yours,

Randy Madrid
Senior Project Manager
Pacific Communities
(949) 660-8988 x122
(949) 887-5779 cell

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Community Development Department
Planning Division
14177 Frederick Street
P. O. Box 88005
Moreno Valley CA 92552-0805
Telephone: 951.413-3206
FAX: 951.413-3210

July 27, 2009

Randy Madrid
Senior Project Manager
Pacific Communities
1000 Dove St., Ste. 100
Newport Beach, CA 92660

Subject: Response to July 14, 2009 letter in accordance with the Western Riverside Council of Government's (WRCOG) Administrative Plan pertaining to TUMF fees for a total of six lots in Tract 23008

Dear Mr. Madrid:

As requested in your July 14, 2009 letter, planning staff is providing a written response as provided for in the TUMF Administrative Plan (as revised August 3, 2008) within 30 days of the date your letter. The TUMF fee matter involves a total of six lots within Tract 23008. The building permits were initially issued for these lots in 2003 prior to the adoption of the TUMF program and fee ordinance. Although footings and slabs were completed for these lots, more than six years has elapsed. The building permits subsequently expired, and new permits were issued. As provided for in the Administrative Plan, we have attempted to address your request by researching pertinent ordinances and policies, and by discussing with WRCOG staff.

With regard to the timing and the requirement for the fee, the primary document that we are relying on is the City ordinance that implemented the TUMF fees. The ordinance (Ordinance No: 719) states that "the fees shall be paid at the time a certificate of occupancy is issued for the Development Project or upon final inspection, whichever comes first (the "Payment Date")."

Your letter states that "we paid permit renewal fees for the existing building permits." However, based on the information Building Division has provided, the building permits did expire, and new building permit numbers were issued. The original permits were issued more than six years ago. The previous fee ordinance required the fee to be paid at building permit; however, this was modified later to be at occupancy.

ATTACHMENT 4

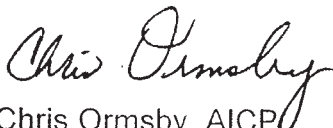
Randy Madrid letter – TUMF fees, Tract 23008
July 27, 2009
Page 2

Finally, your letter mentions a reference to conditions of approval in the TUMF Administrative Plan on page 6, Item A. The tract map in question was approved prior to the adoption of the TUMF ordinance so a reference to the fees could not have been included in the conditions of approval of the map. The TUMF ordinance established a Municipal Code sections that address TUMF fees. The Municipal Code (Section 3.44.040 E.) states that “the TUMF shall apply to all new development within the City unless otherwise exempt hereunder.”

You have mentioned that you would be paying the TUMF fees under protest. If you choose to appeal, the next step would be to file a written request/appeal for review by the City Council within five days of receipt of this letter. This would require an application fee of at least \$607.00 for an Administrative Plot Plan to cover the costs of the City’s research and preparation of the staff report.

If you have any questions, please feel free to contact me at (951) 413-3229.

Sincerely,


Chris Ormsby, AICP
Senior Planner


John C. Terell, AICP
Planning Official

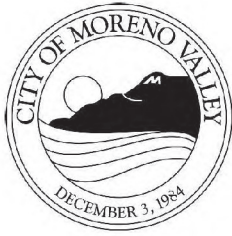
C: Jeff Bradshaw, Associate Planner

**CITY COUNCIL REPORTS ON REGIONAL ACTIVITIES
November 10, 2009**

- a) Report by Mayor Stewart on March Joint Powers
Commission (MJPA)**

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APPROVALS	
BUDGET OFFICER	<i>cof</i>
CITY ATTORNEY	<i>RH</i>
CITY MANAGER	<i>PA</i>

Report to City Council

TO: Mayor and City Council

FROM: Jane Halstead, City Clerk

AGENDA DATE: November 10, 2009

TITLE: CONSIDERATION OF A REQUEST FROM COMMUNITY HEALTH SYSTEMS, INC. TO SPONSOR ITS 2ND ANNUAL HOLIDAY CELEBRATION HEALTH FAIR

RECOMMENDED ACTION

Staff recommends that the City Council consider the request of Community Health Systems, Inc. to sponsor its 2nd Annual Holiday Celebration Health Fair, in the amount of \$1,750.

BACKGROUND

Council Member William H. Batey II requested, and Mayor Richard A. Stewart seconded, to agendize City Council consideration of sponsorship of Community Health Systems, Inc. 2nd Annual Holiday Celebration Health Fair.

On October 19, 2009, Community Health Systems, Inc., submitted a Sponsorship Application Request for its 2nd Annual Holiday Celebration Health Fair. The Celebration is planned for Saturday, December 5, 2009, from 9 a.m. to 2 p.m. The purpose of the event is to provide information about community services and resources available for families who may not be able to afford traditional healthcare services. Free onsite medical, dental, and optometry screenings will be offered. Donations are being accepted for a toy distribution to 1,000 children. Community Health Systems, Inc. estimates the attendance to be 2,000.

DISCUSSION

Community Health Systems, Inc. is a non-profit organization existing pursuant to Internal Revenue Section 501(c)(3) and complies with "City Sponsorship" Policy 2.36. The event, as described above, meets with the event eligibility criteria. Community

Health Systems, Inc. would be eligible for the requested \$1,750 sponsorship based upon the projected attendance, and the sponsorship amount does not exceed fifty percent of the funds raised for the event.

ALTERNATIVES

1. Approve the Sponsorship Application Request for the Community Health Systems, Inc. 2nd Annual Holiday Celebration Health Fair, in the amount of \$1,750.
2. Deny the Sponsorship Application Request for the Community Health Systems, Inc. 2nd Annual Holiday Celebration Health Fair, in the amount of \$1,750.

FISCAL IMPACT

In Fiscal Year 2009/2010, \$5,000 was budgeted for Special Events in the City Council's Business Unit - Line Item 010.11110.6236 as set forth in "City Sponsorship" Policy 2.36.

SUMMARY

Community Health Systems, Inc. is planning its 2nd Annual Holiday Celebration Health Fair and is requesting the City Council approve a Sponsorship Request Application to offset the cost to provide the community event. The City Council is guided by "City Sponsorship" Policy 2.36 that sets forth criteria of aiding eligible organizations in providing worthwhile community events by paying a portion of the costs.

NOTIFICATION

Publication of Agenda.

Staff notified Community Health Systems, Inc. of the pending action before the City Council.

ATTACHMENTS/EXHIBITS

1. Sponsorship Application Request
2. "City Sponsorship" Policy 2.36

Prepared By:
Cindy Miller
Executive Assistant to the Mayor/City Council

Department Head Approval:
Jane Halstead
City Clerk

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

\\Zurich\shared\InterDept\Council-Clerk\City Clerk Files\Council Office\Staff Reports\2009\Community Health Systems Co-Sponsorship\111009 Report.doc



City of Moreno Valley
Sponsorship Application Request - Local Events - Regional Events

09 OCT 1 9 PM 3: 35
CITY COUNCIL
MORENO VALLEY
RECEIVED

Applications must be filed at least 60 days prior to the event. All applications must be accompanied by a Special Event Permit and Application.

Application Information

- 1. Organization Name (if any): Community Health Systems Inc.
2. Non-Profit Federal Tax Identification Number: 33-0056055
3. Event Title: Holiday Celebration / Health Fair
4. Event Description: Health & Wellness Fair
5. Event Date: 12-5-2009 Start Time: 9:00am End Time: 2:00pm
6. Event will take place: [] City Park [] City Facility [] On a Public Street
[X] Other: Moreno Valley Family Health Center Parking Lot
7. Is this a fund-raising event? [] Yes [X] No
8. Provide information on the budget for this event:
Expected Income: \$
Expected Expenses: \$ 3,500.00
Expected Net Profit: \$
Expected Attendance: 2,000.00
Entry Cost Charged to Participant: \$ NONE
9. Funding Sources:
10. Amount of Funding:

- Attach a detailed copy of your event budget.
Attach a list of the organization's Board Members including telephone numbers.
Attach a copy of your organization's non-profit IRS tax status.
Request for parade must include a proposed parade route.
Request for park use must include a detailed diagram of park site.

I certify that all statements on this request are true and complete to the best of my knowledge.

Signature: [Handwritten Signature] Title: Community Outreach Coordinator
Individual Name: Tiffany Steward Daytime Phone: (951) 571-2350
Mailing Address: 22675 Alessandro Blvd Evening Phone: (951) 255-2918
E-Mail Address: t.steward@chsicg.org Fax Number: (951) 571-2370

To be Completed by the City of Moreno Valley

Received by: Cindy A. Miller Date Received: 10/19/09
Authorized by: Date Authorized:

AP 2.36, Attachment A

Event Budget for 2nd Annual Holiday Celebration Health Fair

Expenses

	Estimated	Actual
Total Expenses	\$4,331.03	\$2,500.04

	Estimated	Actual
Refreshments		
Food	\$250.00	
Drinks	\$50.00	
Linens	\$75.00	
Staff and gratuities		
Totals	\$375.00	\$0.00

	Estimated	Actual
Program		
Performers	\$800.00	\$600.00
Speakers		
Travel		
Hotel		
Other	\$310.00	
Totals	\$1,110.00	\$600.00

	Estimated	Actual
Prizes		
Ribbons/Plaques/Trophies		
Gifts	\$250.00	
Totals	\$250.00	\$0.00

	Estimated	Actual
Site		
Major TUP	\$241.00	\$241.00
Fire Inspection	\$234.00	\$234.00
Building Inspection	\$154.00	\$154.00
Tables and chairs	\$1,200.00	\$808.69
Totals	\$1,829.00	\$1,437.69

	Estimated	Actual
Decorations		
Flowers		\$300.00
Candles		
Lighting		
Balloons	\$165.00	\$162.35
Paper supplies	\$150.00	
Totals	\$315.00	\$462.35

	Estimated	Actual
Publicity		
Graphics work		
Photocopying/Printing	\$302.03	
Postage		
Totals	\$302.03	\$0.00

	Estimated	Actual
Miscellaneous		
Telephone		
Transportation		
Stationery supplies	\$150.00	
Fax services		
Totals	\$150.00	\$0.00

COMMUNITY HEALTH SYSTEMS, INC.

FY 2009 BOARD MEMBER CONTACT INFORMATION

Name	Draymond Crawford - Oct 82
Board position	Chair
Home #	909-822-4213

Name	Irma Sanchez
Board position	Member
Home #	909-546-4430

Name	Marjorie (Margie) Walker
Board position	Member
Home #	951-924-2005

Name	Rodger Lehl
Board position	Board Member
Home #	951-233-5321

Name	Corey Seale
Board position	Board Member
Home #	951-587-8070

Name	William Gonzales - Feb 99
Board position	Vice Chair
Home #	909-823-9614

Name	Ulric Jones
Board position	Treasurer
Home #	909-880-3535

Name	Paul Rasso
Board position	Member
Home #	951-264-3032

Name	Gordon Tinker
Board position	Board Member
Home #	760-728-9762

Name	Kenneth Schmidt
Board position	Board Member
Home #	951-687-4474

OGDEN UT 84201-0038

In reply refer to: 0437758212
Oct. 21, 2008 LTR 4168C EO
33-0056551 000000 00 000 R
00023472
BODC: TE

COMMUNITY HEALTH SYSTEMS INC
22675 ALESSANDRO BLVD
MORENO VALLEY CA 92553



002480

Employer Identification Number: 33-0056551
Person to Contact: S. Ingraham
Toll Free Telephone Number: 1-877-829-5500

Dear Taxpayer:

This is in response to your request of Oct. 09, 2008, regarding your tax-exempt status.

Our records indicate that a determination letter was issued in September 1984, that recognized you as exempt from Federal income tax, and discloses that you are currently exempt under section 501(c)(03) of the Internal Revenue Code.

Our records also indicate you are not a private foundation within the meaning of section 509(a) of the Code because you are described in section(s) 509(a)(1) and 170(b)(1)(A)(vi).

Donors may deduct contributions to you as provided in section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to you or for your use are deductible for Federal estate and gift tax purposes if they meet the applicable provisions of sections 2055, 2106, and 2522 of the Code.

If you have any questions, please call us at the telephone number shown in the heading of this letter.

Sincerely yours,

Deborah Bingham
Accounts Management I

CITY OF MORENO VALLEY

BUSINESS LICENSE TAX RECEIPT

The person, firm or corporation named below has paid the appropriate fees to the City and is hereby granted this business license tax receipt for the business described below. Granting of this receipt does not entitle the holder to operate or maintain a business in violation of any law or ordinance. The City does not pass on the qualifications of the holder of this business license tax receipt.

Business Name: Moreno Valley Family Health Center
Business Location: 22675 Alessandro Blvd, Moreno Valley, CA 92553
Business Owner: Community Health Systems, Inc.
Jack E. Johns



BUSINESS TYPE: 187
Description: MEDICAL/DENTAL PRACTICE
CLINIC LAB

BUSINESS LICENSE #: 20144
Effective Date: January 01, 2009
Expiration Date: December 31, 2009

MORENO VALLEY FAMILY HEALTH CENTER
C/O COMMUNITY HEALTH SYSTEMS INC
22675 ALESSANDRO BLVD
MORENO VALLEY, CA 92553


Steve Elam

Financial & Administrative Services Director

TO BE POSTED IN A CONSPICUOUS PLACE

NOT TRANSFERABLE

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CITY SPONSORSHIP

PURPOSE: City sponsorship is provided for the purpose of aiding eligible organizations in providing worthwhile community events by paying a portion of the costs and receiving positive publicity for the City. The purpose of this policy is to set forth criteria to be met by the applicant prior to consideration of the request for sponsorship, as well as policies and procedures to be followed by the City in acting on the request for sponsorship.

POLICY:**I. Sponsorship**

The City of Moreno Valley receives numerous requests to sponsor or co-sponsor events, activities, individuals or groups. The City has limited resources available for these sponsorship opportunities. For that reason, it is the City's policy to only sponsor or co-sponsor cultural or recreational events provided to the community by non-profit organizations existing pursuant to Internal Revenue Code Section 501(c)(3) or (4) that are located within the City. Sponsorship is a discretionary act of the City that confers no legal rights in the sponsorship proceeds or assistance prior to actual delivery by the City. No organization shall receive any City sponsorship proceeds or assistance unless and until it meets all of the criteria and satisfies all of the conditions contained within this policy and said sponsorship requester has submitted a completed application packet to the satisfaction of the City Manager. Upon approval of the Sponsorship Application packet, the sponsorship request will be forwarded to the City Council for review and consideration.

II. Organization Eligibility

Criteria for organization eligibility for City sponsorship is as follows:

- A. Applicant must be organized and existing pursuant to Internal Revenue Code Section 501(c)(3) or (4).
- B. Applicant must have as its primary purpose charity, youth development, cultural enrichment, or civic improvement.
- C. Applicant must be located within the City and providing services or benefits to the community.
- D. Applicant must complete and comply with the application process.
- E. Applicant must demonstrate a need for City sponsorship.
- F. Past events by the applicant must have complied with City requirements and have been free of significant problems.
- G. Applicant must have a valid City Business License.

III. Event Eligibility

Criteria for event eligibility are as follows:

- A. Fundraising shall not be the primary purpose of the event.
- B. Cultural or recreational events only.
- C. Past similar events by the applicant must have complied with City requirements and have been free of

Approved by: City Council

9/24/02

Revised: 11/25/08

CITY SPONSORSHIP

significant problems.

- D. Open to the general public without qualification and must be widely publicized.
- E. Located within the City including the City sphere of influence March Air Reserve Base, March Joint Powers Authority property, and Box Springs Park.

IV. Sponsorship Limitations

Sponsorship proceeds or assistance shall not result in any money being actually given to or paid in behalf of the event organizer. Sponsored events will only receive a "line of credit" with the City that will allow the group to receive credits of City costs up to the designated amount of the sponsorship for the event. Eligible City costs that can be offset by the sponsorship proceeds or assistance up to the maximum amount of the sponsorship are limited to the following:

- A. Mobile stage rental. (A monetary deposit by the applicant will be required.)
- B. Facility rental. (A monetary deposit by the applicant will be required.)
- C. Light or electric pole use in City parks.
- D. City Permits.
- E. Public Safety Services.
- F. City Staff.

V. Sponsorship Amounts

The amount of sponsorship proceeds or assistance shall be determined as follows:

- A. Depending on availability of resources, the City will budget \$5,000 per fiscal year to be used for sponsorship opportunities.
- B. The maximum sponsorship for any qualified organization and event shall not exceed \$2,500 per fiscal year.
- C. The maximum amount of sponsorship shall be directly proportional to the total attendance of the public at the sponsored event as follows:
 - 1. 250 - 500 in attendance = \$500 per event.
 - 2. 501 - 750 in attendance = \$750 per event.
 - 3. 751 - 1,000 in attendance = \$1,000 per event.
 - 4. Over 1,001 in attendance = \$2,500 per event.

In no case shall the sponsorship amount exceed fifty percent (50%) of the funds raised for the event.

Approved by: City Council

9/24/02

Revised: 11/25/08

CITY SPONSORSHIP

- D. Sponsorship amounts or assistance shall not be utilized to cover the cost of insurance.

VI. Application Process

- A. Submit a completed City application (Attachment A) for sponsorship at least 90 calendar days prior to the event date. Failure to comply with this requirement shall be automatic grounds for denying sponsorship. The application shall include a detailed description or listing of the estimated funds, in-kind donations and/or other assistance the organization will receive to support the organization and/or event.
- B. A completed application means completion of the City application for sponsorship, attachment of all required additional documentation, payment of all fees, if applicable, and submission of whatever other information and/or documentation that may be requested by the City to make an informed decision.
- C. Incomplete applications shall not be eligible for City sponsorship.
- D. Applicants shall receive a copy of this policy at the time an application is made to the City.

VII. Approval

- A. A determination shall be made by the City Manager or his/her designee, within 30 calendar days after submission of an application for sponsorship as to its completeness.
- B. The City Manager shall refer the request for sponsorship to the City Council for determination. Determinations on requests for sponsorship shall be made within 30 calendar days after submission of a completed application.
- C. All decisions of the City Council regarding sponsorship shall be final.

VIII. Other Requirements

- A. Applicant must agree in writing to defend and indemnify the City, the Moreno Valley Community Services District, the Community Redevelopment Agency of the City of Moreno Valley and their officers, employees and agents from and against any and all liability and claims of liability arising out of or otherwise arising from the event.
- B. Applicant shall submit to the City at least 10 calendar days prior to the event an event implementation plan, if requested by the City. The event implementation plan shall address in detail all issues requested by the City.
- C. Applicant shall agree to list the City of Moreno Valley as an official sponsor of the event in all promotion of the event. Failure to do so shall result in termination of the sponsorship and repayment to the City the monetary value of all sponsorship proceeds or assistance delivered to the applicant or for the event.
- D. Applicant shall coordinate and work directly with the City Manager or his/her designee for use of the City name and City logo.

Approved by: City Council

9/24/02

Revised: 11/25/08

CITY SPONSORSHIP

- E. Applicant must have adequate public liability and other necessary insurance for the event as required by and in accordance with City insurance requirements or as otherwise determined necessary by the City Risk Manager.
- F. All insurance must be issued by a company authorized and licensed to do business within the State of California and has a Best's Insurance Rating of A-, VII, or better to be acceptable to the City.
- G. City, the Moreno Valley Community Services District, the Moreno Valley Community Redevelopment Agency, and their officers, employees, and agents must be named as additional insured on all policies of insurance.
- H. Applicant must provide City with insurance certificates and valid additional insured endorsements or other appropriate insurance binder 15 calendar days prior to the date of the sponsored event.
- I. Applicant shall provide the City with a detailed accounting of all expenses and funds, in-kind donations, and/or other assistance collected for the organization and/or event within 90 days following the event. Failure to provide the required information would deem the organization and/or event ineligible for City sponsorship in the future.

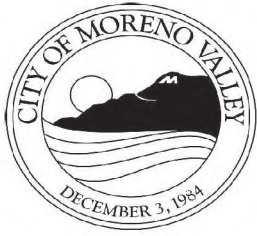
IX. Sponsorship Not Subject To This Policy

This policy shall not apply to events or organizations that are specifically budgeted for in the City's Annual Budget.

Approved by: City Council

9/24/02

Revised: 11/25/08



APPROVALS	
BUDGET OFFICER	<i>[Signature]</i>
CITY ATTORNEY	<i>[Signature]</i>
CITY MANAGER	<i>[Signature]</i>

Report to City Council

TO: Mayor and City Council

FROM: Rick C. Hartmann, Deputy City Manager

AGENDA DATE: November 10, 2009

TITLE: CONSIDERATION OF AN ORDINANCE EXTENDING ORDINANCE NO. 791 WHICH EXTENDED THE EXPIRATION DATE OF CERTAIN DISCRETIONARY PERMITS OR ENTITLEMENTS APPROVED BY THE CITY ON OR AFTER JANUARY 1, 2006 AN ADDITIONAL TWELVE MONTHS

RECOMMENDED ACTION

Staff recommends the City Council introduce Ordinance No. 803, extending Ordinance No. 791 extending expiration date of certain discretionary permits or entitlements approved by the City on or after January 1, 2006, by an additional twelve months.

ADVISORY BOARD/COMMISSION RECOMMENDATION

Not applicable.

BACKGROUND

As reported to the City Council this past April, the current economy is in a state of instability and most economic forecasters are predicting the economy will not stabilize until 2010 or after. The City of Moreno Valley has been and will continue to be significantly impacted by the economic downturn and any improvement will take more time than in past economic recovery efforts.

The City Council understands the impact the economic meltdown has had on the City and has taken a number of steps to offset the impacts. For example, the City Council took action to delay the payment of Development Impact Fees (DIF) and Transportation Uniform Mitigation Fees (TUMF) to certificate of occupancy as well as cut DIF for new home builders in half. The City Council also took action to extend the expiration date of certain entitlements and discretionary permits by twelve months in an attempt to keep projects on the "active" list (Ordinance No. 791).

The time extension authorized by Ordinance No. 791 did in fact provided assistance to a few projects. However, the ordinance by which the discretionary permit/entitlement process was extended by twelve months is due to expire at the end of the calendar year. There are still a number of projects that are waiting for some positive movement in the economy before moving forward and it may not be in the City's best interest to allow these projects to expire. Therefore, Staff is recommending the City Council consider extending Ordinance No. 791 for an additional twelve months.

DISCUSSION

Since the City Council's adoption of Ordinance No. 791, 38 projects that would have expired in 2009 were extended to 2010. Of the 38 projects, one is under construction (a small condo project), one has precise grading and is ready for building permits to be issued (a small office building), and one is working diligently to finish plan checks to permit grading to begin (a large condo project). There are also a few custom homes working their way towards building permit issuance. The remaining projects have ceased processing for the time being. Extending the approval date by an additional twelve months would not only benefit the 30 plus projects previously mentioned, but would also assist other projects that would expire in 2010 and 2011.

The proposed ordinance attached (Exhibit "A"), would permit the entitlement and/or discretionary permit approved by an additional twelve months and would extend the initial approval period from three years to four years of any project approved in 2009.

The proposed ordinance will expire on December 31, 2010, unless the City Council takes action to extend the ordinance. Staff would again present an overview of the impact the ordinance has had to the City Council for its review at its first regularly scheduled meeting in November which should provide ample time to extend the proposed ordinance by the end of the calendar year if so desired.

ALTERNATIVES

1. Approve the proposed ordinance extending the time of a City approved project for twelve additional months. *Staff's recommended action.*
2. Not approve the proposed ordinance. This will continue the current process and practice.

FISCAL IMPACT

Staff is not anticipating any significant fiscal impacts in extending the approval of a project an additional twelve months. If an applicant were to file an application to request an extension, a fee would be collected to process the application. Fees for a time extension application would cost up to \$2,609 (Fiscal Year 2009-10 Fee Schedule). It is difficult to estimate the number of applications for time extension requests that may be filed given today's economy.

Staff would incur some administrative costs to inform a project proponent of the extension of time and insure the new expiration date is properly documented. The administrative function will occur over a period of time and therefore, not impacting general operations of the Planning Division.

SUMMARY

The current economic meltdown has discouraged a number of builders and developers. Many have and/or are considering not moving forward to complete projects approved by the City. The proposed ordinance extending the life of a project by an additional twelve months will allow builders and developers to keep their projects active and not be forced to make a decision today to build or not build. The ordinance will in theory, assist in the economic recovery of the City of Moreno Valley.

CITY COUNCIL GOALS

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

ATTACHMENTS/EXHIBITS

Exhibit "A" – Proposed Ordinance

Prepared By:
Rick C. Hartmann
Deputy City Manager

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

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ORDINANCE No. 803

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, EXTENDING ORDINANCE NO. 791, EXTENDING THE EXPIRATION DATE OF CERTAIN DISCRETIONARY PERMITS OR ENTITLEMENTS APPROVED BY THE CITY ON OR AFTER JANUARY 1, 2006, BY AN ADDITIONAL TWELVE MONTHS

WHEREAS, The City Council of the City of Moreno Valley establishes a regulatory framework for controlling the development of land within the City, and

WHEREAS, in order to develop land in the City, it generally requires a builder, developer and/or property owner to submit, and have approved by the City, an application for development which confers a vested right to proceed with development in substantial compliance with specified ordinances, policies, standards and conditions of approval, and

WHEREAS, there is included with any approval of an application for development, a standard condition of approval whereby the builder, developer and/or property owner must be obtain a valid permit and commence substantial construction within 36 months of the City approving said application, and

WHEREAS, due to the continuing deteriorating state of the economy, builders, developers and/or property owners are hesitant to move forward with new construction projects approved by the City, and

WHEREAS, the City Council, at its meeting of April 28, 2009, introduced Ordinance No. 791 that extended certain discretionary permits or entitlements approval dates by twelve months (12) to keep projects on the "active" list in hopes the economy would show some signs of recovery and the project proponents would begin construction, and

WHEREAS, the City Council has determined the economy has not improved and finds that extending a project's expiration date by an additional twelve (12) months in which a builder, developer and/or property owner must pull a permit and commence construction would allow those discretionary permits or entitlements approved by the City to remain "active" in anticipation of the economic conditions of the state improving, and provide an incentive for development in the City to occur more rapidly than would otherwise occur, thereby stimulating the City's economy and benefiting the public.

NOW, THEREFORE, the City Council of the City of Moreno Valley does hereby ordain as follows:

SECTION 1. EXTENSION OF TIME.

The expiration dates for any and all Conditional Use Permits, Variances and Plot Plans that were approved by the City on or after January 1, 2006, are hereby extended for twenty-four (24) months from their original expiration dates. Any such approval having expired on or before the effective date of this ordinance is hereby reinstated and so extended.

SECTION 3: WAIVER OF FEES

A builder, developer and/or property owner receiving an extension of time by this ordinance shall not be required to pay the City a fee for such extension.

SECTION 4. AUTOMATIC REPEAL.

This ordinance shall remain in effect until December 31, 2010, and as of that date is repealed unless extended by the City Council on or before the expiration date.

SECTION 5: EFFECTIVE DATE

This ordinance shall become effective January 1, 2010, immediately following the expiration of Ordinance No. 791.

SECTION 6: SEVERABILITY

If any provision of the ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and the provisions of this ordinance are declared to be severable.

SECTION 7: NOTICE OF ADOPTION

The City Clerk shall certify to the adoption of this ordinance and cause it to be posted in at least three places within the City designated for such posting by the City Council.

Approved and adopted this ____ day of November 2009.

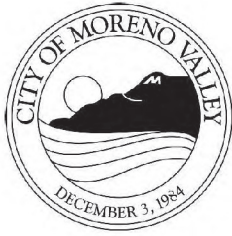
Richard Stewart, Mayor

ATTEST:

Jane Halstead, City Clerk

APPROVED AS TO FORM:

Robert Hansen, Interim City Attorney



APPROVALS	
BUDGET OFFICER	<i>cof</i>
CITY ATTORNEY	<i>RH</i>
CITY MANAGER	<i>PA</i>

Report to City Council

TO: Mayor and City Council

FROM: Barry Foster, Economic Development Director

AGENDA DATE: November 10, 2009

TITLE: Participation Agreement with Burlington Coat Factory of California LLC

RECOMMENDED ACTION

Staff recommends that the Mayor and City Council adopt Resolution No. 2009-109, a resolution of the City of Moreno Valley approving and authorizing a Participation Agreement with Burlington Coat Factory of California LLC.

BACKGROUND

TownGate is a 590-acre master-planned area that includes a number of the City's major shopping centers. In recent years, several national businesses have closed anchor store locations in TownGate because of the economic downturn, but more specifically in many cases because these companies filed for bankruptcy protection and the corporations went out of business and eventually dissolved. Please note that often times the locations at TownGate were solid or above average sale producers for specific businesses, but these companies merely experienced corporate financial challenges and don't exist anymore.

The loss of anchor uses can have a significant negative impact on a shopping center because of a decrease in customer traffic and likely will eventually result in sales declines for other retail and restaurant uses in a center. Often times the end result is more store closures. Attracting new users to vacant anchor stores can be challenging in the economic climate, but is an important tool in helping to stabilize shopping centers. Improving the vitality of shopping centers with increased tenant occupancy serves to increase sales tax revenue for the City, along with protecting employment stability for retail and restaurant businesses.

DISCUSSION

The objective in looking to attract new uses for vacant anchor buildings is to find businesses desirable to the community, as well as companies that are fiscally solid and will hopefully be around for awhile. In marketing building opportunities, Economic Development staff strives to work closely with the commercial real estate community and the owners of TownGate centers.

To assist in attracting new quality uses, the City has and will further budget funds to financially incentivize businesses in opening new locations in vacant anchor stores in TownGate. The overall goal is to improve the economics for companies in renovating vacant buildings and making the investment necessary for opening new business locations in Moreno Valley.

The former 77,192 sq. ft. Mervyn's building has been vacant since January 2009, when the store was closed as part of the company's bankruptcy action and eventually the corporation was liquidated. For several years, City staff has pursued Burlington Coat Factory to open a Moreno Valley store location. The vacant former Mervyn's building is the perfect size for a new Burlington coat Factory store because the company's optimal building size for new stores is 70,000 to 80,000 sq. ft. The transition from Mervyn's to Burlington Coat Factory makes great sense in helping to stabilize the TownGate Center. Attracting this caliber of national retailer has already generated the interest from other retailers and restaurants to locate at TownGate Center.

Burlington Coat Factory is a major national retailer with 395 stores situated in 44 states across the U.S., including operating stores in the nearby communities of Riverside, Murrieta and Ontario. Burlington Coat Factory is based in Burlington New Jersey and is a privately held company owned by Bain Capital Partners LLC. Burlington Coat Factory of California LLC is a limited liability company that operates the Burlington Coat Factory stores in California. Expansion in Southern California and new store opportunities is actively being pursued by Burlington officials.

The Burlington concept offers a one-stop shopping experience for an extensive selection of men's and women's suits, sportswear, shoes and accessories, along with a wide assortment of linens, home furnishings, and baby products. Burlington's strategic purchasing of designer clothing and accessories at value pricing has helped make the business concept very successful and popular with shoppers.

The former Mervyn's property in TownGate Center is owned by Inland Western Retail Real Estate Investment Trust (Inland), a major real estate investment trust that is based in Chicago and is the owner of 20 former Mervyn's locations. Altogether, Inland's portfolio of properties nationally is in excess of 49 million square feet, including 4.5 million sq. ft. in California. A Lease has been fully negotiated between Inland and Burlington. The terms of the lease transaction call for completing renovations to the existing vacant building, including installing new tenant improvements to create the new Burlington Coat Factory store. The lease is contingent on the City approving the

Participation Agreement. The target for opening of the new store is late spring or early summer 2010.

To enhance Burlington's ability to open a new store in Moreno Valley and especially in TownGate Center at the former Mervyn's location, a Participation Agreement has been drafted to establish a contractual relationship between the City of Moreno Valley and Burlington for the opening of the new store. The Participation Agreement, which was drafted by the City's Special Legal Counsel, provides for the following major business points:

- Burlington shall open a new retail store in TownGate that shall be operated under the trade name 'Burlington Coat Factory'.
- Burlington shall establish the new store in TownGate as a point of sale within the City of Moreno Valley.
- Burlington shall agree to create 5 new full-time (or part-time equivalent) jobs to be held or made available to low and moderate income persons, consistent with CDBG requirements.
- Burlington shall receive an initial payment of \$175,000 from the City's CDBG Retail Incentive Program at the opening of the new store in TownGate and the verification of the creation of the CDBG related jobs.
- The City of Moreno Valley shall purchase a 5-year Operating Covenant from Burlington for the establishment of the point of sale and continuous operation of the store that will be paid in the amount of \$75,000 annually with a not to exceed total amount of \$375,000 for the five year period.
- In the event of an uncured default of the Operating Covenant or conditions of the Participation Agreement by Burlington during the 5 year term, the City shall not be obligated to provide any further payment to Burlington.

ALTERNATIVES

1. Approve the Participation Agreement supporting the City's assistance in the opening of the new Burlington Coat Factory store in TownGate.
2. Reject or pursue a modification in the terms of the Participation Agreement. Supporting this alternative could hinder the timing or ability to open the new Burlington Coat Factory store.

FISCAL IMPACT

The opening of the new Burlington Coat Factory store will help stabilize the TownGate Center, which over the years has been a consistent sales tax contributor for the City. Please note that in FY 2008/09, the TownGate Center generated over \$400,000 in sales tax revenue for the City—unfortunately this was a 20% decline from FY 2007/08.

Most importantly, the opening of the new Burlington Coat Factory store will create a new business opportunity for a vacant anchor building, including re-establishing the location as a point of sale for sales tax purposes. The financial investment from the City through

CDBG funding and/or future sales tax sharing will serve to help re-occupy this vacant large building with a desirable new retail use.

The funding for the 'Initial Payment' of \$175,000 will be from the adopted CDBG Budget for FY 2009/10 from the new CDBG Retail Incentive Program.

Fund	Business Unit Name	Amount
284.73939.6853	MV Retail Incentive Program	\$175,000

The funding of the purchase of the operating covenant will occur with five additional annual payments of \$75,000 to be funded by future revenue from either CDBG or sales tax.

ATTACHMENTS

- ATTACHMENT 1: Participation Agreement
- ATTACHMENT 2: Resolution of the City of Moreno Valley

Prepared By:
Barry Foster
Economic Development Director

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

RESOLUTION No. 2009-109

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY
AUTHORIZING A PARTICIPATION AGREEMENT WITH BURLINGTON COAT
FACTORY OF CALIFORNIA, LLC

WHEREAS, the City Council of the City of Moreno Valley wishes to work with Burlington Coat Factory (Burlington) to open a new retail store in the TownGate area; and

WHEREAS, in furtherance of the objectives of the Housing and Community Act of 1974, the opening of a new Burlington store will create new jobs for low and moderate income persons; and

WHEREAS, the City is authorized to undertake activities and expend moneys pursuant to and in implementation of CDBG programs; and

WHEREAS, the opening of a new Burlington store in TownGate will establish a new point of sale for sales tax revenue for the City of Moreno Valley; and

WHEREAS, the operations as required to be accomplished under the Participation Agreement are in the vital and best interest of the City and the health, safety, and welfare of its residents and in accord with public purposes and provisions of applicable federal, state and local laws;

NOW THEREFORE, the City Council of the City of Moreno Valley DOES HEREBY RESOLVE, ORDER AND DETERMINE AS FOLLOWS:

Section 1. Each of the above recitals is true and correct and therefore adopted by the Legislative Body.

Section 2. This Resolution shall take effect immediately upon its adoption.

APPROVED AND ADOPTED this _____ day of _____, 2009.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

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ATTACHMENTS

Attachment No. 1	Map of the TownGate Area
Attachment No. 2	Annual Compliance Report
Attachment No. 3	Roles to Ensure Low-to-Moderate Income Benefit
Attachment No. 4	Summary of HUD Federal Requirements for CDBG Economic Development Activities
Attachment No. 5	Operator Certificate
Attachment No. 6	Schedule of Performance

PARTICIPATION AGREEMENT

By and Between the

CITY OF MORENO VALLEY

and

BURLINGTON COAT FACTORY OF CALIFORNIA, LLC
a California limited liability company

PARTICIPATION AGREEMENT

This **PARTICIPATION AGREEMENT** (the "Agreement") is entered into as of November 10, 2009, by and between the **CITY OF MORENO VALLEY**, a municipal corporation (the "City"), and **BURLINGTON COAT FACTORY OF CALIFORNIA, LLC**, a California limited liability company (the "Operator").

RECITALS

The following recitals are a substantive part of this Agreement:

A. In furtherance of the objectives of the Housing and Community Development Act of 1974, as amended (the "Act") as well as regulations promulgated thereunder, the Operator and the City desire that the Operator open a retail store within an area of the City of Moreno Valley known as "TownGate" (as described below) under the trade name Burlington Coat Factory and that, as part of Operator's activities, a minimum of ten (10) new, full time jobs (or composite full time jobs) be created within the City to be held by or made available to low- or moderate-income persons.

B. Operator has initiated efforts to determine a suitable location within the TownGate Area for a retail facility to be operated under the trade name Burlington Coat Factory.

C. Operator has been provided with, has reviewed and agreed that its receipt of payments from the City under this Agreement is subject to the "Summary of HUD Federal Requirements for CDBG Economic Development Activities" (Attachment No. 4 to this Agreement), the "CDBG Regulations", as defined below, and the remainder of this Agreement.

D. The City is authorized to undertake activities and expend moneys pursuant to and in implementation of the CDBG Regulations.

E. The operations as required to be accomplished under this Agreement are in the vital and best interest of the City and the health, safety, and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local laws.

NOW, THEREFORE, the City and the Operator hereby agree as follows:

100. DEFINITIONS.

"*Adverse Litigation*" means any litigation (including without limitation the filing of a claim) concerning (i) the Agreement, (ii) the subject matter of the Agreement, or (iii) the land use approvals, zoning classifications, or environmental process with respect to the Designated Site, the Agreement, or the activities to be undertaken by the Operator under the Agreement, which, in the opinion of Operator or City, will have a material adverse effect on the ability of either party to perform its obligations under this Agreement or to realize the intended benefits of this Agreement.

"*Agreement*" means this Participation Agreement by and between the City and the Operator.

"*Annual Payment Amount*" means, as to an Annual Period, the amount of Seventy Five Thousand Dollars (\$75,000).

“Annual Period” means that three hundred sixty five (365) day period commencing as of the Opening, and each succeeding three hundred sixty five (365) day, or for leap years three hundred sixty six (366) day periods, ending the day prior to the anniversary of the Opening.

“Certificate Condition” is defined in Section 401.2 hereof.

“City” means the City of Moreno Valley, a municipal corporation.

“City Manager” means the City Manager of the City or his designee.

“CDBG Regulations” means those regulations (concerning Community Development Block Grants) set forth at 24 CFR 570, including without limitation those regulations referenced therein.

“Conditions Precedent to Payment” is defined in Section 403 hereof.

“Conforming Activities” means the operation of a retail clothing business in a Conforming Facility under the trade name Burlington Coat Factory with not less than five (5) Qualifying Employees from Targeted Income Groups in conformity with the CDBG basic requirements.

“Conforming Facility” means a building consisting of not less than forty thousand (40,000) square feet gross leasable area and adjacent parking spaces (or rights to use such spaces) as required by the City in connection with its customary planning process.

“Continuous Operation Condition” is defined in Section 401.2 hereof.

“County” shall mean the County of Riverside, California.

“Date of Agreement” means November 10, 2009.

“Deadline” means the ninetieth (90th) day following the Date of Agreement.

“Default” means the failure of a party to perform any action or covenant required by this Agreement within the time periods provided herein following notice and opportunity to cure, as set forth in Section 601 hereof.

“Designated Site” means a parcel of land within the TownGate Area to be designated by Operator as provided in Section 401 of this Agreement.

“Designated Trade Name” means “Burlington Coat Factory,” or another trade name that is approved by the City in its discretion.

“Establishment of Point of Sale” means the opening for business of an establishment that engages as its principal business use in the sale of clothing and other Conforming Activities and is operated under the Designated Trade Name within the TownGate Area, including: (i) the presence on the Designated Site of inventories in quantities at or above those customary for stores operating under the Designated Trade Name in Riverside County, San Bernardino County, Los Angeles County, Orange County and San Diego County; and (ii) the satisfaction of all of the Performance Conditions (excepting only to the extent that those Conditions require ongoing operation and are not capable of being satisfied as of the opening for business of a business conducting Conforming Activities under the Designated Trade Name).

"*Fee Condition*" is defined in Section 401.2.

"*Governmental Requirement*" means each and every law, ordinance, statute, code, rule, regulation, order, and decree of the United States, the state, the County, the City, or any other political subdivision in which the Designated Site is located, and of any other political subdivision, agency, or instrumentality exercising jurisdiction over the Operator or the Designated Site.

"*Improvements*" means all improvements present on the Designated Site as of the Date of Agreement or thereafter undertaken on the Designated Site.

"*Initial Payment Amount*" means the sum of One Hundred Seventy-Five Thousand Dollars (\$175,000).

"*Maximum Payment Amount*" means the sum of: (i) the Initial Payment Amount and (ii) up to Three Hundred Seventy Five Thousand Dollars (\$375,000) in Annual Payments as aggregated.

"*Municipal Code*" means the City of Moreno Valley Municipal Code.

"*Notice*" shall mean a notice in the form prescribed by Section 601 hereof.

"*Opening*" means the opening for business of a retail store consisting of not less than forty thousand (40,000) square feet gross leasable area operating under the Designated Trade Name and which includes each of: (i) the Establishment of Point of Sale at the Designated Site within the TownGate Area for the Conforming Activities under the Designated Trade Name, or (ii) the time set forth for the Establishment of Point of Sale in the Schedule of Performance.

"*Operating Covenant Period*" means a sixty (60) month period commencing with the Opening.

"*Operator*" means Burlington Coat Factory of California, LLC, a California limited liability company.

"*Operator Certificate*" means Attachment No. 5 to this Agreement.

"*Performance Conditions*" means all of the following: the Sales Tax Condition; the Fee Condition; the Indemnification Condition; the Certificate Condition; and the Continuous Operation Condition. Each of the foregoing "Conditions" as so enumerated within this definition of Performance Conditions is defined in Section 401.2 hereof.

"*Qualifying Employee(s)*" is defined as follows: the number of persons constituting Qualifying Employees during any Annual Period shall equal the sum of (i) the number of "Full Time Employees" for such Annual Period plus (ii) the number of "Composite Full Time Employees" for such Annual Period, calculated in accordance with the following:

(a) In order to qualify as a Full Time Employee of Operator for the applicable Annual Period, a person must be a salaried or hourly employee who is employed at the Designated Site not less than forty (40) hours per week for not less than fifty (50) weeks, with such fifty two (52) week calculation to be inclusive of vacations, holidays, disability leaves required pursuant to state law, sick leave and similar benefits generally afforded employees generally deemed to be full time employees by prevailing community standards during the corresponding Annual Period. An employee who is

terminated during any Annual Period, and the employee who replaces such terminated employee in such position, shall be aggregated for purposes of the foregoing calculation.

(b) For purposes of this Agreement, one Composite Full Time Employee shall be deemed to exist for each two thousand (2,000) hours worked per Annual Period, not inclusive of vacations, holidays, disability leaves, sick leaves, or similar benefits, performed by part time employees (other than qualifying Full Time Employees), contract employees, independent contractors, or temporary personnel (collectively, "Part Time Employees") at the Designated Site.

Hours worked in one Annual Period shall be countable only with respect to that Annual Period and cannot be carried forward or carried back to be applied as to a different Annual Period.

"*Required Period*" means that period commencing as of the Date of Agreement and continuing until the fifth (5th) anniversary of the Opening Date.

"*Schedule of Performance*" means that Schedule setting forth the times by which each action must be completed pursuant to this Agreement, as set forth in Attachment No. 6, attached hereto and incorporated herein.

"*Special Fund*" means a fund or account that City will maintain and which will be funded only with moneys granted by the United States Government under the Act (and, particularly, under the CDBG program).

"*Targeted Income Groups*" means low- and moderate-income households (as defined under Health and Safety Code Sections 50079.5 and 50093) residing in the City. Data changes annually concerning the income limits for such households; figures will be available from the City within a reasonable time following receipt of request therefor from the Operator.

"*TownGate Area*" means an approximately 590-acre area depicted in the Map of the TownGate Area.

200. REPRESENTATIONS AND WARRANTIES.

201. **City Representations.** City represents and warrants to Operator as follows:

(a) Authority. City is a municipal corporation organized and existing under the laws of the State of California, which has been authorized to transact business pursuant to action of the City Council. The City has full right, power and lawful authority to execute, perform, and deliver this Agreement, and the execution, performance, and delivery of this Agreement by City has been fully authorized by all requisite actions on the part of City. The parties who have executed this Agreement on behalf of City are authorized to bind City by their signatures hereto.

(b) No Conflict. To the best of City's knowledge, City's execution, delivery, and performance of its obligations under this Agreement will not constitute a default or a breach under any contract, agreement or order to which City is a party or by which it is bound.

(c) No City Bankruptcy. City is not the subject of a bankruptcy proceeding.

202. Operator Representations. Operator represents and warrants to City as follows:

(a) Authority. Operator is a duly organized California limited liability company that is doing business in California, is authorized to do business in California and is in good standing under the laws of the State of California. Operator has full right, power and lawful authority to purchase or lease and accept possession of property within the TownGate Area, including the Designated Site and undertake all obligations as provided herein and the execution, performance and delivery of this Agreement by Operator has been fully authorized by all requisite actions on the part of the Operator. The parties who have executed this Agreement on behalf of Operator are authorized to bind Operator by their signatures hereto.

(b) Litigation. To the best of Operator's knowledge, there are no actions, suits, material claims, legal proceedings, or any other proceedings pending against Operator, or affecting its ability to acquire ownership of or a leasehold interest as to the Designated Site or any portion thereof, at law or in equity before any court or governmental agency, domestic or foreign, which in any way would have a material effect on Operator's ability to perform its obligations under this Agreement.

(c) No Conflict. To the best of Operator's knowledge, Operator's execution, delivery, and performance of its obligations under this Agreement will not constitute a default or a breach under any contract, agreement or order to which Operator is a party or by which it is bound.

(d) No Operator Bankruptcy. Operator is not the subject of a bankruptcy proceeding.

(e) Operator Experience: Sophisticated Party. The Operator is a sophisticated party, with substantial experience in the acquisition, development, obtaining financing for, and the operation of retail facilities, and with the negotiation, review, and preparation of agreements and other documents in connection with such activities. The Operator is familiar with and has reviewed all laws and regulations pertaining to the operation of a Conforming Facility under this Agreement, as well as the CDBG Basic Requirements.

300. OPERATION IN CONFORMITY WITH LAW; INSURANCE AND INDEMNITY.

301. Indemnity. The Operator shall defend (by counsel satisfactory to City), indemnify and save and hold harmless City and its officers, contractors, agents and employees from and against all claims, damages, demands, actions, losses, liabilities, costs and expenses including, without limitation, attorneys' fees and court costs (all of the foregoing are collectively, "Claims") arising from or relating to: (i) Operator's breach of this Agreement; (ii) a Claim, demand or cause of action that any person has or asserts against Operator; (iii) any act or omission of Operator, any contractor, subcontractor or material supplier, engineer, architect or other person retained or employed by Operator with respect to the Designated Site; or (v) Operator's ownership, occupancy or use of the Designated Site. Operator's obligations under this Section 301 shall survive the termination of this Agreement.

If the Operator defaults under the terms of this Agreement and such default remains uncured after the City has given Operator written notice thereof as set forth in Section 601, the Operator agrees to reimburse the City immediately upon written demand for all costs reasonably incurred by

the City (including the reasonable fees and expenses of attorneys, accountants, appraisers and other consultants, whether the same are independent contractors or employees of City) in connection with the enforcement of the Agreement, including the attachments thereto, and all related matters including the following: (a) the City's commencement of, appearance in, or defense of any action or proceeding purporting to affect the rights or obligations of the parties to this Agreement, and (b) all claims, demands, causes of action, liabilities, losses, commissions and other costs against which the City is indemnified under this Agreement.

The Operator shall indemnify the City from any real estate commissions or brokerage fees which may arise from this Agreement or the Designated Site. The Operator agrees to hold the City harmless from any claim by any broker, agent or finder in connection with this Agreement, the activities by the Operator and/or the Designated Site.

Operator agrees that no displacement of another person or business shall be effected in connection with the selection of a Designated Site by the Operator or Operator's siting of a store at the Designated Site. Operator agrees to and shall defend, indemnify and hold harmless City from and against any claim, loss, suit or demand in connection with any claim for relocation assistance based upon the displacement of a person or business from the Designated Site occurring prior to and in connection with the selection of the Designated Site by the Operator.

302. Compliance With Laws. Operator shall carry out the design, construction and development of improvements, if any, and the conduct of uses on the Designated Site in conformity with all applicable laws, including without limitation the Act, City zoning and development standards, building, plumbing, mechanical and electrical codes, and all applicable disabled and handicapped access requirements, including without limitation the Americans With Disabilities Act, 42 U.S.C. Section 12101, et seq., Government Code Section 4450, et seq., Government Code Section 11135, et seq., and the Unruh Civil Rights Act, and Civil Code Section 51, et seq. The City makes no representations or warranties whatsoever with respect to the applicability of the foregoing prevailing wage and public works requirements, and the Operator shall make its own determination as to such applicability.

The Operator does hereby and shall indemnify and hold City harmless from and against any and all claims, demands, causes of action, obligations, damages, liabilities, costs and expenses, including reasonable attorneys' fees, that may be asserted against or incurred by City with respect to or in any way arising from Operator's compliance with or failure to comply with applicable laws.

Before commencement of construction of any improvement upon the Designated Site or otherwise within the corporate limits of the City, Operator shall, at no cost to the City, secure or cause to be secured any and all land use and other entitlements, permits, and approvals which may be required for such improvements by the City or any other governmental agency affected by or having jurisdiction over such construction or work. Operator shall, without limitation, apply for and secure, and pay (or cause to be applied for, secured and paid for) when due all costs, charges and fees associated therewith, all permits and fees required by the City, County of Riverside, and other governmental agencies with jurisdiction over such improvements. Execution of this Agreement does not constitute the granting of or a commitment to obtain or to assist in obtaining any required land use entitlements, or approvals required by the City. Operator's obligations under this Agreement including without limitation acquisition (by purchase or lease) and, if applicable, the making of improvements at the Designated Site is expressly conditioned upon the issuance of each permit required by the City, County of Riverside or other governmental agencies and the grant of all

approvals and entitlements required for development of the Designated Site as contemplated under this Agreement.

303. Insurance. Prior to the disbursement of any moneys by the City to the Operator and continuing throughout the Operating Covenant Period, the Operator shall maintain at Operator's sole expense (or, if Operator is leasing the Designated Site, the lessor may provide) the following policies of insurance in form and substance reasonably satisfactory to the City:

(i) workers' compensation insurance and any other insurance required by law in connection with construction, if any, performed on the Designated Site (to be in effect only while work is being performed on the Designated Site);

(ii) fire and hazard "all risk" insurance covering 100% of the replacement cost of the improvements at the Designated Site in the event of fire, lightning, windstorm, vandalism, earthquake, malicious mischief and all other risks normally covered by "all risk" coverage policies in the area where the Designated Site is located (including loss by flood if the Designated Site is in an area designated as subject to the danger of flood);

(iii) public liability insurance in amounts reasonably required by the City Manager from time to time, and in no event less than \$2,000,000 for "single occurrence;"

(iv) property damage insurance in amounts reasonably required by the City Manager from time to time, and in no event less than \$2,000,000; and

All such insurance shall provide that it may not be canceled or materially modified without 30 days prior written notice to City. The policies required under subparagraph (b) shall show the City as an additional insured and loss payee. City shall be an additional insured in the policies required under subparagraph (d). Certificates of insurance for the above policies (and/or original policies, if required by City) and endorsements shall be delivered to City from time to time within 10 days after demand therefor. No less than thirty (30) days prior to the expiration of each policy, Operator shall deliver to City evidence of renewal or replacement of such policy reasonably satisfactory to the City Manager.

(b) Coverage provided hereunder by Operator shall be primary insurance and not be contributing with any insurance maintained by City, and the policy shall contain such an endorsement. The insurance policy or the endorsement shall contain a waiver of subrogation for the benefit of the City. All policies shall be written by good and solvent insurers qualified to do business in California and shall have a policyholder's rating of A- or better in the most recent edition of "Best's Key Rating Guide -- Property and Casualty." The required certificate shall be furnished by Operator at the time set forth herein. The Operator's obligation to maintain insurance under this Section 303 may be satisfied by appropriate amendment, rider or endorsement to any blanket policy or policies carried by the Operator (or policies or amendments, riders or endorsements by a lessor, if the Operator is leasing the Designated Site), and the Operator shall have the option to include a self-insured deductible for which it shall assume full responsibility so long as the Operator or its parent corporation, Burlington Coat Factory Warehouse Corporation ("Parent"), maintains a net worth of Fifty Million Dollars (\$50,000,000.00).

(c) The Operator hereby waives all rights to recover against City (or any officer, employee, agent or representative of City) for any loss incurred by Operator from any cause

insured against or required by this Agreement to be insured against; provided, however, that this waiver of subrogation shall not be effective with respect to any insurance policy if the coverage thereunder would be materially reduced or impaired as a result. Operator shall use its best efforts to obtain only policies which permit the foregoing waiver of subrogation.

304. Nondiscrimination in Employment; Efforts to Employ Persons of Targeted Income Groups. The Operator certifies and agrees that all persons employed or applying for employment by it, its affiliates, subsidiaries, or holding companies are and will be treated equally by it without regard to, or because of race, color, religion, ancestry, national origin, sex, sexual orientation, age, pregnancy, childbirth or related medical condition, medical condition (cancer related) or physical or mental disability.

Operator shall recruit and use diligent efforts to maximize the hiring of personnel for its retail store to be established under this Agreement in the TownGate Area from members of the Targeted Income Groups.

305. Taxes and Assessments. Throughout the Operating Covenant Period, Operator shall pay or cause to be paid prior to delinquency all ad valorem real estate taxes and assessments on the Designated Site. Operator shall remove or have removed any levy or attachment made on the Designated Site or any part thereof which is owned or leased by Operator, or assure the satisfaction thereof within a reasonable time, but in no event to exceed sixty (60) days. The Operator shall additionally defend, indemnify, and hold harmless the City from and against any taxes, assessments, mechanic's liens, claims of materialmen and suppliers, or other claims by private parties in connection with activities undertaken by the Operator.

400. CONSIDERATION FOR AGREEMENT; CITY CONTINGENT PAYMENTS.

401. Operator Consideration.

401.1 Timing for Satisfaction of Conditions. As consideration for the City to enter into this Agreement, the Operator agrees to satisfy the Conditions Precedent to Payment by the time established therefor in the Schedule of Performance, and to annually thereafter satisfy the Performance Conditions on a continuous basis throughout the Operating Covenant Period. The Operator further agrees to operate, maintain and use the Designated Site in conformity with this Agreement. The Operator assumes all responsibility for any costs to perform under this Agreement.

Within thirty (30) days after the Conditions Precedent to Payment have been satisfied (immediately following the approval of this Agreement), as such satisfaction is determined in good faith by the City Manager, City will disburse to Operator from moneys in the Special Fund the Initial Payment Amount.

401.2 Performance Conditions. Operator shall continuously operate Conforming Activities in a Conforming Facility commencing with the Opening and continuing throughout the Operating Covenant Period. In addition to the foregoing, Operator shall use diligent efforts to recruit and hire as employees members of the Targeted Income Groups, and shall cooperate with the City in connection therewith. The obligations as set forth in this paragraph shall hereinafter be referred to as the "Continuous Operation Condition."

The performance by the Operator shall additionally include: (i) the satisfaction of the Conditions Precedent to Payment; (ii) treating the Designated Site as point of sale for all taxable sales made by the Operator from the Designated Site (the "Sales Tax Condition") as reflected in the reports of the Operator to the State Board of Equalization (which reports shall be made available by Operator to City); (iii) the payment in full of all City fees and/or business licenses payable in respect to the operation of the Conforming Activities (the "Fee Condition"); and (iv) provision of defense, indemnification, assumption of responsibility for, and provision of insurance as required pursuant to Sections 303 and 304 of this Agreement (the "Indemnification Condition"). The Operator shall, as provided in this Agreement, provide its certification in connection with the satisfaction of the foregoing Conditions in the form of the Operator Certificate, and thereafter on an annual basis, on that date which precedes by thirty (30) days the last date of each Annual Period, the Operator shall so submit the Operator Certificate until the last day of the Required Period, and during such period shall provide such additional information with respect to any of such matters as the City Manager or his designee shall determine to be necessary or covenant in connection with the review of the Operator Certificate(s) (the "Certificate Condition"). All of the Conditions set forth in this Section 401.2 together constitute the Performance Conditions.

402. Annual City Contingent Financial Participation. Provided that all of the Conditions Precedent to Payment and the Performance Conditions have been and remain satisfied for the Annual Period with respect to which payment is made, City shall, within thirty (30) days after the City Manager receives satisfactory substantiation that the Conditions Precedent to Payment and the Performance Conditions have been satisfied for the corresponding Annual Period, disburse to Operator the applicable Annual Payment Amount. The source of payments and the obligation to make payment shall be moneys in the Special Fund; provided that City may provide payment from any other City funding source deemed appropriate by City. Payments shall be made for a period of up to the fifth (5th) anniversary of the Opening, subject to the ongoing satisfaction of all of the Conditions Precedent to Payment determined annually. Payment by the City is subject to the reasonable satisfaction of the City Manager that the Conditions Precedent to Payment were satisfied and that there are no uncured defaults which occur prior to the making of payment. If the Conditions Precedent to Payment have not been satisfied in any Annual Period, despite Operator's reasonable efforts to do so, such failure shall not be deemed to disqualify Operator from receiving payment for a subsequent Annual Period so long as: (i) this Agreement has not been terminated and (ii) the Operator satisfies the Conditions Precedent to Payment for such subsequent Annual Period. Operator Certificates shall be submitted to the City to the attention of its City Manager at the address set forth in Section 701 hereof. No interest shall accumulate as to any amounts which are or may become payable to the Operator.

The City shall not provide any moneys pursuant to this Agreement other than those payments provided for in this Section 402 for one or more Annual Period(s) during the Required Period during which all of the Conditions Precedent to Payment have been satisfied. Further, no pledge is made or lien priority established by this Section 402.

In no event shall the City provide assistance over the life of this Agreement which, in the aggregate, exceeds the Maximum Payment Amount. Further, no payments shall be made by the City after September 20, 2015 in any event.

403. Conditions Precedent to Payment. The City shall not be obligated to make the initial disbursement of the Initial Payment Amount or any subsequent disbursement thereof unless all of the following conditions precedent have been and remain satisfied:

(a) the Operator provides to the City Manager evidence satisfactory to the City Manager that: (i) Operator has acquired real property within the TownGate Area or has entered into a lease of existing, improved premises that constitutes a Conforming Facility for a term of not less than sixty (60) months; (ii) the Opening of a Conforming Facility has occurred within the TownGate Area operating under the Designated Trade Name; and (iii) Operator has made diligent efforts to recruit and hire as its employees members of Targeted Income Groups;

(b) the Operator provides evidence satisfactory to the City Manager that the Conforming Activities have been commenced on the Designated Site, and of the Establishment of Point of Sale on the Designated Site has occurred in accordance with the terms of this Agreement;

(c) the Operator annually remakes its covenant to operate and shall have satisfied the Performance Conditions (except with respect to the Initial Payment Amount);

(d) the Operator delivers to the City Manager or his designee a certificate substantially in the form of the Operator Certificate, duly executed with the attachments prescribed pursuant to this Agreement;

(e) all property taxes, assessments and business license fees for or with respect to the Designated Site have been paid and are not delinquent;

(f) there exists no Default, as defined in Section 601 of this Agreement, or event, or omission which would constitute a Default after notice or lapse of time, or both; and

(g) the Operator has delivered to City all documents, instruments, policies, and forms of evidence or other materials required to be provided to City hereunder and as may be reasonably requested by City under the terms of this Agreement.

The foregoing conditions lettered (a) to (g), inclusive, shall collectively constitute the "Conditions Precedent to Payment."

404. Brokers. The City shall not be liable for any real estate commissions or brokerage fees which may arise herefrom. The Operator represents and warrants that it has not engaged the services of any agents, brokers, or finders in connection with this Agreement, and assumes all responsibility for any remuneration payable to any agents, brokers, or finders in connection with this Agreement.

500. COVENANTS AND RESTRICTIONS.

501. Use Covenants. The Operator is a retail clothing business including stores operating under the Designated Trade Name. The Operator shall operate on the Designated Site only Conforming Activities, which shall include a physical facility which includes improvements conforming in all respects to all applicable regulations of federal, state and local agencies regulating the establishment or operations of such facilities. The Operator covenants and agrees that the Operator and any successors and assignees, shall on a continuous basis throughout the Operating Covenant Period: (i) devote the Designated Site to the uses specified in this Section 501 of this Agreement; (ii) operate on the Designated Site a Business devoted to the operation of Conforming Activities under the Designated Trade Name and (iii) annually execute and deliver to the City an Operator Certificate.

The Operator shall carry out all of its undertakings pursuant to this Agreement in conformity with all applicable laws, the CDBG Basic Requirements and the CDBG Regulations. The Operator covenants to operate on the Designated Site only Conforming Activities for a period of not less than the Required Period; this covenant is made for the benefit of the City. Operator shall remake this covenant annually.

In addition, Operator covenants that there shall be no discrimination contrary to the CDBG Basic Requirements or the CDBG Regulations.

In addition, continuing throughout the remainder of the Required Period, all uses conducted on the Designated Site, including, without limitation, all activities undertaken by the Operator pursuant to this Agreement, shall be Conforming Activities and shall conform to all applicable provisions of the Municipal Code. The Operator on behalf of itself and its successors, assigns, and each successor in interest to the Designated Site or any part thereof, hereby covenants and agrees:

(a) To use, devote, and maintain the Designated Site and each part thereof, for the purposes and the uses specified in the Municipal Code of the City, all applicable laws, the CDBG Basic Requirements and the CDBG Regulations.

(b) To maintain the improvements and landscaping on the Designated Site in conformity to all applicable laws and to keep the Designated Site free from any accumulation of debris and waste materials (or, if Operator leases the Designated Site, to provide such maintenance or require that the lessor provide such maintenance).

(c) To operate on the Designated Site only Conforming Activities.

600. DEFAULTS AND REMEDIES.

601. Default Remedies. Subject to the extensions of time set forth in Section 702 of this Agreement, failure by any party to perform any action or covenant required by this Agreement within the time periods provided herein following notice and failure to cure as described hereafter, constitutes a "Default" under this Agreement. A party claiming a Default shall give written notice of Default to the other parties specifying the Default complained of. Except as otherwise expressly provided in this Agreement, the claimant shall not institute any proceeding against any other party, and the other party shall not be in Default if such party within thirty (30) days from receipt of such notice immediately, with due diligence, commences to cure, correct or remedy such failure or delay and shall complete such cure, correction or remedy with diligence. Notwithstanding anything to the contrary contained herein, if Operator defaults for any reason whatsoever beyond the applicable grace or cure period, the sole remedy of the City shall be suspension or termination of further payments; if the City defaults for any reason whatsoever the sole remedy of Operator shall be specific performance (i.e. sue the City to keep making the payments).

602. Acceptance of Service of Process. In the event that any legal action is commenced against the City, service of process on the City shall be made by personal service upon the City Clerk or in such other manner as may be provided by law. In the event that any legal action is commenced against the Operator, service of process on the Operator shall be made in such manner as may be provided by law and shall be effective whether served inside or outside of California.

603. Inaction Not a Waiver of Default. Any failures or delays by either party in asserting any of its rights and remedies as to any Default shall not operate as a waiver of any Default or of any such rights or remedies, or deprive either such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

604. Applicable Law. The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

700. GENERAL PROVISIONS.

701. Notices, Demands and Communications Between the Parties. Any approval, disapproval, demand, document or other notice ("Notice") which a party hereto may desire to give to another party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by reputable document delivery service such as Federal Express that provides a receipt showing date and time of delivery, or (iii) mailing in the United States mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below, or at any other address as that party may later designate by Notice.

To City: City of Moreno Valley
14177 Frederick Street
P.O. Box 88005
Moreno Valley, California 92552-0805
Attention: Economic Development Director

To Operator: Burlington Coat Factory Warehouse Corporation
Attention: Lease Administration
1830 Route 130
Burlington, New Jersey 08016

With a copy to: Burlington Coat Factory Warehouse Corporation
Attention: Legal Department
1830 Route 130
Burlington, New Jersey 08016

Any written notice, demand or communication shall be deemed received immediately upon receipt; provided, however, that refusal to accept delivery after reasonable attempts thereto shall constitute receipt. Any notices attempted to be delivered to an address from which the receiving party has moved without notice shall be deemed to be effective on the fifth (5th) day from the date of the attempted delivery or deposit in the United States mail.

702. Enforced Delay; Extension of Times of Performance. In addition to specific provisions of this Agreement, performance by any party hereunder shall not be deemed to be in Default, and all performance and other dates specified in this Agreement shall be extended, where delays or Defaults are due to: war; insurrection; riots; floods; earthquakes; fires; casualties; acts of God; acts or omissions of another party, or acts or failures to act of the City or any other public or governmental agency or entity. Notwithstanding anything to the contrary in this Agreement, an extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming

such extension is sent to the other party within thirty (30) days of the commencement of the cause. Times of performance under this Agreement may also be extended in writing by the mutual agreement of City and Operator. The City Manager shall have the authority to approve on behalf of City, extensions of time not to exceed a cumulative total of one hundred eighty (180) days. Notwithstanding any provision of this Agreement to the contrary, the Operator is not entitled pursuant to this Section 702 to an extension of time to perform because of the failure to obtain any approvals of third parties for sales or exchanges of property or the failure of Operator to open a Conforming Facility within the TownGate Area; and no rights with respect to entitlements as to any property or with respect to agreements, if any, with City as to other properties.

703. Transfers of Interest in Agreement or of Designated Site. The qualifications and identity of the Operator are of particular concern to the City. It is because of those qualifications and identity that the City has entered into this Agreement with the Operator. For the period commencing upon the Date of Agreement and until the end of the Operating Covenant Period, no voluntary or involuntary successor in interest of the Operator shall acquire any rights or powers under this Agreement, nor shall the Operator make any total or partial sale, transfer, conveyance, assignment, subdivision, refinancing or lease of the whole or any part of the Designated Site or the development thereon without prior written approval of City, except as expressly set forth in this Section 703. Provided that in the event of a transfer that has not been approved in writing by the City, the sole remedy of the City shall be suspension or at City's election termination of the Annual Payment Amount or this Agreement. This Section 703 shall not be deemed to apply to assignments or subletting to an affiliate or subsidiary of Operator or Parent or as part of a merger, consolidation or acquisition of or by Operator or Parent or a subsidiary or affiliate of either.

704. Provision of Information; Inspection of Books and Records. The City shall have the right at all reasonable times during the Required Period to inspect the books and records of the Operator pertaining to the collection and payment of sales taxes in connection with the purchase and sale of products as reasonably necessary to determine compliance with this Agreement; the Operator agrees to make such records available to the City as deemed necessary by the City, at least annually and additional upon request therefor by the City, to verify compliance with the terms of this Agreement.

705. Non-Liability of Officials and Employees of City. No member, official, officer or employee of the City shall be personally liable to the Operator, or any successor in interest, in the event of any Default or breach by the City or for any amount which may become due to the Operator or their respective successors, or on any obligations under the terms of this Agreement.

706. Relationship Between City and Operator. It is hereby acknowledged that the relationship between the City and the Operator is not that of a partnership or joint venture and that City and the Operator shall not be deemed or construed for any purpose to be the agent of the other. Accordingly, except as expressly provided in this Agreement, including the Attachments hereto, the City shall not have any rights, powers, duties or obligations with respect to the Designated Site.

707. City Approvals and Actions. Whenever a reference is made herein to an action or approval to be undertaken by the City, the City Manager is authorized to act on behalf of the City unless specifically provided otherwise or the law otherwise requires.

708. Counterparts. This Agreement may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement. This Agreement is executed in three (3) originals, each of which is deemed to be an original.

709. Integration. This Agreement contains the entire understanding between the parties relating to the transaction contemplated by this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged in this Agreement and shall be of no further force or effect. Each party is entering this Agreement based solely upon the representations set forth herein and upon such party's own independent investigation of any and all facts such party deems material. This Agreement includes pages 1 through 16 and Attachment Nos. 1 through 6, which Attachments are attached hereto and incorporated herein by reference, which constitute the entire understanding and agreement of the parties, notwithstanding any previous negotiations or agreements between the parties or their predecessors in interest with respect to all or any part of the subject matter hereof.

710. Interpretation; Titles and Captions. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others where and when the context so dictates. The word "including" shall be construed as if followed by the words "without limitation." This Agreement shall be interpreted as though prepared jointly and equally by both parties. Titles and captions are for convenience of reference only and do not define, describe, or limit the scope or the intent of this Agreement or of any of its terms. References to section numbers are to sections in this Agreement, unless expressly stated otherwise.

711. No Waiver. A waiver by any party of a breach of any of the covenants, conditions or agreements under this Agreement to be performed by the other party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions of this Agreement.

712. Modifications. Any alteration, change, or modification of or to this Agreement, in order to become effective, shall be made in writing signed on behalf of each party.

713. Severability. If any term, provision, condition, or covenant of this Agreement or its application to any party or circumstances shall be held, to any extent, invalid or unenforceable, the remainder of this Agreement, or the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law.

714. Computation of Time. The time in which any act is to be done under this Agreement is computed by excluding the first day (such as the day escrow opens), and including the last day, unless the last day is a holiday or Saturday or Sunday, and then that day is also excluded. The term "holiday" shall mean all holidays as specified in Section 6700 and 6701 of the California Government Code. If any act is to be done by a particular time during a day, that time shall be Pacific Time Zone time.

715. Legal Advice. Each party represents and warrants to the other the following: it has carefully read this Agreement, and in signing this Agreement, it does so with full knowledge of any right which they may have; it has received legal advice from its legal counsel as to the matters set forth in this Agreement, or has knowingly chosen not to consult legal counsel as to the matters set forth in this Agreement, and it has freely signed this Agreement without any reliance upon any

agreement, promise, statement or representation by or on behalf of the other party, or their respective agents, employees, or attorneys, except as specifically set forth in this Agreement, and without duress or coercion, whether economic or otherwise.

716. Time of Essence. Time is expressly made of the essence with respect to the performance by the City and the Operator of each and every obligation and condition of this Agreement.

717. Time for Acceptance of Agreement by City. This Agreement, when executed by the Operator and delivered to City, must be authorized, executed and delivered by the City on or before thirty (30) days after signing and delivery of this Agreement by the Operator or this Agreement shall be void, except to the extent that the Operator shall consent in writing to a further extension of time for the authorization, execution and delivery of this Agreement.

718. No Third Party Beneficiaries. Nothing herein is intended to create any third party beneficiaries to this Agreement, and no person or entity other than the City and the Operator, and the permitted successors and assigns of either of them, shall be authorized to enforce the provisions of this Agreement.

WITNESS WHEREOF, the City and the Operator have signed this Agreement on the respective dates set forth below to be effective as of the Date of Agreement.

CITY:

CITY OF MORENO VALLEY, a municipal corporation

By: _____
Robert G. Gutierrez, City Manager

ATTEST:

Jane Halstead, City Clerk

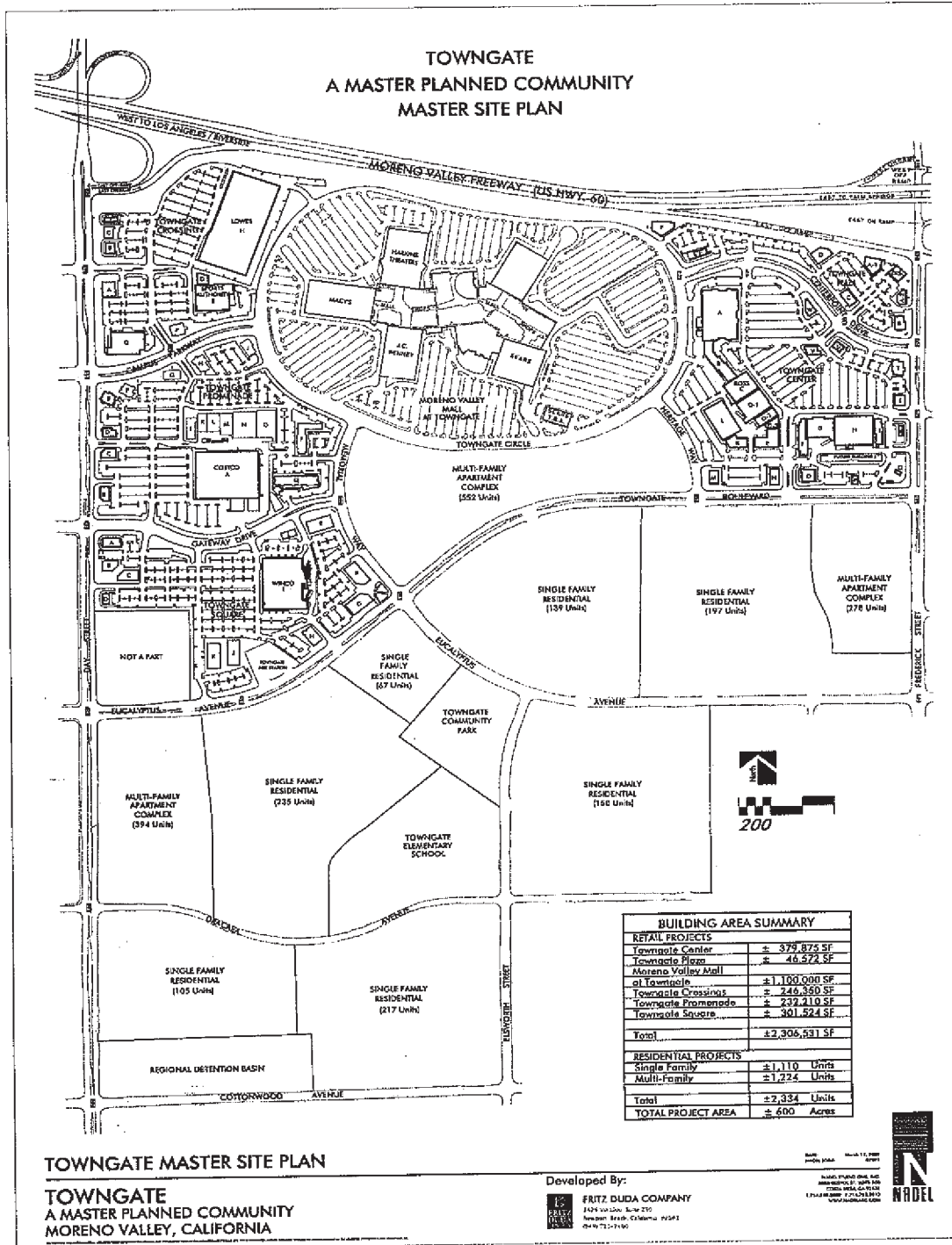
OPERATOR:

BURLINGTON COAT FACTORY OF CALIFORNIA, LLC, a California limited liability company

By: _____
Title: ROBERT GRASKI
SVP REAL ESTATE

ATTACHMENT NO. 1

MAP OF THE TOWNGATE AREA



Attachment No. 1

ATTACHMENT NO. 2

**City of Moreno Valley
ANNUAL COMPLIANCE REPORT, YEAR ENDING ____**

Activity:	Moreno Valley Business Incentive Program
Per Agreement Between:	City of Moreno Valley and Burlington Coat Factory of California, LLC
Agreement Originating:	2009 (CDBG Program Year 2009/10)
Current Date (mo/day/yr):	
Contact Person Name:	Title:
Contact Mailing Address:	Contact E-mail:
Contact Telephone:	Contact Fax:
Funding Source(s):	<input checked="" type="checkbox"/> CDBG <input type="checkbox"/> HOME <input type="checkbox"/> RDA <input type="checkbox"/> HOME & RDA <input type="checkbox"/> Other
Assistance Extended:	Year 1: \$175,000

Per Federal laws as agreed to in the Participation Agreement referenced above, the following data must be reported annually to the Dept. of Housing and Urban Development (HUD) via the City of Moreno Valley's Economic Development Department. Please complete and return to the City by requested date.

Required Reporting Data	
No. of jobs to created or retained - Minimum 5 full time jobs or full time equivalents	_____
Percentage of the jobs to be created or made available to Low-to-Moderate (L/M) persons	100%
No. of Low-to-Moderate (L/M) jobs actually created or retained over reporting period	_____

LOW / MODERATE INCOME: The income table below is intended for use by the Participating Business when qualifying an applicant / employee as low-to-moderate (L/M) income. For each applicant's / employee's family size, indicate if previous income was more than or less than the amount listed. Insert the word 'Less or 'More' as applicable in the Low/Moderate Income column below.

Annual Income Level	Number of Persons In Household/Family							
	1	2	3	4	5	6	7	8
2009 Low -to- Moderate Incomes	\$37,300	\$42,650	\$47,950	\$53,300	\$57,550	\$61,850	\$66,100	\$70,350

(An updated table shall be provided annually as new income limits are issued each year by the Department of Housing and Urban Development (HUD))

EX	Employee Name (Last name, First Initial)	Job type F/T or p/t (enter # hrs)	Job Category* Select category from below	Paid health Benefits (Y or N)	Low/Moderate Income Was previous income more or less than amount listed above?	Race / Ethnicity of employee ^{1,2}	Previously unemployed (Y or N)
EX	EXAMPLE EMPLOYEE: JOHN SMITH	FT	4 (Sales)	Y	Less	1. (White)	N
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							

***JOB CATEGORIES (Insert appropriate number in Job Category column):**

1) Officials and Managers	4) Sales	7) Operatives (semi-skilled)
2) Professional	5) Office and Clerical	8) Laborers (unskilled)
3) Technicians	6) Craft Workers (skilled)	9) Service Workers

****RACE CATEGORIES (Insert appropriate number in Race Category column):**

ND) Not Disclosed	3) Asian	6) American Indian / Alaskan Native & White	9) American Indian / Alaskan Native & Black/African American
1) White	4) American Indian/ Alaskan Native	7) Asian & White	10) Other Multi-Racial – Category used for reporting individual responses that are not included in any of the categories listed above
2) Black / African American	5) Native Hawaiian / Other Pacific Islander	8) Black / African American & White	

ATTACHMENT No. 3

ROLES TO ENSURE LOW-TO-MODERATE INCOME BENEFIT

This is a federally funded Economic Development project. As such, the Office of Housing and Urban Development (HUD) requires that each party to the Agreement agree to undertake certain roles to ensure that the jobs created/retained will benefit low-to-moderate (L/M) income persons.

Actions required by each party are:

The City of Moreno Valley:

- Shall provide a summary of HUD Federal Requirements for CDBG Economic Development activities for informational purposes and as a reference document.
- Shall be available to provide guidance and answer questions to ensure clarity and understanding of HUD's requirements.
- Will specify exactly what needs to be in the reported annually. See Attachment 2.
- Will collect the Compliance Report Form, review the form, and provide written feedback within 30 days of receipt. The City's written response may contain suggestions or list adjustments if necessary to meet the requirements as provided in the Agreement.
- Will identify L/M census tracts (census tracts where 70% of residents are low income) and Enterprise Zones where business may target (or market) their employee search. Maps will be provided.
- Shall define 'reasonable distance' as within 1.5 miles of an applicant's residence for the employer/business to use when determining if L/M applicant has adequate access to transportation to job site.
- Will provide an updated annual income table each year to be used by the business in determining if an individual seeking employment qualifies as low-to-moderate income.

The Business/Employer:

- Shall accept the HUD Federal Requirements for CDBG Economic Development activities and retain a copy for informational and reference purposes.
- Shall seek guidance from City and ask questions as needed in order to ensure clarity and understanding of HUD's requirements.
- Will submit a completed 'Annual Compliance Report Form' each year as required.
- Will implement suggestions and adjustments as recommended by the City via letter within 60 days of receipt of City response letter.
- Refer to map of L/M census tracts and Enterprise Zones when identifying where to conduct marketing of employment opportunities.
- Cooperate with the City of Moreno Valley Employment Resource Center to pre-screen for L/M income applicants. Completion of L/M verification shall be done through the Agency if possible (this includes having applicants complete any self-certification documents).
- Require use a notarized jurat along with L/M self-certification document.
- Provide copies of marketing materials, advertisements, want ads, etc. including publication dates, name of publisher to document job marketing efforts in areas pre-determined to be 'low-to-moderate income'.
- If an applicant falls into the "presumed L/M income" category, this will need to be documented by referencing the census block number or Enterprise Zone of where the applicant resides directly on the application and again within the required reports to the City.

ATTACHMENT No. 4

SUMMARY OF HUD FEDERAL REQUIREMENTS FOR CDBG ECONOMIC DEVELOPMENT ACTIVITIES

Activity: Moreno Valley Business Incentive Program
Code of Federal Regulation References: 18A ED Technical Assistance, Section 570.203 Section 105 (c) (1) and Section 570.208 (a) (4)

Number of Jobs to be created: For individual economic development projects, CDBG-Department of Housing and Urban Development (HUD) and the City shall require creation of 1 full time equivalent permanent job per every \$35,000 in CDBG assistance. In this case, five (5) jobs minimum AND 51% of the jobs the activity creates must be either held by or made available to Low-to-Moderate (L/M) income persons.

Term of Job: Jobs must be formally categorized as permanent. See definition of 'qualifying employee' on page 3 of Agreement. All newly created jobs are also subject to a 'turn over' stipulations.

The Low-to-Moderate (L/M) Income Standards: The following is required to meet the Low-to-Moderate (L/M) income standards. Fifty-one percent or more of the jobs created must either:

- (a) be 'held by' L/M income persons at the time CDBG assistance is provided and/or
- (b) for jobs not held by L/M income persons, documentation must prove the job was 'made available' to L/M income person.
- (c) for jobs not known to be held by L/M income persons will be turned over to low/moderate income persons within 2 years. This would involve the business to take action to ensure that such a job, upon turnover, will be either taken by or made available to a L/M income person in a manner similar to that pertaining to a newly created job.

The business must maintain sufficient documentation indicating that at least 51 % of the jobs will be 'held by' or 'made available' to L/M income persons.

A job is considered 'held by' the L/M income person if the hired employee is proven to earn a household income not to exceed 120% of the area median income for Riverside County adjusted for the person's family size. An income table providing area median incomes by household size is provided as an attachment to this Agreement.

A job is 'made available' to a L/M person when: (1) no special skills, experience, or education beyond high school is required to fill such a job or the business agrees to hire an unqualified person and provide training, and (2) the assisted business takes actions to ensure that low-to-moderate income persons received "first consideration" for filling the jobs.

Principals involved in 'First Consideration'

- (1) The business must use a hiring practice that under usual circumstances would result in over 51% of L/M income persons interviewed for applicable jobs being hired,
- (2) the business must seriously consider a sufficient number of low-to-moderate income job applicants to give reasonable opportunity to fill the position with such a person, and
- (3) the distance from residence and availability of transportation to the job site must be reasonable before a particular low-to-moderate income person may be considered a serious applicant for the job.

Presumed L/M Income Status

A business may presume a person to be L/M income if the person resides within a census tract (or Block numbering area) that either has:

- (a) at least 70% residents who are L/M income persons or
- (b) meets the criteria related to enterprise zones.

Enterprise Zones

In order to qualify as an Enterprise Zone, the census tract or block numbering area must either: (a) be part of a federally designated Enterprise Zone or Enterprise Community or (b) meet 100% of the following:

- have a poverty rate of 20% as determined by the most recent decennial census information,
- not include any portion of a central business district, as the term is used in the most recent Census of Retail Trade, unless the tract/BNA has a poverty rate of at least 30% as determined by the most recent decennial census information,
- evidence pervasive poverty and general distress by meeting at least one of the following standards:
 - All block groups in the census tracts have poverty rates of 20%; the specific activity being undertaken is located in a block group that has a poverty rate of at least 20% or upon the request of the business; HUD determines that the census tract/BNA exhibits other objectively determinable signs of general distress such as high incidence of crime, narcotics use, homelessness or substantial population decline.

Policies in Counting Jobs

It will be necessary to determining the percentage of jobs that benefit L/M income persons. When preparing to calculate this number, the following policies apply:

- (a) Convert part time jobs to full time equivalents (i.e., a job that will require only working half time will count as half a job),
- (b) Only permanent jobs may be counted, not temporary
- (c) Seasonal jobs are considered to be permanent for CDBG purposes only if the season is long enough for the job to be considered as the employees principal occupation
- (d) All permanent jobs created or retained in this project must be counted even if the project has multiple funding sources of funds; and
- (e) Jobs indirectly created or retained by an assisted activity may not be counted.

Documenting Income

Documenting that a particular applicant/employee family income was L/M income may include any of the following:

- Evidence that the employee/applicant was a referral from a state, county, or local employment agency or other entity that has agreed to refer individuals whom they have determined to be L/M income based on HUD's Federal criteria. These entities must maintain records showing the basis upon which they determined that the person was L/M income, which they agree to make available for grantee or Federal inspection.
- A written certification signed and dated by the employee/applicant indicating his/her family size and total income as necessary to determine whether the person is a member of a L/M income family at the time the certification is made. The certification may either show the actual size and income of the family or contain a statement that the

annualized family income is below the Section 8 low-income limit for the applicable family size. The form must include a statement that the person making the certification is aware that the information being provided is subject to verification by the local or Federal government.

- Evidence that the employee/applicant has qualified for assistance under another program with income qualification criteria at least as restrictive as those used by this program (e.g. referrals from Public Housing or welfare Agency). The Joint Training Partnership Act (JTPA) Program has income standards that are acceptable for this purpose, except for referrals under the JTPA Title III program for dislocated workers.
- Evidence that the person may be presumed to be L/M income. See definitions.

Record Maintenance

Program records will document jobs actually created and retained, whether the job was 'held by,' 'taken by,' or 'made available' to L/M income person, and the full-time equivalency status of each job.

Records in respect to jobs created and 'held by' must show:

A listing by job title of the specific job to be created, a listing by job title of the job filled, the name and income status of the person who filled each position, and the full time equivalency status of the jobs.

Where a job was not originally taken by a L/M income person but the business nevertheless wants credit based on the job being 'made available' to L/M income person, the record must show: The title and description of the job 'made available', and the full time equivalent status of the job at the time, the prerequisites for the job, special skills or education required for the job, if any, and the business commitment to provide needed training for such jobs (and the training that the business provided to the L/M income person hired) and how 'first consideration' was given to the L/M

income person for the job such as the name of the person(s) interviewed for the job and the date of the interview and the income status of the person interviewed

Records in respect to jobs retained and 'held by' must show:

A listing by job title of the permanent job retained, those jobs known to be held by L/M income persons at the time CDBG assistance was provided and the full time equivalency status of the jobs, and information on the family size and annual income of each such L/M person.

Records in respect to jobs retained and 'turned over' must show:

Identification of any of the retained jobs projected to become available to L/M income persons through turn over within two years of the time CDBG assistance is provided, the basis upon which the job was determined to be likely to turn over within two years following the CDBG assistance, the date the job actually turned over, the name and income status of the person who filled the vacancy, if the person who took the job was not L/M income but the claim is that the job was nevertheless made available to L/M income person, records equivalent to those described above to substantiate the 'available to' claim and information on the family size and annual income of each such L/M income person hired.

For more information or clarification regarding the requirements for a specific CDBG Economic Development Activity, contact the CDBG administrators in the Economic Development Department of the City of Moreno Valley.

Economic Development Dept.

City of Moreno Valley
14177 Frederick St.
P.O. Box 88005
Moreno Valley, Ca 92552-0805

Phone 951-413-3450

Fax: 951-413-3459

E-mail: np@moval.org

Website: www.mo-val.org

ATTACHMENT NO. 5
OPERATOR CERTIFICATE

(Operator Letterhead)
City of Moreno Valley
14177 Frederick Street
Moreno Valley, California 92552-0805

Attn: City Manager

With respect to that certain Participation Agreement (the "Agreement") by Burlington Coat Factory of California, LLC, a California limited liability company (the "Operator") and the City of Moreno Valley, a municipal corporation (the "City") dated as of November 10, 2009, the undersigned, on behalf of the Operator, hereby certify to City that, as of the date of this Operator Certificate (with capitalized terms herein having the same meanings as set forth in the Agreement):

The undersigned as Operator under the Agreement does hereby state, declare, certify, represent and warrant to the City, its officers, agents and employees as follows:

1. Operator has reviewed, executed and is familiar with the terms of the Agreement. All capitalized terms herein shall have the meanings established therefor in the Agreement.
2. The Agreement is in full force and effect and shall remain in full force and effect.
3. The Operator has satisfied all of and is not in default of any of: the Certificate Condition; the Sales Tax Condition; the Fee Condition; the Continuous Operation Condition; or the Indemnification Condition. The Operator remakes its covenant to operate for the annual period for which this Operator Certificate is given.
4. The representations and warranties of Operator contained in the Agreement are true and correct as of the Date of Certificate.
5. No Event of Default by Operator has occurred under the Agreement which continues uncured beyond the expiration of the applicable grace or cure period.
6. Operator has not, prior to the Date of Certificate transferred the Agreement, its rights as to the Designated Site, or any rights of Operator therein contrary to Section 703 of the Agreement.
7. Operator is operating and in good standing as a California limited liability company, doing business in the State of California.
8. Operator remakes to City each and every representation and/or warranty made to City under the Agreement.
9. A report setting forth in detail the recruitment efforts of Operator and the numbers of jobs, both full time and part time, at the Designated Site by Operator are attached as Exhibit A and as provided in Attachment No. 2 to the Agreement hereto, including an enumeration of the jobs held by members of Targeted Income Groups.

Attachment No. 5
Page 1 of 3

DOCSOC/1354486v11/022432-0031

Operator executes this Operator Certificate for the benefit and protection of the City with full knowledge that the City is relying on this Operator Certificate in disbursing moneys to the Operator.

IN WITNESS WHEREOF, the undersigned, as Operator, has executed this Operator Certificate as of the date first written above.

BURLINGTON COAT FACTORY OF
CALIFORNIA, LLC, a California limited liability
company

Dated: _____

Its: _____

Exhibit A to Attachment No. 5

Report for the Annual Period ending as of _____, 20__:

Total Full Time Employees employed at Designated Site: _____

Total number of Fulltime Employees from Targeted Income Groups: _____

Other employees at Designated Site: _____

Other employees that are from Targeted Income Groups: _____

Total Composite Full Time Employees: _____

Composite Full Time Employees from Targeted Income Groups: _____

Cumulative total, Qualifying Employees: _____

Qualifying Employees from Targeted Income Groups: _____

Supporting data: [to be attached and submitted with Operator Certificate]

ATTACHMENT NO. 6

SCHEDULE OF PERFORMANCE

For the purposes of this Schedule of Performance, the "Date of Agreement" is November 10, 2009. The City Manager may extend by not more than one hundred twenty (120) days the time under this Schedule of Performance by which any obligation of the Operator shall be performed.

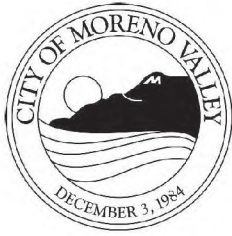
1. **Operator locates to Designated Site.** On or before February 5, 2010.
The Operator acquires title to or enters into a lease with respect to the Designated Site and provides proof thereof to the City.
2. [Reserved]. [Reserved].
3. **Operator establishes point of sale at Designated Site.** On or before September 10, 2010.
The Operator establishes a point of sale (the "Opening") at the Designated Site and provides proof thereof to the City.
4. **The Operator Satisfies Conditions Precedent to Payment.** On or before September 20, 2010.
The Operator satisfies the Conditions Precedent to Payment and provides proof thereof to the City.

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CITY MANAGER'S REPORT

**(Informational Oral Presentation only –
not for Council action)**

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APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>Ret</i>
CITY MANAGER	<i>RM</i>

Report to City Council

TO: Mayor and City Council

FROM: Steve Curley, Fire Chief

AGENDA DATE: November 10, 2009

TITLE: ORDINANCE NO. 804, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, AMENDING CHAPTER 36 OF TITLE 8 OF THE CITY OF MORENO VALLEY MUNICIPAL CODE BY ADDING A NEW SECTION 095 PROHIBITING THE STORAGE, USE, SALE, POSSESSION, AND HANDLING OF SAFE AND SANE FIREWORKS AND AMENDING SECTION 20 OF CHAPTER 36 OF TITLE 8 OF THE MORENO VALLEY MUNICIPAL CODE TO ADOPT APPENDIX CHAPTER 1 FROM THE 2007 CALIFORNIA FIRE CODE AS AMENDED BY THE CITY OF MORENO VALLEY (REPORT OF: FIRE DEPARTMENT)

RECOMMENDED ACTION

Staff recommends that the City Council introduce Ordinance No. 804, an Ordinance of the City Council of the City of Moreno Valley, California, amending Chapter 36 of Title 8 of the City of Moreno Valley Municipal Code by adding a new Section 095 prohibiting the storage, use, sale, possession, and handling of safe and sane fireworks and amending Section 20 of Chapter 36 of Title 8 of the Moreno Valley Municipal Code to adopt Appendix Chapter 1 from the 2007 California Fire Code as amended by the City of Moreno Valley.

BACKGROUND

On November 27, 2007 the City Council Adopted Ordinance No. 759 amending Titles 8, 9, 10 and 11 of the Moreno Valley Municipal Code by amending Chapters 8.14, 8.20, 8.21, 8.22, 8.24, 8.26, 8.28, 8.36, 8.60, 9.08, 9.09, 9.10, 9.12, 9.15, 10.02, 11.06 and 11.20 adopting the latest editions of the California Building Standards Code, California Code of Regulations, Title 24; incorporating the International Building Code, Uniform Plumbing Code, Uniform Mechanical Code, National Electrical Code, and the

International Fire Code; and further amend Title 8 by deleting Chapters 8.16, 8.18, and 8.38.

The language within Chapter 8.36, which pertains to the Fire Code, does not specifically prohibit the storage, use, sale, possession, or handling of safe and sane fireworks within the City of Moreno Valley. Prior to the adoption of Ordinance No. 759, safe and sane fireworks had been prohibited in the City of Moreno Valley. All other illegal and dangerous fireworks are prohibited statewide by the State of California.

DISCUSSION

Moreno Valley, as part of a Fire Hazard Severity Mapping Project conducted statewide by the California Department of Forestry and Fire Protection (CAL Fire), had numerous areas within the City identified as very high fire hazard severity zones due to topography, types of fuels present, the low amounts of precipitation received within the City, the low humidity present in the City and high temperatures. These climate conditions when combined with the fuel types present in the City are conducive to the spread of fire.

Fireworks of all types pose a high fire danger to the City due to the various dry grasses and vegetation within the City. Fireworks can easily start a wildfire that would threaten the safety of the community. Safe and sane fireworks are prohibited by all the cities in the western part of Riverside County and by the County of Riverside for the unincorporated areas due in part to the high fire hazard they present.

Additionally, fireworks pose a high risk of injury to children. In the 2007 Fireworks Annual Report by the Consumer Product Safety Commission 42% of the 9,800 injuries that occurred due to fireworks were to children under the age of fifteen.

Fireworks also present a danger to the community when they are improperly stored. Los Angeles County had a cache of illegally stored fireworks destroy a Lakewood home when they erupted in a massive explosion, knocking the house off of its foundation and damaging several nearby homes.

A review of Title 8 Chapter 8.36 of the City's Municipal Code, as adopted by City Council on November 27, 2007, found the City's Municipal Code no longer prohibits the use of safe and sane fireworks within the City of Moreno Valley. Due to the inherent hazards that fireworks pose to the safety of the community, the Fire Department is recommending the City prohibit the storage, use, sales, possession, and handling of safe and sane fireworks.

ALTERNATIVES

1. Introduce Ordinance No. 804, an Ordinance of the City Council of the City of Moreno Valley, California, amending Chapter 36 of Title 8 of the City of Moreno Valley Municipal Code by adding a new Section 095 prohibiting the storage, use,

sale, possession, and handling of safe and sane fireworks and amending Section 20 of Chapter 36 of Title 8 of the Moreno Valley Municipal Code to adopt Appendix Chapter 1 from the 2007 California Fire Code as amended by the City of Moreno Valley. *This alternative will prohibit the use of safe and sane fireworks within the City, creating a safer community.*

2. Do not introduce Ordinance No. 804, an Ordinance of the City Council of the City of Moreno Valley, California, amending Chapter 36 of Title 8 of the City of Moreno Valley Municipal Code by adding a new Section 095 prohibiting the storage, use, sale, possession, and handling of safe and sane fireworks and amending Section 20 of Chapter 36 of Title 8 of the Moreno Valley Municipal Code to adopt Appendix Chapter 1 from the 2007 California Fire Code as amended by the City of Moreno Valley. *This alternative would continue to allow the use of safe and sane fireworks within the City, placing the community at risk from a wildfire due to fireworks.*

FISCAL IMPACT

None.

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.

ATTACHMENTS/EXHIBITS

Attachment A: Ordinance No. 804

Prepared By:
Cynthia Owens
Management Assistant

Department Head Approval:
Steve Curley
Fire Chief

Concurred By:
Randy Metz
Fire Marshal

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

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ORDINANCE NO. 804

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, AMENDING CHAPTER 36 OF TITLE 8 OF THE CITY OF MORENO VALLEY MUNICIPAL CODE BY ADDING A NEW SECTION 095 PROHIBITING THE STORAGE, USE, SALE, POSSESSION, AND HANDLING OF SAFE AND SANE FIREWORKS AND AMENDING SECTION 20 OF CHAPTER 36 OF TITLE 8 OF THE MORENO VALLEY MUNICIPAL CODE TO ADOPT APPENDIX CHAPTER 1 FROM THE 2007 CALIFORNIA FIRE CODE IN ITS ENTIRETY AS AMENDED BY THE CITY OF MORENO VALLEY

The City Council of the City of Moreno Valley does ordain as follows:

SECTION 1. FINDINGS:

1.1 It is evident that fireworks lead to hazardous situations, injuries, personal property loss, and fires which jeopardize the safety of the public and increase the cost of law enforcement and fire protections.

1.2 Areas within Moreno Valley have been designated as very high fire hazard severity zones by the California Department of Forestry and Fire Protection due to the geographical location of Moreno Valley as well as the types of wildland vegetation present in Moreno Valley.

1.3 The City is subject to extreme fire hazards as well as long and volatile fire seasons making fireworks dangerous to the citizens of Moreno Valley.

1.4 Fireworks are often sold to children.

1.5 The 2007 Fireworks Annual Report by the Consumer Product Safety Commission reported 42% of the 9,800 injuries treated in the United States occur to children under the age of fifteen (15).

1.6 Fireworks are often stored without safety precautions in residential neighbors.

1.7 Fireworks can be disassembled for the explosive powder they contain to make bombs and other explosive devices.

1.8 Fireworks often come from foreign countries where safety regulations for making fireworks are not as stringent as those manufactured for use in the United States.

SECTION 2. MUNICIPAL CODE AMENDED:

2.1 The list of sections prefacing Chapter 36 of Title 8 of the City of Moreno Valley Municipal Code is hereby amended by adding thereto "8.36.095 Fireworks"

2.2 Chapter 36 of Title 8 of the City of Moreno Valley Municipal Code is hereby further amended by adding thereto a new Section 8.36.095 reading as follows:

"8.36.095 Fireworks

A. Section 3309 is hereby added to the California Fire Code as follows:

3309 Seizure of Fireworks. The Fire Chief and/or his/her designee shall have the authority to seize, take, remove, any fireworks stored, sold, offered for sale, used or handled in violation of the provisions of Title 19 CCR, Chapter 6. Any seizure or removal pursuant to this section shall be in compliance with all applicable statutory, constitutional and decisional law.

B. Section 3310 is hereby added to the California Fire Code as follows:

3310 - Displays - Fireworks displays shall be in accordance with the Moreno Valley Fire Department Guideline for Public Fireworks Displays, with the regulations of the State Fire Marshal, and with the conditions of the permit as approved by the fire code official.

C. Section 3311 is hereby added to the California Fire Code as follows:

3311 - Retail Fireworks - The storage, use, sale, possession, and handling of fireworks 1.4G (commonly referred to as Safe & Sane) and fireworks 1.3G is prohibited.

Exception - Fireworks 1.4G and fireworks 1.3G may be part of a public display when permitted and conducted by a licensed pyrotechnic operator. "

2.3 Section 20 of Chapter 36 of Title 8 of the City of Moreno Valley Municipal Code is hereby amended in its entirety to read as follows:

"8.36.020 Adoption of the International Fire Code

A. The city council of the city of Moreno Valley hereby adopts as amended, the 2006 Edition of the International Fire Code, California Fire Code 2007 Edition, California Code of Regulations Title 24 Part 9, Appendices Chapter 1, A, B, C, E, F, G, and H, the California Fire Code Standards and the body of code in its entirety, with the exception of appendix D of the California Fire Code as compiled and adopted by the International Code Council."

SECTION 3. EFFECT ON PREVIOUS ENACTMENTS AND ENTITLEMENT:

3.1 The repeal or amendment by this ordinance of any prior enactment shall not be construed to invalidate any entitlement exercised or proceeding taken pursuant to such enactment while the same was in effect.

SECTION 4. EFFECTIVE DATE:

4.1 This ordinance shall take effect thirty days after the date of its adoption.

SECTION 5. SEVERABILITY:

5.1 If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and the provisions of this ordinance are declared to be severable.

SECTION 6. NOTICE OF ADOPTION:

5.1 Within fifteen (15) days after the date of adoption hereof, the City Clerk shall certify to the adoption of this Ordinance and cause it to be posted in at least three (3) public places within the City designated for such postings by the City Council.

APPROVED AND ADOPTED by the City Council and signed by the Mayor and attested by the City Clerk on this _____ day of _____, 2009

Mayor

ATTEST:

City Clerk

Seal

APPROVED AS TO FORM:

ORDINANCE JURAT

[Clerk's office will prepare]

[NOTE: Any attachments or exhibits to this ordinance should follow this jurat.]

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ORDINANCE NO. 802

A ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, APPROVING SPECIFIC PLAN AMENDMENT NO. 5 (P09-052) OF THE MORENO VALLEY AUTO MALL SPECIFIC PLAN NO. 209 TO INCLUDE MODIFICATION OF AN EXISTING FREEWAY PYLON SIGN AND ENTRY/TENANT MONUMENT SIGNS, VACATION OF A PORTION OF MOTOR WAY, ADDITION OF LANDSCAPE PARKWAYS, POP-OUTS AND SIDEWALKS, NEW DRIVEWAYS FOR A PROPOSED VEHICLE DISPLAY AREA ON MOTOR WAY AND FROM NORTHBOUND MORENO BEACH DRIVE AS WELL AS OTHER MINOR CLEAN-UP AND TEXT CHANGES TO THE SPECIFIC PLAN AND AN APPROVED SIGN PROGRAM.

The City Council of the City of Moreno Valley does ordain as follows:

SECTION 1: RECITALS

1.1 Pursuant to the provisions of law, public hearings were held before the City of Moreno Valley Planning Commission and the City Council.

1.2 The matter was fully discussed and the public and other agencies presented testimony and documentation.

SECTION 2: FINDINGS

1. **Conformance with General Plan Policies** – The proposed amendment is consistent with the General Plan, and with its goals, objectives, policies and programs and the applicable specific plan.

FACT: The proposed amendments to the Moreno Valley Auto Mall Plan (SP No. 209) are consistent with the goals, objectives, and policies of the City of Moreno Valley General Plan and said specific plan. The fifth amendment to the Auto Mall Specific Plan No. 209 proposes minor modifications to existing parcels, parkways and roadways as well as the approved sign program and does not propose a development project or any changes to General Plan land use classifications. The original specific plan was adopted in 1988, and the entire site has been previously graded. All proposed modifications to the pylon sign elevations, overall sign program requirements, driveways and roadways are consistent with current General Plan policies.

2. **Conformance with the Zoning Regulations** – The proposed specific plan amendment and sign program amendment are both consistent with the purposes and intent of Title 9 of the City of Moreno Valley Municipal Code.

FACT: The proposed specific plan amendment and amendment to the approved sign program is consistent with current zoning regulations, including the purposes and intent of Title 9 of the City of Moreno Valley Municipal Code. The fifth amendment to the Auto Mall Specific Plan No. 209 proposes minor modifications to existing parcels and roadways, and signs, and does not propose any changes to General Plan land uses or zoning classifications. A clarification and clean-up of existing zoning title is required for Planning Area D from Commercial to Commercial/Residential to provide consistency with the permitted multiple family residential land use included on the site. All proposed modifications to the pylon sign elevations, overall sign program requirements, driveways and roadways as well as a new vehicle display area are consistent with current General Plan policies.

3. **Health, Safety and Welfare** – The proposed amendment will not be detrimental to the public health, safety or welfare.

FACT: The Auto Mall Specific Plan Amendment and amendment to the approved sign program will not be detrimental to the surrounding community. All proposed amendments, including amendments to signs, roadways and driveways as well as proposed minor text changes to the specific plan document would not create any impact to health, safety, welfare or the overall environment. The proposed project is deemed categorically exempt pursuant to Sections 15311, "Accessory Structures" and 15301, "Existing Facilities" of the California Environmental Quality Act (CEQA).

The site itself includes approximately 73.76 acres designated for auto related, retail and mixed use residential/commercial land uses. The surrounding land uses include additional phases of the auto mall specific plan to the south and west with multiple-family residential and retail uses, a fire station and an existing citrus grove to the east and Highway 60 immediately to the north. The specific plan amendment and proposed upgrades would not be detrimental to public health, safety or welfare or materially injurious to properties or improvements in the general vicinity.

4. **Redevelopment Plan** – The project conforms with any applicable provisions of the city’s redevelopment plan.

FACT: The proposed amendment to the Auto Mall Specific plan as well as the amendment of the approved sign program conforms to the applicable provisions of the City’s redevelopment plan. The proposed amendments would not conflict with the city’s redevelopment plan, including the objective contained within Section 421 to create an attractive and pleasant environment for the project area. Furthermore, if the proposed specific plan amendment were approved, the project would be consistent with the redevelopment plan, since the plan defers to the city’s Municipal Code with respect to land use restrictions and development standards.

SECTION 3: AMENDMENT TO THE AUTO MALL SPECIFIC PLAN

- 3.1 Based on the findings contained in Section 2 of this ordinance, the City Council hereby adopts the Moreno Valley Auto Mall Specific Plan, Amendment No. 5 as follows:

- A. The Moreno Valley Auto Mall Specific Plan and Design Manual, also known as Specific Plan No. 209 is hereby amended by placing in effect a change to various sections of said document, modifying text as well as various maps and charts, which are attached as Exhibit A (Strikeout/underline version) and Exhibit B (Clean version) to this ordinance, included herein by reference, and on file in the office of the City Clerk.

SECTION 4: AMENDMENT OF THE OFFICIAL ZONING ATLAS

- 4.1 The Official Zoning Atlas shall be amended for Planning Area D (Phase 2) from Commercial to Commercial/Residential as a clean-up item to clarify the existing multiple family residential land use approved in 2005, which is attached as Exhibit C to this ordinance, included herein by reference, and on file in the office of the City Clerk.

SECTION 4: EFFECT OF ENACTMENT:

Except as specifically provided herein, nothing contained in this ordinance shall be deemed to modify or supersede any prior enactment of the City Council, which addresses the same subject addressed herein.

SECTION 5: NOTICE OF ADOPTION:

Within fifteen days after the date of adoption hereof, the City Clerk shall certify to the adoption of this ordinance and cause it to be posted in three public places within the city.

SECTION 6: EFFECTIVE DATE:

This ordinance shall take effect thirty days after the date of its adoption.

APPROVED AND ADOPTED this ____ day of _____, 2009.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

ORDINANCE JURAT

[Clerk's office will prepare]

[NOTE: Any attachments or exhibits to this ordinance should follow this jurat.]

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SPECIFIC PLAN AMENDMENT No. 35

AMENDING SPECIFIC PLAN 209, THE MORENO VALLEY AUTO MALL SPECIFIC PLAN

Submitted To:
**City of Moreno Valley
14177 Frederick Street
Moreno Valley, California 92552-0805**

Submitted by:
~~**Auto Mall Resolution LLC**~~ **Hogle Ireland**
~~**C/O Majestic Reality Trust**~~
~~**13191 Crossroads Parkway North, 6th Street**~~ **1500 Iowa Avenue,**
Suite 110
~~**City of Industry**~~ **Riverside, CA 91746 92507**

Revised September 2009

Exhibit A

SPECIFIC PLAN AMENDMENT No. 5

FINAL

PROJECT REPRESENTATIVE:

Hogle Ireland Inc
1500 Iowa Avenue, Suite 110
Riverside, CA 92507
Telephone: (951) 787-9222

Contact: Chris Stamps
Senior Associate Project Manager

SUBMITTED TO:

CITY OF MORENO VALLEY
14177 /Frederick Street
Moreno Valley, California 92552-0805
Telephone: (951) 413-3206

Contact: Mr. Mark Gross
City of Moreno Valley Senior Planner

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September 2009

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Section One

EXECUTIVE SUMMARY

1.1 BACKGROUND

~~Auto Mall Resolution LLC (hereinafter referred to as “AMR), Project Applicant and Master Developer, proposes this Third Amendment to Specific Plan 209~~ The City of Moreno Valley proposes a City initiated Fifth Amendment to Specific Plan 209 from the currently adopted Specific Plan No. 209, Amendment No.3 document. Specific Plan No. 209, Amendment No. 4, only provided modifications to Phase 3 (Phase 1 and 2 was modified under SPA No.3).

The Moreno Valley Auto Mall Specific Plan is hereinafter referred to as “Specific Plan”. The Specific Plan was adopted by the City of Moreno Valley in 1988 and as amended in May 1990 (the First Amendment) and August 1990 (the Second Amendment), provides for the development of automobile sales uses, auto related uses, and commercial uses on approximately 151.89 acres located south of the 60 Freeway at the Moreno Beach Drive off-ramp. The location of the Specific Plan is illustrated in Exhibit 1 “Location Map”.

In May 1988 the City of Moreno Valley adopted the Specific Plan with conditions for approximately 80.03 acres referred to in the Specific Plan as Phases I and II as illustrated on Exhibit 2, “Specific Plan Boundary”. The 1988 Specific Plan provided for the development of automobile sales and service uses, commercial uses, and open space within Phases I and II. In June 1990, the City of Moreno Valley adopted the First Amendment to the Specific Plan, with conditions, to expand the Specific Plan area by approximately 71.86 acres which is referred to as Phase III. The First Amendment permits the development of additional auto dealer sites as well as limited commercial and office uses in Phase III. Approval of the First Amendment to the Specific Plan increased the total Specific Plan acreage to approximately 151.89 acres. The entire Specific Plan area is illustrated in Exhibit 2. “Specific Plan Boundary”.

In August 1990 the City adopted the Second Amendment to the Specific Plan revising several portions of a City approved Design Manual adopted as part of the Specific Plan and intended as an implementation tool for the Specific Plan. The Second Amendment changed text and exhibits related to landscaping, bike lane classifications, and signs. The Second Amendment did not change any provisions of the overall Specific Plan.

SPA No. 5

Draft
September 2009

1-1

This proposed Third Amendment to the Specific Plan (hereinafter referred to as SPA No. 3) proposes to amend provisions of the Specific Plan pertaining to Phases I and II. The area affected by proposed SPA No. 3, hereinafter referred to as the Project Area, is illustrated in Exhibit 3, "Project Area". The Project Area consists of approximately 73.76 acres. Approximately 23.40 acres are currently developed with auto dealerships. Approximately 35.06 acres remain undeveloped. Approximately 15.3 acres are developed as public areas and roadways.

The Specific Plan is also located within a Community Redevelopment Agency Project Area. In April 1989 the Community Redevelopment Agency of the City of Moreno Valley and the Moreno Valley Auto Mall entered into the "Moreno Valley Auto Mall Participation Agreement" (Participation Agreement) to finance certain public improvements and infrastructure for the Specific Plan through the issuance of tax bonds via the City of Moreno Valley Community Facilities District Number 2 (CFD # 2) adopted June 13, 1989. Pursuant to the Participation Agreement, bonds were sold and the proceeds used to finance the construction of infrastructure including roads, sewer, and water lines to serve Phase I and II of the Specific Plan.

Subsequent to its adoption, CFD #2 experienced significant delinquencies in payment of the taxes. As a result, an "Amended and Restated Agreement to Provide for the Refinancing and Restructuring of Community Facilities District No. 2 (Moreno Valley Auto Mall) of the City of Moreno Valley" (Settlement Agreement) dated March 7, 2000 was approved. Provisions of the Settlement Agreement included the ability for certain parcels in Phase I and Phase II of the Specific Plan to be developed for non-auto related uses subject to approval of a specific plan amendment.

SPA No. 3 amended the Specific Plan in the following manner:

- Expanded the list of permitted uses for the Project Area to include commercial and office uses, other auto related and auto service uses, and residential uses.
- Amended the development regulations and design guidelines for the Project Area from those within the Specific Plan Design Manual (as amended August 1990) to those approved in the City of Moreno Valley Development Code and Design Guidelines (City Code), except as provided for herein.
- Superseded previously approved conditions of approval adopted with the Specific Plan as applicable to the Project Area. These conditions have either been met prior to the initial development in Phase I, have been incorporated by reference pursuant to the provisions of the City Code, or have been incorporated as development requirements into SPA No.3.

SPA No. 3 does not amend or supersede any portion of the Specific Plan or the conditions of approval applicable to Phase III.

SPA No. 5

Draft
September 2009

1-2

Specific Plan Amendment No.4 (Phase III) was adopted in December 2003. SPA No.4 amended the provisions of the Specific Plan pertaining to Phase III. The project area within Specific Plan Amendment No.4 consisted of 72 gross acres. The entire project has been developed and approved for commercial and residential uses on 72 acres within Phase III. The commercial uses range from retail commercial, gas stations, eating establishments, including fast food restaurants. The residential uses vary in density and are located in the southwest portion of the 72 acre site. The permitted uses are pursuant to the "Community Commercial" and "Residential 15 DU/AC standards of the City of Moreno Valley Municipal Code, section 9.02.020 and 9.03.020.

Specific Plan Amendment No.4 amended the development regulations and design guidelines for the project area from those within the Specific Plan Design Manual (as amended in August 1990), to those established under the City Municipal Code, except as otherwise provided within Section 4.0 of Specific Plan Amendment No.4

The Fifth Amendment to the Specific Plan (hereinafter referred to as SPA No.5 Phase I) amends provisions of the Specific Plan pertaining to Planning Area (PA) "A" and "B". Planning Areas A, B, C and D consists of 73.76 acres of which 23.40 acres are developed with automobile dealerships, approximately 35.06 acres are vacant or contain multiple family uses, and approximately 15.3 are designated streets, parkway and vacant land. The area is located east of Moreno Beach Drive.

SPA No.5 amends the Specific Plan in the following manner and shown on Exhibit 4

- Modify the existing pylon freeway sign, auto mall entry monumental signs, and the dealership identification signs.
- Provide revised parkways, parking stalls and sidewalks along Motor Way, and Auto Mall Drive.
- Vacate a portion of Motor Way
- Provide new driveway from northbound Moreno Beach Drive
- Provide new driveways, off of Motor Way and new vehicle display within Lot G

SPA No. 5 amends the design guidelines for the project area from those within the Specific Plan Design Manual (as amended December 2003), to those established under the City Municipal Code, except as otherwise provided for within Section 4.0 of this Specific Plan Amendment.

SPA No.5 would supersede the adopted Specific Plan as applicable to the project area in Phase I.

SPA No. 5

Draft
September 2009

1-3

1.2 ~~SECTIONS OF SPA NO. 3~~ DOCUMENT ORGANIZATION

SPA No. 3 5 is comprised of the following sections. in addition to Section One, “Executive Summary”:

1.0 EXECUTIVE SUMMARY:

This section summarizes the background, content and format of SPA No.5.

2.0 OVERVIEW:

This section contains a summary of SPA No. 3 5, the existing conditions within the Project Area, the purpose and objectives of SPA No. 3 5, the relationship of SPA No. 3 5 to the City of Moreno Valley General Plan and the City of Moreno Valley Development Code and Design Guidelines, a summary of the associated entitlements necessary for project implementation, and an explanation of the documentation prepared for SPA No.35 pursuant to the California Environmental Quality Act (CEQA).

3.0 PLAN ELEMENTS

This section describes the key elements of SPA No. 3 5 including the following:

- Land Use Signage
- Circulation and Access
- Landscape/Streetscape
- Vehicle Displays

4.0 DEVELOPMENT REGULATIONS AND DESIGN GUIDELINES

The development regulations specify the uses permitted within the Project Area and standards regulating development of permitted uses. This section also discusses the design guidelines for the Project Area addressing the site planning, architectural design, and landscape design criteria of development.

5.0 IMPLEMENTATION

This section addresses the policies and procedures for the City’s review and approval of development proposals within the Project Area and stipulates the methods and procedures for interpretations related to SPA No 3 5.

1.3 ADOPTION PROCESS FOR SPA No. 3 5

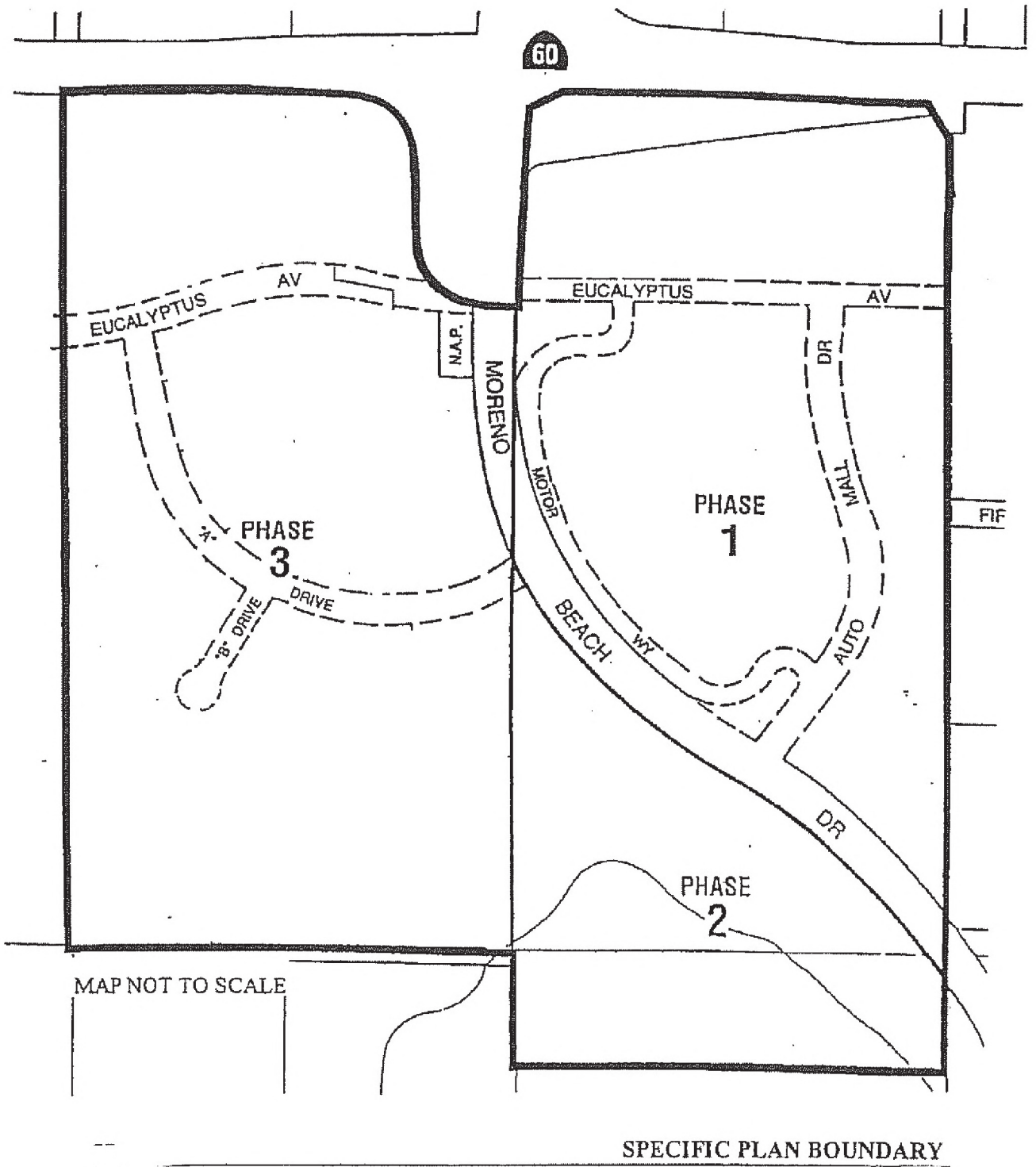
The authorities to prepare, adopt, and implement SPA No. 3 5 is granted to the City of Moreno Valley by the California Government Code (Title 7, Division 1, Chapter 3, Article 8, and Sections 65450 through 65457). The City of Moreno Valley Planning Commission is required to review and make recommendations to the City Council on SPA No. 3 5. The City of Moreno Valley City Council will adopt SPA No. 5 by ordinance. ~~thereby establishing the zoning for the Project Area.~~

1.4 RELATED ENTITLEMENTS

SPA No. 3 5 will serve to implement the City of Moreno Valley General Plan and will serve as the zoning for the Project Area. All zoning remains as approved under previous amendments of the Specific Plan. Approval of a development review application is required for each development within the Project Area pursuant to the provisions of the City's Development Code and Design Guidelines and the requirements of SPA No. 3-5.

PHASE 1 and 2



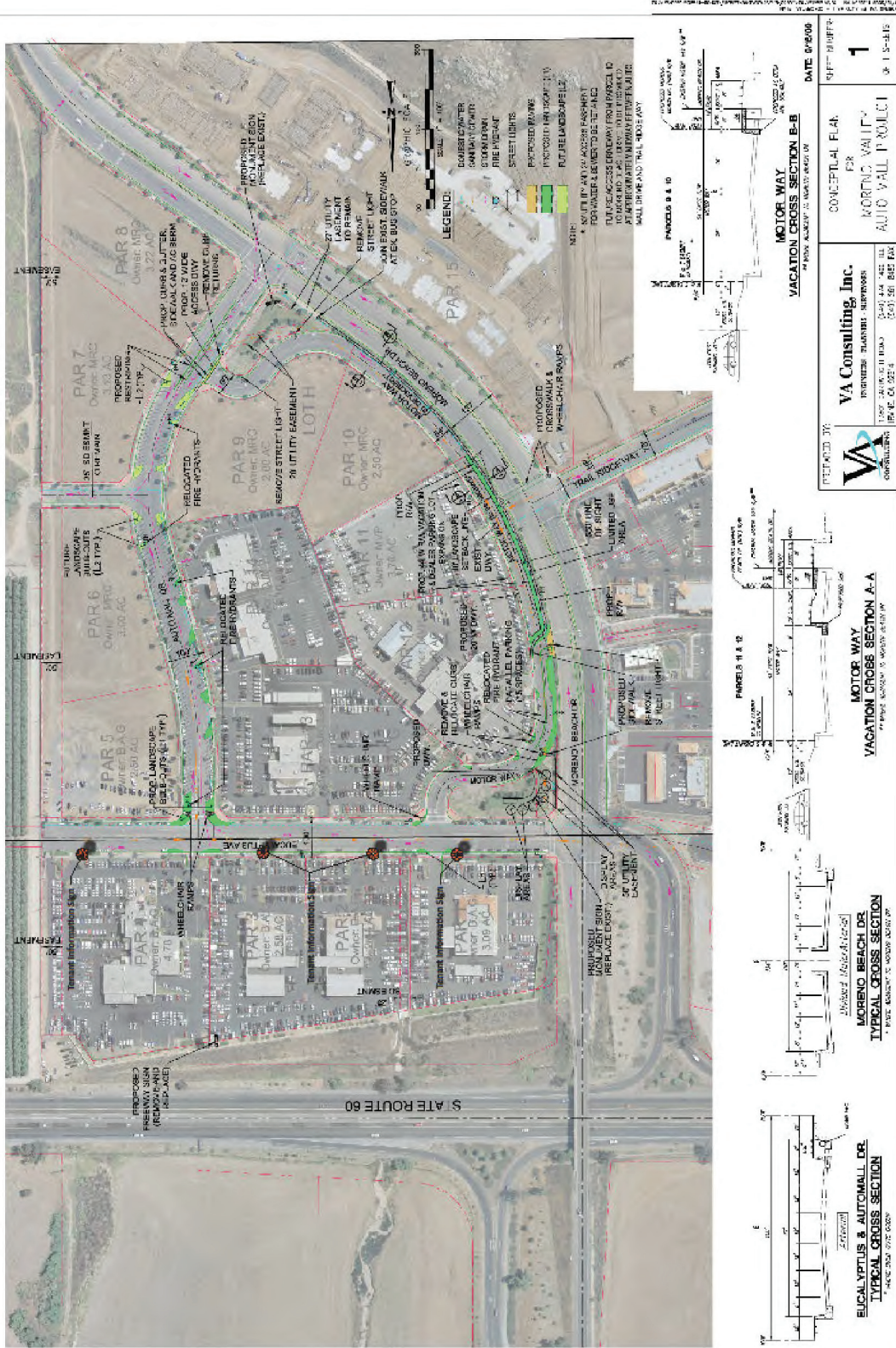




STATISTICAL SUMMARY

Existing Developed Area	23.40 Acres
Existing Multi-Family Area	15.92 Acres
Future Development	19.14 Acres
 Subtotal	 58.46 Acres
 Public Right of Way	 15.30 Acres
 TOTAL	 73.76 Acres

MAP NOT TO SCALE



Source: VA Consulting, Inc., January 2008



Moreno Valley Auto Mall
Moreno Valley, CA
September 16, 2008

Exhibit 4
SITE PLAN

SPA NO. 5

Draft
September 2009

1-9

2.1 APPLICABILITY

SPA No. 3-5 will serve to implement the General Plan land use designation of Specific Plan for the Project Area and will serve as the zoning for the Project Area. SPA No. 3-5 establishes the development requirements and design guidelines to be applied to all development within the Project Area.

2.2 PROJECT PROPOSAL

SPA No. 3-5 is a proposal to amends the Specific Plan as it pertains to the Project Area located at the Moreno Beach Drive off-ramp of the 60 Freeway in City of Moreno Valley portions of Planning Areas "A and B", which are located north and south of Eucalyptus, Avenue, east of Moreno Beach Drive and west of Auto Mall Drive. SPA No. 5 will serve to provide for the following and as shown on Exhibit 4.

- Expand the list of permitted uses within the Project Area as described in detail in Section 4. Revise the existing circulation by providing a new driveway location off northbound Moreno Beach Drive.
- Allows for vacation of a portion of Motor Way such that parcels may increase landscaping parkways, drive aisles, parking and sidewalks.
- Revise design standards for the existing freeway pylon sign, entry monument signs, and tenant signs. Included in a separate revision of the Moreno Valley Auto Mall sign program
- Revise the development regulations and design guidelines to those consistent with the City Code except where SPA No. 5 differs from the City Code as described in Table 1, Development Regulations in Section 4.
- Supersede the conditions of approval adopted with the approval of the Specific Plan and any previous amendments.
- Allow for additional drive aisles off of Motor way and automobile displays adjacent to Eucalyptus and Moreno Beach Drive.

2.3 EXISTING CONDITIONS

The Project Area (Phase I and 2) is comprised of the Moreno Valley Auto Mall Specific Plan and is approximately 73.76 acres of which approximately 23.40 acres are developed with automobile dealerships, approximately 35.06 acres are vacant, or contain existing multi family uses, and approximately 15.3 acres are improved with public areas and roadways.

The Project Area is ~~accessed~~ located east of Moreno Beach Drive and accessed from the 60 Freeway via the Moreno Beach Drive off-ramp. Moreno Beach Drive, which runs generally from north to south, is a General Plan designated Divided Major Arterial with a 134 foot right of way providing primary access to the Project Area. Interior streets consist of Eucalyptus Avenue, a General Plan designated Arterial with a 100 foot right of way intersecting with Moreno Beach

Drive in an east/west direction and Auto Mall Drive a General Plan designated Industrial Local Collector with a 78 foot right of way intersecting with both Eucalyptus Avenue and Moreno Beach Drive. Motor Way, a 48 foot wide frontage road adjacent to Moreno Beach Drive provides access and circulation to parcels fronting Moreno Beach Drive.

An existing freeway pylon sign serving the existing auto mall is located near the eastbound on-ramp to the 60 Freeway and two existing monument signs are located adjacent to Moreno Beach Drive. Exhibit 4 3, "Existing Conditions" illustrates the existing street improvements, developed sites, future development areas, and approximate locations of existing freeway and monument signage within the Project Area. Infrastructure and utilities including sewer, water, storm drainage, telephone, gas, and electrical service adequate to serve the Project Area are available within Moreno Beach Drive, Eucalyptus Avenue, and Auto Mall Drive.

<u>Statistical Summary Phase I and II</u>	
<u>Existing Developed Area "Auto Dealerships"</u>	<u>23.40 Acres</u>
<u>Existing Multi-Family Residential Area</u>	<u>15.92 Acres</u>
<u>Future Development Area</u>	<u>19.14 Acres</u>
<u>Subtotal</u>	<u>58.46 Acres</u>
<u>Public Right of Way</u>	<u>15.30 Acres</u>
<u>TOTAL</u>	<u>73.76 Acres</u>
Refer to Exhibit 2 for "Specific Plan Boundary"	

2.4 AUTHORITY AND REQUIREMENTS

2.4.1 STATE OF CALIFORNIA GOVERNMENT CODE

The State of California Government Code, Title 7, Division 1, Chapter 3, Article 8, Section 65450-54 grants authority to cities to adopt and amend specific plans for purposes of implementing the goals and policies of their General Plans. The Government Code states that specific plans may be adopted and/or amended either by resolution or by ordinance and that the specific plan and/or specific plan amendment is required to be consistent with the General Plan.

2.4.2 CITY CODE

Chapters 9.13.080 and 9.13.090 of the City Code provide for the amendment of a specific plan by the City Council provided the amendment is consistent with the General Plan or any general plan amendment approved concurrently with the specific plan

2.5 SPECIFIC PLAN AMENDMENT PURPOSE AND OBJECTIVES

The purpose of SPA No. 3 5 is to refine the, development regulations, requirements, and design guidelines for the development of the Project Areas within Phase I as shown on Exhibit 2. Implementation of SPA No. 3 5 will accomplish the following objectives:

- Implement the March 7, 2000 Settlement Agreement by and between The City of Moreno Valley, Community Facilities District No.2 (Moreno Valley Auto Mall) of the City of Moreno Valley, Community Facilities District No.3 of the City of Moreno Valley (Auto Mall Refinancing), the Community Redevelopment Agency of the City of Moreno Valley, Diamond Chevrolet Inc, Moreno Valley Motor Inc, and Auto Mall Resolution, LLC for the Project Area by providing for an expanded list of permitted land uses. Implement the modifications to the design guidelines related to signage, landscaping and circulation.
- Provide for the orderly and master planned development within the Moreno Valley Auto Mall Specific Plan to insure that an economically viable project or projects can be developed.
- Allow the potential for development of high quality residential development within an area adequately served by commercial services. Provide enhancements to the existing vehicular circulation within the development for the Moreno Valley Auto Mall.
- Provide enhancements to the existing signage located in Planning Area A and B
- Provide additional streetscape, parking and landscaping aesthetics to better serve Moreno Valley Auto Mall.
- Ensure that the development of the Project Area adequately addresses the City of Moreno Valley General Plan requirements.

2.6 RELATIONSHIP TO GENERAL PLAN

California Government Code (Title 7, Division 1, Chapter 3, Article 8, and Section 65450-65457) permits the adoption and administration of specific plans and specific plan amendments as an implementation tool for elements contained in the local general plan. Specific plan amendments must demonstrate consistency in regulations, guidelines, and programs with the goals and policies set forth in the general plan. The City of Moreno Valley General Plan designates the Project Area as “Specific Plan” on the General Plan Land Use Map. SPA No. 3 5

modifying the development requirements and planning guidelines to be applied to the Project Area consistent with the goals and policies set forth in the General Plan. SPA No. 3-5, when adopted, will serve as the legal document to implement the General Plan land use designation of “Specific Plan” for the Project Area.

2.7 RELATIONSHIP TO ZONING CODE

The adoption by the City of Moreno Valley of the Specific Plan by ordinance established the Specific Plan as the zoning for the Project Area. Except as provided for herein, SPA No. 5 establishes the development regulations within the City Code for development of the permitted uses. Where development regulations in SPA No. 5 differ from those established in the City Code, the provisions of SPA No. 5 shall prevail. Where SPA No. 5 is silent on a development regulation, the City Code shall prevail.

2.8 CEQA COMPLIANCE

~~A Negative Declaration has been prepared by the City of Moreno Valley for SPA No. 3 in accordance with the California Environmental Quality Act (CEQA) and City requirements. The Negative Declaration addresses the potential impacts associated with the proposed permitted uses of the Project Area. A Notice of Exemption has been prepared by the City of Moreno Valley for SPA No. 3 5. In accordance with the California Environmental Quality Act (CEQA) the project was determined to be “Categorical Exempt” per CEQA Guidelines based on Section 15311 “Accessory Structures” and Section 15301 (c) “Existing Facilities; which includes vacation of roadways and addition of landscape within the public right of way.~~

3.1 LAND USE

The Project Area is ~~an approximately 73.76 acres site located at the~~ consists of Phase I of the Moreno Valley Auto Mall Specific Plan and is approximately 57.84 acre of the 73.76 acres site located at the Moreno Beach Drive off-ramp of the 60 Freeway. The Project Area contains four planning areas as depicted on Exhibit 5 “Land Use Plan” ~~The specific list~~ A general description of uses permitted within each planning area is provided below. The specific list of permitted uses for each planning area is included in Section 4 “Development Regulations and Design Guidelines”.

Table 1 – Land Use Summary

PLANNING AREA	PERMITTED USES
<u>A</u>	Auto, Other Vehicular Related, & Public Facilities Uses Assessor Parcel Numbers: 477-130-016, 017, 018, 019, 025, 032, 033, 034
<u>B</u>	Auto & Other Vehicular Related, Public Facilities, Office, Manufacturing, Commercial Recreation, & Commercial Uses Assessor Parcel Numbers: 477-130-024, 035
<u>C</u>	Auto & Other Vehicular Related, Public Facilities, Office, Manufacturing, Commercial Recreation & Commercial Uses Assessor Parcel Number 477-130-020, 036, 037, 040
<u>D</u>	Auto & Other Vehicular Related, Public Facilities, Office Manufacturing, Commercial Uses, Commercial Recreational, and Residential Uses “ <u>Residential Commercial Uses (Existing residential multi family uses were previously approved on the site)</u> ”

3.2 CIRCULATION AND ACCESS

3.2.1 ROADWAYS/ACCESS

Vehicular circulation and access is provided to the Project Area by the Moreno Beach Drive off-ramp of the 60 Freeway and by Moreno Beach Drive. Eucalyptus Avenue, Auto Mall Drive, and Motor Way provide internal circulation within the Project Area. The Project Area access standards for vehicular circulation in Planning Areas A, B, C and D as illustrated on Exhibit 4 5, shall be as follows:

- For Planning Areas A, B, and C access roads and/or driveways for the commercial developments shall be located a minimum of 150 feet apart and a minimum of ~~150~~ 250 feet from the nearest intersection at Moreno Beach Drive and Eucalyptus Avenue, or as approved by the City Engineer.

- For Planning Areas ~~D~~ access roads and or driveways for the commercial developments shall be located a minimum of 200 feet apart and a minimum of 200 feet from the nearest intersection, or as approved by City Engineer A, B, C, and D driveways to retail commercial sites shall be of the curb-return type with a minimum of a 35 foot radius, or as approved by the City Engineer.
- For Planning Areas A, B, C and D driveways to retail commercial sites shall be a minimum of 28 feet wide, or as approved by the City Engineer.
- For Planning Area A and B a portion of Motor Way will be vacated and replaced with additional streetscape, parking, landscaping and hardscape as shown on Exhibit 4.
- Six vehicle display stalls will be provide on Lot G that also include a driveway off Motor Way.
- Site distance at driveways and intersections shall conform to City standards.

3.2.2 BICYCLE TRAILS

The City's General Plan designates both sides of Moreno Beach Drive for development of either Class I or Class II bicycle trail. The development of the Project Area adjacent to Moreno Beach Drive will include the necessary improvements for either a Class I or Class II bicycle trail to extend through the Project Area.

3.2.3 PEDESTRIAN ACCESS

As indicated on the project site plan, Exhibit 4, the proposal provides interior pedestrian connections from each dealership. A portion of Motor Way that is being vacated will be replaced with additional sidewalks and parkways that will link to existing pedestrian walkways along Moreno Beach Drive, Eucalyptus Avenue and Auto Mall Drive.

3.3 SIGNAGE

~~Two new pylon signs are proposed in the general locations depicted on Exhibit 5. The first pylon sign, identified on Exhibit 5 as "P1," will be a double faced sign with a maximum sign area of 720 square feet per sign face (excluding support structures) and a maximum height of 75 feet. The second pylon sign, identified on Exhibit 5 as "P2, will be double faced sign with a maximum sign area of 360 square feet per sign face (excluding support structures) and a maximum height of 45 feet. All other proposed new signs within SPA No.3 will be addressed through the provisions contained within the City Code and as provided herein.~~

The following general sign standards shall apply to all sign types within the project area:

- ~~Illuminated signs shall be internally lighted by fluorescent or neon tubes. No luminous or reflective background or script may be attached or applied.~~
- ~~Except for sign regulations contained within this section as well as Section 4.4 herein, all remaining regulations contained within the City of Moreno Valley Sign Ordinance are valid and applicable.~~

As presented in detail in the Project Sign Program, (*Moreno Valley Auto Mall Sign Program*, submitted under separate cover), SPA No.5 provides for (1) existing pylon freeway sign to be modified in place

<u>PYLON FREEWAY SIGN</u>	
<u>Number and Description</u>	<p><u>One freeway sign shall be allowed within Planning Area A of SPA No.209 No.5. The freeway sign modification shall provide the following information below on the sign as shown on Exhibit 5.</u></p> <ul style="list-style-type: none"> • <u>LCD Screen</u> • <u>Brand Panels</u> • <u>Moreno Valley Auto Mall I.D</u>
<u>Size</u>	<p><u>The pylon freeway sign will be double faced with an overall maximum height of 85 feet as shown on Exhibit 5. The LCD reader board will include an overall maximum of 607 square feet in display area. The sign will have eight (8) panels with dimensions of 3'x6" x 14'-0" each totaling 49 square feet in overall maximum display area. The City identification panel will have an overall maximum display area of 292 square feet.</u></p>

Additionally, presented in the Amended Project Sign Program (*Moreno Valley Auto Mall Sign Program*) are 2 entry monument statements signs. Each will be located and modified in place where the existing monument signs are as shown on Exhibit 6 and 7. To provide the new vision of the Auto Mall, the existing entry statements signs located at the southeast corner of Moreno Beach Drive/Eucalyptus Avenue and northwest corner of Moreno Beach Drive/Auto Mall Drive are being proposed to be modified in place.

<u>Freestanding Entry Monument Signs</u>	
<u>Number and Description</u>	<p><u>Two street freestanding entry monument signs would be located in Planning Area A and B as shown on Exhibit 6 and 7 and shall include the following:</u></p> <ul style="list-style-type: none"> • <u>Brand(s) of vehicles sold</u>

<u>Freestanding Entry Monument Signs</u>	
	<ul style="list-style-type: none"> • <u>Optional Manufacture logo</u> • <u>Dealer Name</u> • <u>“Moreno Valley Auto Mall” displays.</u>
<u>Size</u>	<p><u>The existing 12 foot wide freestanding monument sign would be used as the base for the new monument sign. The tenant panel would have a width of 11’-6” feet and height of 7’-1” feet. The total sign area for the tenant panels would be 80.5 square feet with a total sign height of 14 feet. Each tenant panel sign face should not exceed 7 square feet. The total sign area for the panels will be a maximum of 68.25 square feet and the sign framed by a minimum of 6 inches by material matching the front façade of the building. The additional sign area on top of the tenant panels would be reserved for the Moreno Valley Auto Mall Identification.</u></p> <p><u>As alternative, shown on Exhibit 7 the panel portion of the monument sign would have a width of 6’-2” feet and a height of 7’-6”.</u> Each tenant panel sign face should no exceed 6 square feet. The total sign area for the panels will be a maximum of 33.75 square feet and the sign face framed by a minimum of 6 inches by material matching the front façade of the building. The additional sign area on top of the panels would be reserved for the Moreno Valley Auto Mall Identification. This area would be 2’-6” high and 6’-2” wide with a total of 15.4 square feet. <i>(Refer to Amended Sign Program for Specifications.)</i></p>

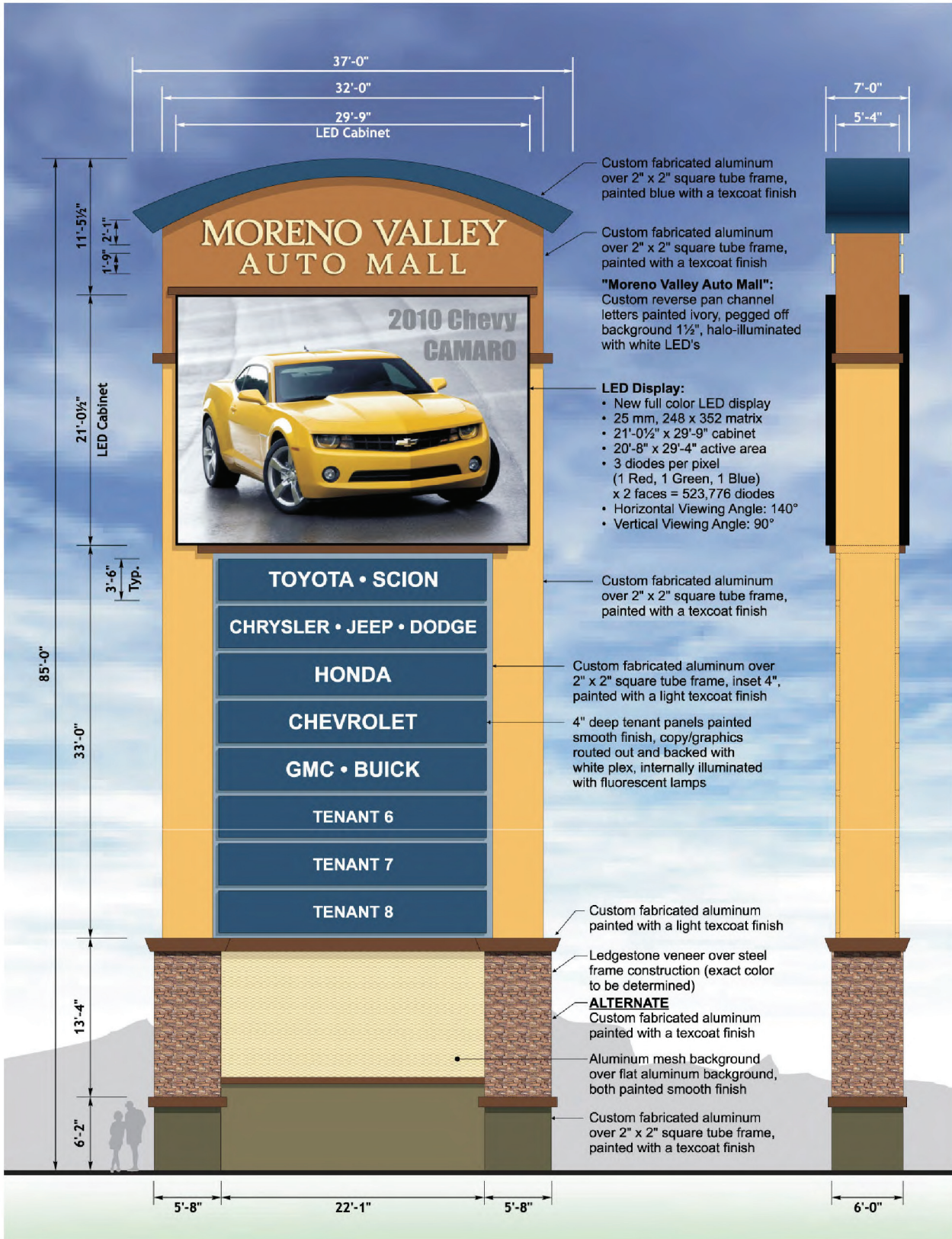
Modifications are also to be shown on the existing tenant/information signs. One (1) tenant information monument sign for each dealership is allowed per street frontage along Eucalyptus Avenue and Motor Way. The existing information signs may be modified in place at the existing locations or as approved by the Moreno Valley Planning Division. Exhibit 8 shows locations of signs that shall remain in place.

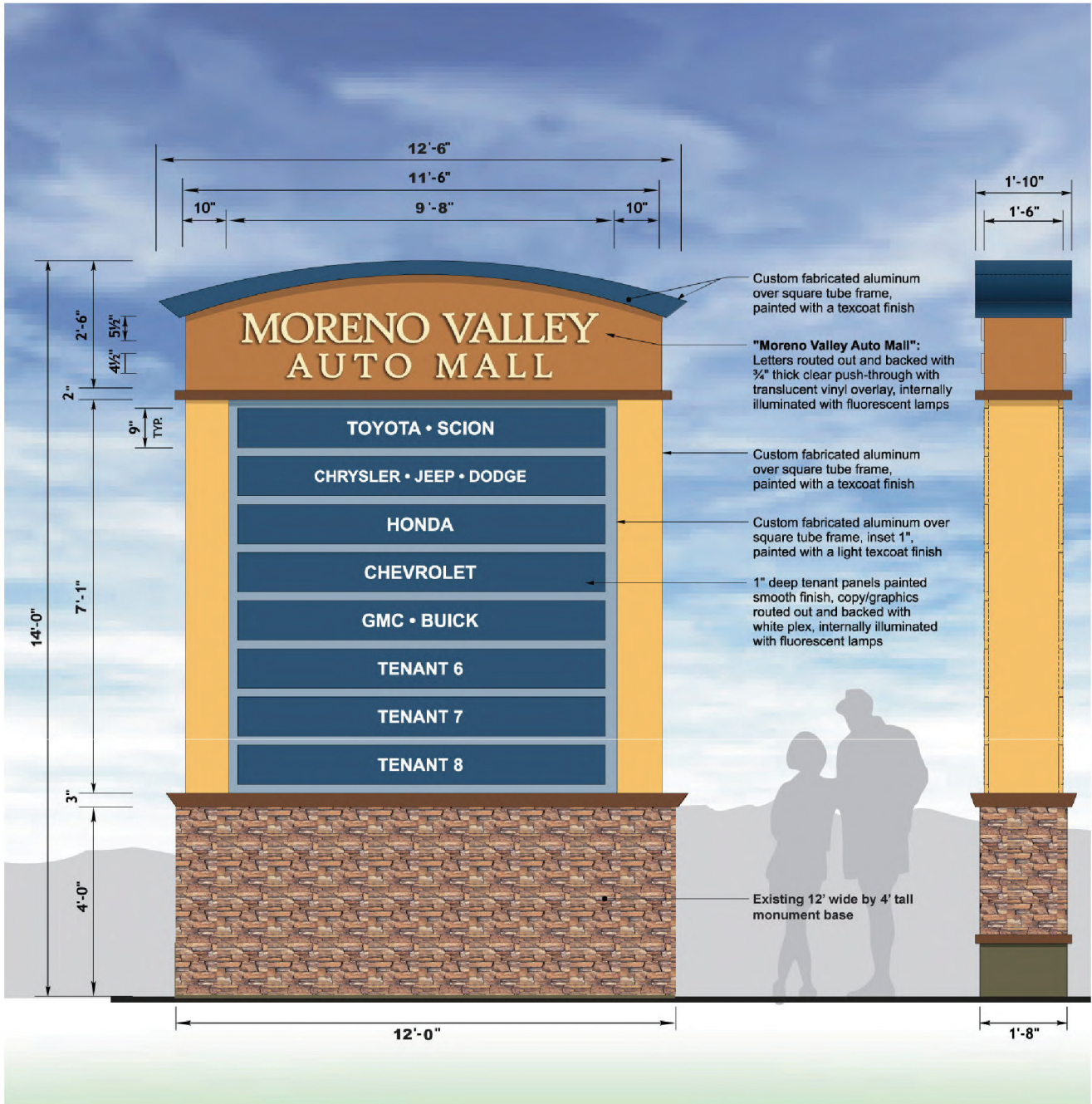
<u>Tenant Monument Signs</u>

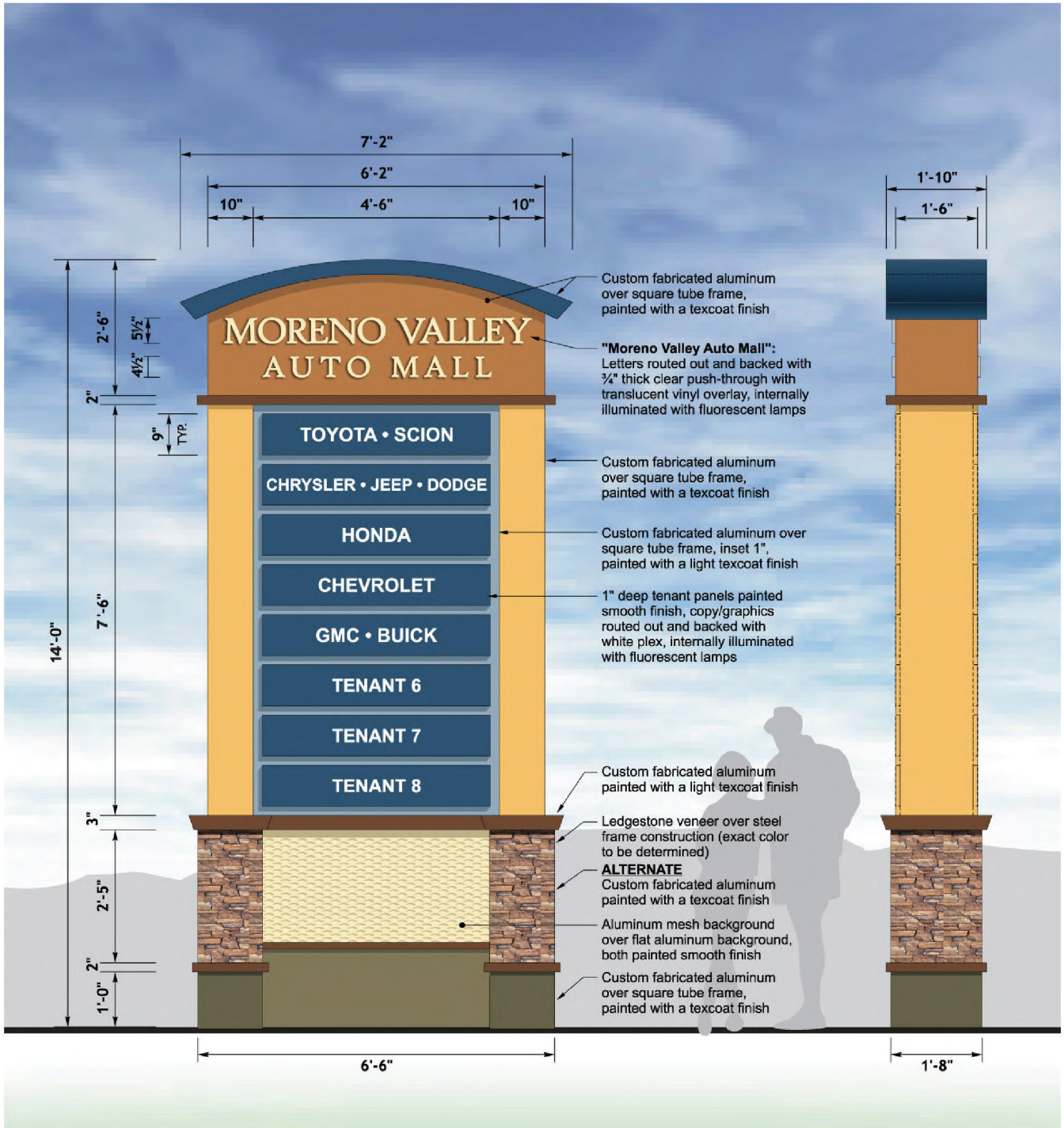
<p><u>Number and Description</u></p>	<p><u>The following information on the signs will include the following below and as shown on Exhibit 8.</u></p> <ul style="list-style-type: none"> • <u>Tenant Name</u> • <u>Tenant Logo</u> • <u>Information i.e. (entrance, service, parts, customer parking, etc)</u> • <u>Moreno Valley Auto Mall Identification</u>
<p><u>Size</u></p>	<p><u>The individual dealership/tenant sign will have a maximum total height of 14 feet and width of 3'-6". The sign area shall have a maximum total sign area of 18.75 square feet.</u></p>

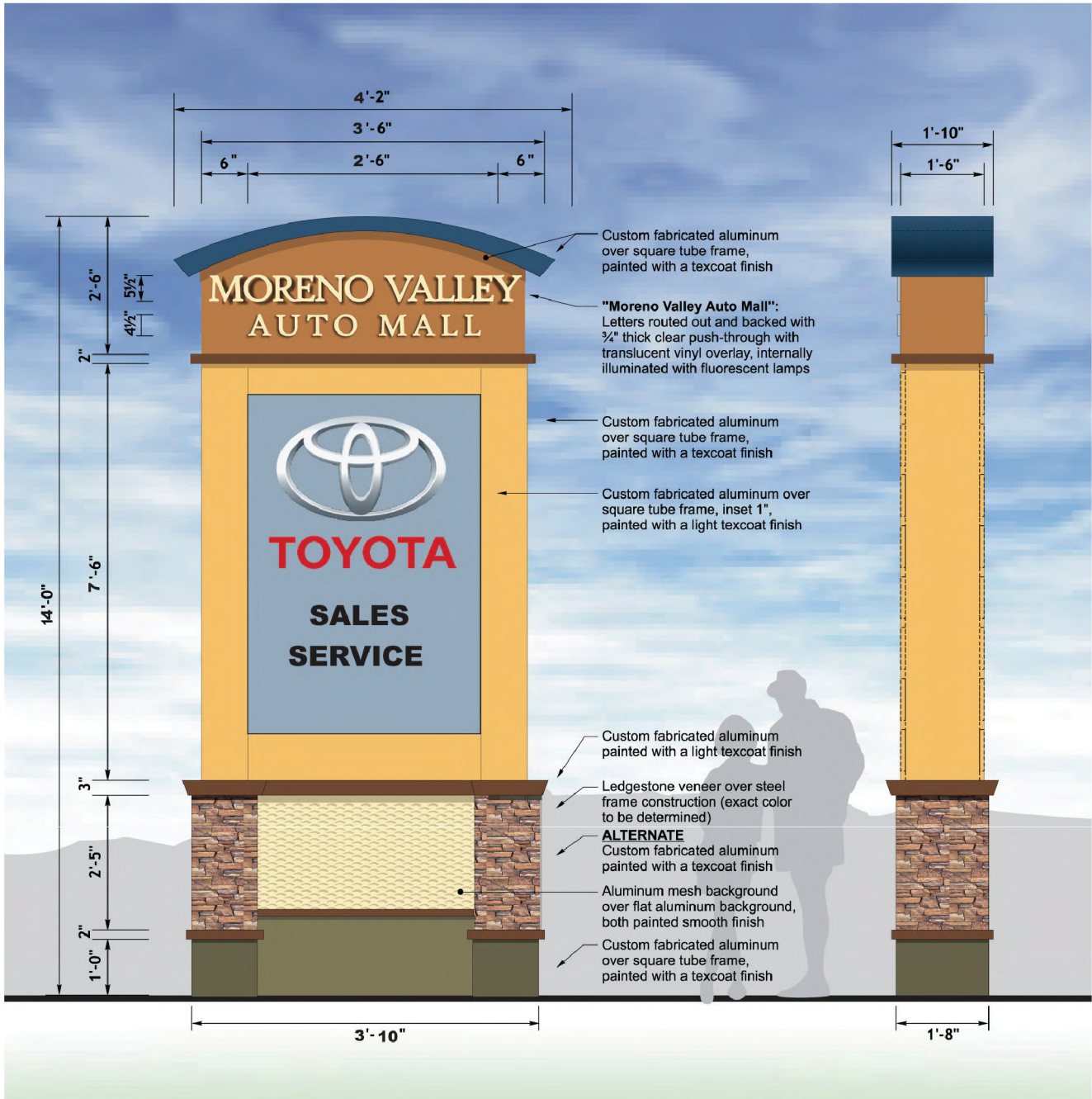
All other existing signs identified in the Project Sign Program will comply with the City Code and approved sign program.

Construction materials and colors proposed for all revised project signs will be compatible with architectural elements of existing or proposed for other SP 209 amendments. Existing project sign elevations shall be comparable to the Auto Mall sign elevations approved under existing entitlements for the project site. Proposed sign modifications within SPA No.5 are addressed through the provisions of the City Municipal Code, and/or the Amended Project Sign Program. Signs proposed by the project shall be subject to review and approval by the City through the Project Sig Program applications. Please refer also to the discussion of proposed Specific Plan Development Regulations and Design Guidelines presented in Section Four of this document.









3.4 LANDSCAPING AND SCREENING

3.4.1 INTRODUCTION

Unless otherwise identified herein, landscaping and screening of the project site and its component elements will be implemented consistent with provisions of the City Municipal Code. In these regards, landscaping/screening requirements and guidelines applicable to the project are articulated within City Municipal Code, Title 9, "Planning and Zoning"; Chapters 9.04, "Commercial Districts"; 9.08, "General Development Standards"; 9.10, "Performance Standards"; 9.11, "Parking and Loading Requirements"; and 9.16. "Design Guidelines".

3.4.1 LANDSCAPE/HARDSCAPE ELEMENTS

The Landscaping is typically located adjacent to the Moreno Beach Drive intersections of Auto Mall Drive and Eucalyptus Avenue. With the exception of certain parking lot landscaping features discussed subsequently in this section, all project landscaping will be constructed consistent with City Municipal Code design and construction materials.

Landscaping along the project's Moreno Beach Drive frontage will continue treatment of this parkway established by, and implemented under SP 209 Amendment No. 3. The landscaping area along Moreno Beach Drive within the project area will also continue bikeway/pedestrian paths located on the corner of Eucalyptus Avenue. A new 6 foot pedestrian walkway is proposed parkway adjacent along Moreno Beach Drive as shown on Exhibit 4. To the extent feasible, the project will provide streetscape for the on street parking that exists and that is proposed along Auto Mall Drive and Eucalyptus Avenue. The configuration of the streetscape planter shall be based on the site plan Exhibit 4. New landscaping shall conform to the City Landscaping Guideline requirements and will provide quantities, types, and locations to satisfaction of the Community Development Director.

Section Four

DEVELOPMENT REGULATIONS AND DESIGN GUIDELINES

4.1 PURPOSE AND APPLICABILITY

These provisions are intended to regulate land use, development, and design within the Project Area. The development regulations and design guidelines contained herein provide specific standards for new development within the Project Area. Application of the regulations contained in Table 1, “Development Standards”, is intended to encourage the most appropriate development of the land, create a harmonious relationship between existing land uses, ensure the highest quality of development, and protect the health, safety, and general welfare of the community. The applicable regulations of the City Code shall apply to the Project Area unless stated herein to the contrary. Whenever the provisions and development standards contained herein conflict with those contained in the City Code the provisions of SPA No. 5 shall apply.

4.2 DEFINITION OF TERMS

The meaning and construction of words, phrases, titles and terms used in SPA No. 5 shall be the same as provided in the City Code, Section 9.15, “Definitions”, except as otherwise specifically provided herein.

4.3 PERMITTED USES

The permitted uses for each planning area within the Project Area are listed below. Permitted uses may be developed within the applicable planning area described in Exhibit 5 ~~3~~ Land Use Plan, subject to the development standards and design guidelines specified in Section 4.4 and 4.5 herein. If ambiguity arises concerning the appropriate classification or approval of a particular use that is not explicitly listed below falls within the range and nature of the permitted uses listed below for the Project Area and shall be considered a permitted use. The Community and

~~Economic Development Director to ascertain all pertinent facts and issue and interpretation as to its status shall have the authority to issue an interpretation.~~

4.3.1 – PLANNING AREA A

The following uses are permitted within Planning Area A:

- 1) Automobile, Motorcycle, Truck Recreational Vehicle, and Boat Sales, and Incidental Minor Repairs and Accessory Installations.
- 2) Public Facilities

4.3.2 – PLANNING AREA B

The following uses are permitted within Planning Area B:

- 1) Automobile, Motorcycle, Truck Recreational Vehicle, and Boat Sales, and Incidental Minor Repairs and Accessory Installations.
- 2) General Office (Administrative and Professional)
- 3) Automobile Fleet Storage
- 4) Auto Service Stations: Minor/Major Repair to include: Auto/Boat/Motorcycle/RV
- 5) Automotive, Boat, Motorcycle and RV Repair – Minor – includes Brake, Muffler and tire Installation and Repair
- 6) Automotive Paint and Body Repair – Major Engine Overhaul
- 7) Auto Rentals
- 8) Auto Supply Stores (with installation)
- 9) Auto Supply Stores (without installation)
- 10) Bank and Financial Institutions
- 11) Boat Sales New and Used (including Repairs and Accessory) Installation
- 12) Doctors, Dentists and medical Clinics/Medical Care
- 13) Rental Service - within an Enclosed Structure (Furniture, Office Equipment, Party Supplies)
- 14) Rental Service - with Outdoor Storage and Display (Vehicles, Equipment, etc.)
- 15) Swimming Pool and Spa Sales and Service - Including Outdoor Display\
- 16) Car Wash
- 17) Auto Service Stations: Accessory Uses Include: Convenience Store, Car Wash
- 18) General Retail
- 19) Restaurants (eating and drinking establishments)-with alcoholic beverages sales with outdoor seating.
- 20) Restaurants-with Drive Through

4.3.3 – PLANNING AREA C

The following uses are permitted within Planning Area B:

- 1) General Office (Administration and Professional)
- 2) General Retail
- 3) Automobile Fleet Storage

- 4) Automobile, Motorcycle, Truck Recreational Vehicle, and Boat Sales, and Incidental Minor Repairs and Accessory Installations.
- 5) Automotive, Boat, Motorcycle and RV Repair-Minor-includes Brake, Muffler and tire Installation and Repair
- 6) Automotive Paint and Body Repair – Major Engine Overhaul
- 7) Auto Rentals
- 8) Bank and Financial Institutions
- 9) Boat Sales New and Used (including Repairs and Accessory) Installation
- 10) Car Wash
- 11) Contractor Supply Stores-No outdoor storage
- 12) Convalescent Homes
- 13) Day Care Centers
- 14) Doctors, Dentists and medical Clinics/Medical Care
- 15) Health Club, Spa
- 16) Hotels/Motels
- 17) Manufacturing and Assembly (a) Custom and Light Manufacturing Indoor Uses Only with Light Truck Traffic, On-Site and Wholesaling of Goods and Produced
- 18) Nursery (Plant)-Retail Only
- 19) Photo engraving and blueprint shop including sales of related materials.
- 20) Public Facilities
- 21) Rental Service - within an Enclosed Structure (Furniture, Office Equipment, Party Supplies)
- 22) Rental Service - with Outdoor Storage and Display (Vehicles, Equipment, etc.)
- 23) Restaurants (eating and drinking establishments)-with alcoholic beverages sales with outdoor seating.
- 24) Swimming Pool and Spa Sales and Service - Including Outdoor Display\
- 25) Vehicle Storage yards-Indoor/Outdoor Storage lots.
- 26) Heavy Equipment Sales and Rentals.
- 27) Storage Lots and Mini Warehouses
- 28) Warehouse and Distribution, Wholesales-Within a Completely enclosed building and storage involving finished products: Unfinished, Raw or Semi-Refined Products or Outdoor Storage.
- 29) Auto Service Stations: Accessory Uses Include: Convenience Store, Car Wash
- 30) Convenience Stores, with or without drive-through
- 31) Restaurants-with Drive Through

4.3.4 The Following uses are permitted within Planning Area D:

- 1) General Office (Administrative and Professional)
- 2) General Retail
- 3) Arcades, Video Machines
- 4) Automobile Feet Storage
- 5) Automobile, Motorcycle, Truck, Recreational Vehicle and Boat Sales and Incidental Minor Repairs and Accessory Installation.

- 6) Auto Service Stations: Accessory Uses Include: Convenience Store, Car Wash
- 7) Auto Service Stations, Minor Repair to include: Auto/Boat/Motorcycle/RV (Excludes major repair, paint, body work).
- 8) Automotive Boat, Motorcycle and RV Repair-Minor-includes Brake, Muffler and tire installation and Repair.
- 9) Automotive Pain and Body Repair-Major Engine Overhaul
- 10) Auto Rentals
- 11) Banks and Financial Institutions
- 12) Barber and Beauty Colleges
- 13) Boat Sales New and Uses (including Repairs and Accessory) Installation
- 14) Bowling Alley
- 15) Business Schools
- 16) Car Wash
- 17) Churches
- 18) Clubs
- 19) Commercial Radio or Television Station (without On-Site Antenna)
- 20) Communication Facilities and Antennas
- 21) Contractor Supply Stores-no outdoor storage
- 22) Convalescent Homes
- 23) Convenience Stores, with or without drive through
- 24) Convenience Stores with Alcohol Sales
- 25) Dancing, Art, Music and Similar Stores
- 26) Day Care Centers
- 27) Doctors, Dentists and medical Clinics/Medical Care/Medical Offices.
- 28) Driving School
- 29) Gasoline Dispensing-Non Retail Accessory to an Auto Related Use
- 30) Grocery Stores
- 31) Handicap Housing
- 32) Health Club, Spa
- 33) Hospitals
- 34) Hotels/Motels
- 35) Impound Yards (Indoor)
- 36) Kennel and Catteries
- 37) Liquor Stores
- 38) Lodge Halls and Similar Facilities
- 39) Manufacturing and Assembly (a) Custom and Light Manufacturing Indoor Uses Only with Light Truck Traffic, On-Site and Wholesaling of Good Produced
- 40) Miniature Golf Courses
- 41) Nursery (Plant)
- 42) Parcel Delivery Terminals
- 43) Personal Services (e.g. nail salons and tattoo parlors)
- 44) Pool Hall
- 45) Public Facilities (Private) such as Tennis Club, with Limited Associated incidental Uses
- 46) Rental Service-with Wells and Similar Facilities

- 47) Recreational Facilities (Private) such as Tennis Club, with Limited Associated incidental Uses
 - 48) Rental Service-within an Enclosed Structure
 - 49) Rental Service-with Outdoor Storage and Display
 - 50) Residential Multifamily (R20 standards of the Municipal Code would apply)
 - 51) Single Family Residential (RS10)
 - 52) Restaurants (eating and drinking establishments)-with Entertainment
 - 53) Restaurants (eating and drinking establishments)-without Entertainment
 - 54) Restaurants (eating and drinking establishments)-with Alcoholic Beverage Sales
 - 55) Restaurants (eating and drinking establishments)-with Outdoor Seating
 - 56) Restaurants-with Drive Through
 - 57) Schools, Private
 - 58) Senior Housing
 - 59) Shaking Rinks
 - 60) Swimming Pool and Spa Sales and Service-Including Outdoor Display
 - 61) Theaters
 - 62) Trade and Vocational Schools
 - 63) Transfer, Moving and Storage Facilities
 - 64) Veterinarian (Including Animal Hospital)-All Activities within an Enclosed Structure
 - 65) Veterinarian (Including Animal Hospital)-With Outdoor Activities
- Warehouse and Distribution, Wholesales-Within a Completely Enclosed Building and Storage Involving Finished Products; Unfinished, Raw or Semi-Refined Products or Outdoor Storage.

4.4 DEVELOPMENT REGULATIONS

Table 2 - Development Standards

Development within the Project Area shall comply with the applicable provisions of the City Code except as expressly provided for below.

DEVELOPMENT STANDARDS	SPA No. 5
1. Off-Street Parking Requirements a. Automobile Dealerships	<p>An automobile dealership shall provide a minimum of six on-site parking spaces reserved exclusively for customer's use.</p> <p>Sufficient employee parking must be provided on-site and out of public view except for employee-driven demonstrator automobiles.</p>
2. On-Site Lighting Standards a. Automobile Dealerships	<p>Lighting plans shall be submitted showing the design layout and exact fixture/pole locations and wattages proposed by each auto dealer. A point-by-point foot-candle analysis shall also be required for each dealership lighting proposal. The standards are as follows:</p> <ul style="list-style-type: none"> • Front Line and Primary Display Area: Automotive display areas shall be lighted by sharp "cut-off" luminaries. The luminaries must be one-piece die cast housing with radius corners on all edges of the fixture. Luminaries shall be factory finished in an organic thermal setting polyester/polyurethane resin based coating. Alternate luminaries providing equal performance, construction specifications and aesthetic qualities are acceptable <p>"Front Row" lighting standards adjacent to the auto center interior roads shall not exceed twenty (20) feet in height above adjacent grade and shall be a minimum of forty (40) feet on center. The interior of the display area shall be illuminated by fixtures no closer than sixty (60) feet to the front line of display lights. These fixtures shall be on poles not to exceed twenty (20) feet in height above adjacent grade and shall be spaced no closer than sixty (60) feet on center.</p> <p>Average wattage for the entire primary display area shall not exceed 1.5 watts per square foot.</p>

DEVELOPMENT STANDARDS	SPA No. 5
<p>2. On-Site Lighting Standards a. Automobile Dealerships (Continued)</p>	<ul style="list-style-type: none"> • Poles: All lighting poles shall be square 4 inch or 5 inch steel tubing factory finished in an organic thermal setting polyester/polyurethane resin based powder coating. Luminaries and poles shall be the same finish and color. The size and gauge of the poles used shall be determined based on the manufacturer’s published Effective Projected Area (EPA) data. • Service and Outside Storage Areas: Service and storage parking areas shall be lighted by luminaries mounted on standards not to exceed twenty-four (24) feet in height above adjacent grade. Average wattage for the entire storage area shall not exceed .2 watts per square foot. • Optional Security Lighting: For late-night security lighting, Low Pressure Sodium (LPS) luminaries may be utilized. The LPS luminaries must be of design that is matching or complimentary to the metal halide luminaries, and shall be capable of being mounted on the same poles as the metal halide fixtures. • Other Requirements: All luminaries shall be cut-offs as defined by published Illuminating Engineering Society (IES) standards. Luminaries’ manufacturer should provide option for the addition of a “house side shield” to reduce spill light behind the poles onto adjacent property, if needed. <p>Strings of incandescent fixtures shall not be allowed in any area.</p> <p>Spot fixtures shall not be directed toward public streets or adjacent properties.</p>

DEVELOPMENT STANDARDS	SPA No. 5
<p>3. Signs A. Pylon sign</p>	<p>A total of two pylon signs may be located within the Project Area as generally shown on Exhibit 5. The first pylon sign, identified on Exhibit 5 as "P1," will be a doublele faced sign with a maximum sign area of (30) feet in length and twenty-four (24) feet in height for a total sign area of seven hundred twenty (720) s.f. (excluding support structures) and a maximum height of 75 feet. The second pylon sign, identified on Exhibit as "P2", will be double faced sign with a maximum sign area of 360 square feet per sign face (excluding support structures) and a maximum height of 45 feet. Pole structure shall no be illuminated</p> <p><u>One freeway sign shall be allowed within planning area A of SPA No. 209 No.5. The freeway sign modifications shall provide the following information on the sign, as shown on Exhibit 5.</u></p> <p><u>The pylon freeway sign will be double faced with an overall maximum height of 85 feet as shown on Exhibit 5. The LCD reader board will include an overall maximum of 607 square feet in display area. The sign will have eight (8) panels with dimensions of 3'x6" x 14'-0" each totaling 49 square feet in overall maximum display area. The City identification panel will have an overall maximum display area of 292 square feet.</u></p> <p><u>Refer to Amended Sign Program under materials and construction for all specification on the construction of pylon sign.</u></p>

DEVELOPMENT STANDARDS	SPA No. 5
<p>B. Modified Monument Sign Requirements Freestanding Entry Monument Signs</p>	<p>For Planning Area D, one sign is allowed per driveway not to exceed a total per street frontage of two and one-half (2.5) square feet of copy area and three (3) square feet of sign area respectively for each one thousand (1,000) square feet of gross floor area within the development. With respect to a single building of less than ten thousand (10,000) square feet in gross floor area located on a single parcel with street frontage, such sign need not be less than twenty four (24) square feet in sign copy area and forty two (42) square feet in sign area per street frontage.</p> <p>The support structure or base for the sign up to a maximum height of two (2) feet from the adjacent grade shall be excluded from the calculation of sign area.</p> <p>Modified Monument Signs for Dealerships</p> <p>A. Number and Copy Two street front signs shall be permitted per dealership. Street signs may contain the following: Brands(s) of vehicles sold Manufacturer's logo Dealer's name Identification of used cars or trucks Secondary manufacturer's lines or similar identification</p> <p>B. Size Each sign must fit within a rectangle 8 feet high by 18 feet wide. Each sign may be double sided</p> <p>C. Location Signs shall be located no closer than 75 feet from a common lot line between dealerships</p> <p>Signs shall be set back from the front property line a minimum of 5 feet and shall be contained within a planting area which may consist of turn or selective ground covers</p> <p>D. Construction Signs shall be monument signs only. Sign bases and frames shall be constructed of solid masonry or metal panels. Signs shall be trimmed out with a material which is used in the main showroom building in order to promote an architecturally coordinated look for each site. Factory provided signs both as to size and material are permitted and shall be mounted onto or within the standard base and frame. Letters and logos only may be lighted and they shall be lighted and internally. No external lighting shall be allowed.</p> <p>Two street freestanding entry monument signs would be located in Planning Area A and B as shown on Exhibit 4. Both sign modifications would provide the following information included with Exhibits 6 and 7:</p> <ul style="list-style-type: none"> • Brand(s) of vehicles sold • Optional Manufacture logo
<p>SPA No. 5 Draft September 2009</p>	<ul style="list-style-type: none"> • Dealer Name 4-9 • "Moreno Valley Auto Mall" displays.

DEVELOPMENT STANDARDS	SPA No. 5
C. Tenant Information Monument Sign	<p><u>The following information on the signs will include the following below and as shown on Exhibit 8.</u></p> <ul style="list-style-type: none"> • <u>Tenant Name</u> • <u>Tenant Logo</u> • <u>Information i.e. (entrance, service, parts, customer parking, etc)</u> • <u>Moreno Valley Auto Mall Identification</u> <p><u>The individual dealership/tenant sign will have a maximum total height of 14 feet and width of 3’-6”.</u> The sign area shall have a maximum total sign area of 18.75 square feet.</p>
D. Building Mounted Signs	Shall conform to SPA No.3 5 development standards that are already in place.
d. Information Signs	Shall conform to SPA No.3 5 development standards that are already in place.
4. Building Location / Orientation Standards	<p>For Planning Areas A, B, C and D, all buildings must be located within the envelope defined by the following setback standards:</p> <ul style="list-style-type: none"> • Front Street and Side Street Setback: A fifteen (15) foot minimum is required. • Interior Side Setback: No setback is required from the interior side setback. • Rear Setback: No setback is required from the rear property line.
5. Building Height Standards	<p>For Planning Areas A, B, C, and D a maximum height of fifty (50) feet from adjacent grade is permitted, measuring to the top of parapet or ridge shall be allowed. The maximum building height permitted shall be thirty-five (35) feet at the required front yard setback. For each additional one (1) foot exceeding the thirty-five (35) foot height limit, the setback from all property lines shall be increased by two (2) feet.</p>

DEVELOPMENT STANDARDS	SPA No. 5
6. Permitted uses for street side building setback areas.	The building setback area in any commercial district shall be used only for landscaping, pedestrian walkways, driveways, or off-street parking. When off-street parking is located within street setback areas, a minimum landscaped area of ten (10) feet in depth shall be provided between the property line and the parking area, with an additional minimum landscaped area five (5) feet in depth required between the parking area and the building. As an alternative to the 5 foot area between the parking area and the building, the equivalent landscaped area in square footage shall be provided for elsewhere on the property.
7. Screening of storage areas within commercial and industrial use areas of the Project Area.	Where permitted, all outdoor storage of materials, wares, crates, bottles, or similar items necessary to, or part of, a permitted use within the Project Area shall be screened from view on at least three sides by an opaque, impact-resistant screen of block or metal material not less than six feet in height, and on the fourth side by an opaque, impact-resistant gate not less than five feet in height. Alternate materials or designs may be approved by the Community Development Director.
8. Auto dealerships – minimum lot size.	The minimum lot size shall be one acre for lots containing dealerships.
10. Service station landscaping	The minimum amount of landscaping shall be based on the required building setback and parking lot landscaping standards defined herein. No percentage requirement as defined in the City Code shall apply.

4.5 DESIGN GUIDELINES

Development within the Project Area shall comply with the design guidelines contained within the adopted City Code. The design guidelines in the City Code shall apply to all improvements within Project Area including new construction, remodels, additions, landscaping, paving, signage, amenities, community facilities, and related facilities. They are provided to guide developers, builders, architects, engineers, landscape architects, and others involved in the preparation of future development proposals to ensure a consistent level of quality throughout the Project Area. The design guidelines will assist the City of Moreno Valley staff and decision-making authorities with criteria to evaluate future development proposals.

Section Five

IMPLEMENTATION

The City of Moreno Valley City Council will adopt SPA No. 35 by ordinance. Following approval by the City, SPA No. 3 5 will serve as the implementation tool for the General Plan as well as the zoning development regulations for the Project Area.

5.1 METHODS AND INTERPRETATION

Development within the Project Area shall be implemented through the City of Moreno Valley Development Review process as set forth in Section 9.02.030 of the City Code. The implementation process described below provides for the mechanisms for review and approval of development projects within the Project Area.

5.1.1 APPLICABILITY

All development proposals within the Project Area shall be subject to the implementation procedures established herein. Whenever the provisions and development standards contained herein conflict with those contained in the City Code, the provisions of SPA No. 3 5 shall take precedence.

5.1.2 INTERPRETATION

Unless otherwise provided, any ambiguity concerning the content or application of SPA No.3 5 shall be resolved by the City of Moreno Valley Community Development Director in a manner consistent with the goals, policies, purpose and intent established herein.

5.1.3 IMPLEMENTATION OF DESIGN GUIDELINES

Adoption of SPA No. 3 5 by the City includes adoption of the design guidelines contained in the City Code which shall be the sole design criteria by which development projects within the Project Area will be reviewed during the Development Review process.

5.2 DEVELOPMENT REVIEW PROCESS

5.2.1 DEVELOPMENT REVIEW

Development Review as specified in Section 9.02.030 of the City Code is required for all development proposals within the Project Area. Development review shall be conducted where applicable by the City of Moreno Valley Community Development Director and Planning Commission as specified in Section 9.02.030 and shall be reviewed for consistency with SPA No. 3 5. Submittal of a Development Review Permit application shall be of a form and content consistent with the City of Moreno Valley requirements. Where specified in Section 9.02.030 (B), the Planning Commission shall approve the application. The decision of the Planning Commission shall be final, subject to appeal to the City Council according to the procedures established in the City Code.

After City approval of a Development Plan, changes to the size, location, and design of any uses or structures may be approved by the Community Development Director. If the Director determines that the proposed revision is in substantial conformance with the provisions of SPA No. 3 5, the revised Development Plan shall be approved by the Director.

5.2.2 SUBDIVISION MAPS

Any tentative parcel maps and tentative tract maps shall be reviewed and approved pursuant to the applicable provisions of the City of Moreno Valley Subdivision Ordinance and consistent with the applicable provisions of SPA No. 3 5.

~~**5.3 FEE REQUIREMENTS**~~

~~Fees have been established for the Project Area as part of the Settlement Agreement dated March 7, 2000.~~

5.3 SCHOOL FEE REQUIREMENTS

The developers of the project will pay school fees, pursuant to Government Code Section 65995, et seq., as amended, to address the school needs of the Project Area

SPECIFIC PLAN AMENDMENT No. 5

AMENDING SPECIFIC PLAN 209, THE MORENO VALLEY AUTO MALL SPECIFIC PLAN

Submitted To:
**City of Moreno Valley
14177 Frederick Street
Moreno Valley, California 92552-0805**

Submitted by:
**Hogle Ireland
1500 Iowa Avenue, Suite 110
Riverside, CA 92507**

Revised September 2009

EXHIBIT B

SPECIFIC PLAN AMENDMENT No. 5

FINAL

PROJECT REPRESENTATIVE:

Hogle Ireland Inc
1500 Iowa Avenue, Suite 110
Riverside, CA 92507
Telephone: (951) 787-9222

Contact: Chris Stamps
Senior Associate Project Manager

SUBMITTED TO:

CITY OF MORENO VALLEY
14177 /Frederick Street
Moreno Valley, California 92552-0805
Telephone: (951) 413-3206

Contact: Mr. Mark Gross
City of Moreno Valley Senior Planner

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SPA No. 5

Final
September 2009

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Section One

EXECUTIVE SUMMARY

1.1 BACKGROUND

The City of Moreno Valley proposes a City initiated Fifth Amendment to Specific Plan 209 from the currently adopted Specific Plan No. 209, Amendment No.3 document. Specific Plan No. 209, Amendment No. 4, only provided modifications to Phase 3 (Phase 1 and 2 was modified under SPA No.3).

The Moreno Valley Auto Mall Specific Plan is hereinafter referred to as “Specific Plan”. The Specific Plan was adopted by the City of Moreno Valley in 1988 and as amended in May 1990 (the First Amendment) and August 1990 (the Second Amendment), provides for the development of automobile sales uses, auto related uses, and commercial uses on approximately 151.89 acres located south of the 60 Freeway at the Moreno Beach Drive off-ramp. The location of the Specific Plan is illustrated in Exhibit 1 “Location Map”.

In May 1988 the City of Moreno Valley adopted the Specific Plan with conditions for approximately 80.03 acres referred to in the Specific Plan as Phases I and II as illustrated on Exhibit 2, “Specific Plan Boundary”. The 1988 Specific Plan provided for the development of automobile sales and service uses, commercial uses, and open space within Phases I and II. In June 1990, the City of Moreno Valley adopted the First Amendment to the Specific Plan, with conditions, to expand the Specific Plan area by approximately 71.86 acres which is referred to as Phase III. The First Amendment permits the development of additional auto dealer sites as well as limited commercial and office uses in Phase III. Approval of the First Amendment to the Specific Plan increased the total Specific Plan acreage to approximately 151.89 acres. The entire Specific Plan area is illustrated in Exhibit 2. “Specific Plan Boundary”.

In August 1990 the City adopted the Second Amendment to the Specific Plan revising several portions of a City approved Design Manual adopted as part of the Specific Plan and intended as an implementation tool for the Specific Plan. The Second Amendment changed text and exhibits related to landscaping, bike lane classifications, and signs. The Second Amendment did not change any provisions of the overall Specific Plan.

This proposed Third Amendment to the Specific Plan (hereinafter referred to as SPA No. 3) proposes to amend provisions of the Specific Plan pertaining to Phases I and II. The area affected by proposed SPA No. 3, hereinafter referred to as the Project Area, is illustrated in Exhibit 3, "Project Area". The Project Area consists of approximately 73.76 acres. Approximately 23.40 acres are currently developed with auto dealerships. Approximately 35.06 acres remain undeveloped. Approximately 15.3 acres are developed as public areas and roadways.

The Specific Plan is also located within a Community Redevelopment Agency Project Area. In April 1989 the Community Redevelopment Agency of the City of Moreno Valley and the Moreno Valley Auto Mall entered into the "Moreno Valley Auto Mall Participation Agreement" (Participation Agreement) to finance certain public improvements and infrastructure for the Specific Plan through the issuance of tax bonds via the City of Moreno Valley Community Facilities District Number 2 (CFD # 2) adopted June 13, 1989. Pursuant to the Participation Agreement, bonds were sold and the proceeds used to finance the construction of infrastructure including roads, sewer, and water lines to serve Phase I and II of the Specific Plan.

Subsequent to its adoption, CFD #2 experienced significant delinquencies in payment of the taxes. As a result, an "Amended and Restated Agreement to Provide for the Refinancing and Restructuring of Community Facilities District No. 2 (Moreno Valley Auto Mall) of the City of Moreno Valley" (Settlement Agreement) dated March 7, 2000 was approved. Provisions of the Settlement Agreement included the ability for certain parcels in Phase I and Phase II of the Specific Plan to be developed for non-auto related uses subject to approval of a specific plan amendment.

SPA No. 3 amended the Specific Plan in the following manner:

- Expanded the list of permitted uses for the Project Area to include commercial and office uses, other auto related and auto service uses, and residential uses.
- Amended the development regulations and design guidelines for the Project Area from those within the Specific Plan Design Manual (as amended August 1990) to those approved in the City of Moreno Valley Development Code and Design Guidelines (City Code), except as provided for herein.
- Superseded previously approved conditions of approval adopted with the Specific Plan as applicable to the Project Area. These conditions have either been met prior to the initial development in Phase I, have been incorporated by reference pursuant to the provisions of the City Code, or have been incorporated as development requirements into SPA No.3.

SPA No. 3 does not amend or supersede any portion of the Specific Plan or the conditions of approval applicable to Phase III.

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Specific Plan Amendment No.4 (Phase III) was adopted in December 2003. SPA No.4 amended the provisions of the Specific Plan pertaining to Phase III. The project area within Specific Plan Amendment No.4 consisted of 72 gross acres. The entire project has been developed and approved for commercial and residential uses on 72 acres within Phase III. The commercial uses range from retail commercial, gas stations, eating establishments, including fast food restaurants. The residential uses vary in density and are located in the southwest portion of the 72 acre site. The permitted uses are pursuant to the "Community Commercial" and "Residential 15 DU/AC standards of the City of Moreno Valley Municipal Code, section 9.02.020 and 9.03.020.

Specific Plan Amendment No.4 amended the development regulations and design guidelines for the project area from those within the Specific Plan Design Manual (as amended in August 1990), to those established under the City Municipal Code, except as otherwise provided within Section 4.0 of Specific Plan Amendment No.4

The Fifth Amendment to the Specific Plan (hereinafter referred to as SPA No.5 Phase I) amends provisions of the Specific Plan pertaining to Planning Area (PA) "A" and "B". Planning Areas A, B, C and D consists of 73.76 acres of which 23.40 acres are developed with automobile dealerships, approximately 35.06 acres are vacant or contain multiple family uses, and approximately 15.3 are designated streets, parkway and vacant land. The area is located east of Moreno Beach Drive.

SPA No.5 amends the Specific Plan in the following manner and shown on Exhibit 4

- Modify the existing pylon freeway sign, auto mall entry monumental signs, and the dealership identification signs.
- Provide revised parkways, parking stalls and sidewalks along Motor Way, and Auto Mall Drive.
- Vacate a portion of Motor Way
- Provide new driveway from northbound Moreno Beach Drive
- Provide new driveways, off of Motor Way and new vehicle display within Lot G

SPA No. 5 amends the design guidelines for the project area from those within the Specific Plan Design Manual (as amended December 2003), to those established under the City Municipal Code, except as otherwise provided for within Section 4.0 of this Specific Plan Amendment.

SPA No.5 would supersede the adopted Specific Plan as applicable to the project area in Phase I.

1.2 DOCUMENT ORGANIZATION

SPA No. 5 is comprised of the following sections:

1.0 EXECUTIVE SUMMARY:

This section summarizes the background, content and format of SPA No.5.

2.0 OVERVIEW:

This section contains a summary of SPA No. 5, the existing conditions within the Project Area, the purpose and objectives of SPA No. 5, the relationship of SPA No. 5 to the City of Moreno Valley General Plan and the City of Moreno Valley Development Code and Design Guidelines, a summary of the associated entitlements necessary for project implementation, and an explanation of the documentation prepared for SPA No.5 pursuant to the California Environmental Quality Act (CEQA).

3.0 PLAN ELEMENTS

This section describes the key elements of SPA No. 5 including the following:

- Signage
- Circulation and Access
- Landscape/Streetscape
- Vehicle Displays

4.0 DEVELOPMENT REGULATIONS AND DESIGN GUIDELINES

The development regulations specify the uses permitted within the Project Area and standards regulating development of permitted uses. This section also discusses the design guidelines for the Project Area addressing the site planning, architectural design, and landscape design criteria of development.

5.0 IMPLEMENTATION

This section addresses the policies and procedures for the City's review and approval of development proposals within the Project Area and stipulates the methods and procedures for interpretations related to SPA No 5.

1.3 ADOPTION PROCESS FOR SPA No. 5

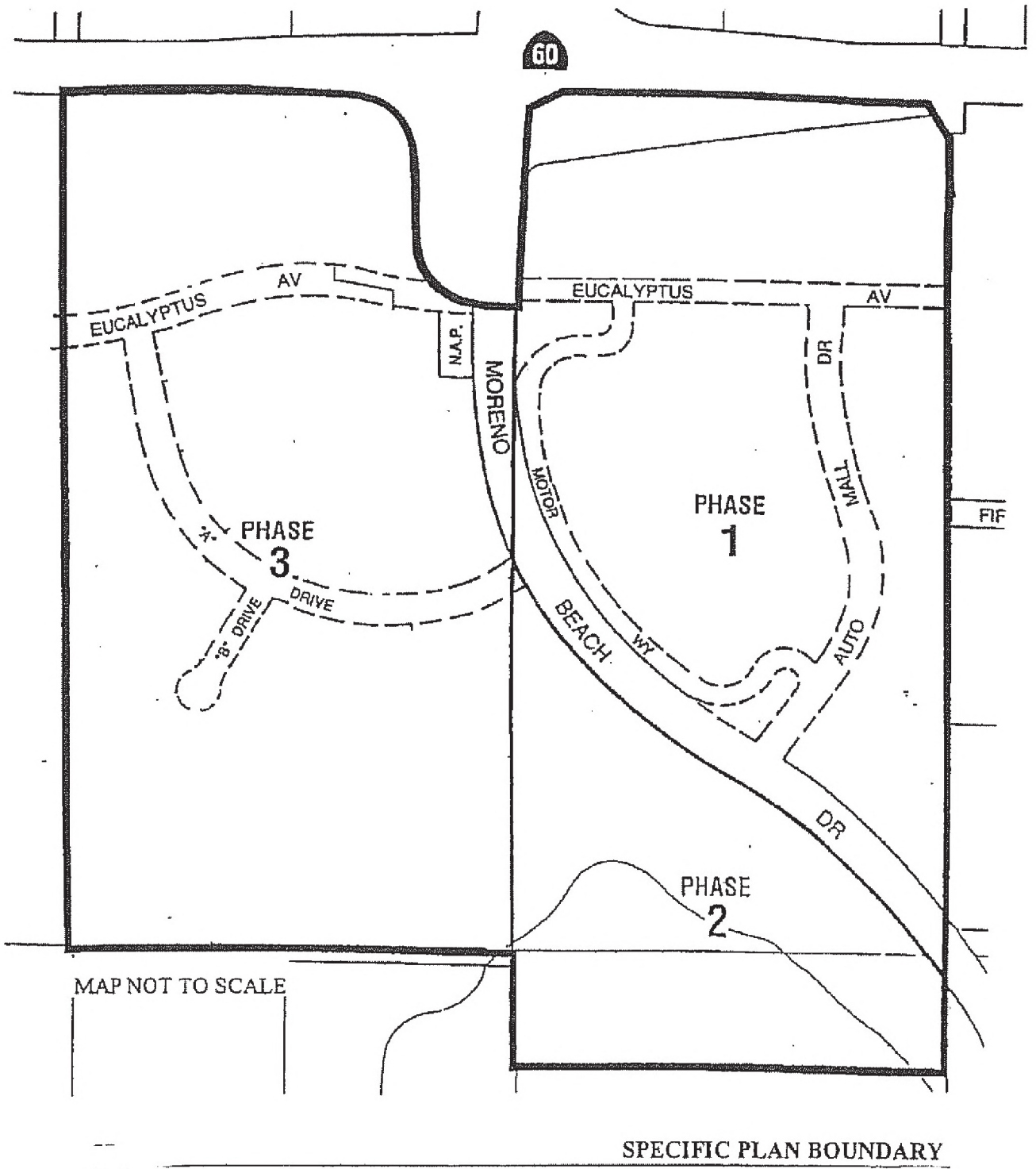
The authorities to prepare, adopt, and implement SPA No. 5 is granted to the City of Moreno Valley by the California Government Code (Title 7, Division 1, Chapter 3, Article 8, and Sections 65450 through 65457). The City of Moreno Valley Planning Commission is required to review and make recommendations to the City Council on SPA No. 5. The City of Moreno Valley City Council will adopt SPA No. 5 by ordinance.

1.4 RELATED ENTITLEMENTS

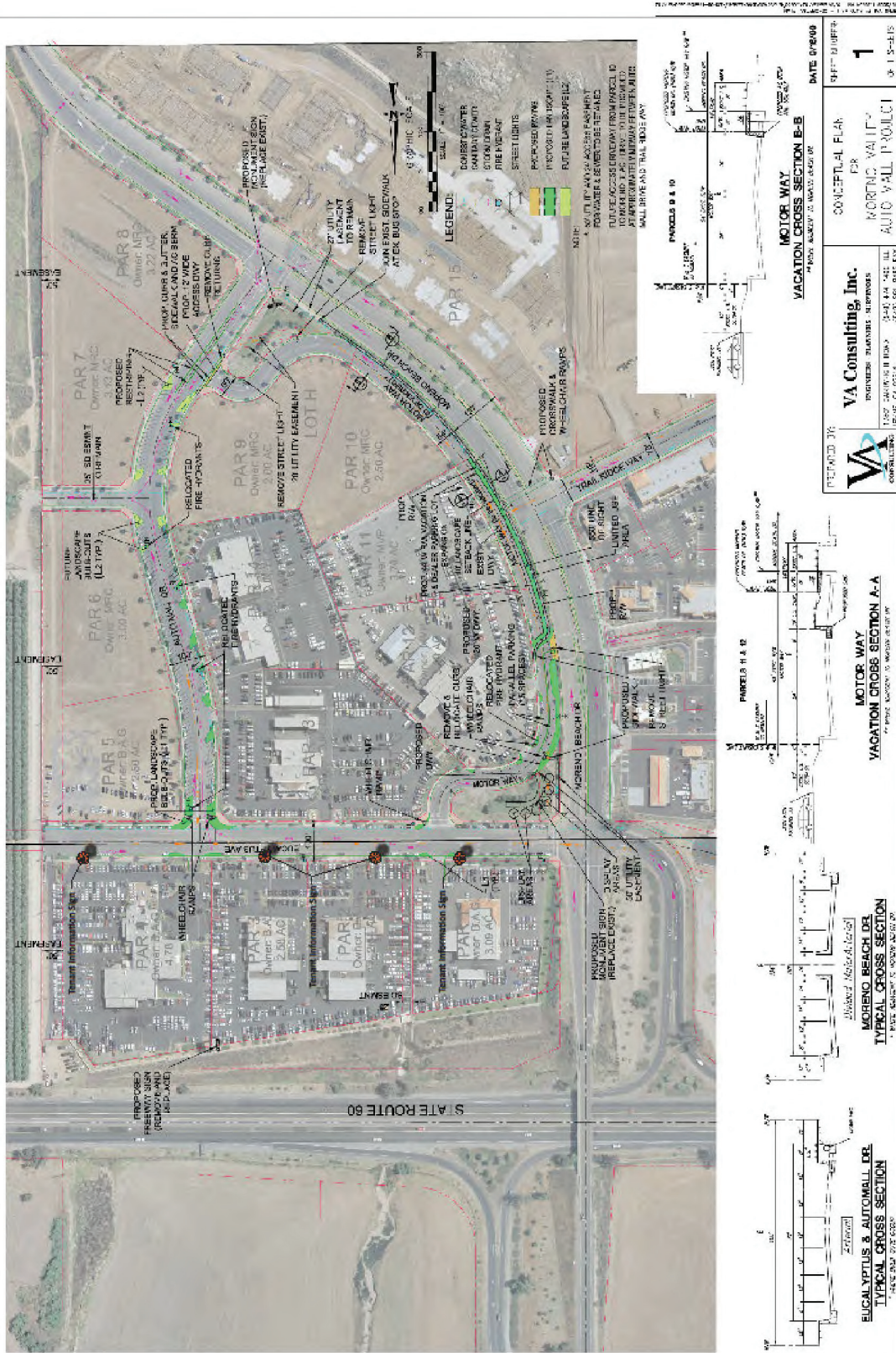
SPA No. 3 5 will serve to implement the City of Moreno Valley General Plan and will serve as the zoning for the Project Area. All zoning remains as approved under previous amendments of the Specific Plan. Approval of a development review application is required for each development within the Project Area pursuant to the provisions of the City's Development Code and Design Guidelines and the requirements of SPA No. 5.

PHASE 1 and 2









Baseline source: VA Consulting, Inc., January 2009

Moreno Valley Auto Mall
 Moreno Valley, CA
 September 16, 2009

Exhibit 4
SITE PLAN

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 September 2009

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VA Consulting, Inc.
 11000 JEFFERSON BLVD., SUITE 100
 MORENO VALLEY, CA 92553
 TEL: 951.251.1100 FAX: 951.251.1101
 WWW.VACONSULTING.COM

DATE: 09/16/09
 SHEET: 10/10
 PROJECT: MORENO VALLEY AUTO MALL PROJECT
 SHEET NO. 1 OF 15 SHEETS

CONCEPTUAL PLAN FOR MORENO VALLEY AUTO MALL PROJECT

1

DATE: 09/16/09

VACATION CROSS SECTION B-B
 PARCELS 8 & 10

VACATION CROSS SECTION A-A
 PARCELS 11 & 12

VACATION CROSS SECTION C-C
 PARCELS 11 & 12

VACATION CROSS SECTION D-D
 PARCELS 11 & 12

VACATION CROSS SECTION E-E
 PARCELS 11 & 12

VACATION CROSS SECTION F-F
 PARCELS 11 & 12

VACATION CROSS SECTION G-G
 PARCELS 11 & 12

2.1 APPLICABILITY

SPA No. 5 will serve to implement the General Plan land use designation of Specific Plan for the Project Area and will serve as the zoning for the Project Area. SPA No. 5 establishes the development requirements and design guidelines to be applied to all development within the Project Area.

2.2 PROJECT PROPOSAL

SPA No. 5 amends the Specific Plan as it pertains to the portions of Planning Areas “A and B”, which are located north and south of Eucalyptus, Avenue, and east of Moreno Beach Drive and west of Auto Mall Drive. SPA No. 5 will serve to provide for the following and as shown on Exhibit 4.

- Revise the existing circulation by providing a new driveway location off northbound Moreno Beach Drive.
- Allows for vacation of a portion of Motor Way such that parcels may increase landscaping parkways, drive aisles, parking and sidewalks.
- Revise design standards for the existing freeway pylon sign, entry monument signs, and tenant signs. Included in a separate revision of the Moreno Valley Auto Mall sign program
- Revise the development regulations and design guidelines to those consistent with the City Code except where SPA No. 5 differs from the City Code as described in Table 1, Development Regulations in Section 4.
- Allow for additional drive aisles off of Motor way and automobile displays adjacent to Eucalyptus and Moreno Beach Drive.

2.3 EXISTING CONDITIONS

The Project Area (Phase I and 2) is comprised of the Moreno Valley Auto Mall Specific Plan and is approximately 73.76 acres of which approximately 23.40 acres are developed with automobile dealerships, approximately 35.06 acres are vacant, or contain existing multi family uses, and approximately 15.3 acres are improved with public areas and roadways.

The Project Area is located east of Moreno Beach Drive and accessed from the 60 Freeway via the Moreno Beach Drive off-ramp. Moreno Beach Drive, which runs generally from north to south, is a General Plan designated Divided Major Arterial with a 134 foot right of way providing primary access to the Project Area. Interior streets consist of Eucalyptus Avenue, a General Plan designated Arterial with a 100 foot right of way intersecting with Moreno Beach Drive in an east/west direction and Auto Mall Drive a General Plan designated Industrial Local Collector with a 78 foot right of way intersecting with both Eucalyptus Avenue and Moreno Beach Drive. Motor Way, a 48 foot wide frontage road adjacent to Moreno Beach Drive provides access and circulation to parcels fronting Moreno Beach Drive.

An existing freeway pylon sign serving the existing auto mall is located near the eastbound on-ramp to the 60 Freeway and two existing monument signs are located adjacent to Moreno Beach Drive. Exhibit 3, "Existing Conditions" illustrates the existing street improvements, developed sites, future development areas, and approximate locations of existing freeway and monument signage within the Project Area. Infrastructure and utilities including sewer, water, storm drainage, telephone, gas, and electrical service adequate to serve the Project Area are available within Moreno Beach Drive, Eucalyptus Avenue, and Auto Mall Drive.

Statistical Summary Phase I and II	
Existing Developed Area "Auto Dealerships"	23.40 Acres
Existing Multi-Family Residential Area	15.92 Acres
Future Development Area	19.14 Acres
Subtotal	58.46 Acres
Public Right of Way	15.30 Acres
TOTAL	73.76 Acres
Refer to Exhibit 2 for "Specific Plan Boundary"	

2.4 AUTHORITY AND REQUIREMENTS

2.4.1 STATE OF CALIFORNIA GOVERNMENT CODE

The State of California Government Code, Title 7, Division 1, Chapter 3, Article 8, Section 65450-54 grants authority to cities to adopt and amend specific plans for purposes of implementing the goals and policies of their General Plans. The Government Code states that specific plans may be adopted and/or amended either by resolution or by ordinance and that the specific plan and/or specific plan amendment is required to be consistent with the General Plan.

2.4.2 CITY CODE

Chapters 9.13.080 and 9.13.090 of the City Code provide for the amendment of a specific plan by the City Council provided the amendment is consistent with the General Plan or any general plan amendment approved concurrently with the specific plan

2.5 SPECIFIC PLAN AMENDMENT PURPOSE AND OBJECTIVES

The purpose of SPA No. 5 is to refine the, development regulations, requirements, and design guidelines for the development of the Project Areas within Phase I as shown on Exhibit 2. Implementation of SPA No. 5 will accomplish the following objectives:

- Implement the modifications to the design guidelines related to signage, landscaping and circulation.
- Provide for the orderly and master planned development within the Moreno Valley Auto Mall Specific Plan to insure that an economically viable project or projects can be developed.
- Provide enhancements to the existing vehicular circulation within the development for the Moreno Valley Auto Mall.
- Provide enhancements to the existing signage located in Planning Area A and B
- Provide additional streetscape, parking and landscaping aesthetics to better serve Moreno Valley Auto Mall.
- Ensure that the development of the Project Area adequately addresses the City of Moreno Valley General Plan requirements.

2.6 RELATIONSHIP TO GENERAL PLAN

California Government Code (Title 7, Division 1, Chapter 3, Article 8, and Section 65450-65457) permits the adoption and administration of specific plans and specific plan amendments as an implementation tool for elements contained in the local general plan. Specific plan amendments must demonstrate consistency in regulations, guidelines, and programs with the goals and policies set forth in the general plan. The City of Moreno Valley General Plan designates the Project Area as “Specific Plan” on the General Plan Land Use Map. SPA No. 5 modifying the development requirements and planning guidelines to be applied to the Project Area consistent with the goals and policies set forth in the General Plan. SPA No. 5, when adopted, will serve as the legal document to implement the General Plan land use designation of “Specific Plan” for the Project Area.

2.7 RELATIONSHIP TO ZONING CODE

The adoption by the City of Moreno Valley of the Specific Plan by ordinance established the Specific Plan as the zoning for the Project Area. Except as provided for herein, SPA No. 5 establishes the development regulations within the City Code for development of the permitted uses. Where development regulations in SPA No. 5 differ from those established in the City Code, the provisions of SPA No. 5 shall prevail. Where SPA No. 5 is silent on a development regulation, the City Code shall prevail.

2.8 CEQA COMPLIANCE

A Notice of Exemption has been prepared by the City of Moreno Valley for SPA. No.5. In accordance with the California Environmental Quality Act (CEQA the project was determined to be “Categorical Exempt” per CEQA Guidelines based on Section 15311”Accessory Structures” and Section 15301 (c) “Existing Facilities; which includes vacation of roadways and addition of landscape within the public right of way.

3.1 LAND USE

The Project Area consists of Phase I of the Moreno Valley Auto Mall Specific Plan and is approximately 57.84 acre of the 73.76 acres site located at the Moreno Beach Drive off-ramp of the 60 Freeway. A general description of uses permitted within each planning area is provided below. The specific list of permitted uses for each planning area is included in Section 4 “Development Regulations and Design Guidelines”.

Table 1 – Land Use Summary

PLANNING AREA	PERMITTED USES
A	Auto, Other Vehicular Related, & Public Facilities Uses
B	Auto & Other Vehicular Related, Public Facilities, Office, Manufacturing, Commercial Recreation, & Commercial Uses
C	Auto & Other Vehicular Related, Public Facilities, Office, Manufacturing, Commercial Recreation & Commercial Uses
D	Residential Commercial Uses (Existing residential multi family uses were previously approved on the site)

3.2 CIRCULATION AND ACCESS

3.2.1 ROADWAYS/ACCESS

Vehicular circulation and access is provided to the Project Area by the Moreno Beach Drive off-ramp of the 60 Freeway and by Moreno Beach Drive. Eucalyptus Avenue, Auto Mall Drive, and Motor Way provide internal circulation within the Project Area. The Project Area access standards for vehicular circulation in Planning Areas A, B, C and D as illustrated on Exhibit 4 5, shall be as follows:

- For Planning Areas A, B, and C access roads and/or driveways for the commercial developments shall be located a minimum of 150 feet apart and a minimum of 250 feet from the nearest intersection at Moreno Beach Drive and Eucalyptus Avenue, or as approved by the City Engineer.
- For Planning Areas A, B, C, and D driveways to retail commercial sites shall be of the curb-return type with a minimum of a 35 foot radius, or as approved by the City Engineer.

- For Planning Areas A, B, C and D driveways to retail commercial sites shall be a minimum of 28 feet wide, or as approved by the City Engineer.
- For Planning Area A and B a portion of Motor Way will be vacated and replaced with additional streetscape, parking, landscaping and hardscape as shown on Exhibit 4.
- Six vehicle display stalls will be providing on Lot G that also include a driveway off Motor Way.
- Site distance at driveways and intersections shall conform to City standards.

3.2.2 BICYCLE TRAILS

The City’s General Plan designates both sides of Moreno Beach Drive for development of either Class I or Class II bicycle trail. The development of the Project Area adjacent to Moreno Beach Drive will include the necessary improvements for either a Class I or Class II bicycle trail to extend through the Project Area.

3.2.3 PEDESTRIAN ACCESS

As indicated on the project site plan, Exhibit 4, the proposal provides interior pedestrian connections from each dealership. A portion of Motor Way that is being vacated will be replaced with additional sidewalks and parkways that will link to existing pedestrian walkways along Moreno Beach Drive, Eucalyptus Avenue and Auto Mall Drive.

3.3 SIGNAGE

As presented in detail in the Project Sign Program, (*Moreno Valley Auto Mall Sign Program*, submitted under separate cover), SPA No.5 provides for (1) existing pylon freeway sign to be modified in place.

PYLON FREEWAY SIGN	
<u>Number and Description</u>	One freeway sign shall be allowed within Planning Area A of SPA No.209 No.5. The freeway sign modification shall provide the following information below on the sign as shown on Exhibit 5. <ul style="list-style-type: none"> • LCD Screen • Brand Panels • Moreno Valley Auto Mall I.D

PYLON FREEWAY SIGN	
Size	The pylon freeway sign will be double faced with an overall maximum height of 85 feet as shown on Exhibit 5. The LCD reader board will include an overall maximum of 607 square feet in display area. The sign will have eight (8) panels with dimensions of 3’x6” x 14’-0” each totaling 49 square feet in overall maximum display area. The City identification panel will have an overall maximum display area of 292 square feet.

Additionally, presented in the Amended Project Sign Program (*Moreno Valley Auto Mall Sign Program*) are 2 entry monument statements signs. Each will be located and modified in place where the existing monument signs are as shown on Exhibit 6 and 7. To provide the new vision of the Auto Mall, the existing entry statements signs located at the southeast corner of Moreno Beach Drive/Eucalyptus Avenue and northwest corner of Moreno Beach Drive/Auto Mall Drive are being proposed to be modified in place.

Freestanding Entry Monument Signs	
Number and Description	Two street freestanding entry monument signs would be located in Planning Area A and B as shown on Exhibit 6 and 7 and shall include the following: <ul style="list-style-type: none"> • Brand(s) of vehicles sold • Optional Manufacture logo • Dealer Name • “Moreno Valley Auto Mall” displays.
Size	The existing 12 foot wide freestanding monument sign would be used as the base for the new monument sign. The tenant panel would have a width of 11’-6” feet and height of 7’-1” feet. The total sign area for the tenant panels would be 80.5 square feet with a total sign height of 14 feet. Each tenant panel sign face should not exceed 7 square feet. The total sign area for the panels will be a maximum of 68.25 square feet and the sign framed by a minimum of 6 inches by material matching the front façade of the building. The additional sign area on top of the tenant panels would be reserved for the Moreno Valley Auto Mall Identification.

Freestanding Entry Monument Signs	
	As alternative, shown on Exhibit 7 the panel portion of the monument sign would have a width of 6'-2" feet and a height of 7'-6". Each tenant panel sign face should no exceed 6 square feet. The total sign area for the panels will be a maximum of 33.75 square feet and the sign face framed by a minimum of 6 inches by material matching the front façade of the building. The additional sign area on top of the panels would be reserved for the Moreno Valley Auto Mall Identification. This area would be 2'-6" high and 6'-2" wide with a total of 15.4 square feet. <i>(Refer to Amended Sign Program for Specifications.)</i>

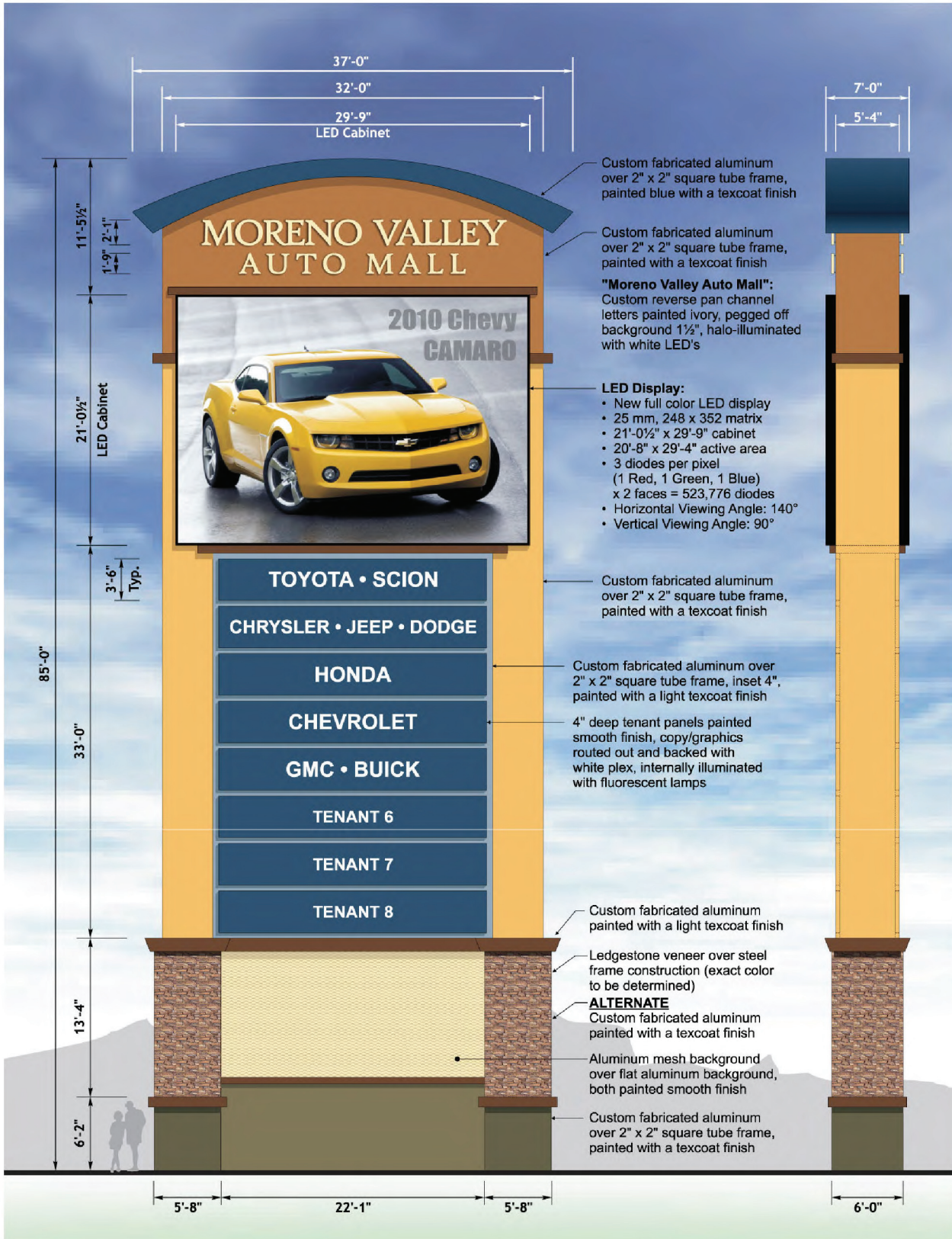
Modifications are also to be shown on the existing tenant/information signs. One (1) tenant information monument sign for each dealership is allowed per street frontage along Eucalyptus Avenue and Motor Way. The existing information signs may be modified in place at the existing locations or as approved by the Moreno Valley Planning Division. Exhibit 8 shows locations of signs that shall remain in place.

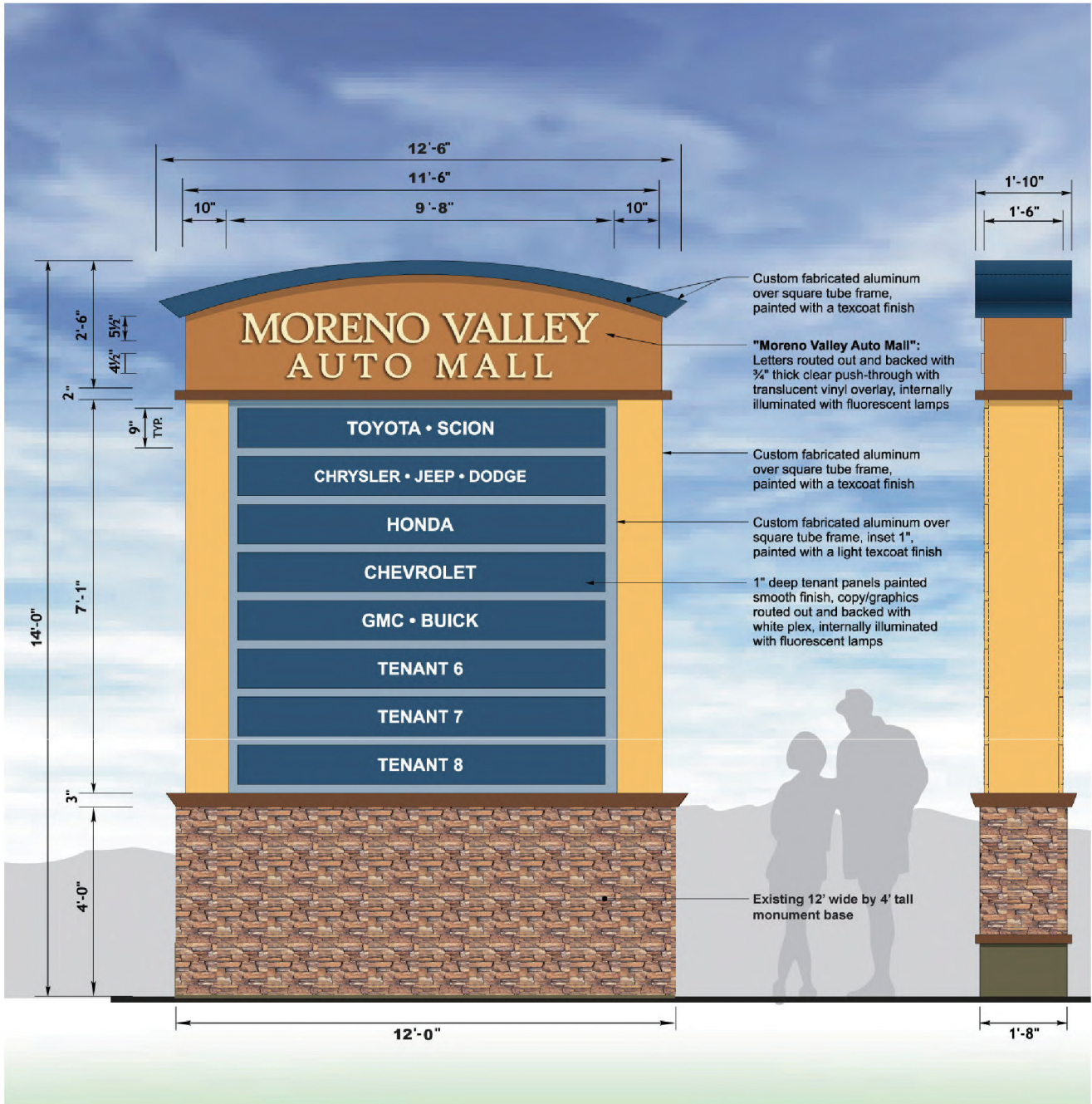
Tenant Monument Signs	
Number and Description	The following information on the signs will include the following below and as shown on Exhibit 8. <ul style="list-style-type: none"> • Tenant Name • Tenant Logo • Information i.e. (entrance, service, parts, customer parking, etc) • Moreno Valley Auto Mall Identification
Size	The individual dealership/tenant sign will have a maximum total height of 14 feet and width of 3'-6". The sign area shall have a maximum total sign area of 18.75 square feet.

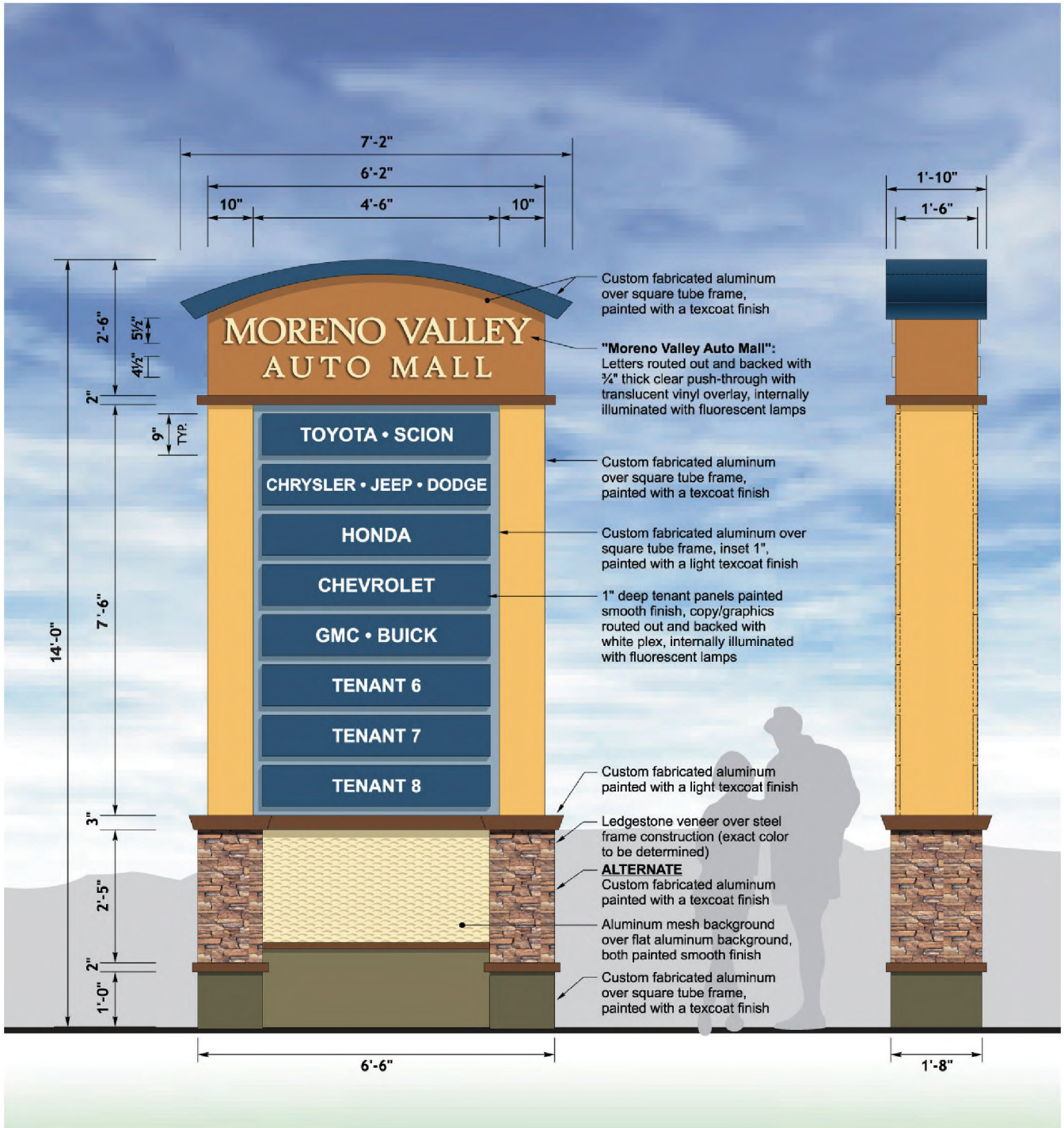
All other existing signs identified in the Project Sign Program will comply with the City Code and approved sign program.

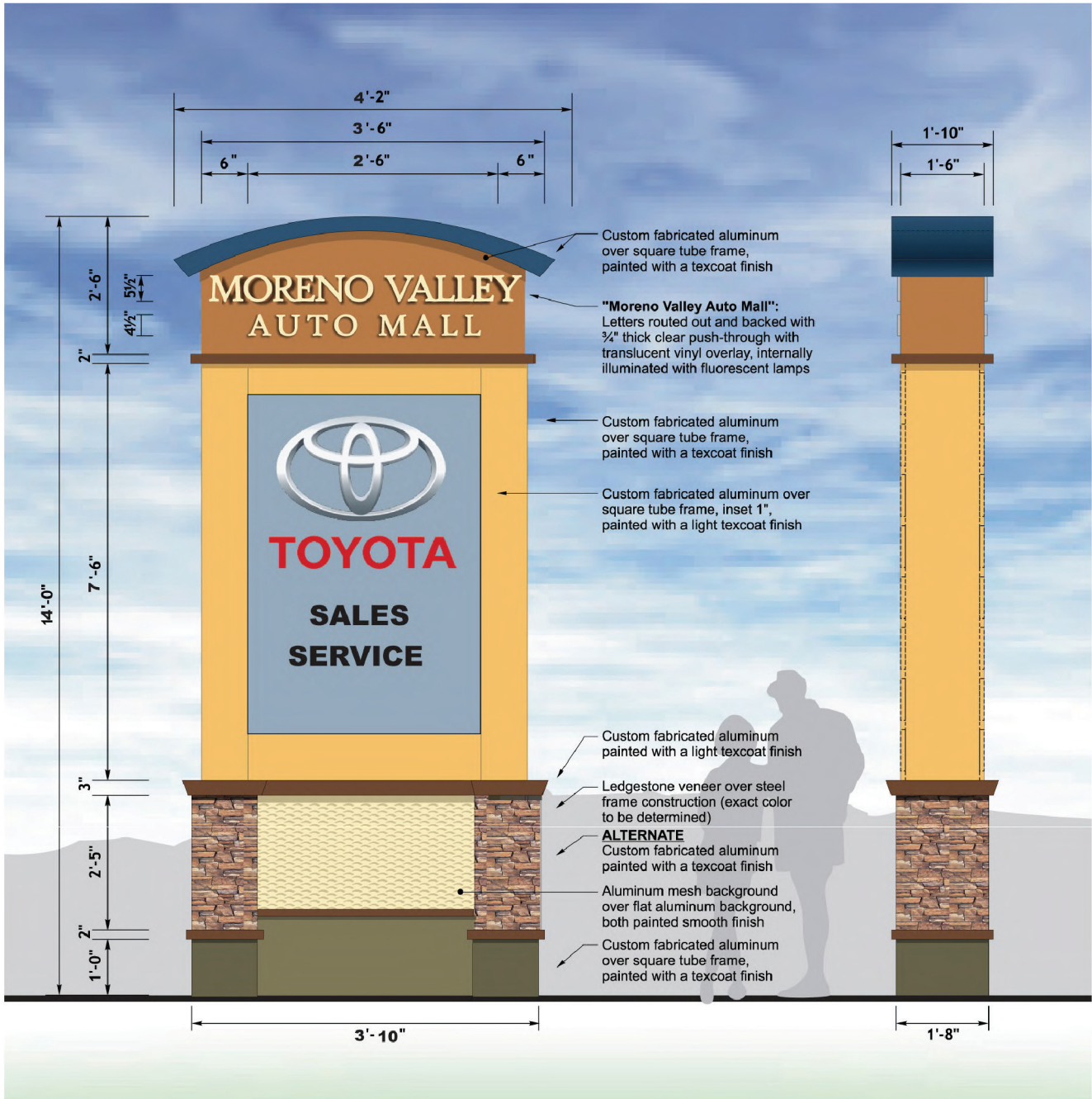
Construction materials and colors proposed for all revised project signs will be compatible with architectural elements of existing or proposed for other SP 209 amendments. Existing project

sign elevations shall be comparable to the Auto Mall sign elevations approved under existing entitlements for the project site. Proposed sign modifications within SPA No.5 are addressed through the provisions of the City Municipal Code, and/or the Amended Project Sign Program. Signs proposed by the project shall be subject to review and approval by the City through the Project Sign Program applications. Please refer also to the discussion of proposed Specific Plan Development Regulations and Design Guidelines presented in Section Four of this document.









3.4 LANDSCAPING AND SCREENING

3.4.1 INTRODUCTION

Unless otherwise identified herein, landscaping and screening of the project site and its component elements will be implemented consistent with provisions of the City Municipal Code. In these regards, landscaping/screening requirements and guidelines applicable to the project are articulated within City Municipal Code, Title 9, "Planning and Zoning"; Chapters 9.04, "Commercial Districts"; 9.08, "General Development Standards"; 9.10, "Performance Standards"; 9.11, "Parking and Loading Requirements"; and 9.16. "Design Guidelines".

3.4.1 LANDSCAPE/HARDSCAPE ELEMENTS

The Landscaping is typically located adjacent to the Moreno Beach Drive intersections of Auto Mall Drive and Eucalyptus Avenue. With the exception of certain parking lot landscaping features discussed subsequently in this section, all project landscaping will be constructed consistent with City Municipal Code design and construction materials.

Landscaping along the project's Moreno Beach Drive frontage will continue treatment of this parkway established by, and implemented under SP 209 Amendment No. 3. The landscaping area along Moreno Beach Drive within the project area will also continue bikeway/pedestrian paths located on the corner of Eucalyptus Avenue. A new 6 foot pedestrian walkway is proposed parkway adjacent along Moreno Beach Drive as shown on Exhibit 4. To the extent feasible, the project will provide streetscape for the on street parking that exists and that is proposed along Auto Mall Drive and Eucalyptus Avenue. The configuration of the streetscape planter shall be based on the site plan Exhibit 4. New landscaping shall conform to the City Landscaping Guideline requirements and will provide quantities, types, and locations to satisfaction of the Community Development Director.

Section Four

DEVELOPMENT REGULATIONS AND DESIGN GUIDELINES

4.1 PURPOSE AND APPLICABILITY

These provisions are intended to regulate land use, development, and design within the Project Area. The development regulations and design guidelines contained herein provide specific standards for new development within the Project Area. Application of the regulations contained in Table 1, “Development Standards”, is intended to encourage the most appropriate development of the land, create a harmonious relationship between existing land uses, ensure the highest quality of development, and protect the health, safety, and general welfare of the community. The applicable regulations of the City Code shall apply to the Project Area unless stated herein to the contrary. Whenever the provisions and development standards contained herein conflict with those contained in the City Code the provisions of SPA No. 5 shall apply.

4.2 DEFINITION OF TERMS

The meaning and construction of words, phrases, titles and terms used in SPA No. 5 shall be the same as provided in the City Code, Section 9.15, “Definitions”, except as otherwise specifically provided herein.

4.3 PERMITTED USES

The permitted uses for each planning area within the Project Area are listed below. Permitted uses may be developed within the applicable planning area described in Exhibit 3, subject to the development standards and design guidelines specified in Section 4.4 and 4.5 herein. If ambiguity arises concerning the appropriate classification or approval of a particular use that is not explicitly listed below falls within the range and nature of the permitted uses listed below for the Project Area and shall be considered a permitted use. The Community Development Director shall have the authority to issue an interpretation.

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4.3.1 – PLANNING AREA A

The following uses are permitted within Planning Area A:

- 1) Automobile, Motorcycle, Truck Recreational Vehicle, and Boat Sales, and Incidental Minor Repairs and Accessory Installations.
- 2) Public Facilities

4.3.2 – PLANNING AREA B

The following uses are permitted within Planning Area B:

- 1) Automobile, Motorcycle, Truck Recreational Vehicle, and Boat Sales, and Incidental Minor Repairs and Accessory Installations.
- 2) General Office (Administrative and Professional)
- 3) Automobile Fleet Storage
- 4) Auto Service Stations: Minor/Major Repair to include: Auto/Boat/Motorcycle/RV
- 5) Automotive, Boat, Motorcycle and RV Repair – Minor – includes Brake, Muffler and tire Installation and Repair
- 6) Automotive Paint and Body Repair – Major Engine Overhaul
- 7) Auto Rentals
- 8) Auto Supply Stores (with installation)
- 9) Auto Supply Stores (without installation)
- 10) Bank and Financial Institutions
- 11) Boat Sales New and Used (including Repairs and Accessory) Installation
- 12) Doctors, Dentists and medical Clinics/Medical Care
- 13) Rental Service - within an Enclosed Structure (Furniture, Office Equipment, Party Supplies)
- 14) Rental Service - with Outdoor Storage and Display (Vehicles, Equipment, etc.)
- 15) Swimming Pool and Spa Sales and Service - Including Outdoor Display\
- 16) Car Wash
- 17) Auto Service Stations: Accessory Uses Include: Convenience Store, Car Wash
- 18) General Retail
- 19) Restaurants (eating and drinking establishments)-with alcoholic beverages sales with outdoor seating.
- 20) Restaurants-with Drive Through

4.3.3 – PLANNING AREA C

The following uses are permitted within Planning Area B:

- 1) General Office (Administration and Professional)
- 2) General Retail
- 3) Automobile Fleet Storage
- 4) Automobile, Motorcycle, Truck Recreational Vehicle, and Boat Sales, and Incidental Minor Repairs and Accessory Installations.

- 5) Automotive, Boat, Motorcycle and RV Repair-Minor-includes Brake, Muffler and tire Installation and Repair
- 6) Automotive Paint and Body Repair – Major Engine Overhaul
- 7) Auto Rentals
- 8) Bank and Financial Institutions
- 9) Boat Sales New and Used (including Repairs and Accessory) Installation
- 10) Car Wash
- 11) Contractor Supply Stores-No outdoor storage
- 12) Convalescent Homes
- 13) Day Care Centers
- 14) Doctors, Dentists and medical Clinics/Medical Care
- 15) Health Club, Spa
- 16) Hotels/Motels
- 17) Manufacturing and Assembly (a) Custom and Light Manufacturing Indoor Uses Only with Light Truck Traffic, On-Site and Wholesaling of Goods and Produced
- 18) Nursery (Plant)-Retail Only
- 19) Photo engraving and blueprint shop including sales of related materials.
- 20) Public Facilities
- 21) Rental Service - within an Enclosed Structure (Furniture, Office Equipment, Party Supplies)
- 22) Rental Service - with Outdoor Storage and Display (Vehicles, Equipment, etc.)
- 23) Restaurants (eating and drinking establishments)-with alcoholic beverages sales with outdoor seating.
- 24) Swimming Pool and Spa Sales and Service - Including Outdoor Display\
- 25) Vehicle Storage yards-Indoor/Outdoor Storage lots.
- 26) Heavy Equipment Sales and Rentals.
- 27) Storage Lots and Mini Warehouses
- 28) Warehouse and Distribution, Wholesales-Within a Completely enclosed building and storage involving finished products: Unfinished, Raw or Semi-Refined Products or Outdoor Storage.
- 29) Auto Service Stations: Accessory Uses Include: Convenience Store, Car Wash
- 30) Convenience Stores, with or without drive-through
- 31) Restaurants-with Drive Through

4.3.4 The Following uses are permitted within Planning Area D:

- 1) General Office (Administrative and Professional)
- 2) General Retail
- 3) Arcades, Video Machines
- 4) Automobile Feet Storage
- 5) Automobile, Motorcycle, Truck, Recreational Vehicle and Boat Sales and Incidental Minor Repairs and Accessory Installation.
- 6) Auto Service Stations: Accessory Uses Include: Convenience Store, Car Wash

- 7) Auto Service Stations, Minor Repair to include: Auto/Boat/Motorcycle/RV (Excludes major repair, paint, body work).
- 8) Automotive Boat, Motorcycle and RV Repair-Minor-includes Brake, Muffler and tire installation and Repair.
- 9) Automotive Pain and Body Repair-Major Engine Overhaul
- 10) Auto Rentals
- 11) Banks and Financial Institutions
- 12) Barber and Beauty Colleges
- 13) Boat Sales New and Uses (including Repairs and Accessory) Installation
- 14) Bowling Alley
- 15) Business Schools
- 16) Car Wash
- 17) Churches
- 18) Clubs
- 19) Commercial Radio or Television Station (without On-Site Antenna)
- 20) Communication Facilities and Antennas
- 21) Contractor Supply Stores-no outdoor storage
- 22) Convalescent Homes
- 23) Convenience Stores, with or without drive through
- 24) Convenience Stores with Alcohol Sales
- 25) Dancing, Art, Music and Similar Stores
- 26) Day Care Centers
- 27) Doctors, Dentists and medical Clinics/Medical Care/Medical Offices.
- 28) Driving School
- 29) Gasoline Dispensing-Non Retail Accessory to an Auto Related Use
- 30) Grocery Stores
- 31) Handicap Housing
- 32) Health Club, Spa
- 33) Hospitals
- 34) Hotels/Motels
- 35) Impound Yards (Indoor)
- 36) Kennel and Catteries
- 37) Liquor Stores
- 38) Lodge Halls and Similar Facilities
- 39) Manufacturing and Assembly (a) Custom and Light Manufacturing Indoor Uses Only with Light Truck Traffic, On-Site and Wholesaling of Good Produced
- 40) Miniature Golf Courses
- 41) Nursery (Plant)
- 42) Parcel Delivery Terminals
- 43) Personal Services (e.g. nail salons and tattoo parlors)
- 44) Pool Hall
- 45) Public Facilities (Private) such as Tennis Club, with Limited Associated incidental Uses
- 46) Rental Service-with Wells and Similar Facilities

- 47) Recreational Facilities (Private) such as Tennis Club, with Limited Associated incidental Uses
 - 48) Rental Service-within an Enclosed Structure
 - 49) Rental Service-with Outdoor Storage and Display
 - 50) Residential Multifamily (R20 standards of the Municipal Code would apply)
 - 51) Single Family Residential (RS10)
 - 52) Restaurants (eating and drinking establishments)-with Entertainment
 - 53) Restaurants (eating and drinking establishments)-without Entertainment
 - 54) Restaurants (eating and drinking establishments)-with Alcoholic Beverage Sales
 - 55) Restaurants (eating and drinking establishments)-with Outdoor Seating
 - 56) Restaurants-with Drive Through
 - 57) Schools, Private
 - 58) Senior Housing
 - 59) Shaking Rinks
 - 60) Swimming Pool and Spa Sales and Service-Including Outdoor Display
 - 61) Theaters
 - 62) Trade and Vocational Schools
 - 63) Transfer, Moving and Storage Facilities
 - 64) Veterinarian (Including Animal Hospital)-All Activities within an Enclosed Structure
 - 65) Veterinarian (Including Animal Hospital)-With Outdoor Activities
- Warehouse and Distribution, Wholesales-Within a Completely Enclosed Building and Storage Involving Finished Products; Unfinished, Raw or Semi-Refined Products or Outdoor Storage.

4.4 DEVELOPMENT REGULATIONS

Table 2 - Development Standards

Development within the Project Area shall comply with the applicable provisions of the City Code except as expressly provided for below.

DEVELOPMENT STANDARDS	SPA No. 5
1. Off-Street Parking Requirements a. Automobile Dealerships	<p>An automobile dealership shall provide a minimum of six on-site parking spaces reserved exclusively for customer’s use.</p> <p>Sufficient employee parking must be provided on-site and out of public view except for employee-driven demonstrator automobiles.</p>
2. On-Site Lighting Standards a. Automobile Dealerships	<p>Lighting plans shall be submitted showing the design layout and exact fixture/pole locations and wattages proposed by each auto dealer. A point-by-point foot-candle analysis shall also be required for each dealership lighting proposal. The standards are as follows:</p> <ul style="list-style-type: none"> • Front Line and Primary Display Area: Automotive display areas shall be lighted by sharp “cut-off” luminaries. The luminaries must be one-piece die cast housing with radiuses corners on all edges of the fixture. Luminaries shall be factory finished in an organic thermal setting polyester/polyurethane resin based coating. Alternate luminaries providing equal performance, construction specifications and aesthetic qualities are acceptable <p>“Front Row” lighting standards adjacent to the auto center interior roads shall not exceed twenty (20) feet in height above adjacent grade and shall be a minimum of forty (40) feet on center. The interior of the display area shall be illuminated by fixtures no closer than sixty (60) feet to the front line of display lights. These fixtures shall be on poles not to exceed twenty (20) feet in height above adjacent grade and shall be spaced no closer than sixty (60) feet on center.</p> <p>Average wattage for the entire primary display area shall not exceed 1.5 watts per square foot.</p>

DEVELOPMENT STANDARDS	SPA No. 5
<p>2. On-Site Lighting Standards a. Automobile Dealerships (Continued)</p>	<ul style="list-style-type: none"> • Poles: All lighting poles shall be square 4 inch or 5 inch steel tubing factory finished in an organic thermal setting polyester/polyurethane resin based powder coating. Luminaries and poles shall be the same finish and color. The size and gauge of the poles used shall be determined based on the manufacturer’s published Effective Projected Area (EPA) data. • Service and Outside Storage Areas: Service and storage parking areas shall be lighted by luminaries mounted on standards not to exceed twenty-four (24) feet in height above adjacent grade. Average wattage for the entire storage area shall not exceed .2 watts per square foot. • Optional Security Lighting: For late-night security lighting, Low Pressure Sodium (LPS) luminaries may be utilized. The LPS luminaries must be of design that is matching or complimentary to the metal halide luminaries, and shall be capable of being mounted on the same poles as the metal halide fixtures. • Other Requirements: All luminaries shall be cut-offs as defined by published Illuminating Engineering Society (IES) standards. Luminaries’ manufacturer should provide option for the addition of a “house side shield” to reduce spill light behind the poles onto adjacent property, if needed. <p>Strings of incandescent fixtures shall not be allowed in any area.</p> <p>Spot fixtures shall not be directed toward public streets or adjacent properties.</p>

DEVELOPMENT STANDARDS	SPA No. 5
<p>3. Signs A. Pylon sign</p>	<p>One freeway sign shall be allowed within planning area A of SPA No. 209 No.5. The freeway sign modifications shall provide the following information on the sign, as shown on Exhibit 5.</p> <p>The pylon freeway sign will be double faced with an overall maximum height of 85 feet as shown on Exhibit 5. The LCD reader board will include an overall maximum of 607 square feet in display area. The sign will have eight (8) panels with dimensions of 3'x6" x 14'-0" each totaling 49 square feet in overall maximum display area. The City identification panel will have an overall maximum display area of 292 square feet.</p> <p>Refer to Amended Sign Program under materials and construction for all specification on the construction of pylon sign.</p>

DEVELOPMENT STANDARDS	SPA No. 5
<p><u>B. Freestanding Entry Monument Signs</u></p>	<p>Two street freestanding entry monument signs would be located in Planning Area A and B as shown on Exhibit 4. Both sign modifications would provide the following information included with Exhibits 6 and 7:</p> <ul style="list-style-type: none"> • Brand(s) of vehicles sold • Optional Manufacture logo • Dealer Name • “Moreno Valley Auto Mall” displays. <p>The existing 12 foot wide freestanding monument sign would be used as the base for the new monument sign. The tenant panel would have a width of 11’-6” feet and height of 7’-1” feet. The total sign area for the tenant panels would be 80.5 square feet with a height of 14 feet. Each tenant panel sign face should not exceed 7 square feet. The total sign area for the panels will be a maximum of 68.25 square feet and the sign framed by a minimum of 6 inches by material matching the front façade of the building. The additional sign area on top of the tenant panels would be reserved for the Moreno Valley Auto Mall Identification.</p> <p>As alternative, shown on Exhibit 7 the panel portion of the monument sign would have a width of 6’-2” feet and a height of 7’-6”. Each tenant panel sign face should not exceed 6 square feet. The total sign area for the panels will be a maximum of 33.75 square feet and the sign face framed by a minimum of 6 inches by material matching the front façade of the building. The additional sign area on top of the panels would be reserved for the Moreno Valley Auto Mall Identification. This area would be 2’-6” high and 6’-2” wide with a total of 15.4 square feet.</p> <p>Refer to Amended Sign Program under materials and construction for all specification on the construction of pylon sign.</p>

DEVELOPMENT STANDARDS	SPA No. 5
C. Tenant Information Monument Sign	<p>The following information on the signs will include the following below and as shown on Exhibit 8.</p> <ul style="list-style-type: none"> • Tenant Name • Tenant Logo • Information i.e. (entrance, service, parts, customer parking, etc) • Moreno Valley Auto Mall Identification <p>The individual dealership/tenant sign will have a maximum total height of 14 feet and width of 3’-6”. The sign area shall have a maximum total sign area of 18.75 square feet.</p>
D. Building Mounted Signs	Shall conform to SPA No.3 5 development standards that are already in place.
d. Information Signs	Shall conform to SPA No.3 5 development standards that are already in place.
4. Building Location / Orientation Standards	<p>For Planning Areas A, B, C and D, all buildings must be located within the envelope defined by the following setback standards:</p> <ul style="list-style-type: none"> • Front Street and Side Street Setback: A fifteen (15) foot minimum is required. • Interior Side Setback: No setback is required from the interior side setback. • Rear Setback: No setback is required from the rear property line.
5. Building Height Standards	<p>For Planning Areas A, B, C, and D a maximum height of fifty (50) feet from adjacent grade is permitted, measuring to the top of parapet or ridge shall be allowed. The maximum building height permitted shall be thirty-five (35) feet at the required front yard setback. For each additional one (1) foot exceeding the thirty-five (35) foot height limit, the setback from all property lines shall be increased by two (2) feet.</p>

DEVELOPMENT STANDARDS	SPA No. 5
6. Permitted uses for street side building setback areas.	The building setback area in any commercial district shall be used only for landscaping, pedestrian walkways, driveways, or off-street parking. When off-street parking is located within street setback areas, a minimum landscaped area of ten (10) feet in depth shall be provided between the property line and the parking area, with an additional minimum landscaped area five (5) feet in depth required between the parking area and the building. As an alternative to the 5 foot area between the parking area and the building, the equivalent landscaped area in square footage shall be provided for elsewhere on the property.
7. Screening of storage areas within commercial and industrial use areas of the Project Area.	Where permitted, all outdoor storage of materials, wares, crates, bottles, or similar items necessary to, or part of, a permitted use within the Project Area shall be screened from view on at least three sides by an opaque, impact-resistant screen of block or metal material not less than six feet in height, and on the fourth side by an opaque, impact-resistant gate not less than five feet in height. Alternate materials or designs may be approved by the Community Development Director.
8. Auto dealerships – minimum lot size.	The minimum lot size shall be one acre for lots containing dealerships.
10. Service station landscaping	The minimum amount of landscaping shall be based on the required building setback and parking lot landscaping standards defined herein. No percentage requirement as defined in the City Code shall apply.

4.5 DESIGN GUIDELINES

Development within the Project Area shall comply with the design guidelines contained within the adopted City Code. The design guidelines in the City Code shall apply to all improvements within Project Area including new construction, remodels, additions, landscaping, paving, signage, amenities, community facilities, and related facilities. They are provided to guide developers, builders, architects, engineers, landscape architects, and others involved in the preparation of future development proposals to ensure a consistent level of quality throughout the Project Area. The design guidelines will assist the City of Moreno Valley staff and decision-making authorities with criteria to evaluate future development proposals.

Section Five

IMPLEMENTATION

The City of Moreno Valley City Council will adopt SPA No. 5 by ordinance. Following approval by the City, SPA No. 5 will serve as the implementation tool for the General Plan as well as the zoning development regulations for the Project Area.

5.1 METHODS AND INTERPRETATION

Development within the Project Area shall be implemented through the City of Moreno Valley Development Review process as set forth in Section 9.02.030 of the City Code. The implementation process described below provides for the mechanisms for review and approval of development projects within the Project Area.

5.1.1 APPLICABILITY

All development proposals within the Project Area shall be subject to the implementation procedures established herein. Whenever the provisions and development standards contained herein conflict with those contained in the City Code, the provisions of SPA No. 5 shall take precedence.

5.1.2 INTERPRETATION

Unless otherwise provided, any ambiguity concerning the content or application of SPA No. 5 shall be resolved by the City of Moreno Valley Community Development Director in a manner consistent with the goals, policies, purpose and intent established herein.

5.1.3 IMPLEMENTATION OF DESIGN GUIDELINES

Adoption of SPA No. 5 by the City includes adoption of the design guidelines contained in the City Code which shall be the sole design criteria by which development projects within the Project Area will be reviewed during the Development Review process.

5.2 DEVELOPMENT REVIEW PROCESS

5.2.1 DEVELOPMENT REVIEW

Development Review as specified in Section 9.02.030 of the City Code is required for all development proposals within the Project Area. Development review shall be conducted where applicable by the City of Moreno Valley Community Development Director and Planning Commission as specified in Section 9.02.030 and shall be reviewed for consistency with SPA No. 5. Submittal of a Development Review Permit application shall be of a form and content consistent with the City of Moreno Valley requirements. Where specified in Section 9.02.030 (B), the Planning Commission shall approve the application. The decision of the Planning Commission shall be final, subject to appeal to the City Council according to the procedures established in the City Code.

After City approval of a Development Plan, changes to the size, location, and design of any uses or structures may be approved by the Community Development Director. If the Director determines that the proposed revision is in substantial conformance with the provisions of SPA No. 5, the revised Development Plan shall be approved by the Director.

5.2.2 SUBDIVISION MAPS

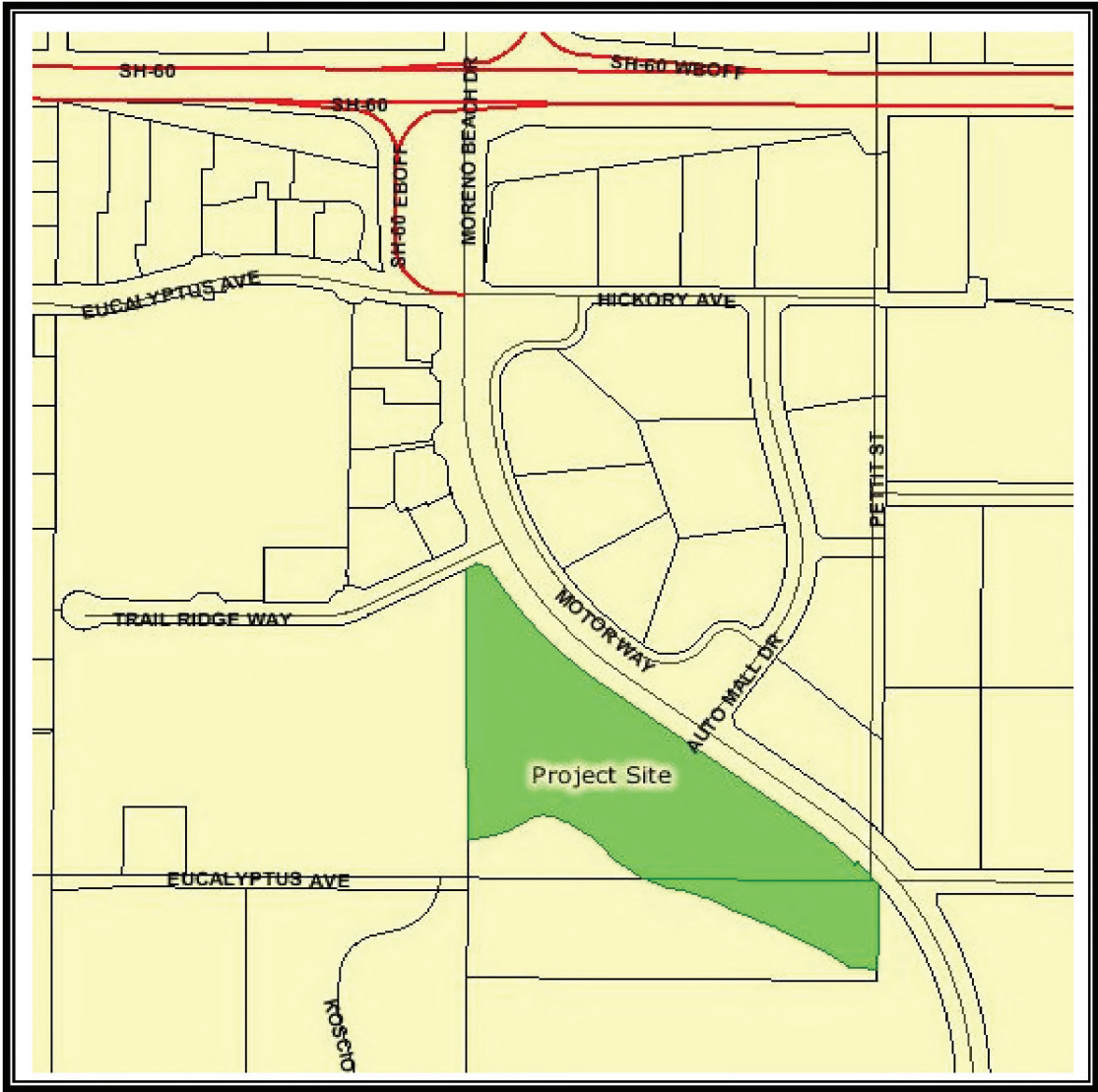
Any tentative parcel maps and tentative tract maps shall be reviewed and approved pursuant to the applicable provisions of the City of Moreno Valley Subdivision Ordinance and consistent with the applicable provisions of SPA No. 5.

5.3 SCHOOL FEE REQUIREMENTS

The developers of the project will pay school fees, pursuant to Government Code Section 65995, et seq., as amended, to address the school needs of the Project Area



CHANGE OF ZONE
Application No. P09-052



LEGEND



SP 209 C

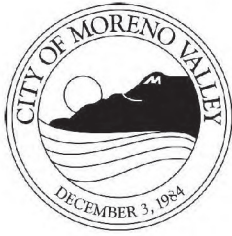
Commercial (EXISTING ZONING)

SP 209 C/R

Commercial / Residential (PROPOSED ZONING)

EXHIBIT C

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APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>RW</i>
CITY MANAGER	<i>PH</i>

Report to City Council

TO: Mayor and City Council

FROM: Steve Curley, Fire Chief

AGENDA DATE: November 10, 2009

TITLE: ORDINANCE NO. 805, AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, AMENDING CHAPTER 36 OF TITLE 8 OF THE CITY OF MORENO VALLEY MUNICIPAL CODE BY ADDING A NEW SECTION 095 PROHIBITING THE STORAGE, USE, SALE, POSSESSION, AND HANDLING OF SAFE AND SANE FIREWORKS AND AMENDING SECTION 20 OF CHAPTER 36 OF TITLE 8 OF THE MORENO VALLEY MUNICIPAL CODE TO ADOPT APPENDIX CHAPTER 1 FROM THE 2007 CALIFORNIA FIRE CODE AS AMENDED BY THE CITY OF MORENO VALLEY (REPORT OF: FIRE DEPARTMENT)

RECOMMENDED ACTION

Staff recommends that the City Council Adopt Ordinance No. 805, an urgency Ordinance of the City Council of the City of Moreno Valley, California, amending Chapter 36 of Title 8 of the City of Moreno Valley Municipal Code by adding a new Section 095 prohibiting the storage, use, sale, possession, and handling of safe and sane fireworks and amending Section 20 of Chapter 36 of Title 8 of the Moreno Valley Municipal Code to adopt Appendix Chapter 1 from the 2007 California Fire Code as amended by the City of Moreno Valley.

BACKGROUND

On November 27, 2007 the City Council Adopted Ordinance No. 759 amending Titles 8, 9, 10 and 11 of the Moreno Valley Municipal Code by amending Chapters 8.14, 8.20, 8.21, 8.22, 8.24, 8.26, 8.28, 8.36, 8.60, 9.08, 9.09, 9.10, 9.12, 9.15, 10.02, 11.06 and 11.20 adopting the latest editions of the California Building Standards Code, California Code of Regulations, Title 24; incorporating the International Building Code, Uniform Plumbing Code, Uniform Mechanical Code, National Electrical Code, and the

International Fire Code; and further amend Title 8 by deleting Chapters 8.16, 8.18, and 8.38.

The language within Chapter 8.36, which pertains to the Fire Code, does not specifically prohibit the storage, use, sale, possession, or handling of safe and sane fireworks within the City of Moreno Valley. Prior to the adoption of Ordinance No. 759, safe and sane fireworks had been prohibited in the City of Moreno Valley. All other illegal and dangerous fireworks are prohibited statewide by the State of California.

DISCUSSION

Moreno Valley, as part of a Fire Hazard Severity Mapping Project conducted statewide by the California Department of Forestry and Fire Protection (CAL Fire), had numerous areas within the City identified as very high fire hazard severity zones due to topography, types of fuels present, the low amounts of precipitation received within the City, the low humidity present in the City and high temperatures. These climate conditions when combined with the fuel types present in the City are conducive to the spread of fire.

Fireworks of all types pose a high fire danger to the City due to the various dry grasses and vegetation within the City. Fireworks can easily start a wildfire that would threaten the safety of the community. Safe and sane fireworks are prohibited by all the cities in the western part of Riverside County and by the County of Riverside for the unincorporated areas due in part to the high fire hazard they present.

Additionally, fireworks pose a high risk of injury to children. In the 2007 Fireworks Annual Report by the Consumer Product Safety Commission 42% of the 9,800 injuries that occurred due to fireworks were to children under the age of fifteen.

Fireworks also present a danger to the community when they are improperly stored. Los Angeles County had a cache of illegally stored fireworks destroy a Lakewood home when they erupted in a massive explosion, knocking the house off of its foundation and damaging several nearby homes.

A review of Title 8 Chapter 8.36 of the City's Municipal Code, as adopted by City Council on November 27, 2007, found the City's Municipal Code no longer prohibits the use of safe and sane fireworks within the City of Moreno Valley. Due to the inherent hazards that fireworks pose to the safety of the community, the Fire Department is recommending the City prohibit the storage, use, sales, possession, and handling of safe and sane fireworks.

ALTERNATIVES

1. Adopt Ordinance No. 805, an urgency Ordinance of the City Council of the City of Moreno Valley, California, amending Chapter 36 of Title 8 of the City of Moreno Valley Municipal Code by adding a new Section 095 prohibiting the storage, use,

sale, possession, and handling of safe and sane fireworks and amending Section 20 of Chapter 36 of Title 8 of the Moreno Valley Municipal Code to adopt Appendix Chapter 1 from the 2007 California Fire Code as amended by the City of Moreno Valley. *This alternative will prohibit the use of safe and sane fireworks within the City, creating a safer community.*

2. Do not adopt Ordinance No. 805, an urgency Ordinance of the City Council of the City of Moreno Valley, California, amending Chapter 36 of Title 8 of the City of Moreno Valley Municipal Code by adding a new Section 095 prohibiting the storage, use, sale, possession, and handling of safe and sane fireworks and amending Section 20 of Chapter 36 of Title 8 of the Moreno Valley Municipal Code to adopt Appendix Chapter 1 from the 2007 California Fire Code as amended by the City of Moreno Valley. *This alternative would continue to allow the use of safe and sane fireworks within the City, placing the community at risk from a wildfire due to fireworks.*

FISCAL IMPACT

None.

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.

ATTACHMENTS/EXHIBITS

Attachment A: Ordinance No. 805

Prepared By:
Cynthia Owens
Management Assistant

Department Head Approval:
Steve Curley
Fire Chief

Concurred By:
Randy Metz
Fire Marshal

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

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ORDINANCE NO. 805

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, AMENDING CHAPTER 36 OF TITLE 8 OF THE CITY OF MORENO VALLEY MUNICIPAL CODE BY ADDING A NEW SECTION 095 PROHIBITING THE STORAGE, USE, SALE, POSSESSION, AND HANDLING OF SAFE AND SANE FIREWORKS AND AMENDING SECTION 20 OF CHAPTER 36 OF TITLE 8 OF THE MORENO VALLEY MUNICIPAL CODE TO ADOPT APPENDIX CHAPTER 1 FROM THE 2007 CALIFORNIA FIRE CODE IN ITS ENTIRETY AS AMENDED BY THE CITY OF MORENO VALLEY

WHEREAS, it is evident that fireworks lead to hazardous situations, injuries, personal property loss, and fires which jeopardize the safety of the public and increase the cost of law enforcement and fire protections; and,

WHEREAS, areas within Moreno Valley have been designated as very high fire hazard severity zones by the California Department of Forestry and Fire Protection due to the geographical location of Moreno Valley as well as the types of wildland vegetation present in Moreno Valley; and,

WHEREAS, the City is subject to extreme fire hazards as well as long and volatile fire seasons making fireworks dangerous to the citizens of Moreno Valley; and,

WHEREAS, fireworks are often sold to children; and,

WHEREAS, the 2007 Fireworks Annual Report by the Consumer Product Safety Commission reported 42% of the 9,800 injuries treated in the United States occur to children under the age of fifteen (15); and,

WHEREAS, fireworks are often stored without safety precautions in residential neighbors; and,

WHEREAS, fireworks can be disassembled for the explosive powder they contain to make bombs and other explosive devices; and,

WHEREAS, fireworks often come from foreign countries where safety regulations for making fireworks are not as stringent as those manufactured for use in the United States; and,

WHEREAS, with the approach of holidays that have traditionally been associated with the use of fireworks, that it is in the interest of public safety to urgently adopt this.

NOW, THEREFORE, The City Council of the City of Moreno Valley does ordain as follows:

SECTION 1. MUNICIPAL CODE AMENDED:

1.1 The list of sections prefacing Chapter 36 of Title 8 of the City of Moreno Valley Municipal Code is hereby amended by adding thereto "8.36.095 Fireworks"

1.2 Chapter 36 of Title 8 of the City of Moreno Valley Municipal Code is hereby further amended by adding thereto a new Section 8.36.095 reading as follows:

"8.36.095 Fireworks

A. Section 3309 is hereby added to the California Fire Code as follows:

3309 Seizure of Fireworks. The Fire Chief and/or his/her designee shall have the authority to seize, take, remove, any fireworks stored, sold, offered for sale, used or handled in violation of the provisions of Title 19 CCR, Chapter 6. Any seizure or removal pursuant to this section shall be in compliance with all applicable statutory, constitutional and decisional law.

B. Section 3310 is hereby added to the California Fire Code as follows:

3310 - Displays - Fireworks displays shall be in accordance with the Moreno Valley Fire Department Guideline for Public Fireworks Displays, with the regulations of the State Fire Marshal, and with the conditions of the permit as approved by the fire code official.

C. Section 3311 is hereby added to the California Fire Code as follows:

3311 - Retail Fireworks - The storage, use, sale, possession, and handling of fireworks 1.4G (commonly referred to as Safe & Sane) and fireworks 1.3G is prohibited.

Exception - Fireworks 1.4G and fireworks 1.3G may be part of a public display when permitted and conducted by a licensed pyrotechnic operator. "

1.3 Section 20 of Chapter 36 of Title 8 of the City of Moreno Valley Municipal Code is hereby amended in its entirety to read as follows:

"8.36.020 Adoption of the International Fire Code

A. The city council of the city of Moreno Valley hereby adopts as amended, the 2006 Edition of the International Fire Code, California Fire Code 2007 Edition, California Code of Regulations Title 24 Part 9, Appendices Chapter 1, A, B, C, E, F, G, and H, the California Fire Code Standards and the body of code in its entirety,

with the exception of appendix D of the California Fire Code as compiled and adopted by the International Code Council.”

SECTION 2. EFFECT ON PREVIOUS ENACTMENTS AND ENTITLEMENT:

2.1 The repeal or amendment by this ordinance of any prior enactment shall not be construed to invalidate any entitlement exercised or proceeding taken pursuant to such enactment while the same was in effect.

SECTION 3. DECLARATION OF URGENCY

3.1 This ordinance is declared to be necessary for the preservation of the public peace, health and safety for the reasons set forth in the recitals above and pursuant to California Government Code Section 36937.

SECTION 4. EFFECTIVE DATE:

4.1 This ordinance shall become effective immediately upon the date of its adoption pursuant to California Government Code Section 36937.

SECTION 5. SEVERABILITY:

5.1 If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and the provisions of this ordinance are declared to be severable.

SECTION 6. NOTICE OF ADOPTION:

5.1 The City Clerk shall certify to the adoption of this Ordinance and cause it to be posted in at least three (3) public places within the City designated for such postings by the City Council.

APPROVED AND ADOPTED by the City Council and signed by the Mayor and attested by the City Clerk on this _____ day of _____, 2009

Mayor

ATTEST:

City Clerk

Seal

APPROVED AS TO FORM:

ORDINANCE JURAT

[Clerk's office will prepare]

[NOTE: Any attachments or exhibits to this ordinance should follow this jurat.]

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