



**AGENDA**  
**CITY COUNCIL OF THE CITY OF MORENO VALLEY**  
**MORENO VALLEY COMMUNITY SERVICES DISTRICT**  
**COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF**  
**MORENO VALLEY**

**August 17, 2010**

**STUDY SESSION – 6:00 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 Mel Alonzo, ADA Coordinator at 951.413.3027 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.*

Robin N. Hastings, Mayor Pro Tem  
Jesse L. Molina, Council Member

Bonnie Flickinger, Mayor

Richard A. Stewart, Council Member  
William H. Batey II, Council Member

**AGENDA  
CITY COUNCIL OF THE CITY OF MORENO VALLEY  
MORENO VALLEY COMMUNITY SERVICES DISTRICT  
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF MORENO  
VALLEY**

**STUDY SESSION - 6:00 PM  
AUGUST 17, 2010**

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**INVOCATION**

**ROLL CALL**

**INTRODUCTIONS**

**PUBLIC COMMENTS ON MATTERS 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.

**SPECIAL ORDER OF BUSINESS**

1. WASTE MANAGEMENT OF THE INLAND EMPIRE PRESENTATION REGARDING SHARP DISPOSAL (ORAL PRESENTATION) (BATEY/HASTINGS/ 10 MIN.) ❖
2. A PROPOSED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, ADDING CHAPTER 12.50 TO THE CITY OF MORENO VALLEY MUNICIPAL CODE, RELATING TO LIMITATIONS ON ENGINE IDLING (CA/ 10 MIN.)
3. PUBLIC RIGHT OF WAY ACCESS AMERICANS WITH DISABILITIES ACT TRANSITION PLAN (PW/ 10 MIN.)
4. DISCUSSION OF THE AFTER SCHOOL EDUCATION AND SAFETY

- PROGRAM (ASES) (P&CS/ 10 MIN.)
5. COMMUNITY ART EXHIBIT POLICY FOR CITY HALL (CM/ 10 MIN.)
  6. DISCUSSION OF SUNNYMEAD BOULEVARD CRUISING NIGHT (MOLINA/BATEY/ 5 MIN.) ❖
  7. PERMIT PARKING FEES UPDATE (PW/ 10 MIN.)
  8. A REVIEW OF CITY COUNCIL RULES OF PROCEDURE FOR PUBLIC MEETINGS REGARDING PUBLIC COMMENTS CONCERNING BALLOT MEASURES AND CANDIDATES (FLICKINGER/ 10 MIN.)
  9. CACTUS AVENUE PROPOSED NAME CHANGE (FLICKINGER/ 5 MIN.) ❖
  10. DISCUSSION REGARDING REDUCED RESIDENTIAL DEVELOPMENT IMPACT FEES (DIF) (STEWART/FLICKINGER/ 10 MIN.) ❖
  11. CITY COUNCIL REQUESTS AND COMMUNICATIONS

(Times shown are only estimates for staff presentation. Items may be deferred by Council if time does not permit full review.)

❖ Oral Presentation only – No written material provided

**\*Materials related to an item on this Agenda submitted to the City Council/Community Services District/Community Redevelopment Agency 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 54957.6 - LABOR NEGOTIATIONS

a) Agency Representative: William Bopf  
Employee Organization: MVCEA

b) Agency Representative: William Bopf  
Employee Organization: MVMA

c) Agency Representative: William Bopf  
Employee Organization: Moreno Valley Confidential  
Management Employees

4 SECTION 54957 - PERSONNEL MATTERS

a) Public Employee Performance Evaluation: City Attorney

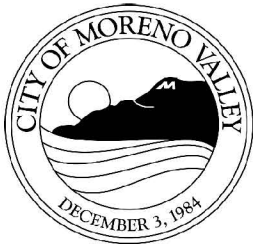
5 SECTION 54957 - PUBLIC EMPLOYEE APPOINTMENT/PUBLIC  
EMPLOYMENT

a) City Manager Recruitment

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

**ADJOURNMENT**

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

## Report to City Council

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**TO:** Mayor and City Council

**FROM:** Robert Hansen, City Attorney

**AGENDA DATE:** August 17, 2010

**TITLE:** A PROPOSED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, ADDING CHAPTER 12.50 TO THE CITY OF MORENO VALLEY MUNICIPAL CODE, RELATING TO LIMITATIONS ON ENGINE IDLING.

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### **BACKGROUND**

In May, 2007, our office prepared a report to the City Council addressing the question of whether or not the City of Moreno Valley could lawfully adopt an Ordinance regulating and restricting the idling of diesel engines within the City. Our office came to the conclusion that as long as the proposed Ordinance addressed a public nuisance or was more stringent than state or federal regulations, such regulation would be within the City's powers to enact and enforce.

Recently, our office was asked to prepare a draft ordinance regulating the idling of diesel engines within the City.

### **DISCUSSION**

Currently, California state law limits all vehicles with a gross weight of over 10,000 pounds from idling within the state for a period in excess of five minutes. Up until January, 2008, sleeper berths were exempt from this limitation. However, this exemption has since been removed and now all trucks exceeding 10,000 pounds are prohibited from idling in excess of 5 minutes. State law is enforced through the California Air Resources Board (ARB) and local air quality management districts.

The Ordinance presented for Council review is based on a model ordinance proposed by the Sacramento Air Quality Management District and in use in several Northern California cities. In its present form, it appears to be the most restrictive regulation in place at a municipal level. The proposed ordinance would apply the 5 minute rule to **all** diesel fueled vehicles, regardless of weight and to all vehicles in excess of 14,000 pounds regardless of fuel type being used. The proposed ordinance also creates similar restrictions on the use of certain off-road equipment including construction equipment and refrigeration equipment within 1,000 feet of a residential area or school.

The proposed ordinance does provide for exemptions for certain activities including idling in traffic, for testing or maintenance purposes, to cool down a turbo charged engine, for health and safety or to operate integral equipment, such as lifts, cranes, pumps, drills etc.

If the proposed ordinance were adopted, enforcement of its regulations could be performed by Moreno Valley Police or by an enforcement department designated by the City Manager such as Code Enforcement or Public Works staff. The proposed ordinance also authorizes local air quality management district staff to cite for violations as well. Criminal prosecution would be handled by the City Attorney's office.

### **ALTERNATIVES**

The City Council may consider the following alternatives:

1. Place the proposed ordinance on the Council Agenda as written for Council action.
2. Direct staff to make changes to the ordinance and return to City Council meeting or study session on a later date with a revised Ordinance.
3. Take no action.

### **FISCAL IMPACT**

Additional staff time in enforcement and prosecution would likely be offset by collection of fines. No significant fiscal impact is anticipated.

### **ATTACHMENTS/EXHIBITS**

1. A PROPOSED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, ADDING CHAPTER 12.50 TO THE CITY OF MORENO VALLEY MUNICIPAL CODE, RELATING TO LIMITATIONS ON ENGINE IDLING.



Prepared By:  
Paul Early  
Deputy City Attorney III

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

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, ADDING CHAPTER 12.50 TO THE CITY OF MORENO VALLEY MUNICIPAL CODE, RELATING TO LIMITATIONS ON ENGINE IDLING.

The City Council of the City of Moreno Valley does ordain as follows:

SECTION 1. MUNICIPAL CODE ADDED:

1.1 Chapter 12.50 of the Moreno Valley Municipal Code is hereby added to read as follows:

“Section 12.50.010 – Findings and Purpose

The City Council of the City of Moreno Valley finds that:

- (A) Air pollution is a major public health concern in California. Air pollution can cause or aggravate lung illnesses such as acute respiratory infection, asthma, chronic bronchitis, emphysema, and lung cancer. In addition to the health impact, air pollution imposes significant economic costs and negative impacts on our quality of life.
- (B) Exhaust from vehicles, both on and off road, is a public nuisance that is a substantial source of carbon monoxide, ozone precursors, particulate matter, toxic air contaminants, and greenhouse gases. Although new engines have become cleaner due to new technologies; the slow turn over in their inventory and the number of miles/hours the vehicles drive/idle each year is hindering progress toward regional air quality.
- (C) A study of idling exhaust emissions conducted by the U.S. Environmental Protection Agency (EPA420-R-02-025, October 2002) indicates that a typical 1980s – 2001 model year truck operating on diesel fuel emits 144 grams per hour of nitrogen oxide and 8224 grams per hour of carbon dioxide emissions and consumes about 0.82 gallons of diesel fuel while idling.
- (D) Truck idling further creates a public nuisance by creating a noise disturbance.

Section 12.50.020 – Definitions

- (A) “Driver” means any person who drives, operates, or is in actual physical control of a vehicle.
- (B) “Emergency” means a sudden, urgent, usually unforeseen occurrence.
- (C) “Equipment Operator” means any person who is in actual physical control of a piece of off-road equipment.

Ordinance No.  
Date Adopted:

- (D) "Gross Vehicle Weight Rating" means the weight specified by the manufacturer as the loaded weight of a single vehicle.
- (E) "Heavy-Duty Vehicle" means any on-road motor vehicle with a manufacturer's Gross Vehicle Weight Rating greater than 14,000 pounds.
- (F) "Idling" means the engine is running while the vehicle is stationary or the piece of off-road equipment is not performing work.
- (G) "Medium-Duty Vehicle" means any on-road motor vehicle with a manufacturer's Gross Vehicle weight rating of 6,001 to 14,000 pounds.
- (H) "Official Traffic Control Device" means any sign, signal, marking or device, consistent with Section 21400 of the California Vehicle Code, placed or erected by authority of a public body or having official jurisdiction, for the purpose of regulating, warning, or guiding traffic, but does not include islands, curbs, traffic barriers, speed humps, speed bumps, or other roadway design features.
- (I) "Official Traffic Control Signal" means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and proceed and which is erected by authority of a public body or official having jurisdiction.
- (J) "Off-Road Equipment" means all non-road equipment with a horsepower rating of 50 or greater.
- (K) "Traffic Refrigeration Unit" or "TRU" means a refrigeration system powered by an engine designed to control the environment of temperature sensitive cargo. A TRU is a piece of off-road equipment regardless of its horsepower rating.
- (L) "Vehicle" means any on-road, self propelled vehicle that is required to be registered and have a license plate by the California Department of Motor Vehicles.
- (M) "Vehicle / Equipment Owner" means the registered owner, lessee, licensee, or bailee of any heavy- or medium-duty vehicle or piece of off road equipment who operates or directs the operation of any such vehicle or equipment on either a for-hire or not-for-hire basis.

Section 12.50.030 – Applicability

This Chapter shall apply to the operation of all diesel fueled vehicles regardless of gross vehicle weight rating, all heavy-duty vehicles regardless of fuel being used, all off-road diesel-powered equipment regardless of horsepower rating, and all off-road equipment regardless of fuel being used, except as provided in Section 12.50.050. Additionally, this Chapter shall apply to TRU engines as specified in Section 12.50.040(C).

Section 12.50.040 – Idling Limitation

- (A) A driver of a vehicle:
  - 1) Must turn off the engine upon stopping at a destination; and,
  - 2) Must not cause or allow an engine to idle at any location for:
    - a) More than five consecutive minutes; or
    - b) A period or periods aggregating more than five minutes in any one-hour period.

Ordinance No.  
Date Adopted:

- (B) An equipment operator of an off-road piece of equipment not identified in (A) above must not cause or allow an off-road piece of equipment to idle at any location for:
  - 1) More than five consecutive minutes; or
  - 2) A period or periods aggregating more than five minutes in any one-hour period.
- (C) An equipment operator of a TRU must not cause or allow a TRU to operate within 1,000 feet of a residential area or school unless the cargo will be loaded or has been unloaded within thirty (30) minutes.
- (D) An owner of a vehicle, an off-road piece of equipment, or a TRU must ensure that:
  - 1) The vehicle operator or equipment operator, upon employment and at least once per year thereafter, is informed of the requirements of Section 12.50.040(A), (B) and (C), and of the consequences, under this section and the fleet owners terms of employment, of not complying with those requirements; and,
  - 2) Upon rental or lease of a vehicle or piece of equipment, written notification is provided of the requirements of Section 12.50.040(A), (B) and (C); and,
  - 3) All complaints of non-compliance with, and enforcement actions related to, the requirements of Section 12.50.040(A), (B) and (C) are reviewed and remedial action is taken as necessary.
- (E) A private property owner shall not allow a vehicle, an off-road piece of equipment or a TRU located on the owner's property to violate Sections 12.50.040(A), (B) or (C). A private property owner shall notify owners and operators of vehicles, off-road pieces of equipment and TRUs entering the owner's private property of the requirements of Sections 12.50.040 (A), (B) and (C).

Section 12.50.050 – Exemptions

This Chapter does not apply to a vehicle or piece of equipment for the period or periods during which:

- (A) Idling is necessary while stopped:
  - 1) for an official traffic control device;
  - 2) for an official traffic control signal;
  - 3) for traffic conditions over which the driver has no control, including, but not limited to, stopped traffic, stopped at railroad crossings, or stopped at a construction zone; or,
  - 4) At the direction of a peace officer.
- (B) Idling is necessary to ascertain that the vehicle and/or the off-road equipment is in a safe operating condition and equipped as required by all provisions of law, and all equipment is in good working order, either as part of the daily vehicle inspection, or as otherwise needed;
- (C) Idling is necessary for testing, servicing, repairing or diagnostic purposes;

Ordinance No.  
Date Adopted:

- (D) Idling is necessary, for a period not exceed three to five minutes (as recommended by the manufacturer) to cool down a turbo-charged heavy-duty vehicle before turning the engine off;
- (E) Idling is necessary to accomplish work for which the vehicle / equipment was designed, other than transporting goods, including, but not limited to, operating a lift, crane, pump, drill, hoist, ready mixed concrete mixer or other auxiliary equipment other than a heater or air conditioner.
- (F) Idling is necessary to operate a lift or other piece of equipment designed to ensure safe loading and unloading of goods and people;
- (G) Idling is necessary to operate defrosters, heaters, air conditioners, or other equipment to prevent a safety or health emergency, but not solely for the comfort of the driver or passengers except:
  - 1) For driver comfort when a driver is required to have rest time by law. In such case, the driver may only idle at a designated rest area or truck stop and shall not idle within 1,000 feet of a residential area or school.
  - 2) For passenger comfort in a paratransit vehicle with a passenger on board with a disability or health condition that would be critically aggravated if the vehicle were not maintained at an adequate temperature.
- (H) Idling is necessary solely to recharge a battery or other energy storage unit of a hybrid electric vehicle or equipment
- (I) Idling is necessary to operate equipment that runs intermittently.

Section 12.50.060 – Relationship to other Laws

Nothing in this Chapter allows idling in excess of other applicable laws, including, but not limited to:

- (A) Title 13 California Code of regulations Section 1226;
- (B) Title 13 California Code of Regulations Section 2480;
- (C) California Vehicle code Section 22515; or,
- (D) Any other local, state or federal law or regulation as stringent as, or more stringent than this Chapter.

Section 12.50.070 – Penalties

Any violation of the provisions of the Chapter shall be subject to the fines and penalties set forth in Chapters 1.01 and 1.10 of this Code.

Section 12.50.080

This chapter may be enforced by any peace officer or enforcement officer as designated by the City Manager, the California Air Resources Board, or the local air pollution control or air quality management district.”

SECTION 2. EFFECT OF ENACTMENT:

Ordinance No.  
Date Adopted:

2.1 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 3. NOTICE OF ADOPTION:

3.1 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 publicly posted in three places within the city.

SECTION 4. EFFECTIVE DATE:

4.1 This ordinance shall take effect thirty days after the date of its adoption.

APPROVED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

Ordinance No.  
Date Adopted:

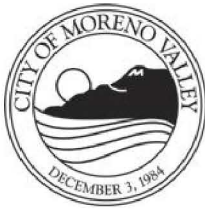
ORDINANCE JURAT

[Clerk's office will prepare]

**[NOTE: Any attachments or exhibits to this ordinance should follow this jurat.]**

Ordinance No.  
Date Adopted:





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

## Report to City Council

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**TO:** Mayor and City Council

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

**AGENDA DATE:** August 17, 2010 (Study Session)

**TITLE:** PUBLIC RIGHT OF WAY ACCESS AMERICANS WITH DISABILITIES ACT TRANSITION PLAN

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### **RECOMMENDED ACTION**

Staff recommends that the City Council:

1. Review and discuss the proposed Public Right of Way Access Americans with Disabilities Act (ADA) Transition Plan for the City of Moreno Valley.

### **BACKGROUND**

On January 10, 1995 City Council approved and adopted Resolution 95-3 Americans with Disabilities Act (ADA) Transition Plan. The necessity of the Plan was established when the ADA became Federal law in 1990 (Title II) which specified that a public agency may not directly or indirectly deny opportunities to or exclude persons with disabilities from programs, services, and/or activities. A Transition Plan is intended to outline the methods by which physical or structural changes will be made to effect the non-discrimination policies described in Title II and California Code of Regulations Title 24 (Title 24). In 1995, the City Council approved an ADA Transition Plan focused primarily on City programs and facilities. The City made changes to procedures and programs as well as facility modifications to be in compliance consistent with the 1995 ADA Transition Plan. The 1995 ADA Transition Plan provided cursory coverage of ADA issues within the public right-of-way which with the passage of time and legal findings needed a more focused implementation plan.

### **DISCUSSION**

The City's 1995 ADA Transition Plan addressed structural and nonstructural modifications to comply with the accessibility standards of both ADA Title II and Title 24 at that time. In order to meet current Federal and State mandates for ADA Title II and Title 24 compliance within the public right of way, the Public Works Department is

recommending that the City Council approve the Public Right of Way Access Americans with Disabilities Act (ADA) Transition Plan and that the proposed Resolution be adopted. The aforementioned Plan will not replace the 1995 ADA Transition Plan but will be an extension of the original approved 1995 ADA Transition Plan.

The main focuses of the Public Right of Way Access ADA Transition Plan are as follows:

#### Inventorizing and Evaluation of Public Right of Way Infrastructures

This transition plan focuses on ADA Accessibility Guidelines (ADAAG) for infrastructure compliance within the public right-of-way which includes but is not limited to sidewalks, curbs, gutters, ramps, access to public transit facilities (bus stops), and traffic signals.

A component of the evaluation process will be to inventory and prioritize the above existing infrastructures for reconstruction and replacement in compliance with the ADAAG.

#### Public Feedback and Accommodations

The City encourages public feedback and recommendations by interested parties such as persons with disabilities and/or organizations representing persons with disabilities. Providing large font copies of the Public Access Transition Plan for visually impaired persons, website updates to inform the public of project information, public workshops as necessary; surveys, as well as a complaint/grievance forms are all part of the community outreach and accommodation plan to construct missing or replacement infrastructure in compliance with the ADAAG.

#### Monitoring and Tracking Improvements

The ADA Project Administrator will make recommendations for projects and prioritize the projects. The recommendations will be submitted to the City Engineer for review and approval and included in the fiscal year capital improvement plan budget for City Council consideration.

The ADA Project Administrator and ADA Coordinator will coordinate inspection of projects to ensure proper construction and/or reconstruction compliance. An Annual Report of ADA related activities will be published each fiscal year for a minimum of three (3) years beyond the adoption of the Public Right of Way Access ADA Transition Plan at the end of each fiscal year.

#### Funding

The City Council has established an annual ADA program through the Public Works Department allocating \$200,000 annually, starting in Fiscal Year 09/10, utilizing Measure A Funds for ADA compliance, upgrades, retrofits, and barrier removals so that the City's infrastructure is consistent with Federal and State requirements.

## **ALTERNATIVES**

1. Review and discuss the proposed Public Right of Way Access Americans with Disabilities Act (ADA) Transition Plan for the City of Moreno Valley. *This alternative will allow the Council to review the proposed plan and direct staff to proceed with the adoption of the plan in an effort to assure compliance with all Federal and State ADA regulations.*
2. Do not review and do not discuss the proposed Public Right of Way Access Americans with Disabilities Act (ADA) Transition Plan for the City of Moreno Valley. *This alternative will delay the adoption of the plan and could result in non-compliance with Federal and State, ADA regulations. Failure to adopt and implement this Transition Plan may expose the City to costly litigation.*

## **FISCAL IMPACT**

The Public Right of Way ADA Transition Plan establishes an annual program called the Annual ADA Compliance Curb Ramp Upgrades that allocates \$200,000 per fiscal year to fix ADA compliance issues. The annual funding comes from Measure A (Fund 125) monies and is restricted to transportation related improvements and activities within the public right-of-way and cannot be used for other purposes.

## **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.

### **PUBLIC SAFETY:**

Provide a safe and secure environment for people and property in the community 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.

### **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 which will result in quality development, and neighborhood restoration.

**SUMMARY**

Capital Projects staff is recommending the City Council review and comment on the proposed Public Right of Way Access Americans with Disabilities Act Transition Plan.

**ATTACHMENT**

Attachment “A” – Public Right of Way Access Americans with Disabilities Act Transition Plan

Attachment “B” – Public Right of Way Access Americans with Disabilities Act Transition Plan Power Point Presentation

Prepared By:  
Guy Pegan, P.E.  
Senior Engineer

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:

c: File

W:\CapProj\CapProj\PROJECTS\Guy - 09-12566629 - Annual ADA Compliant Curb Ramp Upgrades\CC Reports\Public ROW Access ADA Transition Plan\Review ADA ROW Transition Plan Revised - Study Session 06-22-10.DOC

CITY OF MORENO VALLEY, CALIFORNIA

**PUBLIC RIGHT OF WAY ACCESS  
AMERICANS WITH DISABILITIES ACT  
TRANSITION PLAN**



**City of Moreno Valley  
Public Works Department  
14177 Frederick Street  
Moreno Valley, CA 92552  
951.413.3130**

April 5, 2010

**ATTACHMENT “A”**



*This document will be made available in alternative formats upon request*

*Please contact:*

*City ADA Project Administrator*

*Public Works Department*

*951.413.3130*



## **ACKNOWLEDGEMENTS**

### **City of Moreno Valley City Council**

Mayor: Bonnie Flickinger  
Mayor Pro Tem: Robin N. Hastings  
Council District 1: Jesse L. Molina  
Council District 2: Richard A. Stewart  
Council District 3: Robin N. Hastings  
Council District 4: Bonnie Flickinger  
Council District 5: William H. Batey II  
Interim City Manager: William Bopf

### **Public Right of Way Access ADA Advisory Committee**

Mel Alonzo, Risk Division Manager/ADA Coordinator  
Chris A. Vogt, Public Works Director/City Engineer  
Paul Early, Deputy City Attorney III  
Guy Pegan, Senior Civil Engineer, ADA Project Administrator  
Prem Kumar, Deputy Public Works Director/Assistant City Engineer  
Eric Lewis, Transportation Division Manager/City Traffic Engineer  
Mark Sambito, Engineering Division Manager  
Robert Lemon, Maintenance and Operations Division Manager

## **ADOPTION OF PLAN**

On [July 13, 2010](#), the City of Moreno Valley City Council passed a resolution adopting the City of Moreno Valley Public Right Of Way Access Americans with Disabilities Act (ADA) Transition Plan dated [April 5, 2010](#).



RESOLUTION NO. 2010-\_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, ADOPTING THE CITY OF MORENO VALLEY PUBLIC RIGHT OF WAY ACCESS AMERICANS WITH DISABILITIES ACT TRANSITION PLAN

WHEREAS, Title II of the Americans with Disabilities Act (“ADA”) which provides that state and local government agencies shall be prohibited from discriminating against persons with disabilities, or from excluding participation or denying benefits of programs, services or activities to persons with disabilities, was enacted by the Federal government in 1990; and

WHEREAS, The City must meet Title II and the California Building Code, Title 24, of the California Code of Regulation requirements for ADA standards; and

WHEREAS, the City of Moreno Valley has approved and adopted the City of Moreno Valley Transition Plan for Title II Compliance of the Americans with Disabilities Act in 1995; and

WHEREAS, it has been determined to be in the City’s best interests that the Public Right of Way Access Americans with Disabilities Act Transition Plan focusing on public right of way access be formally adopted by the City Council;

WHEREAS, the City of Moreno Valley needs to update the document periodically to maintain compliance with current ADA requirements as well as update the facilities database;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS: to adopt the City of Moreno Valley Public Right of Way Access Americans with Disabilities Act Transition Plan and to authorize the City Engineer to update this document periodically.

APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_

Mayor

ATTEST:

\_\_\_\_\_ City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_ City Attorney





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**ATTACHMENTS** (When Available and Upon Request)

1. ADA Request for Accommodation Form
2. ADA Complaint / Grievance Form

**APPENDICES**

1. ADA - Final Rules, Title II, July 26, 1991 and Applicable Amendments (incorporated by reference)

## 1.0 INTRODUCTION

On January 10, 1995 City Council approved and adopted Resolution 95-3 Americans with Disabilities Act (ADA) Transition Plan. The necessity of the Plan was established when the ADA became Federal law in 1990 (Title II) which specified that a public agency may not directly or indirectly deny opportunities to or exclude persons with disabilities from programs, services, and/or activities. The 1995 ADA Transition Plan focused primarily on City programs and facilities. The City made changes to procedures and programs as well as facility modifications to be in compliance consistent with the 1995 ADA Transition Plan. The 1995 ADA Transition Plan provided cursory coverage of ADA issues within the public right-of-way which with the passage of time and legal findings needed a more focused implementation plan.

In order to meet Federal and State mandates for ADA and Title 24 compliance within the public right-of-way, the Public Works Department is recommending the adoption of the proposed Resolution approving the Public Right of Way Access Americans with Disabilities Act (ADA) Transition Plan. This plan will be an extension of the original approved 1995 ADA Transition Plan.

The main purpose of the *Public Right of Way Access Americans with Disabilities Act (ADA) Transition Plan* is to develop policies and practices for implementing physical pedestrian improvements within the public right-of-way of the City of Moreno Valley. The goal is to optimize the pedestrian experience, to provide safe and usable pedestrian facilities for all pedestrians, and to assure compliance with all federal, state and local regulations and standards.

The ADA requires all public agencies to develop an ADA Transition Plan for the installation of curb ramps or other sloped areas at all locations where walkways cross curbs. The plan must address public right of way access compliance and requirements. The main purpose of the ADA Transition Plan is to describe the curb ramp and other pedestrian facility needs in the City and to outline the recommended procedures for implementing and scheduling remedial work to provide a complying system of curb ramps, sidewalks and pedestrian disability warning devices.

The ADA Transition Plan covers the City of Moreno Valley in its entirety. The City has a wide variety of facilities within the public right-of-way. These facilities include streets and roadway, vehicular and pedestrian bridges, vehicular and pedestrian signal systems, signage systems, on-street parking facilities, walkways, sidewalks with curb ramps at intersections and buffers, pedestrian activity areas and unimproved open spaces.

### **Background**

The Americans with Disabilities Act (ADA), the world's first comprehensive civil rights law for people with disabilities, was enacted on July 26, 1990. The ADA is a companion civil rights legislation to the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973. The ADA prohibits discrimination on the basis of disability in employment, state and local government, public accommodations, commercial facilities, transportation, and telecommunications. It also applies to the United States Congress.

To be protected by the ADA, one must have a disability or have a relationship or association with an individual with a disability. An individual with a disability is defined by the ADA as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such impairment, or a person who is perceived by others as having such impairment. The ADA does not specifically name all of the impairments that are covered.

### **1.1 The Americans with Disabilities Act (ADA)**

The ADA is divided into five parts, covering the following areas:

**Title I: Employment** - Title I requires employers with 15 or more employees to provide qualified individuals with disabilities an equal opportunity to benefit from the full range of employment-related opportunities available to others. For example, it prohibits discrimination in recruitment, hiring, promotions, training, pay, social activities, and other privileges of employment. It restricts questions that can be asked about an applicant's disability before a job offer is made, and it requires that employers make reasonable accommodation to the known physical or mental limitations of otherwise qualified individuals with disabilities, unless it results in undue hardship.

**Title II: State and Local Government (Public Services)** - Title II covers all activities of State and local governments regardless of the government entity's size or receipt of Federal funding. Title II requires that State and local governments give people with disabilities an equal opportunity to benefit from all of their programs, services, and activities, such as public meetings, employment, recreation programs, aging, health and human services programs, libraries, museums, and special events. State and local governments are required to follow specific architectural standards in the new construction and alteration of their buildings and facilities. They also must relocate programs or otherwise provide access in inaccessible older buildings, and communicate effectively with people who have hearing, vision, or speech disabilities. Public entities are not required to take actions that would result in undue financial and administrative burdens. They are required to make reasonable modifications to policies, practices, and procedures where necessary to avoid discrimination, unless they can demonstrate that doing so would fundamentally alter the nature of the service, program, or activity being provided. **A *Transition Plan* is intended to outline the methods by which physical or structural changes will be made to effect the non-discrimination policies described in Title II. It is under this title that this Public Right of Way Access ADA Transition Plan is prepared.**

**Title III: Public Accommodations** - Title III requires places of public accommodation to be accessible to and usable by persons with disabilities. The term "public accommodation" as used in the definition is often misinterpreted as applying to public agencies, but the intent of the term is to refer to any privately funded and operated facility serving the public.

**Title IV: Telecommunications** - This Title covers regulations regarding private telephone companies and requires common carriers offering telephone services to the public, to increase the availability of interstate and intrastate telecommunications relay services to individuals with hearing and speech impairments.



**Title V: Miscellaneous Provisions** - This title contains several miscellaneous regulations, including construction standards and practices, provisions for attorney’s fees, and technical assistance provisions.

### **1.2 Local Government’s Responsibility Under Title II**

Title II mandates that a public entity, such as the City of Moreno Valley, operate each service program or activity so that the service program or activity when, viewed in its entirety, is readily accessible to and usable by individuals with disabilities. Title II of the ADA is similar to Section 504 of the Rehabilitation Act of 1973, but differs in that Section 504 applies only to government agencies that receive federal financial assistance.

Title II dictates that a public entity must evaluate its services, programs, policies, and practices to determine whether they are in compliance with the nondiscrimination requirements of the ADA. The regulations detailing compliance requirements were issued in July 1991. A self-evaluation is required and intended to examine activities and services, to identify and correct any that are not consistent with the ADA. The entity must then proceed to make the necessary changes resulting from the self-evaluation. The ADA also requires that a transition plan be prepared, to describe any structural or physical changes required to make programs accessible.

The ADA states intent not to apply lesser standards than are required under other federal, state, or local laws; therefore, the law that requires the most accessibility has precedence. This intent has particular application with respect to the City’s obligations under Section 504 or under Title 24 of the California Code of Regulations, which in some cases, exceed ADA requirements with respect to structural and physical changes.

As described in Title 28 of the Code of Federal Regulations, Section 35.150(a) (also referred to as the ADA Rules), a public entity is not necessarily required to make each of its existing facilities accessible to and usable by individuals with disabilities. Nor does it require a public entity to take any action that would threaten or destroy the historical significance of an historic property. If the public entity can demonstrate that a modification would fundamentally alter the nature of its service, program, or activity, or cause undue financial and administrative burdens, it is not required to make that particular modification.

A self-evaluation analysis for Facility Evaluation was part of the “Americans with Disabilities Act Transition Plan (ADATP) approved by the City Council on January 10, 1995. Limited funds were allocated to bring existing streets, curb, and ramps into ADA compliance. The above noted ADATP was general in its approach to complying with the Title II requirements within the public RIGHT-OF-WAY. This transition plan, which is considered an extension of the 1995 ADATP, deals specifically with public right-of-way access compliance and requirements.

This Transition Plan should be updated for the first three years and then on an as-needed basis to reflect barriers removed, new ADA requirements, database update of work in progress, and any other information that clarifies the City’s commitment and support of Americans with disabilities.



## **2.0 THE CITY'S ADA TRANSITION PLAN REQUIREMENT**

Where structural changes to facilities will be undertaken to achieve program accessibility, a public entity that employs 50 or more persons must develop, within six months of January 26, 1992, a transition plan setting forth the steps necessary to complete such changes. That plan is to identify physical obstacles in the public entity's facilities that limit the accessibility of its programs or activities to individuals with disabilities; describe in detail the methods that will be used to make the facilities accessible; specify the schedule for taking the steps necessary to achieve compliance; and indicate the official responsible for implementation of the plan. As noted in Section 1.2, The City's 1995 ADA Transition Plan incorporated the ADA requirement to achieve compliance.

In addition to those requirements set forth above, in the event a public entity has responsibility or authority over streets, roads, or walkways, the transition plan is to include a schedule for providing curb ramps or other sloped areas where pedestrian walks cross curbs, giving priority to walkways serving entities covered by the ADA.

The City's *Public Right of Way Access ADA Transition Plan* addresses these latter requirements for curb ramps, or other sloped areas, are limited to public right-of-way within the City's control. The Plan incorporates by reference any existing or future City Curb (Access) Ramp and/or Sidewalk Database.

The ADA does not designate a specific code or standard for curb ramps to be provided or modified pursuant to 35.150 (d) (2). Title II gives government agencies a choice between the Uniform Federal Access Standards (UFAS) and the American with Disabilities Act Accessibility Guidelines (ADAAG) as a standard for renovations. For the purpose of the *Public Right of Way Access ADA Transition Plan*, each sidewalk, curb ramp/access ramp site is evaluated based on the requirements of ADAAG.

### **2.1 ADA Compliance Coordinators and Access Advisory Committee**

The Public Works Department (PWD) would administer the City's ADA transition plan within the public pedestrian right-of-way (curb ramp, sidewalk and other improvement programs). The City ADA Coordinator, ADA Project Administrator (ADAPA) and if applicable, the ADA Access Advisory Committee (ADAAAC) would provide oversight and guidance for City ADA compliance activities for curb, access ramp, sidewalk improvement programs and traffic disability warning devices.

The official responsible for implementation of the City's ADA Transition Plan improvements with respect to ADA access issues within the public right-of-way (include but not limited to: curbs, ramps, sidewalk and other improvement programs) is the ADA Project Administrator, located in PWD. The City Engineer shall designate the ADA Project Administrator. The current designee is:

Mr. Guy Pegan  
Senior Engineer, P.E.  
Public Works Department



14177 Frederick Street  
Moreno Valley, CA 92552  
951.413.3130  
guy@moval.org

The regulations require state and local governments with 50 or more employees to designate an employee responsible for coordinating compliance with ADA requirements. The official responsible for citywide compliance with ADA Title II requirements is the City ADA Coordinator (ADAC). The ADA Coordinator is responsible for coordinating the efforts of the government entity to comply with Title II and investigating any complaints where the entity may have violated Title II. The City ADA Coordinator is responsible for tracking the City's *Public Right of Way Access ADA Transition Plan*. The City's Interim City Manager designated the City ADA Coordinator as the Risk Manager on January 19, 2010. The current appointee and contact is:

Mr. Mel Alonzo, Risk Manager  
City ADA Coordinator  
14177 Frederick Street  
Moreno Valley, CA 92552  
951.413.3130  
mela@moval.org

#### **ADA Access Advisory Committee (ADAAAC)**

The City of Moreno Valley may establish an ADA Access Advisory Committee ("Advisory Committee") comprised of City Administrators and other professionals representing various departments and divisions of the City of Moreno Valley. The committee should include representative from the following Departments and Divisions:

- Public Works Department – Administration Division
- Public Works Department – Maintenance and Operations Division
- Public Works Department – Transportation Engineering Division
- Public Works Department – Land Development Division
- Public Works Department – Capital Projects Division
- Human Resources Department – Risk Management Division
- City Attorney's Office

The initial Advisory Committee members are listed in the Acknowledgement section at the beginning of this report. The City Manager will be responsible for appointing/replacing the ADAAC Members/Departments/Divisions, when necessary. The Committee may meet periodically to discuss issues related to barrier removal and access along the City's public right-of-way. If the Advisory Committee is disbanded or becomes inactive at any time during the life of this Transition Plan, the responsibilities of the Advisory Committee under this Transition Plan, as set forth, will be assigned to its successor, if any, or to the ADA Coordinator or his/her assignee (such as the ADA Project Administrator).



### **3.0 PUBLIC RIGHT OF WAY ACCESS ADA TRANSITION PLAN**

#### **3.1 Introduction**

The purpose of this section is to summarize pedestrian access needs in the City of Moreno Valley and to outline the recommended procedures for the prioritization, implementation and scheduling of remedial work to provide an evaluation of ADA complying curb (access) ramps and public sidewalks (only those within the City's Right-of-way and control), and may include other pedestrian detectable warning devices.

The timing to process an ADA access transition plan within the public right-of-way that catalogs, prioritizes, and schedules improvements necessary to remove access barriers is a long process. A Geographic Information System (GIS) based inventory will help provides a detailed picture of non-compliance and allows for targeted use of funds earmarked for ADA improvements as funds are available. This Public Right of Way Access ADA Transition Plan includes sidewalk access transitions and other ADA application requirements. As long as funds are limited, the focus on curb ramp construction and/or replacement, ensuring safe transition of person of disabilities out of the road area, is primary over other sidewalk barriers and improvements.

#### **3.2 Inventorying Curb (Access) Ramp, Sidewalk, and Other Barriers**

The statistics to be contained in this transition plan may be compiled from a Geographic Information System (GIS) database specially developed for the City of Moreno Valley or field investigation and included into a GIS Database. Upon completion of a citywide inventory of all locations (street corners being a priority), the City Curb Ramp, Sidewalk, and Barrier Database will be updated. The database will include curb ramps and sidewalk constructed and barrier removal as identified by City staff. The Public Works Department (PWD) shall be responsible for overseeing the curb ramp, sidewalk, and other ADA barrier inventory collection and database update.

Until such time as the City's database for curb ramp, sidewalk, and other barrier inventory has been completed and a priority list has been establish, City inspectors are available to inspect sidewalks to determine if repairs are necessary, either upon request by a property owner or any concerned citizen. Deficiencies determined to meet ADAAG requirements for repair will be included in the Sidewalk Database, with a higher priority for repair as funds become available. Persons with disabilities may also contact the City's Public Works Department specifically the ADAPA, with any questions, to schedule a access inspection, file a ADA Request for Accommodation (Attachment #1), or file an ADA Complaint/Grievance Form (Attachment #2). The City keeps databases for the conditions of sidewalks, access ramps, and other pathways to comply with ADA issue. These databases are updated on an on-going process and will be used to meet ADA requirements.

The database, once completed, will be available for public inspection at the office of the Public Works Department, 3 business day advance notice is requested. Please contact the ADAPA for any information concerning this Database.

Curb ramp and sidewalk barriers/deficiencies inventory collection process for the Curb



Ramp, Sidewalk, and Other Barrier Database, shall commence 120 days after the City Council approves the Public Right of Way Access ADA Transition Plan and program funding source. See table 5 for sample field inventory information collection sheet.

### **3.3 Curb Ramp, Sidewalk, and Other ADA Standards**

Curb ramps shall be installed at all locations, including mid-block crosswalks, where they are missing and necessary for access to sidewalks. Although the ADA does not specifically mandate replacement of all existing curb ramps that may not reflect new construction standards (as described in Federal Register, Volume 56, No. 144, ADA Rules and Regulations, Section 35.150), non-conforming curb ramps will be replaced under this plan as will deficient sidewalk areas. A high priority is to reconstruct curb ramps and sidewalks at locations where existing ramps and sidewalks have a condition that may impede a path of travel to a City program or activity. Examples are vertical displacement of the curb ramp, broken or cracked concrete, deteriorated conditions, steep slopes, narrow widths, high gutter lips, and offset locations.

City curb ramp and sidewalk standards shall meet or exceed current federal, state and local accessibility regulations and standards. The ADA Project Administrator is responsible to ensure developed City standards for curb ramp and sidewalk construction and reconstruction are updated. Copies of the City's standard curb ramp and sidewalk details are available from the ADAPA.

The Public Works Department has updated the City's "Standard Plans" manual to meet current ADA requirements which includes sidewalks, ramps, and driveways for residential, commercial, and industrial access. The City also incorporates the latest ADA requirements into its design plans and specifications to meet State and Federal mandates.

### **3.4 Priorities for Construction and Replacement**

The City's is endeavoring to ensure equal access to the public right-of-way (sidewalks, curb ramps, etc.) for pedestrians with disabilities by identifying all areas of potential deficiency and by making necessary structural improvements. The assignment of priorities for curb ramp, sidewalk and other construction and reconstruction is intended to guide the selection of locations, to incorporate federal guidance, and to address specific concerns of the local disability community.

The priorities for curb ramp and sidewalk construction and replacement are grouped into three phases. The first phase, initially highest priority is requests by qualified persons with disabilities, until the annual priority list is established and approved. The second priority phase, evaluates the specific curb ramp and sidewalk with respect to its physical location within the city and to predominating adjacent land uses. The third phase which is the lowest priority, evaluates the curb ramp and sidewalk with respect to its physical attributes. Replacement of curb ramps has priority over the replacement of sidewalk. A table will be created for the public's convenience summarizing the priorities of each phase. See sample table 4.

### **3.4.1 Phase I, (Highest Priority): Requests from Qualified Persons with Disabilities**

The City recognizes that it will take some time to complete the inventory and subsequent improvement as reference in the *Public Right of Way Access ADA Transition Plan*. Therefore, the City will evaluate requests from qualified persons with disabilities and proceed with the necessary improvements to ensure access for people with disabilities living and working in Moreno Valley during the lengthy transition period and the establishment of a database. Generally, requests come from residents with disabilities who wish to get to from their home or work place to transportation, school, medical facilities or other areas to accommodate their activities of daily living. The priority for this phase will include new infill curb ramps and sidewalks as well as replacement of existing non-compliant curb ramps and sidewalks, applying Location Priorities, Tier 1 – Tier 5 and the Point System for final priority refinement.

Upon completion of the curb ramps and sidewalk database and priority list in Phase II, the City will continue its policy of reviewing curb ramps and sidewalks upon request by qualified individuals with disabilities at locations not otherwise scheduled and budgeted for improvement. These requests will be considered for the highest priority with curb ramps having a higher priority over sidewalks and other disabilities warning devices. The related forms are provided in Attachment 1, ADA Request for Accommodation.

### **3.4.2 Phase II, Curb Ramp and Sidewalk Replacements and Access Connector**

This phase is reviewing the City Wide Database and setting priorities for new construction and replacement construction based upon the lack of physical condition of existing curb ramps and sidewalks, by applying Location Priorities, Tier 1 – Tier 5 and for final refinement the Point System priority.

### **3.4.3 Phase III, Infill by Location Priorities**

The City will establish list location (land use) priorities for new curb ramp and sidewalk infill activities where nothing (ramps and sidewalk) exist based upon U.S. Department of Justice ADA Title II Regulations, the City of Moreno Valley General Plan, and best practices of other jurisdictions applying Location Priorities, Tier 1 – Tier 5 and for final refinement the Point System priority.

### **3.4.4 City Wide Access Priority Refinement System**

#### **By Location Priorities**

Tier 1: Within the right-of-way of Transit streets and centers <sup>1</sup>

- A. Regional transit streets;
- B. Transit centers;
- C. Local Bus Routes and Bus Stops

Tier 2: Within the right-of-way of Public facilities (with 50 foot buffer unless otherwise noted)

- A. City buildings (city offices, museums, libraries, senior centers, recreation centers,



- fire stations, etc.);
- B. State and county buildings, including county medical centers;
- C. Schools (community colleges; high school, junior high and elementary school programs with magnet programs for children with disabilities; and all other public schools);
- D. Large public housing (OHA) sites and critical homeless services;
- E. City parks and open space;
- F. Other public facilities (reserved).

Tier 3: Within the public right-of-way adjacent to Privately-owned public accommodations<sup>2</sup> (50 foot buffer)

- A. Commercial zoning areas and medical centers — (with an emphasis on doctor, medical and health offices; service sites of disability organizations; and major employment sites);
- B. Special zoning areas limited to medical centers not listed above; transit oriented development; and housing and business mix;
- C. Medium to high density housing and high rise apartments;
- D. Other public accommodations (reserved).

Tier 4: Within the right-of-way of Locations that do not fall into any of the above groups but are within 50 feet of a sidewalk route.

Tier 5: Within the right-of-way of Locations that do not fall into any of the above groups and are greater than 50 feet from a sidewalk route. These locations are neither counted as “possible locations” nor scheduled for improvement.

<sup>1</sup> Land Use and Transportation Element of the Moreno Valley General Plan

<sup>2</sup> Zoning designations are per the City of Moreno Valley General Plan and Zoning Map

**By Point System Priorities:**

Check as many boxes that apply and then total, for an overall score.

- 25 –Safety: Where existing curb ramps and sidewalks within the public R.O.W. have a condition that may involve an unsafe path of travel or condition of use. Examples are excessive vertical displacement of the curb ramp, severely broken, deteriorated or cracked concrete /asphalt surface.
- 20 -Use: Where disability/pedestrians would benefit from new or reconstructed curb ramp and/or sidewalk installation providing a greater access for public use accommodations (public buildings, school, parks, etc.) where there exist continues (typically a user is present hourly throughout an 8 hour period any given day) daily disability/pedestrian traffic.
- 15 – Missing Link, Extension Connectivity: A curb ramp or sidewalk will be constructed/reconstructed between connecting segments of two existing sidewalks and/or curb ramps within an existing path of travel (that may involve raised utility conflicts, physical barriers or other obstacles in the path of travel).



- 15 – Accessibility Enhancement of Existing ROW Facilities: To the maximum extent practicable, an existing curb ramp or sidewalk will be reconstructed when it does not meet current federal or state standards: narrow widths, gutter lips, offset locations, etc.
- 10 – Vehicle Volumes/Speed Factors: Where existing non-compliant or future ramps and sidewalks are adjacent to high vehicle volumes (above 50% of the street’s ADT volume) or high speeds (45 MPH and above).
- 10 – Disability/Pedestrian Peak Volume: Locations where it has been determined by the Traffic Division or observation that there is a high disability/pedestrian volume (more than 20 individuals) for a relatively short time period (one hour or less during the weekday or weekend).
- 5 –Transportation Alternative: When a curb return has an existing curb ramp and conditions allow for the construction of an additional curb ramp along the same return, to provide a more direct access to a sidewalk, provided that traffic controls allow for the path of travel.

**3.5 Annual Schedule for Curb Ramp, Sidewalk and Other ADA Access Facilities Construction and Reconstruction**

The City of Moreno Valley has committed itself to the following schedule and methods for the annual construction or reconstruction:

- A. The City of Moreno Valley will construct or reconstruct, as many curb ramps, sidewalks and other warning devices as funding allows as part of the City’s annual budget for The (ADA) FUND until the City is ADA compliant.

Curb ramps, sidewalks and other ADA access facilities will be at locations requested by persons with disabilities.

Curb ramp upgrade will be at locations where streets will be overlaid, until all required curb ramps have been constructed or reconstructed if not in compliance with the ADA standards at those locations.

Curb ramps, sidewalks and other ADA access facilities will be installed or reconstructed as required under other City street improvement projects.

Curb ramps, sidewalks and other ADA access facilities located adjacent to City facilities will be constructed or reconstructed as part of projects to improve these facilities, where applicable.

Curb ramps, sidewalks and other ADA access facilities will be installed on an infill basis as funding allows. To the extent practicable, the City will follow the priorities set forth above when installing curb ramps and sidewalks.

- B. Additionally, the City anticipates an increase in curb ramps and sidewalks per year

because of constructed or reconstructed in the public right-of-way by others:

Curb ramps, sidewalks and other ADA access facilities will be constructed or reconstructed as a condition of private development (Subdivision Map Act exactions).

Utility companies are required to install new or upgrade curb ramps, sidewalk and other ADA access facilities at applicable locations where they excavate.

The State of California has installed curb ramps and other ADA access facilities along the portions of state highways that have been repaved. More curb ramps and other ADA access facilities may be installed along state highways in the City in conjunction with future improvement of these facilities.

### **3.6 Selection and Prioritization of Barrier Removal Projects**

The ADA Project Administrator, and if applicable the ADA Access Advisory Committee shall make recommendations regarding barrier removal projects to be prioritized and funded from the *Annual ADA Compliance Curb Ramp Upgrades (The Fund)*. The City Council has established this funding program as part of the Capital Improvement Program Budget. The recommendations of the Advisory Committee or the ADA Project Administrator shall be submitted to the City Engineer for review and approval. The City Engineer shall have final authority over the approval and authorization of project expenditures; however the City Engineer will not unreasonably disregard the recommendations of the ADA Coordinator, ADA Project Administrator, or the ADA Access Advisory Committee.

#### **3.6.1 Addressing Barriers**

The Fund may be used for the following projects: (1) Installing Compliant Curb Ramps, including Detectable Warning devices (at intersections where there are no curb ramps or where existing curb ramps do not meet current access standards); (2) Removing abrupt changes of level, whether caused by tree roots or any other deterioration or displacement of the surface of the path of travel within the City's rights-of-way; (3) Providing accessible crosswalks (by providing appropriate contrasting striping, providing accessible pedestrian crossing controls, and removing any abrupt changes in level affecting the path of travel across the street; crosswalk access does not require any effort to remove slopes or cross slopes consistent with the slope of the street for vehicle traffic and/or drainage); (4) Removing obstacles in the rights-of-way that narrow the pedestrian pathway to less than 36 inches; (5) Removing or providing Detectable Warnings for overhanging obstacles below 80 inches above the rights-of-way that are not detectable to a blind pedestrian using a cane; and (6) Removing excessive cross slopes perpendicular to the primary direction of travel along the pedestrian rights of way, where identified by ADAAG standards and ADA requirements.

#### **3.6.2 General Prioritization Standards**

The following general principles shall be used to prioritize projects to be funded through The Fund. Requests for installation of a Compliant Curb Ramp (highest priority) or removal of a specific sidewalk barrier or barriers should have the next highest priority (see Section 3.4.1). After addressing these requests, priority will be given to rights-of-way serving as note in Sections 3.4.2, and 3.4.3, which identify areas along important transportation corridors adjacent to or in the vicinity of State and local government offices and facilities; places of

public accommodation such as commercial and business zones; facilities containing employers; and other areas such as residential neighborhoods and undeveloped regions of the City. In all planned projects, consideration will also be given to the severity of existing barriers and overall efficiency of project work. Special consideration may be given to the removal of barriers in lower priority categories before removing barriers in higher priority categories if such prioritization may be more effective or efficient use of resources.

### **3.6.3 Annual Selection Process**

Every year, the ADAPA, and if applicable, the ADAAC, will select and prioritize a list of barrier removal projects no later than 120 calendar days after the beginning of the new fiscal year. This list will be provided to the City Engineer, who will approve a final list no later than 180 calendar days after the beginning of the new fiscal year. The list of barrier removal projects approved by the City Engineer will be included in the Annual Report. The list of barrier removal projects may be revised by the City Engineer, in consultation with the ADAPA, during the course of the fiscal year.

### **3.6.4 Limitations on Barrier Removal**

Under no circumstances will the City be obligated to remove any barrier if removal of such barrier would create an Undue Burden or a Fundamental Alteration, or if removal of such barrier would be Technically Infeasible or Structurally Impracticable. To the extent that the City determines that it would be an Undue Burden or Fundamental Alteration to remove a particular barrier, or that removal of a particular barrier would be Technically Infeasible or Structurally Impracticable, it must include such a determination in its regular reports as set forth below. Further, under no circumstances will the City be obligated to initiate eminent domain proceedings against a property owner in order to address any barrier.

### **3.6.5 Barriers under Control of Third-Party Entities**

Certain barriers in the public right-of-way involve elements under the control of entities other than the City of Moreno Valley. The City has no obligation to remove such barriers unilaterally. The City may, but has no obligation to, seek funding or participation in barrier removal work from such third-party entities, which may include transit agencies, local utilities, or other entities that maintain equipment in the public rights-of-way. Any contribution of money for barrier removal work by third-party entities or any work done by such third-party entities to remove barriers will be in addition to the work done based on the other obligations set forth in this Transition Plan. Money from The Fund may be appropriated to supplement work performed under this section at the discretion of the City Engineer.

## **3.7 Funding**

### **3.7.1 ADA Compliance Curb Ramp Upgrade Fund (The Fund)**

The City has dedicated annually a minimum of \$200,000 of its Measure "A" funds, for a budget used exclusively to install compliant curb ramps, remove barriers in the pedestrian rights of way (including sidewalks, etc.), and administrated cost. This fund will be known as the "The Fund." All work described in this Transition Plan shall be paid for through this fund. Projects using the money from this fund will be selected by the City's ADAAC, ADAPA or appointed staff with reference to the general guidelines set forth in this Transition

Plan and with approval of the City Engineer. A City-wide database (see Section 3.2) will be used to construct tables (see Table 1-3) to track locations, cost, and overall Transition Plan performance for the annual report. Upon joint determination by the ADAAC, ADAPA, appointed staff and the City Engineer that all necessary Compliant Access ramps have been installed and barriers have been removed at all required locations; the funding under this Paragraph shall no longer be required.

### **3.7.2 Leveraging Additional Funding Sources and City Programs**

As part of the preparation of the Annual Capital Improvement Plan Budget, the City's ADA Project Administrator will annually assess how to best leverage additional City funds, if any, and/or additional City Programs, if any, that can be used to install Compliant Access Ramps or remove barriers along the City's public right-of-way or enhanced detectable warning devices.

### **3.7.3 Additional Funding**

If any new, permanent, transportation funding source for street maintenance is created during the life of this Transition Plan (through a ballot measure or otherwise), some portion of this additional revenue source may be dedicated to The Fund. ADA barrier removal work done in conjunction with street overlays and reconstruction, using dedicated funding, and work affecting barriers under the control of third party entities may occur from time to time through separate funding sources.

### **3.7.4 Annual Exhaustion of the ADA Fund**

The City contemplates that the amount of the **The Fund** will be allowed to accrue until a minimum of \$100,000 is available for expenditure on a project at one time in order to maximize the amount of work that can be accomplished. Any funds not used in any given fiscal year(s) will be carried over into the succeeding year(s). Any expenditure(s) that exceed the amount of money in the Fund in a given fiscal year(s) will be credited in the succeeding fiscal year(s). In the event that the City allocates funds in excess of the annual obligation to the Advisory Committee Fund in any given year, such excess funds will be credited toward its future obligations in each succeeding fiscal year. If the Transition Plan is terminated early based on a petition by the City that it has otherwise met its financial obligations, this annual minimum allocation requirement shall also cease.

### **3.8 ADA Request for Accommodation**

The City will provide opportunities for interested persons, including individuals with disabilities or organizations representing individuals with disabilities to participate in the development of the Public Right of Way Access ADA Transition Plan by submitting comments and making specific recommendations.

The City will maintain on file a list of persons consulted with respect to the Plan, the surveys, and a description of modifications made, for a minimum period of 3 years beyond the formal adoption of this document.

The City has listed the accommodation procedures below, providing for prompt and

equitable resolution of complaints alleging any action that would be prohibited by Title II. The City's public right-of-way ADA Access Transition Plan, ADA Request for Accommodation form is contained In Attachment 1.

Complaints of alleged noncompliance and grievances concerning ADA access in the public right-of-way access ramps and sidewalks should be directed to the ADA Coordinator.

**Accommodation Response:** In responding to request(s) for structural improvement brought through the ADA Accommodation process, the ADA Coordinator and ADA Project Administrator are limited to the funds in The Fund. In the event that these allocated funds are insufficient or already spent, subsequent improvements will be prioritized and scheduled in subsequent fiscal years.

### 3.8.1 Community Outreach Program

The ADA Coordinator or other appointed City staff may develop and oversee the City's Community Outreach Program. The Community Outreach Program would be designed to seek input from the public regarding the City's ongoing barrier removal efforts. As part of its Community Outreach Program, the ADA Coordinator should hold annual community meetings for the first two years of the Compliance Period to discuss the City's Transition Plan and to help further identify new and existing physical barriers to access along the City's pedestrian rights of way. After the first two years of the Compliance Period, the ADA Coordinator (or designee) may hold additional community meetings at its discretion, but it is preferred that community meetings be held at least once every five years.

### 3.8.2 Public Participation

City of Moreno Valley residents will be able to take advantage of the following outreach efforts:

- **Outreach to Persons with Visual Impairments:** The ADA Transition Plan can be made available to persons who are visually impaired via large print text document and Braille master copy. Persons with visual impairments who have access to software that converts text to audio will be provided the document via e-mail, floppy disks or CDs. The California Access News has a free telephone reader service for individuals who are blind or with visual impairments that includes information on the ADA Transition Plan.
- **Consumer Survey:** A study team may develop and distributed a pedestrian and disabled access consumer survey to identify hotspot locations or physical barriers to walking.
- **Press Releases:** A study team may create and distributed press releases to cover the following topics: project kick-off, consumer surveys, transportation fairs and the draft ADA Transition Plan.
- **Web Site:** A City of Moreno Valley web site can be created to disseminate information about the project.
- **Public Workshop:** The ADA Coordinator can hold a public community outreach workshop on barrier removal efforts. The City's residents will be able to submit formal comments about this effort, either in written form or at a public workshop.

### 3.9 ADA Complaint/Grievance

The City has listed the complaint/grievance procedures (within public right-of-way) below,





providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by Title II. The City’s ADA Complaint/Grievance Form with related procedures and information is contained in Attachment 2.

The complaint/grievance request should be made and include the name, address and telephone number of the individual requesting the accommodation (see Attachment 2 for ADA Complaint/Grievance Form). The request should contain the location of the program, service, activity, or facility where the accommodation is required and a description of why the accommodation is needed.

Complete the form and submit it to:

ADA Coordinator  
Risk Management  
City of Moreno Valley  
14177 Frederick Street  
Moreno Valley, CA 92552-0805  
951.413.3130 (phone)  
951.413.3170 (fax)

Within thirty (30) calendar days of the written request, the ADA Coordinator or the ADA Project Administrator will respond to the individual filing the complaint. If the response does not satisfactorily resolve the issue, the individual making the request may file a formal grievance with the City Manager’s office. All requests for accommodation received by the ADA Coordinator or ADA Project Administrator will be kept by the City of Moreno Valley for at least three (3) years.

### **3.9.1 Filing an ADA Complaint/Grievance**

This procedure (within public right-of-way) is established to meet the requirements of the Americans with Disabilities Act (ADA). It may be used by those who wish to file a complaint alleging discrimination on the basis of the disability as it relates to facilities or lack thereof within the public right-of-way in the City of Moreno Valley.

**Step 1 – The Written Complaint/Grievance:** The complaint should be in writing and contain information about the alleged discrimination such as name, address and phone number of the complainant and location, date and description of the problem (see Attachment 2 for Filing an ADA Complaint/Grievance Form). Alternative means of filing complaints will be made available for persons with disabilities upon request. Contact the ADA Coordinator to request this information in an alternate format or the “Request for Accommodation” or “ADA Grievance” form. The complaint should be submitted by the complainant as soon as possible, but no later than ninety (90) calendar days after the alleged violation (or discovery thereof) to:

ADA Coordinator  
Risk Management  
City of Moreno Valley  
14177 Frederick Street



Moreno Valley, CA 92552-0805  
951.413.3130 (phone)  
951.413.3170 (fax)

**Step 2 – Meeting with the ADA Coordinator:** Within thirty (30) calendar days of the written complaint, the ADA Coordinator will meet with the complainant to discuss the complaint and possible resolutions.

Within thirty (30) calendar days after the meeting, the ADA Coordinator or the ADA Project Administrator will respond in writing or in a format accessible to the complainant. The response will explain the position of the City of Moreno Valley and offer options for resolution of the complaint.

**Step 3 – Appeal to the City Manager:** If the response by the ADA Coordinator or the ADA Project Administrator does not satisfactorily resolve the issue, the complainant may appeal the decision, within fifteen (15) calendar days after receipt of the response, to the City Manager or an appointed representative.

Within fifteen (15) calendar days after receipt of the appeal, the City Manager, or an appointed representative, will meet the complainant to discuss the complaint and possible resolutions. Within fifteen (15) calendar days after the meeting, the City Manager, or an appointed representative, will respond in writing or in a format accessible to the complainant of final resolutions to the complaint.

All written complaints received by the ADA Coordinator or the ADA Project Administrator, appeals to the City Manager, and responses from the ADA Project Administrator and the City Manager, will be kept by the City of Moreno Valley for at least three (3) years.

### **3.9.2 Funding Allocations for Barriers Removals Addressed in Complaint/Grievance Filings**

In responding to request(s) for structural improvement brought through the ADA Complaint/Grievance process, the ADA Coordinator and the ADA Project Administrator are limited to the funds in The Fund. In the event that these allocated funds are insufficient or already spent, subsequent improvements will be prioritized and scheduled in subsequent fiscal years.

### **3.10 Monitoring and Tracking**

The ADA Coordinator or the ADA Project Administrator Should:

- Coordinate inspection of curbs, access ramps and sidewalks installations to ensure that they are constructed or reconstructed properly and within acceptable tolerances; and
- Ensure that all curbs, access ramps and sidewalks installed by the City or by others (under permit) are logged in the City’s database; and
- In conjunction with the ADA Coordinator’s or the ADA Project Administrator’s annual activities report for the ADA Access Advisory Committee and/or the City Manager, supplying information on the various activities to comply with the *Public Right of Way Access ADA Transition Plan*. Annual reports for a minimum period of 3 years beyond

the formal adoption of this document shall be published on the City's website within 120 days of the new fiscal year and made available upon request.

### **Annual Report**

At the conclusion of each fiscal year until the end of the Compliance Period, the City's ADA Coordinator may provide a report ("Annual Report") to the City Council describing the actual work done to implement this Transition Plan during the previous twelve months and a prospective plan of projects the City plans on undertaking to improve access to pedestrian rights-of-way in the upcoming year. The Annual Report, for a minimum period of 3 years beyond the formal adoption of this document, will be completed within one hundred and twenty (120) days from the end of the fiscal year and will include:

- A summary or listing of all written complaints or requests for removal of particular barriers received since the prior report, including information specifying whether the City has taken action to remove the barrier.
- Summaries of work done to ensure access and/or remove access barriers in conjunction with asphalt overlay projects, projects completed with other available funds and projects completed with The Fund.
- A list of all barriers, if any, for which the City asserts that it has a Statutory Defense excusing installation of a compliant curb ramp, sidewalks or removal of an access barrier. If the City asserts that it has a Statutory Defense that limits its ability to remove a barrier or to install a curb ramp, or sidewalks that meets all current standards, the City will include in the report a written statement by the City Engineer (or his or her designee) providing the reasons for reaching that conclusion. To the extent that the City claims that installation of a fully compliant curb ramp, sidewalks or removal of an existing barrier would be an Undue Burden, the written statement will include his or her consideration of all resources available from The Fund and any other source of funding set forth in this Agreement as available for the removal of access barriers.
- Information regarding the removal of barriers along the public right-of-way from the City Engineer.
- Information describing efforts made by the City or Advisory Committee to leverage additional programs or funding sources to install compliant curbs, access ramps, sidewalks or remove access barriers in the public right-of-ways.
- Information regarding efforts at Community Outreach, and any action being taken as a result of such community outreach.

## **4.0 THE CITY'S OTHER TRANSITION PLAN**

*This transition plan relates solely to Curb (Access) Ramps, Sidewalks, and other pedestrian access ways within the Public Right Of Way. (ADA Rules, Title 28 CFR, Section 35.150 (d) (2).)*

### **4.1 Buildings and Facilities Transition Plan**

The City has already completed an "Americans with Disabilities Act of 1990 Transition Plan for Title II Compliance" program for equal access to public programs, services, and facilities



which include existing facilities and new construction. The Transition Plan was approved by City Council on January 10, 1995. For more detail information on this Transition Plan, contact the Building Official at the City’s Building and Safety Division. The Transition Plan was prepared and implemented in accordance with the ADA Title II requirements. (ADA Rules, Title 28 CFR, Section 35.150 (d) (3)).

In 2002, the United States Court of Appeals for the Ninth Circuit, whose jurisdiction includes California, held for the first time that sidewalks constitute a service, program, or activity of a city and sidewalks are therefore subject to the ADA Title II program accessibility regulations. *Barden v. Sacramento*, 292 F.3d 1073 (9<sup>th</sup> Cir.2002). Before this ruling it was unclear if local government transition plans should address barrier removal from sidewalks, other than missing or unsafe curb ramps. This Right of Way Access ADA Transition Plan is an extension of the above mentioned Plan to address any deficiencies within the City’s adopted 1995 ADA Transition Plan dealing specifically within the Public right-of-way.

## 5.0 DEFINITIONS

As used in this Transition Plan (Plan), the following terms shall have the meaning ascribed to them in this Section, which are consistent with the provisions of existing federal and state law, including the regulations promulgated there under. Except to the extent expressly stated to the contrary, any term not expressly defined in this Section or elsewhere in this Transition Plan that has an expressly defined meaning in either the ADA or the regulations promulgated there under (“Regulations”) shall have the meaning ascribed to it by the ADA or the Regulations, in that order of preference. All other terms shall be interpreted according to their plain and ordinary meaning.

**ADA/ADAAG:** “ADA” means and refers to the Americans with Disabilities Act as contained at 42 U.S.C. § 12101 et seq. “ADAAG” means and refers to the Americans with Disabilities Act Access Guidelines, codified at Appendix A to 28 Code of Federal Regulations part 36 and at Appendix A to 49 Code of Federal Regulations part 37. “ADAAG Standards” means and refers to physical conditions that meet the new construction and/or alterations standards set forth in ADAAG.

**Annual Report:** “Annual Report” means, a report of the previous year activities and accomplishments (within 90 days) after the new fiscal year. The report should include such information as to the completion of access ramps, sidewalk, other barrier replacements or upgrades to meet the ADA requirement; accomplishment of the previous year and other information as to the long term progress of the ADA program.

**Access Ramp:** “Access Ramp” is used interchangeably with “curb cut or curb ramp.”

**Barriers:** “Barriers” means and refers to curbs, access ramps and sidewalks that do not meet the ADAAG standard requirements for ADA accessibility or as noted herein.

**Compliance Period:** “Compliance Period” means and refers to the period of time for which this Transition Plan will be in effect. The Transition Plan shall become effective upon Final Approval, and remain in effect for up to 30 years. The City may dissolve the Transition Plan at any time upon a showing that it provides Program Access to Pedestrian Rights of Way or upon a showing that it has met or exceeded the monetary obligations specified in this Transition Plan. Alternatively, the Transition Plan will remain in effect until it dissolves automatically 30 years after Final Approval.

**Compliant Curb Ramp:** “Compliant Curb Ramp” means and refers to a curb ramp that is constructed to comply with state and/or federal law (whichever provides the higher access standard) in place at the time of construction. In the case of a location where it is Structurally Impracticable or Technically Infeasible to build a fully compliant curb ramp, or where construction of a fully compliant curb ramp would constitute a Fundamental Alteration of a service, program, or activity of the City of Moreno Valley or an Undue Burden on the City of Moreno Valley, a curb ramp that complies with access standards, or was constructed to the standards existing at the time of construction, or to the maximum extent feasible, will



constitute a Compliant Curb Ramp as long as the requirements set forth in this Transition Plan for justifying the reasons for the City to avoid full compliance are met.

**Curb Ramp:** “Curb Ramp” is used interchangeably with “curb cut or access ramp.”

**Detectable Warnings:** “Detectable Warnings” means and refers to truncated domes which provide a tactile surface at the transition between the curb and the street, assisting pedestrians with Vision Disabilities in determining when they enter the street.

**Final Approval:** “Final Approval” means and refers to the date when the City Council approves the “Public Right of Way Access Americans with Disabilities Act (ADA) Transition Plan” for the City of Moreno Valley.

**Fundamental Alteration:** “Fundamental Alteration” means and refers to an action that, if taken by the City of Moreno Valley, would result in a fundamental alteration in the nature of the service, program or activity of Pedestrian Rights of Way in the City of Moreno Valley. If the City claims that any action otherwise required by this Transition Plan would constitute a Fundamental Alteration, the City shall have to demonstrate that such alteration would result, and the decision that an action would constitute a Fundamental Alteration, after considering all funds available for such work, and must be accompanied by a written statement of the reasons for reaching that conclusion.

**Mobility Disability:** “Mobility Disability” means and refers, with respect to an individual, to any physical or mental impairment or condition that substantially limits an individual’s ability to move his or her body or a portion of his or her body and includes, but is not limited to, orthopedic and neuromotor disabilities and any other impairment or condition that limits an individual’s ability to walk, maneuver around objects, ascend or descend steps or slopes, and operate controls. An individual with a Mobility Disability may use a wheelchair or motorized scooter for mobility, or may be Semi-Ambulatory.

**Pedestrian Rights of Way:** “Pedestrian Rights of Way” means and refers to all sidewalks and access paths over which the City of Moreno Valley has responsibility or authority, as well as all curb ramps and crosswalks serving such sidewalks and any other pathways used by pedestrians along public rights of way.

**Statutory Defenses:** “Statutory Defenses” means and refers to the City’s right to assert under this Transition Plan that removal of any barrier or installation of a Compliant Curb Ramp is not required because such barrier removal or curb ramp installation would be Technically Infeasible, or Structurally Impracticable, or that it would constitute an Undue Burden or Fundamental Alteration.

**Structurally Impracticable:** “Structurally Impracticable” means and refers to circumstances in which the unique characteristics of terrain prevent the incorporation of accessibility features. If it is structurally impracticable to provide full access at any location along pedestrian rights of way, the City shall comply with access requirements to the extent that it is not structurally impracticable to do so. (See ADAAG § 4.1.1(5) (a)).



**Technically Infeasible:** “Technically Infeasible” means, with respect to an alteration of a facility or Public right-of-way, that it has little likelihood of being accomplished because existing physical or site constraints or a lack of public right-of-way prohibit modification or addition of elements, spaces, or features which are in full and strict compliance with the minimum requirements for new construction and which are necessary to provide accessibility (See ADAAG § 4.1.6(1) (j)).

**Third-Party Entity:** “Third-Party Entity” means an entity other than the City of Moreno Valley that controls certain barriers or elements of barriers in a Pedestrian Rights of Way. Transit agencies and local utilities are examples of Third Party Entities.

**Title 24:** “Title 24” means and refers to the regulations set forth at Title 24 of the California Code of Regulations.

**Transit:** Bus Routes.

**Transit Centers:** Bus stop locations.

**Undue Burden:** “Undue Burden” means and refers to an action that, if taken by the City of Moreno Valley, would result in an undue financial and administrative burden. In order to demonstrate that removal of a barrier would constitute an Undue Burden, after considering all resources available from the ADA Access Fund, and any other source of funding identified in this Agreement available for removal of sidewalk barriers, and must be accompanied by a written statement of the reasons for reaching that conclusion. In preparing such a statement, it may consider the usability of the existing facilities.

## 6.0 ABBREVIATIONS

ADA:	Americans with Disabilities Act
ADAC	ADA Coordinator
ADAPA:	ADA Project Administrator
ADAAG:	ADA Accessibility Guidelines
ADAAAC:	ADA Access Advisory Committee
ADAAAB:	ADA Accessibility Appeals Board
UFAS:	Uniform Federal Access Standards



**Sample: Cost Estimate Tables**

Three tables will be created: one for curb ramp, one for sidewalks and other for ADA facilities.

**TABLE 1**

Curb Ramp Program Status Totals

<u>Tables</u>	<u>Location Types</u>	<u>Total Ramps</u>	<u>Cost Per Location</u>	<u>Total Cost Estimate</u>	<u>Comments</u>
New Construction (No Ramp)					
Reconstruction (Non-compliant)					
TOTALS					

**TABLE 2**

Sidewalks Program Status Totals

<u>Tables</u>	<u>Total Locations</u>	<u>Total Distance</u>	<u>Cost Per Location</u>	<u>Total Cost Estimate</u>	<u>Comments</u>
New Construction (No Sidewalks)					
Reconstruction (Non-compliant)					
TOTALS					





**TABLE 3**  
Other ADA Facilities Program Status Totals

<u>Tables</u>	<u>Type of Improvements</u>	<u>Total Locations</u>	<u>Cost Per Location</u>	<u>Total Cost Estimate</u>	<u>Comments</u>
New Construction					
Reconstruction (Non-compliant)					
TOTALS					

Other ADA devices/facilities within the public right-of-way to be tracked would be:

- Pedestrian push button relocation
- Install raised dome pads for the blind
- Bus stop pad not ADA compliant
- Additional audible devices for the blind
- Additional visual devices for the seeing impaired
- Crosswalk markings/realignment/legends



**Sample: Summaries from the City (Access Ramp) Database**

**TABLE 4**  
**Phase III (Access Ramp) Status by Land Use Area**

Land Use Area	Possible Locations <sup>1</sup>	No (Ramp) <sup>3</sup>	Non-Compliant (Ramp) <sup>4</sup>
Tier 1: Transit Facilities	XXX	XXX	XXX
Tier 2: Public Facilities	XXX	XXX	XXX
Tier3: Public Accommodations	XXX	XXX	XXX
Tier4/5: Other	<u>XXX</u>	<u>XXX</u>	<u>XXX</u>
TOTALS	XXXX	XXXX	XXXX

Notes:

1. Number of Possible Locations by Land Use (Tiers 1-4)
2. Number of ADA Compliant Ramp Locations (Curb Ramps to be Retained by the City) by Land Use (Tier 1-4)
3. Number of No Curb Ramp Locations (Where New Curb Ramps Will be Constructed) by Land Use (Tiers 1-4)
4. Number of Non-Compliant Ramp Locations (Where Existing Curb Ramps Will be Replaced) by Land Use (Tiers 1-4)

**For the above table the same type of statistical summaries can be created for sidewalk, barriers, and other ADA requirements/devices from the City’s databases.**

**TABLE 5**  
**Sample: Field Inventory by Location with Cost Report Table**

Location			Deficiency		Correction	Phase I Priority Criteria (H,M,L)			Correction Date	Estimated Cost
Location No.	Location Name	Area	Description	Barrier	Recommended Correction	(1) High Frequency Used	(2) Median Public Access	(3) Low All Other		
1										
2										
3										
4										
5										
6										
7										
8										

**\* The above sample tables may be modified to suit the application of the particular date collection set.**

**City of City of Moreno Valley  
ADA Request for Accommodation**

**Requestor:**

\_\_\_\_\_  
Person Preparing Request

Relationship to Requestor:

\_\_\_\_\_  
(If different from Requestor)

\_\_\_\_\_  
(If different from Requestor)

Contact Person

Street Address & Apt. No.: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: (\_\_\_\_\_) \_\_\_\_\_

E-mail: \_\_\_\_\_

Circle or bold preferred Method of Contact (US Mail, telephone, e-mail, other)

Please do not contact me personally (see contact-person information above).

Please specify any location(s) related to the requested accommodations:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attachment 1

**City of City of Moreno Valley  
ADA Complaint / Grievance Form**

**Complaint/Grievant:**

\_\_\_\_\_  
Person Preparing Complaint

Relationship to Grievant:

\_\_\_\_\_  
(If different from Grievant)

\_\_\_\_\_  
(If different from Grievant)

Contact Person

Street Address & Apt. No.: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: (\_\_\_\_\_) \_\_\_\_\_

E-mail: \_\_\_\_\_

Circle or bold preferred Method of Contact (US Mail, telephone, e-mail, other)

Please do not contact me personally (see contact-person information above).

Please specify any location(s) related to the complaint or grievance (if applicable):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please provide a complete description of the specific complaint or grievance:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please state what you think should be done to resolve the complaint or grievance:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please attach additional pages as needed.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

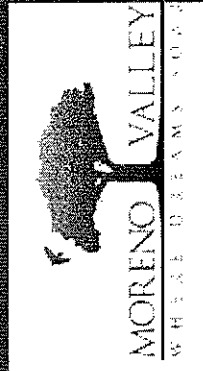
Return to:

**City of Moreno Valley, ADA Coordinator**  
**Risk Management**  
**14177 Frederick Street**  
**P.O. Box 88005**  
**Moreno Valley, CA 92552-0805**

Upon request, reasonable accommodation will be provided in completing this form or copies of the form will be provided in alternative formats. Contact the ADA Coordinator at the address listed above or via telephone (951) 413-3130.

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CITY OF MORENO VALLEY  
PUBLIC RIGHT OF WAY  
ACCESS AMERICANS WITH  
DISABILITIES ACT  
TRANSITION PLAN



ATTACHMENT "B"

# THE AMERICANS WITH DISABILITIES ACT (ADA)

- Title I: Employment
- Title II: State and Local Government  
(Public Services)
- Title III: Public Accommodations
- Title IV: Telecommunications
- Title V: Miscellaneous Provisions



## TITLE II: STATE AND LOCAL GOVERNMENT (PUBLIC SERVICES)

- Title II covers all activities of State and local governments regardless of entity's size or receipt of Federal funding
- The State of California adopted Title 24 to meet ADA compliance, which local government must also comply
- State and local governments are required to follow:
  - Specific architectural standards in the new construction.
  - Provide access in inaccessible older buildings, or alternative access programs
  - Communicate effectively with people who have hearing, vision, or speech disabilities.

# TRANSITION PLAN

- A *Transition Plan* is the methods by which changes will be made to effect the non-discrimination policies described in Title II and California's Title 24.
- In addition to requirements set forth above, the transition plan is to include a schedule for providing curb ramps or other sloped areas, giving priority to serving entities covered by the ADA.
- Every City is required to have a Transition Plan

- The City's "Americans with Disabilities Act Transition Plan" (ADA TP) that was approved by the City Council on January 10, 1995 provides only cursory coverage within the Public Right of Way.
- The proposed new Public Right Of Way Access Americans With Disabilities Act Transition Plan, is an extension of the 1995 ADA TP, specifically focused on access issues within the public right-of-way as updated laws and Court cases mandate.

# GETTING STARTED

- Inventory: Create a database for Curb (Access) Ramp, Sidewalk, and Other Types of Pedestrian use Infrastructures
- ADA Standards: Applicable to Curb Ramp, Sidewalk, and Other Types of Barriers within the R.O.W.
- Priorities: for Construction and Replacement

# INVENTORY FOR CONSTRUCTION AND REPLACEMENT

- Phase I, Highest Priority: Accommodation Request from Persons with Disabilities
- Phase II, Creating the City Wide Database Inventory for existing infrastructure
- Phase III, New Curb Ramp and Sidewalk Infill by Location Priorities, where no infrastructure currently exist (Locations not covered by Phase II)

# INITIAL DATABASE PRIORITY

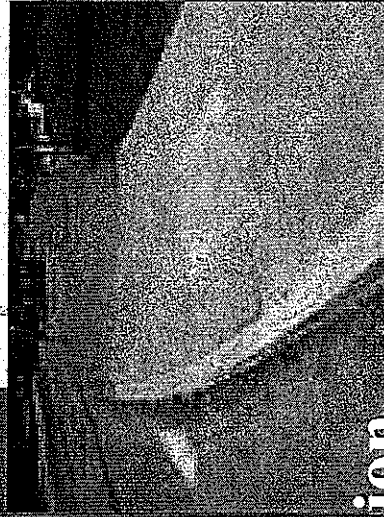
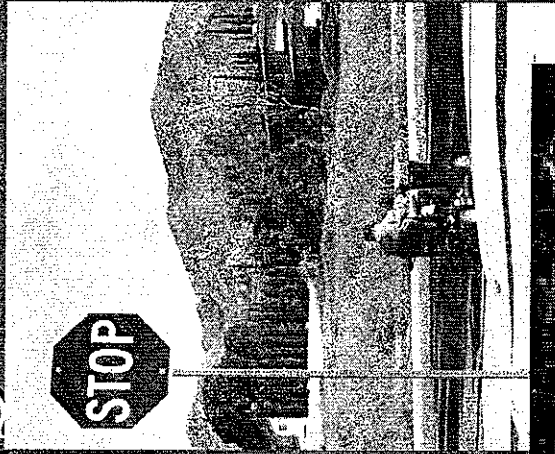
- Tier 1: Near bus routes and bus stops
- Tier 2: Fronting public facilities
- Tier 3: Adjacent to Privately-Owned public accommodations
- Tier 4: Locations that do not fall into any of the above Tiers but are within 50 feet of a existing sidewalk network
- Tier 5: Locations that do not fall into any of the above groups and are greater than 50 feet from a existing sidewalk network

# POINT SYSTEM REFINEMENT

- 25- Safety: Unsafe Path of Travel
- 20- Use: Provides a Greater Access for Public Use Accommodating the Disabled/Pedestrians
- 15- Missing Link, Extension Connectivity
- 15- Accessibility Enhancements of Existing R.O.W. Facilities
- 10- Vehicle Volume/Speed Factor
- 10- Disability/Pedestrian Peak Volume
- 5- Transportation Alternative, provides a more Direct Route

# REQUEST FOR ACCOMMODATIONS

- ADA Transition Plan Forms:
  - ADA Request for Accommodation
  - ADA Complaint / Grievance Form
- Appeal Process
  - ADA Coordinator
  - ADA Advisory Committee
  - City Manager makes Final Decision



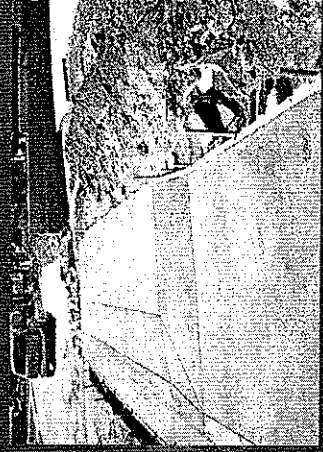


# ADA TRANSITION PLAN AS A LIVING DOCUMENT

- ADA Project Administrator and ADA Coordinator:
  - Monitors the Progress of the Transition Plan
  - Tracks the improvements and expenditures
  - Recommends Updates to the Transition Plan
- The Public ROW Access ADA Advisory Committee:
  - Reviews and Recommends Revisions to the Priority List and updates to the Transition Plan to the City Engineer
- The City Engineer:
  - Approves the annual list for ADA compliance
  - Has Authority to Approve Transition Plan Updates

# ADA TRANSITION PLAN FUNDING

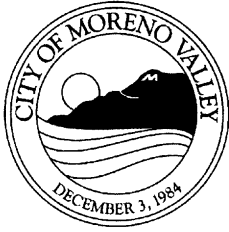
- Measure A Funds - \$200,000
- Grants
- Funding Coverage:
  - Construction and Re-construction of Curb Ramps, Sidewalks and Drive Ways
  - Other types of obstruction and barrier removal
  - Administration Cost



# WRAP-UP

- NEXT STEP IN THE PROCESS
  - A Staff Report to City Council to adopt the Public ROW Access ADA Transition Plan is scheduled for July 13, 2010
  - Implementation of the Transition Plan
- QUESTIONS ?

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APPROVALS	
BUDGET OFFICER	<i>[Signature]</i>
CITY ATTORNEY	<i>[Signature]</i>
CITY MANAGER	<i>[Signature]</i>

## Report to City Council

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**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:** August 17, 2010

**TITLE:** Discussion of the After School Education and Safety Grant (ASES)

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### RECOMMENDED ACTION

Staff recommends that the City Council discuss the general administrative costs of the ASES Program not covered by grant funds. No action recommended at this time.

### 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 the After School Education and Safety (ASES) program, and effective July 1, 2006 increased the annual funding from \$121 million to \$550 million.

The key guidelines for the ASES grant are:

- Maximum funding per site: Elementary - \$112,500; Middle - \$150,000
- 1/3 match (cash or in-kind); \$37,334/Elementary; \$50,000/Middle
- Administrative costs limited to 15%: \$16,800/Elementary; \$22,500/Middle
- Site qualification is 50% free and reduced lunch
- Operate after school programs a minimum of 15 hours and until 6:00 p.m.
- Operate every regular school day during the year
- Offer a daily nutritious snack
- Offer educational and literacy element – tutoring/homework assistance in core subjects and computer training; extended library service hours
- Offer educational enrichment element – fine arts, prevention, career service learning, mentoring
- Develop an early –release policy

In the fall of 2006 staff met with Moreno Valley Unified School District (MVUSD), YMCA, and Val Verde Unified School District (VVUSD) to discuss the grant. The Request for Applications (RFA) was available on the California Department of Education's web site on September 25, 2006. In an effort to provide an increased level of service for Moreno Valley youth through diverse funding, the city submitted competitive grant applications, in partnership with MVUSD and VVUSD, to the After School Partnership Office of the California Department of Education by the November 6, 2006 deadline.

Funding notification was posted on the State website on December 11, 2006 and City Council authorized to accept the funding on December 19, 2006. The City received a three year renewable direct grant to be awarded in one-year increments of \$4,575,000. The grant award was for after school programs at 30 elementary schools and eight middle schools to serve up to 3,416 students. The City contracted with the YMCA to operate 16 of the 38 program sites through June 30, 2007. All of the programs had to be up and running by February 6, 2007 to receive the full grant funding.

Staff also applied for and received effective March 1, 2007, the Child and Adult Care Food Program (CACFP) which provides state and federal funds to serve nutritious snacks to students in the program. The ASES Program receives monthly reimbursements at the current federal and state rate for each nutritious snack served that month.

The State increased the City's ASES grant funding to \$4,950,000 for fiscal year 2007/08 to include program sites at three newly opened schools. The City was now responsible for programs at 41 school sites, 32 elementary schools and nine middle schools to serve up to 3,696 students. The contract with the YMCA was not renewed for the new school year.

The Grant Award for fiscal year 2008/09 was also \$4,950,000. In fiscal year 2009/10 the Grant Award was reduced to \$4,093,200 due to adjustments for low attendance levels at some of the school sites. Although there are still programs at 41 sites, the maximum number of students served is now 3,048. Attendance level adjustments for fiscal year 2010/11 will be determined after year end closing reports are turned in and reviewed. Based on VVUSD's decision to close Red Maple Elementary School in the fall and the six school sites that fell below 85% attendance levels in this last school year, our grant is projected to be reduced by approximately \$208,000 for fiscal year 2010/11.

A Renewal Request Form was completed in November of 2009 for the next three year grant period of July 2010 through June 2013. Although not encouraged, it is possible for the City to work with the After School Programs Office to discontinue the grant prior to the end of the grant period.

## DISCUSSION

The City of Moreno Valley's ASES Program is known as the STARS Program, which stands for Students and Teachers Achieving Real Success. The program serves close to 3,000 students each day after school. Students in kindergarten through grade 9 are provided literacy, academic enrichment, and safe, constructive alternatives after school at no cost to the participants.

Research shows that the after school hour between 3 p.m. and 4 p.m. is the most likely hour on school days for a juvenile to commit a violent crime and also the prime time for kids to become the victims of violence. Not only do after school programs offer constructive alternatives to gangs, drugs, and crime but can also help improve school day attendance, increase academic achievement, and boost graduation rates.

Providing a quality program of this magnitude entails administrative costs that support the management of the program. Costs related to administration may include both direct program charges (salary costs related to preparing program plans, developing budgets, and monitoring activities; rental or purchase of program specific office equipment or supplies; rental and maintenance of program office space) and indirect charges for general administration of the program (personnel, payroll, accounting, procurement, data processing). Unfortunately administrative costs are limited to 15% of the grant amount. Direct program administrative costs and ISF charges account for more than 15% of the grant amount. Estimate of costs per year associated with the program but not covered by grant funds are:

<b>Parks and Community Services (Zone A)</b>	<b>Amount</b>
Division Manager	\$5,500
Executive Assistant	3,000
STARS Program ISF Charges	226,104
<b>Total In-Kind Parks &amp; Community Services (Zone A) Costs</b>	<b>\$234,604</b>
<b>General Administrative Services</b>	
Including City Council, City Manager, Media and Communications, Graphics, City Clerk and City Attorney	\$104,677
Human Resources/Risk Management	139,756
<b>Total In-Kind General Administrative Services</b>	<b>\$244,433</b>
<b>Finance Services</b>	
Accounting/Budgeting	\$34,255
Accounts Payable	25,143
Payroll	59,743
Cashiering/Investing	30,969
Purchasing	61,180
<b>Total In-Kind Finance Services Costs</b>	<b>\$211,290</b>
<b>Grand Total</b>	<b>\$690,327</b>

General Administrative Services cost estimates were computed using 10% of the General Fund Administration costs and formulas provided by Finance.

Costs not covered by grant funds are used to help meet the required local match of one-third of the state grant amount.

**ALTERNATIVES**

Staff has discussed the possibility of charging program fees to increase revenue for the after school program. Program fees can be used as part of the in-kind match and would not be limited to the 15% administration limit.

Though it is not against the rules to charge fees for participation in after school programs, we can not prohibit any family from participating because of their financial situation. According to several after school programs from across the country that charge a fee, about 80% of the participants pay their fee. Based on 80% of 3,000 students paying a \$50 registration fee, the City could possibly collect \$120,000.

**NOTIFICATION**

Posting of the Agenda

**ATTACHMENTS/EXHIBITS**

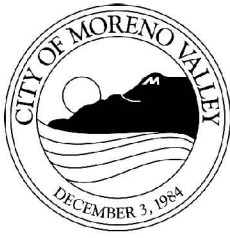
None

Prepared By:  
Patty Grube  
Management Analyst I

Department Head Approval:  
Michael McCarty *[Signature]*  
Director of Parks and Community Services

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





APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>SMB</i>
CITY MANAGER	<i>WDS</i>

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## Report to City Council

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**TO:** Mayor and City Council

**FROM:** Michelle Dawson, Acting Assistant City Manager

**AGENDA DATE:** August 17, 2010

**TITLE:** Community Art Exhibit Policy for City Hall

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### **RECOMMENDED ACTION**

Staff recommends that the City Council receive information and provide direction regarding the development of a Community Art Exhibit Policy for City Hall.

### **BACKGROUND**

At one time community art exhibits had been displayed in the City Council Chamber foyer by The Arts Group of Moreno Valley. These exhibits were discontinued pending the development of a policy for this purpose by the Moreno Valley Art Commission. A copy of the policy (Attachment A) was provided by the Arts Commission to the City Manager's Office for review and implementation. The City Manager's Office is seeking direction from City Council regarding the development of a Community Art Exhibit Policy for City Hall.

### **DISCUSSION**

After reviewing the policy submitted by the Moreno Valley Arts Commission, City staff determined the policy needed further clarification. Staff then examined Community Art Exhibit policies from other jurisdictions. There are essentially five alternatives that have been implemented by local jurisdictions which are listed below:

- 1) Cities have chosen to display community art based on the subjective tastes of staff members or public officials. In the past, the City has implemented this type of process.
- 2) Cities have allowed any artwork that is not considered legally obscene or otherwise illegal to be displayed in City buildings, however, this alternative can

be problematic. This alternative could lead to the display of artwork that depicts nudity, sacrilege, or other viewpoints that may be considered offensive to the public or to employees. Without clearly defining what types of artwork are appropriate for display, the City would be unable to remove the artwork, or prevent the display of such artwork, due to the First Amendment of the Constitution.

- 3) The City could adopt a policy that limits the type of art to be displayed in the Council Chamber foyer. The City would need to clearly define what types of artwork would be displayed in order to create a specific purpose for the area, such as limiting the displays to Moreno Valley landmarks or the history of the community. The City would also need to specifically define what types of artwork would not be displayed (such as artwork depicting any nudity, etc.).
- 4) The City could establish a policy that requires all artwork exhibited at City Hall to be owned by, or formally on loan to, the City. The City would be required to create specific procedures for selecting the artwork as well as define acceptable content for the artwork. Once the City formally acquires the artwork, through purchase or loan, then the artwork becomes a display of the City and theoretically, City “speech” is not subject to the constitutional expressive forum rules.
- 5) The City could discontinue the display of all community art at City facilities. The City could still purchase or accept donations from local artists and the artwork could still be displayed as part of City Hall décor.

### **SUMMARY**

The City Manager’s Office is seeking direction from City Council regarding the development of a Community Art Exhibit Policy for City Hall. City staff recommends that a Community Art Exhibit Policy be developed that requires all artwork displayed in the City Council Chamber foyer be on formal loan to the City (alternative 4 above). Furthermore, City staff recommends that the policy contain specific guidelines establishing what types of artwork would be displayed as well as what content would be acceptable or not acceptable for exhibit in the foyer.

### **ATTACHMENTS**

Attachment A: Draft Policy for Community Art Exhibit at Moreno Valley City Hall developed by the Moreno Valley Arts Commission.

Prepared By:  
Cynthia Owens  
Acting Assistant to the City Manager

Department Head Approval:  
Michelle Dawson  
Acting Assistant City Manager

Concurred By:  
 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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## **Community Art Exhibit at Moreno Valley City Hall**

### **Public Art Exhibit Policy**

The Moreno Valley Art Committee (a sub committee of the MV Arts Commission) is responsible for selecting art exhibits for public areas, representing all points of views. In order to enrich visitors experiences to City Hall, exhibits of paintings, photographs, drawings, pastels, and other two dimensional original art will be considered for exhibition.

Space is made available on an equitable basis to qualified individuals or groups. Artists are responsible for insuring their individual works of art.

Artwork is reviewed solely on its own merit and will be reviewed using these criteria:

- Quality
- Overall community interest
- Historical prominence or significance to the artist or arts organization
- Dates of previous displays of similar topics or items

Artists living and/or working in Moreno Valley may submit art for display. No commercial entities will be considered. Reproductions, giclees, wet work, and poorly prepared work will not be displayed. All art content must be family friendly.

### **Length of Exhibits**

Four exhibits per year of three months duration each:

- Jan 1-March 31
- April 1-June 30
- July 1-September 30
- October 1-December 31

Themes may be set in advance such as: Springtime Impressions of MV, Fun Times in Our City, etc.

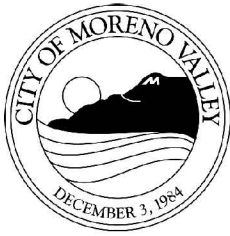
### **Frequency of Art Evaluation Committee Meetings**

The number of Art Evaluation Committee meetings per year is determined by the number of artists reviewed and accepted. Committee meetings will be generally scheduled two months before the next scheduled exhibit. The Committee is responsible for notifying the public of meeting dates. Artists are asked to bring in three pieces of work, representative of the theme. The committee will be comprised of two MV Art Commissioners and one to three members of the art community. Current art groups, such as TAG, will be asked for representation.

### **Hanging of Show**

The Committee will work with City of Moreno Valley staff to schedule hangings. All works must be framed or have completely finished edges to be considered (gallery wrapped canvas only). Pieces must be suspended by wire; no saw tooth hangars allowed. A gallery list (name of artists/ title of piece/medium used) will be posted within the exhibit; no individual place cards.

No art is to be advertised for sale during the show.



APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>RW</i>
CITY MANAGER	<i>WAS</i>

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## Report to City Council

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**TO:** Mayor and City Council

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

**AGENDA DATE:** August 17, 2010

**TITLE:** PERMIT PARKING FEE UPDATE

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### **RECOMMENDED ACTION**

Staff recommends that the City Council review and discuss the established fees associated with permit parking and offer direction with respect to desired modifications as appropriate.

### **BACKGROUND**

This is a follow-up to the regular City Council Meeting on July 13, 2010, where staff was directed to present associated costs related to the permit parking.

### **DISCUSSION**

The City's permit parking program was established by ordinance in 2007. To date, the City has three permit parking requests. The first request brought before the City Council was from a small residential neighborhood (total of five residents) on Loraine Terrace. Public Works is currently processing the remaining two applications. The applications are from two larger residential neighborhoods near the Moreno Valley College (MVC) and Celebration Park.

Typically, permit parking requests come from residents that are impacted by high schools, colleges, parks, and other uses that generate a large amount of off-site parking. Based upon the current trend, staff anticipates that the City will receive one or two requests per year.

The following is the typical process for establishing permit parking:

1. An application is received by Public Works, along with an application fee.
2. Staff performs a field evaluation to determine if the impacted neighborhood would benefit from privileged parking.
3. If staff finds that permit parking is appropriate, then the following steps are taken:
  - a. A petition is generated. The petition must demonstrate that a super-majority (at least 60%) supports permit parking.
  - b. A staff report is prepared for the Traffic Safety Commission, and public hearing notices are posted and mailed.
  - c. A public hearing is held before the Traffic Safety Commission.
  - d. If the proposal is recommended by the Traffic Safety Commission, then a staff report and resolution are brought forth to the City Council for approval.
  - e. If the resolution is adopted, then signs are posted. The residents are issued placards (up to four per household) and notification is provided to all affected parties including the police department.

The permit parking is limited to certain days and/or hours, at the applicants' request or at staff's recommendation.

### Permit Parking Programs by Other Jurisdictions

#### Summary of other Jurisdictions with Permit Parking Programs

Jurisdiction	Established Program	Initial Sign Installation Costs	Costs for two or more permits issued concurrently	Annual renewal
City of Riverside	Yes	None	None	None
City of Corona	Yes	None	\$20	None
City of Rancho Cucamonga	Yes	None	\$14	None
City of Fontana	Yes	None	None	None

#### Advantages of Permit Parking

- Long-term parking by non-residents is reduced or eliminated.
- The amount of on street parking available to residents and their guests is increased.
- Litter, noise and traffic created by non-residents is decreased.



### **Disadvantages of Living in a Permit Parking Area**

- Vehicles without permits are subject to parking citations, even if they belong to residents or their guests.

### **Typical Associated Cost of Permit Parking**

- Average cost of a sign \$110.
- Average cost of Placards \$2 (four per household or business).
- Average cost of annual renewal is \$19 (per household or business).
- Average cost of annual maintenance \$20/sign.

### **City's Existing fees per Resolution No. 2007-75:**

- Application fee \$90
- Initial permit fee \$57 per household or business
- Annual renewal fee \$19 per household or business

### **Potential Alternatives for Consideration:**

#### **Alternative No. 1**

- Application fee \$90
- Initial permit fee Full cost recovery of sign installation or \$57 per household or business (whichever is less).
- Annual Fee \$19 per household or business.

#### **Alternative No. 2**

- Application fee \$90
- Initial permit fee Full cost recovery of sign installation or \$57 per household or business (whichever is less).
- Annual renewal fee None

#### **Alternative No. 3**

- Application fee None
- Initial permit fee Full cost recovery of sign installation or \$57 per household or business (whichever is less).
- Annual renewal fee None

#### **Alternative No. 4**

- No fees

**FISCAL IMPACT**

The estimated annual cost of each alternative is shown below. It is expected that any increased expenditures related to the permit parking program would be absorbed by the typical yearly budget associated with signing and striping (Fund 125 Measure A).

**Summary of Fiscal Impact with Each Alternative:**

Alternative	Application Fee	Full cost recovery of sign installation or \$57 per household or business (whichever is less)	Annual Renewal Fee	Estimated Yearly Cost to City
1	\$90	\$57/\$150	\$19	Minimal
2	\$90	\$57/\$150	None	* \$2,850
3	None	\$57/\$150	None	** \$2,940
4	None	None	None	*** \$8,940

**Estimated yearly cost to City is based on a total of 150 households**

\*  $150 \times \$19 = \$2,850$

\*\*  $150 \times \$19 = \$2,850 + \$90 = \$2,940$

\*\*\*  $150 \times \$19 = \$2,850 + \$90 + (40 \text{ (signs)} \times \$150) = \$8,940$

**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.

**ATTACHMENTS**

Attachment A – Resolution No. 2007-75 (Date Adopted: June 26, 2007)

Attachment B – Fee Schedule (Resolution 2008-48)

Prepared By:  
Alan Kashefi  
Senior Engineer, P.E.

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

Concurred By:  
Eric Lewis, P.E., T.E.  
City Traffic Engineer

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

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RESOLUTION NO. 2007-75

A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF MORENO VALLEY AMENDING  
RESOLUTION 2007-43, TO ESTABLISH FEES  
TO RECOVER THE COSTS ASSOCIATED  
WITH PERMIT PARKING

WHEREAS, the City Council has a need to implement Permit Parking in certain areas of the City for the betterment of its citizens; and

WHEREAS, the cost of rendering such services should be borne by the beneficiaries of such service; and

WHEREAS, the City Manager has duly proposed and made available to the City Council and to the public, data indicating the estimated cost of providing said services, and, the sources of revenues required to defray such costs; and

WHEREAS, the City Council has duly considered at a duly noticed public meeting the question of whether or not to establish new fees for such services, so as to fully compensate the City for furnishing such services; and

WHEREAS, at said meeting, the City Council duly considered all oral and written presentations, which were made with respect to said question;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, AS FOLLOWS:

1. Section 10, Transportation Engineering, Exhibit A of Resolution 2007-43, is hereby amended to add new fees as follows:

Permit Parking Program

Application fee: \$90

Initial permit fee: \$57 per household or business

Annual Renewal fee: \$19 per household or business

2. The application is hereby waived for permit parking implementations initiated by City Council request.

3. All prior enactments of the City Council establishing fees for permit parking are hereby repealed.

4. All fees established by this Resolution shall, when collected, be paid to the City Treasurer for deposit into the General Fund of the City or into such special funds as may otherwise be required by law.

5. If any provision, clause, sentence or paragraph of this Resolution or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect any other provision or application of the provisions of this Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are hereby declared to be severable.

6. Each fee or charge set by this Resolution is for the specific process or service to which the fee or charge is related. When a process or service in addition thereto is requested or required, the appropriate additional fee or charge shall be imposed and collected. When a fee or charge is indicated on a unit basis, a fee or charge for each such unit or portion of a unit associated with the requested or required process or service shall be imposed and collected.

7. The fees approved and established herein shall become effective Monday, August 13, 2007.

APPROVED AND ADOPTED this 26th day of June, 2007.

  
Mayor

ATTEST:

  
City Clerk

APPROVED AS TO FORM:

  
City Attorney

RESOLUTION JURAT

STATE OF CALIFORNIA        )  
COUNTY OF RIVERSIDE       ) ss.  
CITY OF MORENO VALLEY     )

I, ALICE REED, City Clerk of the City of Moreno Valley, California, do hereby certify that Resolution No. 2007-75 was duly and regularly adopted as amended by the City Council of the City of Moreno Valley at a regular meeting thereof held on the 26th day of June, 2007 by the following vote:

- AYES:       Council Members Flickinger, Stewart, West, Mayor Pro Tem Batey, and Mayor White
- NOES:       None
- ABSENT:    None
- ABSTAIN:   None

Alice Reed  
CITY CLERK

(SEAL)

Resolution No. 2007-75  
Adopted June 26, 2007

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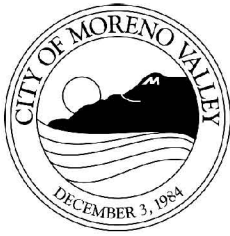


# Section 9 - Public Works

## Transportation Engineering

	<u>Unit</u>	<u>Fee</u>
<u>Permit Parking Program</u>		
Application Fee	Each	\$ 90.00
Initial Permit Fee	per household or business	\$ 57.00
Annual Renewal Fee	per household or business	\$ 19.00
<u>Special Traffic Count</u>		
Daily Directional	per Count	\$ 135.00
Daily Non-Directional	per Count	\$ 67.00
Peak Hour Intersectional	per Count	\$ 47.00
<u>Speed Study</u>		
Radar		\$ 51.00
Speed Profile (2 tubes, 1 machine)		\$ 190.00
Special Traffic Curb Painting	Deposit	\$ 178.00
		Actual charge is "fully burdened" rate charge
<u>Signs</u>		
Miscellaneous Traffic Control Signs (Stop, Yield, Bus Stop, etc)	Each	\$ 270.00
Neighborhood Watch Signs (Installed)	Each	\$ 13.00
Street Name Sign	Each	\$ 405.00

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APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>Res</i>
CITY MANAGER	<i>WBS</i>

## Report to City Council

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**TO:** Mayor and City Council

**FROM:** Robert L. Hansen, City Attorney

**AGENDA DATE:** August 17, 2010

**TITLE:** A REVIEW OF CITY COUNCIL RULES OF PROCEDURE FOR PUBLIC MEETINGS REGARDING PUBLIC COMMENTS CONCERNING BALLOT MEASURES AND CANDIDATES

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### RECOMMENDED ACTION

Staff recommends that the City Council give direction as to whether the City Council Rules of Procedure should be amended to include a prohibition of public comments announcing candidacy for public office or otherwise campaigning for or against any ballot measure or candidate.

### BACKGROUND

The City Attorney has been asked to address whether or not the City Council can instruct members of the public that they may not announce their candidacy for public office or otherwise campaign for or against any ballot measure or candidate during the time set aside at City Council meetings for the public to address the City Council on any matter not on the agenda, but within the subject matter jurisdiction of the City Council.

### DISCUSSION

A city council meeting is a limited public forum. This means that city councils have the authority to limit speech through the imposition of agendas and rules of order and decorum. [See, White v. City of Norwalk, 900 F.2d 1421, 1425 (9<sup>th</sup> Cir. 1990).]

Subdivision (a) of Government Code section 54954.3 allows public comment at city council meetings, but only with reference to "any item of interest to the public . . . that is within the subject matter jurisdiction of the legislative body." Under subdivision (b) of that statute, the legislative body is authorized to adopt regulations, including regulations that limit the time to be spent on particular issues or that limits the time for each

speaker. Under subdivision (c), the legislative body is restrained from prohibiting public criticism of policies, procedures, programs, or services of the agency itself, or of the acts or omissions of the city council as a body.

The California Attorney General has concluded that the legislative intent of Government Code section 54954.3 is clear and unambiguous -- public comment is limited to matters within the subject matter jurisdiction of the legislative body only. [78 Ops. Cal. Atty. Gen. 224, 226 (1995).] The Attorney General further states that this statute does not give the public the right to comment on matters outside the legislative body's subject matter jurisdiction. [Id.] Therefore, it is appropriate for a legislative body to limit public discussion to only those matters that serve the purposes of the legislative body in holding the meeting and to adopt reasonable regulations to accomplish this purpose. However, the regulations on public comment must be reasonable and not so broad as to constitute "prior restraints."

Are public comments announcing candidacy or campaigning for or against ballot measures or candidates for public office within the subject matter jurisdiction of the City Council? Government Code section 54964(a) states that "An officer, employee, or consultant of a local agency may not expend or authorize the expenditure of any of the funds of the local agency to support or oppose the approval or rejection of a ballot measure, or the election or defeat of a candidate, by the voters." This statute makes it clear that a city council is prohibited from using public funds for the election or defeat of any candidate or ballot measure.

One viewpoint is that since a city council cannot use public funds for the election or defeat of any candidate or ballot measure, it would appear that the election or defeat of any candidate or ballot measure is outside of the subject matter jurisdiction of the City Council. Consequently, any comments announcing candidacy or campaigning could theoretically be prohibited. Our limited research and inquiry has not uncovered any California cities that follow this viewpoint, but that does not mean that there are no cities that follow this viewpoint, it only means that in the limited amount of time that the City Attorney's Office had to research this issue we did not discover any such city.

The seemingly more prevalent viewpoint is that under subdivision (c) of Government Code section 54954.3, such campaign speech should be allowed because it is relevant to the governing of the agency and is an implicit criticism of the incumbents of that agency. Agencies that do allow such comments include the cities of Napa, San Bernardino, Glendale, and Monterey.

There is no definitive case or opinion establishing which viewpoint is correct. Nevertheless, what cannot be prohibited is speech that is public criticism of policies, procedures, programs, or services of the agency itself, or of the acts or omissions of the City Council as a body. [Government Code section 54954.3(c).]

If the City Council considers the announcing of candidacy and the campaigning for or against any candidate or ballot measure is outside of the subject matter jurisdiction of

the City Council, it is recommended that the City Council amend the City Council Rules of Procedure, as adopted by Resolution 2003-17, to include a narrowly drafted restriction on that type of speech at City Council and other public meetings and how that restriction is to be enforced. It is further recommended that the City Council not enforce such a limitation on public comments on this matter until such amendment becomes effective in order to avoid the criticism of prior restraint of protected speech. Further, if the City Council adopts such a rule of procedure, the City Council should consider that the enforcement of such a rule would not be possible until after the speech is uttered. The only recourse at that point would be to interrupt the speaker and warn them that the topic is outside of the subject matter jurisdiction of the City Council and to return to a topic within the subject matter jurisdiction of the City Council. If the speaker then turns the comments into a criticism of the City Council or its policies, the speech is no longer outside of the subject matter jurisdiction of the City Council and must be allowed. If, however, the speaker continues to address matters outside of the subject matter jurisdiction of the City Council, then there needs to be in place procedures for dealing with such conduct.

Finally, if the City Council is of the viewpoint that such campaign speech should be allowed because it is relevant to the governing of the agency and an implicit criticism of the incumbents of that agency, then there does not need to be any amendment to the Council Rules of Procedure.

### **ALTERNATIVES**

1. Instruct the City Attorney to prepare a resolution amending the City of Moreno Valley City Council Rules of Procedure to prohibit public comments announcing candidacy or campaigning for or against any ballot measure or candidate as being outside of the subject matter jurisdiction of the City Council.
2. Not do anything and allow public comments announcing candidacy or campaigning for or against any ballot measure or candidate during the section on the agenda allowing public comments on matters not on the agenda.
3. Other direction as given by the City Council.

Prepared By:  
Name Robert L. Hansen  
Title City Attorney

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