

REVISED AGENDA
JOINT MEETING OF THE
CITY COUNCIL OF THE CITY OF MORENO VALLEY
MORENO VALLEY COMMUNITY SERVICES DISTRICT
COMMUNITY REDEVELOPMENT AGENCY
OF THE CITY OF MORENO VALLEY
BOARD OF LIBRARY TRUSTEES
MORENO VALLEY PUBLIC FACILITIES FINANCING CORPORATION
(MVPFFC)
MORENO VALLEY PUBLIC FINANCING AUTHORITY (MVPFA)
MORENO VALLEY INDUSTRIAL DEVELOPMENT AUTHORITY (IDA)

January 26, 2010

SPECIAL PRESENTATIONS – 6:00 P.M.

REGULAR MEETING – 6:30 P.M.

City Council Closed Session

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

City Council Study Sessions

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

City Council Meetings

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

City Hall Council Chamber - 14177 Frederick Street

Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities, in compliance with the Americans with Disabilities Act of 1990. Any person with a disability who requires a modification or accommodation in order to participate in a meeting should direct such request to 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
January 26, 2010

CALL TO ORDER

SPECIAL PRESENTATIONS

1. Award for Excellence in Information Technology Practices to the City's Technology Services Division
2. Stater Bros. Donation
3. Employee of the Quarter - Denise Bagley

REVISED AGENDA*
CITY COUNCIL OF THE CITY OF MORENO VALLEY
MORENO VALLEY COMMUNITY SERVICES DISTRICT
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OF THE CITY OF MORENO VALLEY
BOARD OF LIBRARY TRUSTEES
MORENO VALLEY PUBLIC FACILITIES FINANCING CORPORATION
(MVPFFC)
MORENO VALLEY PUBLIC FINANCING AUTHORITY (MVPFA)
MORENO VALLEY INDUSTRIAL DEVELOPMENT AUTHORITY (IDA)

REGULAR MEETING - 6:30 PM
JANUARY 26, 2010

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE

INVOCATION - Pastor Harold Anderson, Higher Ground Calvary Chapel

ROLL CALL

INTRODUCTIONS

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

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

JOINT CONSENT CALENDARS (SECTIONS A-D)

All items listed under the Consent Calendars, Sections A, B, C, and D are considered to be routine and non-controversial, and may be enacted by one motion unless a member of the Council, Community Services District, Redevelopment Agency or the Board of Library Trustees requests that an item be removed for separate action. The motion to adopt the Consent Calendars is deemed to be a separate motion by each Agency and shall be so recorded by the City Clerk. Items withdrawn for report or discussion will be heard after public hearing items.

A. CONSENT CALENDAR-CITY COUNCIL

A.1 ORDINANCES - READING BY TITLE ONLY

Recommendation: Waive reading of all Ordinances.

A.2 MINUTES - REGULAR MEETING OF JANUARY 12, 2010 (Report of: City Clerk)

Recommendation:

Approve as submitted.

A.3 TRACT MAP 31212 - REDUCE FAITHFUL PERFORMANCE BOND AND ADOPT THE RESOLUTION AUTHORIZING ACCEPTANCE OF THE PUBLIC IMPROVEMENTS AS COMPLETE AND ACCEPTING QUARTZ ROAD, JADE WAY, BALSAWOOD LANE, OPAL STREET, SESAME ROAD, LARKSPUR WAY, SAFFRON CIRCLE, DIAMOND LANE, EMERALD AVENUE, CARDAMOM WAY, SAPPHIRE WAY, AND THE PORTION OF COTTONWOOD AVENUE, MORRISON STREET, AND BAY AVENUE ASSOCIATED WITH THE PROJECT INTO THE CITY'S MAINTAINED STREET SYSTEM - DEVELOPER: WESTERN PACIFIC HOUSING, INC., CORONA, CA 92880 (Report of: Public Works Department)

Recommendation:

1. Adopt Resolution No. 2010-03 authorizing the acceptance of the public improvements within Tract Map 31212 as complete and accepting Quartz Road, Jade Way, Balsawood Lane, Opal Street, Sesame Road, Larkspur Way, Saffron Circle, Diamond Lane, Emerald Avenue, Cardamom Way, Sapphire Way, and the portion of Cottonwood Avenue, Morrison Street, and Bay Avenue associated with the project into the City's maintained street system; and

Resolution No. 2010-03

A Resolution of the City Council of the City Of Moreno Valley, California, Authorizing the Acceptance of the Public Improvements as Complete within Tract Map 31212 and Accepting Quartz Road, Jade Way, Balsawood Lane, Opal Street, Sesame Road, Larkspur Way,

Saffron Circle, Diamond Lane, Emerald Avenue, Cardamom Way, Sapphire Way, and the Portion of Cottonwood Avenue, Morrison Street, and Bay Avenue Associated with the Project into the City's Maintained Street System

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

A.4 AUTHORIZATION TO AWARD THE CONSTRUCTION CONTRACT FOR KITCHING STREET IMPROVEMENTS FROM CACTUS AVENUE TO ALESSANDRO BOULEVARD - PROJECT NO. 07-50182425 (Report of: Public Works Department)

Recommendation:

1. Award the construction contract for the Kitching Street Improvements from Cactus Avenue to Alessandro Boulevard to Hillcrest Contracting, the lowest responsible bidder;
2. Authorize the City Manager to execute a contract with Hillcrest Contracting;
3. Authorize the issuance of a Purchase Order to Hillcrest Contracting in the amount of \$2,014,820.42 (\$1,752,017.42 for the Base Bid, Additive Bid Alternatives A, B and C plus \$262,803.00 for the 15% contingency) when the contract has been signed by all parties; and
4. Authorize the Public Works Director/City Engineer to execute any subsequent change orders to the contract with Hillcrest Contracting, up to but not to exceed the Purchase Order contingency of \$262,803.00, subject to the approval of the City Attorney.

A.5 UPDATED STATE AND FEDERAL LEGISLATIVE ADVOCACY PRIORITIES FOR 2010 (Report of: City Manager's Office)

Recommendation:

Review and adopt the proposed State and Federal Legislative Advocacy Priorities for 2010.

A.6 LICENSE AGREEMENT FOR JOINT USE OF SOUTHERN CALIFORNIA EDISON STREETLIGHT POLES (Report of: Public Works Department)

Recommendation:

Review, approve and authorize the Mayor to sign the License Agreement

between the City of Moreno Valley and Southern California Edison (SCE) to permit the City to install non-electrified traffic regulating signs, American flags, Neighborhood Watch signs and other City sponsored event banners and related appurtenances (collectively the "Attachments") on SCE owned streetlight poles.

- A.7 APPROVAL OF THE AMENDED AND RESTATED ACQUISITION/FINANCING AGREEMENT BY AND AMONG THE CITY OF MORENO VALLEY, FOR AND ON BEHALF OF ITSELF AND COMMUNITY FACILITIES DISTRICT NO. 7, FR/CAL MORENO VALLEY, LLC, FIRST INDUSTRIAL, L.P., AND FR/CAL INDIAN AVENUE, LLC AND THE AREA DRAINAGE PLAN FEE AGREEMENT BY AND AMONG THE CITY OF MORENO VALLEY, FOR AND ON BEHALF OF ITSELF AND COMMUNITY FACILITIES DISTRICT NO. 7, FR/CAL MORENO VALLEY, LLC, FIRST INDUSTRIAL, L.P., AND FR/CAL INDIAN AVENUE, LLC (Report of: Public Works Department)

Recommendation:

Acting on behalf of itself and as the Legislative Body for Community Facilities District No. 7 adopt the following:

1. Resolution No. 2010-04; a Resolution approving the Amended and Restated Acquisition/Financing Agreement by and among the City of Moreno Valley, for and on behalf of itself and Community Facilities District No. 7, FR/CAL Moreno Valley, LLC, First Industrial, L.P., and FR/CAL Indian Avenue, LLC; and

Resolution No. 2010-04

A Resolution of the City Council of the City of Moreno Valley, California, Approving the Amended and Restated Acquisition/Financing Agreement By and Among the City of Moreno Valley, for and on Behalf of Itself and Community Facilities District No. 7, FR/CAL Moreno Valley, LLC, FR/CAL Indian Avenue, LLC And First Industrial, L.P.

2. Resolution No. 2010-05; a Resolution approving the Area Drainage Plan Fee Agreement by and among the City of Moreno Valley, for and on behalf of itself and Community Facilities District No. 7, FR/CAL Moreno Valley, LLC, First Industrial, L.P., and FR/CAL Indian Avenue, LLC.

Resolution No. 2010-05

A Resolution of the City Council of the City of Moreno Valley, California, Approving the Area Drainage Plan Fee Agreement By and Among the City of Moreno Valley, for and on Behalf of Itself and

Community Facilities District No. 7, FR/CAL Moreno Valley, LLC,
FR/CAL Indian Avenue, LLC and First Industrial, L.P.

- A.8 ADOPT A MITIGATED NEGATIVE DECLARATION FOR EDGEMONT WATER MASTER PLAN UPDATE - PROJECT NO. 08-19319310 (Report of: Public Works Department)

Recommendation:

Adopt a Mitigated Negative Declaration (MND) for the City of Moreno Valley Edgemont Water Master Plan Update Program and find that implementation of the Mitigation Monitoring and Reporting Program therein will reduce all program potential environmental impacts to an acceptable level.

- A.9 CITY COUNCIL REPORTS ON REIMBURSABLE ACTIVITIES (Report of: City Clerk)

Recommendation:

Receive and file the Reports on Reimbursable Activities for the period of January 6-19, 2010.

- A.10 CALIFORNIA OFFICE OF TRAFFIC SAFETY (OTS) GRANT FUNDING OPPORTUNITY (Report of: Police Department)

Recommendation:

Approve the grant application and authorize acceptance (if awarded) of the California Office of Traffic Safety grant in the amount of \$204,749.21, entitled "DUI Enforcement and Awareness Program."

- A.11 EXPIRATION OF THE RED LIGHT PHOTO ENFORCEMENT PILOT PROGRAM (Report of: Public Works Department)

Recommendation:

Officially confirm the City Council's consensus to terminate the existing red light photo enforcement service at the end of its 2-year pilot program.

- A.12 ANNUAL REPORT ON DEVELOPMENT IMPACT FEES (Report of: Financial & Administrative Services Department)

Recommendation:

1. Approve and accept the Annual Report on Development Impact Fees in compliance with California Government Code Section 66006; and
2. Approve the finding that staff has demonstrated a continuing need to hold unexpended Development Impact Fees.

B. CONSENT CALENDAR-COMMUNITY SERVICES DISTRICT

B.1 ORDINANCES - READING BY TITLE ONLY

Recommendation: Waive reading of all Ordinances.

B.2 MINUTES - REGULAR MEETING OF JANUARY 12, 2010 (Report of: City Clerk)

Recommendation:

Approve as submitted.

B.3 ACCEPTANCE OF GRANT MONIES FROM THE CALIFORNIA DEPARTMENT OF EDUCATION, CHILD DEVELOPMENT SERVICES, FOR CHILD CARE SERVICES AND ADOPTION OF THE RESOLUTION TO CERTIFY THE APPROVAL OF THE GOVERNING BOARD (Report of: Parks and Community Services)

Recommendation:

1. Authorize the acceptance of grant money in the amount of \$755,308 for Fiscal Year 2009/2010 from the California Department of Education, Child Development Division, for the purpose of providing school age child care and development services; and
2. Adopt Resolution No. CSD 2010-02 to certify the approval of the governing board to enter into this transaction with the California Department of Education for the purpose of providing child care and development services and to authorize the designated personnel, as shown on the resolution, to sign contract documents for Fiscal Year 2009/2010.

Resolution No. CSD 2010-02

A Resolution of the Moreno Valley Community Services District of the City of Moreno Valley, California, Certifying the Approval of the Governing Board to Enter Into a Transaction with the California Department of Education for the Purpose of Providing Child Care and Development Services and to Authorize Designated Personnel to Sign Contract Documents for FY 2009/10

B.4 ACCEPTANCE OF ONE TIME GRANT MONIES FROM THE CALIFORNIA DEPARTMENT OF EDUCATION, CHILD DEVELOPMENT SERVICES, FOR INSTRUCTIONAL MATERIALS AND ADOPTION OF THE RESOLUTION TO CERTIFY THE APPROVAL OF THE GOVERNING BOARD (Report of: Parks and Community Services)

Recommendation:

1. Authorize the acceptance of one time grant money in the amount of \$1,345 for Fiscal Year 2009/2010 from the California Department of Education, Child Development Division, for the purpose of purchasing instructional materials and supplies for the child development program; and
2. Adopt Resolution No. CSD 2010-03 to certify the approval of the governing board to enter into this transaction with the California Department of Education for the purpose of purchasing instructional materials and supplies for the child development program and to authorize the designated personnel, as shown on the resolution, to sign contract documents for Fiscal Year 2009/2010.

Resolution No. CSD 2010-03

A Resolution of the Moreno Valley Community Services District of the City of Moreno Valley, California, Certifying the Approval of the Governing Board to Enter Into a Transaction with the California Department of Education for the Purpose of Providing Child Care and Development Services and to Authorize Designated Personnel to Sign Contract Documents for FY 2009/10

C. CONSENT CALENDAR - COMMUNITY REDEVELOPMENT AGENCY

C.1 ORDINANCES - READING BY TITLE ONLY

Recommendation: Waive reading of all Ordinances.

C.2 MINUTES - REGULAR MEETING OF JANUARY 12, 2010 (Report of: City Clerk)

Recommendation:

Approve as submitted.

D. CONSENT CALENDAR - BOARD OF LIBRARY TRUSTEES

D.1 ORDINANCES - READING BY TITLE ONLY

Recommendation: Waive reading of all Ordinances.

D.2 MINUTES - REGULAR MEETING OF JANUARY 12, 2010 (Report of: City Clerk)

Recommendation:

Approve as submitted.

ADJOURNMENT OF CITY COUNCIL MEETING TO ANNUAL/REGULAR MEETING OF THE MORENO VALLEY PUBLIC FACILITIES FINANCING

CORPORATION (MVPFFC)

ANNUAL/REGULAR MEETING OF THE MORENO VALLEY PUBLIC FACILITIES FINANCING CORPORATION (MVPFFC)

CALL TO ORDER

ROLL CALL

PUBLIC COMMENTS ON MATTERS UNDER THE JURISDICTION OF THE CORPORATION

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

SPECIAL ORDER OF BUSINESS

There are no reports or issues before the corporation.

ADJOURNMENT OF THE MORENO VALLEY PUBLIC FACILITIES FINANCING CORPORATION (MVPFFC) TO ANNUAL/REGULAR MEETING OF THE MORENO VALLEY PUBLIC FINANCING AUTHORITY (MVPFA)

ANNUAL/REGULAR MEETING OF THE MORENO VALLEY PUBLIC FINANCING AUTHORITY (MVPFA)

CALL TO ORDER

ROLL CALL

PUBLIC COMMENTS ON MATTERS UNDER THE JURISDICTION OF THE AUTHORITY

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

SPECIAL ORDER OF BUSINESS

There are no reports or issues before the authority.

ADJOURNMENT OF THE ANNUAL/REGULAR MEETING OF THE MORENO

VALLEY PUBLIC FINANCING AUTHORITY (MVPFA) TO ANNUAL REGULAR MEETING OF THE MORENO VALLEY INDUSTRIAL DEVELOPMENT AUTHORITY (IDA)

ANNUAL/REGULAR MEETING OF THE MORENO VALLEY INDUSTRIAL DEVELOPMENT AUTHORITY (IDA)

CALL TO ORDER

ROLL CALL

PUBLIC COMMENTS ON MATTERS UNDER THE JURISDICTION OF THE AUTHORITY

Those wishing to speak should submit a BLUE speaker slip to the Bailiff. There is a three-minute limit per person. All remarks and questions shall be addressed to the presiding officer or to the City Council and not to any individual Council member, staff member or other person.

SPECIAL ORDER OF BUSINESS

There are no reports or issues before the authority.

ADJOURNMENT

RECONVENE JOINT MEETING OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, MORENO VALLEY COMMUNITY SERVICES DISTRICT, AND THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF MORENO VALLEY

E. PUBLIC HEARINGS

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

- E.1 PUBLIC HEARING REGARDING A MAIL BALLOT PROCEEDING FOR CALIFORNIA DRUG CONSULTANT, INC. - APN 486-280-041 BALLOTING FOR NPDES AND CSD ZONE M (Report of: Public Works Department)

Recommendation: That the City Council:

- 1. After conducting the Public Hearing and accepting public testimony:
 - a. Direct the City Clerk to tabulate the National Pollutant

Discharge Elimination System (NPDES) ballot for California Drug Consultant, Inc.—Assessor Parcel Number (APN) 486-280-041;

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

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

d. If approved, authorize and impose the NPDES maximum commercial/industrial regulatory rate to APN 486-280-041.

2. Acting in their capacity as President and Members of the Board of Directors of the CSD ("CSD Board"), after conducting the Public Hearing and accepting public testimony:

a. Direct the Secretary of the CSD Board (City Clerk) to tabulate the CSD Zone M ballot for California Drug Consultant, Inc.—APN 486-280-041;

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

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

d. If approved, authorize and impose the annual CSD Zone M (Commercial, Industrial, and Multifamily Improved Median Maintenance) charge to APN 486-280-041.

E.2 A PUBLIC HEARING FOR AN APPEAL OF A PLANNING COMMISSION DENIAL OF A GENERAL PLAN AMENDMENT (PA08-0020) FROM OFFICE/RESIDENTIAL (R/O) TO COMMUNITY COMMERCIAL (CC) AND A CHANGE OF ZONE (PA08-0019) FROM OFFICE COMMERCIAL AND RESIDENTIAL 15 (R15/O) TO NEIGHBORHOOD COMMERCIAL (NC). THE PROJECT CONSISTS OF TWO LOTS WITH A TOTAL OF 1.34 ACRES LOCATED ON THE SOUTHWEST CORNER OF DRACAEA AVENUE AND DAY STREET. THE APPLICANT IS WINCHESTER ASSOCIATES, INC. (Report of: Community Development Department)

Recommendation: That the City Council:

1. ADOPT a Negative Declaration for application PA08-0020 (General Plan Amendment) and PA08-0019 (Change of Zone). The project will not result in a significant effect on the environment; and

2. Adopt Resolution No 2010-06 denying a General Plan Amendment (PA08-0020) from Office/Residential (R/O) Use to Community Commercial (CC) and PA08-0019 Change of Zone from Office Commercial/Residential 15 (OC/R) to Neighborhood Commercial based on the findings in the Resolution.

Resolution No. 2010-06

A Resolution for an Appeal of a Planning Commission Denial of a General Plan Amendment (PA08-0020) from Office/Residential (R/O) to Community Commercial (CC) and a Change of Zone (PA08-0019) from Office Commercial and Residential 15 (R15/O) to Neighborhood Commercial (NC). The Project consists of two lots with a total of 1.34 acres located on the southwest corner of Dracaea Avenue and Day Street Assessors Parcel Numbers 263-180-007 and 263-180-080

- E.3 A PUBLIC HEARING ON THE APPEAL OF THE PLANNING COMMISSION'S JULY 23, 2009 APPROVAL OF MASTER PLOT PLAN PA07-0035 FOR SIX LIGHT INDUSTRIAL BUILDINGS, PLOT PLAN PA07-0039 TO CONSTRUCT A 409,598 SQUARE FOOT WAREHOUSE DISTRIBUTION FACILITY AND TENTATIVE PARCEL MAP NO. 35822 (PA08-0021) TO RE-CONFIGURE THE EXISTING 21 PARCELS LOCATED WITHIN THE PROJECT SITE AND CREATE SIX PARCELS RANGING IN SIZE FROM 1.33 TO 2.76 ACRES FOR MASTER PLOT PLAN PA07-0035 AND ONE 19.14 ACRE PARCEL FOR PLOT PLAN PA07-0039. THE PROJECT SITE IS LOCATED AT THE NORTHEAST CORNER OF HEACOCK STREET AND IRIS AVENUE (Report of: Community Development Department)

Recommendation: That the City Council:

1. After conducting a public hearing, ADOPT Resolution No. 2010-07 adopting a Negative Declaration for the project, in that these applications will not result in significant environmental impacts; and

Resolution No. 2010-07

A Resolution of the City Council of the City of Moreno Valley, California, Adopting a Negative Declaration for Application Nos. PA07-0035 (Master Plot Plan), PA07-0039 (Plot Plan), and PA08-0021 (Tentative Parcel Map No. 35822) to re-configure the property lines and combine parcels for Assessor's Parcel Numbers 485-230-001 to 010 and 014 to 024 in order to develop six light Industrial Buildings ranging in size from 23,700 to 47,160 square feet and one 409,598 square foot Warehouse Distribution Building

2. ADOPT City Council Resolution No. 2010-08 approving Master Plot

Plan PA07-0035, Plot Plan PA07-0039 and Tentative Parcel Map No. 35822 (PA08-0021), based on the findings in City Council Resolution No. 2010-07, and the conditions of approval as attached to the resolution as Exhibits 1 and 2, thereby upholding the Planning Commission's approval of the project.

Resolution No. 2010-08

A Resolution of the City Council of the City of Moreno Valley, California, Approving Application Nos. PA07-0035 (Master Plot Plan), PA07-0039 (Plot Plan), and PA08-0021 (Tentative Parcel Map No. 35822) to re-configure the Property Lines and Combine Parcels for Assessor's Parcel Numbers 485-230-001 to 010 and 014 to 024 in order to develop Six Light Industrial Buildings Ranging in size from 23,700 to 47,160 square feet and one 409,598 square foot Warehouse Distribution Building

E.4 PUBLIC HEARING TO ADOPT CDBG SUBSTANTIAL AMENDMENTS THAT REALLOCATE FUNDS BETWEEN APPROVED ACTIVITIES (Report of: Economic Development Department)

Recommendation: That the City Council:

1. Review proposed FY 2009-10 Substantial Amendment 1 to expand and broaden the scope of the Moreno Valley Retail Business Incentive Program activity and allocate \$110,000 in CDBG funds from the FY 2009-10 Employment Resource Center (ERC) to the revised FY 2009-10 Moreno Valley New Business Incentive Program, then;
 - a) Conduct a Public Hearing to allow the public an opportunity to comment on the proposed 2009-10 Annual Action Plan Substantial Amendment #1;
 - b) Adopt the proposed Amendment #1; and
 - c) Authorize the transfer of \$110,000 from account #284.73939.6854 (Employment Resource Center) to 284.73939.6853 (newly expanded Moreno Valley New Business Incentive Program) account.
2. Review proposed Amendment to FY 2008-09 Substantial Amendment 1, NSP to reallocate \$2,701,788 CDBG (NSP) funds within the HUD-approved Neighborhood Stabilization Program (NSP) activities, then;
 - a) Conduct a Public Hearing to allow the public an opportunity to comment on the proposed substantial amendment to FY 2008-09 Annual Action Plan Amendment 1, NSP;

- b) Adopt the proposed substantial amendment to the NSP program;
- c) Authorize the transfer of \$2,701,788 from account #197.19710.6848.002 (NSP Homebuyer Assistance Program) with \$1,200,000 transferring to account # 197.19710.6848.001 (NSP Multi-family Residence Acquisition, Rehabilitation and Rental Program) and \$1,501,788 to account # 197.19710.6848.003 (NSP Single Family Residence Acquisition, Rehabilitation and Rental Program); and
- d) Authorize the City Manager to reallocate NSP funds between HUD-approved grant activities.

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

G. REPORTS

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

- a) Report by Mayor Pro Tem Robin N. Hastings on Western Riverside Council of Governments (WRCOG)

G.2 ANNUAL REPORT OF BOARDS AND COMMISSIONS (Informational Oral Presentation) (Report of: City Clerk's Department)

G.3 APPOINTMENT TO THE PARKS AND RECREATION COMMISSION (TEENAGE MEMBER) (Report of: City Clerk's Department)

Recommendation: That the City Council:

- 1. Appoint James Lucha to the Parks and Recreation Commission as a teenage member for a term expiring January 27, 2013, or until high school graduation, whichever comes first; or
- 2. If an appointment is not made, declare the position vacant and authorize the City Clerk to re-notice the position as vacant.

G.4 APPROVAL OF AGREEMENT FOR INVESTMENT MANAGEMENT AND ADVISORY SERVICES (Report of: Financial & Administrative Services Department)

Recommendation: That the City Council:

Approve the Agreement for Investment Management and Advisory Services with Chandler Asset Management and authorize the Mayor to sign the Agreement.

- G.5 RECOVERY ZONE BONDS - PLAN OF ISSUANCE (Report of: Economic Development Department)

Recommendation: That the City Council:

Consider adopting the Recovery Zone Bonds—Plan of Issuance and direct staff to submit it to the California Debt Limit Allocation Committee by January 31, 2010.

- G.6 AN ALLOCATION FROM RDA HOUSING SET-ASIDE FUND BALANCE FOR FISCAL YEAR 2009-2010 TO RE-IMPLEMENT AND FUND THE CITY'S HOMEBUYERS ASSISTANCE PROGRAM (Report of: Economic Development Department)

Recommendation: That the RDA

Authorize an allocation of \$300,000 from the RDA Housing Set-Aside Fund balance (Fund 894) to account # 894.91310.6812 for the re-implementation of the Redevelopment Agency's Homebuyer Assistance Program.

- *G.7 RANCHO BELAGO COMMUNITY SIGN PROGRAM (ORAL DISCUSSION) (Molina/Stewart)

- G.8 CITY MANAGER'S REPORT (Informational Oral Presentation - not for Council action)

H. LEGISLATIVE ACTIONS

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

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

H.3 ORDINANCES - URGENCY ORDINANCES - NONE

H.4 RESOLUTIONS - NONE

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

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

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

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

CLOSED SESSION

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

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

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

The Closed Session will be held pursuant to Government Code:

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

Number of Cases: 3

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

Number of Cases: 2

3 SECTION 54957 - PUBLIC EMPLOYEE APPOINTMENT/PUBLIC EMPLOYMENT

a) City Attorney Recruitment

b) City Manager Recruitment

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

ADJOURNMENT

* Revision to Agenda

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

**REGULAR MEETING – 6:30 PM
January 12, 2010**

CALL TO ORDER

Joint Meeting of the City Council of the City of Moreno Valley, Moreno Valley Community Services District, the Community Redevelopment Agency of the City of Moreno Valley and the Board of Library Trustees was called to order at 6:30 p.m. by Mayor Flickinger in the Council Chamber located at 14177 Frederick Street.

PLEDGE OF ALLEGIANCE – Pledge of Allegiance was led by Mayor Pro Tem Hastings

INVOCATION - Pastor Regina Napper, Beyond the Walls International Church

ROLL CALL

ROLL CALL

Council:

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

Staff:

Jane Halstead	City Clerk
Ewa Lopez	Deputy City Clerk
Steve Elam	Interim Fin. & Admin. Services Director
Robert Hansen	Interim City Attorney
William L. Bopf	Interim City Manager
John Anderson	Police Chief
Steve Curley	Fire Chief
Chris Vogt	Public Works Director/City Engineer
Kyle Kollar	Interim Community Development Director
Barry Foster	Economic Development Director
Chris Paxton	Human Resources Director
Mike McCarty	Parks & Community Services Director

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

Mayor Flickinger opened the agenda items for the Consent Calendars for public comments, which were received from Deanna Reeder (Item A4), and Pete Bleckert (Item A4).

A. CONSENT CALENDAR-CITY COUNCIL

A.1 ORDINANCES - READING BY TITLE ONLY

Recommendation: Waive reading of all Ordinances.

A.2 MINUTES - REGULAR MEETING OF DECEMBER 8, 2009 (Report of: City Clerk)

Recommendation:

Approve as submitted.

A.3 MINUTES - SPECIAL MEETING OF JANUARY 5, 2010 (Report of: City Clerk)

Recommendation:

Approve as submitted.

A.4 AGREEMENT FOR DESIGN PROFESSIONAL CONSULTANT SERVICES TO PROVIDE ARCHITECTURAL AND ENGINEERING SERVICES (A&E) FOR THE CORPORATE YARD PHASE I OFFICE BUILDING AND SEWER LINE - PROJECT NO. 05-41266522 (Report of: Public Works Department)

Recommendation:

1. Approve the "Agreement for Design Professional Consultant Services" with Pitassi Architects, Inc. (Pitassi), 8439 White Oak Avenue, Suite 105, Rancho Cucamonga, CA 91730, to provide architectural and engineering services (A&E) for the Corporate Yard Phase I office building and sewer line;
2. Authorize the City Manager to execute said "Agreement for Design Professional Consultant Services" with Pitassi;
3. Authorize the issuance of two Purchase Orders to Pitassi totaling \$340,105 (\$309,186 proposal plus 10% contingency) when the Agreement has been signed by all parties (\$276,158 from Account No. 412.66522 and \$63,947 from Account No. 754.71325); and

4. Authorize the Public Works Director/City Engineer to execute any subsequent related minor amendments to the Agreement with Pitassi up to, but not to exceed, the 10% contingency amount of \$30,919, subject to the approval of the City Attorney.

A.5 NOTICE OF COMPLETION AND ACCEPTANCE OF THE CONSTRUCTION FOR THE INDIAN 12KV TO GLOBE 12KV CIRCUIT TIE PROJECT, PROJECT NO. MVU-0004 (Report of: Public Works Department)

Recommendation:

1. Ratify Contract Change Order No. 1 (Final);
2. Accept the work as complete for the Indian 12kv to Globe 12kv Circuit Tie Project, Project No. MVU-0004, which was constructed by Richard Lopez Construction, Corona, California;
3. Direct the City Clerk to record the Notice of Completion within ten (10) days, at the office of the County Recorder of Riverside County, as required by Section 3093 of the California Civil Code; and
4. Authorize the Financial and Administrative Services Director to release the retention to Richard Lopez Construction, thirty-five (35) calendar days after the date of recordation of the Notice of Completion, if no claims are filed against the project.

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

Recommendation:

1. Accept the work as complete for 2009 Pavement Resurfacing Project (Phase II), constructed by All American Asphalt, PO Box 2229, Corona, CA 92878;
2. Direct the City Clerk to record the Notice of Completion within ten (10) calendar days at the office of the County Recorder of Riverside County, as required by Section 3093 of the California Civil Code;
3. Authorize the Financial and Administrative Services Director to release the retention to All American Asphalt, thirty-five (35) calendar days after the date of recordation of the Notice of Completion, if no claims are filed against the project; and
4. Accept the improvements into the City's maintained road system.

- A.7 RESOLUTION IMPLEMENTING NEW TRANSPORTATION UNIFORM MITIGATION FEE INCLUDING ONE-YEAR TEMPORARY TUMF REDUCTION (Report of: Public Works Department)

Recommendation:

Adopt Resolution No. 2010-01, a resolution of the City of Moreno Valley amending the Transportation Uniform Mitigation Fee (TUMF), applicable to all developments in the City of Moreno Valley, and implement a reduction in TUMF until December 31, 2010.

Resolution No. 2010-01

A Resolution of the City of Moreno Valley Amending the Transportation Uniform Mitigation Fee (TUMF) Applicable to all Developments in the City of Moreno Valley and Adopting a Temporary TUMF Reduction

- A.8 RECEIPT OF ENERGY EFFICIENCY & CONSERVATION BLOCK GRANT (EECBG) AWARD (Report of: Financial & Administrative Services Department)

Recommendation:

Receive the Energy Efficiency & Conservation Block Grant awarded to the City, in the amount of \$1,684,300.

- A.9 APPROVAL OF CHECK REGISTER FOR NOVEMBER, 2009 (Report of: Financial & Administrative Services Department)

Recommendation:

Adopt Resolution No. 2010-02, approving the Check Register for the month of November, 2009 in the amount of \$15,107,429.29.

Resolution No. 2010-02

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

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

Recommendation:

Receive and file the Reports on Reimbursable Activities for the period of December 2, 2009 – January 5, 2010.

- A.11 AUTHORIZATION TO APPROVE EXECUTIVE SEARCH CONTRACT

WITH ALLIANCE RESOURCE CONSULTING (Report of: Human Resources Department) *

Recommendation:

Authorize the Mayor to sign a contract with Alliance Resource Consulting to conduct a recruitment for the new City Manager for the City of Moreno Valley.

- A.12 ADOPT ORDINANCE NO. 806 APPROVING PA09-0029, AMENDING SECTION 9.17 OF TITLE 9 OF THE CITY OF MORENO VALLEY MUNICIPAL CODE (RECEIVED FIRST READING AND INTRODUCTION ON DECEMBER 8, 2009 ON A 5-0 VOTE) (Report of: Community Development Department)

Recommendation:

Adopt Ordinance No. 806 approving PA09-0029, amending section 9.17 of Title 9 of the City of Moreno Valley Municipal Code.

Ordinance No. 806

An Ordinance of the City Council of the City of Moreno Valley, California, Amending Title 9, Moreno Valley Municipal Code Regulations Regarding Landscape Requirements and Landscape Standards Including Water Efficiency Requirements and Monitoring of Water Usage

- A.13 ADOPTION OF ORDINANCE REGARDING THE TRANSPORTATION UNIFORM MITIGATION FEE PROGRAM AMENDMENT AND IMPLEMENTATION OF A ONE-YEAR TEMPORARY REDUCTION (RECEIVED FIRST READING AND INTRODUCTION ON DECEMBER 8, 2009 ON A 5-0- VOTE) (Report of: Public Works Department)

Recommendation:

Adopt the proposed Ordinance No. 807, repealing and re-enacting Chapter 3.44 of the City of Moreno Valley Municipal Code authorizing participation in the Western Riverside County Transportation Uniform Mitigation Fee program, allowing for a temporary reduction in TUMF.

Ordinance No. 807

An Ordinance of the City of Moreno Valley, California, Repealing and Re-enacting Chapter 3.44 of Title 3 of the City of Moreno Valley Municipal Code, Authorizing Participation in the Western Riverside County Transportation Uniform Mitigation Fee Program and Adopting a Temporary Fee Reduction

B. CONSENT CALENDAR-COMMUNITY SERVICES DISTRICT

B.1 ORDINANCES - READING BY TITLE ONLY

Recommendation: Waive reading of all Ordinances.

B.2 MINUTES - REGULAR MEETING OF DECEMBER 8, 2009 (Report of: City Clerk)

Recommendation:

Approve as submitted.

B.3 MINUTES - SPECIAL MEETING OF JANUARY 5, 2010 (Report of: City Clerk)

Recommendation:

Approve as submitted.

B.4 CERTIFICATION OF COMMUNITY FACILITIES DISTRICT NO. 1 ANNEXATION 2009-30 (Report of: Public Works Department)

Recommendation:

Acting in their capacity as President and Members of the Board of Directors of the Moreno Valley Community Services District and as the legislative body of Community Facilities District No. 1 approve and adopt Resolution No. CSD 2010-01; a Resolution of the Moreno Valley Community Services District of the City of Moreno Valley, California, certifying the results of an election and adding property to Community Facilities District No. 1 ("CFD No. 1" or "District") for Annexation No. 2009-30.

Resolution No. CSD 2010-01

A Resolution Of The Moreno Valley Community Services District Of The City Of Moreno Valley, California, Certifying The Result Of An Election And Adding Property To Community Facilities District No. 1

C. CONSENT CALENDAR - COMMUNITY REDEVELOPMENT AGENCY

C.1 ORDINANCES - READING BY TITLE ONLY

Recommendation: Waive reading of all Ordinances.

C.2 MINUTES - REGULAR MEETING OF DECEMBER 8, 2009 (Report of: City Clerk)

Recommendation:

Approve as submitted.

C.3 MINUTES - SPECIAL MEETING OF JANUARY 5, 2010 (Report of: City Clerk)

Recommendation:
Approve as submitted.

D. CONSENT CALENDAR - BOARD OF LIBRARY TRUSTEES

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

D.2 MINUTES - REGULAR MEETING OF DECEMBER 8, 2009 (Report of: City Clerk)

Recommendation:
Approve as submitted.

Motion to Approve Joint Consent Calendar Items A1–D2. Motion by m/Council Member Richard A. Stewart, s/Council Member William H. Batey II
Approved by a vote of 5-0.

E. PUBLIC HEARINGS

E.1 FY 2010-2011 CDBG AND HOME PROGRAM OBJECTIVES AND POLICIES (Report of: Economic Development Department)

Recommendation: That the City Council:

1. Conduct a public hearing to allow for public comment on the needs of low- to moderate- income residents in the community, including the CDBG Target Areas; and
2. Approve the proposed CDBG and HOME Program Objectives and Policies for the 2010-2011 Program Year.

Mayor Flickinger opened the public testimony portion of the public hearing. Public testimony was received from Deanna Reeder and Pete Bleckert.

Motion to Approve by m/Council Member Richard A. Stewart, s/Council Member William H. Batey II
Approved by a vote of 5-0.

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

None

G. REPORTS

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

a) Report by Council Member Richard A. Stewart on March Joint Powers Commission (MJPC)

Council Member Stewart reported the following:

- 1) The federal government has removed March Global Port from the debar list;
- 2) Was elected a chairman to the March Joint Powers Commission for the next year;
- 3) March healthcare project is moving forward - negotiations, drafting agreements, approving environmental and plans are in works; trying to accommodate the needs of different proponents for the March healthcare medical facility;
- 4) The City was served with a lawsuit on expansion of Fresh & Easy distribution warehouse; the expansion is designed to accommodate the opening of additional stores and bringing jobs;
- 5) Is planning a trip to Washington, D.C., to lobby for federal funding and support in relocating vets, the support of land swaps with V.A. cemetery, money for flood control and demolishing money

b) Report by Mayor Pro Tem Robin N. Hastings on Western Riverside Council of Governments (WRCOG)

Mayor Pro Tem Hastings reported the following:

- 1) WRCOG Executive Committee Technical Advisory Committee workshop will be held Friday, January 15 at the Conference and Recreation Center to discuss WRCOG's activities and accomplishments, to discuss and identify priorities and establish objectives for the upcoming year; invited anyone interested to participate;
- 2) Gave an update on AB 811 - it appears that we are going to be able to utilize bond financing and will have the financing to move forward with AB 811 retrofitting programs by spring; was contacted by many residents interested in retrofitting program

G.2 PUBLIC MEETING REGARDING A MAIL BALLOT PROCEEDING FOR CALIFORNIA DRUG CONSULTANT, INC. - APN 486-280-041 BALLOTING FOR NPDES AND CSD ZONE M (Report of: Public Works Department)

Recommendation: That the City Council:

1. Accept public comments regarding the mail ballot proceeding for

California Drug Consultant, Inc.—Assessor Parcel Number (APN) 486-280-041 for approval of the NPDES maximum commercial/industrial regulatory rate; and

2. Acting in their capacity as President and Members of the Board of Directors of the CSD (“CSD Board”) accept public comments regarding the mail ballot proceeding for California Drug Consultant, Inc.—APN 486-280-041 for inclusion into and approval of the annual charge for CSD Zone M (Commercial, Industrial, and Multifamily Improved Median Maintenance).

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

No action required.

G.3 NEIGHBORHOOD STABILIZATION PROGRAM UPDATE (Report of: Economic Development Department)

Recommendation: That the City Council:

Receive and file the update on the Neighborhood Stabilization Program.

Mayor Flickinger opened the agenda item for public comments, which were received from Pete Bleckert, Brice Kittle, Ayako Utsumi, and Davi Belmore.

No action required.

G.4 APPOINTMENT TO THE LIBRARY COMMISSION (Report of: City Clerk's Department)

Recommendation: That the City Council:

1. Appoint one member to the Library Commission with a term expiring June 30, 2011; or
2. If appointment is not made, declare the position vacant and authorize the City Clerk to re-notice the position as vacant.

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

Motion to Appoint Beverly A. Crockett by m/Council Member Jesse L. Molina, s/Mayor Pro Tem Robin N. Hastings
Approved by a vote of 5-0.

G.5 APPROVE PROPERTY CONVEYANCE AGREEMENT WITH MORENO VALLEY FESTIVAL, LTD. TO CONVEY A PORTION OF APN 481-020-024

TO THE CITY FOR LINE H FOR THE INDIAN DETENTION BASIN DRAINAGE IMPROVEMENTS, AND IRONWOOD AVENUE STREET IMPROVEMENTS FROM HEACOCK STREET TO NITA DRIVE - PROJECT NO. 09-89791726 (CONTINUED FROM DECEMBER 8, 2009 ON A 5-0 VOTE) (Report of: Public Works Department)

Recommendation: That the City Council:

1. Approve the "Property Conveyance Agreement" with Moreno Valley Festival, Ltd., for the right-of-way dedication along Ironwood Avenue necessary for the construction of storm drain Line H from Heacock Street to Indian Basin; and
2. Authorize the City Manager to execute the "Property Conveyance Agreement" and authorize the City Manager to approve any changes, subject to the approval of the City Attorney.

Mayor Flickinger opened the agenda item for public comments, which were received from Tom Miller and Pete Bleckert.

Motion to Approve by m/ Council Member William H. Batey II, s/Council Member Richard A. Stewart
Approved by a vote of 5-0.

- G.6 2010 COUNCIL COMMITTEE PARTICIPATION APPOINTMENTS (Report of: City Clerk's Department)

Mayor Flickinger opened the agenda item for public comments, which were received from Deanna Reeder and Raul Wilson.

Recommendation: That the City Council:

1. Appoint Council Member William H. Batey II to serve as the City of Moreno Valley's representative on the March Joint Powers Commission (MJPC); and

Motion to Approve by m/Council Member Richard A. Stewart, s/Mayor Pro Tem Robin L. Hastings
Approved by a vote of 5-0.

2. Appoint Council Member Richard A. Stewart to serve as the City of Moreno Valley's representative on the March Joint Powers Commission (MJPC); and

Motion to Approve by m/Council Member William H. Batey II, s/Mayor Pro Tem Robin L. Hastings
Approved by a vote of 5-0.

3. Appoint Mayor Pro Tem Robin N. Hastings to serve as the City of Moreno Valley's alternate representative on the March Joint Powers Commission (MJPC); and

Motion to Approve by m/Council Member Richard A. Stewart, s/Council Member William H. Batey II
Approved by a vote of 5-0.

4. Appoint Council Member William H. Batey II to serve as the City of Moreno Valley's representative on the Riverside County Habitat Conservation Agency (RCHCA); and

Motion to Approve by m/Mayor Pro Tem Robin L. Hastings, s/Council Member Richard A. Stewart
Approved by a vote of 5-0.

5. Appoint Mayor Pro Tem Robin N. Hastings to serve as the City of Moreno Valley's alternate representative on the Riverside County Habitat Conservation Agency (RCHCA); and

Motion to Approve by m/Council Member William H. Batey II, s/Council Member Richard A. Stewart
Approved by a vote of 5-0.

6. Appoint Mayor Bonnie Flickinger to serve as the City of Moreno Valley's representative on the Riverside County Transportation Commission (RCTC); and

Motion to Approve by m/Council Member William H. Batey II, s/Mayor Pro Tem Robin L. Hastings; Council Member Jesse L. Molina abstained
Approved by a vote of 4-0-1.

7. Appoint Council Member Jesse L. Molina to serve as the City of Moreno Valley's alternate representative on the Riverside County Transportation Commission (RCTC); and

Motion to Approve by m/Council Member William H. Batey II, s/Mayor Pro Tem Robin L. Hastings
Approved by a vote of 5-0.

8. Appoint Mayor Bonnie Flickinger to serve as the City of Moreno Valley's representative on the Riverside Transit Agency (RTA); and

Motion to Approve by m/Council Member Richard A. Stewart, s/William H. Batey II
Approved by a vote of 5-0.

9. Appoint Council Member Jesse L. Molina to serve as the City of Moreno Valley's alternate representative on the Riverside Transit Agency (RTA); and

Motion to Approve by m/Mayor Pro Tem Robin L. Hastings, s/Council Member Richard A. Stewart
Approved by a vote of 5-0.

10. Appoint Mayor Pro Tem Robin N. Hastings to serve as the City of Moreno Valley's representative on the Western Riverside Council of Governments (WRCOG); and

Motion to Approve by m/Council Member Richard A. Stewart, s/William H. Batey II
Approved by a vote of 5-0.

11. Appoint Council Member William H. Batey II to serve as the City of Moreno Valley's alternate representative on the Western Riverside Council of Governments (WRCOG); and

Motion to Approve by m/Mayor Pro Tem Robin L. Hastings, s/Council Member Richard A. Stewart
Approved by a vote of 5-0.

12. Appoint Council Member William H. Batey II to serve as the City of Moreno Valley's representative on the Western Riverside County Regional Conservation Authority (RCA); and

Motion to Approve by m/Council Member Richard A. Stewart, s/Mayor Pro Tem Robin L. Hastings
Approved by a vote of 5-0.

13. Appoint Mayor Bonnie Flickinger to serve as the City of Moreno Valley's alternate representative on the Western Riverside County Regional Conservation Authority (RCA);

Motion to Approve by m/Council Member William H. Batey II, s/Mayor Pro Tem Robin L. Hastings

Approved by a vote of 5-0.

14. Approve the appointments to the remaining various committees and regional bodies, as noted on the 2010 Council Committee Participation list.

Motion to Approve by m/Council Member William H. Batey II, s/Mayor Pro Tem Robin L. Hastings
Approved by a vote of 5-0.

G.7 CITY MANAGER'S REPORT (Informational Oral Presentation - not for Council action)

The Interim City Manager reported the following:

- 1) The quality of MVTV-3 broadcasting had been improved. The enhanced News Center broadcasts daily at 7 a.m., 10 a.m., 7 p.m. and 10 p.m.;
- 2) O'Reilly Automotive, a new company in Moreno Valley, will send its first shipment out on January 16. The company created nearly 400 new jobs, 80 percent of which are filled with Moreno Valley residents;
- 3) Burlington Coat Company was fast tracked by the staff to meet the December 31 deadline for tenant improvements. An opening of the new store is scheduled for late March or early April;
- 4) Moreno Valley received the Homelessness Prevention and Rapid Re-Housing federal grant allocation of about \$732,000 to assist people who have problems due to job loss, illness, disability and need help with utility payments and rental assistance;
- 5) The first quarter financial review has been completed - expects it to remain stable throughout the remainder of this fiscal year;
- 6) The Fire Department through the Spark of Love program provided toys and sports equipment to over 400 families with about 700 children;
- 7) The Animal Shelter placed 549 orphaned pets in homes through lams "Home 4 the Holidays" pet adoption program;
- 8) The Parks and Community Services received an approval from the Planning Commission for a new cell tower at JFK Park; the company will pay the City \$32,000 a year and \$1,200 a year for maintenance. The money will augment the Parks and Community Services budget.

H. LEGISLATIVE ACTIONS

- H.1 ORDINANCES - 1ST READING AND INTRODUCTION - NONE
- H.2 ORDINANCES - 2ND READING AND ADOPTION - NONE
- H.3 ORDINANCES - URGENCY ORDINANCES - NONE
- H.4 RESOLUTIONS - NONE

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

Alicia Espinoza

- 1) DUI checkpoints

Deanna Reeder

- 1) Developer fees spent on the Corporate Yard
- 2) Employment Resource Center at TownGate Center
- 3) Foreclosure Prevention Workshops

Jose Chavez

- 1) DUI checkpoints

Hadley Bajramovic, immigration attorney

- 1) DUI checkpoints

Raul Wilson

- 1) Employment Resource Center

Librada Murillo

- 1) DUI checkpoints

Francisco Cuevas

- 1) Soccer fields
- 2) Housing

Davi Belmore

- 1) Neighborhood Stabilization Program and Home Buyers Assistance Program

Pete Bleckert

- 1) City of Moreno Valley

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

Council Member Molina

- 1) Requested the DUI checkpoints guidelines; Chief Anderson responded that they are public records
- 2) Met with business owners regarding checkpoints; concerned with perception of people coming to the City; suggested a town hall meeting to further discuss this issue; would like to see more transparency; emphasized that everybody has to work together and address this problem

Council Member Stewart

- 1) Responded to speaker's comments regarding development fees - gave an overview of the process; it is a long process and involves work between different entities including the Council, staff, developers and Building Industry Association; fees need to be justified
- 2) Responded to speaker's comments regarding the Employment Resource Center - the Center was established to meet the demands of people looking for jobs, and it provides free services to assist unemployed; the building was donated by the landlord; the center is also utilized by businesses hiring employees; the measure of success is the availability of these services to unemployed residents
- 3) Regarding Spanish/English translation - in the State of California court system parties are required to pay for translation services
- 4) Explained that the Moreno Valley Court serves surrounding jurisdictions besides Moreno Valley and handles certain violations only
- 5) Addressed checkpoints - stated that if the checkpoints are not successful, the State would not award the City grants to do them; drivers without a driver license or insurance should not drive and should use other means of transportation; DUI checkpoints are to prevent deaths and injuries; stated that police officers are not acting as immigration officers; they enforce local laws and protect citizens

Mayor Pro Tem Hastings

- 1) Echoed Council Member Stewart's comments regarding drunk drivers; PD Chief is moving checkpoints all over the City, not concentrating in one area; has concerns with timing of the checkpoints
- 2) Thanked Pete Bleckert, Dustin Williams, Chris Vogt and Prem Kumar for a meeting with her regarding Ironwood project to have a better understanding of the issues; is concerned with kids going to school
- 3) New businesses, including Frazee Paint, Burlington Coat Company, O'Reilly, Moreno Valley Electric Car Company, are bringing jobs and projects to the City; commended staff for attracting businesses to the City
- 4) Attended a grand opening of the Perris Station Transit Center, which will provide low cost transportation to residents
- 5) Stated that the only way Moreno Valley will be able to compete for regional, state and federal grants is to become a part of a broader effort, involving other cities and entities and to get their support

Council Member Batey

- 1) Responded to speaker's comments regarding soccer fields - it is an ongoing process to increase the number of fields to meet residents' needs; it takes patience to get there; is still working on this issue
- 2) Talked to the City Manager about relaying to the contractors working on Sunnymead Blvd. that the crew needs to pick up diversion devices and open the lanes while no work is done, especially at Perris off ramp, to keep the traffic flowing better
- 3) Wished everybody a happy New Year

Mayor Flickinger

- 1) Another round of foreclosure prevention workshops to help residents struggling in this economy will start probably in March
- 2) Reminded everyone looking for a job that free services are offered at the Employment Resource Center located in TownGate Center
- 3) Last Saturday attended the Hometown Heroes Salute Recognition Program from the 163rd Reconnaissance Wing of the Air National Guards stationed at March; it was its first annual recognition for guardsmen who had been deployed for more than 30 consecutive days in support of peace keeping operations across the globe since September 11, 2001; it was a very heartwarming event

There being no further business to conduct, the meeting was adjourned at 9:30 p.m. to Closed Session by unanimous informal consent.

CLOSED SESSION

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

The Closed Session was held in the City Manager's Conference Room pursuant to Government Code:

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

Number of Cases: 3

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

Number of Cases: 2

- 3 SECTION 54957 - PUBLIC EMPLOYEE APPOINTMENT/PUBLIC EMPLOYMENT

a) City Manager Recruitment

b) City Attorney Recruitment

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

None

ADJOURNMENT

There being no further business to conduct, the meeting was adjourned at 9:45 p.m. by unanimous informal consent.

Submitted by:

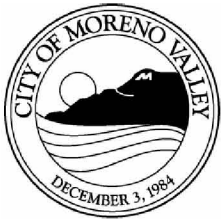
Jane Halstead, City Clerk, CMC
Secretary, Moreno Valley Community Services District
Secretary, Community Redevelopment Agency of the City of Moreno Valley
Secretary, Board of Library Trustees

Approved by:

Bonnie Flickinger
President, Moreno Valley Community Services District
Chairperson, Community Redevelopment Agency of the City of Moreno Valley
Chairperson, Board of Library Trustees

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APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>JMB</i>
CITY MANAGER	<i>WAB</i>

Report to City Council

TO: Mayor and City Council

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

AGENDA DATE: January 26, 2010

TITLE: TRACT MAP 31212 – REDUCE FAITHFUL PERFORMANCE BOND AND ADOPT THE RESOLUTION AUTHORIZING ACCEPTANCE OF THE PUBLIC IMPROVEMENTS AS COMPLETE AND ACCEPTING QUARTZ ROAD, JADE WAY, BALSAWOOD LANE, OPAL STREET, SESAME ROAD, LARKSPUR WAY, SAFFRON CIRCLE, DIAMOND LANE, EMERALD AVENUE, CARDAMOM WAY, SAPPHIRE WAY, AND THE PORTION OF COTTONWOOD AVENUE, MORRISON STREET, AND BAY AVENUE ASSOCIATED WITH THE PROJECT INTO THE CITY’S MAINTAINED STREET SYSTEM

DEVELOPER – WESTERN PACIFIC HOUSING, INC
2280 WARDLOW CIRCLE, SUITE 100
CORONA, CA 92880

RECOMMENDED ACTION

Staff recommends that the City Council:

1. Adopt Resolution No. 2010-03 authorizing the acceptance of the public improvements within Tract Map 31212 as complete and accepting Quartz Road, Jade Way, Balsawood Lane, Opal Street, Sesame Road, Larkspur Way, Saffron Circle, Diamond Lane, Emerald Avenue, Cardamom Way, Sapphire Way, and the portion of Cottonwood Avenue, Morrison Street, and Bay Avenue associated with the project into the City’s maintained street system.
2. Authorize the City Engineer to execute the 90% reduction to the Faithful Performance Bond, exonerate the Material and Labor Bond in 90 days if there are no stop notices or liens on file with the City Clerk, and exonerate the final 10% of the Faithful Performance Bond in one year when all clearances are received.

ADVISORY BOARD/COMMISSION RECOMMENDATION

Not applicable.

BACKGROUND

Tract Map 31212 is a 146-lot single family residential development at the southeast corner of Cottonwood Avenue and Morrison Avenue that was conditionally approved requiring construction of certain public improvements. The public improvements included asphalt paving, curb, gutter, sidewalk, driveway approaches, landscaping, street lights, traffic signal, storm drain, sewer, and water facilities. Those improvements received on-going inspection during the construction process. Upon completion of the improvements, Public Works/Land Development performed an inspection, and a punch list was generated. The required corrective actions have been completed, and the improvements are now eligible for acceptance into the City's maintained street system.

DISCUSSION

The completed improvements have received a final inspection, and the improvements were completed in accordance with the approved plans and the standards of the City of Moreno Valley. In accordance with the Streets and Highway Code, the method for acceptance of improvements, per Section 1806, (a), and (b), is by action of the governing body, by resolution. It is therefore appropriate to accept those improvements into the City's maintained street system and to provide a 90% reduction to the Faithful Performance Bond of \$6,064,000 issued by the Continental Insurance Company. Ninety days after City Council approves the Faithful Performance Bond reduction, the Material and Labor Bond will be exonerated by the City Engineer provided there are no stop notices or liens on file with the City Clerk. The remaining 10% of the bond will be held for the one-year guarantee and warranty period. At the end of the guarantee and warranty period the bond will be released by the City Engineer subject to completion of any defective work that may have appeared during this period.

ALTERNATIVES

1. Adopt the proposed Resolution authorizing the acceptance of the public improvements within Tract Map 31212 as complete and accepting Quartz Road, Jade Way, Balsawood Lane, Opal Street, Sesame Road, Larkspur Way, Saffron Circle, Diamond Lane, Emerald Avenue, Cardamom Way, Sapphire Way, and the portion of Cottonwood Avenue, Morrison Street, and Bay Avenue associated with the project into the City's maintained street system. Authorize the City Engineer to execute the 90% reduction to the Faithful Performance Bond, exonerate the Material and Labor Bond in 90 days if there are no stop notices or liens on file with the City Clerk, and exonerate the final 10% of the Faithful Performance Bond in one year when all clearances are received. *The required improvements have been completed according to City of Moreno Valley Standards and therefore should be included in the City's maintained street system.*

2. Do not adopt the proposed Resolution authorizing the acceptance of the public improvements within Tract Map 31212 as complete and accepting Quartz Road, Jade Way, Balsawood Lane, Opal Street, Sesame Road, Larkspur Way, Saffron Circle, Diamond Lane, Emerald Avenue, Cardamom Way, Sapphire Way, and the portion of Cottonwood Avenue, Morrison Street, and Bay Avenue associated with the project into the City's maintained street system. Do not authorize the City Engineer to execute the 90% reduction to the Faithful Performance Bond, exonerate the Material and Labor Bond in 90 days if there are no stop notices or liens on file with the City Clerk, and exonerate the final 10% of the Faithful Performance Bond in one year when all clearances are received. *The required improvements have been completed according to City of Moreno Valley Standards and therefore should be included in the City's maintained street system.*

FISCAL IMPACT

The acceptance of these street improvements into the City's maintained street system will create an additional fiscal impact to the street maintenance program of the City (Fund 121-Gas Tax, Fund 125-Measure "A", and Fund 152-NPDES. Fund 121 is restricted to the construction and maintenance of streets and roadways. Fund 125 is restricted for transportation projects only for the purposes of construction, maintenance and operation of streets and roadways. The County Service Area (CSA) levy collected from property owners support current NPDES Permit programs and reduce the level of General Fund support necessary to remain in compliance with unfunded federal mandates, as administered by the State. Funds collected from the CSA 152 annual levy are restricted for use only within the Storm Water Management program.)

CITY COUNCIL GOALS

Not applicable

NOTIFICATION

Publication of agenda

EXHIBITS

Exhibit "A" - Vicinity Map
Exhibit "B" - Proposed Resolution

Prepared By
Anitra N. Holt
Management Analyst

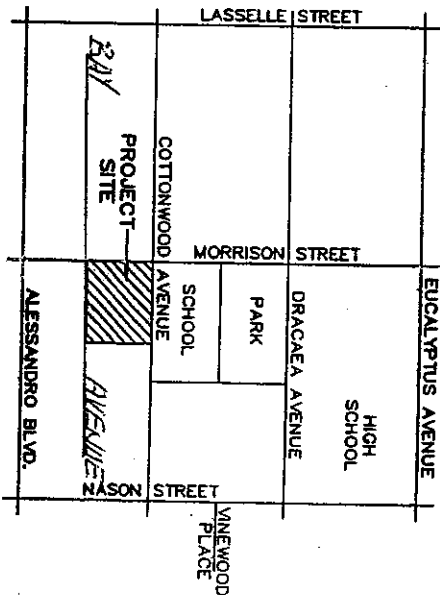
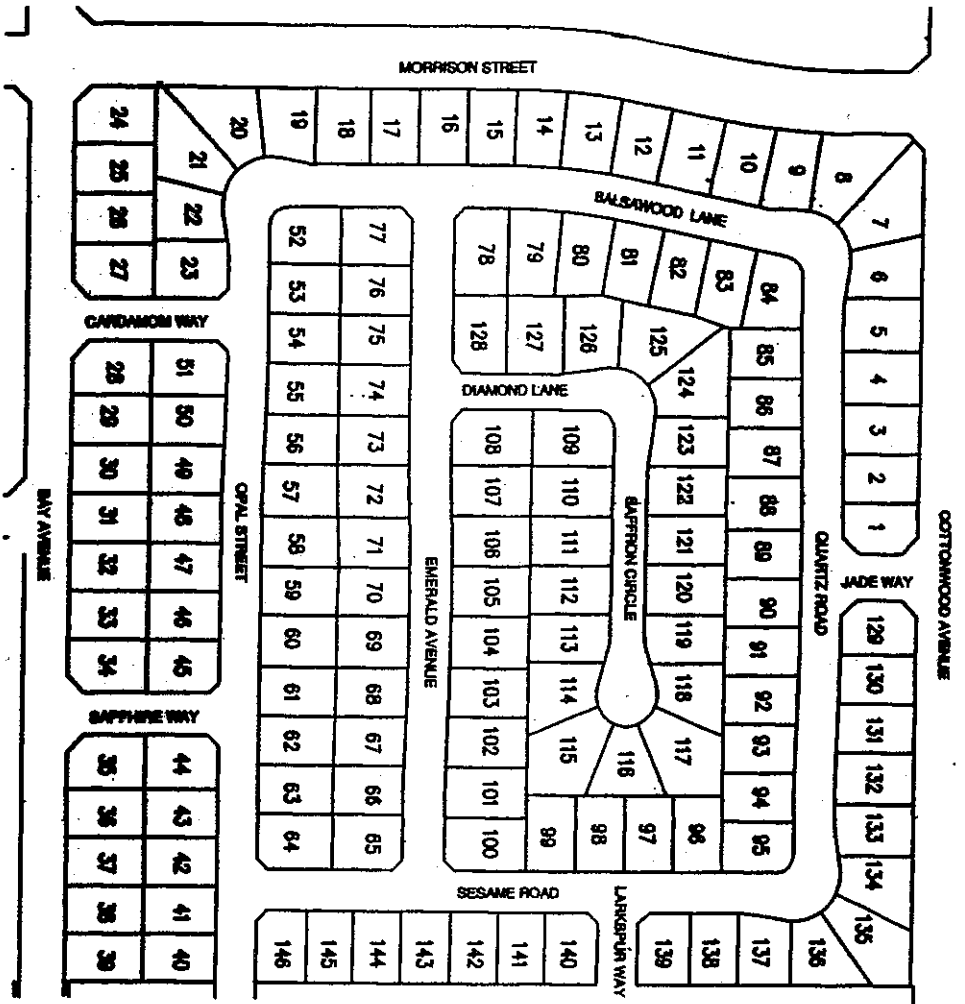
Department Head Approval
Chris A. Vogt, P.E.
Public Works Director/City Engineer

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

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

W:\LandDev\MANAGEMENT ASSISTANT\Staff Reports\2010\1-26-10 Tract 31212 - 90% Bond Reduction.doc

**CITY OF MORENO VALLEY
PUBLIC WORKS - LAND DEVELOPMENT**



TRACT 31212

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RESOLUTION NO. 2010-03

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, AUTHORIZING THE ACCEPTANCE OF THE PUBLIC IMPROVEMENTS AS COMPLETE WITHIN TRACT MAP 31212 AND ACCEPTING QUARTZ ROAD, JADE WAY, BALSAWOOD LANE, OPAL STREET, SESAME ROAD, LARKSPUR WAY, SAFFRON CIRCLE, DIAMOND LANE, EMERALD AVENUE, CARDAMOM WAY, SAPPHIRE WAY, AND THE PORTION OF COTTONWOOD AVENUE, MORRISON STREET, AND BAY AVENUE ASSOCIATED WITH THE PROJECT INTO THE CITY'S MAINTAINED STREET SYSTEM

WHEREAS, the City Engineer has determined that the public improvements constructed by Western Pacific Housing, Inc. on Quartz Road, Jade Way, Balsawood Lane, Opal Street, Sesame Road, Larkspur Way, Saffron Circle, Diamond Lane, Emerald Avenue, Cardamom Way, Sapphire Way, and the portion of Cottonwood Avenue, Morrison Street, and Bay Avenue associated with the project were constructed according to the approved plans on file with the City of Moreno Valley, and

WHEREAS, the City Engineer has determined that those improvements were inspected during construction and were completed in an acceptable manner, and

WHEREAS, the City Engineer has requested that the City Council authorize the acceptance of said public improvements as complete within Tract Map 31212, and accept Quartz Road, Jade Way, Balsawood Lane, Opal Street, Sesame Road, Larkspur Way, Saffron Circle, Diamond Lane, Emerald Avenue, Cardamom Way, Sapphire Way, and the portion of Cottonwood Avenue, Morrison Street, and Bay Avenue associated with the project into the City's maintained street system, and

WHEREAS, it is in accordance with Streets and Highway Code, Section 1806, (a) and (b), for City Council to perform this action by resolution,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Moreno Valley that the public improvements within Tract Map 31212 are complete, and Quartz Road, Jade Way, Balsawood Lane, Opal Street, Sesame Road, Larkspur Way, Saffron Circle, Diamond Lane, Emerald Avenue, Cardamom Way, Sapphire Way, and the portion of Cottonwood Avenue, Morrison Street, and Bay Avenue associated with the project are accepted into the City's maintained street system.

APPROVED AND ADOPTED this 26th day of January, 2010.

Mayor

ATTEST:

City Clerk

1
Exhibit B

Resolution No. 2010-_____
Date Adopted: January 26, 2010

APPROVED AS TO FORM:

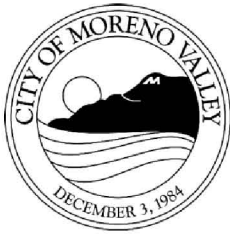
City Attorney

EXHIBIT "B"
RESOLUTION JURAT

[Clerk's office will prepare]

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

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

Report to City Council

TO: Mayor and City Council

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

AGENDA DATE: January 26, 2010

TITLE: AUTHORIZATION TO AWARD THE CONSTRUCTION CONTRACT FOR KITCHING STREET IMPROVEMENTS FROM CACTUS AVENUE TO ALESSANDRO BOULEVARD
PROJECT NO. 07-50182425

RECOMMENDED ACTION

Staff recommends that the City Council:

1. Award the construction contract for the Kitching Street Improvements from Cactus Avenue to Alessandro Boulevard to Hillcrest Contracting, the lowest responsible bidder.
2. Authorize the City Manager to execute a contract with Hillcrest Contracting in the form attached hereto.
3. Authorize the issuance of a Purchase Order to Hillcrest Contracting in the amount of \$2,014,820.42 (\$1,752,017.42 for the Base Bid, Additive Bid Alternatives A, B and C plus \$262,803.00 for the 15% contingency) when the contract has been signed by all parties.
4. Authorize the Public Works Director/City Engineer to execute any subsequent change orders to the contract with Hillcrest Contracting, up to but not to exceed the Purchase Order contingency of \$262,803.00, subject to the approval of the City Attorney.

BACKGROUND

Kitching Street is planned as a four-lane, minor arterial roadway. At the present time, a short segment of Kitching Street (south of Alessandro Boulevard) is missing.

Furthermore, only two lanes exist along Kitching Street between Cactus Avenue and Gentian Avenue. This street improvement project will widen Kitching Street from Gentian Avenue to Alessandro Boulevard.

On August 22, 2006, the City Council approved a list of projects to be funded using 2005 Lease Revenue Bond proceeds. The Kitching Street project was ranked second on the priority list. On January 8, 2008, the City Council awarded a contract to Proactive Engineering for design of the project. A Mitigated Negative Declaration was adopted by the Council on August 28, 2008.

On June 24, 2009, the Kitching Street project was approved as a part of the City Council approval of FY 09/10 CIP Budget as a three phase project. Two of the three phases were funded. Phase 1—utility relocation—is underway. Phase 2 would construct street improvements along Kitching Street from Cactus Avenue to Alessandro Boulevard. Phase 3 will complete the improvements along Kitching Street from Gentian Avenue to Cactus Avenue at a future time subject to the availability of funding.

DISCUSSION

This project completes construction of the missing segment of Kitching Street between Alessandro Boulevard and Brodiaea Avenue. Completion of this project will help reduce peak hour traffic congestion along adjoining and parallel Perris Boulevard and Lasselle Street.

This project constructs approximately 2,800 linear feet of ultimate width street improvements along Kitching Street to four lanes from Cactus Avenue to Alessandro Boulevard. Improvements also include widening of the bridge over Kitching flood control channel at Alessandro Boulevard, installation of a new traffic signal at the intersection of Kitching Street and Cactus Avenue and master planned storm drain improvements at Alessandro Boulevard.

To maximize available funding, three additive bid alternatives were included in the bid documents. These alternatives include: Street Lights (Bid Alt. A), a Traffic Signal Interconnect (Bid Alt. B) along Kitching Street between Cactus Avenue and Alessandro Boulevard, and Bridge Widening over Kitching Street flood control channel at John F. Kennedy Drive (Bid Alt. C).

The project was advertised for bids on November 11, 2009. Formal bidding procedures were followed in conformance with the Public Contract Code (PCC) and the City Clerk opened bids at 2:00 p.m., on December 17, 2009, for the subject project. Six (6) valid bids received are as follows:

	<u>CONTRACTORS</u>	<u>Bid Amount</u>
1.	Hillcrest Contracting	\$1,752,017.42
2.	All American Asphalt.....	\$1,831,997.70

3.	Riverside Construction Co.....	\$1,906,759.11
4.	Vance Corporation.....	\$1,932,103.50
5.	Laird Construction Co., Inc.....	\$1,987,798.00
6.	Elite Bobcat Services, Inc.....	\$2,205,000.00
	Engineer's Estimate.....	\$2,237,000.00

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

Southern California Edison (SCE), Sunesys and Time Warner are in the process of relocating their respective facilities for this project and are expected to complete their work by February 2010. Subsequently, construction work for this project is anticipated to begin in March 2010.

ALTERNATIVES

1. Award the construction contract for the Kitching Street Improvements from Cactus Avenue to Alessandro Boulevard to Hillcrest Contracting, the lowest responsible bidder; authorize the City Manager to execute a contract with Hillcrest Contracting in the form attached hereto; authorize the issuance of a Purchase Order to Hillcrest Contracting in the amount of \$2,014,820.42 (\$1,752,017.42 for the Base Bid, Additive Bid Alternatives A, B and C plus \$262,803.00 for the 15% contingency) when the contract has been signed by all parties; authorize the Public Works Director/City Engineer to execute any subsequent change orders to the contract with Hillcrest Contracting, up to but not to exceed the Purchase Order contingency of \$262,803.00, subject to the approval of the City Attorney. *This alternative will allow much needed improvements.*
2. Do not award the construction contract for the Kitching Street Improvements from Cactus Avenue to Alessandro Boulevard to Hillcrest Contracting, the lowest responsible bidder; so not authorize the City Manager to execute a contract with Hillcrest Contracting in the form attached hereto; do not authorize the issuance of a Purchase Order to Hillcrest Contracting in the amount of \$2,014,820.42 (\$1,752,017.42 for the Base Bid, Additive Bid Alternatives A, B and C plus \$262,803.00 for the 15% contingency) when the contract has been signed by all parties; do not authorize the Public Works Director/City Engineer to execute any subsequent change orders to the contract with Hillcrest Contracting, up to but not to exceed the Purchase Order contingency of \$262,803.00, subject to the approval of the City Attorney. *This alternative will delay the completion of much needed improvements.*

FISCAL IMPACT

This project is funded by Lease Revenue Bond funds (Fund 501) and City Development Impact Fees (DIF) for traffic signals (Fund 417). Sufficient funds are available to award all three of the Additive Bid Alternatives. Funding for this project is restricted to capital improvements for arterial street widening and new traffic signals that are in the DIF Program and cannot be utilized for operational activities. There is no impact to the General Fund.

AVAILABLE FUNDS:

Fiscal Year 2009/2010 Budget (Account No. 501.82425).....	\$3,201,000
Fiscal Year 2009/2010 Budget (Account No. 417.79125).....	\$ 22,000
Total Available Funds	\$3,223,000

ESTIMATED PROJECT COSTS:

Design, Environmental and ROW phases	\$800,000
Construction Costs (plus 15% contingency)	\$2,015,000
Construction Design Support Costs.....	\$ 40,000
Construction Geotechnical Costs	\$ 50,000
Construction Surveying Costs	\$ 50,000
Project Administration*	\$ 140,000
Miscellaneous.....	\$ 20,000
Total Estimated Construction Related Costs	\$3,115,000

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

ANTICIPATED PROJECT SCHEDULE:

Notice of Award	January 2010
Utility Relocation.....	December 2009 to February 2010
Start Construction.....	March 2010
Complete Construction	October 2010

CITY COUNCIL GOALS

PUBLIC SAFETY:

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

POSITIVE ENVIRONMENT:

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

PUBLIC FACILITIES AND CAPITAL PROJECTS:

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

SUMMARY

The proposed project constructs street improvements to widen Kitching Street from two to four lanes from Cactus Avenue to Alessandro Boulevard; widens the bridges at Alessandro Boulevard and John F. Kennedy Drive, and installs a new traffic signal at Cactus Avenue.

NOTIFICATION

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

ATTACHMENTS

Attachment "A" – Project Location Map

Attachment "B" – Agreement with Hillcrest Contracting

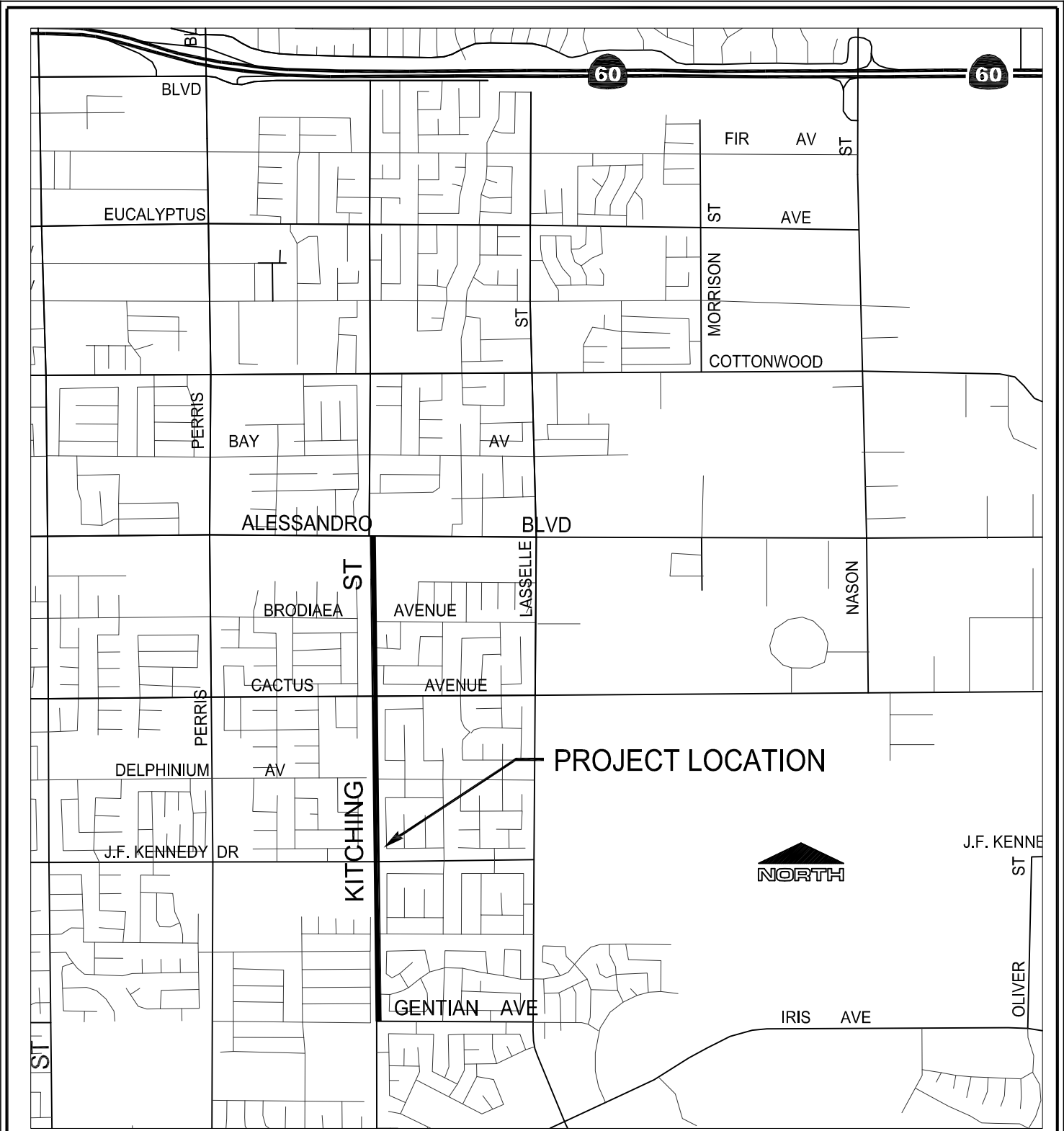
Prepared By:
 Viren Shah, P.E.
 Consultant Project Manager

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

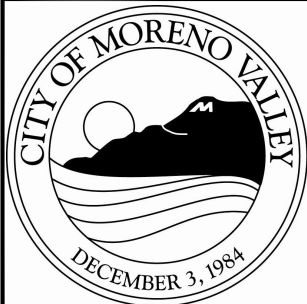
Concurred By:
 Prem Kumar, P.E.,
 Deputy Public Works Director/Assistant City Engineer

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

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LOCATION MAP



Public Works Department
Capital Projects Division

Scale: None

ATTACHMENT "A"

**KITCHING STREET
FROM GENTIAN AVE TO ALESSANDRO BLVD
PROJECT NO. 07-50182425**

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AGREEMENT

PROJECT NO. 07-50182425

**KITCHING STREET IMPROVEMENTS
Cactus Avenue to Alessandro Boulevard**

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

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

1. The written Agreement includes all of the following:
 - a. Any and all Contract Change Orders issued after execution of this Agreement
 - b. Addenda Nos. 0 inclusive, issued prior to the opening of the Bids
 - c. The bound Bid Documents
 - d. The Special Provisions which include the General Provisions and Technical Provisions, all of which are parts of this Agreement
 - e. The project Plans
 - f. The Standard Plans
 - g. The Standard Specifications
 - h. Reference Specifications, all of which are essential parts of this Agreement
 - i. The Bidder's Proposal which includes the Bidder's Bond and Noncollusion Affidavit

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

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

3. The City will pay the Contractor and the Contractor agrees to receive and accept the prices set forth in the Bid Schedule as full compensation for the work required under the bid items awarded by the City, to wit, the Base Bid Item(s) and Additive Bid Item(s) in the sum total amount of **\$1,752,017.42**, subject to additions or reductions of the quantities of the various bid items at the unit prices bid, for furnishing all materials and for doing all the work contemplated and embraced under this Contract Agreement; for all loss or damages arising out of the nature of the work aforesaid, or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work, until the work is accepted by the City Council; for all expenses incurred by or in consequence of the suspension or discontinuance of work; and for well and faithfully completing the work, the whole thereof, in the manner and in accordance with the Bid Documents therefore and the requirements of the Engineer under them.

4. The Contractor hereby agrees to order materials pursuant to this Contract within 7 calendar days after the date of authorization specified in the "Notice to Proceed with Order of Materials." The Contractor hereby agrees to commence work pursuant to this Contract within 15 calendar days after the date of authorization specified in the "Notice to Proceed with Construction." The Contractor agrees to diligently prosecute the contracted work, including corrective items of work, day to day thereafter, to completion within **one hundred (100) working days** after said date in the "Notice to Proceed with Construction," except as adjusted by subsequent Contract Change Order(s).

5. The City and Contractor hereby agree that in case all ordering of materials and construction called for under the Contract is not completed within the time hereinabove specified, including City caused delays

ATTACHMENT "B"

**AGREEMENT
PROJECT NO. 07-50182425**

or extensions, damages will be sustained by the City and that, it is and will be impracticable or extremely difficult to ascertain and determine the actual amount of damages the City will sustain in the event of, and by reason of, such delay.

It is, therefore, agreed that such damages shall be presumed to be in the amount of \$800.00 per calendar day, and that the Contractor will pay to the City, or City may retain from amounts otherwise payable to Contractor, said amount for each calendar day by which the Contractor fails to complete the work, including corrective items of work, under this Contract Agreement within the time hereinabove specified and as adjusted by Contract Change Order(s). The Contractor will not be assessed liquidated damages for delay(s) occasioned by the failure of the City or of the owner of a utility to provide for the removal or relocation of utility facilities.

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

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

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

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

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

All liability insurance policies shall bear an endorsement or shall have an attached rider which provides that the City of Moreno Valley will be notified by certified or registered mail at least 30 days prior to the effective

**AGREEMENT
PROJECT NO. 07-50182425**

date of cancellation, non-renewal, or material alteration of such policy.

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

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

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

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

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

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

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

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

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

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

9. The Contractor and any agents or subcontractors of the Contractor shall pay the prevailing rates of per diem wages established by the California Department of Industrial Relations. The Contractor and any agents or subcontractors of the Contractor shall also adhere to the California Labor Code, Division 2, Part 7,

**AGREEMENT
PROJECT NO. 07-50182425**

"Public Works and Public Agencies," and the California Administrative Code, Title 8, Group 3, "Payment of Prevailing Wages upon Public Works," all of which are made a part of the Contract documents.

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

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

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

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

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

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

**AGREEMENT
PROJECT NO. 07-50182425**

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

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

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

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

(SIGNATURE PAGE FOLLOWS)

**AGREEMENT
PROJECT NO. 07-50182425**

CITY OF MORENO VALLEY,
Municipal Corporation

Hillcrest Contracting

BY: _____
City Manager

License No./
Classification: _____

Expiration Date: _____

DATE: _____

Federal I.D. No.: _____

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

City Attorney	

Date	
RECOMMENDED FOR APPROVAL:	

Department Head <i>(if contract exceeds \$15,000)</i>	

Date	

PRINT NAME: _____

SIGNATURE: _____

TITLE: _____

DATE: _____

Date

PRINT NAME: _____

SIGNATURE: _____

TITLE: _____

DATE: _____

Date

SIGNING INSTRUCTION TO THE CONTRACTOR:

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

General Partners must sign on behalf of the partnership.

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

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of _____

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

personally appeared _____,

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

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

WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

AGREEMENT SIGNATURE PAGE

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____

Document Date _____

Additional Information

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- Print the name(s) of document signer(s) who personally appear at the time of notarization.
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 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document.

BOND NO. _____

PREMIUM \$ _____

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

PROJECT NO. 07-50182425

**KITCHING STREET IMPROVEMENTS
Cactus Avenue to Alessandro Boulevard**

KNOW ALL MEN AND WOMEN BY THESE PRESENTS:

THAT WHEREAS, the City Council of the City of Moreno Valley, State of California, known as "City," has awarded to _____, as Principal hereinafter designated as "Contractor" and have entered into an Agreement whereby the Contractor agrees to construct or install and complete certain designated public improvements, which said Agreement, effective on the date signed by the City Manager/Mayor, and identified as **Project No. 07-50182425**, is hereby referred to and made a part hereof; and

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

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

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

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

(SIGNATURE PAGE FOLLOWS)

**FAITHFUL PERFORMANCE BOND
PROJECT NO. 07-50182425**

BOND NO. _____

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

CONTRACTOR (Principal)

SURETY

Contractor Name: _____

Name: _____

Address: _____

Address: _____

Telephone No.: _____

Telephone No.: _____

Print Name: _____

Print Name: _____
Attorney-in-Fact

Signature: _____

Signature: _____

Approved as to Form this

_____ day of _____ 20 _____

City Attorney
City of Moreno Valley

NOTE:

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

Corporate Seal maybe affixed hereto.

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of _____

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

personally appeared _____

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

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

WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)

ADDITIONAL OPTIONAL INFORMATION

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(Title or description of attached document continued)

Number of Pages _____

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Additional Information

CAPACITY CLAIMED BY THE SIGNER

- Individual(s)
 Corporate Officer

(Title)

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

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- Securely attach this document to the signed document.

BOND NO. _____

PREMIUM \$ _____

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

PROJECT NO. 07-50182425

**KITCHING STREET IMPROVEMENTS
Cactus Avenue to Alessandro Boulevard**

KNOW ALL MEN AND WOMEN BY THESE PRESENTS

THAT WHEREAS, the City Council of the City of Moreno Valley, State of California, known as "City", has awarded to _____, as Principal hereinafter designated as "Contractor" and have entered into an Agreement whereby the Contractor agrees to construct or install and complete certain designated public improvements, which said Agreement, effective on the date signed by the City Manager/Mayor, and identified as **Project No. 07-50182425**, is hereby referred to and made a part hereof; and

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

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

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

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

(SIGNATURE PAGE FOLLOWS)

**LABOR AND MATERIALS PAYMENT BOND
PROJECT NO. 07-50182425**

BOND NO. _____

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

CONTRACTOR (Principal)

SURETY

Contractor Name: _____

Name: _____

Address: _____

Address: _____

Telephone No.: _____

Telephone No.: _____

Print Name: _____

Print Name: _____
Attorney-in-Fact

Signature: _____

Signature: _____

Approved as to Form this

_____ day of _____ 20_____

City Attorney
City of Moreno Valley

NOTE:

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

Corporate Seal maybe affixed hereto

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State of California

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

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

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

WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)

ADDITIONAL OPTIONAL INFORMATION

INSTRUCTIONS FOR COMPLETING THIS FORM

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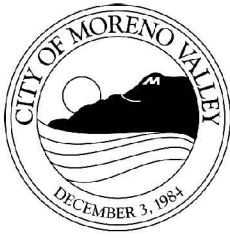
CAPACITY CLAIMED BY THE SIGNER

- Individual(s)
- Corporate Officer

(Title)

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

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

Report to City Council

TO: Mayor and City Council

FROM: Rick Hartmann, Interim Assistant City Manager

AGENDA DATE: January 26, 2010

TITLE: Updated State and Federal Legislative Advocacy Priorities for 2010

RECOMMENDED ACTION

Staff recommends that the City Council review and adopt the proposed State and Federal Legislative Advocacy Priorities for 2010.

BACKGROUND

City Administrative Policy #1.10 establishes the City's State and Federal Legislative Advocacy Priorities. This policy is evaluated annually and updated to reflect changes in the issues and priorities of the City. Upon approval by the City Council every year, the policy provides direction to Staff in advocating the City's interests to State and Federal representatives.

DISCUSSION

This policy serves to affirm the roles of the City Council and City Staff related to legislative advocacy and confirm the City Council's desire to keep the legislative priorities current and relevant to the needs of the community. The policy includes two sections: Section I. Legislative Priorities and Section II. Standing Council Policies:

Legislative Priorities: This section identifies the legislative issues that are most important to the City. Not included as a specific item, but certainly of particular importance to the City this year, will be the League of California Cities' ballot initiative to protect local government, transit, and transportation funds.

Standing Council Policies: This Section identifies general policy statements to guide and direct officials in advocating Moreno Valley's position on legislation. Each City

Department has reviewed their respective areas of concern and no revisions to this section have been made for 2010.

FISCAL IMPACT

None.

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.

ATTACHMENTS/EXHIBITS

City Policy #1.10 -- State / Federal Legislative Advocacy Priorities

Prepared By:
Michelle Dawson
Assistant to the City Manager

Department Head Approval:
Rick Hartmann
Interim Assistant City Manager

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

STATE / FEDERAL LEGISLATIVE ADVOCACY PRIORITIES

PURPOSE: The purpose of this policy is to establish and memorialize City Council policies regarding state and Federal legislation. Adoption of this policy provides guidance to City officials involved in advocating City interests to the state and federal governments.

POLICY:

I. Annual Adoption. It is the policy of the City Council to review and adopt annually an updated state/federal Legislative Advocacy Priorities, which identifies State and Federal Legislative Priorities and Standing Council Policies for each fiscal year.

II. Legislative Priorities. The City Council adopts Legislative Priorities for each calendar year. This provides City officials with guidance as to the most important issues to be addressed. It is expected that these priorities will be most intensely lobbied. They are:

- **Oppose** any shifts of cities' local revenues, including Redevelopment funds, to the state.
- **Support** legislation that would improve the monitoring and tracking of sex offenders.
- **Support** legislation that strengthens state truancy laws.
- **Oppose** any legislation by federal agencies that would preempt state/local regulatory authority over telecommunications (such as but not limited to Voice Over Internet Protocol or VoIP), including taxing, franchising and revenue collection.
- **Support** legislation that increases the penalties for traffic violations in school zones.
- **Support** the City's federal funding requests for the 2010 federal fiscal year, including the annual priority projects submitted to our Congressional representatives.

III. Standing Council Policies. The City Council has adopted the following Standing Council Policies. These statements provide policy guidance to City officials in advocating the City position on legislation, precluding the need for Council to take a position on each and every bill or legislation that is presented. The policy statements expressed herein are statements of existing Council policy. They are stated in general terms (to the extent feasible) so they can be applied broadly to the many forms that legislative issues may take. It is expected that all City officials will support the adopted policies when acting on behalf of the City. If contrary positions are expressed, it shall also be stated that the contrary position is solely the opinion of the individual and does not reflect the policy of the City Council.

A. City Manager's Office

- **Support** federal legislation that would appropriate necessary funding to purchase additional C-17's for March ARB, and the addition of necessary flight crews.

Approved by: City Council
2/14/95

Revised 2/24/98; 1/5/99; 1/11/00; 2/13/01; 1/22/02; 1/14/03; 2/10/04; 1/11/05; 1/10/06; 2/26/08; 1/27/09; 1/26/10

STATE / FEDERAL LEGISLATIVE ADVOCACY PRIORITIES

- **Support** federal legislation that would increase the joint services use of March ARB / **Oppose** legislation that would reduce the joint services use of MARB or eliminate the base entirely.
- **Support** legislation that strengthens Home Rule.
- **Oppose** legislation that preempts local authority.
- **Support** full or increased funding for the Public Library Foundation.
- **Support** continued ability of cities to receive compensation for the use of public-rights-of-way.
- **Support** the importance of local discretion in the management and use-access to local right-of-way.
- **Support** cities' retention of franchise control over cable video services / **Oppose** allowing telephone companies to provide video services without franchises.
- **Support** efforts to simplify the collection of sales taxes nationwide and provide an equitable method for collecting sales taxes for Internet and catalog sales.
- **Support** full funding of mandates; render mandates invalid if not fully funded / **Oppose** the addition of state and federal mandates that are unfunded.
- **Support** efforts to reduce the administrative process and costs of dealing with disciplinary actions / **Track** any expansion of Peace Officer Bill of Rights and the expansion of due process rights of employees.
- **Support** application of Brown Act to the state legislature to the same extent that it applies to local government.
- **Oppose** state legislation mandating binding arbitration.
- **Support** streamlining of duplicative public noticing requirements / **Oppose** additional noticing requirements.
- **Oppose** any actions to mandate Social Security for new employees.
- **Oppose** social security reductions for employees who also receive public sector retirement.

B. Finance and Administrative Services

- **Support** efforts to include local government in the determination of the use of telephone/data/video technology in local communities.

Approved by: City Council
2/14/95

Revised 2/24/98; 1/5/99; 1/11/00; 2/13/01; 1/22/02; 1/14/03; 2/10/04; 1/11/05; 1/10/06; 2/26/08; 1/27/09; 1/26/10

STATE / FEDERAL LEGISLATIVE ADVOCACY PRIORITIES

- **Oppose** extension of taxes or surcharges exclusive to Internet usage / **Oppose** impediment to Internet access, such as allowing telephone companies to impose per minute charges.
- **Oppose** efforts to exempt Internet telephonic services from local taxes and fees applicable to other telephonic services / **Support** legislation that preserves local authority to regulate Voice Over Internet Protocol (VoIP) services and collect any applicable revenues.
- **Support** workers compensation reform to lower the exposure of employers to questionable claims, especially stress claims.
- **Support** reform to liability statutes to reduce City exposure to "deep pockets" claims / **Oppose** expansion of liability.
- **Support** efforts that protect and preserve animal welfare.
- **Oppose** efforts to mandate specific enforcement or regulatory requirements on Animal Services agencies.
- **Support** legislation that will ensure that local sales taxes are maintained in their communities of origin, specifically in regards to cement processing plants / **Oppose** legislation that will further erode the collection of sales taxes where there is known impact.
- **Support** efforts to simplify the collection of sales taxes nationwide and provide an equitable method for collecting sales taxes for Internet and catalog sales.
- **Support** legislation that will provide the City with equitable compensation for revenues lost due to the County Auditor's miscalculation of property taxes.
- **Support** legislation that will restore City revenues lost through state actions; reorganize statewide city financing to achieve equity among cities and provide a broad tax base for cities.
- **Support** initiatives aimed at broadening sales taxes to include products AND services, while lowering the overall sales tax rate.
- **Oppose** any further reduction to existing City revenues allocated through the state that are unaccompanied with neither equal relief of mandates nor equalizing supplementation with other revenues.
- **Support** reform of local government finance that provides more equity to cities with regard to tax allocations / **Oppose** reform that will result in an overall reduction of state tax revenues to the City.
- **Support** full disclosure of the future costs of state bond issues.

Approved by: City Council
2/14/95

Revised 2/24/98; 1/5/99; 1/11/00; 2/13/01; 1/22/02; 1/14/03; 2/10/04; 1/11/05; 1/10/06; 2/26/08; 1/27/09; 1/26/10

STATE / FEDERAL LEGISLATIVE ADVOCACY PRIORITIES

- **Support** concept of "block grant" vs. categorical grants in order to reduce administrative costs.
- **Oppose** mandates for cities to pay fees for county services different than what is paid by county residents for such services (e.g., booking fees, property tax administrative fees).
- **Support** legislation that requires the Legislature to pass the state budget by June 30.
- **Support** efforts to eliminate booking fees and charges for processing prisoners.

B. Community Services District (CSD)

- **Support** legislation that will clarify the implementation of Proposition 218 and protect existing City revenues.
- **Oppose** state budget reductions that will reduce CSD revenues.

C. Community and Economic Development

- **Oppose** any legislation that would permit the state zoning or other land use controls in municipalities.
- **Support** efforts to establish local control over placement of group homes within the City and require the state to disclose to cities the categories of placements that include sex offenders who would be placed in the homes. Work with WRCOG and surrounding cities to develop and pass legislation to address issue.
- **Support** reform of the Endangered Species Act (Act) to include the following elements: 1) Act requirements are mandates that should be fully funded by the legislative body that imposes them; 2) All economic impacts of the Act should be considered before revising and/or amending the Act; 3) Mitigation required by the Act should be incentive-based and, 4) Preservation of habitats that support multiple species, as opposed to single specie habitats.
- **Oppose** efforts to diminish local control over the siting of cellular communication facilities.
- **Oppose** increased restrictions of local control of land use and development decisions.
- **Support** reform measures for housing law that: 1) streamlines state approval of housing elements, 2) maintains local control over land use decisions, 3) sets reasonable minimum performance standards for all local governments (as opposed to dictating how to meet state-set objectives) / **Oppose** reforms that: 1) usurp local land use control, 2) increase state restrictions.
- **Oppose** efforts to delegate authority to any entity other than the court system to repeal or supplant local land use decisions.
- **Support** a revision of the state Statute clarifying and streamlining the Regional Housing Needs

Approved by: City Council
2/14/95

Revised 2/24/98; 1/5/99; 1/11/00; 2/13/01; 1/22/02; 1/14/03; 2/10/04; 1/11/05; 1/10/06; 2/26/08; 1/27/09; 1/26/10

STATE / FEDERAL LEGISLATIVE ADVOCACY PRIORITIES

Assessment process / **Oppose** legislation that will facilitate imposition of arbitrary punitive damages.

- **Support** redevelopment reform that maintains intact the ability of cities to form redevelopment agencies and fund redevelopment priorities / **Support** reduction of housing set aside requirement / **Oppose** additional mandates or restrictions on use of redevelopment funds / **Oppose** proposals to shift local redevelopment funding for balancing the state budget, or for other purposes unrelated to community redevelopment.
- **Support** measures that clarify and streamline the California Environmental Quality Act (CEQA) to reduce the time and cost of compliance while ensuring that the environment is adequately protected.
- **Support** meaningful city representation and input on state and regional boards dealing with environmental regulations and housing needs.
- **Support** legislation that would allow local governments to impound shopping carts found outside of the shopping area and recover all related costs for removal and storage / **Support** legislation that would reduce the number of days that a city must hold a cart.
- **Support** legislation that maintains local control over graffiti removal.
- **Support** initiatives to increase current funding, or create new funding, for job training and other workforce development programs.
- **Support** legislation to rescind the decision of the state Building Standards Commission to adopt NFPA 5000 as the standard governing construction regulation in California.

D. Public Safety

- **Support** legislation that increases the distance that registered sex offenders can reside by schools.
- **Support** legislation that prohibits any sex offender from residing with a child who was a victim of the sex offender.
- **Oppose** any legislation imposing fines and penalties versus corrective action notices for safety violations.
- **Support** legislation that increases penalties for traffic violations in school zones.
- **Support** amendment to Emergency Medical Services (EMS) legislation that will provide cities with more authority in determining EMS, and allow for competitive bidding.

Approved by: City Council
2/14/95

Revised 2/24/98; 1/5/99; 1/11/00; 2/13/01; 1/22/02; 1/14/03; 2/10/04; 1/11/05; 1/10/06; 2/26/08; 1/27/09; 1/26/10

STATE / FEDERAL LEGISLATIVE ADVOCACY PRIORITIES

- **Oppose** measures that would establish minimum expenditures for public safety services.
- **Oppose** measures to limit local discretion on false alarm ordinances.
- **Support** measures that would establish tougher penalties for graffiti vandals and strengthen cities ability to be compensated for damages.
- **Support** legislation to establish tougher penalties for unqualified drivers who park in spaces reserved for the handicapped.
- **Support** legislation that increases public safety through educational initiatives.
- **Support** legislation that increases public safety through unrestricted state and federal grants.

E. Parks and Community Services

- **Support** legislation to provide funding for childcare for pre-school and school-age children, including after-school programming.
- **Support** legislation that would provide funding for recreation and youth programs.

F. Public Works/Enterprise Services

- **Support** the Mid-County transportation corridor.
- **Support** legislation that establishes and preserves the role of cities in energy decisions for municipal utilities, including activities relating to electricity generation, supply, demand and conservation / **Oppose** legislation that preempts the authority and self-regulatory principles of municipal utilities.
- **Support** legislation that provides state and federal funds for transportation.
- **Oppose** waste management requirements that would put local jurisdictions at risk of not meeting their AB 939 requirements, or create excessive costs absent funding.
- **Oppose** legislation that would allow Transportation Development Act (TDA) funds to be diverted to county general funds.
- **Support** privatization of CalTrans projects to allow quicker construction of priority projects.
- **Support** continuation of Gas Tax funding for local projects / **Support** permanent removal of "maintenance of effort" requirements when funding is reduced in any way.

Approved by: City Council
2/14/95

Revised 2/24/98; 1/5/99; 1/11/00; 2/13/01; 1/22/02; 1/14/03; 2/10/04; 1/11/05; 1/10/06; 2/26/08; 1/27/09; 1/26/10

STATE / FEDERAL LEGISLATIVE ADVOCACY PRIORITIES

- **Support** voter-approved measures to provide resources for the state, which will allow the state to maintain and expand the statewide transportation system.
- **Oppose** legislation that would limit the City's ability to hold contractors accountable for their work product, such as retention from progress payments / **Support** legislation that would make more reasonable the debarment (the act of precluding from having or doing something; exclusion or hindrance) process and protect cities from non-performing and unethical contractors.
- **Support** legislation that allows cities to select other than the low bidder for public works projects.
- **Oppose** the imposition of exit fees upon municipal utilities serving greenfield areas.

IV. City Council Role

It is the role of the City Council to:

- A. Establish the City's formal position on legislation of interest and importance to the City.
- B. Personally lobby members of the state and Federal government through letters and personal contacts. Council members may on occasion testify before state and federal legislative bodies.
- C. Participate as active members of the League of California Cities representing the City and help to formulate state and Federal legislation.
- D. Participate as active members of regional bodies involved with state agencies, including SCAG, WRCOG, and others representing the City and help formulate policies.
- E. Formulate legislation to address areas of concern.
- F. Establish goals and objectives on an annual basis for the City.

V. Legislative Program. The City Manager shall implement a Legislative Program that will track and advocate City positions on priority legislation.

- A. Coordination by City Manager's Office. The Legislative Program is coordinated by the City Manager's Office. The City Manager's Office is responsible for tracking legislation and advocating City positions on priority legislation.
- B. Departmental Assistance. All City departments are responsible for monitoring legislation that falls within their respective jurisdiction. They are also responsible for providing information about the impact of legislation. They assist the City Manager's Office as needed to advocate City positions. Departments are to inform the City Manager's Office about any lobbying efforts they propose to undertake.
- C. Advocacy. The City Manager's Office, with the assistance of other departments, will coordinate the advocacy and lobbying efforts of the City. In general, for most legislation, letters will be sent at the time a bill is to be considered by a committee or legislative body. For higher priority legislation, personal contacts may be made and the City contract lobbyist may be directed to lobby on the City's

Approved by: City Council
2/14/95

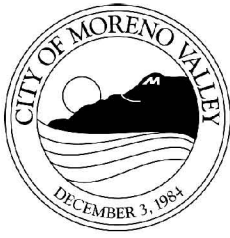
Revised 2/24/98; 1/5/99; 1/11/00; 2/13/01; 1/22/02; 1/14/03; 2/10/04; 1/11/05; 1/10/06; 2/26/08; 1/27/09; 1/26/10

STATE / FEDERAL LEGISLATIVE ADVOCACY PRIORITIES

behalf.

Approved by: City Council
2/14/95

Revised 2/24/98; 1/5/99; 1/11/00; 2/13/01; 1/22/02; 1/14/03; 2/10/04; 1/11/05; 1/10/06; 2/26/08; 1/27/09; 1/26/10



APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>SW</i>
CITY MANAGER	<i>WCB</i>

Report to City Council

TO: Mayor and City Council

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

AGENDA DATE: January 26, 2010

TITLE: LICENSE AGREEMENT FOR JOINT USE OF SOUTHERN CALIFORNIA EDISON STREETLIGHT POLES

RECOMMENDED ACTION

Staff recommends that the City Council review, approve and authorize the Mayor to sign the License Agreement between the City of Moreno Valley and Southern California Edison (SCE) to permit the City to install non-electrified traffic regulating signs, American flags, Neighborhood Watch signs and other City sponsored event banners and related appurtenances (collectively the "Attachments") on SCE owned streetlight poles.

ADVISORY BOARD/COMMISSION RECOMMENDATION

N/A

BACKGROUND

SCE owns approximately 10,000 streetlight poles throughout the City. It has been expressed that there is interest in utilizing the streetlight poles to install Attachments along various streets throughout the City.

In the past, the City has submitted written requests to SCE on a case by case basis to allow the installation of Attachments on streetlight poles. Execution of the License Agreement would allow the City the flexibility to install Attachments on SCE owned marbelite (concrete) streetlight poles where deemed appropriate by the City in accordance with the terms of the License Agreement.

DISCUSSION

The City desires to install Attachments onto SCE owned marbelite streetlight poles along certain public streets. Historically the City has made written requests to SCE for permission to install Attachments, which have been granted based on individual requests. More recently a request was made to SCE to allow for the attachment of banners on marbelite streetlights along a public street within a commercially zoned area. In response to the City's request, SCE advised that their current practice is to enter into a License Agreement that would apply citywide for the purpose of utilizing their marbelite streetlight poles for Attachments.

By entering into this License Agreement, the City has the discretion to install Attachments on any SCE owned marbelite streetlight pole in accordance with the terms of the License Agreement. The License Agreement also includes a provision for automatic renewals each year unless termination of the License Agreement is given in writing 60 days prior to the termination date.

ALTERNATIVES

1. Review, approve and authorize the Mayor to execute the License Agreement between the City and SCE to allow for the installation of non-electrified traffic regulating signs, American flags, Neighborhood Watch signs and other City sponsored event banners and related appurtenances on SCE owned marbelite streetlight poles. This alternative allows the City the flexibility and discretion to install Attachments on SCE owned marbelite streetlight poles where deemed necessary for City sponsored purposes.
2. Do not review, approve and authorize the Mayor to execute the License Agreement between the City and SCE to allow for the installation of non-electrified traffic regulating signs, American flags, Neighborhood Watch signs and other City sponsored event banners and related appurtenances on SCE owned marbelite streetlight poles. This alternative would limit the City's discretion to install Attachments on SCE owned marbelite streetlight poles without obtaining prior approval by SCE.

FISCAL IMPACT

There is no cost associated with entering into the License Agreement with SCE to install Attachments on SCE owned streetlight poles.

CITY COUNCIL GOALS

Authorization, approval and execution of the License Agreement will foster Advocacy through cooperative relationships between the City and SCE while helping to create a Positive Environment through promoting the City's image and neighborhood pride.

SUMMARY

Staff recommends that the City Council review, approve and authorize the Mayor to sign the License Agreement between the City of Moreno Valley and Southern California Edison to permit the installation of Attachments on SCE owned streetlight poles.

NOTIFICATION

N/A

ATTACHMENTS/EXHIBITS

Attachment A – License Agreement

Prepared By:
Sharon Sharp
Senior Management Analyst

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

Concurred By:
Sue Anne Maxinoski
Special Districts Division Manager

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

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Attachment A
LICENSE AGREEMENT

(Following this page)

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (this "License Agreement"), is made and entered into this _____ day of _____, 2010, by and between SOUTHERN CALIFORNIA EDISON COMPANY, a California corporation, (hereinafter called "Company") and the City of Moreno Valley, a political subdivision of the State of California, (hereinafter called "City").

WHEREAS, City has jurisdiction of certain streets and highways and has the right to regulate the use of such highways.

WHEREAS, Company has installed Company-owned composite, concrete, and steel street light poles ("Poles") at various locations within said City at the request of City.

WHEREAS, City desires a license to place non-electrified traffic regulating signs, American flags, and Neighborhood Watch signs, banners and related appurtenances on said Poles.

WHEREAS, Company shall permit City to install non-electrified traffic regulating signs, American flags, Neighborhood Watch signs, banners and related appurtenances on said Poles under this License Agreement.

NOW THEREFORE, in consideration of the mutual understandings and obligations of the parties as hereinafter set forth, Company and City hereby agree as follows:

1. Company hereby, subject to the terms and conditions provided in this License Agreement, licenses and permits City or City's authorized agent to install, maintain, use, repair, renew, and remove non-electrified traffic regulating signs, American flags, Neighborhood Watch signs and other city – sponsored event banners and related appurtenances (collectively referred to as "Attachments") on the Poles in accordance with the following:

- A. Attachment shall be secured by means of stainless steel straps.
- B. No holes shall be punched, drilled, or burned in any Poles
- C. All Attachments shall be mounted so as to provide adequate clearance from traffic, pedestrians, and from all electrical facilities, and secured to Poles to avoid dislodging.
- D. The total surface area of all Attachments on any one Pole shall not exceed 18 square feet at any one time.
- E. Banners for use on poles in high wind areas (90 mph) must be mounted with break-away, or bend-away banner supports.
- F. No Attachment shall be suspended between Poles or between Poles and structures.
- G. No Attachment shall be installed on any wooden Poles.
- H. No Corporate Trademarks, Logos or other corporate identifiers shall be allowed on the City sponsored banners.

2. Except as otherwise herein provided, the use by City of such Pole as herein provided for shall be without charge. City and/or City's agent shall not derive any revenues in connection with the license issued hereby that exceeds the direct expenses incurred in generating such revenues. City and/or City's agent shall maintain complete and accurate records in accordance with generally accepted methods of accounting for all transactions involving payment from a third-party for placement of an Attachment for three (3) years after the corresponding payment. Company shall have access to such records, upon reasonable notice, for the purposes of audit during normal business hours, for so long as such records are required to be maintained.

3. The Attachments shall be installed and maintained by City, or City's authorized agent, in a safe and workman-like manner in compliance with all applicable laws, rules, regulations, ordinances, including but not limited to General Order No. 95 of the Public Utilities Commission of the State of California.

4. Should Company, in its sole and absolute discretion, determine that it is necessary to relocate or replace a Pole on which a City-owned Attachment is in place, City or City's agent shall, upon reasonable notice from Company promptly relocate, replace or transfer said Attachment to a substitute Pole, if any, as required at City's sole cost and expense.

5. City shall indemnify and hold harmless Company against all losses, expenses, claims, actions, causes of action, damages, costs or liabilities, directly or proximately resulting from or caused by the installation, placement, use, presence, operation, maintenance, and/or removal of said Attachments on any Poles, as herein provided. The termination of this License agreement shall not relieve City of any liabilities which occurred prior thereto or which are occurring at that time. This paragraph shall not be construed to impose liability on either the Company or the City, in favor of any third party, unless such liability would have existed in the absence of this paragraph.

6. The failure of Company to enforce any provision of this License Agreement, or the waiver thereof, shall not be construed as a general waiver or relinquishment on its part of any such provisions; however, the same shall nevertheless remain in full force and effect.

7. This License Agreement shall continue in effect for a term of one (1) year from the date hereof and from year to year thereafter, unless terminated sooner. This License Agreement may be terminated by either party hereto by written notice given not less than sixty (60) days prior to the intended termination. In the event of such termination, City shall remove all of said Attachments from the Poles prior to the termination of this License Agreement.

8. This License Agreement shall not be assignable by City.

IN WITNESS WHEREOF, City and Company have executed this License Agreement by and through their respective officers thereunto authorized as of the day and year first herein above written.

CUSTOMER:

CITY COUNCIL OF THE
CITY OF MORENO VALLEY
ACTING FOR AND ON BEHALF
OF THE CIY OF MORENO VALLEY

BY: _____

TITLE: _____

ATTEST: _____

TITLE: _____

APPROVED AS TO FORM

COMPANY:

SOUTHERN CALIFORNIA EDISON
COMPANY

BY: _____

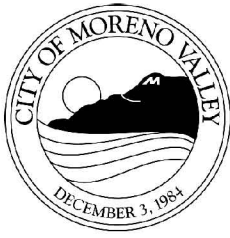
TITLE: _____

ATTEST: _____

TITLE: _____

DATE: _____

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APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>Ret</i>
CITY MANAGER	<i>W/S</i>

Report to City Council

TO: Mayor and City Council, Acting on Behalf of Itself and as the Legislative Body for Community Facilities District No. 7

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

AGENDA DATE: January 26, 2010

TITLE: APPROVAL OF 1) THE AMENDED AND RESTATED ACQUISITION/FINANCING AGREEMENT BY AND AMONG THE CITY OF MORENO VALLEY, FOR AND ON BEHALF OF ITSELF AND COMMUNITY FACILITIES DISTRICT NO. 7, FR/CAL MORENO VALLEY, LLC, FIRST INDUSTRIAL, L.P., AND FR/CAL INDIAN AVENUE, LLC AND 2) THE AREA DRAINAGE PLAN FEE AGREEMENT BY AND AMONG THE CITY OF MORENO VALLEY, FOR AND ON BEHALF OF ITSELF AND COMMUNITY FACILITIES DISTRICT NO. 7, FR/CAL MORENO VALLEY, LLC, FIRST INDUSTRIAL, L.P., AND FR/CAL INDIAN AVENUE, LLC

RECOMMENDED ACTION

Staff recommends that the City Council acting on behalf of itself and as the Legislative Body for Community Facilities District No. 7 adopt the following:

1. Resolution No. 2010-04; a Resolution approving the Amended and Restated Acquisition/Financing Agreement by and among the City of Moreno Valley, for and on behalf of itself and Community Facilities District No. 7, FR/CAL Moreno Valley, LLC, First Industrial, L.P., and FR/CAL Indian Avenue, LLC
2. Resolution No. 2010-05; a Resolution approving the Area Drainage Plan Fee Agreement by and among the City of Moreno Valley, for and on behalf of itself and Community Facilities District No. 7, FR/CAL Moreno Valley, LLC, First Industrial, L.P., and FR/CAL Indian Avenue, LLC

ADVISORY BOARD/COMMISSION RECOMMENDATION

N/A

BACKGROUND

On June 24, 2008, the City Council authorized the formation of Community Facilities District No. 7 (“CFD No. 7” or “District”) in order to finance the construction of certain public facilities to be constructed by or on behalf of FR/CAL Moreno Valley, LLC, First Industrial, L.P., or FR/CAL Indian Avenue, LLC (collectively, “Property Owners”) with the purchase price to be paid from bond proceeds. Once bonds are sold a special tax shall be levied and collected on parcels within the District in order to make the annual debt service payments.

CFD No. 7 consists of three improvement areas (“IA”). Each IA will have separate public facilities; however, the scope of the public facilities for each IA will be similar. Public facilities within the District include, but are not limited to: flood control facilities, street improvements, and utility infrastructure. Flood control facilities in each IA will be oversized to support future development within each future annexation area. Each IA has a future annexation area, which include parcels that have been deemed tributary to the flood control facilities.

DISCUSSION

The Acquisition/Financing Agreement is the primary document governing the specifications of how the City will acquire particular improvements within the District, the priority of payment for the improvements, and the cost estimates. The Acquisition/Financing Agreement was originally approved by City Council on April 8, 2008. The Acquisition/Financing Agreement is being amended to include information on the formation proceedings, incorporate reference to documents that have been entered into since the original agreement was executed, and clarify the difference between Riverside County Flood Control and Water Conservation District (“RCFCD”) facilities and city flood control facilities. The amendment also permits the local component portion of the Area Drainage Plan (“ADP”) fee applicable to an IA to be transferred to the CFD to be used for any authorized purpose.

The Area Drainage Plan Fee Agreement allows for the collection by the City of the local component portion of the ADP fee from tributary parcels to be allocated to the CFD to be used for any authorized purpose. The Area Drainage Plan Fee Agreement stipulates that, upon development of a tributary parcel, the property owner shall have the option to pay the local component portion of the ADP fee to the CFD or annex into the CFD and finance the local component portion of the ADP fee through a special tax. Payments made either directly to the CFD or through the financing mechanism shall be used to pay for the acquisition of authorized public facilities and/or to reduce the Property Owners’ debt service payments on CFD No. 7 bonds.

ALTERNATIVES

1. **Approve and adopt the proposed resolutions** 1) approving the Amended and Restated Acquisition/Financing Agreement by and among the City of Moreno Valley, for and on behalf of itself and Community Facilities District No. 7, FR/CAL Moreno Valley, LLC, First Industrial, L.P., and FR/CAL Indian Avenue, LLC and 2) approving the Area Drainage Plan Fee Agreement by and among the City of Moreno Valley, for and on behalf of itself and Community Facilities District No. 7, FR/CAL Moreno Valley, LLC, First Industrial, L.P., and FR/CAL Indian Avenue, LLC. *Approval of the resolutions shall provide conformity and consistency with the JCFA and Cooperative Agreements, clarity in interpreting the Acquisition/Financing Agreement, and will allow for the local component of the ADP fees to be allocated to the CFD for the acquisition of authorized public facilities and/or to be used for debt service.*

2. **Do not approve or adopt the proposed resolutions** 1) approving the Amended and Restated Acquisition/Financing Agreement by and among the City of Moreno Valley, for and on behalf of itself and Community Facilities District No. 7, FR/CAL Moreno Valley, LLC, First Industrial, L.P., and FR/CAL Indian Avenue, LLC and 2) approving the Area Drainage Plan Fee Agreement by and among the City of Moreno Valley, for and on behalf of itself and Community Facilities District No. 7, FR/CAL Moreno Valley, LLC, First Industrial, L.P., and FR/CAL Indian Avenue, LLC. *Not approving the resolutions shall prohibit the local component of the ADP fees to be allocated to the CFD for the acquisition of authorized public facilities or to be used for debt service. Also, the AFA will remain inconsistent with the JCFA and Cooperative Agreements.*

FISCAL IMPACT

Acquisition of the public facilities shall be paid for through future bond issuances. The proposed funding for IA No. 1 is approximately \$10 million and for IA No. 2 and IA No. 3 is \$8.25 million combined. Reimbursement of the bonded indebtedness shall be secured through an annual special tax levied on properties within the appropriate IA. Future CFD No. 7 bond issuances shall not constitute a general obligation of the City. Neither the City nor CFD No. 7 has a legal obligation to construct or finance the public facilities.

The collection of the local component of the ADP fees from tributary parcels in the future annexation area shall be allocated to the CFD for the acquisition of authorized public facilities and/or to offset the Property Owners' annual debt service payment.

CITY COUNCIL GOALS

Public Facilities and Capital Projects

Once bonds are sold, the proceeds shall be used to acquire necessary public improvements.

Revenue Diversification and Preservation

The debt service on the bonds will be paid through an annual special tax levied on properties within the District.

SUMMARY

The action before the City Council acting on behalf of itself and as the Legislative Body for CFD No. 7 is to adopt resolutions to approve the Amended and Restated Acquisition/Financing Agreement and the Area Drainage Plan Fee Agreement.

NOTIFICATION

N/A

ATTACHMENTS/EXHIBITS

- Attachment 1: A Resolution approving the Amended and Restated Acquisition/Financing Agreement by and among the City of Moreno Valley, for and on behalf of itself and Community Facilities District No. 7, FR/CAL Moreno Valley, LLC, First Industrial, L.P., and FR/CAL Indian Avenue, LLC

- Attachment 2: Amended and Restated Acquisition/Financing Agreement by and among the City of Moreno Valley, for and on behalf of itself and Community Facilities District No. 7, FR/CAL Moreno Valley, LLC, First Industrial, L.P., and FR/CAL Indian Avenue, LLC

- Attachment 3: A Resolution approving the Area Drainage Plan Fee Agreement by and among the City of Moreno Valley, for and on behalf of itself and Community Facilities District No. 7, Fr/Cal Moreno Valley, LLC, First Industrial, L.P., and FR/Cal Indian Avenue, LLC

- Attachment 4: Area Drainage Plan Fee Agreement by and among the City of Moreno Valley, for and on behalf of itself and Community Facilities District No. 7, Fr/Cal Moreno Valley, LLC, First Industrial, L.P., and FR/Cal Indian Avenue, LLC

Prepared by:
Jennifer A. Terry,
Management Analyst

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

Concurred by:
Sue Anne Maxinoski,
Special Districts Division Manager

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

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RESOLUTION NO. 2010-04

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, APPROVING THE AMENDED AND RESTATED ACQUISITION/FINANCING AGREEMENT BY AND AMONG THE CITY OF MORENO VALLEY, FOR AND ON BEHALF OF ITSELF AND COMMUNITY FACILITIES DISTRICT NO. 7, FR/CAL MORENO VALLEY, LLC, FR/CAL INDIAN AVENUE, LLC AND FIRST INDUSTRIAL, L.P.

WHEREAS the CITY COUNCIL of the CITY OF MORENO VALLEY, CALIFORNIA, pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982, has formed a community facilities district and designated three improvement areas therein for the purpose of financing the acquisition of certain street and flood control facilities (the "City Improvements") to be owned, operated and maintained by the City of Moreno Valley (the "City"), certain flood control facilities (the "Flood Control District Facilities") to be owned, operated and maintained by the Riverside County Flood Control and Water Conservation District (the "Flood Control District") and certain utility improvements (the "Utility Improvements") to be owned, operated and maintained by Southern California Edison ("SCE"), such community facilities district known and designated as Community Facilities District No. 7 (the "Community Facilities District") and such improvement areas known and designated as Improvement Area Nos. 1, 2 and 3 (each, an "Improvement Area"); and,

WHEREAS, the City Council did previously approve the form of an Acquisition/Financing Agreement (the "Acquisition/Financing Agreement") by and among the City, acting for and on behalf of itself and the Community Facilities District, FR/CAL Moreno Valley, LLC ("FR/CAL MV"), a Delaware limited liability company, First Industrial, L.P. ("FILP"), a Delaware limited liability partnership and FR/CAL Indian Avenue, LLC ("FR/CAL IA" and together with FR/CAL MV and FILP, the "Owners") to establish the terms and conditions upon which City Improvements would be acquired by the City and the Utility Improvements would be acquired by SCE; and

WHEREAS, subsequent to entering into the Acquisition/Financing Agreement, the City and the Owners entered into a joint community facilities agreement with the Flood Control District (the "JCFA") and a separate Cooperative Agreement for each Improvement Area regarding the construction of the flood control facilities, including the flood control facilities to be owned, operated and maintained by the City and the Flood Control District (collectively, the "Flood Control Facilities"), and the acquisition of and payment for the Flood Control District Facilities; and

WHEREAS, contemporaneously with the consideration of the approval of the revisions to the Acquisition/Financing Agreement, this City Council will consider the approval of an Area Drainage Plan Fee Agreement by and among the City and the Owners (the "ADP Agreement") that will, among other provisions thereof, provide that the local component of certain area drainage fees (the "Local Component of the ADP

Fees”) collected from parcels that will be served and benefited by the Flood Control Facilities be transferred to the Community Facilities District and permitted to be used for any purpose as authorized for the Improvement Area to which such fees are allocated; and

WHEREAS, it is necessary that the Acquisition/Financing Agreement be revised so that the provisions thereof (a) conform and are consistent with the JCFA and the Cooperative Agreements and (b) provide for the authorized use of the Local Component of the ADP Fees; and

WHEREAS, for the purposes set forth in the preceding recital, the City, on behalf of itself and the Community Facilities District, and the Owners desire to amend the Acquisition/Financing Agreement by entering into the Amended and Restated Acquisition/Financing Agreement, the form of which has been presented to the City Council (the "Amended and Restated Agreement").

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The above recitals are all true and correct.

SECTION 2. The form of the Amended and Restated Agreement, herewith submitted, is approved substantially in the form submitted and on file with the City Clerk. The City Manager is hereby authorized to execute the final form of such agreement on behalf of the City and the Community Facilities District. The City Manager, subject to the review of the City Attorney and Bond Counsel, is authorized to approve changes in the Amended and Restated Amendment prior to the execution thereof deemed to be in the best interests of the City, approval of such changes to be evidenced by the execution of such agreement.

APPROVED AND ADOPTED this _____ day of _____, 2010.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

SDPUB\WDIVEN\390198.2

RESOLUTION JURAT

[Clerk's office will prepare]

**AMENDED AND RESTATED
ACQUISITION/FINANCING AGREEMENT**

By and Among

**CITY OF MORENO VALLEY,
Acting for and on behalf of itself and
COMMUNITY FACILITIES DISTRICT NO. 7,**

FR/CAL MORENO VALLEY, LLC,

FIRST INDUSTRIAL, L.P.

And

FR/CAL INDIAN AVENUE, LLC

ATTACHMENT 2

**AMENDED AND RESTATED
ACQUISITION/FINANCING AGREEMENT**

THIS AMENDED AND RESTATED ACQUISITION/FINANCING AGREEMENT (“Agreement”) is made and entered into by and among the CITY OF MORENO VALLEY, a municipal corporation duly organized and validly existing under the Constitution and laws of the State of California, (“City”) acting for and on behalf of itself and COMMUNITY FACILITIES DISTRICT NO. 7, and FR/CAL MORENO VALLEY, LLC (“FR/CAL MV”), a Delaware limited liability company, FIRST INDUSTRIAL, L.P. (“FILP”), a Delaware limited liability partnership FR/CAL INDIAN AVENUE, LLC (“FR/CAL IA”), a Delaware limited liability company and shall become effective on the date on which the Agreement has been mutually executed and delivered by the Parties (as defined in the following sentence). FR/CAL MV, FILP and FR/CAL IA may be referred to individually as an “Owner” or collectively as the “Owners” and Owners acknowledge that they are related entities. The City and the Owners may be referred to individually as a “Party” or collectively as the “Parties.” This Agreement supersedes and replaces, in its entirety, that certain Acquisition/Financing Agreement previously entered into by and among the Parties (the “Initial Agreement”) and which became effective July 14, 2008. The Parties enter into this Agreement with reference to the following recited facts (each a "Recital").

RECITALS

WHEREAS, the Owners own the following real property (collectively, the “Owners’ Properties”) located within the City:

A. FR/CAL MV owns those parcels identified as Assessor’s Parcel Nos. 316-180-002, 316-180-003, 316-180-005, 316-180-006, 316-180-008 and 316-180-009 (the “FR/CAL MV Property”);

B. FILP owns those parcels identified as Assessor’s Parcel Nos. 316-200-003, 316-200-009 through -014, 316-200-018, 316-200-028 and 316-200-029 (the “FILP Property”);

C. FR/CAL IA owns those parcels identified as Assessor’s Parcel Nos. 316-020-002, 316-020-003, 316-020-004, 316-020-005 and 316-020-012 through -019 (the “FR/CAL IA Property”); and

WHEREAS, the Owners previously requested that the City consider the formation of a community facilities district and the designation of three improvement areas therein (each, an “Improvement Area” and designated individually as “Improvement Area No. 1,” “Improvement Area No. 2,” and “Improvement Area No. 3”) under the terms and conditions of the “Mello-Roos Community Facilities Act of 1982,” as amended (Government Code Section 53311 and following) (the “Act”) to include the Owners’ Properties and certain additional adjacent property not owned by Owners and identified as Assessor Parcel Nos. 316-170-001, 316-170-002, 316-170-004, 316-170-006, 316-170-007, 316-170-010, 316-170-013, 316-170-014 and 316-180-010 (the “Adjacent Property”) for the purpose of financing the acquisition and construction of certain public improvements, together with appurtenances and appurtenant work within the jurisdictional limits of said City, said community facilities district known and designated as COMMUNITY FACILITIES DISTRICT NO. 7 (the “Community Facilities District”); and,

WHEREAS, the Owners further requested that the FR/CAL MV Property and the Adjacent Property be included in Improvement Area No. 1, the FILP Property be included in Improvement Area No. 2 and the FR/CAL IA Property be included in Improvement Area No. 3; and

WHEREAS, pursuant to such request of the Owners, City initiated proceedings to consider the formation of the Community Facilities District and the designation of Improvement Areas therein and did, by the adoption of Resolution No. 2008-82 (the “Resolution of Formation”) on June 24, 2008, form the Community Facilities District and did designate the Improvement Areas, and did, subject to the approval of the qualified electors of the Community Facilities District authorize the levy special taxes within each Improvement Area and the issuance of bonds for each Improvement Area of the Community Facilities District to be secured by such special taxes; and

WHEREAS, on June 24, 2008, the qualified electors of the Improvement Areas did vote to authorize the levy of special taxes within each of the Improvement Areas and the issuance of bonds for each of the Improvement Areas; and

WHEREAS, the boundaries of the Community Facilities District and the Improvement Areas are set forth in Exhibit A attached hereto and incorporated herein by this reference; and,

WHEREAS, Owners, in order to proceed in a timely way with the development of Owners’ respective property (each, a “Development”), desired to construct or cause the construction and continues to desire to construct or cause the construction of (a) certain public street improvements (the “Street Improvements”) in accordance with the applicable improvement agreements and certain flood control facilities (the “City Flood Control Facilities” and, together with the Street Improvements, the “City Improvements”) in accordance with the JCFA (defined below) that are, following the completion of the construction thereof, to be acquired by the City and thereafter owned, operated and maintained by the City, (b) certain flood control facilities in accordance with the JCFA that are, following the completion of the construction thereof, to be acquired by the Riverside County Flood Control and Water Conservation District (the “Flood Control District”) and thereafter owned, operated and maintained by the Flood Control District (the “Flood Control District Facilities” and, together with the City Flood Control Facilities, the “Flood Control Facilities”), and (c) the undergrounding of certain utilities (the “Utility Improvements” and, together with the City Improvements and the Flood Control Facilities, the “Improvements”) to be owned, operated and maintained by Southern California Edison (“SCE”)¹; and

WHEREAS, Exhibit B-1 sets forth a description of the Improvements and the Improvement Area to which the financing of such Improvement is allocated and Exhibit B-2 sets forth the estimated cost (the “Budgeted Cost”) for the acquisition of each Improvement; and,

WHEREAS, each Owner desired to construct and continues to desire to construct the Improvements for the Improvement Area within which such Owner’s property is located, to wit:

1 The Owners acknowledge that while the existing Electrical Utility Improvements are to be owned by SCE, the Owners’ Properties will be served by the installation of new City of Moreno Valley Electric Utility Improvements.

A. FR/CAL MV has constructed certain of those Improvements identified in Exhibit B-1 as the Improvement Area No. 1 Improvements and desires to construct the remainder of such Improvements;

B. FILP desires to construct those Improvements identified in Exhibit B-1 as the Improvement Area No. 2 Improvements;

C. FR/CAL IA desires to construct those Improvements identified in Exhibit B-1 as the Improvement Area No. 3 Improvements; and

WHEREAS, the acquisition of such Improvements is proposed to be financed, in whole or in part, through the Community Facilities District; and,

WHEREAS, pursuant to the Act, the City, the Community Facilities District and the Owners have entered into a joint community facilities agreement with the Flood Control District (the "JCFA") regarding the construction of the Flood Control Facilities and the acquisition and payment for the Flood Control District Facilities, a copy of which is attached as Exhibit C hereto and incorporated herein by this reference; and,

WHEREAS, the City, the Owners and the Flood Control District have also entered into a separate cooperation agreement (each, a "Cooperation Agreement") regarding the acquisition of the Flood Control Facilities required to be constructed for each Improvement Area; and,

WHEREAS, the City, FR/CAL MV and the Flood Control District have entered into a Cooperation Agreement regarding the construction of the City Flood Control Facilities and the Flood Control District Facilities included among the Improvement Area No. 1 Improvements; and

WHEREAS, the City, FILP and the Flood Control District have entered into a Cooperation Agreement regarding the construction of the City Flood Control Facilities and the Flood Control District Facilities included among the Improvement Area No. 2 Improvements; and

WHEREAS, the City, FR/CAL IA and the Flood Control District have entered into a Cooperation Agreement regarding the construction of the City Flood Control Facilities and the Flood Control District Facilities included among the Improvement Area No. 3 Improvements; and

WHEREAS, the Parties agree that the Flood Control District Facilities will be constructed by the Owners, subsequently acquired by the Flood Control District upon completion thereon for ownership and maintenance and the purchase price for such Improvements paid from the proceeds of bonds issued for the Community Facilities District pursuant to the provisions of the JCFA; and,

WHEREAS, the Parties have agreed that the Flood Control Facilities constructed for each Improvement Area will serve and benefit certain other parcels, identified in the following recital as the "Tributary Parcels," as well as the Owners Properties within the applicable Improvement Area; and

WHEREAS, in order to provide that the Tributary Parcels bear their proportionate share of the cost of those Flood Control Facilities that will serve and benefit such parcels, the Parties will, contemporaneous with the entry into this Agreement, enter into an Area Drainage Plan Fee Agreement (the “ADP Agreement”), a copy of which is attached as Exhibit D hereto and incorporated herein by this reference, pursuant to which the owners of the Tributary Parcels (as defined in the ADP Agreement) may elect to annex such parcels to the Community Facilities District or pay the Local Component of the ADP Fees imposed on such Tributary Parcels; and

WHEREAS, the ADP Agreement provides that the Local Component of the ADP Fees collected from such Tributary Parcels be transferred to the Community Facilities District and permitted to be used for any purposes as authorized for the applicable Improvement Area to which such fees are allocated; and

WHEREAS, it is the intent of the Parties to provide for the authorized use of any Local Component of the ADP Fees collected from any Tributary Parcels; and

WHEREAS, it is the further intent of the Parties that, upon the sale of bonds for an Improvement Area the proceeds of which bonds are authorized to be utilized to acquire a particular Improvement or Improvements, the Owner which has constructed such Improvement or Improvements or caused such Improvement or Improvements to be constructed shall be entitled pursuant to the provisions of this Agreement to be paid for those City Improvements and Utility Improvements, if any, at the prices as determined by the City pursuant to this Agreement and such Owner shall further be entitled pursuant to the provisions of the JCFA to be paid for those Flood Control District Facilities which such Owner has constructed or caused to be constructed at the prices as determined pursuant to the JCFA; and,

WHEREAS, if bonds for the Improvement Areas are issued, the City will be willing to finance the acquisition of the Improvements, subject to the requirements of the Act, the City of Moreno Valley Statement of Goals and Policies Regarding the Establishment of Community Facilities Districts adopted by the City Council by Resolution No. 2000-35 (the “Goals and Policies”), the JCFA, this Agreement, and the provisions of the Internal Revenue Code and the regulations adopted pursuant thereto applicable to the issuance of tax exempt bonds and the Owner desires that the acquisition of such Improvements be financed accordingly.

NOW, THEREFORE, IT IS MUTUALLY AGREED between the respective parties as follows:

SECTION 1. Recitals. The above recitals are all true and correct.

SECTION 2. Plans and Specifications of Improvements. All plans, specifications and bid documents for the Street Improvements and the Utility Improvements (the “Plans and Specifications”) to be constructed by an Owner shall be prepared by such Owner at such Owner’s initial expense, subject to approval by the City pursuant to the approval process established by the City for such Plans and Specifications or by SCE, as applicable. The costs of acquisition of such Improvements shall include costs incurred by such Owner for the preparation of and approval by the City of the Plans and Specifications and soil, drainage and such other reports as may be required by

the City as a precondition to the City's approval of the construction of the Street Improvements (collectively, the "Reports") and all related documentation as set forth in Section 8 below. Upon the approval of any Plans and Specifications and/or Reports, such Plans and Specifications and/or Reports shall become the property of the City.

The Owner shall be required to submit review fees for such Plans and Specifications and Reports as required pursuant to the then effective resolution of the City establishing the fees for the review of such Plans and Specifications and Reports.

An Owner shall not award a contract for construction, commence construction or order or otherwise cause commencement of construction of a Street Improvement until the Plans and Specifications for such Improvement have been approved by the City.

SECTION 3. Construction of Street Improvements and Utility Improvements. Each Owner covenants and agrees that each Street Improvement to be acquired from such Owner pursuant to this Agreement shall be constructed:

- (a) in substantial compliance with the approved Plans and Specifications for such Improvement;
- (b) in a good, workmanlike and commercially reasonable manner with the standard of diligence and care normally employed by qualified persons utilizing commercially reasonable efforts in the performance of comparable work and in accordance with generally accepted practices appropriate to the activities undertaken;
- (c) in strict compliance with all applicable governmental and quasi-governmental rules, regulations, laws, building codes and all applicable requirements of such Owner's insurers and lenders; and
- (d) in compliance with the requirements of Section 53313.5 of the Act, if applicable, which statute requires that any Street Improvement to be acquired by the City which is completed after adoption of the Resolution of Formation must be constructed as if such Improvement had been constructed under the direction and supervision, or under the authority, of the City.

In order to insure that the Street Improvements will be constructed as if they had been constructed under the direction and supervision, or under the authority of, the City, so that they may be acquired by City pursuant to Section 53313.5 of the Act, each Owner shall comply with all of the following requirements with respect to the construction of the Street Improvements:

- (i) Each Owner shall obtain bids for the construction of the Street Improvements in conformance with the standard procedures and requirements of City with respect to its public works projects (excluding any exceptions to competitive bidding requirements), or in a manner which is approved in writing by the City prior to the

solicitation of bids.

(ii) Each contract or contracts for the construction of the Street Improvements shall be awarded to the responsible bidder(s) submitting the lowest responsive bid(s) for the construction of such Street Improvements. Nothing in this Section 3 shall prohibit an Owner from including more than one Street Improvement in a single solicitation for bids. In the case where an Owner does include more than one Street Improvement in a single solicitation for bids, such Owner shall award the bid for the construction of such Improvements to the bidder submitting the lowest aggregate responsible bid for the construction of such Improvements. Before awarding a contract for construction of any portion of the Street Improvements, each Owner shall deliver all bids to the City Engineer of the City, or his designee (the "City Engineer") and shall not award the contract until City Engineer has determined and notified such Owner in writing that such bids are in compliance with the Plans and Specifications.

(iii) Each Owner shall require, and the specifications and bid and contract documents shall require all such contractors to pay prevailing wages and to otherwise comply with applicable provisions of the California Labor Code and the California Public Contract Code relating to public works projects of community facilities districts and as required by the procedures and standards of City with respect to the construction of its public works projects.

(iv) In addition to each Owner's obligation to comply with all other provisions of this Section 3, each such Owner shall also comply with the requirements of the attached, referenced and incorporated Exhibit E.

The failure of an Owner to comply with the provisions of this Section 3 in the construction of any Street Improvement shall be grounds for declaring such Street Improvement ineligible to be acquired pursuant to the provisions hereof.

The City hereby acknowledges and agrees that, at an Owner's election, the solicitation of bids may be managed and performed by such Owner's general contractor.

An Owner shall be required to construct Utility Improvements pursuant to the requirements of SCE.

The description of the Street Improvements and Utility Improvements in Exhibit B-1 is preliminary and general in nature. The final nature and location of such Improvements will be determined upon the preparation of final Plans and Specifications. The description of such Improvements and their Budgeted Cost may be modified or Improvements substituted as long as the modified or substituted Improvements provide a service substantially similar to the Improvements currently described in Exhibit B-1. Any such modification or substitution shall be set forth in a supplement to Exhibit B-1 approved by the City Engineer.

SECTION 4. Inspection of the City Improvements and Utility Improvements; Eligibility for Payment of Purchase Price. The construction of the City Improvements as set forth in Exhibit B-1 shall be subject at all reasonable times to inspection by authorized representatives of the City. The Owner constructing or causing the construction of any City Improvement or City Improvements shall be required to submit inspection fees to the City as required pursuant to the then effective fee resolution of the City for the inspection of each such City Improvement. Once an entire individual City Improvement is completed in accordance with the approved Plans and Specifications (including any change orders reasonably approved by the City), then such Improvement shall, upon satisfaction of the conditions precedent set forth herein, be eligible for payment of the Purchase Price (as defined in Section 8 below) for such Improvement.

Prior to payment of the Purchase Price for any City Improvement, the Owner constructing or causing the construction of such City Improvement shall provide to City Engineer, the documentation set forth in Section 8(c) below and obtain approval of as-built drawings in accordance with the process described below in this Section 4. The engineer of record for the Street Improvement (“Engineer of Record”) shall notify the City Engineer of completion of construction of such Improvement. Within 20 working days of such filing, the field inspector of the City (“Field Inspector”) or his or her designee shall issue and transmit to the Engineer of Record (i) a letter requesting as-built drawings and final soils reports (when applicable) (“Final Soils Reports”) and (ii) a punch list of work necessary to be completed or corrections to work necessary to be completed before such Improvement will be eligible for payment of the Purchase Price. Within 20 working days of receipt of the Field Inspector’s letter, the Engineer of Record shall prepare redline as-built drawings and submit them to the Field Inspector and such Owner shall complete the punch list items. Within 10 working days of the Engineer of Record’s submittal of the red lined as-built drawings, the Field Inspector shall review the redline as-built drawings and provide comments. The Engineer of Record shall revise the redline as-built drawings per the Field Inspector’s comments and resubmit within 10 working days. The Field Inspector shall make his final review within 5 working days of the Engineer of Record’s resubmittal and notify the Engineer of Record to prepare mylar as-built drawings and a digital (autocad and .pdf) copy of all Plans and Specifications and Reports and submit such documents in such formats to the City Engineer or his designee and notify such Owner of any punch list items which then remain to be completed. A City Improvement shall be accepted upon completion of the punch list items and submittal to and approval by City of as-built drawings. City and such Owner shall make best efforts to perform within the time periods described above. The inability of City or such Owner to perform within each time period, notwithstanding its best efforts, shall not constitute a breach of this Agreement.

The construction of the Utility Improvements shall be subject to such inspection as SCE shall require. Upon receipt by the City Engineer of a letter from SCE stating that the construction of a Utility Improvement has been completed to the satisfaction of SCE and that SCE has accepted ownership of such Utility Improvement, the Owner constructing or causing the construction of such Utility Improvement may submit a written request pursuant to Section 8(c) for the payment of the Purchase Price for such Utility Improvement.

SECTION 5. Warranty of City Improvements. Prior to acceptance by the City of any City Improvement, the Owner constructing or causing the construction of such Street Improvement shall be responsible for maintaining such Improvement at such Owner’s expense. Such Owner shall be

obligated to the City and the Community Facilities District for a period of twelve (12) months after the acceptance by the City of any City Improvement to repair or replace any defects or failures resulting from the work of such Owner, its contractors or agents. Upon the expiration of such twelve (12) month period, such Owner shall assign to the City and the Community Facilities District its rights in and to any warranties, guarantees or other evidence of contingent obligations of third persons with respect to such Improvement. As a precondition to the acceptance by the City of a City Improvement, such Owner shall post a maintenance bond in a form reasonably approved by the City, cause such a maintenance bond to be posted, or assign such Owner's rights under such a maintenance bond naming the City and the Community Facilities District as beneficiaries in an amount equal to ten percent (10%) of the Budgeted Cost of such Improvement in order to secure such Owner's obligations pursuant to this Section during the twelve (12) month maintenance period.

SECTION 6. Notice of Completion and Lien Releases. Upon completion (as such term is defined in California Civil Code Section 3086) of the construction of a City Improvement, the Owner constructing or causing the construction of such Improvement shall notify the City Engineer in writing of such completion and shall prepare and execute a Notice of Completion for such Improvement in the form prescribed by Section 3093 of the California Civil Code and shall record such notice in the Official Records of the County of Riverside. Such Owner shall cause its contractors to provide unconditional lien releases for such Improvement in accordance with Section 3262 of the Civil Code.

SECTION 7. The Flood Control Facilities.

(a) The City Flood Control Facilities. The terms and conditions related to the construction of the City Flood Control Facilities, including but not limited to, the design, bidding, contract award, construction, insurance requirements, indemnification and liability shall be governed by the JCFA and the applicable Cooperation Agreement. The terms and conditions related to the inspection, warranty, acquisition and payment of the Purchase Price for the City Flood Control Facilities shall be governed by this Agreement.

(b) The Flood Control District Facilities. The terms and conditions related to the construction and acquisition of the Flood Control District Facilities, including but not limited to, the design, bidding, contract award, construction, insurance requirements, inspection, acceptance, acquisition, payment of the Purchase Price, warranty, indemnification and liability shall be governed by the JCFA and the applicable Cooperation Agreement.

(c) Harmonizing the Provisions of this Agreement, the JCFA and the Cooperation Agreements. If and to the extent that any provision of this Agreement and the JCFA and/or Cooperation Agreement address the same subject, such provisions shall be interpreted harmoniously to the extent reasonably possible unless such provisions directly conflict and cannot reasonably be interpreted harmoniously in which case the provisions of the JCFA or the Cooperation Agreement shall control.

SECTION 8. Payment of Purchase Price; Processing Payment Requests.

(a) Amount of Purchase Price of an Improvement and Processing of Payment Requests. The Purchase Price for a City Improvement or a Utility Improvement to be constructed by an Owner and acquired by the City or SCE, as applicable, shall be determined as provided for in this Section 8.

The processing of a payment request for the payment of the Purchase Price for a City Improvement or a Utility Improvement shall be undertaken as provided for in this Section 8. The processing of a payment request for the payment of the Purchase Price for a Flood Control District Facility shall be determined pursuant to the JCFA.

(b) Determining the Amount of the Purchase Price for a City Improvement or a Utility Improvement. The Purchase Price for a City Improvement or a Utility Improvement shall (i) equal the lesser of the cost or the value thereof, (ii) include the lesser of the cost or value of eligible appurtenant public facilities, (iii) include the costs of the title insurance policy, if any, described in Section 11(a), and (iv) include all other costs of construction and incidental costs eligible under the Act and the Goals and Policies as a part of the cost of such Improvements, including the following:

(1) Usual and customary design, planning and engineering costs including civil engineering, soils engineering, landscape architecture, survey and construction staking, utility engineering and coordination, construction administration and supervision, plan check and inspection fees. Planning to be included in the Purchase Price of an Improvement shall be limited to those planning costs which are directly related to the planning for such Improvement. Costs incurred by an Owner related to the formation of the Community Facilities District (“Owner's CFD Formation Costs”) shall not be included in the Purchase Price of any Improvement.

(2) Costs of acquisition of rights-of-way and/or easements necessary for any Improvement which are not otherwise required to be dedicated to the City including the following:

(A). Costs of any appraisal undertaken by an appraiser retained by the City for the purpose of valuing such property interests;

(B). Costs of title insurance for such property interests;

(C). Costs of preparing acquisition plats;

(D). The appraised value or actual cost of right-of-way or easements, whichever is less; and

(E). Legal fees and costs related to eminent domain proceedings approved by the City Attorney and the City Engineer.

(3) Costs of environmental review, permitting, mitigation directly related to the Improvement, and that portion of the cost of the preparation of environmental documents, including without limitation, a Negative Declaration or an Environmental Impact Report directly related to the Improvement.

- (4) An amount not to exceed to 11.0% of the hard construction cost and the hard cost contingency (including insurance and general conditions) but excluding all other incidental costs, including but not limited to, the costs set forth in subparagraphs (1), (2) and (3) of the Improvement, representing the developer/project management fee, construction management fee and general conditions fee. Such fees are described in Exhibit F attached hereto and incorporated herein by this reference (the “Fee Letter”).
- (5) Costs of construction, provided in no event shall the cost or value of the construction of the Improvement be deemed to exceed the construction contract prices set forth in the contracts and change orders approved by City.

The value of an Improvement shall be equal to the cost of construction of such Improvement determined pursuant to this subsection (b), less such portion of such cost of construction which the City Engineer has, in his or her reasonable professional opinion, determined would not have been incurred had such Improvement been constructed pursuant to a public works contract awarded by the City. Each Owner agrees to cooperate with the City Engineer in the determination of the value of an Improvement constructed or caused to be constructed by such Owner and in conjunction therewith shall, at the request of the City Engineer, provide the City Engineer with copies of contracts for construction of improvements to such Owner’s Properties which are adjacent to or nearby such Improvement. As a non-inclusive example, if an Owner pays overtime to complete the construction of City Improvements to provide access to a parcel by a date certain as required by such Owner's lease obligations to a tenant occupying such parcel, the cost of such overtime will be deducted from the overall cost of construction of such Improvement to determine the value of such Improvement.

Notwithstanding the foregoing, the aggregate Purchase Price of the Utility Improvements to be financed from the proceeds of a series of Bonds (as defined in Section 20) issued for an Improvement Area may not exceed an amount equal to five percent (5%) of the Eligible Improvement Proceeds (defined below) or such lesser amount as may be necessary to insure that such expenditure does not, in the opinion of bond counsel retained by the City, adversely affect the exclusion from gross income of interest on such series of Bonds for federal income tax purposes.

(c) Processing a Request for Payment of the Purchase Price for a City Improvement or a Utility Improvement.

- (1) Requisition for Payment of Purchase Price. The Owner who constructed or caused the construction of a City Improvement or a Utility Improvement may submit only one (1) written request to the person or entity acting as the construction auditor for and on behalf of the City (the “Construction Auditor”), for the payment of the Purchase Price for such Improvement in the form attached hereto as Exhibit G, which is incorporated herein by this reference, upon the submission to the Construction Auditor of (A) a copy of each construction contract for such Improvement, a copy of the bid notice for such contract and a copy of each bid received, (B) each change order applicable to such Improvement, (C) each invoice submitted pursuant to each such contract pertaining to such Improvement, (D) evidence of payment of each such invoice such as copies of cancelled checks or other

evidence of payment satisfactory to the Construction Auditor, (E) as-built drawings or other equivalent plans and specifications for any such City Improvement in a form reasonably acceptable to the City, (F) evidence that such Owner has posted a maintenance bond for any such City Improvement as required by Section 5 hereinabove, (G) evidence of the satisfaction of the requirements of Section 11 hereinbelow directly related to any such City Improvement and (H) written unconditional lien releases from all contractors, subcontractors and materialmen satisfactory to the City Attorney for such Improvement. In the event that such Owner has awarded a single contract for the construction of more than one City Improvement or Utility Improvement, such Owner must provide a copy of such contract, the bid notice and the bids received only with first written request for payment of the Purchase Price for an Improvement constructed pursuant to such contract. For all subsequent requests for payment of the Purchase Price for an Improvement constructed pursuant to such contract, such Owner may refer to the original request for payment for which the construction contract, bid notice and bids were submitted in lieu of submitting additional copies of such documents.

(2) Review of Payment Request. The Construction Auditor shall review each payment request within thirty (30) working days after receipt thereof (the “Initial Review Period”) and notify the City Engineer and the Special Districts Division Manager and such Owner of the results of such review. Upon the completion of such review, the Construction Auditor shall either recommend approval of the payment request as submitted or, if the Construction Auditor finds that any such payment request is incomplete, improper or otherwise not suitable for approval, the Construction Auditor shall inform such Owner, the City Engineer and the Special Districts Division Manager of the reasons for such finding. Such Owner shall have the right to respond to this finding by submitting further documentation to the Construction Auditor to supplement a payment request and/or to resubmit the payment request within thirty (30) days after receipt of the denial. The Construction Auditor shall review any supplemental documentation submitted in support of a payment request and inform such Owner, the City Engineer and the Special Districts Division Manager of its recommendation for the approval or denial of the payment request as so supplemented in accordance with this Section within ten (10) working days after receipt of the supplemental documentation.

If an Owner elects to resubmit a payment request in place of an original payment request that the Construction Auditor has found to be incomplete, improper or otherwise not suitable for approval in lieu of submitting supplemental information pertaining to the original payment request, the resubmitted payment request shall be subject to the same review procedures applicable to an original payment request.

Costs incurred under a contract for the construction of a City Improvement entered into pursuant to the requirements of this Agreement and pursuant to change orders approved by the City shall be deemed to be reasonable.

The City Engineer shall review the recommendation of the Construction Auditor for the payment of any payment request and shall approve or deny such payment request within fifteen (15) business days of the date of the receipt thereof. The City Engineer shall notify

the Owner and the Special Districts Division Manager in writing of his or her decision and, if the City Engineer denies such payment request, the reasons for such denial. Such Owner shall have the right to respond to the denial by submitting further documentation to the City Engineer to supplement such payment request within thirty (30) days after receipt of the denial. The City Engineer shall review such further documentation and shall approve the payment request or affirm his or her denial thereof within ten (15) business day of the date of receipt of such further documentation. The City Engineer shall notify the Owner and the Special Districts Division Manager in writing of his or her decision which shall be final and conclusive.

After (A) the issuance of Bonds for one or more of the Improvement Areas pursuant to Section 20 the proceeds of which are intended to be used to acquire a particular City Improvement or a Utility Improvement for which a payment request has been received, (B) recommendation by the Construction Auditor of the approval of such payment request and (C) approval of such payment request by the City Engineer, the Special Districts Division Manager shall promptly notify the Financial and Administrative Services Director of the approval of the payment request and request that such payment be made to the appropriate payee. The Financial and Administrative Services Director shall process any such request of the Special Districts Division Manager pursuant to the applicable procedures of the Financial and Administrative Services Department and shall make or authorize such payment pursuant to such procedures and subsection (3) below.

(3) Payment.

(A) Priority of Payment of Cost of Purchase Price for Improvements. The City and the Owners acknowledge and agree that the cost of acquisition of all Improvements may exceed the aggregate amount of the Bond proceeds and the Local Component of ADP Fees, if any, which will be available for the payment of that portion of the Purchase Price, as applicable, for all of such Improvements eligible to be paid from the proceeds of the Bonds and such fees. As a result, the proceeds of any series of Bonds to be eligible to be used to pay the Purchase Price for Flood Control District Facilities shall be deposited in a separate account to be designated the Flood Control District Facilities Account as a first priority. In the event that funds deposited in the Flood Control District Facilities Account for any Improvement Area are not sufficient to fully fund the Purchase Price of the Flood Control District Facilities for such Improvement Area, the Owner who caused the construction of such Flood Control District Facilities may submit a request to the City to have funds set aside for the Purchase Price of City Improvements or Utility Improvements for that Improvement Area be transferred to the Flood Control District Facilities Account to make up such deficit. In the event that any funds are transferred pursuant to the preceding sentence, the Owner responsible for the construction of the subject City Improvements or such Utility Improvements shall not be relieved of such Owner's obligation to construct such Improvements at such Owner's expense. The City and the Owners agree that the payment (a) for reimbursement of the proportionate

share of costs incurred by the City and the Owners in connection with the formation of the Community Facilities District allocated to each Improvement Area and (b) of the Purchase Price for City Improvements or Utility Improvements from the proceeds of the Bonds issued for each Improvement Area and the Local Component of ADP Fees, if any, allocated to each Improvement Area shall be prioritized as follows:

Improvement Area No. 1:

Priority 1: Payment to the City and FR/CAL MV for reimbursement of the proportionate share of costs incurred by the City and FR/CAL MV in connection with the formation of the Community Facilities District allocated to Improvement Area No. 1.

Priority 2: Payment to Owner of the Purchase Price for the Improvement Area No. 1 Street Improvements (as further described in Exhibit B-1 hereto) and the City Flood Control Facilities identified in Exhibit C-1 of the JCFA as a part of the Improvement Area No. 1 Flood Control Facilities.

Improvement Area No. 2:

Priority 1: Payment to the City and FILP for reimbursement of the proportionate share of costs incurred by the City and FILP in connection with the formation of the Community Facilities District allocated to Improvement Area No. 2.

Priority 2: Payment to Owner of the Purchase Price for the Improvement Area No. 2 Street Improvements (as further described in Exhibit B-1 hereto) and the City Flood Control Facilities identified in Exhibit C-1 of the JCFA as a part of the Improvement Area No. 2 Flood Control Facilities.

Improvement Area No. 3:

Priority 1: Payment to the City and FR/CAL IA for reimbursement of the proportionate share of costs incurred by the City and FR/CAL IA in connection with the formation of the Community Facilities District allocated to Improvement Area No. 3.

Priority 2: Payment to Owner of the Purchase Price for the Improvement Area No. 3 Street Improvements (as further described in Exhibit B-1 hereto) and the City Flood Control Facilities identified in Exhibit C-1 of the JCFA as a part of the Improvement Area No. 3 Flood Control Facilities.

Priority 3: Payment to Owner of the Purchase Price for the Improvement Area No. 3 Utility Improvements (as identified in Exhibit B-1).

The Purchase Price for any lower priority City Improvement or Utility Improvement allocated to an Improvement Area shall not be paid unless the Purchase Price for all higher priority City Improvements and Utility Improvements allocated to such Improvement Area has been paid or the City Engineer has reasonably determined that sufficient proceeds of the Bonds issued for such Improvement Area and Local Component of ADP Fees allocated to such Improvement Area are available to fully fund the cost of construction or the Purchase Price of such higher priority Improvements, e.g., such funds have been deposited in a separate account or sub-account and the use of such funds has been restricted to funding the cost of construction or the Purchase Price of such higher priority Improvements, based upon the estimates of the cost of construction or the approved Purchase Prices, as applicable, for such higher priority Improvements on Exhibit B-1. Notwithstanding the foregoing, the payment of the Purchase Price for any Utility Improvement shall be made only after the payment has been made of the Purchase Price for all Street Improvements and Flood Control Facilities to be financed from the proceeds of the same series of Bonds.

- (B) Timing of the Payment of the Purchase Price for an Improvement. Subject to the limitations contained in subsection (b) and (1), (2) and (3) of this subsection (c), the Purchase Price for each Improvement shall be paid to the Owner constructing or causing the construction of such Improvement within thirty (30) days after the date of the City Engineer's approval of the payment request for any such Improvement; provided, however, the Purchase Price for any Improvement shall not be paid earlier than thirty-five (35) days after the recording of a Notice of Completion for such Improvement.
- (C) Source of Payment. The Purchase Price for an Improvement shall be payable to the Owner solely from (i) those proceeds ("Eligible Improvement Proceeds") of the sale of a series of the Bonds issued for an Improvement Area as provided in Section 20 hereof authorized and designated for the payment for such Improvement, after the proportionate costs of formation of the Community Facilities District allocated to the applicable Improvement Area and all costs of issuance of such Bonds have been paid and deposits of accrued and capitalized interest to the redemption fund and the initial deposit to the reserve fund have been made and (ii) the Local Component of ADP Fees, if any, allocated to such Improvement Area.
- (D) Withholding of Payment. In addition to the foregoing, the City shall have the right to withhold payment of the Purchase Price of any Improvement if (a) the Owner constructing or causing the construction of such Improvement is delinquent in the payment of any assessment installments or special taxes levied by the City, the Community Facilities District or any other community facilities district established by the City on properties then owned by such Owner within the Community Facilities District, or (b) the City Engineer reasonably determines that such Owner is not then in substantial compliance

with all applicable conditions and obligations imposed upon such Owner hereunder or upon such Owner's Development pursuant to the land use entitlements approved by the City for such Development, including but not limited to, payment of all applicable fees, dedication of all applicable rights-of-way or other property and construction of all applicable public improvements. The City Engineer shall provide written notice to such Owner of the decision to withhold any such payment and shall specify the reason for such decision. If the payment is withheld as a result of the delinquency in the payment of assessment installments or special taxes, the notice shall identify the delinquent parcels and the amount of such delinquency. If the payment is withheld as a result of substantial non-compliance with a condition or obligation, the notice shall specify such condition or obligation and what action will be necessary by such Owner to substantially comply with such condition or obligation. Upon receipt by the City Engineer of evidence reasonably satisfactory to the City Engineer of the payment of the delinquent special taxes or assessments or upon the determination by the City Engineer that such Owner has substantially complied with the subject condition or obligation, the City shall forthwith make any payment which has been withheld pursuant to the provisions of this paragraph.

SECTION 9. Construction Manager. An Owner may employ the services of a consultant to provide construction management services for and on behalf of such Owner provided that such services are provided in accordance with the terms and construction of this Agreement. Such services shall include, but not be limited to the solicitation, award and administration of contracts for the construction of each Improvement. In the event an Owner procures the services of a Construction Manager, for the purposes of Section 3, Section 4, Section 6, Section 8, Section 10(a), Section 11(b), Section 12, Section 14, Section 16, Exhibit D and Exhibit F of this, the term "Owner" shall also mean and include the term "Construction Manager."

SECTION 10. Accounting.

(a) Owners' Records. The authorized representatives of City shall have the right, upon two (2) working days prior written notice to an Owner and during normal business hours, to review all books and records of such Owner pertaining to costs and expenses incurred by such Owner in construction of any Improvements.

(b) Community Facilities District Records. At the request of the Owners, the City shall provide each Owner with an accounting of the funds and accounts of the applicable Improvement Area of the Community Facilities District as of December 31 and June 30 of each calendar year by January 31 and July 31, respectively, which shall describe the current balances, activity in each fund and account for the preceding six-month period and investment earnings on all funds and accounts, collectively and individually. Costs incurred by the City in providing such accounting shall be considered an administrative expense of the Community Facilities District to be funded or reimbursed through the annual levy of special taxes.

SECTION 11. Ownership and Transfer of Improvements. The conveyance of the Improvements by an Owner to City shall be in accordance with the following procedures:

(a) Improvements Constructed on Land not Owned by the City. As a condition to the payment of the Purchase Price for any Improvement, the Owner constructing or causing the construction of such Improvement shall cause an irrevocable offer of dedication to be made to the City or an outright grant of a fee interest or easement interest as appropriate, in the sole discretion of the City of the appropriate right, title and interest in and to the portion of the applicable property related to the applicable Improvement, including any temporary construction or access easements. Such Owner shall cause the execution and delivery to the City of the documents required to complete the transfer of Acceptable Title to such portion of the applicable property. For purposes of this Agreement, the term "Acceptable Title" shall mean title to the portion of the property to be conveyed free and clear of all taxes, liens, encumbrances, assessments, easements, leases, whether any such item is recorded or unrecorded, except those non-monetary encumbrances and easements which are reasonably determined by the City not to interfere with the intended use of the portion of the property. As a further condition to the payment of the Purchase Price for any Improvement, such Owner at its sole cost and expense, subject to reimbursement pursuant to Section 8, shall cause to be issued a policy of title insurance for such portion of the property in an amount not to exceed the Purchase Price and in the form normally required by the City in connection with the dedication of land for subdivision improvements and containing such title endorsements as may be reasonably requested by the City.

(b) Improvements Constructed on Land Owned by the City. If an Owner is authorized to construct an Improvement on land owned in fee by the City or on land over which the City owns an easement which would permit the construction, operation and maintenance of such Improvement such Owner shall obtain the necessary encroachment permits or other authorization required by the City to enter such land for purposes of constructing such Improvement.

SECTION 12. Improvement Bonds. Except as provided in the paragraph below, an Owner shall be required to post bonds or other security acceptable to the City to guarantee completion of the City Improvements to be constructed by such Owner in accordance with City's standard requirements for such bonds or securities.

Performance and labor and material bonds in the amounts set forth in Exhibit B-2 for specific Improvements shall not be required or may be released if (1) such Improvements constitute a portion of the improvements required to be constructed as a condition of approval of the subdivision and/or development within the applicable Improvement Area, (2) Bond proceeds equal to 150% of the estimated cost to construct or acquire such Improvements are available and set aside for such purpose, and (3) the Improvements are to be constructed or acquired entirely with the proceeds of the Bonds. Provided that conditions (1) and (2) are satisfied, if an Improvement is to be constructed or acquired only in part with the proceeds of the Bonds, performance and labor and material bonds shall not be required for that portion of the Improvements to be so constructed or acquired except with respect to the portion that will not be acquired or constructed with Bond proceeds. In the event that the Bond proceeds that are available and may be set aside to fund the cost to construct or acquire an Improvement are less than 150% of the estimated cost thereof, the Owner constructing or causing the construction of such Improvement shall be required to provide a performance and labor

and material bond or other security satisfactory to the City Engineer and the City Attorney in the amount of such deficiency. City will cooperate with such Owner in the termination or exoneration of any performance and labor and material bonds assuring completion of Improvements for which Bonds have been sold. The City Engineer shall be the sole judge of determining release of such bonds.

SECTION 13. Reimbursement for Utility Improvements. If any portion of the cost of any Utility Improvement is required to be refunded by SCE pursuant to the California Public Utilities Code or rules of the Public Utilities Commission, such refund shall be made to the Community Facilities District and such refund shall be utilized, first, to finance the acquisition of any other Improvements authorized to be financed from the proceeds of the Bonds issued for the Improvement Area, which proceeds were utilized to pay the Purchase Price for such Utility Improvement, and, second, to the extent that the acquisition of all such other Improvements has been completed, to reduce the special tax levied within the applicable Improvement Area, or to call Bonds.

SECTION 14. Indemnification by the Owners. Each Owner shall defend, indemnify and hold harmless the City, the Community Facilities District, the Moreno Valley Community Services District and the Community Redevelopment Agency of the City of Moreno Valley (collectively, the “Indemnified Agencies”) and their respective officers, directors, employees and agents, from and against any and all claims, losses, liabilities, damages, including court costs and reasonable attorneys, fees by reason of, or resulting from, or arising out of out of the obligations or operations undertaken by such Owner hereunder and out of such Owner’s performance of its duties and responsibilities with hereunder, including but not limited to, the design, engineering, solicitation of bids and the award of contracts for the construction of any Improvement and construction of the Improvements constructed or to be constructed by such Owner; provided that any claims which relate to any such Improvement shall be limited to those arising out of personal injury or property damage caused by actions or omissions by such Owner or such Owner’s employees, agents, independent contractors or representatives which occurred during the period prior to the transfer of title to such Improvement, whether or not a claim is filed prior to the date of acceptance of such Improvement. Each Owner will conduct any such defense at its sole cost and expense, and the City shall approve selection of Owner's legal counsel, which approval shall not be unreasonably withheld. In the event that Owner’s insurer has undertaken the defense of any insured claim, then legal counsel selected and/or approved by such insurer shall be deemed acceptable to and approved by the City.

This indemnity shall apply to all claims and liability regardless of whether any insurance policies may be applicable pursuant to any other agreement that an Owner may have with the City. Such policy limits do not act as a limitation upon the amount of indemnification to be provided by Owner hereunder; provided, however, that in the event that Owner’s insurer promptly undertakes and diligently pursues the defense and/or resolution of such claims which would result in any indemnity or hold harmless obligations of the Owner pursuant to the foregoing, then so long as such insurer is diligently pursuing such defense and/or resolution, Owner’s obligations under this Section 14 shall be tolled.

Nothing in this Section 14 shall limit in any manner the rights of the Indemnified Agencies or any one or more of the them against any of the architects, engineers, contractors or other

consultants employed by such Owner which has performed work in connection with construction or financing of any Improvement.

Except as set forth in this Section 14, no provision of this Agreement shall in any way limit the extent of the responsibility of any Owner for payment of damages resulting from the operations of such Owner, its agents, employees or contractors.

SECTION 15. Obligation of City. Except as otherwise provided for herein, neither the City nor the Community Facilities District has a legal or financial obligation to construct or to finance construction of the Improvements. All costs incurred for actual construction of an Improvement, including all incidentals thereto, shall be borne by the Owner constructing or causing the construction of such Improvement. The obligations of the City are limited to the acquisition of the Improvements pursuant to the provisions of this Agreement.

SECTION 16. Failure to Construct City Improvements. If, at any time following commencement of the construction of any City Improvements by an Owner, the City determines that such construction is not progressing within a reasonable time in accordance with the conditions of approval of such Owner's Development imposed by the City in granting the land use entitlements applicable to such Development (collectively, the "Conditions of Approval") or such Owner fails to demonstrate a continuing ability to complete the construction of such City Improvement in accordance with the Conditions of Approval, the City may give written notice of such failure of performance to such Owner. Such Owner shall have sixty (60) days from the date of receipt of such notice to either (i) cure such failure of performance by demonstrating to the satisfaction of the City during such cure period reasonable progress in the construction of the City Improvement and a continuing ability to complete the construction of such Improvement in accordance with the Conditions of Approval or (ii) reasonably demonstrate that such failure of performance is due to circumstances or conditions beyond such Owner's reasonable control ("Force Majeure") including, without limitation, the City's actions, omissions or inaction which result in a delay of performance by such Owner, labor disputes, Acts of God, war, riots, insurrections, civil commotions, moratoriums, inability to obtain labor or materials or reasonable substitutes for either, fire, unusual delay in transportation, and adverse weather conditions. Should such Owner fail to reasonably demonstrate such reasonable progress or such continuing ability to complete the construction of such Improvement or Force Majeure, the obligation of the City to pay the Purchase Price for the acquisition of such Improvement pursuant to this agreement may be terminated by the City by providing ten (10) days written notice to such Owner. Upon termination, the City may in its sole discretion then proceed to advertise and bid the balance of the construction of such Improvement, and there will be no further obligation on the part of the City for payment of the Purchase Price for such Improvement due to such Owner pursuant to this Agreement. The City may utilize the Bond proceeds to pay for the construction of such Improvement. If, following the completion of the construction of such Improvement pursuant to a contract awarded by the City, there are surplus Bond proceeds that are eligible and authorized to be used to finance the acquisition of such Improvement, such Owner shall be entitled to payment to the extent of such funds of an amount equal to the costs, as determined by the City Engineer, incurred by such Owner prior to such termination for the construction of such Improvement.

In the event that the City chooses not to advertise and bid the balance of the construction of any such Improvement following such a termination, any monies remaining in the improvement fund for the Community Facilities District and set aside for the acquisition of such Improvement shall be transferred to the special tax fund established pursuant to the Fiscal Agent Agreement for the Bonds and used, at the discretion of the City, to pay debt service on or to call outstanding Bonds.

SECTION 17. Agreement Contingent. This Agreement is contingent upon the successful sale of Bonds for each Improvement Area and it shall be null and void as to any Improvement Area if the Bonds for such Improvement Area are not sold within a three (3) year period following the date of completion of the construction of all of the Improvements allocated to such Improvement Area, or any mutually agreed extension. Notwithstanding the foregoing, the parties agree that the three (3) year period of time described in the preceding sentence shall automatically be extended by one (1) year increments for an Improvement Area in the event that the construction of the Improvements has been completed for such Improvement Area, but at the start of the third year of the three year period, City and the Owner of such Improvement Area determine that there is no market for the Bonds for such Improvement Area or that if the Bonds for such Improvement Area were sold, such Bonds would be sold at an average interest rate in excess of six percent (6.00%).

SECTION 18. Notice of Special Tax. Each Owner, or the successor or assigns of such Owner, shall provide written notice to all potential purchasers or lessees, if the special taxes are to be passed through to such lessees, of lots or portions thereof in the form prescribed by Section 53341.5 of the Act advising the potential owner or lessee, as applicable, of the fact of the proposed or confirmed Community Facilities District, with such document being executed by the potential purchaser or lessee, as applicable. Such notice shall be provided to the potential purchaser or lessee, as applicable, before the potential purchaser becomes contractually committed to purchase the lot or the lessee enters into the lease of the lot so that the potential purchaser or lessee, as applicable, may knowingly consider the impact of the special tax in the decision to purchase or lease the lot. A copy of all such notices executed by actual purchasers or lessees shall be sent to the City Engineer.

SECTION 19. Relationship to Public Works. This Agreement is for the acquisition of the Improvements by City, the Flood Control District or SCE and the sale of the Bonds for the payment of construction and acquisition costs for the Improvements and such other amounts as are herein provided, and is not intended to be a public works contract.

In performing its obligations under this Agreement, each Owner is an independent contractor and not the agent of City. City shall have no responsibility for payment to any contractor or supplier of such Owner. Notwithstanding the foregoing, an Owner may be subject to certain public contract requirements as provided in Section 3 of this Agreement.

SECTION 20. Sale of Bonds. The City shall initiate proceedings to issue and sell bonds secured by the levy of special taxes within each Improvement Area of the Community Facilities District (the "Bonds") to be issued pursuant to the Act only upon the receipt of a written request from the Owner(s) of the property within an Improvement Area that the City initiate proceedings to issue and sell such Bonds. It is anticipated that a separate series of Bonds may be sold for each Improvement Area at different times to finance the cost of the Improvements allocated to such Improvement Area or, alternatively, a single series of Bonds may be sold for combined Improvement Areas. The Bonds

for an Improvement Area shall be sized so that as of the date of issuance of the Bonds the aggregate appraised value of all taxable properties within the Improvement Area for which the Bonds are being issued shall comply with the value-to-lien standards set forth in the Goals and Policies, as such Goals and Policies may have been amended as of the date of value of the appraisal of the taxable properties within the applicable Improvement Area. The appraised value of taxable property for purposes of this paragraph shall be determined by an independent appraisal undertaken for the City utilizing appraisal assumptions approved by the City.

The proceeds of the Bonds issued for any Improvement Area shall be used in the following priority to (i) fund a reserve fund for the payment of principal and interest with respect to such Bonds; (ii) fund capitalized interest on such Bonds for a period not to exceed eighteen (18) months; (iii) pay for costs of issuance of such Bonds including, without limitation, underwriter's discount, bond counsel fees and expenses, disclosure counsel fees and expenses, financial advisor fees and expenses, printing, and paying agent fees and expenses; (iv) pay for the proportionate share of the costs of forming the Community Facilities District allocated to such Improvement Area, including reimbursement of advances of funds to the City by an Owner and such Owner's legal, engineering and financial consulting expenses incurred relating to the formation of the Community Facilities District and issuance of the Bonds; and (v) pay the proportionate share of the costs allocated to such Improvement Area of the acquisition of the Improvements pursuant to the provisions of this Agreement or the JCFA, as applicable.

Subject to the satisfaction of the conditions precedent, including without limitation, the receipt of a written request from an Owner, as delineated in the first paragraph of this Section 20, the timing of the issuance and sale of the Bonds for an Improvement Area, the terms and conditions upon which such Bonds shall be issued and sold, the method of sale of such Bonds and the pricing thereof shall be determined solely by the City and shall conform to the Goals and Policies and this Agreement. The sale of the Bonds for an Improvement Area shall be subject to receipt by the City of a competitively bid or negotiated bond purchase agreement which is acceptable to the City. The sale of the Bonds for an Improvement Area shall also be conditional upon the preparation of an official statement that is, in the sole judgment of the City, "deemed final" as such term is used in Rule 15c2-12 of the Securities and Exchange Commission (the "Rule").

In addition to the foregoing, the principal amount of the Bonds to be issued for an Improvement Area shall be determined taking into consideration (a) the Bond authorization for such Improvement Area, (b) the budgeted construction cost for the Improvements to be financed, and (c) assuring that the maximum projected annual special tax revenues securing the Bonds equals at least (i) 110% of the projected annual gross debt service on all of the outstanding Bonds plus (ii) Administrative Expenses (as such term is defined in the rate and method of apportionment of special taxes authorized to be levied within the Improvement Area).

Owner, on behalf of itself, any affiliates of Owner and any successor or assign of Owner, agrees (a) to provide all information regarding the development of its property within the applicable Improvement Area of the Community Facilities District, including the financing plan for such development, which are necessary to ensure that the official statement for such Bonds complies with the requirements of the Rule and all other applicable federal and state securities laws; (b) to enter into a continuing disclosure agreement to provide such continuing disclosure pertaining to the

applicable Improvement Area, the development thereof and such Owner as necessary to ensure ongoing compliance with the continuing disclosure requirements of the Rule and (c) to cause its counsel to provide an opinion of such counsel in a form satisfactory to the underwriter of such series of the Bonds and underwriter's counsel or disclosure counsel, as applicable. Owner acknowledges and understands that that the City may require the same commitments from other owners of property located within one or more of the Improvement Areas and the willingness and ability of any such owner to timely fulfill such commitments may affect the timing of the issuance of Bonds for the applicable Improvement Area or Improvement Areas.

SECTION 21. Annexation to Community Facilities Agreement. City and Owners acknowledge that the Community Facilities District has been structured so that properties located outside the original boundaries of the Community Facilities District that will, upon the development thereof, contribute runoff to the Flood Control Facilities or will be protected from flooding by the Flood Control Facilities may be annexed to the Community Facilities District and an Improvement Area within the Community Facilities District (the "Tributary Parcels"). The Tributary Parcels and the Improvement Areas into which such parcels may be annexed are shown on Exhibit C to the ADP Agreement.

SECTION 22. Conflict with Other Agreements. Except as specifically provided herein, nothing contained herein shall be construed as releasing an Owner from any Condition of Approval applicable to such Owner's Development or requirement imposed by any other agreement with City. In the event of a conflicting provision, such other agreement shall prevail unless such conflicting provision is specifically waived or modified in writing by City and an Owner.

SECTION 23. General Standard of Reasonableness. Any provision of this Agreement which requires the consent, approval, discretion or acceptance of any party hereto or any of their respective employees, officers or agents shall be deemed to require that such consent, approval or acceptance not be unreasonably withheld or delayed, unless such provision expressly incorporates a different standard.

SECTION 24. Entire Agreement; Amendment. This Agreement and the agreements expressly referred to herein contains all of the agreements of the parties hereto with respect to the matters contained herein and no prior or contemporaneous agreement or understandings, oral or written, pertaining to any such matters shall be effective for any purpose. No provision of this Agreement may be modified, waived, amended or added to except by a writing signed by the party against which the enforcement of such modification, waiver, amendment or addition is or may be sought.

SECTION 25. Notices. Any notice, payment or instrument required or permitted by this Agreement to be given or delivered to another party shall be deemed to have been received when personally delivered or seventy-two (72) hours following deposit of the same in any United States Post Office in California, registered or certified, postage prepaid, addressed as follows:

If to the City: City of Moreno Valley
Public Works Department, Special Districts Division
14325 Frederick Street, Suite 9
Moreno Valley, CA 92553
Attention: Special Districts Division Manager

With a copy to: City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92553
Attention: City Attorney

Best Best & Krieger LLP
655 West Broadway, 15th Floor
San Diego, CA 92101
Attention: Warren Diven

If to the Owners: c/o First Industrial Realty Trust, Inc.
898 N. Sepulveda Blvd, Suite 750
El Segundo, CA 90245
Attention: Matt Englhard

With a copy to: Barack Ferrazzano Kirschbaum Perlman & Nagelberg LLP
333 West Wacker Drive, Suite 2700
Chicago, IL 60606
Attention: Brett A. Feinberg

Each party may change its address for delivery of notice by delivering written notice of such change of address to the other parties.

SECTION 25. Severability. If any provision of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.

SECTION 26. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. An Owner may not assign its rights or obligations hereunder except upon written notice to City within ten (10) days of the date of such assignment indicating the name and address of the assignee. A decision by the City on acceptance of an assignment shall be made within ten (10) business days from the date of receipt by the City of Owner's written notice of assignment; provided, however, if the City shall provide written notice to the Owner within such initial response period that (a) the City Council will not be meeting in regular session during such initial response period or (b) the City Council will be meeting in regular session during such initial response period but there is not sufficient time to agendize the acceptance of the assignment for such City Council meeting, such response period shall automatically be extended to the tenth business day following the date of the first regularly scheduled City Council meeting following the expiration of the initial response period for which the acceptance of the assignment may be timely agendized. An Owner shall not be released from its duties or obligations hereunder

without written notice from the City accepting the assignment of the Owner's obligations hereunder. Upon such notice and acceptance by the City of assignment of the duties and obligations of such Owner arising under or from this Agreement, such Owner shall be released by City from all future duties or obligations rising under or from this Agreement. Notwithstanding the preceding sentence, an Owner may assign its rights and obligations hereunder as security to lenders for the purpose of obtaining loans to finance development within the Community Facilities District, but no such assignment shall release such Owner from its obligations hereunder to City.

SECTION 27. Governing Law. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California. Additionally, this Agreement and the construction of the Improvements shall be subject to all City ordinances and regulations relating to the requirement of improvement agreements, land division, improvement security or other applicable development requirements.

SECTION 28. Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by any other party, or the failure by a party to exercise its rights under the default of any other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by any other party with the terms of this Agreement thereafter.

SECTION 29. Singular and Plural; Gender. As used herein, the singular of any work includes the plural, and terms in the masculine gender shall include the feminine.

SECTION 30. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

SECTION 31. Construction of Agreement. This Agreement has been reviewed by legal counsel for both the City and the Owners and shall be deemed for all purposes to have been jointly drafted by the City and the Owners. No presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement. The language in all parts of this Agreement, in all cases, shall be construed as a whole and in accordance with its fair meaning and not strictly for or against any party and consistent with the provisions hereof, in order to achieve the objectives of the parties hereunder. The captions of the sections and subsections of this Agreement are for convenience only and shall not be considered or referred to in resolving questions of construction.

SECTION 32. Time of the Essence. The parties to this Agreement understand that time is of the essence in the completion of all matters contemplated by this Agreement because of, among other things, the necessity for completion of the Improvements in connection with construction of the Developments. The parties agree to use due diligence to fulfill their obligations contemplated by this Agreement at the earliest possible time. Without limiting the generality of the foregoing or compliance with specific time provisions set forth in this Agreement, any party to this Agreement requested or required to act, consent, or approve plans, work, documents, or other matters shall not unreasonably withhold or delay any such act, consent, or approval contemplated in this Agreement.

Notwithstanding the foregoing, performance by any party to this Agreement of its obligations hereunder shall be excused during any period of delay caused at any time by reasons of Acts of God,

enactment of conflicting laws or regulations, moratoriums, riots, strikes, or damage to work in process by reason of fire, floods, earthquake, or other such casualties. If any party of this Agreement seeks excuse from timely performance, it shall provide written notice of such delay to every other party to this Agreement within thirty (30) calendar days of the commencement of such delay. Any delay or default beyond the control of the noticing party shall extend the time for performance for a period equal to the period of the enforced delay, or longer as may be mutually agreed upon.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first written above.

CITY OF MORENO VALLEY

By: _____
City Manager

Date of Execution: _____

APPROVED AS TO FORM:

CITY ATTORNEY

By: _____

Date: _____

SDPUB\WDIVEN\385320.7

OWNERS:

FR/CAL MORENO VALLEY, LLC, a Delaware limited liability company

By: FirstCal Industrial, LLC, a Delaware limited liability company, its sole member

By: FR FirstCal, LLC, a Delaware limited liability company, its managing member

By: First Industrial Investment, Inc., a Maryland corporation, its sole member

By: _____
Name: _____
Its: _____

Date of execution: _____

FIRST INDUSTRIAL, L.P., a Delaware limited partnership

By First Industrial Realty Trust, Inc., a Maryland corporation and its sole general partner

By: _____
Name: _____
Its: _____

Date of execution: _____

FR/CAL INDIAN AVENUE, LLC, a Delaware limited liability company

By: FirstCal Industrial, LLC, a Delaware limited liability company, its sole member

By: FR FirstCal, LLC, a Delaware limited liability company, its managing member

By: First Industrial Investment, Inc., a Maryland corporation, its sole member

By: _____

Name: _____

Its: _____

Date of execution: _____

EXHIBIT "A"

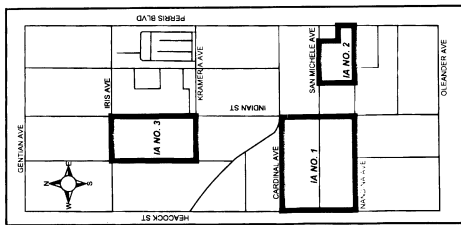
**BOUNDARIES OF
COMMUNITY FACILITIES DISTRICT
AND IMPROVEMENT AREAS**

136
Copy

SHEET 1 OF 3

MAP OF PROPOSED BOUNDARIES OF
COMMUNITY FACILITIES DISTRICT NO. 7

CITY OF MORENO VALLEY
COUNTY OF RIVERSIDE
STATE OF CALIFORNIA



Vicinity Map

MAP REF. NO.	ASSESSOR'S PARCEL NO.
1	316-170-001
2	316-170-002
3	316-170-004
4	316-170-006
5	316-170-007
6	316-170-010
7	316-170-014
8	316-180-002
9	316-180-002
10	316-180-003
11	316-180-005
12	316-180-008
13	316-180-008
14	316-180-009
15	316-180-010

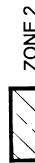
LEGEND FOR SHEET 1

— IMPROVEMENT AREA NO. 1 (IA NO. 1) BOUNDARY

① MAP REFERENCE NUMBER



ZONE 1



ZONE 2

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MORENO VALLEY THIS 14 DAY OF MAY 2008.

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 7, CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF MORENO VALLEY AT A REGULAR MEETING THEREOF, HELD ON THE 13 DAY OF MAY 2008, BY ITS RESOLUTION NO. 2008-58

Deane H. Histed
CITY CLERK
CITY OF MORENO VALLEY

RIVERSIDE COUNTY RECORDERS, CERTIFICATE

FILED THIS 14TH DAY OF MAY 2008, AT 10 O'CLOCK A. M. IN BOOK 73 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS (AT PAGE(S) 16-B) IN THE OFFICE OF THE COUNTY RECORDER, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA.

FEES: \$ 13.00

INSTRUMENT NO.: 2008-02055915

LARRY WARD, ASSESSOR-COUNTY CLERK-RECORDER

BY DEPUTY *M. Garcia*
COUNTY RECORDER
COUNTY OF RIVERSIDE

THE LINES AND DIMENSIONS OF EACH LOT OR PARCEL SHOWN ON THIS DIAGRAM SHALL BE THOSE LINES AND DIMENSIONS AS SHOWN ON THE RIVERSIDE COUNTY ASSESSOR'S MAPS FOR THOSE PARCELS LISTED.

THE RIVERSIDE COUNTY ASSESSOR'S MAPS SHALL GOVERN FOR ALL DETAILS CONCERNING THE LINES AND DIMENSIONS OF SUCH LOTS OR PARCELS.



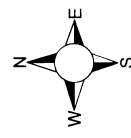
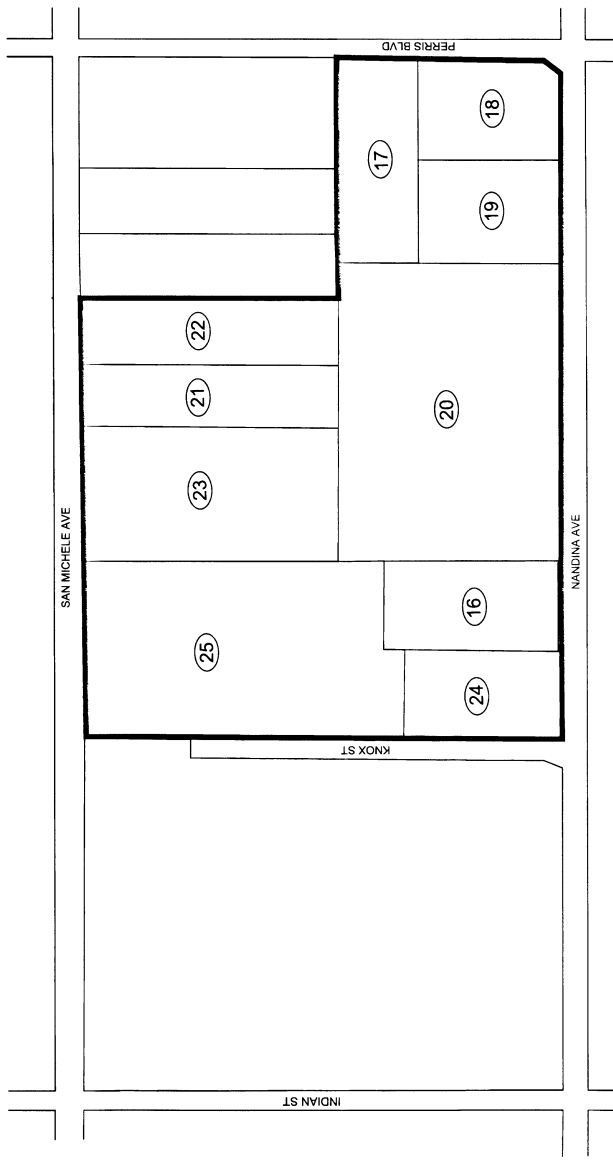
MuniFinancial
Industries
Suite 110
14000 Valley Blvd.
Van Nuys, CA 91411-3600
Phone: (818) 997-8000 Fax: (818) 997-3610

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SHEET 2 OF 3

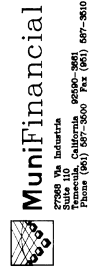
MAP OF PROPOSED BOUNDARIES OF
COMMUNITY FACILITIES DISTRICT NO. 7

CITY OF MORENO VALLEY
COUNTY OF RIVERSIDE
STATE OF CALIFORNIA



MAP REF. NO.	ASSESSOR'S PARCEL NO.
16	316-200-003
17	316-200-009
18	316-200-010
19	316-200-011
20	316-200-012
21	316-200-013
22	316-200-014
23	316-200-018
24	316-200-028
25	316-200-029

LEGEND FOR SHEET 2
 ——— IMPROVEMENT AREA NO. 2 (A NO. 2) BOUNDARY
 (1) MAP REFERENCE NUMBER

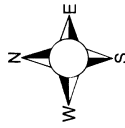
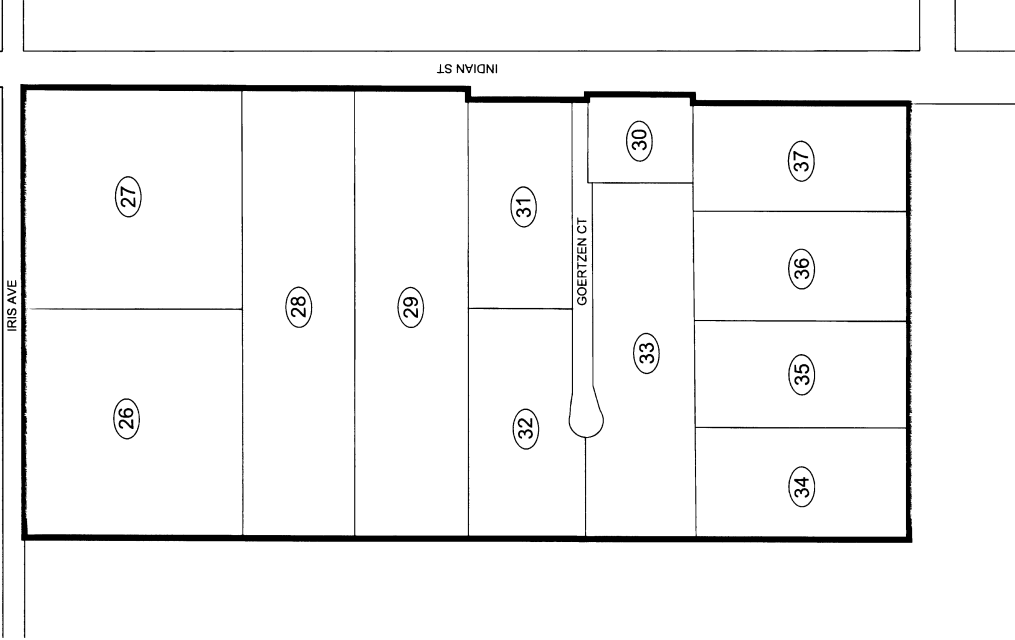


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SHEET 3 OF 3

MAP OF PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 7

CITY OF MORENO VALLEY
COUNTY OF RIVERSIDE
STATE OF CALIFORNIA



LEGEND FOR SHEET 3

— IMPROVEMENT AREA NO. 3 (IA NO. 3) BOUNDARY

① MAP REFERENCE NUMBER

MAP REF NO.	ASSESSOR'S PARCEL NO.
26	316-020-002
27	316-020-003
28	316-020-004
29	316-020-005
30	316-020-012
31	316-020-013
32	316-020-014
33	316-020-015
34	316-020-016
35	316-020-017
36	316-020-018
37	316-020-019



MuniFinancial
 2700 W. Indianterra
 Suite 100
 Temecula, California 92590-9601
 Phone (951) 697-3600 Fax (951) 697-8510

EXHIBIT “B-1”

DESCRIPTION OF IMPROVEMENTS

Improvement Area No. 1 Improvements:

Improvements to be financed from the proceeds of Bonds issued for Improvement Area No. 1 (the “Improvement Area No. 1 Improvements”) include the following subject to modification based upon the City’s final conditions of approval of the Improvement Area No. 1 Street Improvements or the final approval of the Plans and Specifications therefore or the Flood Control District’s final conditions of approval of the Flood Control Facilities or the final approval of the plans and specifications therefor:

Improvement Area No. 1 Flood Control Facilities shall mean those Flood Control Facilities described in Exhibit C to the JCFA as the Improvement Area No. 1 Flood Control Facilities.

Improvement Area No. 1 Street Improvements:

- Nandina Avenue will be improved from Heacock Street to Indian Street – North Side. – The components of this Street Improvement will include but not be limited to curb and gutter, sidewalk, structural section and paving of roadways, street lighting, traffic signals and appurtenances (at the intersections of Indian Street/Nandina Avenue), striping, signage, ADA ramps, drive aprons, local depressions and catch basins.
- Heacock Street will be improved from Nandina Street to Komar Property Line (PL) – The components of this Street Improvement will include but not be limited to curb and gutter, sidewalk, structural section and paving of roadways, street lighting, traffic signals and appurtenances (as the intersection of Heacock Street and San Michele Avenue), local depressions and catch basins.
- Traffic signal installation at the intersection of Indian Street and San Michele Avenue.

Improvement Area No. 2 Improvements:

Improvements to be financed from the proceeds of Bonds issued for Improvement Area No. 2 (the “Improvement Area No. 2 Improvements”) include the following subject to modification based upon the City’s final conditions of approval of the Improvement Area No. 2 Street Improvements or the final approval of the Plans and Specifications therefore or the Flood Control District’s final conditions of approval of the Flood Control Facilities or the final approval of the plans and specifications therefor:

Improvement Area No. 2 Flood Control Facilities shall mean those Flood Control Facilities described in Exhibit C to the JCFA as the Improvement Area No. 2 Flood Control Facilities

Improvement Area No. 2 Street Improvements:

- Nandina Avenue to First Industrial Property Line - The components of this Street Improvement will include but not be limited to curb and gutter, sidewalk, structural section and paving of roadways, street lighting, striping, signage, ADA ramps, drive aprons, local depressions and catch basins.

Improvement Area No. 3 Improvements:

Improvements to be financed from the proceeds of Bonds issued for Improvement Area No. 3 (“Improvement Area No. 3 Improvements”) include the following subject to modification based upon the City’s final conditions of approval of the Improvement Area No. 3 Street Improvements or the final approval of the Plans and Specifications therefore or the Flood Control District’s final conditions of approval of the Flood Control Facilities or the final approval of the plans and specifications therefor:

Improvement Area No. 3 Flood Control Facilities shall mean those Flood Control Facilities described in Exhibit C to the JCFA as the Improvement Area No. 3 Flood Control Facilities.

Improvement Area No. 3 Street Improvements:

- Indian Street from Iris Avenue to Krameria Avenue - The components of this Street Improvement will include but not be limited to curb and gutter, sidewalk, structural section and paving of roadways, street lighting, traffic signals and appurtenances (at the intersections of Indian Street and Iris Avenue and Indian Street and Krameria Avenue) striping, signage, median landscaping, ADA ramps, drive aprons, local depressions and catch basins.
- Iris Avenue from Street “A” to Indian Street - The components of this Street Improvement will include but not be limited to curb and gutter, sidewalk, structural section and paving of roadways, street lighting, traffic signals and appurtenances (at the intersections of Iris and Future Street) striping, signage, median landscaping, ADA ramps, drive aprons, local depressions and catch basins.
- Street “A” from Iris Avenue to Krameria Avenue - The components of this Street Improvement will include but not be limited to curb and gutter, sidewalk, structural section and paving of roadways, street lighting, striping, signage, ADA ramps, drive aprons, local depressions and catch basins.
- Krameria Avenue from Indian Street to Street “A” - The components of this Street Improvement will include but not be limited to curb and gutter, sidewalk, structural section and paving of roadways, street lighting, striping, signage, ADA ramps, drive aprons, local depressions and catch basins.

Improvement Area No. 3 Utility Improvements:

- Undergrounding of overhead utilities adjacent to or in the Street Improvements for

Indian Street described above.

Upon the approval by the City of final Plans and Specifications for any Street Improvement or the approval by the Flood Control District of final plans and specifications for any Flood Control Facilities, the City Engineer may attach an addendum to this Exhibit B-1 which shall be initialed by an authorized representative of the Owner responsible for constructing or causing the construction of such Street Improvements or Flood Control Facilities, as the case may be, identifying the applicable plans and specifications and the location thereof and such plans and specifications shall thereafter govern the description of the applicable Street Improvements or Flood Control Facilities.

EXHIBIT "B-2"

CFD NO. 7 INFRASTRUCTURE BUDGET

Exhibit B-2

**CFD No. 7 Infrastructure Budget
City of Moreno Valley**

IMPROVEMENT AREA NO. 1

		<u>Costs</u>	<u>Subtotals and Contingencies</u>	<u>Total</u>
Storm Drain (Perris Valley Lateral B-3a through B-3g and B-3.2)				\$ 7,177,610
Gas Line Relocation to Accommodate Storm Drain				\$ 163,128
Nandina Avenue (Heacock to Indian Street-North Side)				
HARD COSTS	ITEM			
	Roadway			
	Curb and Gutter	\$ 48,230		
	Sidewalk	58,658		
	Excavation and Clearing	120,443		
	Asphalt Concrete over AC Base	218,988		
	Traffic Control	13,012		
	Street Lights	56,000		
	Signalization			
	Indian/Nandina	200,000		
	Signing and Striping	3,650		
	ADA Ramps	2,000		
	Drive Aprons	10,500		
	Storm Drain Inlet	<u>2,000</u>		
	SUBTOTAL		\$ 733,480	
	Hard Cost Contingency (10%)		<u>73,348</u>	
	HARD COSTS		\$ 806,828	
SOFT COSTS				
	Civil Engineering (3%)	\$ 22,004		
	Construction Staking (1%)	7,335		
	Developer Fee/Project Management Fee (4%)	32,273		
	Construction Management Fee (4%)	32,273		
	General Conditions (3%)	24,205		
	Landscape Architect	-		
	Plancheck and Permits (3%)	22,004		
	Soils/Materials Testing (1%)	<u>7,335</u>		
	SUBTOTAL		\$ 147,429	
	Soft Cost Contingency (2%)		<u>2,949</u>	
	SOFT COSTS		\$ 150,378	
Nandina Avenue Total				\$ 957,206

		Costs	Subtotals and Contingencies	Total
Heacock Street (Nandina North to Komar PL)				
HARD COSTS	ITEM			
	Roadway			
	Curb and Gutter	\$ 11,840		
	Sidewalk	14,400		
	Excavation and Clearing	29,568		
	Asphalt Concrete over AC Base	53,760		
	Traffic Control	2,962		
	Street Lights	7,000		
	Signalization			
	Heacock/San Michele	200,000		
	Signing and Striping	896		
	ADA Ramps	1,000		
	Drive Aprons	4,000		
	Storm Drain Inlet	-		
	SUBTOTAL		\$ 325,426	
	Hard Cost Contingency (10%)		<u>32,543</u>	
	HARD COSTS		\$ 357,968	
SOFT COSTS				
	Civil Engineering (3%)	\$ 9,763		
	Construction Staking (1%)	3,254		
	Developer Fee/Project Management Fee (4%)	14,319		
	Construction Management Fee (4%)	14,319		
	General Conditions (3%)	10,739		
	Landscape Architect	-		
	Plancheck and Permits (3%)	9,763		
	Soils/Materials Testing (1%)	3,254		
	SUBTOTAL		\$ 65,411	
	Soft Cost Contingency (2%)		<u>1,308</u>	
	SOFT COSTS		\$ 66,719	
Heacock Street Total			\$ 424,687	
Traffic Signal	Indian Street/San Michele		\$ 261,004	
TOTAL IMPROVEMENT AREA 1 COSTS			\$ 8,983,634	

IMPROVEMENT AREA NO. 2

		<u>Costs</u>	<u>Subtotals and Contingencies</u>	<u>Total</u>
Storm Drain (Perris Valley Laterals B-1 and B-2)				\$ 2,211,218
Nandina Avenue (Knox Street to Perris Boulevard-North Side)				
HARD COSTS	ITEM			
	Roadway			
	Curb and Gutter	\$ 29,431		
	Sidewalk		35,685	
	Excavation and Clearing		73,273	
	Asphalt Concrete over AC Base	133,224		
	Traffic Control		7,831	
	Street Lights		38,500	
	Signing and Striping		2,220	
	ADA Ramps		1,000	
	Drive Aprons		5,000	
	Storm Drain Inlet		-	
	SUBTOTAL		\$ 326,164	
	Hard Cost Contingency (10%)		<u>32,616</u>	
	HARD COSTS		\$ 358,781	
SOFT COSTS				
	Civil Engineering (3%)	\$ 9,785		
	Construction Staking (1%)		3,262	
	Developer Fee/Project Management Fee (4%)		14,351	
	Construction Management Fee (4%)		14,351	
	General Conditions (3%)		10,763	
	Landscape Architect		5,000	
	Plancheck and Permits (3%)		9,785	
	Soils/Materials Testing (1%)		<u>3,262</u>	
	SUBTOTAL		\$ 70,559	
	Soft Cost Contingency (2%)		<u>1,411</u>	
	SOFT COSTS		\$ 71,970	
Nandina Avenue Total				\$ 430,751
TOTAL IMPROVEMENT AREA 2 COSTS				<u><u>\$ 2,641,969</u></u>

IMPROVEMENT AREA NO. 3

		<u>Costs</u>	<u>Subtotals and Contingencies</u>	<u>Total</u>
Storm Drain (Sunnymead Line D-1)				\$ 1,679,561
Indian Street (Iris Avenue to Krameria)				
HARD COSTS	ITEM			
	Roadway			
	Curb and Gutter	\$ 47,286		
	Sidewalk	57,510		
	Excavation and Clearing	109,652		
	Asphalt Concrete over AC Base	199,368		
	Traffic Control	10,428		
	Street Lights	59,500		
	Signalization			
	Indian/iris	100,000		
	Indian/Krameria	200,000		
	Signing and Striping	3,323		
	ADA Ramps	1,000		
	Drive Aprons	5,000		
	Storm Drain Inlet	<u>-</u>		
	Overhead Utility Undergrounding		\$ 206,480	
	SUBTOTAL		999,548	
	Hard Cost Contingency (10%)		<u>99,955</u>	
	HARD COSTS		\$ 1,099,502	
SOFT COSTS				
	Civil Engineering (3%)	\$ 29,986		
	Construction Staking (1%)	9,995		
	Developer Fee/Project Management Fee (4%)	43,980		
	Construction Management Fee (4%)	43,980		
	General Conditions (3%)	32,985		
	Landscape Architect	-		
	Plancheck and Permits (3%)	29,986		
	Soils/Materials Testing (1%)	<u>9,995</u>		
	SUBTOTAL		\$ 200,909	
	Soft Cost Contingency (2%)		<u>4,018</u>	
	SOFT COSTS		\$ 204,927	
Indian Street Total				\$ 1,304,430

		Costs	Subtotals and Contingencies	Total
Iris Avenue (Street "A" to Indian Street)				
HARD COSTS	ITEM			
	Roadway			
	Curb and Gutter	\$ 23,588		
	Sidewalk	28,688		
	Excavation and Clearing	92,565		
	Asphalt Concrete over AC Base	168,300		
	Traffic Control	10,011		
	Street Lights	31,500		
	Signalization	-		
	Iris/Future Street	200,000		
	Signing and Striping	2,805		
	ADA Ramps	2,000		
	Drive Aprons	5,000		
	Storm Drain Inlet	-		
		<hr/>		
	SUBTOTAL	\$	564,456	
	Hard Cost Contingency (10%)		<hr/> 56,446	
	HARD COSTS	\$	620,902	
SOFT COSTS				
	Civil Engineering (3%)	\$ 16,934		
	Construction Staking (1%)	5,645		
	Developer Fee/Project Management Fee (4%)	24,836		
	Construction Management Fee (4%)	24,836		
	General Conditions (3%)	18,627		
	Landscape Architect	-		
	Plancheck and Permits (3%)	16,934		
	Soils/Materials Testing (1%)	5,645		
		<hr/>		
	SUBTOTAL	\$	113,456	
	Soft Cost Contingency (2%)		<hr/> 2,269	
	SOFT COSTS	\$	115,725	
Iris Avenue Total			\$	736,627

		Costs	Subtotals and Contingencies	Total
Street "A" (Iris to Krameria)				
HARD COSTS				
	ITEM			
	Roadway			
	Curb and Gutter	\$ 47,286		
	Sidewalk	57,510		
	Excavation and Clearing	168,696		
	Asphalt Concrete over AC Base	306,720		
	Traffic Control	16,083		
	Street Lights	56,000		
	Signing and Striping	5,112		
	ADA Ramps	2,000		
	Drive Aprons	10,500		
	Storm Drain Inlet	2,000		
	SUBTOTAL		\$ 671,907	
	Hard Cost Contingency (10%)		67,191	
	HARD COSTS		\$ 739,098	
SOFT COSTS				
	Civil Engineering (3%)	\$ 20,157		
	Construction Staking (1%)	6,719		
	Developer Fee/Project Management Fee (4%)	29,564		
	Construction Management Fee (4%)	29,564		
	General Conditions (3%)	22,173		
	Landscape Architect	-		
	Plancheck and Permits (3%)	20,157		
	Soils/Materials Testing (1%)	6,719		
	SUBTOTAL		\$ 135,053	
	Soft Cost Contingency (2%)		2,701	
	SOFT COSTS		\$ 137,754	
Street "A" Total			\$ 876,852	

		Costs	Subtotals and Contingencies	Total
Krameria Avenue (Indian to Street "A")				
HARD COSTS	ITEM			
	Roadway			
	Curb and Gutter	\$ 23,588		
	Sidewalk	28,688		
	Excavation and Clearing	92,565		
	Asphalt Concrete over AC Base	168,300		
	Traffic Control	8,433		
	Street Lights	21,000		
	Signing and Striping	3,188		
	Median	-		
	ADA Ramps	-		
	Drive Aprons	-		
	Storm Drain Inlet	-		
	SUBTOTAL	\$ 345,761		
	Hard Cost Contingency (10%)		<u>34,576</u>	
	HARD COSTS		\$ 380,337	
SOFT COSTS				
	Civil Engineering (3%)	\$ 10,373		
	Construction Staking (1%)	3,458		
	Developer Fee/Project Management Fee (4%)	15,213		
	Construction Management Fee (4%)	15,213		
	General Conditions (3%)	11,410		
	Landscape Architect	-		
	Plancheck and Permits (3%)	10,373		
	Soils/Materials Testing (1%)	3,458		
	SUBTOTAL	\$ 69,498		
	Soft Cost Contingency (2%)		<u>1,390</u>	
	SOFT COSTS		\$ 70,888	
Krameria Avenue Total				\$ 451,225
TOTAL IMPROVEMENT AREA 3 COSTS				<u>\$ 5,048,694</u>

EXHIBIT "C"

JOINT COMMUNITY FACILITIES AGREEMENT

JOINT COMMUNITY FACILITIES AGREEMENT
(Flood Control Improvements)

by and among

CITY OF MORENO VALLEY,

**RIVERSIDE COUNTY FLOOD CONTROL AND
WATER CONSERVATION DISTRICT,**

**FR/CAL MORENO VALLEY, LLC,
a Delaware limited liability company,**

**FIRST INDUSTRIAL, LP,
a Delaware limited partnership**

and

**FR/CAL INDIAN AVENUE, LLC,
a Delaware limited liability company**

Dated as of September 1, 2009

**Relating to:
Community Facilities District No. 7
of
The City of Moreno Valley**

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JOINT COMMUNITY FACILITIES AGREEMENT

THIS JOINT COMMUNITY FACILITIES AGREEMENT (this "Joint Community Facilities Agreement") is made and entered into as of Sept. 1, 2009, by and among City of Moreno Valley, a municipal corporation organized and existing under the laws of the State of California (hereinafter "City"), Riverside County Flood Control and Water Conservation District, a public agency organized and existing pursuant to Chapter 48 of the Appendix to the California Water Code (hereinafter the "Flood Control District"), and FR/CAL Moreno Valley, LLC, a Delaware limited liability company ("FR/CAL MV"), First Industrial, LP, a Delaware limited partnership ("FILP") and FR/CAL Indian Avenue, LLC, a Delaware limited liability company ("FR/CAL IA"). FR/CAL MV, FILP and FR/CAL IA may be referred to individually as a "Property Owner" or collectively as the "Property Owners".

RECITALS:

A. The City Council of the City (the "City Council") formed a community facilities district identified as "Community Facilities District No. 7 of the City of Moreno Valley," (the "Community Facilities District") pursuant to the terms and provisions of the Mello-Roos Community Facilities Act of 1982 (the "Act") (commencing with Section 53311 of the California Government Code (the "Code")).

B. The boundaries of the Community Facilities District include all of the territory shown on the map entitled "Map of Proposed Boundaries of Community Facilities District No. 7, City of Moreno Valley, County of Riverside, State of California" recorded in the Office of the County Recorder of the County of Riverside on May 16, 2008 in Book 73 of Maps of Assessment and Community Facilities Districts at pages 6-8 thereof (the "Boundary Map"). A copy of the Boundary Map is attached as Exhibit A hereto.

The Property Owners are the owners of certain real property located in the City and the Community Facilities District. Each parcel owned by the Property Owners may be referred to individually as a "Parcel" or collectively as the "Parcels."

In forming the Community Facilities District, three improvement areas were designated therein as Improvement Area No. 1, Improvement Area No. 2 and Improvement Area No. 3 (each an "Improvement Area" and collectively, the "Improvement Areas"). Improvement Area No. 1 includes two (2) zones designated as Zone 1 and Zone 2. Each of the Improvement Areas and the zones within Improvement Area No. 1 are depicted on the Boundary Map. The Parcels owned by FR/CAL MV, known as Parcel Map 35150, are all of the parcels included in Zone 1 of Improvement Area No. 1. Certain additional parcels of property not owned by the Property Owners are included in Zone 2 of Improvement Area No. 1. The Parcels owned by FILP, known as Parcel Map 35672, are all of the parcels included in Improvements Area No. 2. The Parcels owned by FR/CAL IA, known as Tentative Parcel Map 35859, are all of the parcels included in Improvement Area No. 3.

It is the intention of the parties hereto that each Improvement Area shall be authorized to finance certain of the Flood Control Facilities (described in Exhibit C).

C. The Community Facilities District has been formed to finance the construction of certain public facilities to be constructed by, or on behalf of a Property Owner with the purchase price therefore to be paid from the proceeds of bonds to be sold and issued by the Community Facilities District for each of the Improvement Areas and the proceeds of special taxes levied and collected within each Improvement Area. The Flood Control Facilities are to be owned, operated and maintained by the Flood Control District, or the City, upon the completion of the construction thereof by the Property Owners and the acceptance thereof by the Flood Control District or the City, as applicable. The Flood Control Facilities are described in Exhibit C and their estimated costs are stated in Exhibit C attached hereto and incorporated herein by this reference.

D. Section 53313.5 of the Code provides that a community facilities district may only finance the purchase of facilities whose construction has been completed, as determined by the legislative body of the community facilities district, before the resolution of formation to establish the community facilities district is adopted pursuant to Section 53325.1 of the Code, except that a community facilities district may finance the purchase of facilities completed after the adoption of a resolution of formation (regardless if such construction is commenced prior to or after the adoption of the resolution of formation) if the facility is constructed as if it had been constructed under the direction and supervision, or under the authority of, the local agency, in this case, the Flood Control District.

E. Section 53314.9 of the Code provides that at any time either before or after the formation of a community facilities district, the legislative body may accept advances of funds or work in-kind from any source, including, but not limited to, private persons or entities, and may provide, by resolution, for the use of those funds or that work in-kind for any authorized purpose, under all of the following conditions: (a) the proposal to repay the funds or the value or cost of the work in-kind, whichever is less, is included in both the resolution of intention to establish the community facilities district adopted pursuant to Section 53321 of the Code and in the resolution to establish the community facilities district pursuant to Section 53325.1 of the Code, (b) any proposed special tax is approved by the qualified electors of the community facilities district pursuant to the Act, and (c) any work in-kind accepted pursuant to Section 53314.9 of the Code shall have been performed or constructed as if the work had been performed or constructed under the direction and supervision, or under the authority, of the local agency.

F. Upon approval of this Joint Community Facilities Agreement by the City, the Flood Control District and the Property Owners, the City Council, acting pursuant to the Act and on behalf of the Community Facilities District, will use its best efforts to sell and issue special tax bonds for the Improvement Areas the proceeds of which will be used in part to pay each Property Owner the purchase price of the Flood Control Facilities constructed or caused to be constructed by such Property Owner, provided all of the conditions of Sections 53313.5 and 53314.9 of the Code are satisfied and provided

further that the purchase price shall only be paid from the proceeds of special tax bonds, if any are sold and issued by the proposed Community Facilities District for the Improvement Areas therein.

G. The Act provides that the proposed Community Facilities District may finance the Flood Control Facilities, to be owned operated and maintained by the Flood Control District or the City, as applicable, only pursuant to a joint community facilities agreement adopted pursuant to Sections 53316.2, 53316.4 and 53316.6 of the Code.

H. The City, the Flood Control District and the Property Owners desire to enter into this Joint Community Facilities Agreement, as required by the aforementioned sections of the Code and prior to the adoption of the resolution of issuance of bonds of the Community Facilities District. The provisions of this Agreement are intended to apply only to the Flood Control Facilities, unless expressly stated otherwise. Notwithstanding the forgoing, payment for the City Flood Control Facilities shall be governed by the provisions of the Funding Agreement.

I. The City and the Flood Control District have determined that this Joint Community Facilities Agreement will be beneficial to the respective residents of the Flood Control District and the City.

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

ARTICLE I

DEFINITIONS

Section 1.1 Definitions. Unless the context otherwise requires, the terms defined in this Article I shall have the meaning herein specified:

“Acceptable Title” means title to land, or an easement therein, delivered free and clear of all liens, taxes, assessments, leases, easements and encumbrances, whether any such item is recorded or unrecorded, except those non-monetary items which are reasonably determined by the Flood Control District not to interfere with the intended use of such land or easement and therefore are not required to be cleared from title.

“Acceptance Date” means, with respect to Flood Control District Facilities, the date that such Flood Control District Facilities are accepted by the Flood Control District into its maintained system.

“Act” means the Mello-Roos Community Facilities Act of 1982, constituting Sections 53311 *et seq.* of the California Government Code, as amended.

“Actual Cost” means, with respect to a Flood Control District Facility, to the extent authorized by law, an amount equal to the sum of (a) the Property Owner’s actual, reasonable cost of constructing such Flood Control District Facility, including labor, material and equipment costs, (b) the Property Owner’s actual reasonable cost of

designing and preparing the Plans and Specifications for such Flood Control District Facility, including engineering services provided in connection with designing and preparing such Plans and Specifications, (c) the Property Owner's actual, reasonable cost of environmental evaluations and any mitigation measures required by any governmental agency with jurisdiction with regard to such Flood Control District Facility, or portions thereof, (d) the amount of any fees actually paid by the Property Owner to governmental agencies in order to obtain permits, licenses or other necessary governmental approvals and reviews for such Flood Control District Facility including but not limited to plan check and inspection fees by the Flood Control District and the County, (e) the Property Owner's actual reasonable cost for professional services directly related to the construction of such Flood Control District Facility, including engineering, inspection, construction staking, materials testing and similar professional services, (f) the Property Owner's actual, reasonable cost for construction management, bid administration and contract administration services which shall not exceed 5% of construction costs, (g) the Property Owner's actual reasonable cost of payment, performance or maintenance bonds and insurance for such Flood Control District Facility, (h) the actual, reasonable cost of easements or other real property or interest therein acquired from a party other than the Property Owner, which real property or interest therein is either necessary for the construction of such Flood Control District Facility (e.g., temporary construction easements) or is required to be conveyed with such Flood Control District Facility in order to convey Acceptable Title thereto to the Flood Control District, all as specified in a Payment Request that is to be reviewed and approved by the Contract Administrator; provided, however, that (x) no item of cost relating to a Flood Control District Facility shall be included in more than one category of cost specified in clauses (a) through (h) of this definition, and (y) each item of cost shall include only amounts actually paid by the Property Owner to third parties and shall not include overhead or other internal expenses of the Property Owner, except that, if Property Owner employees perform construction management, bid administration or contract administration services with respect to a Flood Control District Facility, the actual reasonable cost of the salaries and benefits paid by the Property Owner to such employees for performing such services may be included as an item of cost relating to such Flood Control District Facility for the category of cost specified in clause (f) of this definition and subject to the 5% limitation specified in clause (f). The term "Property Owner" as used in this definition shall have the meaning ascribed to it in Section 3.1., hereof.

"Administrator" means the City of Moreno Valley, Special Districts Division manager (or any successor to the responsibilities thereof if such office is no longer in existence), or his/her designee.

"Board of Supervisors" means the Board of Supervisors of the Riverside County Flood Control and Water Conservation District.

"Bonds" means the bonds that the Community Facilities District may attempt to sell and issue for each Improvement Area in one or more series, a portion of the proceeds of which will be used to acquire, among other authorized facilities, the Flood Control Facilities allocated to such Improvement Area.

“Business Day” means a day which is not a Saturday or Sunday or a day of the year on which the Flood Control District or the City are not required or authorized to be open.

“CEQA” means the California Environmental Quality Act (CEQA), constituting Sections 21000 *et seq.* of the California Public Resources Code, as amended.

“City” means the City of Moreno Valley, an incorporated municipality, or its successors.

“City Flood Control Facilities” means those Flood Control Facilities to be owned, operated and maintained by the City.

“Code” means the California Government Code.

“Community Facilities District” means “Community Facilities District No. 7 of the City of Moreno Valley,” a community facilities district organized and existing under the Act and all Improvement Areas therein.

“Construction Manager” means an individual or professional consulting company retained by a Property Owner to provide construction management services for and on behalf of such Property Owner in accordance with the terms and construction of this Joint Community Facilities Agreement.

“Construction Site” means the site on which the Flood Control Facilities are to be constructed, including off site staging areas and material storage areas.

“Cooperative Agreement(s)” means an agreement or agreements by and among the Flood Control District, the City and the applicable Property Owner, or its successor or assigns, further defining the parties’ respective rights and responsibilities pertaining to the design, construction, inspection and acceptance of one or more of the Flood Control Facilities.

“County” means the County of Riverside, a political subdivision of the State, and its successors.

“FILP” means First Industrial, LP, a Delaware limited partnership, and its successors and assigns, acting as the developer of infrastructure within Improvement Area No. 2 of the Community Facilities District, including but not limited to the Improvement Area No. 2 Flood Control Facilities.

“Flood Control District” means the Riverside County Flood Control and Water Conservation District, a public agency organized and existing pursuant to Chapter 48 of the Appendix to the California Water Code.

“Flood Control District Facilities” means those Flood Control Facilities that are to be owned, operated and maintained by the Flood Control District.

“Flood Control Facility” or “Flood Control Facilities” means one or more of those certain Flood Control Facilities, which are identified and described in Exhibit C attached hereto and that are to be owned, operated and maintained by the Flood Control District or the City subject to the terms and conditions of the applicable Cooperative Agreement..

“Flood Engineer” means, the General Manager-Chief Engineer of the Flood Control District (or any successor to the responsibilities thereof if such office is no longer in existence), or his/her designee.

“FR/CAL MV” means FR/CAL Moreno Valley, LLC, a Delaware limited liability company, and its successors and assigns, acting as the developer of infrastructure within Improvement Area No. 1 of the Community Facilities District, including but not limited to the Improvement Area No. 1 Flood Control Facilities.

“FR/CAL IA” means FR/CAL Indian Avenue, LLC, a Delaware limited liability company, and its successors and assigns, acting as the developer of infrastructure within Improvement Area No. 3 of the Community Facilities District, including but not limited to the Improvement Area No. 3 Flood Control Facilities.

“Funding Agreement” means “Acquisition/Financing Agreement” entered into by and among the City and the Property Owners, as originally executed or as the same may be amended from time to time in accordance with its terms; a final version of which is attached hereto and marked as Exhibit D.

“General Prevailing Wage Rates” means those rates as determined by the Director of the Department of Industrial Relations of the State.

“Hazardous Material” means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State or the United States Government, including, without limitation, any material or substance which is (a) designated as a “hazardous substance” pursuant to Section 311 of the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.* (33 U.S.C. § 1321), (b) defined as a “hazardous waste” pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.* (42 U.S.C. § 6903), (c) defined as a “hazardous substance” pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 *et seq.*, (d) petroleum, or (e) asbestos.

“Improvement Area” or “Improvement Areas” means, either individually or collectively, Improvement Areas 1, 2 and/or 3, as the context would indicate, that are to be designated within the Community Facilities District.

“Improvement Area No. 1 Flood Control Facilities” means the Flood Control Facilities so identified in Exhibit C hereto the construction of which are the responsibility of FR/CAL MV.

“Improvement Area No. 2 Flood Control Facilities” means the Flood Control Facilities so identified in Exhibit C hereto the construction of which are the responsibility of FILP.

“Improvement Area No. 3 Flood Control Facilities” means the Flood Control Facilities so identified in Exhibit C hereto the construction of which are the responsibility of FR/CAL IA.

“Joint Community Facilities Agreement” means this Joint Community Facilities Agreement, dated as of Sept. 1, 2009, by and among the City, the Flood Control District and the Property Owners, as originally executed or as the same may be amended from time to time in accordance with its terms.

“Legislative Body” means the City Council of the City acting *ex officio* as the legislative body of the Community Facilities District.

“MVU” means the City of Moreno Valley Electric Utility.

“Parcel” or **“Parcels”** means, individually or collectively, the real property identified in Exhibit A hereto.

“Payment Request” means the document to be provided by the Property Owner to the Administrator and the Flood Engineer to substantiate the Purchase Price of a Flood Control District Facility, which shall be substantially in the form of Exhibit F attached hereto.

“Plans and Specifications” mean the plans and specifications for the Flood Control Facilities prepared or to be prepared at the direction of the Property Owner pursuant to Section 4.1 hereof.

“Property” means the real property located within the Community Facilities District.

“Property Owner” means, individually, FR/CAL MV, FR/CAL IA, or FILP.

“Property Owner Representative” means the person or persons designated as such in a certificate signed by each Property Owner and delivered to the City, the Community Facilities District and the Flood Control District, which certificate shall contain an original or specimen signature of each person so designated.

“Purchase Price” means the Actual Cost or a lesser amount requested by the Property Owner.

“Rate and Method” means the adopted rate and method of apportionment of special taxes authorized to be levied within each Improvement Area of the Community Facilities District.

“Risk Manager” means the Risk Manager of the County.

“Resolution of Formation” means Resolution No. 2008-82 of the City Council of the City, adopted June 24, 2008, forming and establishing the Community Facilities District.

“State” means the State of California.

ARTICLE II

CONDITIONS PRECEDENT

Section 2.1 Formation Proceedings. All necessary actions have been taken by the City to establish the Community Facilities District and to designate the Improvement Areas therein for the purpose of financing the acquisition or construction of certain public facilities, including the Flood Control Facilities, to authorize the levy of special taxes within each Improvement Area of the Community Facilities District pursuant to the Rate and Method for each Improvement Area, the incurrence of bonded indebtedness and to authorize the sale and issuance of the Bonds for each Improvement Area.

It is the intent of the Legislative Body to use its best efforts to cause to be sold and issued, pursuant to the terms of the Act and the applicable provisions of the Funding Agreement, Bonds for each Improvement Area in one or more series and a portion of the proceeds of which are intended to provide funds that will allow the Community Facilities District to finance the acquisition of the Flood Control Facilities. Should the Legislative Body not be able to sell and issue the Bonds, the City, the Flood Control District and the Property Owners will not be bound by the terms of this Joint Community Facilities Agreement and it shall be considered null and void by the parties to it. The City will notify all parties to this Joint Community Facilities District within fifteen (15) calendar days of the occurrence of this event.

The Property Owners acknowledge that the decision of the Legislative Body to authorize the sale and issuance of the Bonds for each Improvement Area is an exercise of the legislative discretion of the Legislative Body and that the City may not enter into a contract or obligate the Legislative Body to exercise its legislative discretion in a particular manner. This Joint Community Facilities Agreement does not, therefore, in any way create a contractual, legal or equitable obligation of or commitment by the Legislative Body to authorize the sale and issuance of the Bonds for any Improvement Area.

The Legislative Body will have sole responsibility and authorization to cause the special tax to be levied and to sell and issue the Bonds, consistent with the provisions of the Act and the applicable provisions of the Funding Agreement.

Section 2.2 Flood Control District's Approval of this Joint Community Facilities Agreement. The Flood Control District's approval of this Joint Community Facilities Agreement is conditioned upon the Legislative Body authorizing the sale and issuance of the Bonds for each Improvement Area consistent with the City's policies and procedures regarding land secured financings (the "Policies") and that no waivers of the provisions of the Policies will be extended to the Property Owners or any one of them either with regard to the sale and issuance of the Bonds and that said sale and issuance of the Bonds is further conditioned as specified in the applicable provisions of the Funding Agreement.

ARTICLE III

ACQUISITION OF FLOOD CONTROL FACILITIES

Section 3.1 Responsibility for the Design, Engineering, Acquisition, and Construction of the Flood Control District Facilities. The Property Owner shall have the sole responsibility for the design, engineering, acquisition and construction of the Flood Control District Facilities. Consequently, when the term "Property Owner" is used in Article I for the definition of "Actual Costs", Article III, Article IV and Exhibit C of this Joint Community Facilities Agreement, it is understood that the term is referring to only the Property Owner, and its successors and assigns, unless the context would indicate otherwise. If the terms of Article III and IV of this Joint Community Facilities Agreement are in conflict with the terms of the Funding Agreement, this Joint Community Facilities Agreement will control.

Section 3.2 Acquisition of Flood Control District Facilities. Each Property Owner hereby agrees to transfer to the Flood Control District each of the Flood Control District Facilities, and the Community Facilities District hereby agrees to pay the Purchase Price thereof, subject to the terms and conditions hereof and the applicable Cooperative Agreement for each facility. Acceptable Title to any parcels on which any Flood Control District Facility is constructed and for which title is not presently held by the Flood Control District as well as the Flood Control District Facility financed pursuant hereto shall be transferred to the Flood Control District as of the Acceptance Date; provided, however, that notwithstanding such transfer, , the Property Owner constructing such Flood Control District Facilities shall be solely responsible for the operation and maintenance of such Flood Control District Facilities until the Acceptance Date thereof.

The Purchase Price of the Flood Control District Facilities is to be paid solely from Bond proceeds, and the Community Facilities District shall not be obligated to pay the Purchase Price of the Flood Control District Facilities except from said Bond proceeds. Neither the City, the Community Facilities District, nor the Flood Control District make any warranty, either expressed or implied, that the amount of Bond proceeds available for the payment of the Purchase Price of any Flood Control District Facility will be sufficient for such purpose.

Notwithstanding any other provision of this Joint Community Facilities Agreement, the fact that there may not be sufficient Bond proceeds available to pay the Purchase Price for one or more of the Flood Control District Facilities in an Improvement Area will not relieve the applicable Property Owner from its obligations consistent with the conditions of approval for the subdivision and development of the parcels within the applicable Improvement Area to construct the Flood Control District Facilities.

Failure of a Property Owner to comply with the terms of Articles III and IV of this Joint Community Facilities Agreement and the applicable Cooperative Agreement, will result in the Flood Control District Facilities that such Property Owner is responsible to construct not being accepted into the Flood Control District's maintained system and

such Property Owner shall not receive reimbursement from the Community Facilities District for any costs it incurs in the design, engineering, acquisition, and construction of said Flood Control District Facilities.

Section 3.3 Determination of the Purchase Price and Processing of Payment Requests. The determination of the Purchase Price and its payment shall be made consistent with the applicable provisions of this Section 3.3.

In order for the Administrator and the Flood Engineer to be able to determine the Purchase Price for a completed Flood Control District Facility, the applicable Property Owner shall deliver to both the Administrator and the Flood Engineer:

- (a) A Payment Request for said Flood Control District Facility, together with all attachments and exhibits to be included therewith;
- (b) A copy of the documents conveying or which previously conveyed to the Flood Control District Acceptable Title to the real property on, in or over which such Flood Control District Facilities are located, as described in the applicable "Cooperative Agreement" and Section 3.3 thereof;
- (c) A copy of the Notice of Completion for said Flood Control Facility that will be filed in accordance with Section 3093 of the California Civil Code, if applicable. Final lien releases addressed to the City, the Community Facilities District, and the Flood Control District must be received by the Administrator and the Flood Engineer prior to the Administrator executing the Payment Request determining the Purchase Price and authorizing payment thereof.
- (d) The applicable Property Owner's civil engineer of record or construction civil engineer of record duly registered in the State shall provide to the Flood Control District redlined "as-built" plans and profile sheets for the Flood Control Facility. After the Flood Control District's approval of the redlined "as-built" drawings, such engineer shall schedule with the Flood Control District a time to transfer the redlines onto the Flood Control District's original mylars at the Flood Control District's office, after which, said engineer shall review, stamp and sign the original mylars "As-Built."

Once the Administrator has been provided with a complete Payment Request and all other documents as required by her/him to determine the Purchase Price, the Flood Engineer will substantiate the Payment Request and provide comments and recommendations to the Administrator in the form of a written notice to the Community Facilities District as provided above.

Notwithstanding anything to the contrary contained herein, no payment of the Purchase Price of any Flood Control District Facility shall be made unless the Flood Control District has by written notice to the Community Facilities District stated that the

Flood Control District is willing to accept such Flood Control District Facility as constructed into its maintained system as of the Acceptance Date. Said notice will not be provided to the City until the following documents, as appropriate, have been provided or caused to be provided to the Flood Control District by the Property Owner which has constructed or caused the construction of such Flood Control District Facility:

- (a) Documents by which such Property Owner conveys to the Flood Control District an easement, including ingress and egress, in a form approved by the Flood Control District, for the rights of way shown in concept cross-hatched red on Exhibit B, and policies of title insurance, in an amount not less than fifty percent (50%) of the estimated fee value, as determined by the Flood Control District, for each parcel so conveyed have been provided to the Flood Control District.

Section 3.4 Dedication of Property and Easements to Flood Control District. Acceptable Title to all property not presently held by the Flood Control District on, in or over which the Flood Control District Facilities will be located shall be deeded over to Flood Control District by way of grant deed, quitclaim, or dedication of such property, or easement thereon, if such title or easement is approved by Flood Control District as being a sufficient interest therein to permit Flood Control District to properly own, operate and maintain such Flood Control District Facility located therein, thereon or thereover, and to permit each Property Owner to perform its obligations as set forth in this Joint Community Facilities Agreement.

A Property Owner shall furnish to the Flood Control District a title report for such property not previously dedicated or otherwise conveyed to the Flood Control District for review and approval at least thirty (30) calendar days prior to such Property Owner giving the notice required by Section 4.4 hereof. The Flood Control District shall approve the title report unless it reveals a matter that, in the sole judgment of the Flood Control District, could materially affect the Flood Control District's use and enjoyment of any part of the property or easement covered by the title report. In the event the Flood Control District does not approve such title report, the Flood Control District shall notify the Administrator in writing and the Flood Control District shall not be obligated to accept title to said Flood Control District Facility, and the Community Facilities District shall not be obligated to pay any portion of the Purchase Price for said Flood Control Facility until the Property Owner has cured such objections to title to the satisfaction of the Flood Control District.

Consistent with the preceding paragraph, each Property Owner shall obtain and provide to the Flood Control District duly executed irrevocable offer(s) of dedication to the public for flood control and drainage purposes, including ingress and egress, for rights of way deemed necessary by the Flood Control District for the construction, inspection, operation and maintenance of the Flood Control District Facilities to be constructed by such Property Owner as shown in concept, cross-hatched in either blue or red, on Exhibit B, which is attached hereto and by this reference incorporated herein. The irrevocable offer(s) of dedication shall be in a form approved by the Flood Control

District and shall be executed by all legal and equitable owners of the property described in the offer(s).

Section 3.5 Modifications to Flood Control District Facilities or Estimated Cost Thereof. The Administrator, Flood Control District, and the applicable Property Owner may make modifications in the description of the Flood Control District Facilities, whenever the Administrator, the Flood Engineer and Property Owner deem such modifications to be appropriate; provided, however, that any such Flood Control Facility, as so modified, must be fully functioning and capable of being used for its intended purpose and must be consistent with the description of the Flood Control Facilities in the Resolution of Formation. Any such modification shall be approved and implemented by the Administrator, on behalf of the Community Facilities District, the Flood Engineer, on behalf of the Flood Control District, and such Property Owner by executing a supplement to Exhibit C containing a description of the modified Flood Control Facility and, if applicable, the estimated cost. Upon the execution of any such supplement to Exhibit C, the description of the Flood Control Facility and, if applicable, the Estimated Cost in Exhibit C shall be deemed to have been modified in accordance therewith. Any modification made pursuant to this Section shall not be deemed to be an amendment of this Joint Community Facilities Agreement for purposes of Section 6.4 hereof. No Flood Control Facility may be deleted from or added to Exhibit C pursuant to this Section 3.5. The deletion or addition of a Flood Control Facility from Exhibit C constitutes an amendment to this Joint Community Facilities Agreement and may only be made pursuant to Section 6.4 hereof.

Section 3.6 Application of Realized Savings. If the Purchase Price determined by the Administrator and the Flood Engineer for a Flood Control District Facility to be financed from the proceeds of Bonds issued for an Improvement Area is less than the estimated cost of said Flood Control Facility, then the difference is to be identified as "savings" that are available and can be applied to increase the Purchase Price of another Flood Control Facility or other improvements the acquisition or construction of which is authorized to be funded with proceeds of the Bonds issued for such Improvement Area. The determination as to whether an adjustment to the estimated cost pursuant to this Section is to be made by the Administrator, the Flood Engineer and the applicable Property Owner and an appropriate supplement to Exhibit C is to be prepared by the initiating party and approved by the Administrator, on behalf of the Community Facilities District, the Flood Engineer on behalf of the Flood Control District and the applicable Property Owner.

ARTICLE IV

CONSTRUCTION OF THE FLOOD CONTROL FACILITIES

Section 4.1 Preparation and Approval of Plans and Specifications. To the extent that the responsible Property Owner has not already done so, it shall cause Plans and Specifications to be prepared for the Flood Control Facilities. The applicable Property Owner shall obtain the written approval of the Plans and Specifications from the Flood Engineer on behalf of the Flood Control District and from the Administrator on behalf of the City as to the City Flood Control Facilities. Approval of the Plans and Specifications will require that the Property Owner enter into a Cooperative Agreement regarding the Flood Control Facilities that Property Owner is responsible to construct improvements to develop their parcel of land. Each Property Owner shall provide a copy of all such Plans and Specifications to the Administrator and the Flood Engineer. Once the Plans and Specifications have been approved, no changes are to be made thereto without prior written consent of the Flood Control District.

The Property Owners acknowledge that the MVU has existing electric distribution infrastructure installed throughout the area adjacent to the Parcels and there could be a potential conflict between the location of such infrastructure and the proposed location of the Flood Control Facilities. The Property Owners are responsible for insuring that the design of the Flood Control Facilities does not conflict with such infrastructure and the Property Owners shall be solely responsible for the cost of the redesign and relocation of any Flood Control Facility necessitated by a conflict with such infrastructure.

Section 4.2 Duty of Property Owner to Construct. Each Property Owner shall construct or cause to be constructed the Flood Control Facilities which such Property Owner is responsible to construct in accordance with the applicable Plans and Specifications approved by the City and the Flood Control District, as applicable. Each Property Owner shall perform all of its obligations hereunder and its obligations per the Cooperative Agreement and shall conduct all operations with respect to the construction of the Flood Control Facilities which such Property Owner is responsible to construct in a good, workmanlike and commercially reasonable manner, with the standard of diligence and care normally employed by duly qualified persons utilizing commercially reasonable efforts in the performance of comparable work and in accordance with generally accepted practices appropriate to the activities undertaken. Notwithstanding the foregoing, nothing set forth in this Joint Community Facilities Agreement shall be construed (i) to require any Property Owner to perform any work requiring a contractor's license, nor shall any Property Owner be deemed to be performing construction services pursuant to this Joint Community Facilities Agreement or (ii) require any Property Owner to cause any Plans and Specifications to be prepared for the Flood Control Facilities at a specific time or in a manner other than as required by the approved conditions for such entitlements granted by the City to permit the development of such Property Owner's Parcels.

Section 4.3 Bid and Construction Requirements.

(a) In order to insure that the Flood Control Facilities to be acquired with the proceeds of the Bonds are constructed as if they had been constructed under the direction and supervision, or under the authority of, the Flood Control District, so that they may be acquired pursuant to Section 53313.5 of the Code, each Property Owner or its Construction Manager shall comply with all of the requirements set forth in the Public Contract Code regarding the notice of bidding and award of contract for a public works project by a public agency, in this instance the Flood Control District.

Prior to soliciting any bids for the construction of any Flood Control Facility, the applicable Property Owner or the applicable construction manager shall submit a bid packet for review of technical specifications and compliance with the Public Contract Code, including the invitation and specifications for submitting a bid and the general and specific conditions regarding the construction of such Flood Control Facility. A copy of the bid packet, once approved, is to be provided to the Administrator. The contract for construction of any Flood Control Facilities is to be awarded to the responsible bidder submitting the lowest responsive bid after notice inviting sealed bids. The sealed bids are to be publicly solicited consistent with applicable provisions of the Public Contract Code dealing with the bidding of public works projects constructed by the Flood Control District. Public notice is to be given consistent with the Public Contract Code as to the date, time and place where bids will be opened. The Administrator and the Flood Engineer are to be provided with copies of all bids received and with a declaration stating that the solicitation of bids, the bid opening and award of bid was conducted in a manner consistent with the applicable provisions of the Public Contracts Code.

If a Property Owner intends to utilize the services of a Construction Manager in the bidding and construction of a Flood Control Facility, the Property Owner must, prior to soliciting bids for the construction of such Flood Control Facility, send a written notice to the Flood Control District and the City notifying such addressees of the name of the Construction Manager and the name, title, address, telephone number and e-mail address of the primary contact of the Construction Manager for such services.

(b) Each Property Owner shall require, and the Plans and Specifications, bid and contract documents shall require, all contractors, subcontractors, vendors, equipment operators and owner operators, in each such case to the extent such individuals or entities are engaged to perform work on a Flood Control Facility, as required by the California Labor Code, to pay not less than General Prevailing Wage Rates to all workers employed in the execution of the contract, to post a copy of the General Prevailing Wage Rates at the Construction Site in a conspicuous place available to all employees and applicants for employment, and to otherwise comply with applicable provisions of the California Labor Code, the California Government Code and the California Public Contracts Code relating to General Prevailing Wage Rates as required by the Plans and Specifications approved by the City and the Flood Control District. The Flood Control District has copies of tables setting forth the General Prevailing Wage Rates on file in the principal office of the Flood Control District, and are made available to each Property Owner upon request.

(c) Each Property Owner or its Construction Manager shall require each principal contractor to provide proof of insurance coverage to the Flood Engineer satisfying the requirements of Section 4.5, hereof throughout the term of the construction of such Flood Control Facilities. Rather than requiring its principal contractors to provide such insurance, the Property Owner may elect to provide the same for the benefit of its principal contractors.

(d) Each principal contractor engaged to perform work on Flood Control Facilities shall be required to furnish (i) labor and material payment bonds, and (ii) contract performance bonds, each in an amount equal to 100% of the contract price naming the applicable Property Owner, the City, the Community Facilities District and the Flood Control District as obligees and issued by a California admitted surety having a current A.M. Best A:VIII (A:8) rating or with an admitted surety insurer which complies with the provisions of Section 995.660 of the California Code of Civil Procedure. The Risk Manager of the County of Riverside, in his/her sole discretion, may accept a California admitted surety having a lower A.M. Best rating. All such bonds shall be in a form as shown in Exhibit E. The bonds tendered pursuant to this sub-section are to be accepted and held by the City.

(e) Each Property Owner or its Construction Manager shall comply, and shall cause each contractor, subcontractor, vendor, equipment operator and owner operator, in each such case to the extent such individual or entity is engaged to perform work on the Flood Control Facilities, to comply, with such other requirements relating to the construction of the Flood Control Facilities as the Flood Control District may impose by written notification delivered to such Property Owner, to the extent legally required as a result of changes in applicable federal, State or County laws, rules or procedures.

(f) Each Property Owner or its Construction Manager shall require, and the Plans and Specifications, and bid and contract documents shall require, all contractors, subcontractors, vendors, equipment operators and owner operators, in each such case to the extent such individuals or entities are engaged to perform work on the Flood Control Facilities, to submit certified weekly payroll records or other proof of payment of General Prevailing Wage Rates to the Property Owner or its Construction Manager for inspection by the Flood Control District, and to furnish certified payroll records or such other proof of payment of General Prevailing Wage Rates to the Flood Control District promptly upon request.

(g) All change orders shall be reviewed and, if appropriate, approved by the City and the Flood Engineer for the purpose of ensuring that they comply with Flood Control District standards, such review and approval shall not be unreasonably withheld. Notwithstanding the foregoing, in order for a change order to be accepted as an eligible element of the Purchase Price of the Flood Control Facilities, the provisions of Sections 3.5 and 3.6 hereof shall first be satisfied.

(h) Each Property Owner shall provide proof to the Administrator and the Flood Engineer, at such intervals and in such form as the Flood Engineer may require,

that the foregoing requirements have been satisfied as to all of the Flood Control Facilities to be constructed by such Property Owner.

(i) Each Property Owner has deposited with the County \$4,000 to cover the anticipated costs, deemed necessary and reasonable, associated with the review and approval of the Plans and Specifications for the respective Improvement Area, the review and approval of right of way and conveyance documents for the respective Improvement Area and with the processing and administration of this Joint Community Facilities Agreement. Each Property Owner, within thirty (30) days after receipt of an additional billing for such costs, will forward the billed amount to the Flood Control District. It is agreed that all costs incurred by the Flood Control District associated with inspecting a Flood Control Facility will be the responsibility of the Property Owner as described in details in the applicable Cooperative Agreement.

Section 4.4 Notice of Intent to Commence Construction. The Property Owner is to provide to the Administrator and the Flood Engineer a copy of each "Notice to Commence Construction" as prepared by the Property Owner consistent with the terms of the applicable "Cooperative Agreement" and a copy of each "Notice to Proceed" as issued by the Flood Control District pursuant to the terms of the "Cooperative Agreement"

Section 4.5 Insurance Requirements. Without limiting or diminishing a Property Owner's obligation to indemnify or hold the Flood Control District, Community Facilities District and the City harmless pursuant to Section 5.4 hereof, each Property Owner shall procure and maintain or cause to be maintained, at its sole cost and expense the following insurance coverages, or alternate coverages acceptable to the Risk Manager, during the term of this Joint Community Facilities Agreement and expires for any Improvement Area at the time the Flood Control District or the City, as applicable, accepts the constructed Flood Control Facilities for that Improvement Area into its maintained system:

(a) *Commercial General Liability:* Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, products and completed operations, explosion, collapse, use of cranes, and other heavy equipment and underground hazards, personal and advertising injury covering claims which may arise from or out of such Property Owner's performance of its obligations hereunder. Policy shall name by endorsement the Flood Control District, the Community Facilities District, the City, their respective directors, officers, Board of Supervisors, City Council, Legislative Body, elected officials, employees, agents or representatives as Additional Insureds. Policy's limit of liability shall not be less than \$2,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Joint Community Facilities Agreement or be no less than two (2) times the occurrence limit.

(b) *Vehicle Liability:* Such Property Owner shall maintain liability insurance for all owned, non-owned or hired vehicles in an amount not less than

\$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Joint Community Facilities Agreement or be no less than two (2) times the occurrence limit. Policy shall name by endorsement the Flood Control District, Community Facilities District, the City, their respective directors, officers, Board of Supervisors, City Council, Legislative Body, elected officials, employees, agents or representatives as Additional Insureds.

(c) *Worker's Compensation Insurance:* Such Property Owner shall maintain Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. Policy shall be endorsed to waive subrogation in favor of the Flood Control District, the Community Facilities District, the City; and if applicable, to provide a Borrowed Servant/Alternate Employer Endorsement.

General Insurance Provisions - all lines:

(i) Any insurance carrier providing insurance coverage hereunder shall be licensed to do business in the State of California and have an A.M. Best rating of not less than an A:VIII (A:8) unless such requirements are waived, in writing, by the Flood Control District's Risk Manager.

(ii) Each Property Owner's insurance carrier(s) must declare its insurance deductibles or self-insured retentions. If such deductibles or self-insured retentions exceed \$500,000 per occurrence such deductibles and/or retentions shall have the prior written consent of the Risk Manager before the commencement of operations under this Joint Community Facilities Agreement. Upon notification of deductibles or self-insured retentions which are deemed unacceptable to the Flood Control District, at the election of the Risk Manager, such Property Owner's carriers shall either: (A) reduce or eliminate such deductibles or self-insured retentions as respects this Agreement with the Flood Control District, or (B) procure a bond which guarantees payment of losses and related investigations, claims administration, defense costs and expenses.

(iii) Each Property Owner shall cause its insurance carrier(s) to furnish the Flood Control District with (A) a properly executed original certificate(s) of insurance and certified original copies of endorsements effecting coverage as required herein; or (B) evidence of coverage acceptable to the Risk Manager that may include original certified copies of policies including all endorsements and all attachments thereto, showing such insurance is in full force and effect.

(iv) Further, said certificate(s) and endorsements to policies of insurance shall contain the covenant of the insurance carrier(s) that it shall provide no less than thirty (60) days written notice be given to the Flood Control District prior to any material modification or cancellation of such insurance. In the event of a material modification or cancellation or coverage, this Joint Community Facilities Agreement shall terminate forthwith as to the Property Owner providing such policies of insurance,

unless the Flood Control District receives, prior to such effective date, another properly executed original certificate of insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverages and the insurance required herein is in full force and effect. Individual(s) authorized by the insurance carrier to do so, on its behalf shall sign the original endorsements for each policy and the certificate of insurance.

(v) ***No Property Owner shall commence construction of Flood Control Facilities until the Flood Control District has been furnished either original certificate(s) of insurance and certified original copies of endorsements, policies of insurance including all endorsements and any and all other attachments as required in this Section, or other evidence of coverage acceptable to the Risk Manager.***

(vi) It is understood and agreed by the parties hereto and each Property Owner's insurance company(s) that the certificate(s) of insurance and policies shall so covenant and shall be construed as primary insurance, the City, and the Flood Control District's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.

(vii) Each Property Owner, its Construction Manager, if any, and its contractors may pass down the insurance obligations contained herein to all tiers of subcontractors working under this Joint Community Facilities Agreement in order to meet the requirements herein. In addition, each Property Owner or its Construction Manager will require all such subcontractors to name on their insurance policies by endorsement the Flood Control District, Community Facilities District, the City, their respective directors, officers, Board of Supervisors, City Council, Legislative Body, elected officials, employees, agents or representatives as "Additional Insureds." Copies of such certificates and endorsements shall be provided to the Flood Control District and the City. The minimum limits of liability required of all tiers of subcontractors are \$1,000,000 Combined Single Limit for Commercial General Liability and \$1,000,000 Combined Single Limit for Vehicle Liability Insurance.

Section 4.6 Ownership of Flood Control District Facilities.

(a) Notwithstanding the fact that some or all of the Flood Control District Facilities may be constructed in dedicated street rights of way or on property which is owned by or has been or will be dedicated to the Flood Control District, Flood Control District Facilities constructed by a Property Owner shall be and remain the property of such Property Owner until Acceptable Title to parcels not owned by the Flood Control District is conveyed to the Flood Control District, as appropriate, as provided herein. Ownership of said parcels by such Property Owner or other third parties shall likewise not be affected by any agreement that such Property Owner may have entered into or may enter into with the Flood Control District pursuant to the provisions of the Subdivision Map Act, Section 66410 *et seq.* of the Code, and the provisions of this Section shall control.

(b) As of the Acceptance Date by the Flood Control District for a Flood Control District Facility, the City is to own, maintain and operate the appurtenant City Flood Control Facilities that have been identified on the approved drainage plans, pursuant to the applicable Cooperative Agreement, as drainage facilities within those street rights-of-way in which said Flood Control Facilities are located. The City, by execution of this Joint Community Facilities Agreement, grants to the applicable Property Owner the right to construct the Flood Control Facilities and to the Flood Control District the right to inspect, operate and maintain the Flood Control District Facilities located within those City rights-of-way in which such Flood Control District Facilities are located.

ARTICLE V

REPRESENTATIONS, WARRANTIES AND COVENANTS; INDEMNIFICATION

Section 5.1 Representations, Warranties and Covenants of the Property Owners. Each Property Owner makes the following representations, warranties and covenants for the benefit of the Flood Control District, the City and the Community Facilities District as of the date hereof:

(a) Organization. Such Property Owner represents and warrants that such Property Owner is a limited liability company (or, in the case of FILP, a limited partnership) duly organized and validly existing under the laws of the State of Delaware, is in good standing under the laws of such state, and has the power and authority to own its properties and assets and to carry on its business as now being conducted and as now contemplated.

(b) Authority. Such Property Owner represents and warrants that such Property Owner has the power and authority to enter into this Joint Community Facilities Agreement, and has taken all action necessary to cause this Joint Community Facilities Agreement to be executed and delivered, and this Joint Community Facilities Agreement has been duly and validly executed and delivered on behalf of such Property Owner.

(c) Binding Obligation. Such Property Owner represents and warrants that this Joint Community Facilities Agreement is a valid and binding obligation of such Property Owner and is enforceable against such Property Owner in accordance with its terms, subject to bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights in general and by general equity principles.

(d) Completion of Flood Control Facilities. Such Property Owner covenants that it will use its reasonable and diligent efforts to do all things that may be lawfully required of it in order to cause the Flood Control Facilities which such Property Owner is responsible to construct to be completed in accordance with this Joint Community Facilities Agreement.

(e) Compliance with Laws. Such Property Owner covenants that, while any Flood Control Facilities are owned by such Property Owner or required pursuant to this Joint Community Facilities Agreement to be maintained by such Property Owner, it will not commit, suffer or permit any of its agents, employees or contractors to commit any act to be done in, upon or to such Flood Control Facilities in violation in any material respect of any law, ordinance, rule, regulation or order of any governmental authority or any covenant, condition or restriction now or hereafter affecting such Flood Control Facilities.

(f) Payment Requests. Such Property Owner represents and warrants that (i) it will not request payment from the Community Facilities District under this Joint Community Facilities Agreement for the acquisition of any improvements that are not part of a Flood Control District Facility, and (ii) it will diligently follow all procedures set forth in this Joint Community Facilities Agreement.

(g) Financial Records. Until the final Acceptance Date of all Flood Control Facilities, such Property Owner covenants to maintain proper books of record and account for the Flood Control Facilities and all costs related thereto. Such Property Owner covenants that such accounting books will be maintained in accordance with generally accepted accounting principles, and will be available for inspection by the Community Facilities District, the Flood Control District and the City, and their respective agents, at any reasonable time during regular business hours on two Business Days' prior written notice, subject to mutually acceptable arrangements regarding the confidentiality of proprietary data.

(h) Hazardous Materials. Such Property Owner represents and warrants that neither such Property Owner, nor any subcontractor, agent or employee thereof will use, generate, manufacture, procure, store, release, discharge or dispose of any Hazardous Material on, under or about the Construction Site or the Flood Control Facilities which such Property Owner is responsible to construct or transport any Hazardous Material to or from the Construction Site or such Flood Control Facilities in violation of any federal, state or local law, ordinance, regulation, rule, decision or policy statement regulating Hazardous Material.

(i) Permits. Such Property Owner covenants that it will pursue in a commercially reasonable manner all governmental or other permits or licenses required to proceed with the construction of the Flood Control Facilities which such Property Owner is responsible to construct and that it will pay all fees relating thereto. Such Property Owner represents and warrants that to the best of such Property Owner's knowledge, as of the date hereof, there is no material legal impediment to such Property Owner's proceeding with and completing the construction of such Flood Control Facilities or to the development of the Construction Site as contemplated by such Property Owner, except for government or other permits to be obtained.

(j) Environmental Matters. Such Property Owner represents and warrants that it has complied with, or has caused compliance with, CEQA as required for the construction of the Flood Control Facilities which such Property Owner is responsible to construct and their conveyance to the Flood Control District.

Section 5.2 Representations, Warranties and Covenants of the City. The City makes the following representations, warranties and covenants for the benefit of the Flood Control District and the Property Owners:

(a) Authority. The City represents and warrants that the City has the power and authority to enter into this Joint Community Facilities Agreement, and has taken all actions necessary to cause this Joint Community Facilities Agreement to be executed and delivered, and this Joint Community Facilities Agreement has been duly and validly executed and delivered on behalf of the City.

(b) Binding Obligation. The City represents and warrants that this Joint Community Facilities Agreement is a valid and binding obligation of the City and is enforceable against the City in accordance with its terms, subject to bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights in general and by general equity principles.

(c) Payment Requests for the Flood Control District Facilities. The City represents and warrants that the City will follow all procedures set forth in this Joint Community Facilities Agreement.

(d) Financial Records. Until the final Acceptance Date, the City covenants to maintain, or cause to be maintained, proper books of record and account for the Special Taxes and the Bonds. The City covenants that such accounting books will be maintained in accordance with generally accepted accounting principles applicable to governmental entities, and will be available for inspection by the Property Owners and their agents at any reasonable time during regular business hours on two Business Days prior written notice.

Section 5.3 Representations, Warranties and Covenants of Flood Control District. Flood Control District makes the following representations, warranties and covenants for the benefit of the City and the Property Owners:

(a) Authority. Flood Control District represents and warrants that Flood Control District has the power and authority to enter into this Joint Community Facilities Agreement, and has taken all actions necessary to cause this Joint Community Facilities Agreement to be executed and delivered, and this Joint Community Facilities Agreement has been duly and validly executed and delivered on behalf of Flood Control District.

(b) Binding Obligation. Flood Control District represents and warrants that this Joint Community Facilities Agreement is a valid and binding obligation of Flood Control District and is enforceable against Flood Control District in accordance with its terms, subject to bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights in general and by general equity principles.

Section 5.4 Indemnification. Each Property Owner, with regard to its respective responsibilities and obligations under this Joint Community Facilities Agreement, agrees to protect, indemnify, defend and hold the City, the Community Facilities District, the Flood Control District, and their respective directors, officers,

Board of Supervisors, City Council, Legislative Body, elected officials, employees, representatives and agents, and each of them (each, an "Indemnified Party" and, collectively, the Indemnified Parties), harmless from and against any and all claims, liabilities, losses, expenses, suits, actions, decrees, judgments, awards, reasonable attorney's fees, and court costs which the Indemnified Parties or any Indemnified Party, or any combination thereof, may suffer or which may be sought against or recovered or obtained from the Indemnified Parties or any Indemnified Party, or any combination thereof, as a result of or by reason of or arising out of or in consequence of (a) the acquisition, construction, installation or financing of the Flood Control Facilities, (b) an assertion, pursuant to Article I, section 19 of the California Constitution, the Fifth or Fourteenth Amendments of the United States Constitution, or any other law or ordinance which seek to impose any other liability or damage whatsoever, for the design, construction, or failure of the Flood Control Facilities or from the diversion of the waters from their natural drainage patterns, (c) the untruth or inaccuracy of any representation or warranty made by such Property Owner in this Joint Community Facilities Agreement or in any certifications delivered by such Property Owner hereunder, or (d) any act or omission of such Property Owner or any of its subcontractors, or their respective officers, employees or agents, in connection with the Flood Control Facilities. If such Property Owner fails to do so, the Indemnified Parties shall have the right, but not the obligation, to defend the same and charge all of the direct and actual costs of such defense, including reasonable attorneys' fees or court costs, to and recover the same from such Property Owner.

No indemnification is required to be paid by any Property Owner as to an Indemnified Party for any claims, losses, liabilities, expenses, suits, actions, decrees, judgments, awards, reasonable attorney's fees, and court costs (a) arising directly from the willful misconduct or sole or active negligence of that Indemnified Parties or (b) arising from the use or operation of a Flood Control Facility after the Acceptance Date of the Flood Control Facility, unless such claims, losses, liabilities, expenses, suits, actions, decrees, judgments, awards, reasonable attorney's fees, and court costs results from the defective or improper design, construction or installation of such Flood Control Facility by such Property Owner or its contractors, subcontractors, or respective officers, employees or agents.

The provisions of this Section shall survive the termination of this Joint Community Facilities Agreement.

ARTICLE VI

MISCELLANEOUS

Section 6.1 Property Owners as Independent Contractors. In performing under this Joint Community Facilities Agreement, it is mutually understood that each Property Owner is acting as an independent contractor, and not as an agent of the City, the Community Facilities District or the Flood Control District. Neither the City nor the Flood Control District shall have any responsibility for payment to any contractor, subcontractor or supplier of such Property Owner. The Community Facilities District shall not have any responsibility for payment to any contractor, subcontractor or supplier of such Property Owner unless such entity or individual is specifically listed as a payee on a Payment Request submitted by such Property Owner pursuant to the Joint Community Facilities Agreement in which case the Community Facilities District shall only be responsible for making such payment only if such Payment Request is approved pursuant to the provisions of this Joint Community Facilities Agreement and solely from available proceeds of the Bonds.

Section 6.2 Other Agreements. Nothing contained herein shall be construed as affecting the Flood Control District or any Property Owner's respective duty to perform its respective obligations under other agreements, land use regulations or subdivision requirements relating to the development of the property within the applicable Improvement Area, which obligations are and shall remain independent of such Property Owner's rights and obligations, and the Flood Control District's rights and obligations, under this Joint Community Facilities Agreement; provided, however, that such Property Owner shall use its reasonable and diligent efforts to perform each and every covenant to be performed by it under any lien or encumbrance, instrument, declaration, covenant, condition, restriction, license, order, or other agreement, the nonperformance of which could reasonably be expected to materially and adversely affect the acquisition, construction and installation of the Flood Control District Facilities.

The payment for the City Flood Control Facilities shall be governed by the Funding Agreement.

Section 6.3 Binding on Successors and Assigns. Neither this Joint Community Facilities Agreement nor the duties and obligations of any Property Owner hereunder may be assigned to any person or legal entity other than an affiliate of such Property Owner without the written consent of the City, the Community Facilities District and the Flood Control District, which consent shall not be unreasonably withheld or delayed. Neither this Joint Community Facilities Agreement nor the duties and obligations of the City, the Flood Control District or the Community Facilities District hereunder may be assigned to any person or legal entity, without the written consent of the Property Owners, which consent shall not be unreasonably withheld or delayed. The agreements and covenants included herein shall be binding on and inure to the benefit of any partners, permitted assigns, and successors-in-interest of the parties hereto.

Section 6.4 Amendments. This Joint Community Facilities Agreement can only be amended by an instrument in writing executed and delivered by the City, the Community Facilities District, the Flood Control District and the Property Owners.

Section 6.5 Waivers. No waiver of, or consent with respect to, any provision of this Joint Community Facilities Agreement by a party hereto shall in any event be effective unless the same shall be in writing and signed by such party, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given.

Section 6.6 No Third Party Beneficiaries. No person or entity shall be deemed to be a third party beneficiary hereof, and nothing in this Joint Community Facilities Agreement (either express or implied) is intended to confer upon any person or entity, other than the City, the Community Facilities District, the Flood Control District and the Property Owners (and their respective successors and assigns), any rights, remedies, obligations or liabilities under or by reason of this Joint Community Facilities Agreement.

Section 6.7 Notices. Any written notice, statement, demand, consent, approval, authorization, offer, designation, request or other communication to be given hereunder shall be given to the party entitled thereto at its address set forth below, or at such other address as such party may provide to the other party in writing from time to time, namely

Flood Control District: Riverside County Flood Control and
Water Conservation District
Attn: Administrative Services
1995 Market Street
Riverside, California 92501
Telephone: (951) 955-1200
Fax: (951) 788-9965

City and Community
Facilities District: City of Moreno Valley
Public Works Department, Special Districts
Division
14325 Frederick Street, Suite 9
Moreno Valley, California 92553
Attention: Special Districts Division Manager
Telephone: (951) 413-3489
Fax: (951) 413-3498

With a copy to: City of Moreno Valley
14177 Frederick Street
Moreno Valley, California 92553
Attention: City Attorney
Telephone: (951) 413-3036
Fax: (951) 413-3034

Property Owners: c/o First Industrial Realty Trust, Inc.
114 Pacifica Court, Suite 220
Irvine, California 92618
Attention: Phil Bowman
Telephone: (949) 486-1970
Fax: (949) 486-1971

With a copy to: Barack Ferrazzano Kirschbaum Perlman &
Nagelberg LLP
333 West Wacker Drive, Suite 2700
Chicago, Illinois 60606
Attention: Brett A. Feinberg
Telephone: (312) 629-5168
Fax: (312) 984-3150

Each such notice, statement, demand, consent, approval, authorization, offer, designation, request or other communication hereunder shall be deemed delivered to the party to whom it is addressed (a) if personally served or delivered, upon delivery, (b) if given by electronic communication, whether by telex, telegram or telecopier, upon the sender's receipt of a document confirming satisfactory transmission, (c) if given by registered or certified mail, return receipt requested, deposited with the United States mail postage prepaid, 72 hours after such notice is deposited with the United States mail, (d) if given by overnight courier, with courier charges prepaid, 24 hours after delivery to said overnight courier, or (e) if given by any other means, upon delivery at the address specified in this Section.

Section 6.8 Jurisdiction and Venue. Each of the City, the Community Facilities District, the Flood Control District and the Property Owners (a) agrees that any suit action or other legal proceeding arising out of or relating to this Joint Community Facilities Agreement shall be brought in state or local court in the County of Riverside or in the Courts of the United States of America in the district in which said County is located, (b) consents to the jurisdiction of each such court in any suit, action or proceeding, and (c) waives any objection that it may have to the laying of venue or any suit, action or proceeding in any of such courts and any claim that any such suit, action or proceeding has been brought in an inconvenient forum. Each of the City, the Community Facilities District, the Flood Control District and the Property Owners agrees that a final and non-appealable judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

Section 6.9 Attorneys' Fees. If any action is instituted to interpret or enforce any of the provisions of this Joint Community Facilities Agreement, the party prevailing in such action shall be entitled to recover from the other party thereto reasonable attorneys' fees and costs of such suit (including both prejudgment and postjudgment fees and costs) as determined by the court as part of the judgment.

Section 6.10 Governing Law. This Joint Community Facilities Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State.

Section 6.11 Usage of Words. As used herein, the singular of any word includes the plural, and terms in the masculine gender shall include the feminine.

Section 6.12 Counterparts. This Joint Community Facilities Agreement may be executed in counterparts, each of which shall be deemed an original.

Section 6.13 Interpretation. The parties to this Joint Community Facilities Agreement and their counsel have reviewed and revised this Joint Community Facilities Agreement, and the normal rule of construction to the effect that any ambiguities in an agreement are to be resolved against the drafting parties shall not be employed in the interpretation of this Joint Community Facilities Agreement.

[Balance of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed this Joint Community Facilities Agreement as of the day and year first hereinabove written.

CITY OF MORENO VALLEY

RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

By: Bonnie Flickinger
Bonnie Flickinger, Mayor Pro Tem

By: _____
Marion Ashley, Chairman
Riverside County Flood Control and Water Conservation District Board of Supervisors

ATTEST:

RECOMMEND FOR APPROVAL:

By: Jane Halstead
Jane Halstead, City Clerk
(Seal)

By: _____
Warren D. Williams
General Manager-Chief Engineer
Riverside County Flood Control and Water Conservation District

APPROVED AS TO FORM:

ATTEST:

By: Warren Diven
Warren Diven, Best Best & Krieger LLP

KEISHA HARPER-IHEM,
Clerk of the Board of Supervisors

By: _____
, Deputy Clerk

(Seal)

APPROVED AS TO FORM:

PAMELA J. WALLS, County Counsel

By: _____
, Deputy County Counsel

CITY OF MORENO VALLEY CFD No. 7
JCFA-FLOOD CONTROL
SDPUB\WDIVEN\356912.8
FINAL DRAFT

S - 1

IN WITNESS WHEREOF, the parties hereto have executed this Joint Community Facilities Agreement as of the day and year first hereinabove written.

CITY OF MORENO VALLEY

RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

By: _____
Richard A. Stewart, Mayor

By: Marion Ashley
Marion Ashley, Chairman
Riverside County Flood Control and Water Conservation District Board of Supervisors

ATTEST:

RECOMMEND FOR APPROVAL:

By: _____
Jane Halstead, City Clerk

By: Warren D. Williams
Warren D. Williams
General Manager-Chief Engineer
Riverside County Flood Control and Water Conservation District

(Seal)

APPROVED AS TO FORM:

ATTEST:

KECIA HARPER-IHEM
Clerk of the Board of Supervisors

By: _____
Warren Diven, Best Best & Krieger LLP

By: Debra K. O'Neil
, Deputy Clerk

(Seal)

APPROVED AS TO FORM:

PAMELA J. WALLS, County Counsel


By: Dale A. Gardner
Dale A. Gardner, Deputy County Counsel

FR/CAL MORENO VALLEY, LLC,
a Delaware limited liability company

By: FirstCal Industrial, LLC
a Delaware limited liability company,
its sole member

By: FR First Cal, LLC,
a Delaware limited liability company,
its managing member

By: First Industrial Investment, Inc., a
Maryland corporation
its sole member

By: 
Its: DEVELOPMENT OFFICER

(ATTACH NOTARY)

FIRST INDUSTRIAL, LP,
a Delaware limited partnership

By: First Industrial Realty Trust, Inc., a
Maryland corporation, its sole general
partner

By: 
Its: DEVELOPMENT OFFICER

(ATTACH NOTARY)

STATE OF CALIFORNIA

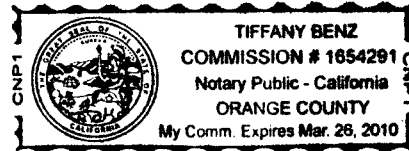
COUNTY OF ORANGE

On August 18, 2009 before me, Tiffany Benz, a Notary Public personally appeared Matt Englard, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature Tiffany Benz



STATE OF CALIFORNIA

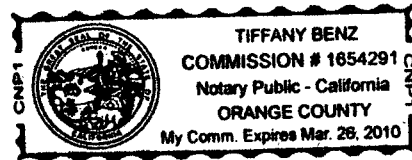
COUNTY OF ORANGE

On August 18, 2009 before me, Tiffany Benz, a Notary Public personally appeared Matt Englhard, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is~~/are subscribed to the within instrument and acknowledged to me that ~~he~~/she/they executed the same in ~~his~~/her/their authorized capacity(ies), and that by ~~his~~/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature Tiffany Benz



FR/CAL INDIAN AVENUE, LLC,
a Delaware limited liability company

By: FirstCal Industrial, LLC
a Delaware limited liability company,
its sole member

By: FR First Cal, LLC,
a Delaware limited liability company,
its managing member

By: First Industrial Investment, Inc.,
a Maryland corporation
its sole member

By:  _____

Its: DEVELOPMENT OFFICER

(ATTACH NOTARY)

STATE OF CALIFORNIA

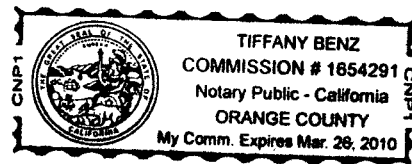
COUNTY OF ORANGE

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

WITNESS my hand and official seal.

Signature Tiffany Benz



CERTIFICATE OF AUTHORITY
FIRST INDUSTRIAL REALTY TRUST, INC.
FIRST INDUSTRIAL INVESTMENT, INC.

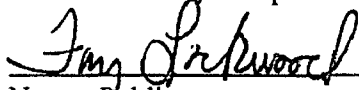
I, JOHN H. CLAYTON, do hereby certify that as of the date hereof:

1. I am the duly elected and incumbent Secretary of First Industrial Realty Trust, Inc., a Maryland corporation (the "Corporation") and First Industrial Investment, Inc. (f/k/a First Industrial Development Services, Inc.), a Maryland corporation ("FIDS"), and as such officer I am authorized to make the certifications herein made.
2. The Corporation is the sole general partner of First Industrial, L.P. ("FILP"); FILP is the sole stockholder of FIDS; FIDS is the sole member of FR FirstCal, LLC ("FRFC"); FRFC is the managing member of FirstCal Industrial, LLC ("FirstCal"); and FirstCal is the sole member of the limited liability companies listed on Exhibit A hereto (the "LLCs"). Accordingly, the Corporation, through FILP, FIDS, FRFC and FirstCal, has the authority to cause each of the LLCs to enter into any and all documents and agreements in connection with development of and improvements to be made on or about to the properties owned by the LLCs and listed opposite their names on Exhibit A hereto, including, without limitation a certain Comprehensive Application for Development Review and Land Use Approval (such documents or agreements, the "Agreements").
3. The following are duly authorized signatories of the Corporation and its subsidiaries, including, without limitation, FirstCal and the LLCs, with full authority to execute the Agreements and any documents ancillary thereto:

<u>Title</u>	<u>Name</u>
Senior VP Development	Phil Bowman
Regional Development Officer	Matt Enghard

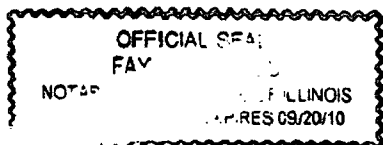
IN WITNESS WHEREOF, I have signed this Certificate this 16th day of April 2008.

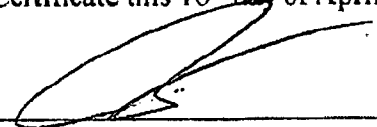
Sworn to and subscribed before
me this 16th day of April 2008.



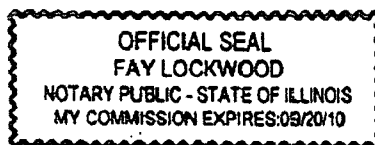
Notary Public

My Commission Expires:





John H. Clayton, Secretary



SCHEDULE A

<u>ENTITY</u>	<u>PROPERTY NO.</u>	<u>PROPERTY NAME</u>
FR/CAL Beech Avenue, LLC	88080	First Park Beech Avenue, or Beech Avenue Business Park
FR/CAL Indian Avenue, LLC	88109	First Park Indian Street, or Indian Business Park
FR/CAL Moreno Valley, LLC	88149, 88084	First Park Nandina I and II or Nandina Distribution Center-Buildings A and B
First Industrial, L.P.	13002	First Park Nandina III and IV, or Nandina Distribution Center III and IV
FR/CAL Perris , LLC	88041	First Park Perris Ranch I, or Perris Ranch Phase I
FR/CAL Perris II, LLC	88062	First Park Perris Ranch II, or Perris Ranch Phase II
FR/CAL Rider Street, LLC	88076	First Park Rider Street, or Rider Distribution Center I
FR/CAL Perris Channel, LLC	88146	First Park Rider Street, Building Two, or Rider Distribution Center II, or Jordan Distribution Center
FR/CAL Redlands, LLC	88165	First Park Rider Street, Building Three, or Rider Distribution Center III, or Rider-Alere
FR/CAL Ellis, LLC	88161	First Park South I-215, or South I-215 Industrial Park, or Ellis Business Park, or New Perris, or Feuerstein
FR/CAL Goetz Road, LLC	88125	First Park South Perris, or South Perris Distribution Center, or Hadra
FR/CAL Goetz, LLC	88095	First Perris Airport Distribution Center, or Airport Distribution Center, or Lopez Land

EXHIBIT A

MAP OF THE PROPERTY

PM 35150: APN's 316-180-002Sheet 1
316-180-003
316-180-005
316-180-006
316-180-008
316-180-009

TPM 35859: APN's 316-200-003.....Sheet 2
316-200-009
316-200-010
316-200-011
316-200-012
316-200-013
316-200-014
316-200-018
316-200-028
316-200-029

PM 35672: APN's 316-020-002.....Sheet 3
316-020-003
316-020-004
316-020-005
316-020-012
316-020-013
316-020-014
316-020-015
316-020-016
316-020-017
316-020-018
316-020-019

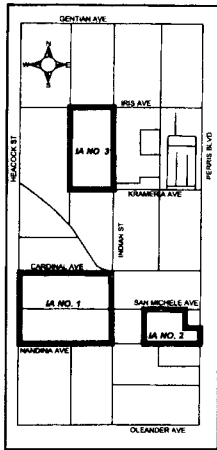
2008-0265595
Original

73/6

SHEET 1 OF 3

MAP OF PROPOSED BOUNDARIES OF
COMMUNITY FACILITIES DISTRICT NO. 7

CITY OF MORENO VALLEY
COUNTY OF RIVERSIDE
STATE OF CALIFORNIA

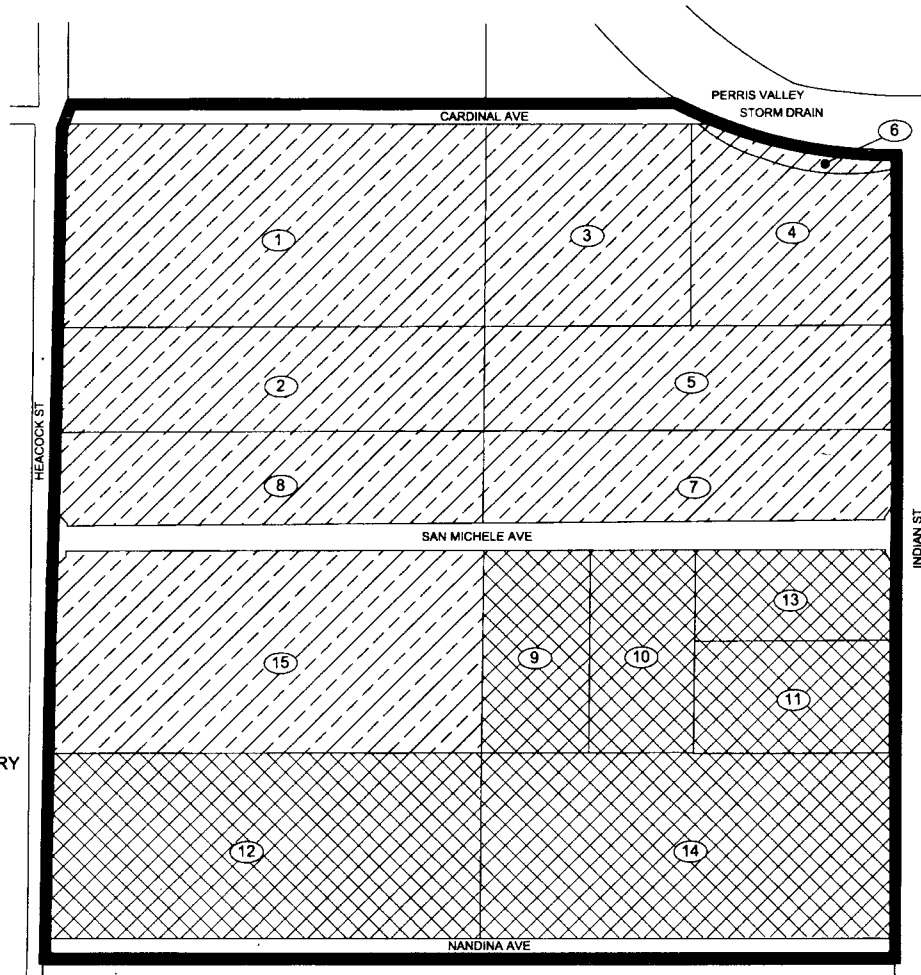


Vicinity Map

MAP REF NO	ASSESSOR'S PARCEL NO
1	316-170-001
2	316-170-002
3	316-170-004
4	316-170-006
5	316-170-007
6	316-170-010
7	316-170-013
8	316-170-014
9	316-180-002
10	316-180-003
11	316-180-005
12	316-180-006
13	316-180-008
14	316-180-009
15	316-180-010

LEGEND FOR SHEET 1

- IMPROVEMENT AREA NO. 1 (IA NO. 1) BOUNDARY
- MAP REFERENCE NUMBER
- ZONE 1
- ZONE 2



FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MORENO VALLEY THIS 14 DAY OF May 2008

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 7, CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF MORENO VALLEY AT A REGULAR MEETING THEREOF, HELD ON THE 13 DAY OF MAY, 2008, BY ITS RESOLUTION NO. 2008-50

James Halstead
CITY CLERK
CITY OF MORENO VALLEY

RIVERSIDE COUNTY RECORDER'S CERTIFICATE

FILED THIS 16TH DAY OF MAY, 2008, AT THE HOUR OF 8 O'CLOCK A.M. IN BOOK 73 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE(S) 16-B, IN THE OFFICE OF THE COUNTY RECORDER, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

FEE: \$13.00

INSTRUMENT NO. 2008-0265595

LARRY WARD, ASSESSOR-COUNTY CLERK-RECORDER

M. Garcia
BY DEPUTY
COUNTY RECORDER
COUNTY OF RIVERSIDE

THE LINES AND DIMENSIONS OF EACH LOT OR PARCEL SHOWN ON THIS DIAGRAM SHALL BE THOSE LINES AND DIMENSIONS AS SHOWN ON THE RIVERSIDE COUNTY ASSESSOR'S MAPS FOR THOSE PARCELS LISTED

THE RIVERSIDE COUNTY ASSESSOR'S MAPS SHALL GOVERN FOR ALL DETAIL CONCERNING THE LINES AND DIMENSIONS OF SUCH LOTS OR PARCELS.

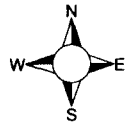
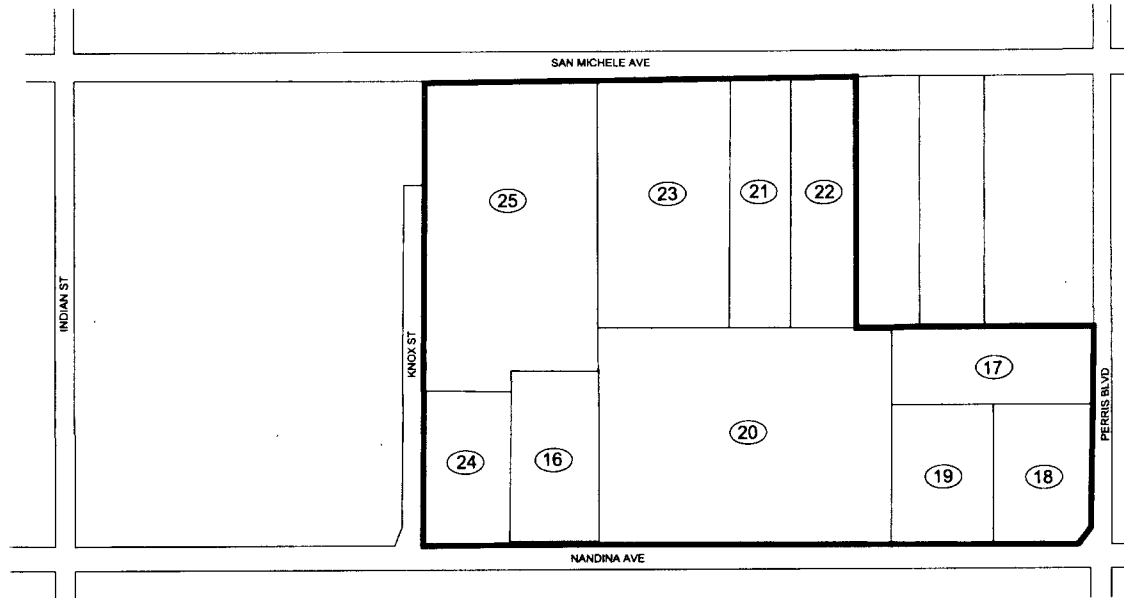


MuniFinancial

27280 Via Induatria
Suite 110
Teresopolis, California 92580-2881
Phone (951) 997-5500 Fax (951) 997-5810

MAP OF PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 7

CITY OF MORENO VALLEY
COUNTY OF RIVERSIDE
STATE OF CALIFORNIA



MAP REF NO.	ASSESSOR'S PARCEL NO.
16	316-200-003
17	316-200-009
18	316-200-010
19	316-200-011
20	316-200-012
21	316-200-013
22	316-200-014
23	316-200-018
24	316-200-028
25	316-200-029

LEGEND FOR SHEET 2

- IMPROVEMENT AREA NO. 2 (IA NO. 2) BOUNDARY
- MAP REFERENCE NUMBER

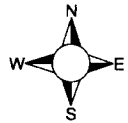


MuniFinancial

57200 Via Inductria
 Suite 110
 Temecula, California 92590-2821
 Phone (951) 907-8500 Fax (951) 907-8510

MAP OF PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 7

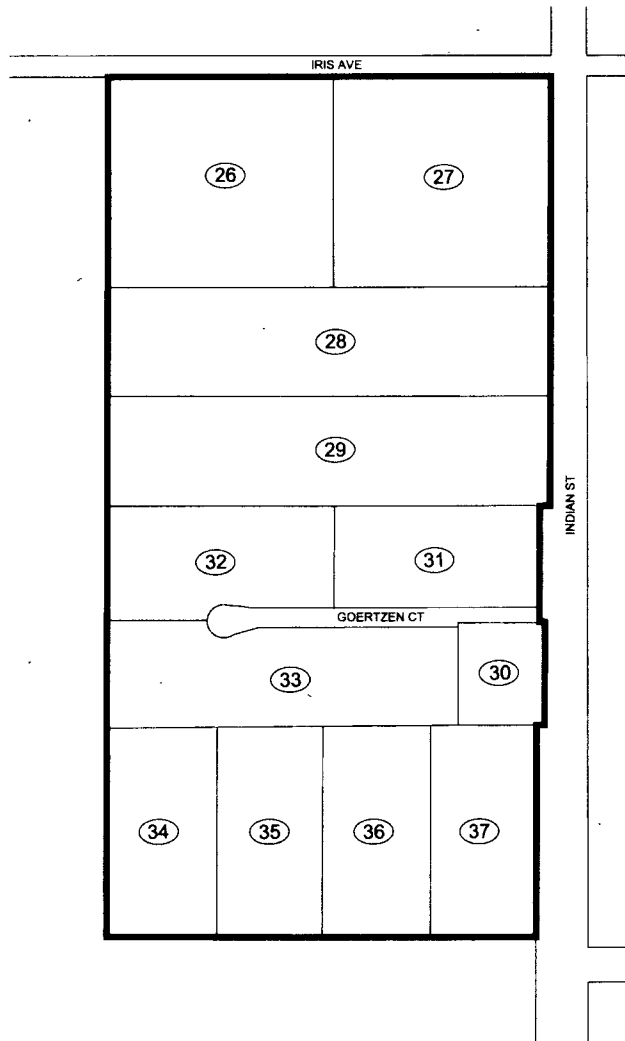
CITY OF MORENO VALLEY
COUNTY OF RIVERSIDE
STATE OF CALIFORNIA



LEGEND FOR SHEET 3

— IMPROVEMENT AREA NO. 3 (IA NO. 3) BOUNDARY

① MAP REFERENCE NUMBER



MAP REF NO.	ASSESSOR'S PARCEL NO.
26	316-020-002
27	316-020-003
28	316-020-004
29	316-020-005
30	316-020-012
31	316-020-013
32	316-020-014
33	316-020-015
34	316-020-016
35	316-020-017
36	316-020-018
37	316-020-019



MuniFinancial

2700 Via Industria
Suite 110
Torrance, California 90503-2801
Phone (310) 587-2800 Fax (310) 587-2810

EXHIBIT B

Flood Control Facilities Diagram

[Provided by Engineer per Flood Control District Specifications]

EXHIBIT B
Facilities Diagrams

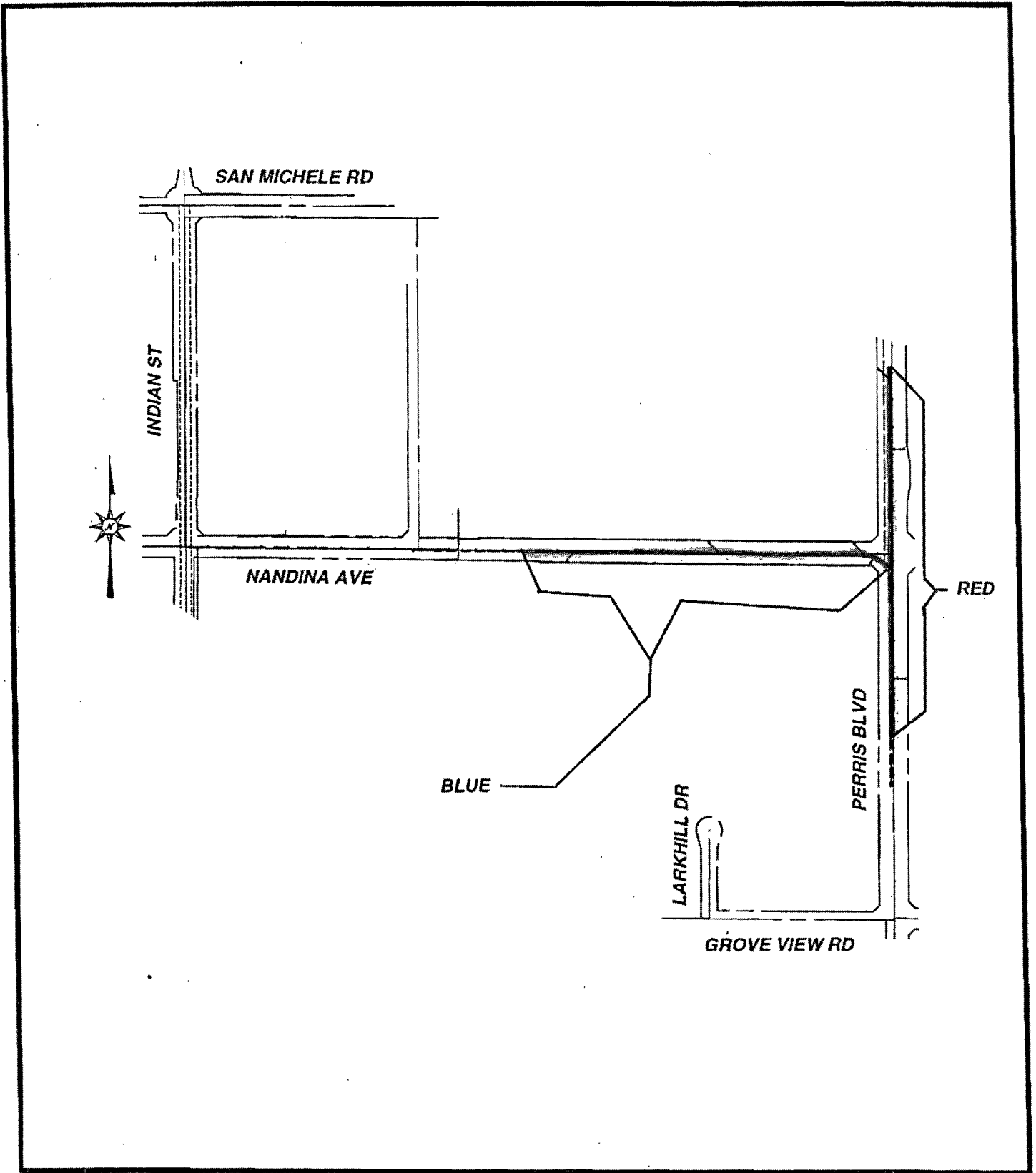


EXHIBIT B
Facilities Diagrams

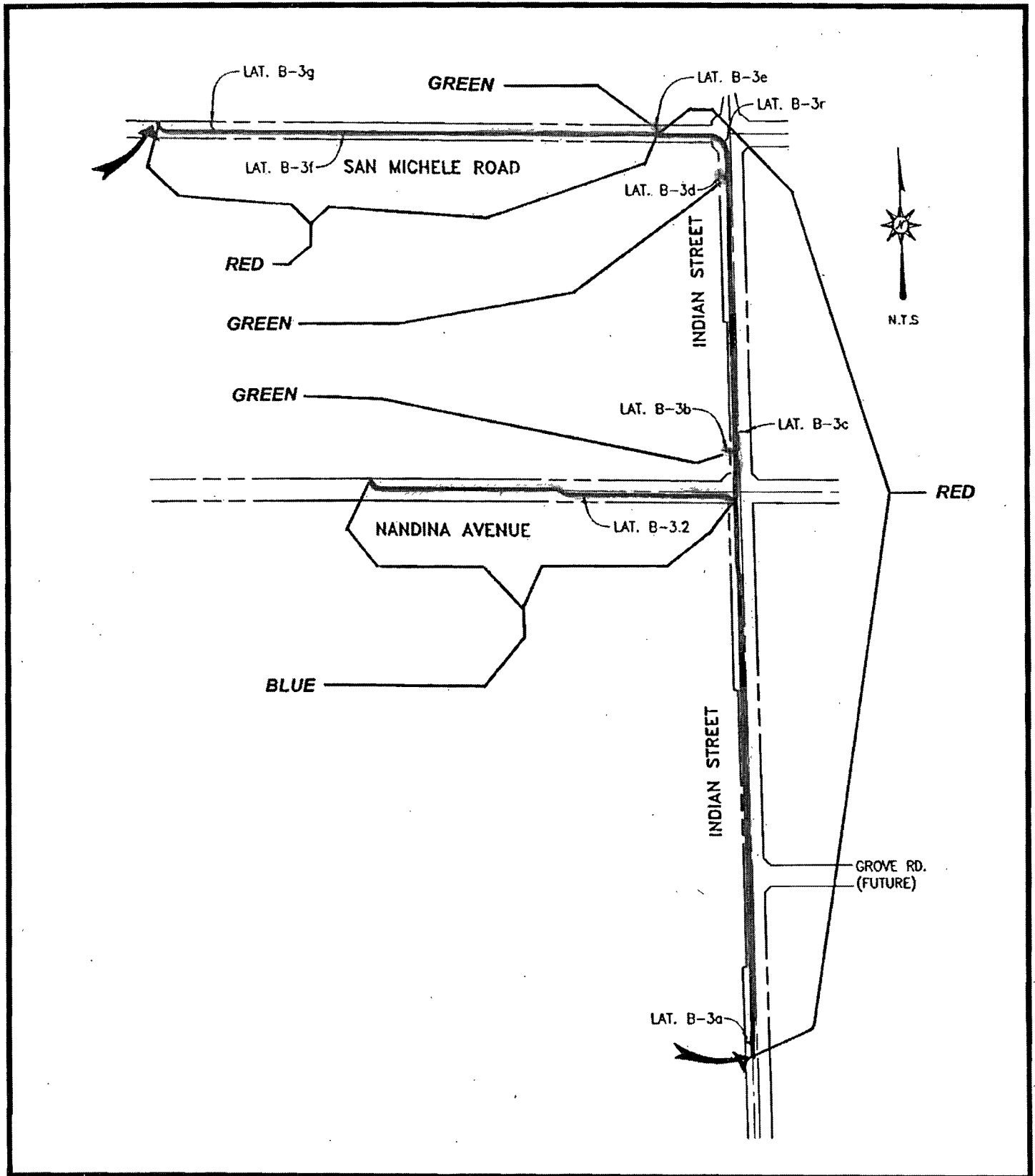


EXHIBIT B
Facilities Diagrams

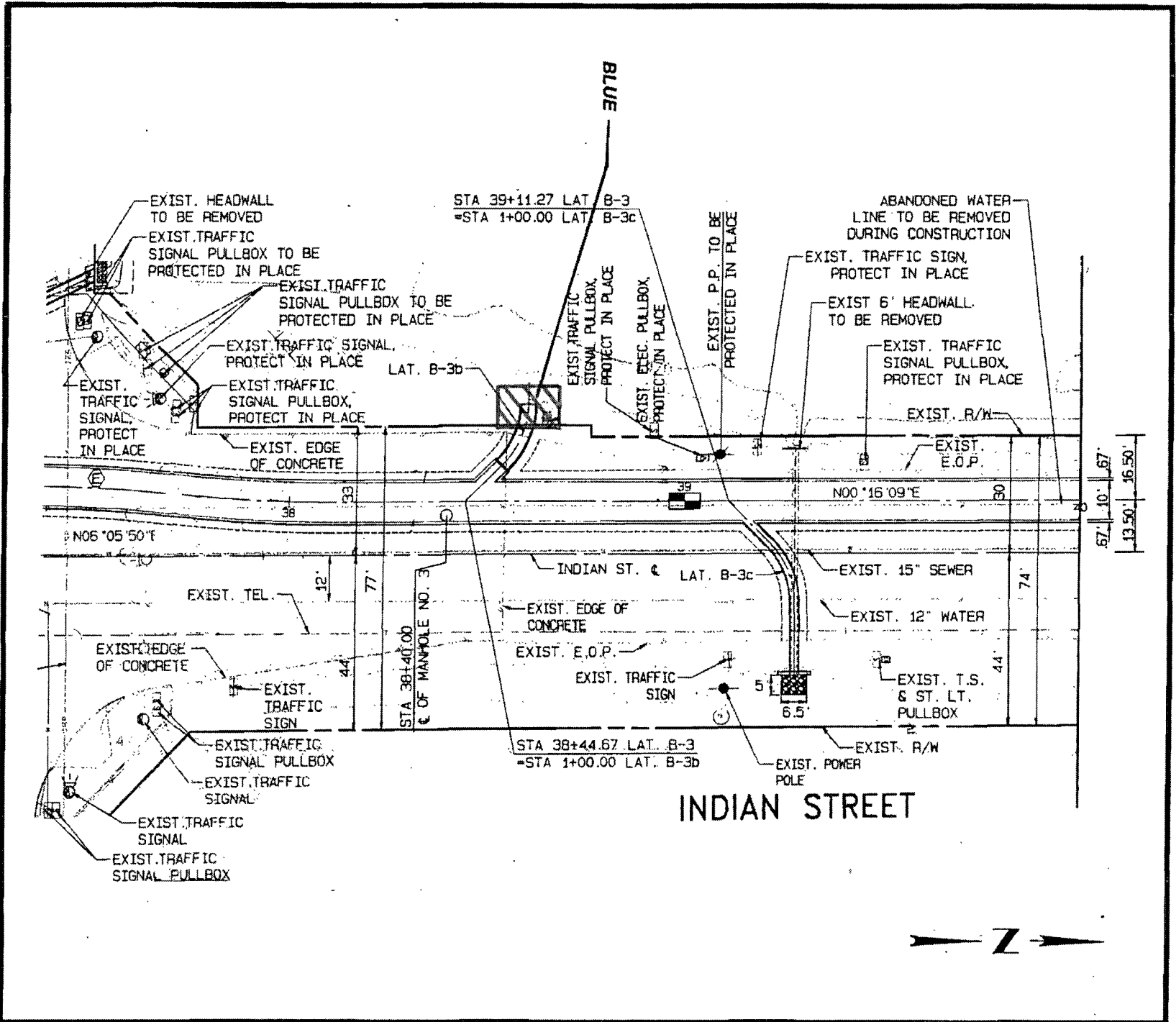


EXHIBIT B
Facilities Diagrams

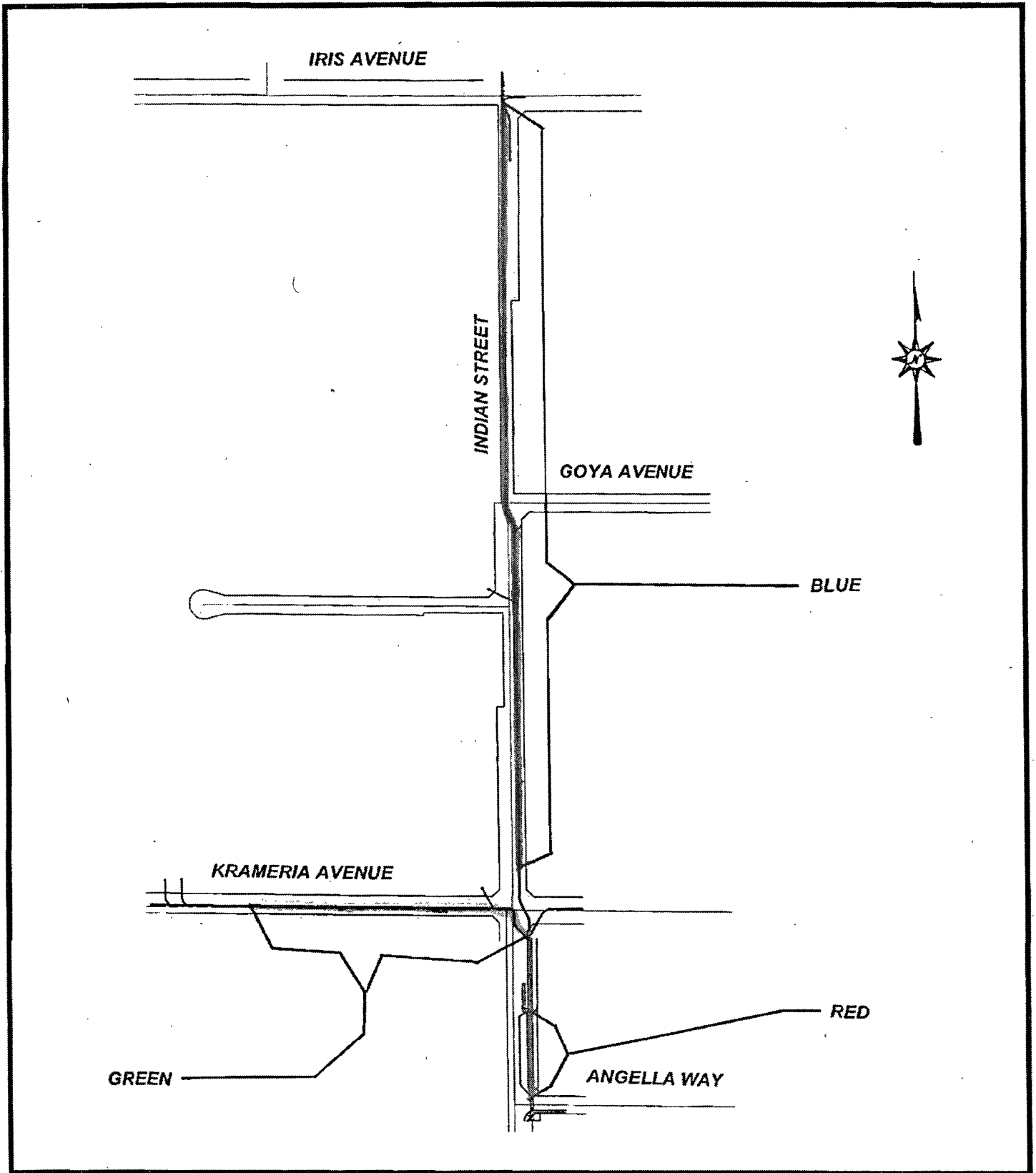


EXHIBIT B
Facilities Diagrams

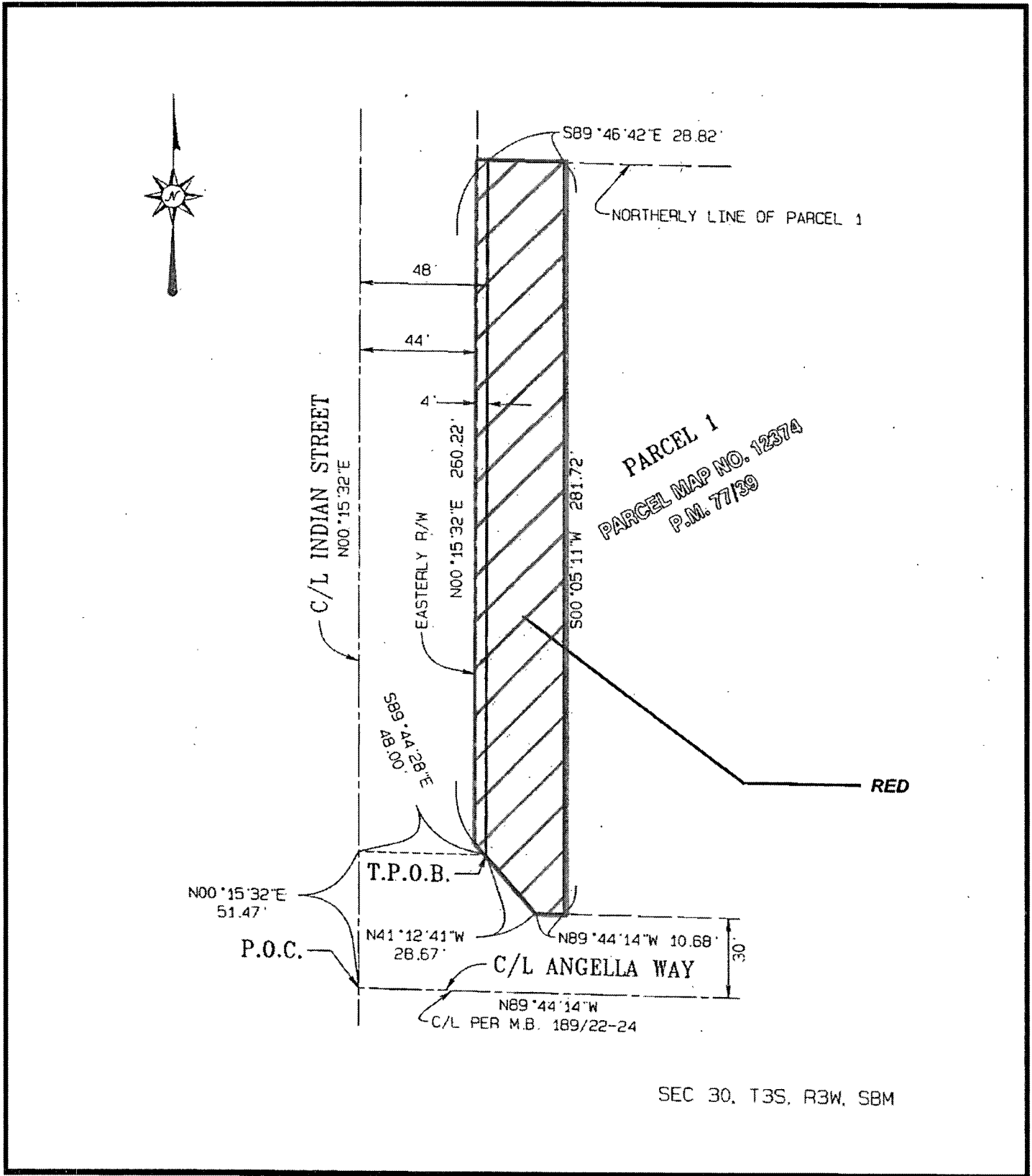


EXHIBIT B
Facilities Diagrams

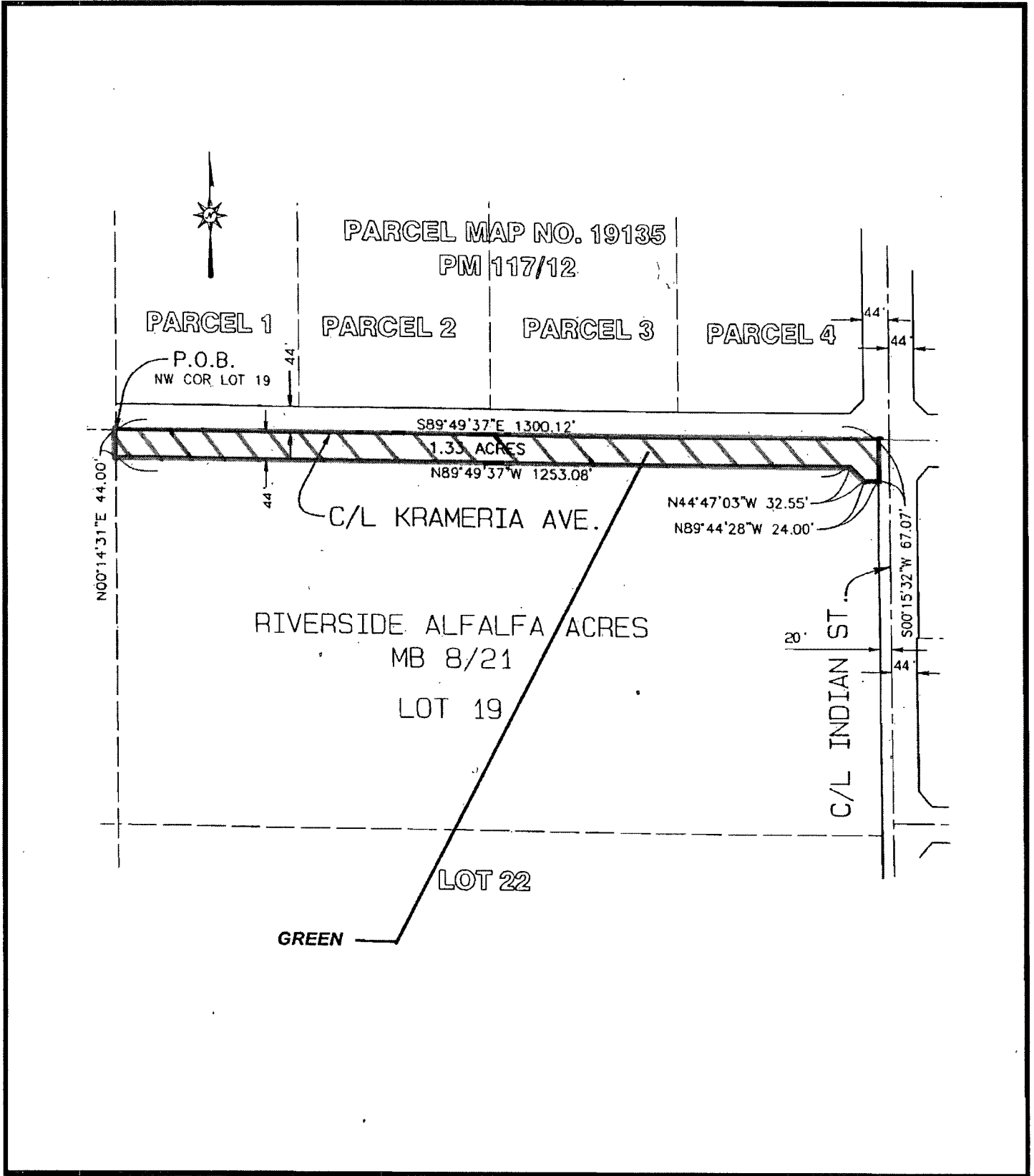


EXHIBIT C

Description of Flood Control Facilities

Proposed Flood Control Facilities to be authorized
For the Community Facilities District

Improvement Area No 1. Flood Control Facilities

RCFC&WCD Maintained Facilities

Perris Valley MDP Lateral B-3, Stage 2 (Project No. 4-0-00526), a 1 cell RCB (varying in height from 6 feet to 4 feet and varying in base width from 12 feet to 8 feet), 54" RCP, and 48" RCP, located in the Indian Street right-of-way from the existing Lateral B-3 (Project No. 4-0-00256) northerly approximately 3,268 feet to the intersection of Indian Street and San Michele Road, then westerly in the San Michele Road right-of-way approximately 2,123 feet. The facility consists of approximately 3,560 linear feet of RCB and 1,830 linear feet of RCP, including, but not limited to, manholes, junction structures, and transition structures.

Perris Valley MDP Lateral B-3.2 (Project No. 4-0-00533), a 42" RCP, located in the Nandina Avenue right-of-way from the connection to Lateral B-3, Stage 2 (Project No. 4-0-00526) westerly approximately 1,340 feet, including, but not limited to, manholes, and junction structures.

Lateral B-3b, a 42" RCP, approximately 18 feet in length connecting to Lateral B-3 at Station 38+44.67.

Lateral B-3d, a 42" RCP, approximately 30 feet in length connecting to Lateral B-3 at Station 48+34.67.

Lateral B-3e, a 48" RCP, approximately 21 feet in length connecting to Lateral B-3 at Station 52+14.22.

Estimated cost for RCFC & ECD Maintained Facilities:
\$3,600,000.00

City of Moreno Valley Maintained Facilities

Lateral B-3a, a 42" RCP, approximately 12 feet in length connecting to Lateral B-3 at Station 17+08.14.

Lateral B-3c, a 24" RCP, approximately 44 feet in length connecting to Lateral B-3 at Station 39+11.27.

Lateral B-3f, a 36" RCP, approximately 4 feet in length connecting to Lateral B-3 at Station 63+50.68.

Lateral B-3r, a 24" RCP, approximately 40 feet in length connecting to Lateral B-3 at Station 49+87.30.

Lateral B-3z, a 24" RCP, approximately 9 feet in length connecting to Lateral B-3 at Station 23+62.50.

Lateral B-3.2a, a 30" RCP, approximately 55 feet in length connecting to Lateral B-3.2 at Station 10+37.01.

Estimated cost for City of Moreno Valley Maintained Facilities:
\$680,000.00

Improvement Area No. 2 Flood Control Facilities

RCFC&WCD Maintained Facilities

Perris Valley MDP Lateral B-1 (Project No. 4-0-00486, Drawing No. 4-954), an 84" RCP, 78" RCP, and 72" RCP, located in Perris Boulevard right-of-way from the existing Lateral B-1 (Project No. 4-0-486, Drawing No. 4-838) northerly for approximately 1,345 feet. Lateral B-1 includes, but is not limited to, manholes, junction structures, laterals, and transition structures.

Perris Valley MDP Lateral B-1.2 (Project No. 4-0-00483, Drawing No. 4-954), a 78" RCP, 66" RCP, 60" RCP, 48" RCP and 42" RCP, located in the Nandina Avenue right-of-way from the connection to Lateral B-1, (Project No. 4-0-00486) westerly approximately 1,340 feet, including, but not limited to, manholes, and junction structures.

Estimated cost of RCFC & WCD Maintained Facilities:
\$1,500,000.00

City of Moreno Valley Maintained Facilities

Lateral B-1A, an 18" RCP, approximately 24 feet in length connecting to Lateral B-1 at Station 32+39.77.

Lateral B-1B, an 18" RCP, approximately 14 feet in length connecting to Lateral B-1 at Station 40+97.76.

Lateral B-1C, a 36" RCP, approximately 48 feet in length connecting to Lateral B-1 at Station 43+55.00.

Lateral B-1.2A, a 36" RCP, approximately 51 feet in length connecting to Lateral B-1.2 at Station 11+11.10.

Lateral B-1.2B, a 36" RCP, approximately 49 feet in length connecting to Lateral B-1.2 at Station 20+00.00.

Lateral B-1.2C, a 24" RCP, approximately 37 feet in length connecting to Lateral B-1.2 at Station 22+00.00.

Lateral B-1.2D, a 24" RCP, approximately 26 feet in length connecting to Lateral B-1.2 at Station 10+75.48.

Estimated cost of City of Moreno Valley Maintained Facilities:
\$100,000.00

Improvement Area No. 3 Flood Control Facilities

RCFC&WCD Maintained Facilities

Sunnymead MDP Line D (Project No. 4-0-00630, Drawing No. 4-991), Approximately 40 feet in length of 4'H x 8'W RCB and approximately 250 feet in length of 7'H x 10'W rectangular channel, located easterly of the Indian Street right-of-way. The downstream end of Line D connects to the existing Line D Box (Project No. 4-0-630, Drawing No. 4-514) and the upstream end of Line D Connects to the existing Line D rectangular channel (Project No. 4-0-630, Drawing No. 4-848). Line D is approximately 290 feet in length.

Sunnymead MDP Line D-1, a 60" RCP, 48" RCP and 42" RCP, located in the Indian Street right-of-way. The downstream end of Line D-1 connects to an existing portion of Line D-1 (Project No. 4-0-0631, Drawing No. 4-587) and extends northerly in

Indian Street for approximately 2,310 feet where it ties into an existing portion of Line D-1 (Project No. 4-0-0631, Drawing No. 4-508). Line D-1 includes, but is not limited to, manholes, junction structures, laterals, and transition structures. Line D-1 is approximately 2307 feet in length.

Lateral DA, a 42" RCP located in the Krameria Street right-of-way. The downstream end of Lateral DA connects to the existing Line D Rectangular Channel (Project No. 4-0-0630, Drawing No. 4-848) westerly for approximately 1950 feet. Lateral DA includes, but is not limited to, manholes, junction structures, laterals, and transition structures.

Estimated cost of RCFC & WCD Maintained Facilities:
\$1,600,000.00

City of Moreno Valley Maintained Facilities

Lateral DA, a 36" RCP located in the Krameria Street right-of-way. The downstream end of Lateral DA connects to the proposed Lateral DA 42" RCP (Project No. 4-0-0632, Drawing No. 4-991) westerly for approximately 353 feet. Lateral DA includes, but is not limited to, manholes, junction structures, inlets, laterals, and transition structures.

Lateral D-1A, a 36" RCP, approximately 11 feet in length connecting to Line D-1 at Station 40+66.30.

Lateral D-1B, a 24" RCP, approximately 75 feet in length connecting to Line D-1 at Station 46+67.98.

Lateral D-1C, a 42" RCP, approximately 16 feet in length connecting to Line D-1 at Station 48+92.48.

Lateral DA1, a 30" RCP, approximately 39 feet in length connecting to Lateral DA at Station 11+67.70.

Lateral DA2, a 30" RCP, approximately 38 feet in length connecting to Lateral DA at Station 21+80.83.

Lateral DA3, a 30" RCP, approximately 38 feet in length connecting to Lateral DA at Station 22+35.75.

Estimated Cost of City of Moreno Valley Maintained Facilities:
\$200,000.00

EXHIBIT D
FUNDING AGREEMENT

CITY OF MORENO VALLEY CFD No. 7
JCFA-FLOOD CONTROL
SDPUB\WDIVEN\356912.8
FINAL DRAFT

D-1

TEL: 951.413.3480
FAX: 951.413.3498
WWW.MORENO-VALLEY.CA.US



14325 FREDERICK STREET, SUITE 9
P. O. BOX 88005
MORENO VALLEY, CA 92552-0805

REC'D JUL 28 2008

July 25, 2008

First Industrial Realty Trust
John Grace, Development Manager
114 Pacifica, Suite 220
Irvine, CA 92618

Subject: Executed Acquisition/Financing Agreement for Community Facilities District No. 7


Dear Mr. Grace,

Enclosed is a signed original of the Acquisition/Financing Agreement for Community Facilities District No. 7. This agreement is for acquisition and construction of certain public improvements associated with your project within Community Facilities District No. 7.

If you have any questions, please contact Marshall Eyerman, Special Districts Program Manager at (951) 413-3482.

Sincerely,

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



Jennifer A. Terry
Management Analyst

Enclosure

c: Sue Maxinoski, Special Districts Division Manager
Marshall Eyerman, Special Districts Program Manager
File

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PUBLIC WORKS DEPARTMENT

ACQUISITION/FINANCING AGREEMENT

THIS ACQUISITION/FINANCING AGREEMENT ("Agreement") is made and entered into by and among the CITY OF MORENO VALLEY, a municipal corporation duly organized and validly existing under the Constitution and laws of the State of California, ("City") acting for and on behalf of itself and COMMUNITY FACILITIES DISTRICT NO. 7, and FR/CAL MORENO VALLEY, LLC ("FR/CAL MV"), a Delaware limited liability company, FIRST INDUSTRIAL, L.P. ("FILP"), a Delaware limited liability partnership FR/CAL INDIAN AVENUE, LLC ("FR/CAL IA"), a Delaware limited liability company and shall become effective on the date on which the Agreement has been mutually executed and delivered by the Parties (as defined in the following sentence). FR/CAL MV, FILP and FR/CAL IA may be referred to individually as an "Owner" or collectively as the "Owners" and Owners acknowledge that they are related entities. The City and the Owners may be referred to individually as a "Party" or collectively as the "Parties."

WHEREAS, the Owners own the following real property (collectively, the "Owners' Properties") located within the City:

A. FR/CAL MV owns that parcel identified as Assessor's Parcel Nos. 316-180-002, 316-180-003, 316-180-005, 316-180-006, 316-180-008 and 316-180-009 (the "FR/CAL MV Property");

B. FILP owns those parcels identified as Assessor's Parcel Nos. 316-200-003, 316-200-009 through -014, 316-200-018, 316-200-028 and 316-200-029 (the "FILP Property");

C. ; FR/CAL IA owns those parcels identified as Assessor's Parcel Nos. 316-020-002, 316-020-003; 316-020-004, 316-020-005 and 316-020-012 through -019 (the "FR/CAL IA Property"); and

WHEREAS, the Owners have requested that the City consider the formation of a community facilities district and the designation of three improvement areas therein (each, an "Improvement Area" and designated individually as "Improvement Area No. 1," "Improvement Area No. 2," and "Improvement Area No. 3") under the terms and conditions of the "Mello-Roos Community Facilities Act of 1982," as amended (Government Code Section 53311 and following) (the "Act") to include the Owners' Properties and certain additional adjacent property not owned by Owners and identified as Assessor Parcel Nos. 316-170-001, 316-170-002, 316-170-004, 316-170-006, 316-170-007, 316-170-010, 316-170-013, 316-170-014 and 316-180-010 (the "Adjacent Property") for the purpose of financing the acquisition and construction of certain public improvements, together with appurtenances and appurtenant work within the jurisdictional limits of said City, said community facilities district known and designated as COMMUNITY FACILITIES DISTRICT NO. 7 (the "Community Facilities District"); and,

WHEREAS, the Owners have further requested that the FR/CAL MV Property and the Adjacent Property be included in Improvement Area No. 1, the FILP Property be included in Improvement Area No. 2 and the FR/CAL IA Property be included in Improvement Area No. 3; and

WHEREAS, the boundaries of the proposed Community Facilities District and the proposed Improvement Areas are set forth in Exhibit A attached hereto and incorporated herein by this reference; and,

WHEREAS, pursuant to such request of the Owners, City intends to initiate proceedings to consider the formation of the Community Facilities District and the designation of Improvement Areas therein, the authorization to levy special taxes within each Improvement Area and the authorization to issue bonds for each Improvement Area of the Community Facilities District to be secured by such special taxes; and

WHEREAS, Owners, in order to proceed in a timely way with the development of Owners' respective property (each, a "Development"), desires to construct or cause the construction of (a) certain public improvements that are, following the completion of the construction thereof in accordance with the applicable improvement agreements, to be acquired by the City and thereafter owned, operated and maintained by the City (the "Street Improvements"), (b) certain public improvements that are, following the completion of the construction thereof in accordance with the JCFA (defined below), to be acquired by the Riverside County Flood Control and Water Conservation District (the "Flood Control District") and thereafter owned, operated and maintained by the Flood Control District (the "Flood Control Facilities"), and (c) the undergrounding of certain utilities (the "Utility Improvements" and, together with the Street Improvements and the Flood Control Facilities, the "Improvements") to be owned, operated and maintained by Southern California Edison ("SCE")¹; and

WHEREAS, Exhibit B-1 sets forth a description of the Improvements and the Improvement Area to which the financing of such Improvement is allocated and Exhibit B-2 sets forth the estimated cost (the "Budgeted Cost") for the acquisition of each Improvement; and,

WHEREAS, each Owner desires to construct the Improvements for the Improvement Area within which such Owner's property is located, to wit:

A. FR/CAL MV desires to construct those Improvements identified in Exhibit B1 as the Improvement Area No. 1 Improvements;

B. FILP desires to construction those Improvements identified in Exhibit B1 as the Improvement Area No. 2 Improvements;

C. FR/CAL IA desires to construct those Improvements identified in Exhibit B1 as the Improvement Area No. 3 Improvements; and

WHEREAS, the acquisition of such Improvements is proposed to be financed, in whole or in part, through the Community Facilities District; and,

¹ The Owners acknowledge that while the Utility Improvements are to be owned by SCE, the Owners' Properties will be served by the City of Moreno Valley Electric Utility.

WHEREAS, pursuant to the Act, the City and the Owners have entered or will, prior to the formation of the Community Facilities District, enter into a joint community facilities agreement with the Flood Control District and the Owners regarding the construction and acquisition of the Flood Control Facilities (the "JCFA"); and,

WHEREAS, the Parties agree that the Flood Control Facilities will be constructed by the Owners, subsequently acquired by the Flood Control District upon completion thereon for ownership and maintenance and the purchase price for such Improvements paid from the proceeds of bonds issued for the Community Facilities District pursuant to the provisions of the JCFA and the applicable provisions of this Agreement; and,

WHEREAS, it is the intent of the Parties that, upon the formation of the Community Facilities District and the subsequent sale of bonds for an Improvement Area the proceeds of which bonds are authorized to be utilized to acquire a particular Improvement or Improvements, the Owner which has constructed such Improvement or Improvements or caused such Improvement or Improvements to be constructed shall be entitled pursuant to the provisions of this Agreement to be paid for those Street Improvements and Utility Improvements, if any, at the prices as determined by the City pursuant to this Agreement and such Owner shall further be entitled pursuant to the provisions of the JCFA to be paid for those Flood Control Facilities which such Owner has constructed to caused to be constructed at the prices as determined pursuant to the JCFA; and,

WHEREAS, if the Community Facilities District is formed and bonds for the Improvement Areas are issued, the City will be willing to finance the acquisition of the Improvements, subject to the requirements of the Act, the City of Moreno Valley Statement of Goals and Policies Regarding the Establishment of Community Facilities Districts adopted by the City Council by Resolution No. 2000-35 (the "Goals and Policies"), the JCFA, this Agreement, and the provisions of the Internal Revenue Code and the regulations adopted pursuant thereto applicable to the issuance of tax exempt bonds and the Owner desires that the acquisition of such Improvements be financed accordingly.

NOW, THEREFORE, IT IS MUTUALLY AGREED between the respective parties as follows:

SECTION 1. Recitals. The above recitals are all true and correct.

SECTION 2. Plans and Specifications of Improvements. All plans, specifications and bid documents for the Street Improvements and the Utility Improvements (the "Plans and Specifications") to be constructed by an Owner shall be prepared by such Owner at such Owner's initial expense, subject to approval by the City pursuant to the approval process established by the City for such Plans and Specifications or by SCE, as applicable. The costs of acquisition of such Improvements shall include costs incurred by such Owner for the preparation of and approval by the City of the Plans and Specifications and soil, drainage and such other reports as may be required by the City as a precondition to the City's approval of the construction of the Street Improvements (collectively, the "Reports") and all related documentation as set forth in Section 7 below. Upon the approval of any Plans and Specifications and/or Reports, such Plans and Specifications and/or Reports shall become the property of the City.

The Owner shall be required to submit review fees for such Plans and Specifications and Reports as required pursuant to the then effective resolution of the City establishing the fees for the review of such Plans and Specifications and Reports.

An Owner shall not award a contract for construction, commence construction or order or otherwise cause commencement of construction of a Street Improvement until the Plans and Specifications for such Improvement have been approved by the City.

SECTION 3. Construction of Street Improvements and Utility Improvements. Each Owner covenants and agrees that each Street Improvement to be acquired from such Owner pursuant to this Agreement shall be constructed:

- (a) in substantial compliance with the approved Plans and Specifications for such Improvement;
- (b) in a good, workmanlike and commercially reasonable manner with the standard of diligence and care normally employed by qualified persons utilizing commercially reasonable efforts in the performance of comparable work and in accordance with generally accepted practices appropriate to the activities undertaken;
- (c) in strict compliance with all applicable governmental and quasi-governmental rules, regulations, laws, building codes and all applicable requirements of such Owner's insurers and lenders; and
- (d) in compliance with the requirements of Section 53313.5 of the California Government Code, if applicable, which statute requires that any Street Improvement to be acquired by the City which is completed after adoption of the resolution of formation of the Community Facilities District must be constructed as if such Improvement had been constructed under the direction and supervision, or under the authority, of the City.

In order to insure that the Street Improvements will be constructed as if they had been constructed under the direction and supervision, or under the authority of, the City, so that they may be acquired by City pursuant to Section 53313.5 of the California Government Code, each Owner shall comply with all of the following requirements with respect to the construction of the Street Improvements:

(i) Each Owner shall obtain bids for the construction of the Street Improvements in conformance with the standard procedures and requirements of City with respect to its public works projects (excluding any exceptions to competitive bidding requirements), or in a manner which is approved in writing by the City prior to the solicitation of bids.

(ii) Each contract or contracts for the construction of the Street Improvements shall be awarded to the responsible bidder(s) submitting the lowest responsive bid(s) for the construction of such Street Improvements. Nothing in this Section 3 shall

prohibit an Owner from including more than one Street Improvement in a single solicitation for bids. In the case where an Owner does include more than one Street Improvement in a single solicitation for bids, such Owner shall award the bid for the construction of such Improvements to the bidder submitting the lowest aggregate responsible bid for the construction of such Improvements. Before awarding a contract for construction of any portion of the Street Improvements, each Owner shall deliver all bids to the City Engineer of the City, or his designee (the "City Engineer") and shall not award the contract until City Engineer has determined and notified such Owner in writing that such bids are in compliance with the Plans and Specifications.

(iii) Each Owner shall require, and the specifications and bid and contract documents shall require all such contractors to pay prevailing wages and to otherwise comply with applicable provisions of the California Labor Code and the California Public Contract Code relating to public works projects of community services districts and as required by the procedures and standards of City with respect to the construction of its public works projects.

(iv) In addition to each Owner's obligation to comply with all other provisions of this Section 3, each such Owner shall also comply with the requirements of the attached, referenced and incorporated Exhibit C.

The failure of an Owner to comply with the provisions of this Section 3 in the construction of any Street Improvement shall be grounds for declaring such Street Improvement ineligible to be acquired pursuant to the provisions hereof.

The City hereby acknowledges and agrees that, at an Owner's election, the solicitation of bids may be managed and performed by such Owner's general contractor.

An Owner shall be required to construct Utility Improvements pursuant to the requirements of SCE.

The description of the Street Improvements and Utility Improvements in Exhibit B is preliminary and general in nature. The final nature and location of such Improvements will be determined upon the preparation of final Plans and Specifications. The description of such Improvements and their Budgeted Cost may be modified or Improvements substituted as long as the modified or substituted Improvements provide a service substantially similar to the Improvements currently described in Exhibit B. Any such modification or substitution shall be set forth in a supplement to Exhibit B approved by the City Engineer.

SECTION 4. Inspection of the Street Improvements and Utility Improvements; Eligibility for Payment of Purchase Price. The construction of the Street Improvements as set forth in Exhibit B shall be subject at all reasonable times to inspection by authorized representatives of the City. The Owner constructing or causing the construction of any Street Improvement or Street Improvements shall be required to submit inspection fees to the City as required pursuant to the then effective fee resolution of the City for the inspection of each such Street Improvement. Once an entire individual

Street Improvement is completed in accordance with the approved Plans and Specifications (including any change orders reasonably approved by the City), then such Improvement shall, upon satisfaction of the conditions precedent set forth herein, be eligible for payment of the Purchase Price (as defined in Section 7 below) for such Improvement.

Prior to payment of the Purchase Price for any Street Improvement, the Owner constructing or causing the construction of such Street Improvement shall provide to City Engineer, the documentation set forth in Section 7(b) below and obtain approval of as-built drawings in accordance with the process described below in this Section 4. The engineer of record for the Street Improvement ("Engineer of Record") shall notify the City Engineer of completion of construction of such Improvement. Within 20 working days of such filing, the field inspector of the City ("Field Inspector") or his or her designee shall issue and transmit to the Engineer of Record (i) a letter requesting as-built drawings and final soils reports (when applicable) ("Final Soils Reports") and (ii) a punch list of work necessary to be completed or corrections to work necessary to be completed before such Improvement will be eligible for payment of the Purchase Price. Within 20 working days of receipt of the Field Inspector's letter, the Engineer of Record shall prepare redline as-built drawings and submit them to the Field Inspector and such Owner shall complete the punch list items. Within 10 working days of the Engineer of Record's submittal of the red lined as-built drawings, the Field Inspector shall review the redline as-built drawings and provide comments. The Engineer of Record shall revise the redline as-built drawings per the Field Inspector's comments and resubmit within 10 working days. The Field Inspector shall make his final review within 5 working days of the Engineer of Record's resubmittal and notify the Engineer of Record to prepare mylar as-built drawings and a digital (autocad and .pdf) copy of all Plans and Specifications and Reports and submit such documents in such formats to the City Engineer or his designee and notify such Owner of any punch list items which then remain to be completed. A Street Improvement shall be accepted upon completion of the punch list items and submittal to and approval by City of as-built drawings. City and such Owner shall make best efforts to perform within the time periods described above. The inability of City or such Owner to perform within each time period, notwithstanding its best efforts, shall not constitute a breach of this Agreement.

The construction of the Utility Improvements shall be subject to such inspection as SCE shall require. Upon receipt by the City Engineer of a letter from SCE stating that the construction of a Utility Improvement has been completed to the satisfaction of SCE and that SCE has accepted ownership of such Utility Improvement, the Owner constructing or causing the construction of such Utility Improvement may submit a written request pursuant to Section 7(b) for the payment of the Purchase Price for such Utility Improvement.

SECTION 5. Warranty of Street Improvements. Prior to acceptance by the City of any Street Improvement, the Owner constructing or causing the construction of such Street Improvement shall be responsible for maintaining such Improvement at such Owner's expense. Such Owner shall be obligated to the City and the Community Facilities District for a period of twelve (12) months after the acceptance by the City of any Street Improvement to repair or replace any defects or failures resulting from the work of such Owner, its contractors or agents. Upon the expiration of such twelve (12) month period, such Owner shall assign to the City and the Community Facilities District its rights in and to any warranties, guarantees or other evidence of contingent obligations of third persons with respect to such Improvement. As a precondition to the acceptance by the City of a

Street Improvement, such Owner shall post a maintenance bond in a form reasonably approved by the City, cause such a maintenance bond to be posted, or assign such Owner's rights under such a maintenance bond naming the City and the Community Facilities District as beneficiaries in an amount equal to ten percent (10%) of the Budgeted Cost of such Improvement in order to secure such Owner's obligations pursuant to this Section during the twelve (12) month maintenance period.

SECTION 6. Notice of Completion and Lien Releases. Upon completion (as such term is defined in California Civil Code Section 3086) of the construction of a Street Improvement, the Owner constructing or causing the construction of such Improvement shall notify the City Engineer in writing of such completion and shall prepare and execute a Notice of Completion for such Improvement in the form prescribed by Section 3093 of the California Civil Code and shall record such notice in the Official Records of the County of Riverside. Such Owner shall cause its contractors to provide unconditional lien releases for such Improvement in accordance with Section 3262 of the Civil Code.

SECTION 7. Payment of Purchase Price; Processing Payment Requests.

(a) Amount of Purchase Price of an Improvement and Processing of Payment Requests. The Purchase Price for a Street Improvement or a Utility Improvement to be constructed by an Owner and acquired by the City or SCE, as applicable, shall be determined as provided for in this Section 7. The amount of the Purchase Price for a Flood Control Facility shall be determined pursuant to the JCFA.

The processing of a payment request for the payment of the Purchase Price for a Street Improvement or a Utility Improvement shall be undertaken as provided for in this Section 7. The processing of a payment request for the payment of the Purchase Price for a Flood Control Facility shall be determined pursuant to the JCFA.

(b) Determining the Amount of the Purchase Price for a Street Improvement or a Utility Improvement. The Purchase Price for a Street Improvement or a Utility Improvement shall (i) equal the lesser of the cost or the value thereof, (ii) include the lesser of the cost or value of eligible appurtenant public facilities, (iii) include the costs of the title insurance policy, if any, described in Section 10(a), and (iv) include all other costs of construction and incidental costs eligible under the Act and the Goals and Policies as a part of the cost of such Improvements, including the following:

(1) Usual and customary design, planning and engineering costs including civil engineering, soils engineering, landscape architecture, survey and construction staking, utility engineering and coordination, construction administration and supervision, plan check and inspection fees. Planning to be included in the Purchase Price of an Improvement shall be limited to those planning costs which are directly related to the planning for such Improvement. Costs incurred by an Owner related to the formation of the Community Facilities District ("Owner's CFD Formation Costs") shall not be included in the Purchase Price of any Improvement.

- (2) Costs of acquisition of rights-of-way and/or easements necessary for any Improvement which are not otherwise required to be dedicated to the City including the following:
- (A). Costs of any appraisal undertaken by an appraiser retained by the City for the purpose of valuing such property interests;
 - (B). Costs of title insurance for such property interests;
 - (C). Costs of preparing acquisition plats;
 - (D). The appraised value or actual cost of right-of-way or easements, whichever is less; and
 - (E). Legal fees and costs related to eminent domain proceedings approved by the City Attorney and the City Engineer.
- (3) Costs of environmental review, permitting, mitigation directly related to the Improvement, and that portion of the cost of the preparation of environmental documents, including without limitation, a Negative Declaration or an Environmental Impact Report directly related to the Improvement.
- (4) An amount not to exceed to 11.0% of the hard construction cost and the hard cost contingency (including insurance and general conditions) but excluding all other incidental costs, including but not limited to, the costs set forth in subparagraphs (1), (2) and (3) of the Improvement, representing the developer/project management fee, construction management fee and general conditions fee. Such fees are described in Exhibit E attached hereto and incorporated herein by this reference (the "Fee Letter").
- (5) Costs of construction, provided in no event shall the cost or value of the construction of the Improvement be deemed to exceed the construction contract prices set forth in the contracts and change orders approved by City.

The value of an Improvement shall be equal to the cost of construction of such Improvement determined pursuant to this subsection (b), less such portion of such cost of construction which the City Engineer has, in his or her reasonable professional opinion, determined would not have been incurred had such Improvement been constructed pursuant to a public works contract awarded by the City. Each Owner agrees to cooperate with the City Engineer in the determination of the value of an Improvement constructed or caused to be constructed by such Owner and in conjunction therewith shall, at the request of the City Engineer, provide the City Engineer with copies of contracts for construction of improvements to such Owner's Properties which are adjacent to or nearby such Improvement. As a non-inclusive example, if an Owner pays overtime to complete the construction of Street Improvements to provide access to a parcel by a date certain as required by such Owner's lease obligations to a tenant occupying such parcel, the cost of such overtime will be deducted from the overall cost of construction of such Improvement to determine the value of such Improvement.

Notwithstanding the foregoing, the aggregate Purchase Price of the Utility Improvements to be financed from the proceeds of a series of Bonds issued for an Improvement Area may not exceed an amount equal to five percent (5%) of the proceeds of such series of Bonds used to acquire Street Improvements and Flood Control Facilities or such lesser amount as may be necessary to insure that such expenditure does not, in the opinion of bond counsel retained by the City, adversely affect the exclusion from gross income of interest on such series of Bonds for federal income tax purposes.

(c) Processing a Request for Payment of the Purchase Price for a Street Improvement or a Utility Improvement.

(1) Requisition for Payment of Purchase Price. The Owner who constructed or caused the construction of a Street Improvement or a Utility Improvement may submit only one (1) written request to person or entity acting as the construction auditor for and on behalf of the City (the "Construction Auditor"), for the payment of the Purchase Price for such Improvement in the form attached hereto as Exhibit D, which is incorporated herein by this reference, upon the submission to the Construction Auditor of (A) a copy of each construction contract for such Improvement, a copy of the bid notice for such contract and a copy of each bid received, (B) each change order applicable to such Improvement, (C) each invoice submitted pursuant to each such contract pertaining to such Improvement, (D) evidence of payment of each such invoice such as copies of cancelled checks or other evidence of payment satisfactory to the Construction Auditor, (E) as-built drawings or other equivalent plans and specifications for any such Street Improvement in a form reasonably acceptable to the City, (F) evidence that such Owner has posted a maintenance bond for any such Street Improvement as required by Section 5 hereinabove, (G) evidence of the satisfaction of the requirements of Section 10 hereinbelow directly related to any such Street Improvement and (H) written unconditional lien releases from all contractors, subcontractors and materialmen satisfactory to the City Attorney for such Improvement. In the event that such Owner has awarded a single contract for the construction of more than one Street Improvement or Utility Improvement, such Owner must provide a copy of such contract, the bid notice and the bids received only with first written request for payment of the Purchase Price for an Improvement constructed pursuant to such contract. For all subsequent requests for payment of the Purchase Price for an Improvement constructed pursuant to such contract, such Owner may refer to the original request for payment for which the construction contract, bid notice and bids were submitted in lieu of submitting additional copies of such documents.

(2) Review of Payment Request. The Construction Auditor shall review each payment request within thirty (30) working days after receipt thereof (the "Initial Review Period") and notify the City Engineer and the Special Districts Division Manager and such Owner of the results of such review. Upon the completion of such review, the Construction Auditor shall either recommend approval of the payment request as submitted or, if the Construction Auditor finds that any such payment request is incomplete, improper or otherwise not suitable for approval, the Construction Auditor shall inform such Owner, the City Engineer and the Special Districts Division Manager of the reasons for such finding. Such Owner shall have the right to respond to this finding by submitting further documentation to the

Construction Auditor to supplement a payment request and/or to resubmit the payment request within thirty (30) days after receipt of the denial. The Construction Auditor shall review any supplemental documentation submitted in support of a payment request and inform such Owner, the City Engineer and the Special Districts Division Manager of its recommendation for the approval or denial of the payment request as so supplemented in accordance with this Section within ten (10) working days after receipt of the supplemental documentation.

If an Owner elects to resubmit a payment request in place of an original payment request that the Construction Auditor has found to be incomplete, improper or otherwise not suitable for approval in lieu of submitting supplemental information pertaining to the original payment request, the resubmitted payment request shall be subject to the same review procedures applicable to an original payment request.

Costs incurred under a contract for the construction of a Street Improvement entered into pursuant to the requirements of this Agreement and pursuant to change orders approved by the City shall be deemed to be reasonable.

The City Engineer shall review the recommendation of the Construction Auditor for the payment of any payment request and shall approve or deny such payment request within fifteen (15) business days of the date of the receipt thereof. The City Engineer shall notify the Owner and the Special Districts Division Manager in writing of his or her decision and, if the City Engineer denies such payment request, the reasons for such denial. Such Owner shall have the right to respond to the denial by submitting further documentation to the City Engineer to supplement such payment request within thirty (30) days after receipt of the denial. The City Engineer shall review such further documentation and shall approve the payment request or affirm his or her denial thereof within ten (15) business day of the date of receipt of such further documentation. The City Engineer shall notify the Owner and the Special Districts Division Manager in writing of his or her decision which shall be final and conclusive.

After (A) the formation of the Community Facilities District, the designation of the Improvement Areas therein and the approval of the authorization to levy special taxes within such Improvement Areas and to issue bonds of the Community Facilities District for each Improvement Area secured by such special taxes, (B) the issuance of Bonds (defined in Section 20 below) for one or more of the Improvement Areas pursuant to Section 20 the proceeds of which are intended to be used to acquire a particular Street Improvement or a Utility Improvement for which a payment request has been received, (C) recommendation by the Construction Auditor of the approval of the payment request and (D) approval of such payment request by the City Engineer, the Special Districts Division Manager shall promptly notify the Director of Finance of the approval of the payment request and request that such payment be made to the appropriate payee. The Director of Finance shall process any such request of the Special Districts Division Manager pursuant to the applicable procedures of the Finance Department and shall make or authorize such payment pursuant to such procedures and subsection (3) below.

(3) Payment.

(A) Priority of Payment of Cost of Purchase Price for Street Improvements or Utility Improvements. The City and the Owners acknowledge and agree that the cost of acquisition of all Improvements may exceed the aggregate amount of the Bond proceeds which will be available for the payment of that portion of the Purchase Price, as applicable, for all of such Improvements eligible to be paid from the proceeds of the Bonds. As a result, the proceeds of any series of Bonds to be eligible to used to pay the Purchase Price for Flood Control Facilities shall be deposited in a separate account to be designated the Flood Control Facilities Account as a first priority. In the event that funds deposited in the Flood Control Facilities Account for any Improvement Area are not sufficient to fully fund the Purchase Price of the Flood Control Facilities for such Improvement Area, the Owner who caused the construction of such Flood Control Facilities may submit a request to the City to have funds set aside for the Purchase Price of Street Improvements for that Improvement Area be transferred to the Flood Control Facilities Account to make up such deficit. In the event that any funds are transferred pursuant to the preceding sentence, the Owner responsible for the construction of the subject Street Improvements shall not be relieved of such Owner's obligation to construct such Street Improvements at such Owner's expense. The City and the Owners agree that the payment of the Purchase Price for Street Improvements or Utility Improvements from the proceeds of the Bonds issued for each Improvement Area shall be prioritized as follows:

Improvement Area No. 1:

Priority 1: Payment to the City and FR/CA MV for reimbursement of the proportionate share of costs incurred by the City and FR/CAL MV in connection with the formation of the Community Facilities District allocated to Improvement Area No. 1.

Priority 2: Payment to Owner of the Purchase Price for the Improvement Area No. 1 Street-Improvements (as further described in Exhibit B-1).

Improvement Area No. 2:

Priority 1: Payment to the City and FILP for reimbursement of the proportionate share of costs incurred by the City and FILP in connection with the formation of the Community Facilities District allocated to Improvement Area No. 2.

Priority 2: Payment to Owner of the Purchase Price for the Improvement Area No. 2 Street Improvements (as further described in Exhibit B-1).

Improvement Area No. 3:

Priority 1: Payment to the City and FR/CAL IA for reimbursement of the proportionate share of costs incurred by the City and FR/CAL IA in connection with the formation of the Community Facilities District allocated to Improvement Area No. 3.

Priority 2: Payment to Owner of the Purchase Price for the Improvement Area No. 3 Street Improvements (as further described in Exhibit B-1) in the order set forth in Exhibit B-1.

Priority 3: Payment to Owner of the Purchase Price for the Improvement Area No. 3 Utility Improvements (as identified in Exhibit B-1).

The Purchase Price for any lower priority Street Improvement or Utility Improvement allocated to an Improvement Area shall not be paid unless the Purchase Price for all higher priority Street Improvements and Utility Improvements allocated to such Improvement Area has been paid or the City Engineer has reasonably determined that sufficient proceeds of the Bonds issued for such Improvement Area are available to fully fund the cost of construction or the Purchase Price of such higher priority Improvements, e.g., such funds have been deposited in a separate account or sub-account and the use of such funds has been restricted to funding the cost of construction or the Purchase Price of such higher priority Improvements, based upon the estimates of the cost of construction or the approved Purchase Prices, as applicable, for such higher priority Improvements on Exhibit B. Notwithstanding the foregoing, the payment of the Purchase Price for any Utility Improvement shall be made only after the payment has been made of the Purchase Price for all Street Improvements and Flood Control Facilities to be financed from the proceeds of the same series of Bonds.

- (B) Timing of the Payment of the Purchase Price for an Improvement. Subject to the limitations contained in subsection (b) and (1), (2) and (3) of this subsection (c), the Purchase Price for each Improvement shall be paid to the Owner constructing or causing the construction of such Improvement within thirty (30) days after the date of the City Engineer's approval of the payment request for any such Improvement; provided, however, the Purchase Price for any Improvement shall not be paid earlier than thirty-five (35) days after the recording of a Notice of Completion for such Improvement.
- (C) Source of Payment. The Purchase Price for an Improvement shall be payable to the Owner solely from those proceeds ("Eligible Improvement Proceeds") of the sale of a series of the Bonds issued for an Improvement Area as provided in Section 17 hereof authorized and designated for the payment for such Improvement, after the proportionate costs of formation of the Community Facilities District allocated to the applicable Improvement Area and all costs of issuance of such Bonds have been paid and deposits of

accrued and capitalized interest to the redemption fund and the initial deposit to the reserve fund have been made.

- (D) Withholding of Payment. In addition to the foregoing, the City shall have the right to withhold payment of the Purchase Price of any Improvement if (a) the Owner constructing or causing the construction of such Improvement is delinquent in the payment of any assessment installments or special taxes levied by the City, the Community Facilities District or any other community facilities district established by the City on properties then owned by such Owner within the Community Facilities District, or (b) the City Engineer reasonably determines that such Owner is not then in substantial compliance with all applicable conditions and obligations imposed upon such Owner hereunder or upon such Owner's Development pursuant to the land use entitlements approved by the City for such Development, including but not limited to, payment of all applicable fees, dedication of all applicable rights-of-way or other property and construction of all applicable public improvements. The City Engineer shall provide written notice to such Owner of the decision to withhold any such payment and shall specify the reason for such decision. If the payment is withheld as a result of the delinquency in the payment of assessment installments or special taxes, the notice shall identify the delinquent parcels and the amount of such delinquency. If the payment is withheld as a result of substantial non-compliance with a condition or obligation, the notice shall specify such condition or obligation and what action will be necessary by such Owner to substantially comply with such condition or obligation. Upon receipt by the City Engineer of evidence reasonably satisfactory to the City Engineer of the payment of the delinquent special taxes or assessments or upon the determination by the City Engineer that such Owner has substantially complied with the subject condition or obligation, the City shall forthwith make any payment which has been withheld pursuant to the provisions of this paragraph.

SECTION 8. Construction Manager. An Owner may employ the services of a consultant to provide construction management services for and on behalf of such Owner provided that such services are provided in accordance with the terms and construction of this Agreement. Such services shall include, but not be limited to the solicitation, award and administration of contracts for the construction of each Improvement. In the event an Owner procures the services of a Construction Manager, for the purposes of Section 3, Section 4, Section 6, Section 7, Section 9(a), Section 10(b), Section 10, Section 13, Section 16, Exhibit C and Exhibit D of this, the term "Owner" shall also mean and include the term "Construction Manager."

SECTION 9. Accounting.

- (a) Owners' Records. The authorized representatives of City shall have the right, upon two (2) working days prior written notice to an Owner and during normal business hours, to review all books

and records of such Owner pertaining to costs and expenses incurred by such Owner in construction of any Improvements.

(b) Community Facilities District Records. City shall provide each Owner with an accounting of the funds and accounts of the applicable Improvement Area of the Community Facilities District as of December 31 and June 30 of each calendar year by January 31 and July 31, respectively, which shall describe the current balances, activity in each fund and account for the preceding six-month period and investment earnings on all funds and accounts, collectively and individually. Costs incurred by the City in providing such accounting shall be considered an administrative expense of the Community Facilities District to be funded or reimbursed through the annual levy of special taxes.

SECTION 10. Ownership and Transfer of Improvements. The conveyance of the Improvements by an Owner to City shall be in accordance with the following procedures:

(a) Improvements Constructed on Land not Owned by the City. As a condition to the payment of the Purchase Price for any Improvement, the Owner constructing or causing the construction of such Improvement shall cause an irrevocable offer of dedication to be made to the City or an outright grant of a fee interest or easement interest as appropriate, in the sole discretion of the City of the appropriate right, title and interest in and to the portion of the applicable property related to the applicable Improvement, including any temporary construction or access easements. Such Owner shall cause the execution and delivery to the City of the documents required to complete the transfer of Acceptable Title to such portion of the applicable property. For purposes of this Agreement, the term "Acceptable Title" shall mean title to the portion of the property to be conveyed free and clear of all taxes, liens, encumbrances, assessments, easements, leases, whether any such item is recorded or unrecorded, except those non-monetary encumbrances and easements which are reasonably determined by the City not to interfere with the intended use of the portion of the property. As a further condition to the payment of the Purchase Price for any Improvement, such Owner at its sole cost and expense, subject to reimbursement pursuant to Section 7, shall cause to be issued a policy of title insurance for such portion of the property in an amount not to exceed the Purchase Price and in the form normally required by the City in connection with the dedication of land for subdivision improvements and containing such title endorsements as may be reasonably requested by the City.

(b) Improvements Constructed on Land Owned by the City. If an Owner is authorized to construct an Improvement on land owned in fee by the City or on land over which the City owns an easement which would permit the construction, operation and maintenance of such Improvement such Owner shall obtain the necessary encroachment permits or other authorization required by the City to enter such land for purposes of constructing such Improvement.

SECTION 11. Improvement Bonds. Except as provided in the paragraph below, an Owner shall be required to post bonds or other security acceptable to the City to guarantee completion of the Improvements to be constructed by such Owner in accordance with City's standard requirements for such bonds or securities.

Performance and labor and material bonds in the amounts set forth in Exhibit C for specific Improvements shall not be required or may be released if (1) such Improvements constitute a portion of the improvements required to be constructed as a condition of approval of the subdivision and/or development within the applicable Improvement Area, (2) Bond proceeds equal to 150% of the estimated cost to construct or acquire such Improvements are available and set aside for such purpose, and (3) the Improvements are to be constructed or acquired entirely with the proceeds of the Bonds. Provided that conditions (1) and (2) are satisfied, if an Improvement is to be constructed or acquired only in part with the proceeds of the Bonds, performance and labor and material bonds shall not be required for that portion of the Improvements to be so constructed or acquired except with respect to the portion that will not be acquired or constructed with Bond proceeds. In the event that the Bond proceeds that are available and may be set aside to fund the cost to construct or acquire an Improvement are less than 150% of the estimated cost thereof, the Owner constructing or causing the construction of such Improvement shall be required to provide a performance and labor and material bond or other security satisfactory to the City Engineer and the City Attorney in the amount of such deficiency. City will cooperate with such Owner in the termination or exoneration of any performance and labor and material bonds assuring completion of Improvements for which Bonds have been sold. The City Engineer shall be the sole judge of determining release of such bonds.

SECTION 12. Flood Control Facilities. Except as otherwise provided for herein, the terms and conditions related to the construction and acquisition of the Flood Control Improvements, including but not limited to, the design, bidding, contract award, construction, inspection, acceptance, acquisition, warranty, indemnification and liability shall be governed by the JCFA.

SECTION 13. Reimbursement for Utility Improvements. If any portion of the cost of any Utility Improvement is required to be refunded by SCE pursuant to the California Public Utilities Code or rules of the Public Utilities Commission, such refund shall be made to the Community Facilities District and such refund shall be utilized, first, to finance the acquisition of any other Improvements authorized to be financed from the proceeds of the Bonds issued for the Improvement Area, which proceeds were utilized to pay the Purchase Price for such Utility Improvement, and, second, to the extent that the acquisition of all such other Improvements has been completed, to reduce the special tax levied within the applicable Improvement Area, or to call Bonds.

SECTION 14. Indemnification by the Owners. Each Owner shall defend, indemnify and hold harmless the City, the Community Facilities District, the Moreno Valley Community Services District and the Community Redevelopment Agency of the City of Moreno Valley (collectively, the "Indemnified Agencies") and their respective officers, directors, employees and agents, from and against any and all claims, losses, liabilities, damages, including court costs and reasonable attorneys' fees by reason of, or resulting from, or arising out of out of the obligations or operations undertaken by such Owner hereunder and out of such Owner's performance of its duties and responsibilities with hereunder, including but not limited to, the design, engineering, solicitation of bids and the award of contracts for the construction of any Improvement and construction of the Improvements constructed or to be constructed by such Owner; provided that any claims which relate to any such Improvement shall be limited to those arising out of personal injury or property damage caused by actions or omissions by such Owner or such Owner's employees, agents, independent contractors or representatives which occurred during the period prior to the transfer of

title to such Improvement, whether or not a claim is filed prior to the date of acceptance of such Improvement. Each Owner will conduct any such defense at its sole cost and expense, and the City shall approve selection of Owner's legal counsel, which approval shall not be unreasonably withheld. In the event that Owner's insurer has undertaken the defense of any insured claim, then legal counsel selected and/or approved by such insurer shall be deemed acceptable to and approved by the City.

This indemnity shall apply to all claims and liability regardless of whether any insurance policies may be applicable pursuant to any other agreement that an Owner may have with the City. Such policy limits do not act as a limitation upon the amount of indemnification to be provided by Owner hereunder; provided, however, that in the event that Owner's insurer promptly undertakes and diligently pursues the defense and/or resolution of such claims which would result in any indemnity or hold harmless obligations of the Owner pursuant to the foregoing, then so long as such insurer is diligently pursuing such defense and/or resolution, Owner's obligations under this Section 14 shall be tolled.

Nothing in this Section 14 shall limit in any manner the rights of the Indemnified Agencies or any one or more of the them against any of the architects, engineers, contractors or other consultants employed by such Owner which has performed work in connection with construction or financing of any Improvement.

Except as set forth in this Section 14, no provision of this Agreement shall in any way limit the extent of the responsibility of any Owner for payment of damages resulting from the operations of such Owner, its agents, employees or contractors.

SECTION 15. Obligation of City. Except as otherwise provided herein, neither the City nor the Community Facilities District has a legal or financial obligation to construct or to finance construction of the Improvements. All costs incurred for actual construction of an Improvement, including all incidentals thereto, shall be borne by the Owner constructing or causing the construction of such Improvement. The obligations of the City are limited to the acquisition of the Improvements pursuant to the provisions of this Agreement.

SECTION 16. Failure to Construct Street Improvements. If, at any time following commencement of the construction of any Street Improvements by an Owner, the City determines that such construction is not progressing within a reasonable time in accordance with the conditions of approval of such Owner's Development imposed by the City in granting the land use entitlements applicable to such Development (collectively, the "Conditions of Approval") or such Owner fails to demonstrate a continuing ability to complete the construction of such Street Improvement in accordance with the Conditions of Approval, the City may give written notice of such failure of performance to such Owner. Such Owner shall have sixty (60) days from the date of receipt of such notice to either (i) cure such failure of performance by demonstrating to the satisfaction of the City during such cure period reasonable progress in the construction of the Street Improvement and a continuing ability to complete the construction of such Improvement in accordance with the Conditions of Approval or (ii) reasonably demonstrate that such failure of performance is due to circumstances or conditions beyond such Owner's reasonable control ("Force Majeure") including, without limitation, the City's actions, omissions or inaction which result in a delay of performance by such Owner, labor disputes, Acts of God, war, riots, insurrections, civil commotions,

moratoriums, inability to obtain labor or materials or reasonable substitutes for either, fire, unusual delay in transportation, and adverse weather conditions. Should such Owner fail to reasonably demonstrate such reasonable progress or such continuing ability to complete the construction of such Improvement or Force Majeure, the obligation of the City to pay the Purchase Price for the acquisition of such Improvement pursuant to this agreement may be terminated by the City by providing ten (10) days written notice to such Owner. Upon termination, the City may in its sole discretion then proceed to advertise and bid the balance of the construction of such Improvement, and there will be no further obligation on the part of the City for payment of the Purchase Price for such Improvement due to such Owner pursuant to this Agreement. The City may utilize the Bond proceeds to pay for the construction of such Improvement. If, following the completion of the construction of such Improvement pursuant to a contract awarded by the City, there are surplus Bond proceeds that are eligible and authorized to be used to finance the acquisition of such Improvement, such Owner shall be entitled to payment to the extent of such funds of an amount equal to the costs, as determined by the City Engineer, incurred by such Owner prior to such termination for the construction of such Improvement.

In the event that the City chooses not to advertise and bid the balance of the construction of any such Improvement following such a termination, any monies remaining in the improvement fund for the Community Facilities District and set aside for the acquisition of such Improvement shall be transferred to the special tax fund established pursuant to the Fiscal Agent Agreement for the Bonds and used, at the discretion of the City, to pay debt service on or to call outstanding Bonds.

SECTION 17. Agreement Contingent. This Agreement is contingent upon the initiation of proceedings to consider the formation of the Community Facilities District, the subsequent formation of the Community Facilities District and the designation of Improvement Areas therein and the authorization by the qualified electors of each Improvement Area of the Community Facilities District to levy special taxes within such Improvement Area and incur bonded indebtedness for such Improvement Area and the successful sale of Bonds for each Improvement Area and it shall be null and void as to any Improvement Area if the Bonds for such Improvement Area are not sold within a three (3) year period following the date of completion of the construction of the Improvements allocated to such Improvement Area, or any mutually agreed extension.

The City may, at its option, suspend the performance of its obligations under this Agreement if, during the 30-day statute of limitations period following the formation of the Community Facilities District, any legal challenge is filed relating to the validity or enforceability of this Agreement, the Community Facilities District proceedings or the issuance of the Bonds. The obligations of the City hereunder shall be reinstated upon the entry of a final judgment in any such proceedings upholding the validity and enforceability of the Agreement, the Community Facilities District proceedings or the issuance of the Bonds. In the event that a final judgment is entered invalidating or declaring unenforceable this Agreement, the Community Facilities District proceedings or the issuance of the Bonds, the City may, at its option, terminate this Agreement provided, however, that in such instance, the City shall use reasonable efforts to assist Owner in re-initiating the Community Facility District formation proceeding in a manner that is legal. If the City elects to terminate this Agreement pursuant to the preceding sentence, the obligations of the parties hereunder shall be terminated except for the City's obligation to assist the Owners as set forth in the immediately preceding sentence. The termination of an Owner's obligations hereunder shall not,

however, relieve such Owner of any obligations with respect to the construction of the Improvements which such Owner has under any other agreement with the City, the Flood Control District or SCE or any condition of approval of any land use entitlement for such Owner's Development.

SECTION 18. Notice of Special Tax. Each Owner, or the successor or assigns of such Owner, shall provide written notice to all potential purchasers or lessees, if the special taxes are to be passed through to such lessees, of lots or portions thereof in the form prescribed by California Government Code Section 53341.5 advising the potential owner or lessee, as applicable, of the fact of the proposed or confirmed Community Facilities District, with such document being executed by the potential purchaser or lessee, as applicable. Such notice shall be provided to the potential purchaser or lessee, as applicable, before the potential purchaser becomes contractually committed to purchase the lot or the lessee enters into the lease of the lot so that the potential purchaser or lessee, as applicable, may knowingly consider the impact of the special tax in the decision to purchase or lease the lot. A copy of all such notices executed by actual purchasers or lessees shall be sent to the City Engineer.

SECTION 19. Relationship to Public Works. This Agreement is for the acquisition of the Improvements by City, the Flood Control District or SCE and the sale of the Bonds for the payment of construction and acquisition costs for the Improvements and such other amounts as are herein provided, and is not intended to be a public works contract.

In performing its obligations under this Agreement, each Owner is an independent contractor and not the agent of City. City shall have no responsibility for payment to any contractor or supplier of such Owner. Notwithstanding the foregoing, an Owner may be subject to certain public contract requirements as provided in Section 3 of this Agreement.

SECTION 20. Sale of Bonds. The City shall initiate proceedings to issue and sell bonds secured by the levy of special taxes within each Improvement Area of the Community Facilities District (the "Bonds") to be issued pursuant to the Act only upon (i) the formation of the Community Facilities District and the designation of the Improvement Areas therein, (ii) the authorization by the qualified electors within each of the Improvement Areas to levy special taxes within such Improvement Areas and to issue the Bonds for each Improvement Area, and (iii) the receipt of a written request from the Owner(s) of the property within an Improvement Area that the City initiate proceedings to issue and sell such Bonds. It is anticipated that a separate series of Bonds may be sold for each Improvement Area at different times to finance the cost of the Improvements allocated to such Improvement Area or, alternatively, a single series of Bonds may be sold for combined Improvement Areas. The Bonds for an Improvement Area shall be sized so that as of the date of issuance of the Bonds the aggregate appraised value of all taxable properties within the Improvement Area for which the Bonds are being issued shall comply with the value-to-lien standards set forth in the Goals and Policies, as such Goals and Policies may have been amended as of the date of value of the appraisal of the taxable properties within the applicable Improvement Area. The appraised value of taxable property for purposes of this paragraph shall be determined by an independent appraisal undertaken for the City utilizing appraisal assumptions approved by the City.

The proceeds of the Bonds issued for any Improvement Area shall be used in the following priority to (i) fund a reserve fund for the payment of principal and interest with respect to such Bonds; (ii) fund capitalized interest on such Bonds for a period not to exceed eighteen (18) months; (iii) pay for costs of issuance of such Bonds including, without limitation, underwriter's discount, bond counsel fees and expenses, disclosure counsel fees and expenses, financial advisor fees and expenses, printing, and paying agent fees and expenses; (iv) pay for the proportionate share of the costs of forming the Community Facilities District allocated to such Improvement Area, including reimbursement of advances of funds to the City by an Owner and such Owner's legal, engineering and financial consulting expenses incurred relating to the formation of the Community Facilities District and issuance of the Bonds; and (v) pay the proportionate share of the costs allocated to such Improvement Area of the acquisition of the Improvements pursuant to the provisions of this Agreement or the JCFA, as applicable.

Subject to the satisfaction of the conditions precedent, including without limitation, the receipt of a written request from an Owner, as delineated in the first paragraph of this Section 20, the timing of the issuance and sale of the Bonds for an Improvement Area, the terms and conditions upon which such Bonds shall be issued and sold, the method of sale of such Bonds and the pricing thereof shall be determined solely by the City and shall conform to the Goals and Policies and this Agreement. The sale of the Bonds for an Improvement Area shall be subject to receipt by the City of a competitively bid or negotiated bond purchase agreement which is acceptable to the City. The sale of the Bonds for an Improvement Area shall also be conditional upon the preparation of an official statement that is, in the sole judgment of the City, "deemed final" as such term is used in Rule 15c2-12 of the Securities and Exchange Commission (the "Rule").

In addition to the foregoing, the principal amount of the Bonds to be issued for an Improvement Area shall be determined taking into consideration (a) the Bond authorization for such Improvement Area, (b) the budgeted construction cost for the Improvements to be financed, and (c) assuring that the maximum projected annual special tax revenues securing the Bonds equals at least (i) 110% of the projected annual gross debt service on all of the outstanding Bonds plus (ii) Administrative Expenses (as such term is defined in the rate and method of apportionment of special taxes authorized to be levied within the Improvement Area).

Owner, on behalf of itself, any affiliates of Owner and any successor or assign of Owner, agrees (a) to provide all information regarding the development of its property within the applicable Improvement Area of the Community Facilities District, including the financing plan for such development, which are necessary to ensure that the official statement for such Bonds complies with the requirements of the Rule and all other applicable federal and state securities laws; (b) to enter into a continuing disclosure agreement to provide such continuing disclosure pertaining to the applicable Improvement Area, the development thereof and such Owner as necessary to ensure ongoing compliance with the continuing disclosure requirements of the Rule and (c) to cause its counsel to provide an opinion of such counsel in a form satisfactory to the underwriter of such series of the Bonds and underwriter's counsel or disclosure counsel, as applicable. Owner acknowledges and understands that that the City may require the same commitments from other owners of property located within one or more of the Improvement Areas and the willingness and ability of any such owner to timely fulfill such commitments may affect the timing of the issuance of Bonds for the applicable Improvement Area or Improvement Areas.

SECTION 21. Annexation to Community Facilities Agreement. City and Owners acknowledge that the Community Facilities District is intended to be structured so that when and if it is established, properties located outside the original boundaries of the Community Facilities District that will, upon the development thereof, contribute runoff to the Flood Control Facilities or will be protected from flooding by the Flood Control Facilities may be annexed to the Community Facilities District and an Improvement Area within the Community Facilities District (the "Tributary Parcels"). The Tributary Parcels and the Improvement Areas into which such parcels may be annexed are shown on Exhibit F attached hereto and incorporated herein by this reference. Reference is made to Section 3.6 of the JCFA for a more detailed description of the annexation process, which Section 3.6 is hereby incorporated herein by this reference.

SECTION 22. Conflict with Other Agreements. Except as specifically provided herein, nothing contained herein shall be construed as releasing an Owner from any Condition of Approval applicable to such Owner's Development or requirement imposed by any other agreement with City. In the event of a conflicting provision, such other agreement shall prevail unless such conflicting provision is specifically waived or modified in writing by City and an Owner.

SECTION 23. General Standard of Reasonableness. Any provision of this Agreement which requires the consent, approval, discretion or acceptance of any party hereto or any of their respective employees, officers or agents shall be deemed to require that such consent, approval or acceptance not be unreasonably withheld or delayed, unless such provision expressly incorporates a different standard.

SECTION 24. Entire Agreement; Amendment. This Agreement and the agreements expressly referred to herein contains all of the agreements of the parties hereto with respect to the matters contained herein and no prior or contemporaneous agreement or understandings, oral or written, pertaining to any such matters shall be effective for any purpose. No provision of this Agreement may be modified, waiver, amended or added to except by a writing signed by the party against which the enforcement of such modification, waiver, amendment or addition is or may be sought.

SECTION 25. Notices. Any notice, payment or instrument required or permitted by this Agreement to be given or delivered to another party shall be deemed to have been received when personally delivered or seventy-two (72) hours following deposit of the same in any United States Post Office in California, registered or certified, postage prepaid, addressed as follows:

If to the City: City of Moreno Valley
Public Works Department, Special Districts Division
14325 Frederick Street, Suite 9
Moreno Valley, CA 92552-0805
Attention: Special Districts Division Manager

With a copy to: City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552-0805
Attention: City Attorney

Best Best & Krieger LLP
655 West Broadway, 15th Floor
San Diego, CA 92101
Attention: Warren Diven

If to the Owners: c/o First Industrial Realty Trust, Inc.
114 Pacifica Court, Suite 220
Irvine, CA 92618
Attention: Phil Bowman

With a copy to: Barack Ferrazzano Kirschbaum Perlman & Nagelberg LLP
333 West Wacker Drive, Suite 2700
Chicago, IL 60606
Attention: Brett A. Feinberg

Each party may change its address for delivery of notice by delivering written notice of such change of address to the other parties.

SECTION 25. Severability. If any provision of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.

SECTION 26. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. An Owner may not assign its rights or obligations hereunder except upon written notice to City within ten (10) days of the date of such assignment indicating the name and address of the assignee. A decision by the City on acceptance of an assignment shall be made within ten (10) business days from the date of receipt by the City of Owner's written notice of assignment; provided, however, if the City shall provide written notice to the Owner within such initial response period that (a) the City Council will not be meeting in regular session during such initial response period or (b) the City Council will be meeting in regular session during such initial response period but there is not sufficient time to agendaize the acceptance of the assignment for such City Council meeting, such response period shall automatically be extended to the tenth business day following the date of the first regularly scheduled City Council meeting following the expiration of the initial response period for which the acceptance of the assignment may be timely agendaized. An Owner shall not be released from its duties or obligations hereunder without written notice from the City accepting the assignment of the Owner's obligations hereunder. Upon such notice and acceptance by the City of assignment of the duties and obligations of such Owner arising under or from this Agreement, such Owner shall be released by City from all future duties or obligations rising under or from this Agreement. Notwithstanding the preceding sentence, an Owner may assign its rights and obligations hereunder as security to lenders for the purpose of

obtaining loans to finance development within the Community Facilities District, but no such assignment shall release such Owner from its obligations hereunder to City.

SECTION 27. Governing Law. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California. Additionally, this Agreement and the construction of the Improvements shall be subject to all City ordinances and regulations relating to the requirement of improvement agreements, land division, improvement security or other applicable development requirements.

SECTION 28. No Obligation to Form Community Facilities District. Owner acknowledges that the decision of the City Council of the City to form the Community Facilities District is a legislative action and the City may not enter into an agreement to obligate the City Council to exercise its legislative discretion in a particular manner or for a particular result. This Agreement does not, therefore, in any way create a contractual, legal or equitable obligation of or commitment by the City to approve the formation of the Community Facilities District.

SECTION 29. Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by any other party, or the failure by a party to exercise its rights under the default of any other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by any other party with the terms of this Agreement thereafter.

SECTION 30. Singular and Plural; Gender. As used herein, the singular of any work includes the plural, and terms in the masculine gender shall include the feminine.

SECTION 31. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

SECTION 32. Construction of Agreement. This Agreement has been reviewed by legal counsel for both the City and the Owners and shall be deemed for all purposes to have been jointly drafted by the City and the Owners. No presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement. The language in all parts of this Agreement, in all cases, shall be construed as a whole and in accordance with its fair meaning and not strictly for or against any party and consistent with the provisions hereof, in order to achieve the objectives of the parties hereunder. The captions of the sections and subsections of this Agreement are for convenience only and shall not be considered or referred to in resolving questions of construction.

SECTION 33. Time of the Essence. The parties to this Agreement understand that time is of the essence in the completion of all matters contemplated by this Agreement because of, among other things, the necessity for completion of the Improvements in connection with construction of the Developments. The parties agree to use due diligence to fulfill their obligations contemplated by this Agreement at the earliest possible time. Without limiting the generality of the foregoing or compliance with specific time provisions set forth in this Agreement, any party to this Agreement requested or required to act, consent, or approve plans, work, documents, or other matters shall not unreasonably withhold or delay any such act, consent, or approval contemplated in this Agreement.

Notwithstanding the foregoing, performance by any party to this Agreement of its obligations hereunder shall be excused during any period of delay caused at any time by reasons of Acts of God, enactment of conflicting laws or regulations, moratoriums, riots, strikes, or damage to work in process by reason of fire, floods, earthquake, or other such casualties. If any party of this Agreement seeks excuse from timely performance, it shall provide written notice of such delay to every other party to this Agreement within thirty (30) calendar days of the commencement of such delay. Any delay or default beyond the control of the noticing party shall extend the time for performance for a period equal to the period of the enforced delay, or longer as may be mutually agreed upon.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first written above.

CITY OF MORENO VALLEY

By: *Robert M. Adams*
City Manager

Date of Execution: 7-14-08

APPROVED AS TO FORM:

CITY ATTORNEY

By: *Robert D. Henrich*

Date: 7/10/08


OWNERS:

FR/CAL MORENO VALLEY, LLC, a Delaware limited liability company

By: FirstCal Industrial, LLC, a Delaware limited liability company, its sole member

By: FR FirstCal, LLC, a Delaware limited liability company, its managing member


By: First Industrial Investment, Inc., a Maryland corporation, its sole member

By: 
Name: Phil Bowman
Its: Senior Vice President

Date of execution: 6/27/08

FIRST INDUSTRIAL, L.P., a Delaware limited partnership

By First Industrial Realty Trust, Inc., a Maryland corporation and its sole general partner

By: 
Name: Phil Bowman
Its: Senior Vice President

~~CITY ATTORNEY
Approved as to Form~~

~~By: _____ Date _____~~

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Orange }

On 6/27/08 before me, Rita C Webber, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Phil Bowman
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.



Place Notary Seal Above

Signature Rita C. Webber
Signature of Notary Public

OPTIONAL

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

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

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

RIGHT THUMBPRINT OF SIGNER
 Top of thumb here

Signer Is Representing: _____

Signer's Name: _____

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

RIGHT THUMBPRINT OF SIGNER
 Top of thumb here

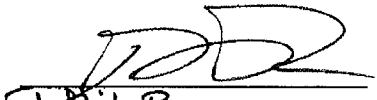
Signer Is Representing: _____

FR/CAL INDIAN AVENUE, LLC, a Delaware limited liability company

By: FirstCal Industrial, LLC, a Delaware limited liability company, its sole member

By: FR FirstCal, LLC, a Delaware limited liability company, its managing member

By: First Industrial Investment, Inc., a Maryland corporation, its sole member

By: 
Name: Phil Bowman
Its: Senior Vice President

Date of execution: 6/27/68

~~CITY ATTORNEY
Approved as to Form~~

~~By: _____ Date~~

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Orange }

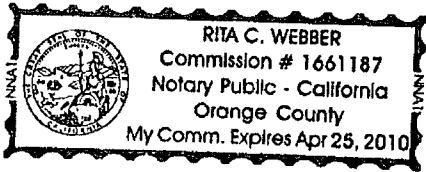
On 6-27-08 before me, Rita C Webber, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Phil Bowman
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.



Place Notary Seal Above

Signature Rita C. Webber
Signature of Notary Public

OPTIONAL

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

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

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



Signer Is Representing: _____

Signer's Name: _____

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



Signer Is Representing: _____

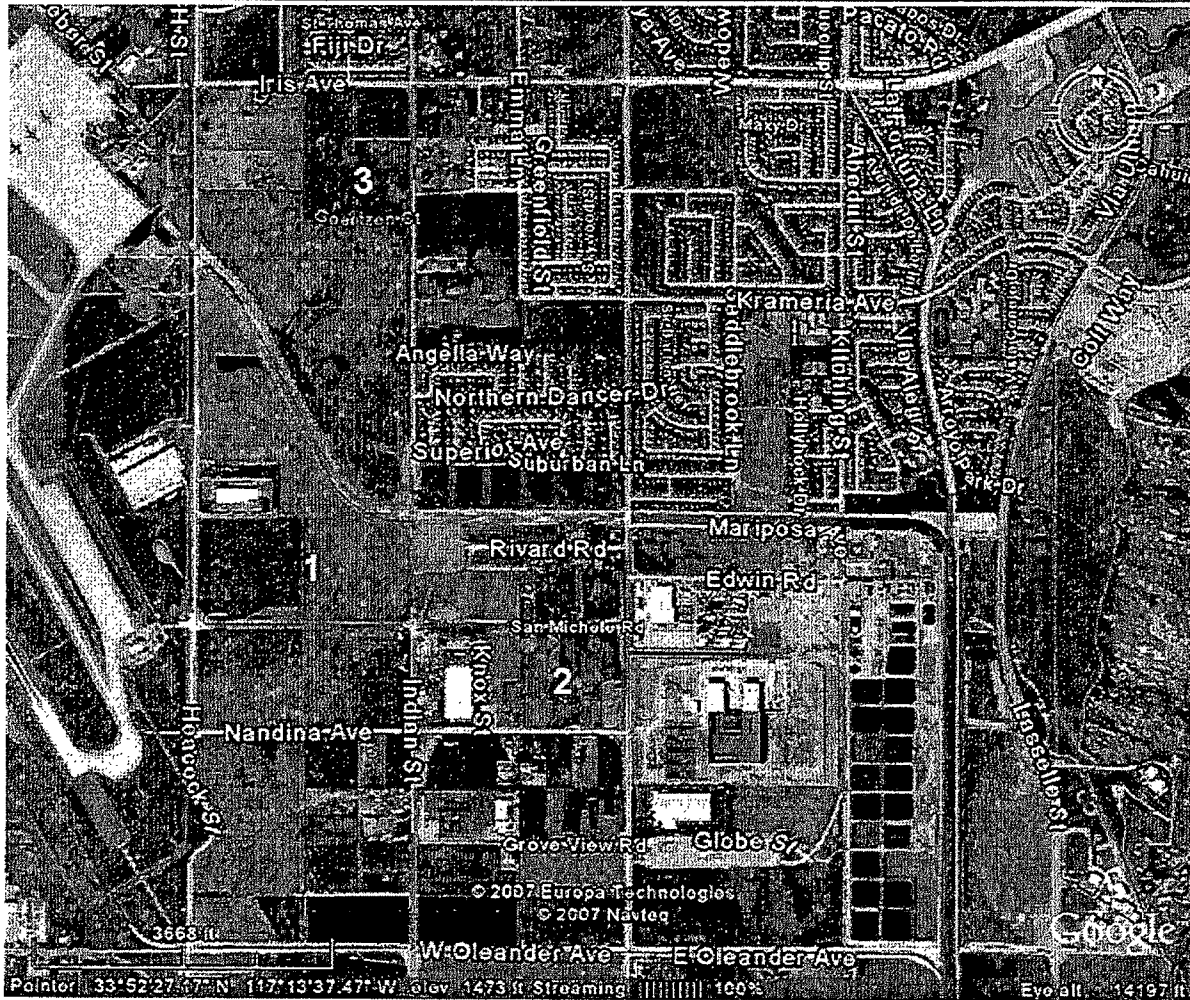
EXHIBIT "A"

**PROPOSED BOUNDARIES OF
COMMUNITY FACILITIES DISTRICT
AND IMPROVEMENT AREAS**

SDPUB\WDIVEN\353709.10

A - 1

Exhibit A – Proposed Boundaries of Community Facilities District and Improvement Areas



Legend	
1	Improvement Area 1
2	Improvement Area 2
3	Improvement Area 3

EXHIBIT "B-1"

DESCRIPTION OF IMPROVEMENTS

Improvement Area No. 1 Improvements:

Improvements to be financed from the proceeds of Bonds issued for Improvement Area No. 1 (the "Improvement Area No. 1 Improvements") include the following subject to modification based upon the City's final conditions of approval of the Improvement Area No. 1 Street Improvements or the final approval of the Plans and Specifications therefore or the Flood Control District's final conditions of approval of the Flood Control Facilities or the final approval of the plans and specifications therefor:

Improvement Area No. 1 Flood Control Facilities: the Master Plan storm drain facilities identified as Perris Valley Lateral B-3.2, including all appurtenant box culverts and laterals.

Improvement Area No. 1 Street Improvements:

- Nandina Avenue will be improved from Heacock Street to Indian Street – North Side. – The components of this Street Improvement will include but not be limited to curb and gutter, sidewalk, structural section and paving of roadways, street lighting, traffic signals and appurtenances (at the intersections of Indian Street/Nandina Avenue), striping, signage, ADA ramps, drive aprons, local depressions and catch basins.
- Heacock Street will be improved from Nandina Street to Komar Property Line (PL) – The components of this Street Improvement will include but not be limited to curb and gutter, sidewalk, structural section and paving of roadways, street lighting, traffic signals and appurtenances (as the intersection of Heacock Street and San Michele Avenue), local depressions and catch basins.
- Traffic signal installation at the intersection of Indian Street and San Michele Avenue.

Improvement Area No. 2 Improvements:

Improvements to be financed from the proceeds of Bonds issued for Improvement Area No. 2 (the "Improvement Area No. 2 Improvements") include the following subject to modification based upon the City's final conditions of approval of the Improvement Area No. 2 Street Improvements or the final approval of the Plans and Specifications therefore or the Flood Control District's final conditions of approval of the Flood Control Facilities or the final approval of the plans and specifications therefor:

Improvement Area No. 2 Flood Control Facilities: the Master Plan storm drain facilities identified as Perris Valley Laterals B-1 and B-1.2, including all appurtenant box culverts and laterals.

Improvement Area No. 2 Street Improvements:

- Nandina Avenue to First Industrial Property Line - The components of this Street Improvement will include but not be limited to curb and gutter, sidewalk, structural section and paving of roadways, street lighting, striping, signage, ADA ramps, drive aprons, local depressions and catch basins.

Improvement Area No. 3 Improvements:

Improvements to be financed from the proceeds of Bonds issued for Improvement Area No. 3 ("Improvement Area No. 3 Improvements") include the following subject to modification based upon the City's final conditions of approval of the Improvement Area No. 3 Street Improvements or the final approval of the Plans and Specifications therefore or the Flood Control District's final conditions of approval of the Flood Control Facilities or the final approval of the plans and specifications therefor:

Improvement Area No. 3 Flood Control Facilities: the Master Plan storm drain facilities identified as Sunnymead Line D-1, including all appurtenant box culverts and laterals.

Improvement Area No. 3 Street Improvements:

- Indian Street from Iris Avenue to Krameria Avenue - The components of this Street Improvement will include but not be limited to curb and gutter, sidewalk, structural section and paving of roadways, street lighting, traffic signals and appurtenances (at the intersections of Indian Street and Iris Avenue and Indian Street and Krameria Avenue) striping, signage, median landscaping, ADA ramps, drive aprons, local depressions and catch basins.
- Iris Avenue from Street "A" to Indian Street - The components of this Street Improvement will include but not be limited to curb and gutter, sidewalk, structural section and paving of roadways, street lighting, traffic signals and appurtenances (at the intersections of Iris and Future Street) striping, signage, median landscaping, ADA ramps, drive aprons, local depressions and catch basins.
- Street "A" from Iris Avenue to Krameria Avenue - The components of this Street Improvement will include but not be limited to curb and gutter, sidewalk, structural section and paving of roadways, street lighting, striping, signage, ADA ramps, drive aprons, local depressions and catch basins .
- Krameria Avenue from Indian Street to Street "A" - The components of this Street Improvement will include but not be limited to curb and gutter, sidewalk, structural section and paving of roadways, street lighting, striping, signage, ADA ramps, drive aprons, local depressions and catch basins.

Improvement Area No. 3 Utility Improvements:

- Undergrounding of overhead utilities adjacent to or in the Street Improvements for Indian Street described above.

Upon the approval by the City of final Plans and Specifications for any Street Improvement or the approval by the Flood Control District of final plans and specifications for any Flood Control Improvements, the City Engineer may attach an addendum to this Exhibit B which shall be initialed by an authorized representative of the Owner responsible for constructing or causing the construction of such Street Improvements or Flood Control Improvements, as the case may be, identifying the applicable plans and specifications and the location thereof and such plans and specifications shall thereafter govern the description of the applicable Street Improvements or Flood Control Improvements.

EXHIBIT "B-2"

CFD NO. 7 INFRASTRUCTURE BUDGET

Exhibit B-2

CFD No. 7 Infrastructure Budget
City of Moreno Valley

IMPROVEMENT AREA NO. 1

Storm Drain (Perris Valley Lateral B-3a through B-3g and B-3 2)	\$5,500,000	\$7,177,610
Gas Line Relocation to Accommodate Storm Drain	\$125,000	\$163,128
Nandina Avenue (Heacock to Indian Street-North Side)		
HARD COSTS	ITEM	
	Roadway	
	Curb and Gutter	\$48,230
	Sidewalk	\$58,658
	Excavation and Clearing	\$120,443
	Asphalt Concrete over AC Base	\$218,988
	Traffic Control	\$13,012
	Street Lights	\$56,000
	Signalization	
	Indian/Nandina	\$200,000
	Signing and Striping	\$3,650
	ADA Ramps	\$2,000
	Drive Aprons	\$10,500
	Storm Drain Inlet	\$2,000
	SUBTOTAL	\$733,480
	Hard Cost Contingency (10%)	\$73,348
	TOTAL HARD COSTS	\$806,828
SOFT COSTS		
	Civil Engineering (3%)	\$22,004
	Construction Staking (1%)	\$7,335
	Developer Fee/Project Management Fee (4%)	\$32,273
	Construction Management Fee (4%)	\$32,273
	General Conditions (3%)	\$24,205
	Landscape Architect	\$0
	Plancheck and Permits (3%)	\$22,004
	Soils/Materials Testing (1%)	\$7,335
	SUBTOTAL	\$147,429
	Soft Cost Contingency (2%)	\$2,949
	TOTAL SOFT COSTS	\$150,378
Nandina Avenue subtotal		\$957,206

Heacock Street (Nandina North to Komar PL)

HARD COSTS

ITEM		
Roadway		
Curb and Gutter		\$11,840
Sidewalk		\$14,400
Excavation and Clearing		\$29,568
Asphalt Concrete over AC Base		\$53,760
Traffic Control		\$2,962
Street Lights		\$7,000
Signalization		
Heacock/San Michele		\$200,000
Signing and Striping		\$896
ADA Ramps		\$1,000
Drive Aprons		\$4,000
Storm Drain Inlet		\$0
SUBTOTAL		\$325,426
Hard Cost Contingency (10%)		\$32,543
TOTAL HARD COSTS		\$357,968

SOFT COSTS

Civil Engineering (3%)	\$9,763	
Construction Staking (1%)	\$3,254	
Developer Fee/Project Management Fee (4%)	\$14,319	
Construction Management Fee (4%)	\$14,319	
General Conditions (3%)	\$10,739	
Landscape Architect	\$0	
Plancheck and Permits (3%)	\$9,763	
Soils/Materials Testing (1%)	\$3,254	
SUBTOTAL		\$65,411
Soft Cost Contingency (2%)		\$1,308
TOTAL SOFT COSTS		\$66,719

Heacock Street subtotal \$424,687

Traffic Signal Indian Street/San Michele \$200,000 \$261,004

TOTAL IMPROVEMENT AREA 1 COSTS **\$8,983,634**

IMPROVEMENT AREA NO. 2

Storm Drain (Porris Valloy Laterals B-1 and B-2) \$1,694,394 \$2,211,218

Nandina Avenue (Knox Street to Perris Boulevard-North Side)

HARD COSTS	ITEM		
	Roadway		
	Curb and Gutter	\$29,431	
	Sidewalk	\$35,685	
	Excavation and Clearing	\$73,273	
	Asphalt Concrete over AC Base	\$133,224	
	Traffic Control	\$7,831	
	Street Lights	\$38,500	
	Signing and Striping	\$2,220	
	ADA Ramps	\$1,000	
	Drive Aprons	\$5,000	
	Storm Drain Inlet	\$0	
	SUBTOTAL		\$326,164
	Hard Cost Contingency (10%)		\$32,616
	TOTAL HARD COSTS		\$358,781
SOFT COSTS			
	Civil Engineering (3%)	\$9,785	
	Construction Staking (1%)	\$3,262	
	Developer Fee/Project Management Fee (4%)	\$14,351	
	Construction Management Fee (4%)	\$14,351	
	General Conditions (3%)	\$10,763	
	Landscape Architect	\$5,000	
	Plancheck and Permits (3%)	\$9,785	
	Soils/Materials Testing (1%)	\$3,262	
	SUBTOTAL		\$70,559
	Soft Cost Contingency (2%)		\$1,411
	TOTAL SOFT COSTS		\$71,970
Nandina Avenue subtotal			\$430,751
TOTAL IMPROVEMENT AREA 2 COSTS			\$2,641,969

IMPROVEMENT AREA NO. 3

Storm Drain (Sunnymead Line D-1) \$1,287,000 \$1,679,581

Indian Street (Iris Avenue to Krameria)

HARD COSTS

ITEM

Roadway		
Curb and Gutter	\$47,286	
Sidewalk	\$57,510	
Excavation and Clearing	\$109,652	
Asphalt Concrete over AC Base	\$199,368	
Traffic Control	\$10,428	
Street Lights	\$59,500	
Signalization		
Indian/Iris	\$100,000	
Indian/Krameria	\$200,000	
Signing and Striping	\$3,323	
ADA Ramps	\$1,000	
Drive Aprons	\$5,000	
Storm Drain Inlet	\$0	
Overhead Utility Undergrounding		\$206,480
SUBTOTAL		\$999,548
Hard Cost Contingency (10%)		\$99,955
TOTAL HARD COSTS		\$1,099,502

SOFT COSTS

Civil Engineering (3%)	\$29,986	
Construction Staking (1%)	\$9,995	
Developer Fee/Project Management Fee (4%)	\$43,980	
Construction Management Fee (4%)	\$43,980	
General Conditions (3%)	\$32,985	
Landscape Architect	\$0	
Plancheck and Permits (3%)	\$29,986	
Soils/Materials Testing (1%)	\$9,995	
SUBTOTAL		\$200,909
Soft Cost Contingency (2%)		\$4,018
TOTAL SOFT COSTS		\$204,927

Indian Street subtotal \$1,304,430

Iris Avenue (Street "A" to Indian Street)

HARD COSTS	ITEM	
	Roadway	
	Curb and Gutter	\$23,588
	Sidewalk	\$28,688
	Excavation and Clearing	\$92,565
	Asphalt Concrete over AC Base	\$168,300
	Traffic Control	\$10,011
	Street Lights	\$31,500
	Signalization	\$0
	Iris/Future Street	\$200,000
	Signing and Striping	\$2,805
	ADA Ramps	\$2,000
	Drive Aprons	\$5,000
	Storm Drain Inlet	\$0
		\$0
	SUBTOTAL	\$564,456
	Hard Cost Contingency (10%)	\$56,446
	TOTAL HARD COSTS	\$620,902
SOFT COSTS		
	Civil Engineering (3%)	\$16,934
	Construction Staking (1%)	\$5,645
	Developer Fee/Project Management Fee (4%)	\$24,836
	Construction Management Fee (4%)	\$24,836
	General Conditions (3%)	\$18,627
	Landscape Architect	\$0
	Plancheck and Permits (3%)	\$16,934
	Soils/Materials Testing (1%)	\$5,645
	SUBTOTAL	\$113,456
	Soft Cost Contingency (2%)	\$2,269
	TOTAL SOFT COSTS	\$115,725
Iris Avenue subtotal		\$736,627

Street "A" (Iris to Krameria)

HARD COSTS

ITEM

Roadway	
Curb and Gutter	\$47,286
Sidewalk	\$57,510
Excavation and Clearing	\$168,696
Asphalt Concrete over AC Base	\$306,720
Traffic Control	\$16,083
Street Lights	\$56,000
Signing and Striping	\$5,112
ADA Ramps	\$2,000
Drive Aprons	\$10,500
Storm Drain Inlet	\$2,000

SUBTOTAL \$671,907

Hard Cost Contingency (10%) \$67,191

TOTAL HARD COSTS \$739,098

SOFT COSTS

Civil Engineering (3%)	\$20,157
Construction Staking (1%)	\$6,719
Developer Fee/Project Management Fee (4%)	\$29,564
Construction Management Fee (4%)	\$29,564
General Conditions (3%)	\$22,173
Landscape Architect	\$0
Plancheck and Permits (3%)	\$20,157
Soils/Materials Testing (1%)	\$6,719

SUBTOTAL \$135,053

Soft Cost Contingency (2%) \$2,701

TOTAL SOFT COSTS \$137,754

Street "A" subtotal \$876,852

Krameria Avenue (Indian to Street "A")

HARD COSTS	ITEM	
	Roadway	
	Curb and Gutter	\$23,588
	Sidewalk	\$28,088
	Excavation and Clearing	\$92,566
	Asphalt Concrete over AC Base	\$168,300
	Traffic Control	\$8,433
	Street Lights	\$21,000
	Signing and Striping	\$3,188
	Median	\$0
	ADA Ramps	\$0
	Drive Aprons	\$0
	Storm Drain Inlet	\$0
	SUBTOTAL	\$345,761
	Hard Cost Contingency (10%)	\$34,576
	TOTAL HARD COSTS	\$380,337
SOFT COSTS		
	Civil Engineering (3%)	\$10,373
	Construction Staking (1%)	\$3,458
	Developer Fee/Project Management Fee (4%)	\$15,213
	Construction Management Fee (4%)	\$15,213
	General Conditions (3%)	\$11,410
	Landscape Architect	\$0
	Plancheck and Permits (3%)	\$10,373
	Soils/Materials Testing (1%)	\$3,458
	SUBTOTAL	\$69,498
	Soft Cost Contingency (2%)	\$1,390
	TOTAL SOFT COSTS	\$70,888
	Krameria Avenue subtotal	\$451,225
	TOTAL IMPROVEMENT AREA 3 COSTS	\$5,048,694

EXHIBIT "C"

DESIGN, BID AND CONTRACT REQUIREMENTS FOR THE STREET IMPROVEMENTS

The following requirements are intended to supplement the provisions of the Agreement pertaining to the construction of the Street Improvements, including but not limited to Section 3. thereof. In the event that any provision of the requirements contained in this Exhibit "C" conflicts with or is inconsistent with the provisions of Agreement, the provisions of the Agreement shall control.

Design Phase

A. Only design costs directly related to the Street Improvements to be acquired are eligible for inclusion in the Purchase Price for such Improvements.

Bidding Phase

A. Bidding Documents. Two complete sets of bidding documents, including improvement plans, general provisions, and bid proposal forms shall be submitted to City for review and approval within 10 working days of submittal. Solicitation of bids shall not take place until the bidding documents are approved in writing by the City. This procedure shall be followed for each contract for which bids are proposed to be solicited. Unless otherwise noted, the bidding documents shall conform to the following minimum requirements:

1. Unless impractical due to the nature of the Street Improvement, the bid proposal shall be unit priced rather than lump sum. A.C. pavement, base and sub-base shall be bid on a square foot per inch thickness basis.

2. The bidding documents shall require the bidder/contractor to provide the following bonds:

- a. Bid Bond - 10% of the amount of the bid.
- b. Material and Labor Bond - 50% of the contract amount.
- c. Performance Bond - 100% of the contract amount.

3. The bidding documents shall require the successful bidder to provide evidence of comprehensive public liability insurance in the amount of at least \$1,000,000 prior to the award of the contract.

4. The bidding documents shall provide for monthly progress payments to the contractor.

5. The bidding documents must clearly state the time, date, and place where bids are to be submitted and opened.

6. The bidding documents shall clearly state the amount of time to complete the work. The time allowed must be reasonable for the amount of work. Accelerated construction time allowances must be supplementally bid, and are not eligible for public finance unless previously approved by the City.

7. The bidding documents shall conform to the requirements of Section 3. of the Agreement.

B. The applicable Owner shall keep a log of all persons obtaining bidding documents, and their mailing address.

C. Addenda shall be mailed by first class mail to all bidding document holders and the City Engineer. If an addendum is required within five working days of the noticed bid opening date, the bid opening date shall be extended.

D. Submitted bids shall be in sealed envelopes.

E. Bids shall not be accepted after the stated time for submission.

F. Bid opening shall be conducted by the applicable Owner at such Owner's place of business, City Hall or such other site mutually acceptable to such Owner and City Engineer.

G. All bid openings shall be scheduled to take place during normal working hours of the Public Works Department. Sealed bids shall be opened and read aloud immediately following the submission time. A City representative shall be invited to attend the bid opening.

H. Conditioned bids, unless the bid proposal lists them for all to bid on, shall not be accepted.

I. The bid proposals shall conform to all state and local laws governing the listing of subcontractors and suppliers.

J. The arithmetic of the two lowest bid proposals received shall immediately be checked for errors.

K. A tabulation of all bids received shall be provided to the City Engineer within five working days of the bid opening.

L. A preconstruction meeting shall be held with the contractor prior to beginning the work. City Public Works representatives shall be invited to attend the meeting.

M. The Notice to Proceed shall be issued within a reasonable period of time following the contract execution.

Construction Phase

- A. The City shall be provided a copy of the construction schedule.
- B. The applicable Owner shall require the contractor to conduct weekly construction status meetings to which City representatives shall be invited.
- C. All change orders shall be reviewed and approved by the City Public Works inspector on a monthly basis and submitted with the applicable payment requests.
- D. Any additional costs incurred for the benefit of the applicable Owner, such as accelerating the construction schedule, shall not be eligible for public financing unless previously approved by the City.
- E. Any additional construction costs incurred due solely to delays caused by the applicable Owner shall not be eligible for public financing.
- F. All contracts and construction related records shall be available to the City as and when required for the final determination of eligible costs for the public financing. This shall include trip tickets and other confirmations of material delivered to the Improvement.

General

The above rules shall be applied to all Street Improvements proposed to be acquired through the Community Facilities District. Any deviation from the rules must be approved by the City Engineer.

“City Engineer” means the City Engineer or his designee.

EXHIBIT "D"

PAYMENT REQUEST NO. _____

The undersigned (an "Owner") hereby requests payment in the total amount of \$ _____ for the Purchase Price of the Improvement(s) (as defined in the Acquisition/Financing Agreement (the "Agreement") by and among the City of Moreno Valley (the "City") and the Owners and described in Exhibit B to that Agreement), all as more fully described in Attachment 1 hereto. In connection with this Payment Request, the undersigned hereby certifies, represents and warrants to the City as follows:

1. He(she) is a duly authorized officer of the Owner, qualified to execute and submit this Payment Request on behalf of the Owner and is knowledgeable as to the matters set forth herein.
2. The Purchase Price for the Improvement(s) has been calculated in conformance with the terms of the Agreement. All costs for which payment is requested hereby are eligible costs (as permitted in the Agreement) and have not been inflated in any respect. The payment which is hereby requested has not been the subject of any prior payment request paid by the City.
3. Supporting documentation (such as third party invoices, change orders and checks) is attached with respect to each cost for which payment is requested.
4. The Improvement(s) for which payment is requested were constructed substantially in accordance with the requirements of the Agreement.
5. The Owner is in compliance with the terms and provisions of the Agreement.
6. No mechanics liens or other encumbrances have attached, or to the best knowledge of the Owner, after due inquiry, will attach to the Improvements.
7. Payment of the Purchase Price shall be made to the Owner and/or other parties pursuant to the instructions set forth in Attachment 2 hereto.

I hereby declare under penalty of perjury that the above representations and warranties are true and correct.

[INSERT NAME OF THE APPLICABLE OWNER]

By: _____
Name: _____
Title: _____

Payment Request Approved for Submission to
[Fiscal Agent or Trustee]

CITY OF MORENO VALLEY

By: _____
Name: _____
Title: _____

ATTACHMENT 1

**SUMMARY OF CITY IMPROVEMENTS
INCLUDED IN PAYMENT REQUEST NO. _____**

Complete the table below for each Improvement to which this Payment Request applies and attach all required supporting documentation:

Description of Improvement	Budgeted Cost for Improvement	Purchase Price for Improvement

EXHIBIT E -
THE FEE LETTER



First Industrial Realty Trust, Inc.
114 Pacifica, Suite 220
Irvine, CA 92618
T: (949) 488-1970
F: (949) 488-1971
www.firsindustrial.com

February 11, 2008

Sue Anne Maxinoski
Special Districts Coordinator
City of Moreno Valley
14325 Frederick Street, Ste. 9
Moreno Valley, CA. 92552-0805

Ms. Maxinoski:

As a followup to my first letter dated October 17, 2007, I am writing to provide you with a summary of the developer and project management fees which are required to complete the offsite improvements associated with Community Facilities District (CFD) #7 currently under formation in Moreno Valley. This letter is intended to clarify our request to have certain fees reimbursed as project costs under Section 7(b)(4) of the DRAFT Acquisition and Financing Agreement

The pertinent fees are as follows:

1. Developer Fee/Project Management Fee-This fee is defined as 4% of the hard construction cost and hard cost contingency (including insurance and general conditions) and is reimbursed to First Industrial (FR) for the management of the project. These management services include the solicitation, retention, and administration of professional services (i.e. civil engineering, construction management services), oversight of the design process, interface and coordination with all relative public agencies to facilitate plan check review, permitting, CFD formation process, and the public bid process.

2. Construction Management Fee- This fee, is defined as 4% of the hard construction cost and hard cost contingency (including insurance and general conditions) and will be performed by an individual or professional consulting company to provide in-field construction management services. These services would include, but would not be limited to, assisting FR in the public bid process, overall field administration, coordination of work schedules with the General Contractor and subcontractors, review of change orders, processing of construction payments, interfacing with public agencies during inspections, finalizing punch list items, managing the physical completion of the work through final acceptance by each respective public agency.

3. General Conditions-This fee, defined as 3% of the hard cost of construction and hard cost contingency, will be to address ancillary professional or construction services not performed by any of the specific contractors or subcontractors as defined in the scope of work of their contracts. These services may include, but are not limited to immediate on-site supervision, dust control, job site cleanup (e.g. street sweeping), overlapping traffic control coordination, and project site security.

With the above explanations in mind, we would respectfully request that these fees (totaling 11%) be included in the overall amount to be reimbursed to First Industrial under the Acquisition and Finance Agreement and JCFA.

Please call me at 949-933-2121 if I can be of additional assistance or if you have further questions.

Sincerely,


John A. Grace
Development Manager
First Industrial Realty Trust

E - 2

SDPUB\WDIVEN\353709.10

EXHIBIT F -
TRIBUTARY PARCELS

TRIBUTARY AREAS TO DRAINAGE FACILITIES

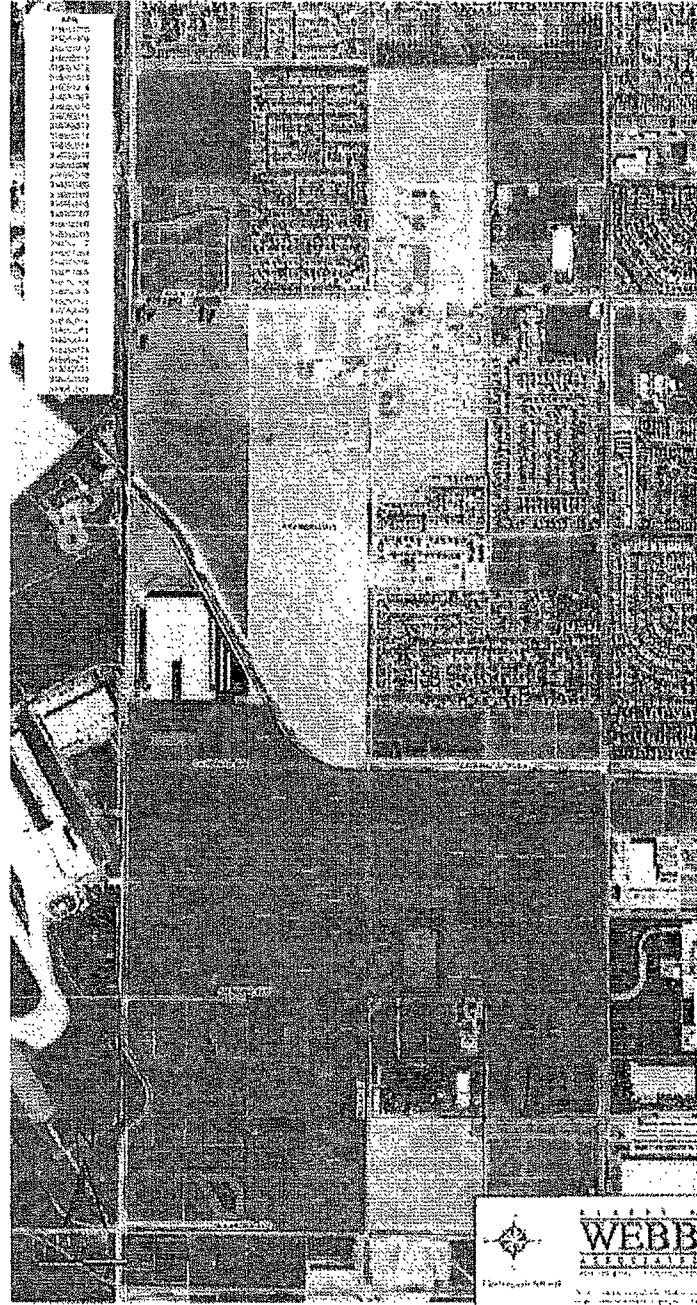


EXHIBIT E

BOND NO. _____

PREMIUM \$ _____

(SAMPLE)

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

PROJECT NO. DXX-XXXXX

**PROJECT NAME
PROJECT DESCRIPTION/LIMITS
(Tract No., Parcel No., Address)**

KNOW ALL MEN AND WOMEN BY THESE PRESENTS:

THAT WHEREAS, the **Developer's Name**, known as "Developer," has awarded to _____, as Principal hereinafter designated as "Contractor" and have entered into a Contract Agreement whereby the Contractor agrees to construct or install and complete certain designated public improvements, which said Contract Agreement, dated _____, 20__, and identified as **Tract DXX-XXXXX, Parcel No., Address** is hereby referred to and made a part hereof; and

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

NOW THEREFORE, we the undersigned Contractor and _____, as Surety, are held and firmly bound unto the **Developer's Name**, in the penal sum of dollars, (\$_____), lawful money of the United States, to be paid to the said Developer or its, certain attorney, its successors and assigns; for which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

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

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

(SIGNATURE PAGE FOLLOWS)

E1

CITY OF MORENO VALLEY CFD No. 7
JCFA-FLOOD CONTROL
SDPUB\WDIVEN\356912.8
FINAL DRAFT

E-1

BOND NO. _____

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

this _____ day of _____ 20_____.

CONTRACTOR

SURETY

Name: _____

Name: _____

Address: _____

Address: _____

Telephone No.: _____

Telephone No.: _____

By: _____

By: _____

Attorney-in-Fact

NOTE:

This bond must be executed by both parties. Corporate seal may be affixed hereto. All signatures must be acknowledged before a notary public (attach acknowledgments). The attorney-in-fact for the corporate surety must be registered, as such, in at least one county in the State of California. (Attach one original Power of Attorney sheet for each bond).

E2

CITY OF MORENO VALLEY CFD No. 7
JCFA-FLOOD CONTROL
SDPUB\WDIVEN\356912.8
FINAL DRAFT

E-2

(Sample)

BOND NO. _____

PREMIUM \$ _____

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

PROJECT NO. DXX-XXXXX

**PROJECT NAME
PROJECT DESCRIPTION/LIMITS**

(Tract No., Parcel No., Address)

KNOW ALL MEN AND WOMEN BY THESE PRESENTS

THAT WHEREAS, the **Developer's Name**, known as "Developer", has awarded to _____, as Principal hereinafter designated as "Contractor" and have entered into a Contract Agreement whereby the Contractor agrees to construct or install and complete certain designated public improvements, which said Contract Agreement, dated _____, 20____, and identified as **t Tract No. DXX-XXXXX, Parcel No., Address** is hereby referred to and made a part hereof; and

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

NOW, THEREFORE, we the undersigned Contractor and _____, as Surety are held and firmly bound unto the **Developer's Name**, in the penal sum of dollars, (\$ _____), lawful money of the United States, for which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

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

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

(Signature Page Follows)

E3

CITY OF MORENO VALLEY CFD No. 7
JCFA-FLOOD CONTROL
SDPUB\WDIVEN\356912.8
FINAL DRAFT

E-3

BOND NO. _____

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

this _____ day of _____ 20____.

CONTRACTOR

SURETY

Name: _____

Name: _____

Address: _____

Address: _____

Telephone No.: _____

Telephone No.: _____

By: _____

By: _____

Attorney-in-Fact

NOTE:

This bond must be executed by both parties. Corporate seal may be affixed hereto. All signatures must be acknowledged before a notary public (attach acknowledgments). The attorney-in-fact for the corporate Surety must be registered, as such, in at least one county in the State of California. (Attach one original Power of Attorney sheet for each bond).

E4

CITY OF MORENO VALLEY CFD No. 7
JCFA-FLOOD CONTROL
SDPUB\WDIVEN\356912.8
FINAL DRAFT

E-4

EXHIBIT F

FORM OF PAYMENT REQUEST

PAYMENT REQUEST NO. _____

The undersigned (the "Owner") hereby requests payment in the total amount of \$ _____ for the Purchase Price of the Improvement(s) (as defined in the Acquisition/Financing Agreement (the "Agreement") by and among the City of Moreno Valley (the "City") and the Owner and described in Exhibit B to that Agreement), all as more fully described in Attachment 1 hereto. In connection with this Payment Request, the undersigned hereby certifies, represents and warrants to the City as follows:

1. He (she) is a duly authorized officer of Owner, qualified to execute and submit this Payment Request on behalf of Owner and is knowledgeable as to the matters set forth herein.
2. The Purchase Price for the Improvement(s) has been calculated in conformance with the terms of the Agreement. All costs for which payment is requested hereby are eligible costs (as permitted in the Agreement) and have not been inflated in any respect. The payment which is hereby requested has not been the subject of any prior payment request paid by the City.
3. Supporting documentation (such as third party invoices, change orders and checks) is attached with respect to each cost for which payment is requested.
4. The Improvement(s) for which payment is requested were constructed substantially in accordance with the requirements of the Agreement.
5. Owner is in compliance with the terms and provisions of the Agreement.
6. No mechanics liens or other encumbrances have attached, or to the best knowledge of the Owner, after due inquiry, will attach to the Improvements.
7. Payment of the Purchase Price shall be made to the Owner and/or other parties pursuant to the instructions set forth in Attachment 2 hereto.

I hereby declare under penalty of perjury that the above representations and warranties are true and correct.

OWNER

By: _____
Name: _____
Title: _____

APPROVAL BY THE FLOOD ENGINEER

The Flood Engineer confirms that the Flood Control Facility described in Attachment A has been constructed in accordance with the Plans and Specifications therefor. The Actual Cost of each Flood Control Facility as described in Attachment A has been reviewed, verified and approved by the Flood Engineer. The Purchase Price for said Flood Control Facility is established at \$ _____. Payment of the Purchase Price for the Flood Control Facility is hereby approved.

Date: _____

FLOOD ENGINEER

By: _____

Payment Request Approved for Submission
to [Fiscal Agent or Trustee]

CITY OF MORENO VALLEY

By: _____
Name: _____
Title: _____

**ATTACHMENT 1
PAYMENT REQUEST - ACTUAL COSTS**

Property Owner is to complete Columns 1 through 7

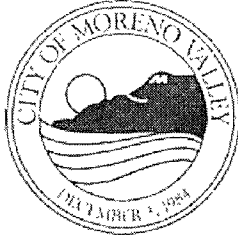
CFD/Improvement Area/Tract Number: _____

Facility Description: _____

1	2	3	4	5	6	7	8	9	10	11
Bid Item No.	Bid Item Description	Unit of Measure	Unit Price	Original Contract Quantity	Quantity Invoiced	Amount Invoiced	Quantity Calculated By Flood District	Amount Calculated By Flood District	Difference	Actual Cost
1			0.00	0	0	0.00	0	0.00	0.00	
2			0.00	0	0	0.00	0	0.00	0.00	
3			0.00	0	0	0.00	0	0.00	0.00	
4			0.00	0	0	0.00	0	0.00	0.00	
5			0.00	0	0	0.00	0	0.00	0.00	
6			0.00	0	0	0.00	0	0.00	0.00	
7			0.00	0	0	0.00	0	0.00	0.00	
8			0.00	0	0	0.00	0	0.00	0.00	
9			0.00	0	0	0.00	0	0.00	0.00	
10			0.00	0	0	0.00	0	0.00	0.00	
11			0.00	0	0	0.00	0	0.00	0.00	
12			0.00	0	0	0.00	0	0.00	0.00	
13			0.00	0	0	0.00	0	0.00	0.00	
14			0.00	0	0	0.00	0	0.00	0.00	
15			0.00	0	0	0.00	0	0.00	0.00	
16			0.00	0	0	0.00	0	0.00	0.00	
17			0.00	0	0	0.00	0	0.00	0.00	
18			0.00	0	0	0.00	0	0.00	0.00	
19			0.00	0	0	0.00	0	0.00	0.00	
20			0.00	0	0	0.00	0	0.00	0.00	

Total: 0.00 0.00 0.00

Amount Requested: _____



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

Report to City Council

TO: Mayor and City Council

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

AGENDA DATE: September 22, 2009

TITLE: RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT JOINT COMMUNITY FACILITIES AGREEMENT PERTAINING TO COMMUNITY FACILITIES DISTRICT NO. 7

RECOMMENDED ACTION

Staff recommends that the City Council approve and adopt Resolution No. 2009-91; a Resolution of the City Council of the City of Moreno Valley, California, approving the form of the Joint Community Facilities Agreement by and among the City of Moreno Valley and the Riverside County Flood Control and Water Conservation District, FR/CAL Moreno Valley, LLC, First Industrial, LP, and FR/CAL Indian Avenue, LLC pertaining to Community Facilities District No. 7.

ADVISORY BOARD/COMMISSION RECOMMENDATION

N/A

BACKGROUND

On June 24, 2008, the City Council authorized the formation of Community Facilities District No. 7 ("CFD No. 7" or "District") in order to finance the construction of certain public facilities to be constructed by, or on behalf of FR/CAL Moreno Valley, LLC, First Industrial, LP, or FR/CAL Indian Avenue, LLC (collectively, "Property Owners") with the purchase price to be paid from bond proceeds. Once bonds have been sold a special tax shall be levied and collected on parcels within the District in order to make the annual debt service payments.

CFD No. 7 consists of three improvement areas ("IA"). Each IA will have separate public facilities; however, the scope of the public facilities from one IA to the others will

be similar. Each IA requires public facilities in order to facilitate future development within the vicinity. Public facilities within the District include, but are not limited to: flood control facilities, street improvements, and utility infrastructure.

DISCUSSION

This Joint Community Facilities Agreement ("JCFA") is an agreement between the City, Riverside County Flood Control and Water Conservation District ("Flood Control District"), and the Property Owners for the purpose of financing certain public facilities. The public facilities are to be owned, operated, and maintained by the Flood Control District, or the City, upon the completion of the construction by the Property Owners and the acceptance by the Flood Control District or the City, as applicable. The provisions of the JCFA are intended to apply only to the flood control facilities, unless expressly stated otherwise. The construction and acceptance of the City maintained public facilities shall be governed by the Acquisition/Financing Agreement, which was approved by the City Council on April 8, 2008.

ALTERNATIVES

1. **Approve and adopt** the attached Resolution to approve the form of the JCFA pertaining to CFD No. 7. *Approval of the JCFA will provide for acquisition of the identified public facilities through future sales of CFD No. 7 bonds.*
2. **Do not approve** the attached Resolution to approve the form of the JCFA pertaining to CFD No. 7. *This alternative may delay the completion and acceptance of the public facilities.*

FISCAL IMPACT

Acquisition of the public facilities shall be paid for through future bond issuances. The proposed funding for IA No. 1 is approximately \$10 million and for IA No. 2 and No. 3 is \$8.25 million combined. Reimbursement of the bonded indebtedness shall be secured through an annual special tax levied on properties within the appropriate IA.

Future CFD No. 7 bond issuances shall not constitute a general obligation of the City. Neither the City nor CFD No. 7 has a legal obligation to construct or finance the public facilities.

CITY COUNCIL GOALS

Public Facilities and Capital Projects

Bond proceeds shall be used to acquire necessary public facilities.

Revenue Diversification and Preservation

The debt service on the bonds will be paid through an annual special tax levied on the properties within the District.

SUMMARY

The JCFA is an agreement by and among the City of Moreno Valley and the Flood Control District, and the Property Owners pertaining to CFD No. 7. The Property Owners and the legislative body of the Flood Control District have approved the form of the proposed JCFA. The agreement is now being presented to City Council for approval.

NOTIFICATION

N/A

ATTACHMENTS

Attachment 1: Site Map

Attachment 2: A Resolution approving the form of the Joint Community Facilities Agreement by and among the City of Moreno Valley and the Riverside County Flood Control and Water Conservation District, FR/CAL Moreno Valley, LLC, First Industrial, LP, and FR/CAL Indian Avenue, LLC pertaining to Community Facilities District No. 7

Attachment 3: Joint Community Facilities Agreement by an among the City of Moreno Valley, Riverside County Flood Control and Water Conservation District, and FR/CAL Moreno Valley, LLC, First Industrial, LP, and FR/CAL Indian Avenue, LLC

Prepared by:
Jennifer A. Terry,
Management Analyst

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

Concurred by:
Sue Anne Maxinoski,
Special Districts Division Manager

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

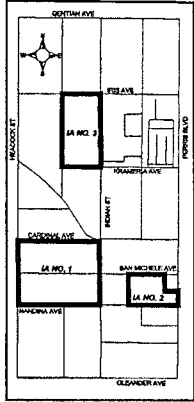
W:\SpecialDist\jennifert\CFD No. 7\JCFA\CFD No. 7 JCFA staff report.doc

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MAP OF PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 7

SHEET 1 OF 3

CITY OF MORENO VALLEY
COUNTY OF RIVERSIDE
STATE OF CALIFORNIA



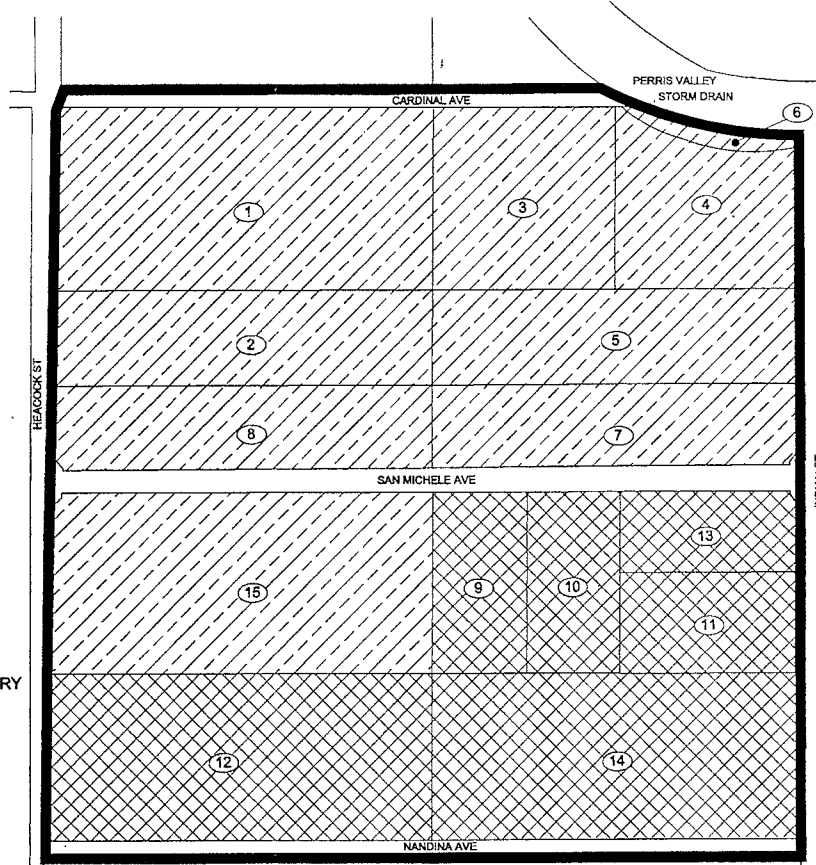
Vicinity Map

MAP REF. NO.	ASSESSOR'S PARCEL NO.
1	316-170-001
2	316-170-002
3	316-170-004
4	316-170-005
5	316-170-007
6	316-170-010
7	316-170-013
8	316-170-014
9	316-180-002
10	316-180-003
11	316-180-005
12	316-180-006
13	316-180-008
14	316-180-009
15	316-180-012

ATTACHMENT 1

LEGEND FOR SHEET 1

- IMPROVEMENT AREA NO. 1 (IA NO. 1) BOUNDARY
- MAP REFERENCE NUMBER
- ZONE 1
- ZONE 2



FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MORENO VALLEY THIS _____ DAY OF _____ 2008.

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 7, CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF MORENO VALLEY AT A REGULAR MEETING THEREOF, HELD ON THE _____ DAY OF _____ 2008, BY ITS RESOLUTION NO. _____

CITY CLERK
CITY OF MORENO VALLEY

RIVERSIDE COUNTY RECORDER'S CERTIFICATE

FILED THIS _____ DAY OF _____ 2008, AT THE HOUR OF _____ O'CLOCK _____ M. IN BOOK _____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE(S) _____ IN THE OFFICE OF THE COUNTY RECORDER, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA.

FEE: _____

INSTRUMENT NO.: _____

LARRY WARD, ASSESSOR-COUNTY CLERK-RECORDER

BY DEPUTY
COUNTY RECORDER
COUNTY OF RIVERSIDE

THE LINES AND DIMENSIONS OF EACH LOT OR PARCEL SHOWN ON THIS DIAGRAM SHALL BE THOSE LINES AND DIMENSIONS AS SHOWN ON THE RIVERSIDE COUNTY ASSESSOR'S MAPS FOR THOSE PARCELS LISTED.

THE RIVERSIDE COUNTY ASSESSOR'S MAPS SHALL GOVERN FOR ALL DETAIL CONCERNING THE LINES AND DIMENSIONS OF SUCH LOTS OR PARCELS.



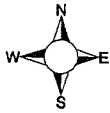
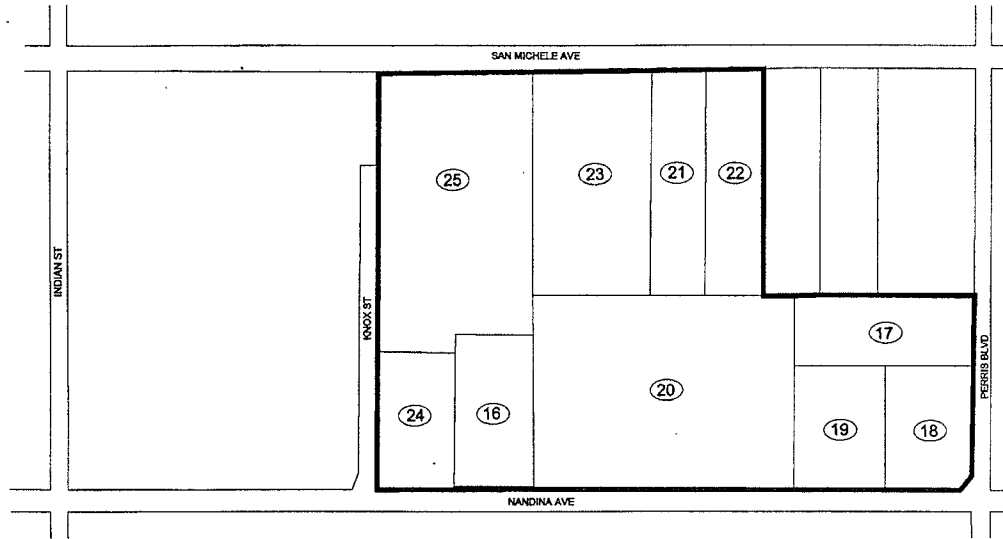
MuniFinancial

87268 Via Inductria
Suite 100
Troy, California 92290-3001
Phone (951) 587-3500 Fax (951) 587-3510



MAP OF PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 7

SHEET 2 OF 3

CITY OF MORENO VALLEY
COUNTY OF RIVERSIDE
STATE OF CALIFORNIA



LEGEND FOR SHEET 2

-  IMPROVEMENT AREA NO. 2 (IA NO. 2) BOUNDARY
-  MAP REFERENCE NUMBER

MAP REF NO.	ASSESSOR'S PARCEL NO.
16	316-200-003
17	316-200-009
18	316-200-010
19	316-200-011
20	316-200-012
21	316-200-013
22	316-200-014
23	316-200-018
24	316-200-028
25	316-200-029



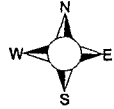
MuniFinancial

27500 Via Industry
Suite 110
Torrance, California 90503-3621
Phone (561) 597-3500 Fax (561) 597-3510

MAP OF PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 7

SHEET 3 OF 3

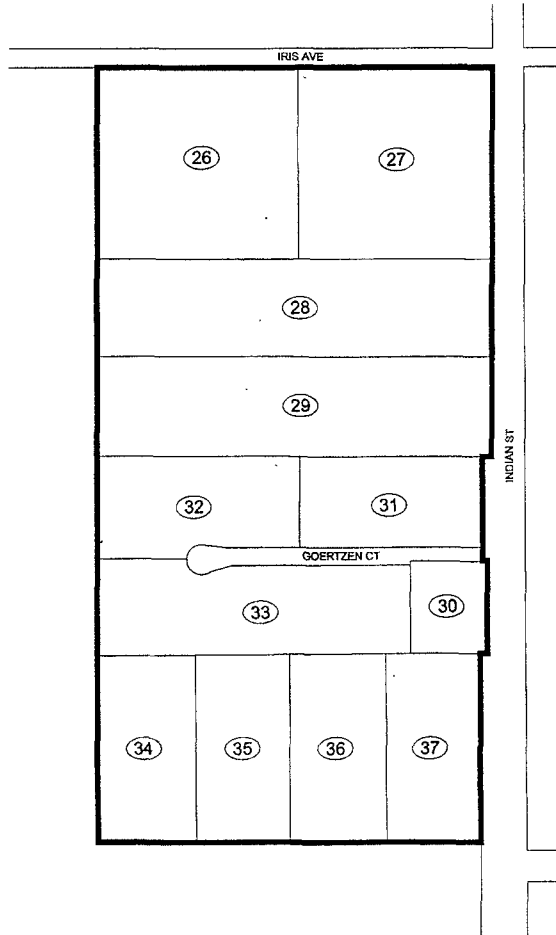
CITY OF MORENO VALLEY
COUNTY OF RIVERSIDE
STATE OF CALIFORNIA



LEGEND FOR SHEET 3

 IMPROVEMENT AREA NO. 3 (IA NO. 3) BOUNDARY

 MAP REFERENCE NUMBER



MAP REF NO.	ASSESSOR'S PARCEL NO.
26	316-020-002
27	316-020-003
28	316-020-004
29	316-020-005
30	316-020-012
31	316-020-013
32	316-020-014
33	316-020-015
34	316-020-016
35	316-020-017
36	316-020-018
37	316-020-019



MuniFinancial
27565 Via Induarte
Suite 410
Tombala, California 92590-2661
Phone (951) 687-3500 Fax (951) 687-3510

EXHIBIT "D"

AREA DRAINAGE PLAN FEE AGREEMENT

AREA DRAINAGE PLAN FEE AGREEMENT
BY AND AMONG
CITY OF MORENO VALLEY,
acting for and on behalf of itself and
COMMUNITY FACILITIES DISTRICT NO. 7,
FR/CAL MORENO VALLEY, LLC,
FIRST INDUSTRIAL, L.P.
and
FR/CAL INDIAN AVENUE, LLC

AREA DRAINAGE PLAN FEE AGREEMENT

THIS AREA DRAINAGE PLAN FEE AGREEMENT (“Agreement”) is made and entered into by and among the CITY OF MORENO VALLEY, a municipal corporation duly organized and validly existing under the Constitution and laws of the State of California, (“City”) acting for and on behalf of itself and COMMUNITY FACILITIES DISTRICT NO. 7, and FR/CAL MORENO VALLEY, LLC (“FR/CAL MV”), a Delaware limited liability company, FIRST INDUSTRIAL, L.P. (“FILP”), a Delaware limited liability partnership FR/CAL INDIAN AVENUE, LLC (“FR/CAL IA”), a Delaware limited liability company and shall become effective on the date on which the Agreement has been mutually executed and delivered by the Parties (as defined in the following sentence). FR/CAL MV, FILP and FR/CAL IA may be referred to individually as an “Owner” or collectively as the “Owners” and Owners acknowledge that they are related entities. The City and the Owners may be referred to individually as a “Party” or collectively as the “Parties. The Parties enter into this Agreement with reference to the following recited facts (each a "Recital").

RECITALS

WHEREAS, the Owners own the following real property (collectively, the “Owners’ Parcels”) located within the City:

- A. FR/CAL MV owns those parcels identified as Assessor’s Parcel Nos. 316-180-002, 316-180-003, 316-180-005, 316-180-006, 316-180-008 and 316-180-009;
- B. FILP owns those parcels identified as Assessor’s Parcel Nos. 316-200-003, 316-200-009 through -014, 316-200-018, 316-200-028 and 316-200-029;
- C. FR/CAL IA owns those parcels identified as Assessor’s Parcel Nos. 316-020-002, 316-020-003, 316-020-004, 316-020-005 and 316-020-012 through -019; and,

WHEREAS, as a condition of approval of the development of the Owners’ Parcels, the Owners are required to construct certain flood control facilities described in Exhibit A attached hereto and incorporated herein by this reference (the “Flood Control Facilities”); and,

WHEREAS, as a further condition of approval of the development of Owners’ Parcels, the Owners are required to pay ADP Fees (defined below) to finance the construction of flood control facilities required to serve the Owners Parcels, including the Flood Control Facilities, and other parcels that are tributary to such flood control facilities and referred to herein as the Tributary Parcels; and

WHEREAS, at the request of the Owners, the City Council of the City formed a community facilities district and the designated three improvement areas therein (each, an “Improvement Area” and designated individually as “Improvement Area No. 1,” “Improvement Area No. 2,” and “Improvement Area No. 3”) under the terms and conditions of the “Mello-Roos Community Facilities Act of 1982,” as amended (Government Code Section 53311 and following) (the “Act”) to include the Owners’ Parcels and certain additional adjacent property not owned by Owners and identified as Assessor Parcel Nos. 316-170-001, 316-170-002, 316-170-004, 316-170-006, 316-170-007, 316-170-010, 316-170-013, 316-170-014 and 316-180-010

(the “Adjacent Property”) for the purpose of financing the acquisition and construction of the Flood Control Facilities together with certain other public improvements and appurtenances and appurtenant work within the jurisdictional limits of said City, said community facilities district known and designated as Community Facilities District No. 7 (the “Community Facilities District”); and,

WHEREAS, the boundaries of the Community Facilities District and the Improvement Areas are set forth in Exhibit B attached hereto and incorporated herein by this reference; and,

WHEREAS, as a result of the fact that (i) the Owners are required to construct the Flood Control Facilities, to pay ADP Fees for the Owners’ Parcels and to pay special taxes through the Community Facilities District and (ii) the Flood Control Facilities will serve and benefit the Tributary Parcels as well as the Owners’ Parcels, the Owners have requested that (a) the Owners receive a credit against the Local Component (defined below) of the ADP Fees applicable to the Owners’ Parcels as a result of the participation of the Owners’ Parcels in the Community Facilities District to finance the acquisition of the Flood Control Facilities and the Owners’ obligation to construct the Flood Control Facilities, (b) owners of the Tributary Parcels have the option to annex to the Community Facilities District and if any such Tributary Parcel is annexed to the Community Facilities District that the owner of such Tributary Parcel be relieved from paying the Local Component of the ADP Fees applicable to such parcel and (c) the Local Component of the ADP Fees collected from the owners of Tributary Parcels that elect not to annex to the Community Facilities District be transferred to the Community Facilities District and permitted to be used for any purpose as authorized for the Improvement Area to which such fees are allocated; and,

WHEREAS, the City is willing to implement the request of the Owners pursuant to the terms and conditions and subject to the limitations contained in this Agreement.

Section 1. Definitions. Unless the context otherwise requires, the terms defined in this Section and not defined elsewhere herein shall have the meaning herein specified:

“ADP Fee” means those Area Drainage Plan fees established by the Flood Control District and required to be paid to the Flood Control District as a condition precedent to the issuance of a grading permit by the City for the grading of any of the Parcels. As of the effective date of this Agreement, the ADP Fee is \$8,875 per acre in the Perris Valley ADP and \$6,133 per acre in the Sunnymead ADP. For purposes of this Agreement, the ADP Fee shall be deemed to include a “Local Component” in the amount of \$7,805 per acre for the Perris Valley ADP and \$6,133 per acre for the Sunnymead ADP, and a “Regional Component” in the amount of \$1,070 per acre for the Perris Valley ADP. There is, as of the effective date of this Agreement, no Regional Component to the Sunnymead ADP Fee. Each ADP Fee and the Local Component and the Regional Component thereof, if any, is subject to increase after the effective date of this Agreement in accordance with the applicable rules and regulations of the Flood Control District.

“Area Drainage Plan” or “ADP” means the Perris Valley ADP for Improvement Areas 1 and 2 and the Sunnymead ADP for Improvement Area 3, as such area drainage plans have been established by the Flood Control District.

“Board of Supervisors” means the Board of Supervisors of the Riverside County Flood Control and Water Conservation District.

“Designated Improvement Area” shall have the meaning given such term in Section 4 below.

“Designated Improvement Area Trust Account” shall have the meaning given such term in Section 4 below.

“Flood Control District” means the Riverside County Flood Control and Water Conservation District.

“Improvement Area” or “Improvement Areas” means, either individually or collectively, one or more of the Improvement Areas, as the context would indicate, that are designated within the Community Facilities District.

“Tributary Parcel” or “Tributary Parcels” means, individually or collectively, the real property identified in Exhibit C hereto which will, upon the development thereof, contribute surface water runoff therefrom to the Flood Control Facilities or be protected from flooding by the Flood Control Facilities.

“Tributary Parcel’s Cost Share” shall have the meaning given such term in Section 3 below.

Section 2. **Credit against Local Component of the ADP Fee.** Inasmuch as bonds have been authorized to be issued for each Improvement Area to finance the acquisition of the applicable Flood Control Facilities and special taxes have been authorized to be levied within such Improvement Area for the purpose of paying the debt service on such bonds and/or paying directly for the acquisition of such Flood Control Facilities, each Parcel located within such Improvement Area and subject to the levy of such special tax shall be relieved from paying the Local Component of the ADP Fee at the time of the issuance of grading permits for such parcel or the issuance of building permits for such parcel if grading permits are not required for the development of such Parcel.

Section 3. **Option of Owners of Tributary Parcels to Annex to the Community Facilities District.** The owners of the Tributary Parcels shall have the option to annex their parcels to the Community Facilities District and the appropriate Improvement Area therein. If a Tributary Parcel is annexed to the Community Facilities District and such an Improvement Area and special taxes are authorized to be levied on such Tributary Parcel for the purpose of financing a share of the cost of the applicable Flood Control Facilities (the “Tributary Parcel’s Cost Share”), such Tributary Parcel shall be relieved from paying the Local Component of the ADP Fee in an amount equal to the Tributary Parcel’s Cost Share at the time of the development of such Tributary Parcel. A Tributary Parcel shall, if annexed to the Community Facilities District, also be annexed to the Improvement Area designated on Exhibit B hereto.

Section 4. **Application of Local Component to Tributary Parcels not Annexed to the Community Facilities District.** If the owner of a Tributary Parcel elects not to annex such parcel to the Community Facilities District, the owner of such Tributary Parcel shall be required

to pay the Local Component of the ADP Fee to the City rather than the Flood Control District. The Local Component of the ADP Fee shall be required to be paid as a condition precedent to (a) the issuance of grading permits for such parcel or (b) the issuance of building permits for such parcel if grading permits are not required for the development of such parcel. The City shall allocate the Local Component of the ADP Fees collected for the Tributary Parcels by the Improvement Area into which such parcels would have been annexed had such parcels been annexed to the Community Facilities District (each, a "Designated Improvement Area"). The proceeds of the Local Component of the ADP Fees collected for the Tributary Parcels shall be deposited into a trust account to be held and maintained by the City for the benefit of the applicable Designated Improvement Area (each, a "Designated Improvement Area Trust Account"). Upon the issuance of bonds for a Designated Improvement Area, funds then held in the applicable Designated Improvement Area Trust Account shall be transferred by the City to the fiscal agent for such bonds. Thereafter, any funds deposited in such Designated Improvement Area Trust Account shall be transferred quarterly to the fiscal agent for such bonds. Any funds held in a Designated Improvement Area Trust Account or by the fiscal agent for bonds issued for such Designated Improvement Area shall be used for any purpose as authorized for the Designated Improvement Area to which such funds have been allocated.

Section 5. **No Liability of the City.** The City agrees to use good faith, reasonable efforts subject to its customary practices and procedures to permit the annexation of the Tributary Parcels to the applicable Improvement Area of the Community Facilities District or to collect the Local Component of the ADP Fees from those owners who elect not to annex their Tributary Parcels to the Community Facilities District as provided for in Section 4. City shall, however, have no liability to any Owner to the extent that the City fails or is unable to cause the annexation of any Tributary Parcel to the Community Facilities District, is unable to levy or collect the special taxes from any parcel within the Community Facilities District or to collect the Local Component of the ADP Fees for use as described in Section 4.

Section 6. **Effect of Increases in ADP Fees.** In the event that the Flood Control District takes action to increase the ADP Fee and/or the Regional Component thereof applicable to property within an Improvement Area prior to the issuance of grading permits for Parcel or a Tributary Parcel which has been annexed into the Community Facilities District and an Improvement Area or the issuance of building permits for such parcel if grading permits are not required for the development of such parcel, the then Owner of such Parcel or the owner of such Tributary Parcel shall be required to pay in cash the difference between the amount of the ADP Fee to be financed through the sale of bonds for such Improvement Area and the increased ADP Fee for such Improvement Area. In the event that the owner of a Tributary Parcel elects not to annex such parcel to the Community Facilities District and the ADP Fee is increased, that owner shall be required to pay the then-current Local Component of the ADP Fee to the City and the then-current Regional Component to the Flood Control District as a condition precedent to (a) the issuance of grading permits for such parcel or (b) the issuance of building permits for such parcel if grading permits are not required for the development of such parcel.

Section 7. **Request to Allocate the Local Component of the ADP Fees to the Flood Control Facilities.** The City agrees that it will timely submit a written request to the Flood Control District pursuant to the practices and procedures of the Flood Control District that the Local Component of ADP Fees previously collected from Tributary Parcels and deposited in

the Flood Control District Perris Valley or Sunnymead ADP Funds, which have not already been allocated to other flood control projects be allocated to the Flood Control Facilities. Owners acknowledge that the decision on disbursement of ADP Fees already collected is made solely by the Board of Supervisors and thus such decision is not in the control of the City. Failure of the Board of Supervisors to allocate any previously collected ADP Fees to the Flood Control Facilities shall not constitute a breach of this Agreement by the City.

Section 8. **Regional Component of the ADP Fees.** Notwithstanding the provisions of Sections 2 through 7 above, the Regional Component of the ADP Fee shall be required to be paid by the Owner of any Parcel or the Owner of any Tributary Parcel to the Flood Control District at such time and in such amount as may at the time of such payment be required pursuant to the then applicable rules and regulations of the Flood Control District.

Section 9. **General Standard of Reasonableness.** Any provision of this Agreement which requires the consent, approval, discretion or acceptance of any Party hereto or any of their respective employees, officers or agents shall be deemed to require that such consent, approval or acceptance not be unreasonably withheld or delayed, unless such provision expressly incorporates a different standard.

Section 10. **Entire Agreement; Amendment.** This Agreement and the agreements expressly referred to herein contains all of the agreements of the Parties hereto with respect to the matters contained herein and no prior or contemporaneous agreement or understandings, oral or written, pertaining to any such matters shall be effective for any purpose. No provision of this Agreement may be modified, waived, amended or added to except by a writing signed by the Party against which the enforcement of such modification, waiver, amendment or addition is or may be sought.

Section 11. **Notices.** Any notice, payment or instrument required or permitted by this Agreement to be given or delivered to another Party shall be deemed to have been received when personally delivered or seventy-two (72) hours following deposit of the same in any United States Post Office in California, registered or certified, postage prepaid, addressed as follows:

If to the City: City of Moreno Valley
Public Works Department, Special Districts Division
14325 Frederick Street, Suite 9
Moreno Valley, CA 92553
Attention: Special Districts Division Manager

With a copy to: City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92553
Attention: City Attorney

Best Best & Krieger LLP
655 West Broadway, 15th Floor
San Diego, CA 92101
Attention: Warren Diven

If to the Owners: c/o First Industrial Realty Trust, Inc.
898 N. Sepulveda Blvd, Suite 750
El Segundo, CA 90245
Attention: Matt Englard

With a copy to: Barack Ferrazzano Kirschbaum Perlman & Nagelberg LLP
333 West Wacker Drive, Suite 2700
Chicago, IL 60606
Attention: Brett A. Feinberg

Each Party may change its address for delivery of notice by delivering written notice of such change of address to the other Parties.

Section 12. **Severability.** If any provision of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.

Section 13. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties hereto. An Owner may not assign its rights or obligations hereunder except upon written notice to City within ten (10) days of the date of such assignment indicating the name and address of the assignee.

Section 14. **Governing Law.** This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California.

Section 15. **Waiver.** Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by any other Party, or the failure by a Party to exercise its rights under the default of any other Party, shall not constitute a waiver of such Party's right to insist and demand strict compliance by any other Party with the terms of this Agreement thereafter.

Section 16. **Singular and Plural; Gender.** As used herein, the singular of any work includes the plural, and terms in the masculine gender shall include the feminine.

Section 17. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original.

Section 18. **Construction of Agreement.** This Agreement has been reviewed by legal counsel for both the City and the Owners and shall be deemed for all purposes to have been jointly drafted by the City and the Owners. No presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement. The language in all parts of this Agreement, in all cases, shall be construed as a whole and in accordance with its fair meaning and not strictly for or against any Party and consistent with the provisions hereof, in order to achieve the objectives of the Parties hereunder. The captions of the sections and subsections of this Agreement are for convenience only and shall not be considered or referred to in resolving questions of construction.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first written above.

CITY OF MORENO VALLEY

By: _____
City Manager

Date of Execution: _____

APPROVED AS TO FORM:

CITY ATTORNEY

By: _____

Date: _____

OWNERS:

FR/CAL MORENO VALLEY, LLC, a Delaware limited liability company

By: FirstCal Industrial, LLC, a Delaware limited liability company, its sole member

By: FR FirstCal, LLC, a Delaware limited liability company, its managing member

By: First Industrial Investment, Inc., a Maryland corporation, its sole member

By: _____
Name: _____
Its: _____

Date of execution: _____

FIRST INDUSTRIAL, L.P., a Delaware limited partnership

By First Industrial Realty Trust, Inc., a Maryland corporation and its sole general partner

By: _____
Name: _____
Its: _____

Date of Execution: _____

FR/CAL INDIAN AVENUE, LLC, a Delaware limited liability company

By: FirstCal Industrial, LLC, a Delaware limited liability company, its sole member

By: FR FirstCal, LLC, a Delaware limited liability company, its managing member

By: First Industrial Investment, Inc., a Maryland corporation, its sole member

By: _____
Name: _____
Its: _____

Date of execution: _____

EXHIBIT A
DESCRIPTION OF FLOOD CONTROL FACILITIES

Improvement Area No 1. Flood Control Facilities

Flood Control District Facilities

Perris Valley MDP Lateral B-3, Stage 2 (Project No. 4-0-00526), a 1 cell RCB (varying in height from 6 feet to 4 feet and varying in base width from 12 feet to 8 feet), 54" RCP, and 48" RCP, located in the Indian Street right-of-way from the existing Lateral B-3 (Project No. 4-0-00256) northerly approximately 3,268 feet to the intersection of Indian Street and San Michele Road, then westerly in the San Michele Road right-of-way approximately 2,123 feet. The facility consists of approximately 3,560 linear feet of RCB and 1,830 linear feet of RCP, including, but not limited to, manholes, junction structures, and transition structures.

Perris Valley MDP Lateral B-3.2 (Project No. 4-0-00533), a 42" RCP, located in the Nandina Avenue right-of-way from the connection to Lateral B-3, Stage 2 (Project No. 4-0-00526) westerly approximately 1,340 feet, including, but not limited to, manholes, and junction structures.

Lateral B-3b, a 42" RCP, approximately 18 feet in length connecting to Lateral B-3 at Station 38+44.67.

Lateral B-3d, a 42" RCP, approximately 30 feet in length connecting to Lateral B-3 at Station 48+34.67.

Lateral B-3e, a 48" RCP, approximately 21 feet in length connecting to Lateral B-3 at Station 52+14.22.

Estimated cost for Flood Control District Facilities: \$3,600,000.00

City Flood Control Facilities

Lateral B-3a, a 42" RCP, approximately 12 feet in length connecting to Lateral B-3 at Station 17+08.14.

Lateral B-3c, a 24" RCP, approximately 44 feet in length connecting to Lateral B-3 at Station 39+11.27.

Lateral B-3f, a 36" RCP, approximately 4 feet in length connecting to Lateral B-3 at Station 63+50.68.

Lateral B-3r, a 24" RCP, approximately 40 feet in length connecting to Lateral B-3 at Station 49+87.30.

Lateral B-3z, a 24" RCP, approximately 9 feet in length connecting to Lateral B-3 at Station 23+62.50.

Lateral B-3.2a, a 30" RCP, approximately 55 feet in length connecting to Lateral B-3.2 at Station 10+37.01.

Estimated cost for City Flood Control Facilities \$680,000.00

Improvement Area No. 2 Flood Control Facilities

Flood Control District Facilities

Perris Valley MDP Lateral B-1 (Project No. 4-0-00486, Drawing No. 4-954), an 84” RCP, 78” RCP, and 72” RCP, located in Perris Boulevard right-of-way from the existing Lateral B-1 (Project No. 4-0-486, Drawing No. 4-838) northerly for approximately 1,345 feet. Lateral B-1 includes, but is not limited to, manholes, junction structures, laterals, and transition structures.

Perris Valley MDP Lateral B-1.2 (Project No. 4-0-00483, Drawing No. 4-954), a 78” RCP, 66” RCP, 60” RCP, 48” RCP and 42” RCP, located in the Nandina Avenue right-of-way from the connection to Lateral B-1, (Project No. 4-0-00486) westerly approximately 1,340 feet, including, but not limited to, manholes, and junction structures.

Estimated cost of Flood Control District Facilities: \$1,500,000.00

City Flood Control Facilities

Lateral B-1A, an 18” RCP, approximately 24 feet in length connecting to Lateral B-1 at Station 32+39.77.

Lateral B-1B, an 18” RCP, approximately 14 feet in length connecting to Lateral B-1 at Station 40+97.76.

Lateral B-1C, a 36” RCP, approximately 48 feet in length connecting to Lateral B-1 at Station 43+55.00.

Lateral B-1.2A, a 36” RCP, approximately 51 feet in length connecting to Lateral B-1.2 at Station 11+11.10.

Lateral B-1.2B, a 36” RCP, approximately 49 feet in length connecting to Lateral B-1.2 at Station 20+00.00.

Lateral B-1.2C, a 24” RCP, approximately 37 feet in length connecting to Lateral B-1.2 at Station 22+00.00.

Lateral B-1.2D, a 24” RCP, approximately 26 feet in length connecting to Lateral B-1.2 at Station 10+75.48.

Estimated cost of City Flood Control Facilities \$100,000.00

Improvement Area No. 3 Flood Control Facilities

Flood Control District Facilities

Sunnymead MDP Line D (Project No. 4-0-00630, Drawing No. 4-991), Approximately
A - 3

40 feet in length of 4'H x 8'W RCB and approximately 250 feet in length of 7'H x 10'W rectangular channel, located easterly of the Indian Street right-of-way. The downstream end of Line D connects to the existing Line D Box (Project No. 4-0-630, Drawing No. 4-514) and the upstream end of Line D Connects to the existing Line D rectangular channel (Project No. 4-0-630, Drawing No. 4-848). Line D is approximately 290 feet in length.

Sunnymead MDP Line D-1, a 60" RCP, 48" RCP and 42" RCP, located in the Indian Street right-of-way. The downstream end of Line D-1 connects to an existing portion of Line D-1 (Project No. 4-0-0631, Drawing No. 4-587) and extends northerly in Indian Street for approximately 2,310 feet where it ties into an existing portion of Line D-1 (Project No. 4-0-0631, Drawing No. 4-508). Line D-1 includes, but is not limited to, manholes, junction structures, laterals, and transition structures. Line D-1 is approximately 2307 feet in length.

Lateral DA, a 42" RCP located in the Krameria Street right-of-way. The downstream end of Lateral DA connects to the existing Line D Rectangular Channel (Project No. 4-0-0630, Drawing No. 4-848) westerly for approximately 1950 feet. Lateral DA includes, but is not limited to, manholes, junction structures, laterals, and transition structures.

Estimated cost of RCFC & WCD Maintained Facilities \$1,600,000.00

City Flood Control Facilities

Lateral DA, a 36" RCP located in the Krameria Street right-of-way. The downstream end of Lateral DA connects to the proposed Lateral DA 42" RCP (Project No. 4-0-0632, Drawing No. 4-991) westerly for approximately 353 feet. Lateral DA includes, but is not limited to, manholes, junction structures, inlets, laterals, and transition structures.

Lateral D-1A, a 36" RCP, approximately 11 feet in length connecting to Line D-1 at Station 40+66.30.

Lateral D-1B, a 24" RCP, approximately 75 feet in length connecting to Line D-1 at Station 46+67.98.

Lateral D-1C, a 42" RCP, approximately 16 feet in length connecting to Line D-1 at Station 48+92.48.

Lateral DA1, a 30" RCP, approximately 39 feet in length connecting to Lateral DA at Station 11+67.70.

Lateral DA2, a 30" RCP, approximately 38 feet in length connecting to Lateral DA at Station 21+80.83.

Lateral DA3, a 30" RCP, approximately 38 feet in length connecting to Lateral DA at Station 22+35.75.

Estimated Cost of City Flood Control Facilities \$200,000.00

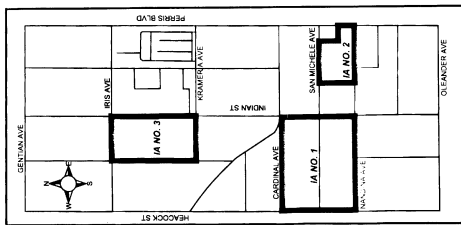
EXHIBIT B

**BOUNDARY MAP OF
COMMUNITY FACILITIES DISTRICT NO. 7
AND
IMPROVEMENT AREAS THERETO**

B - 1

MAP OF PROPOSED BOUNDARIES OF
COMMUNITY FACILITIES DISTRICT NO. 7

CITY OF MORENO VALLEY
COUNTY OF RIVERSIDE
STATE OF CALIFORNIA



Vicinity Map

MAP REF. NO.	ASSESSOR'S PARCEL NO.
1	316-170-001
2	316-170-002
3	316-170-004
4	316-170-006
5	316-170-007
6	316-170-010
7	316-170-014
8	316-180-002
9	316-180-002
10	316-180-003
11	316-180-005
12	316-180-008
13	316-180-008
14	316-180-009
15	316-180-010

LEGEND FOR SHEET 1

— IMPROVEMENT AREA NO. 1 (IA NO. 1) BOUNDARY

① MAP REFERENCE NUMBER



ZONE 1



ZONE 2

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MORENO VALLEY THIS 14 DAY OF MAY 2008.

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 7, CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF MORENO VALLEY AT A REGULAR MEETING THEREOF, HELD ON THE 13 DAY OF MAY 2008, BY ITS RESOLUTION NO. 2008-56

Donna H. Histed
CITY CLERK
CITY OF MORENO VALLEY

RIVERSIDE COUNTY RECORDERS, CERTIFICATE
FILED THIS 14TH DAY OF MAY 2008, AT
THE OFFICE OF CLERK A. M. IN BOOK 73
OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES
DISTRICTS (AT PAGE(S) 16-B IN THE OFFICE OF THE
COUNTY RECORDER, COUNTY OF RIVERSIDE, STATE OF
CALIFORNIA.

FEES: \$ 13.00
INSTRUMENT NO.: 2008-02055915
LARRY WARD, ASSESSOR-COUNTY CLERK-RECORDER

BY DEPUTY
COUNTY RECORDER
COUNTY OF RIVERSIDE
M. Garcia

THE LINES AND DIMENSIONS OF EACH LOT OR PARCEL SHOWN ON THIS DIAGRAM SHALL BE THOSE LINES AND DIMENSIONS AS SHOWN ON THE RIVERSIDE COUNTY ASSESSOR'S MAPS FOR THOSE PARCELS LISTED.

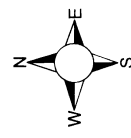
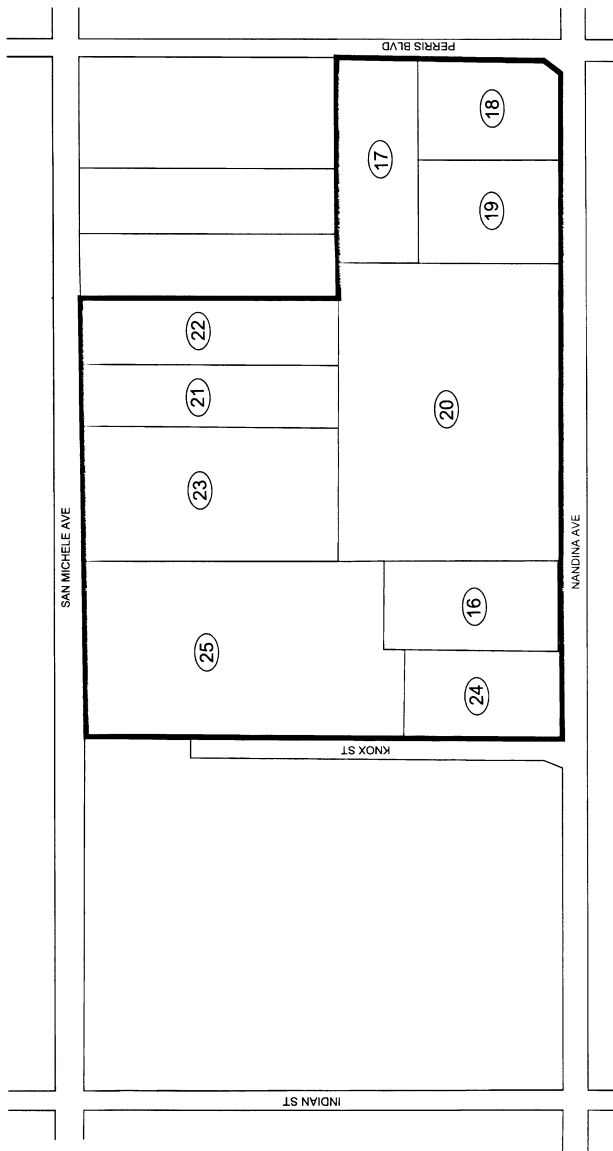
THE RIVERSIDE COUNTY ASSESSOR'S MAPS SHALL GOVERN FOR ALL DETAILS CONCERNING THE LINES AND DIMENSIONS OF SUCH LOTS OR PARCELS.



Copy 13/1

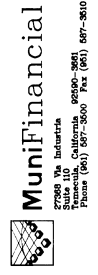
SHEET 2 OF 3

MAP OF PROPOSED BOUNDARIES OF
COMMUNITY FACILITIES DISTRICT NO. 7
CITY OF MORENO VALLEY
COUNTY OF RIVERSIDE
STATE OF CALIFORNIA



MAP REF. NO.	ASSESSOR'S PARCEL NO.
16	316-200-003
17	316-200-009
18	316-200-010
19	316-200-011
20	316-200-012
21	316-200-013
22	316-200-014
23	316-200-018
24	316-200-028
25	316-200-029

LEGEND FOR SHEET 2
 ——— IMPROVEMENT AREA NO. 2 (A NO. 2) BOUNDARY
 (1) MAP REFERENCE NUMBER

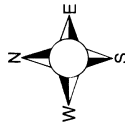
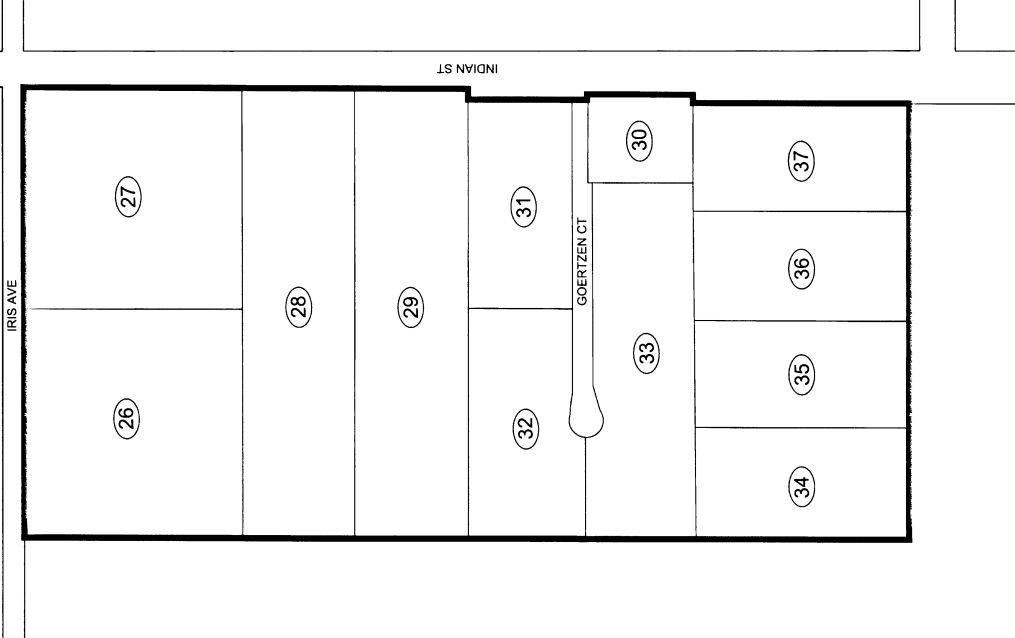


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SHEET 3 OF 3

MAP OF PROPOSED BOUNDARIES OF
COMMUNITY FACILITIES DISTRICT NO. 7

CITY OF MORENO VALLEY
COUNTY OF RIVERSIDE
STATE OF CALIFORNIA



LEGEND FOR SHEET 3

— IMPROVEMENT AREA NO. 3 (IA NO. 3) BOUNDARY

① MAP REFERENCE NUMBER

MAP REF NO.	ASSESSOR'S PARCEL NO.
26	316-020-002
27	316-020-003
28	316-020-004
29	316-020-005
30	316-020-012
31	316-020-013
32	316-020-014
33	316-020-015
34	316-020-016
35	316-020-017
36	316-020-018
37	316-020-019



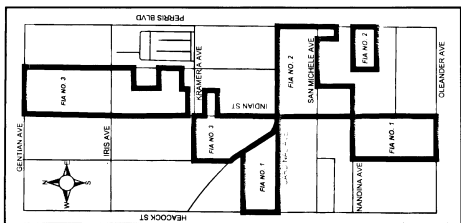
MuniFinancial
 2700 W. Indiantia
 Suite 100
 Temecula, California 92590-9601
 Phone (951) 697-3600 Fax (951) 697-8510

EXHIBIT C
THE TRIBUTARY PARCELS

Copy 13/6

SHEET 1 OF 3

MAP OF PROPOSED BOUNDARIES OF
FUTURE ANNEXATION AREA OF
COMMUNITY FACILITIES DISTRICT NO. 7
CITY OF MORENO VALLEY
COUNTY OF RIVERSIDE
STATE OF CALIFORNIA



Vicinity Map

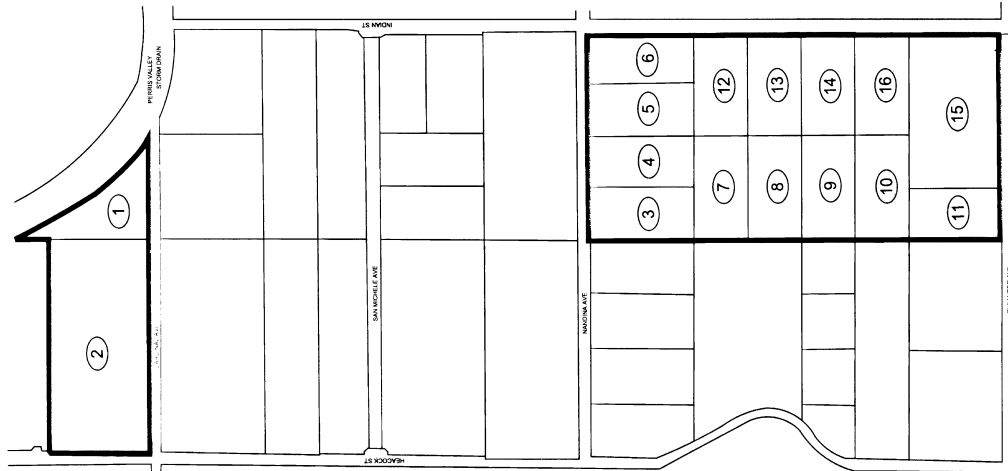
LEGEND FOR SHEET 1

BOUNDARIES OF FUTURE
ANNEXATION AREA OF IA NO. 1
OF CFD NO. 7 (FIA NO. 1)

MAP REFERENCE NUMBER



MAP REF NO.	ASSESSOR'S PARCEL NO.
1	316-100-013
2	316-100-045
3	316-210-005
4	316-210-006
5	316-210-007
6	316-210-008
7	316-210-010
8	316-210-011
9	316-210-019
10	316-210-020
11	316-210-026
12	316-210-051
13	316-210-055
14	316-210-057
15	316-210-069
16	316-210-077



FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MORENO VALLEY THIS 17 DAY OF MAY, 2008.

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF FUTURE ANNEXATION AREA OF COMMUNITY FACILITIES DISTRICT NO. 7, CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, WAS APPROVED IN REGULAR MEETING OF THE CITY OF MORENO VALLEY AT REGULAR MEETING THEREOF HELD ON THE 13 DAY OF MAY, 2008, BY ITS RESOLUTION NO. 2008-53

Gwen Halstead
CITY CLERK
CITY OF MORENO VALLEY

RIVERSIDE COUNTY RECORDERS CERTIFICATE

FILED THIS 16 TH DAY OF MAY, 2008, AT THE HOUR OF 8 O'CLOCK A. M. IN BOOK 75 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE(S) 9-11, IN THE OFFICE OF THE COUNTY RECORDER, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA.

SEE: \$ 13.00

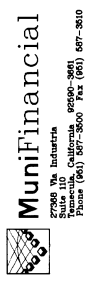
INSTRUMENT NO.: 2008-066596

LARRY WARD, ASSESSOR-COUNTY CLERK-RECORDER

BY DEPUTY
M. Stora
COUNTY RECORDER
COUNTY OF RIVERSIDE

THE LINES AND DIMENSIONS OF EACH LOT OR PARCEL SHOWN ON THIS DIAGRAM ARE FOR THE LINES AND DIMENSIONS AS SHOWN ON THE RIVERSIDE COUNTY ASSESSOR'S MAPS FOR THOSE PARCELS LISTED.

THE RIVERSIDE COUNTY ASSESSOR'S MAPS SHALL GOVERN FOR ALL DETAIL CONCERNING THE LINES AND DIMENSIONS OF SUCH LOTS OR PARCELS.



MAP OF PROPOSED BOUNDARIES OF
 FUTURE ANNEXATION AREA OF
 COMMUNITY FACILITIES DISTRICT NO. 7

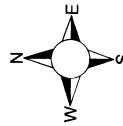
CITY OF MORENO VALLEY
 COUNTY OF RIVERSIDE
 STATE OF CALIFORNIA



LEGEND FOR SHEET 2

BOUNDARIES OF FUTURE
 ANNEXATION AREA OF IA NO. 2
 OF CFD NO. 7 (FIA NO. 2)

MAP REFERENCE NUMBER



MAP REF. NO.	ASSESSOR'S PARCEL NO.
18	316-190-013
19	316-190-012
20	316-190-017
21	316-190-018
22	316-190-022
23	316-190-023
24	316-190-025
25	316-190-025
26	316-190-030
27	316-190-035
28	316-190-036
29	316-190-037
30	316-190-043
31	316-200-001
32	316-200-001
33	316-200-015
34	316-200-019
35	316-200-030
36	316-200-031
37	316-210-035
38	316-210-035
39	316-210-037
40	316-210-038



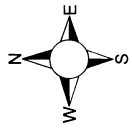
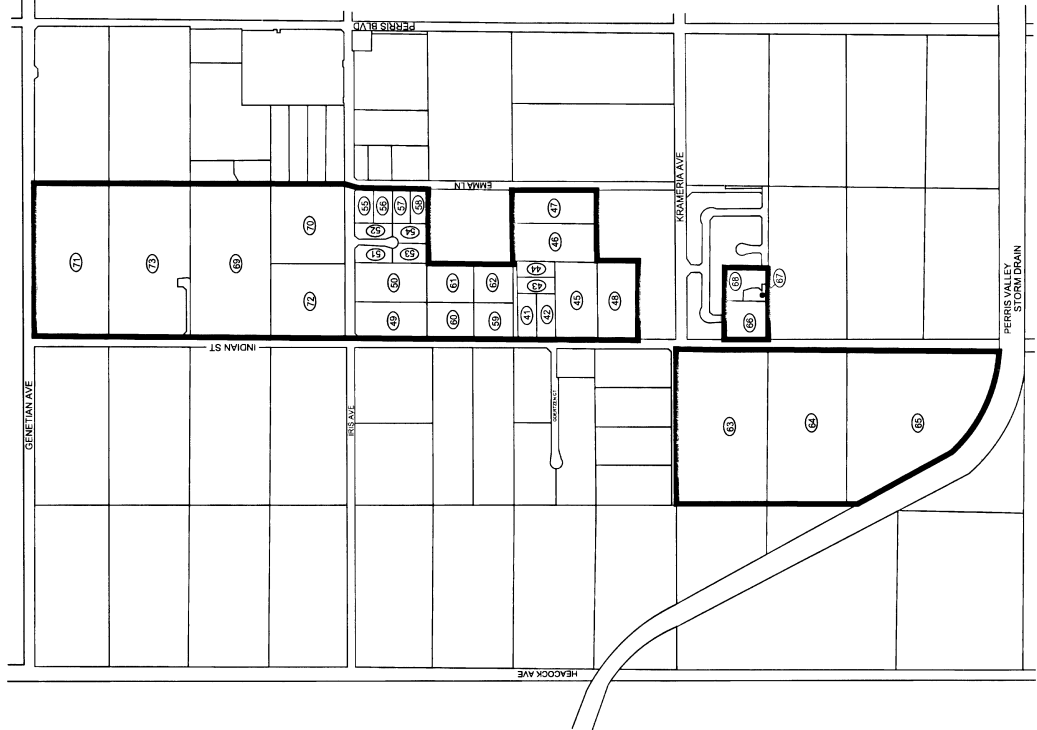
MuniFinancial
 27298 The Inductance
 Building
 Brea, CA, California 92606-3661
 Phone (951) 897-3600 Fax (951) 897-3610

Copy 13/11

SHEET 3 OF 3

MAP OF PROPOSED BOUNDARIES OF
 FUTURE ANNEXATION AREA OF
 COMMUNITY FACILITIES DISTRICT NO. 7

CITY OF MORENO VALLEY
 COUNTY OF RIVERSIDE
 STATE OF CALIFORNIA



LEGEND FOR SHEET 3
 BOUNDARIES OF FUTURE
 ANNEXATION AREA OF IA NO. 3
 OF CFD NO. 7 (FIA NO. 3)
 MAP REFERENCE NUMBER

①

MAP REF NO.	ASSESSOR'S PARCEL NO.
41	316-020-020
42	316-020-021
43	316-020-022
44	316-020-023
45	316-020-024
46	316-020-025
47	316-020-026
48	316-020-027
49	316-020-028
50	316-030-002
51	316-030-003
52	316-030-004
53	316-030-005
54	316-030-006
55	316-030-007
56	316-030-008
57	316-030-009
58	316-030-010
59	316-030-016
60	316-030-017
61	316-030-018
62	316-030-019
63	316-030-020
64	316-100-028
65	316-100-030
66	316-110-003
67	316-110-020
68	316-110-021
69	485-220-012
70	485-220-014
71	485-220-023
72	485-220-028
73	485-220-022

MuniFinancial
 2708 W. Inlandia
 Brea, California 92606-3601
 Phone (951) 687-3000 Fax (951) 687-3010

EXHIBIT "E"

DESIGN, BID AND CONTRACT REQUIREMENTS FOR THE STREET IMPROVEMENTS

The following requirements are intended to supplement the provisions of the Agreement pertaining to the construction of the Street Improvements, including but not limited to Section 3. thereof. In the event that any provision of the requirements contained in this Exhibit "E" conflicts with or is inconsistent with the provisions of Agreement, the provisions of the Agreement shall control.

Design Phase

A. Only design costs directly related to the Street Improvements to be acquired are eligible for inclusion in the Purchase Price for such Improvements.

Bidding Phase

A. Bidding Documents. Two complete sets of bidding documents, including improvement plans, general provisions, and bid proposal forms shall be submitted to City for review and approval within 10 working days of submittal. Solicitation of bids shall not take place until the bidding documents are approved in writing by the City. This procedure shall be followed for each contract for which bids are proposed to be solicited. Unless otherwise noted, the bidding documents shall conform to the following minimum requirements:

1. Unless impractical due to the nature of the Street Improvement, the bid proposal shall be unit priced rather than lump sum. A.C. pavement, base and sub-base shall be bid on a square foot per inch thickness basis.

2. The bidding documents shall require the bidder/contractor to provide the following bonds:

- a. Bid Bond - 10% of the amount of the bid.
- b. Material and Labor Bond - 50% of the contract amount.
- c. Performance Bond - 100% of the contract amount.

3. The bidding documents shall require the successful bidder to provide evidence of comprehensive public liability insurance in the amount of at least \$1,000,000 prior to the award of the contract.

4. The bidding documents shall provide for monthly progress payments to the contractor.

5. The bidding documents must clearly state the time, date, and place where bids are to be submitted and opened.

6. The bidding documents shall clearly state the amount of time to complete the work. The time allowed must be reasonable for the amount of work. Accelerated construction time allowances must be supplementally bid, and are not eligible for public finance unless previously approved by the City.

7. The bidding documents shall conform to the requirements of Section 3 of the Agreement.

B. The applicable Owner shall keep a log of all persons obtaining bidding documents, and their mailing address.

C. Addenda shall be mailed by first class mail to all bidding document holders and the City Engineer. If an addendum is required within five working days of the noticed bid opening date, the bid opening date shall be extended.

D. Submitted bids shall be in sealed envelopes.

E. Bids shall not be accepted after the stated time for submission.

F. Bid opening shall be conducted by the applicable Owner at such Owner's place of business, City Hall or such other site mutually acceptable to such Owner and City Engineer.

G. All bid openings shall be scheduled to take place during normal working hours of the Public Works Department. Sealed bids shall be opened and read aloud immediately following the submission time. A City representative shall be invited to attend the bid opening.

H. Conditioned bids, unless the bid proposal lists them for all to bid on, shall not be accepted.

I. The bid proposals shall conform to all state and local laws governing the listing of subcontractors and suppliers.

J. The arithmetic of the two lowest bid proposals received shall immediately be checked for errors.

K. A tabulation of all bids received shall be provided to the City Engineer within five working days of the bid opening.

L. A preconstruction meeting shall be held with the contractor prior to beginning the work. City Public Works representatives shall be invited to attend the meeting.

M. The Notice to Proceed shall be issued within a reasonable period of time following the contract execution.

Construction Phase

- A. The City shall be provided a copy of the construction schedule.
- B. The applicable Owner shall require the contractor to conduct weekly construction status meetings to which City representatives shall be invited.
- C. All change orders shall be reviewed and approved by the City Public Works inspector on a monthly basis and submitted with the applicable payment requests.
- D. Any additional costs incurred for the benefit of the applicable Owner, such as accelerating the construction schedule, shall not be eligible for public financing unless previously approved by the City.
- E. Any additional construction costs incurred due solely to delays caused by the applicable Owner shall not be eligible for public financing.
- F. All contracts and construction related records shall be available to the City as and when required for the final determination of eligible costs for the public financing. This shall include trip tickets and other confirmations of material delivered to the Improvement.

General

The above rules shall be applied to all Street Improvements proposed to be acquired through the Community Facilities District. Any deviation from the rules must be approved by the City Engineer.

“City Engineer” means the City Engineer or his designee.

EXHIBIT “F”

FEE LETTER



First Industrial Realty Trust, Inc.
114 Pacifica, Suite 220
Irvine, CA 92618
T: (949) 486-1970
F: (949) 486-1971
www.firstindustrial.com

February 11, 2008

Sue Anne Maxinoski
Special Districts Coordinator
City of Moreno Valley
14325 Frederick Street, Ste. 9
Moreno Valley, CA. 92552-0805

Ms. Maxinoski:

As a followup to my first letter dated October 17, 2007, I am writing to provide you with a summary of the developer and project management fees which are required to complete the offsite improvements associated with Community Facilities District (CFD) #7 currently under formation in Moreno Valley. This letter is intended to clarify our request to have certain fees reimbursed as project costs under Section 7(b)(4) of the DRAFT Acquisition and Financing Agreement

The pertinent fees are as follows:

- 1. Developer Fee/Project Management Fee-**This fee is defined as 4% of the hard construction cost and hard cost contingency (including insurance and general conditions) and is reimbursed to First Industrial (FR) for the management of the project. These management services include the solicitation, retention, and administration of professional services (i.e. civil engineering, construction management services), oversight of the design process, interface and coordination with all relative public agencies to facilitate plan check review, permitting, CFD formation process, and the public bid process.
- 2. Construction Management Fee-** This fee, is defined as 4% of the hard construction cost and hard cost contingency (including insurance and general conditions) and will be performed by an individual or professional consulting company to provide in-field construction management services. These services would include, but would not be limited to, assisting FR in the public bid process, overall field administration, coordination of work schedules with the General Contractor and subcontractors, review of change orders, processing of construction payments, interfacing with public agencies during inspections, finalizing punch list items, managing the physical completion of the work through final acceptance by each respective public agency.
- 3. General Conditions-**This fee, defined as 3% of the hard cost of construction and hard cost contingency, will be to address ancillary professional or construction services not performed by any of the specific contractors or subcontractors as defined in the scope of work of their contracts. These services may include, but are not limited to immediate on-site supervision, dust control, job site cleanup (e.g. street sweeping). overlapping traffic control coordination, and project site security.

With the above explanations in mind, we would respectfully request that these fees (totaling 11%) be included in the overall amount to be reimbursed to First Industrial under the Acquisition and Finance Agreement and JCFA.

Please call me at 949-933-2121 if I can be of additional assistance or if you have further questions.

Sincerely,



John I. Grace
Development Manager
First Industrial Realty Trust

EXHIBIT "G"

PAYMENT REQUEST NO. _____

The undersigned (an "Owner") hereby requests payment in the total amount of \$_____ for the Purchase Price of the Improvement(s) (as defined in the Acquisition/Financing Agreement (the "Agreement") by and among the City of Moreno Valley (the "City") and the Owners and described in Exhibit B-1 and B-2 to that Agreement), all as more fully described in Attachment 1 hereto. In connection with this Payment Request, the undersigned hereby certifies, represents and warrants to the City as follows:

1. He/she) is a duly authorized officer of the Owner, qualified to execute and submit this Payment Request on behalf of the Owner and is knowledgeable as to the matters set forth herein.
2. The Purchase Price for the Improvement(s) has been calculated in conformance with the terms of the Agreement. All costs for which payment is requested hereby are eligible costs (as permitted in the Agreement) and have not been inflated in any respect. The payment which is hereby requested has not been the subject of any prior payment request paid by the City.
3. Supporting documentation (such as third party invoices, change orders and checks) is attached with respect to each cost for which payment is requested.
4. The Improvement(s) for which payment is requested were constructed substantially in accordance with the requirements of the Agreement.
5. The Owner is in compliance with the terms and provisions of the Agreement.
6. No mechanics liens or other encumbrances have attached, or to the best knowledge of the Owner, after due inquiry, will attach to the Improvements.
7. Payment of the Purchase Price shall be made to the Owner and/or other parties pursuant to the instructions set forth in Attachment 2 hereto.

I hereby declare under penalty of perjury that the above representations and warranties are true and correct.

[INSERT NAME OF THE APPLICABLE OWNER]

By: _____
Name: _____
Title: _____

Payment Request Approved for Submission to
[Fiscal Agent or Trustee]

CITY OF MORENO VALLEY

By: _____
Name: _____
Title: _____

ATTACHMENT 1

**SUMMARY OF IMPROVEMENTS
INCLUDED IN PAYMENT REQUEST NO. _____**

Complete the table below for each Improvement to which this Payment Request applies and attach all required supporting documentation:

Description of Improvement	Budgeted Cost for Improvement	Purchase Price for Improvement

This page intentionally left blank.

RESOLUTION NO. 2010-05

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, APPROVING THE AREA DRAINAGE PLAN FEE AGREEMENT BY AND AMONG THE CITY OF MORENO VALLEY, FOR AND ON BEHALF OF ITSELF AND COMMUNITY FACILITIES DISTRICT NO. 7, FR/CAL MORENO VALLEY, LLC, FR/CAL INDIAN AVENUE, LLC AND FIRST INDUSTRIAL, L.P.

WHEREAS, FR/CAL Moreno Valley, LLC ("FR/CAL MV"), a Delaware limited liability company, FR/CAL Indian Avenue, LLC ("FR/CAL IA"), a Delaware limited liability company and First Industrial, L.P. ("FILP" and together with FR/CAL MV and FR/CAL IA, the "Owners"), a Delaware limited liability partnership, as the owners of certain real property (the "Owners' Parcels") located within the City of Moreno Valley (the "City"), California,

WHEREAS, as a condition of approval of the development of the Owners' Parcels, the Owners are required to construct certain flood control facilities (the "Flood Control Facilities"); and,

WHEREAS, as a further condition of approval of the development of Owners' Parcels, the Owners are required to pay Area Drainage Plan Fees ("ADP Fees") to finance the construction of flood control facilities required to serve the Owners' Parcels, including the Flood Control Facilities, and other parcels that are tributary to such flood control facilities and referred to herein as the Tributary Parcels; and

WHEREAS, at the request of the Owners, the City Council formed a community facilities district and designated three improvement areas therein (each, an "Improvement Area" and designated individually as "Improvement Area No. 1," "Improvement Area No. 2," and "Improvement Area No. 3") to include the Owners' Parcels and certain additional adjacent property for the purpose of financing the acquisition and construction of the Flood Control Facilities together with certain other public improvements and appurtenances and appurtenant work within the jurisdictional limits of said City, said community facilities district known and designated as Community Facilities District No. 7 (the "Community Facilities District"); and,

WHEREAS, as a result of the fact that (i) the Owners are required to construct the Flood Control Facilities, to pay ADP Fees for the Owners' Parcels and to pay special taxes through the Community Facilities District and (ii) the Flood Control Facilities will serve and benefit the Tributary Parcels as well as the Owners' Parcels, the Owners have requested and the City has agreed that (a) the Owners should receive a credit against the Local Component of the ADP Fees applicable to the Owners' Parcels as a result of the participation of the Owners' Parcels in the Community Facilities District to finance the acquisition of the Flood Control Facilities and the Owners' obligation to construct the Flood Control Facilities, (b) owners of the Tributary Parcels should have

the option to annex to the Community Facilities District and if any such Tributary Parcel is annexed to the Community Facilities District that the owner of such Tributary Parcel be relieved from paying the Local Component of the ADP Fees applicable to such parcel and (c) the Local Component of the ADP Fees collected from the owners of Tributary Parcels that elect not to annex to the Community Facilities District should be transferred to the Community Facilities District and permitted to be used for any purpose as authorized for the Improvement Area to which such fees are allocated; and,

WHEREAS, there has been presented to this City Council for its consideration a proposed Area Drainage Plan Fee Agreement (the "ADP Agreement") by and between the City and the Owners to establish the terms and conditions to implement the agreements set forth in the preceding recital; and

WHEREAS, the City Council, acting on behalf of the City and as the legislative body of the Community Facilities District, has determined that form of the ADP Agreement should be approved and that the City Manager should be authorized to execute and deliver the ADP Agreement on behalf of the City and the Community Facilities District.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The above recitals are all true and correct.

SECTION 2. The form of the ADP Agreement, herewith submitted and on file with the City Clerk, is approved substantially in the form submitted. The City Manager is hereby authorized to execute the final form of such agreement on behalf of the City and the Community Facilities District. The City Manager, subject to the review of the City Attorney and Bond Counsel, is authorized to approve changes in the ADP Agreement prior to the execution thereof deemed to be in the best interests of the City and the Community Facilities District, approval of such changes to be evidenced by the execution of such agreement.

APPROVED AND ADOPTED this _____ day of _____, 2010.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

SDPUB\WDIVEN\390208.2

RESOLUTION JURAT
[Clerk's office will prepare]

AREA DRAINAGE PLAN FEE AGREEMENT
BY AND AMONG
CITY OF MORENO VALLEY,
acting for and on behalf of itself and
COMMUNITY FACILITIES DISTRICT NO. 7,
FR/CAL MORENO VALLEY, LLC,
FIRST INDUSTRIAL, L.P.
and
FR/CAL INDIAN AVENUE, LLC

ATTACHMENT 4

AREA DRAINAGE PLAN FEE AGREEMENT

THIS AREA DRAINAGE PLAN FEE AGREEMENT (“Agreement”) is made and entered into by and among the CITY OF MORENO VALLEY, a municipal corporation duly organized and validly existing under the Constitution and laws of the State of California, (“City”) acting for and on behalf of itself and COMMUNITY FACILITIES DISTRICT NO. 7, and FR/CAL MORENO VALLEY, LLC (“FR/CAL MV”), a Delaware limited liability company, FIRST INDUSTRIAL, L.P. (“FILP”), a Delaware limited liability partnership FR/CAL INDIAN AVENUE, LLC (“FR/CAL IA”), a Delaware limited liability company and shall become effective on the date on which the Agreement has been mutually executed and delivered by the Parties (as defined in the following sentence). FR/CAL MV, FILP and FR/CAL IA may be referred to individually as an “Owner” or collectively as the “Owners” and Owners acknowledge that they are related entities. The City and the Owners may be referred to individually as a “Party” or collectively as the “Parties. The Parties enter into this Agreement with reference to the following recited facts (each a "Recital").

RECITALS

WHEREAS, the Owners own the following real property (collectively, the “Owners’ Parcels”) located within the City:

A. FR/CAL MV owns those parcels identified as Assessor’s Parcel Nos. 316-180-002, 316-180-003, 316-180-005, 316-180-006, 316-180-008 and 316-180-009;

B. FILP owns those parcels identified as Assessor’s Parcel Nos. 316-200-003, 316-200-009 through -014, 316-200-018, 316-200-028 and 316-200-029;

C. FR/CAL IA owns those parcels identified as Assessor’s Parcel Nos. 316-020-002, 316-020-003, 316-020-004, 316-020-005 and 316-020-012 through -019; and,

WHEREAS, as a condition of approval of the development of the Owners’ Parcels, the Owners are required to construct certain flood control facilities described in Exhibit A attached hereto and incorporated herein by this reference (the “Flood Control Facilities”); and,

WHEREAS, as a further condition of approval of the development of Owners’ Parcels, the Owners are required to pay ADP Fees (defined below) to finance the construction of flood control facilities required to serve the Owners Parcels, including the Flood Control Facilities, and other parcels that are tributary to such flood control facilities and referred to herein as the Tributary Parcels; and

WHEREAS, at the request of the Owners, the City Council of the City formed a community facilities district and the designated three improvement areas therein (each, an “Improvement Area” and designated individually as “Improvement Area No. 1,” “Improvement Area No. 2,” and “Improvement Area No. 3”) under the terms and conditions of the “Mello-Roos Community Facilities Act of 1982,” as amended (Government Code Section 53311 and following) (the “Act”) to include the Owners’ Parcels and certain additional adjacent property not owned by Owners and identified as Assessor Parcel Nos. 316-170-001, 316-170-002, 316-170-004, 316-170-006, 316-170-007, 316-170-010, 316-170-013, 316-170-014 and 316-180-010

(the “Adjacent Property”) for the purpose of financing the acquisition and construction of the Flood Control Facilities together with certain other public improvements and appurtenances and appurtenant work within the jurisdictional limits of said City, said community facilities district known and designated as Community Facilities District No. 7 (the “Community Facilities District”); and,

WHEREAS, the boundaries of the Community Facilities District and the Improvement Areas are set forth in Exhibit B attached hereto and incorporated herein by this reference; and,

WHEREAS, as a result of the fact that (i) the Owners are required to construct the Flood Control Facilities, to pay ADP Fees for the Owners’ Parcels and to pay special taxes through the Community Facilities District and (ii) the Flood Control Facilities will serve and benefit the Tributary Parcels as well as the Owners’ Parcels, the Owners have requested that (a) the Owners receive a credit against the Local Component (defined below) of the ADP Fees applicable to the Owners’ Parcels as a result of the participation of the Owners’ Parcels in the Community Facilities District to finance the acquisition of the Flood Control Facilities and the Owners’ obligation to construct the Flood Control Facilities, (b) owners of the Tributary Parcels have the option to annex to the Community Facilities District and if any such Tributary Parcel is annexed to the Community Facilities District that the owner of such Tributary Parcel be relieved from paying the Local Component of the ADP Fees applicable to such parcel and (c) the Local Component of the ADP Fees collected from the owners of Tributary Parcels that elect not to annex to the Community Facilities District be transferred to the Community Facilities District and permitted to be used for any purpose as authorized for the Improvement Area to which such fees are allocated; and,

WHEREAS, the City is willing to implement the request of the Owners pursuant to the terms and conditions and subject to the limitations contained in this Agreement.

Section 1. Definitions. Unless the context otherwise requires, the terms defined in this Section and not defined elsewhere herein shall have the meaning herein specified:

“ADP Fee” means those Area Drainage Plan fees established by the Flood Control District and required to be paid to the Flood Control District as a condition precedent to the issuance of a grading permit by the City for the grading of any of the Parcels. As of the effective date of this Agreement, the ADP Fee is \$8,875 per acre in the Perris Valley ADP and \$6,133 per acre in the Sunnymead ADP. For purposes of this Agreement, the ADP Fee shall be deemed to include a “Local Component” in the amount of \$7,805 per acre for the Perris Valley ADP and \$6,133 per acre for the Sunnymead ADP, and a “Regional Component” in the amount of \$1,070 per acre for the Perris Valley ADP. There is, as of the effective date of this Agreement, no Regional Component to the Sunnymead ADP Fee. Each ADP Fee and the Local Component and the Regional Component thereof, if any, is subject to increase after the effective date of this Agreement in accordance with the applicable rules and regulations of the Flood Control District.

“Area Drainage Plan” or “ADP” means the Perris Valley ADP for Improvement Areas 1 and 2 and the Sunnymead ADP for Improvement Area 3, as such area drainage plans have been established by the Flood Control District.

“Board of Supervisors” means the Board of Supervisors of the Riverside County Flood Control and Water Conservation District.

“Designated Improvement Area” shall have the meaning given such term in Section 4 below.

“Designated Improvement Area Trust Account” shall have the meaning given such term in Section 4 below.

“Flood Control District” means the Riverside County Flood Control and Water Conservation District.

“Improvement Area” or “Improvement Areas” means, either individually or collectively, one or more of the Improvement Areas, as the context would indicate, that are designated within the Community Facilities District.

“Tributary Parcel” or “Tributary Parcels” means, individually or collectively, the real property identified in Exhibit C hereto which will, upon the development thereof, contribute surface water runoff therefrom to the Flood Control Facilities or be protected from flooding by the Flood Control Facilities.

“Tributary Parcel’s Cost Share” shall have the meaning given such term in Section 3 below.

Section 2. **Credit against Local Component of the ADP Fee.** Inasmuch as bonds have been authorized to be issued for each Improvement Area to finance the acquisition of the applicable Flood Control Facilities and special taxes have been authorized to be levied within such Improvement Area for the purpose of paying the debt service on such bonds and/or paying directly for the acquisition of such Flood Control Facilities, each Parcel located within such Improvement Area and subject to the levy of such special tax shall be relieved from paying the Local Component of the ADP Fee at the time of the issuance of grading permits for such parcel or the issuance of building permits for such parcel if grading permits are not required for the development of such Parcel.

Section 3. **Option of Owners of Tributary Parcels to Annex to the Community Facilities District.** The owners of the Tributary Parcels shall have the option to annex their parcels to the Community Facilities District and the appropriate Improvement Area therein. If a Tributary Parcel is annexed to the Community Facilities District and such an Improvement Area and special taxes are authorized to be levied on such Tributary Parcel for the purpose of financing a share of the cost of the applicable Flood Control Facilities (the “Tributary Parcel’s Cost Share”), such Tributary Parcel shall be relieved from paying the Local Component of the ADP Fee in an amount equal to the Tributary Parcel’s Cost Share at the time of the development of such Tributary Parcel. A Tributary Parcel shall, if annexed to the Community Facilities District, also be annexed to the Improvement Area designated on Exhibit B hereto.

Section 4. **Application of Local Component to Tributary Parcels not Annexed to the Community Facilities District.** If the owner of a Tributary Parcel elects not to annex such parcel to the Community Facilities District, the owner of such Tributary Parcel shall be required

to pay the Local Component of the ADP Fee to the City rather than the Flood Control District. The Local Component of the ADP Fee shall be required to be paid as a condition precedent to (a) the issuance of grading permits for such parcel or (b) the issuance of building permits for such parcel if grading permits are not required for the development of such parcel. The City shall allocate the Local Component of the ADP Fees collected for the Tributary Parcels by the Improvement Area into which such parcels would have been annexed had such parcels been annexed to the Community Facilities District (each, a "Designated Improvement Area"). The proceeds of the Local Component of the ADP Fees collected for the Tributary Parcels shall be deposited into a trust account to be held and maintained by the City for the benefit of the applicable Designated Improvement Area (each, a "Designated Improvement Area Trust Account"). Upon the issuance of bonds for a Designated Improvement Area, funds then held in the applicable Designated Improvement Area Trust Account shall be transferred by the City to the fiscal agent for such bonds. Thereafter, any funds deposited in such Designated Improvement Area Trust Account shall be transferred quarterly to the fiscal agent for such bonds. Any funds held in a Designated Improvement Area Trust Account or by the fiscal agent for bonds issued for such Designated Improvement Area shall be used for any purpose as authorized for the Designated Improvement Area to which such funds have been allocated.

Section 5. **No Liability of the City.** The City agrees to use good faith, reasonable efforts subject to its customary practices and procedures to permit the annexation of the Tributary Parcels to the applicable Improvement Area of the Community Facilities District or to collect the Local Component of the ADP Fees from those owners who elect not to annex their Tributary Parcels to the Community Facilities District as provided for in Section 4. City shall, however, have no liability to any Owner to the extent that the City fails or is unable to cause the annexation of any Tributary Parcel to the Community Facilities District, is unable to levy or collect the special taxes from any parcel within the Community Facilities District or to collect the Local Component of the ADP Fees for use as described in Section 4.

Section 6. **Effect of Increases in ADP Fees.** In the event that the Flood Control District takes action to increase the ADP Fee and/or the Regional Component thereof applicable to property within an Improvement Area prior to the issuance of grading permits for Parcel or a Tributary Parcel which has been annexed into the Community Facilities District and an Improvement Area or the issuance of building permits for such parcel if grading permits are not required for the development of such parcel, the then Owner of such Parcel or the owner of such Tributary Parcel shall be required to pay in cash the difference between the amount of the ADP Fee to be financed through the sale of bonds for such Improvement Area and the increased ADP Fee for such Improvement Area. In the event that the owner of a Tributary Parcel elects not to annex such parcel to the Community Facilities District and the ADP Fee is increased, that owner shall be required to pay the then-current Local Component of the ADP Fee to the City and the then-current Regional Component to the Flood Control District as a condition precedent to (a) the issuance of grading permits for such parcel or (b) the issuance of building permits for such parcel if grading permits are not required for the development of such parcel.

Section 7. **Request to Allocate the Local Component of the ADP Fees to the Flood Control Facilities.** The City agrees that it will timely submit a written request to the Flood Control District pursuant to the practices and procedures of the Flood Control District that the Local Component of ADP Fees previously collected from Tributary Parcels and deposited in

the Flood Control District Perris Valley or Sunnymead ADP Funds, which have not already been allocated to other flood control projects be allocated to the Flood Control Facilities. Owners acknowledge that the decision on disbursement of ADP Fees already collected is made solely by the Board of Supervisors and thus such decision is not in the control of the City. Failure of the Board of Supervisors to allocate any previously collected ADP Fees to the Flood Control Facilities shall not constitute a breach of this Agreement by the City.

Section 8. **Regional Component of the ADP Fees.** Notwithstanding the provisions of Sections 2 through 7 above, the Regional Component of the ADP Fee shall be required to be paid by the Owner of any Parcel or the Owner of any Tributary Parcel to the Flood Control District at such time and in such amount as may at the time of such payment be required pursuant to the then applicable rules and regulations of the Flood Control District.

Section 9. **General Standard of Reasonableness.** Any provision of this Agreement which requires the consent, approval, discretion or acceptance of any Party hereto or any of their respective employees, officers or agents shall be deemed to require that such consent, approval or acceptance not be unreasonably withheld or delayed, unless such provision expressly incorporates a different standard.

Section 10. **Entire Agreement; Amendment.** This Agreement and the agreements expressly referred to herein contains all of the agreements of the Parties hereto with respect to the matters contained herein and no prior or contemporaneous agreement or understandings, oral or written, pertaining to any such matters shall be effective for any purpose. No provision of this Agreement may be modified, waived, amended or added to except by a writing signed by the Party against which the enforcement of such modification, waiver, amendment or addition is or may be sought.

Section 11. **Notices.** Any notice, payment or instrument required or permitted by this Agreement to be given or delivered to another Party shall be deemed to have been received when personally delivered or seventy-two (72) hours following deposit of the same in any United States Post Office in California, registered or certified, postage prepaid, addressed as follows:

If to the City: City of Moreno Valley
Public Works Department, Special Districts Division
14325 Frederick Street, Suite 9
Moreno Valley, CA 92553
Attention: Special Districts Division Manager

With a copy to: City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92553
Attention: City Attorney

Best Best & Krieger LLP
655 West Broadway, 15th Floor
San Diego, CA 92101
Attention: Warren Diven

If to the Owners: c/o First Industrial Realty Trust, Inc.
898 N. Sepulveda Blvd, Suite 750
El Segundo, CA 90245
Attention: Matt Englard

With a copy to: Barack Ferrazzano Kirschbaum Perlman & Nagelberg LLP
333 West Wacker Drive, Suite 2700
Chicago, IL 60606
Attention: Brett A. Feinberg

Each Party may change its address for delivery of notice by delivering written notice of such change of address to the other Parties.

Section 12. **Severability.** If any provision of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.

Section 13. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties hereto. An Owner may not assign its rights or obligations hereunder except upon written notice to City within ten (10) days of the date of such assignment indicating the name and address of the assignee.

Section 14. **Governing Law.** This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California.

Section 15. **Waiver.** Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by any other Party, or the failure by a Party to exercise its rights under the default of any other Party, shall not constitute a waiver of such Party's right to insist and demand strict compliance by any other Party with the terms of this Agreement thereafter.

Section 16. **Singular and Plural; Gender.** As used herein, the singular of any work includes the plural, and terms in the masculine gender shall include the feminine.

Section 17. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original.

Section 18. **Construction of Agreement.** This Agreement has been reviewed by legal counsel for both the City and the Owners and shall be deemed for all purposes to have been jointly drafted by the City and the Owners. No presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement. The language in all parts of this Agreement, in all cases, shall be construed as a whole and in accordance with its fair meaning and not strictly for or against any Party and consistent with the provisions hereof, in order to achieve the objectives of the Parties hereunder. The captions of the sections and subsections of this Agreement are for convenience only and shall not be considered or referred to in resolving questions of construction.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first written above.

CITY OF MORENO VALLEY

By: _____
City Manager

Date of Execution: _____

APPROVED AS TO FORM:

CITY ATTORNEY

By: _____

Date: _____

OWNERS:

FR/CAL MORENO VALLEY, LLC, a Delaware limited liability company

By: FirstCal Industrial, LLC, a Delaware limited liability company, its sole member

By: FR FirstCal, LLC, a Delaware limited liability company, its managing member

By: First Industrial Investment, Inc., a Maryland corporation, its sole member

By: _____
Name: _____
Its: _____

Date of execution: _____

FIRST INDUSTRIAL, L.P., a Delaware limited partnership

By First Industrial Realty Trust, Inc., a Maryland corporation and its sole general partner

By: _____
Name: _____
Its: _____

Date of Execution: _____

FR/CAL INDIAN AVENUE, LLC, a Delaware limited liability company

By: FirstCal Industrial, LLC, a Delaware limited liability company, its sole member

By: FR FirstCal, LLC, a Delaware limited liability company, its managing member

By: First Industrial Investment, Inc., a Maryland corporation, its sole member

By: _____
Name: _____
Its: _____

Date of execution: _____

EXHIBIT A
DESCRIPTION OF FLOOD CONTROL FACILITIES

Improvement Area No 1. Flood Control Facilities

Flood Control District Facilities

Perris Valley MDP Lateral B-3, Stage 2 (Project No. 4-0-00526), a 1 cell RCB (varying in height from 6 feet to 4 feet and varying in base width from 12 feet to 8 feet), 54" RCP, and 48" RCP, located in the Indian Street right-of-way from the existing Lateral B-3 (Project No. 4-0-00256) northerly approximately 3,268 feet to the intersection of Indian Street and San Michele Road, then westerly in the San Michele Road right-of-way approximately 2,123 feet. The facility consists of approximately 3,560 linear feet of RCB and 1,830 linear feet of RCP, including, but not limited to, manholes, junction structures, and transition structures.

Perris Valley MDP Lateral B-3.2 (Project No. 4-0-00533), a 42" RCP, located in the Nandina Avenue right-of-way from the connection to Lateral B-3, Stage 2 (Project No. 4-0-00526) westerly approximately 1,340 feet, including, but not limited to, manholes, and junction structures.

Lateral B-3b, a 42" RCP, approximately 18 feet in length connecting to Lateral B-3 at Station 38+44.67.

Lateral B-3d, a 42" RCP, approximately 30 feet in length connecting to Lateral B-3 at Station 48+34.67.

Lateral B-3e, a 48" RCP, approximately 21 feet in length connecting to Lateral B-3 at Station 52+14.22.

Estimated cost for Flood Control District Facilities: \$3,600,000.00

City Flood Control Facilities

Lateral B-3a, a 42" RCP, approximately 12 feet in length connecting to Lateral B-3 at Station 17+08.14.

Lateral B-3c, a 24" RCP, approximately 44 feet in length connecting to Lateral B-3 at Station 39+11.27.

Lateral B-3f, a 36" RCP, approximately 4 feet in length connecting to Lateral B-3 at Station 63+50.68.

Lateral B-3r, a 24" RCP, approximately 40 feet in length connecting to Lateral B-3 at Station 49+87.30.

Lateral B-3z, a 24" RCP, approximately 9 feet in length connecting to Lateral B-3 at Station 23+62.50.

Lateral B-3.2a, a 30" RCP, approximately 55 feet in length connecting to Lateral B-3.2 at Station 10+37.01.

Estimated cost for City Flood Control Facilities \$680,000.00

Improvement Area No. 2 Flood Control Facilities

Flood Control District Facilities

Perris Valley MDP Lateral B-1 (Project No. 4-0-00486, Drawing No. 4-954), an 84” RCP, 78” RCP, and 72” RCP, located in Perris Boulevard right-of-way from the existing Lateral B-1 (Project No. 4-0-486, Drawing No. 4-838) northerly for approximately 1,345 feet. Lateral B-1 includes, but is not limited to, manholes, junction structures, laterals, and transition structures.

Perris Valley MDP Lateral B-1.2 (Project No. 4-0-00483, Drawing No. 4-954), a 78” RCP, 66” RCP, 60” RCP, 48” RCP and 42” RCP, located in the Nandina Avenue right-of-way from the connection to Lateral B-1, (Project No. 4-0-00486) westerly approximately 1,340 feet, including, but not limited to, manholes, and junction structures.

Estimated cost of Flood Control District Facilities: \$1,500,000.00

City Flood Control Facilities

Lateral B-1A, an 18” RCP, approximately 24 feet in length connecting to Lateral B-1 at Station 32+39.77.

Lateral B-1B, an 18” RCP, approximately 14 feet in length connecting to Lateral B-1 at Station 40+97.76.

Lateral B-1C, a 36” RCP, approximately 48 feet in length connecting to Lateral B-1 at Station 43+55.00.

Lateral B-1.2A, a 36” RCP, approximately 51 feet in length connecting to Lateral B-1.2 at Station 11+11.10.

Lateral B-1.2B, a 36” RCP, approximately 49 feet in length connecting to Lateral B-1.2 at Station 20+00.00.

Lateral B-1.2C, a 24” RCP, approximately 37 feet in length connecting to Lateral B-1.2 at Station 22+00.00.

Lateral B-1.2D, a 24” RCP, approximately 26 feet in length connecting to Lateral B-1.2 at Station 10+75.48.

Estimated cost of City Flood Control Facilities \$100,000.00

Improvement Area No. 3 Flood Control Facilities

Flood Control District Facilities

Sunnymead MDP Line D (Project No. 4-0-00630, Drawing No. 4-991), Approximately
A - 3

40 feet in length of 4'H x 8'W RCB and approximately 250 feet in length of 7'H x 10'W rectangular channel, located easterly of the Indian Street right-of-way. The downstream end of Line D connects to the existing Line D Box (Project No. 4-0-630, Drawing No. 4-514) and the upstream end of Line D Connects to the existing Line D rectangular channel (Project No. 4-0-630, Drawing No. 4-848). Line D is approximately 290 feet in length.

Sunnymead MDP Line D-1, a 60" RCP, 48" RCP and 42" RCP, located in the Indian Street right-of-way. The downstream end of Line D-1 connects to an existing portion of Line D-1 (Project No. 4-0-0631, Drawing No. 4-587) and extends northerly in Indian Street for approximately 2,310 feet where it ties into an existing portion of Line D-1 (Project No. 4-0-0631, Drawing No. 4-508). Line D-1 includes, but is not limited to, manholes, junction structures, laterals, and transition structures. Line D-1 is approximately 2307 feet in length.

Lateral DA, a 42" RCP located in the Krameria Street right-of-way. The downstream end of Lateral DA connects to the existing Line D Rectangular Channel (Project No. 4-0-0630, Drawing No. 4-848) westerly for approximately 1950 feet. Lateral DA includes, but is not limited to, manholes, junction structures, laterals, and transition structures.

Estimated cost of RCFC & WCD Maintained Facilities \$1,600,000.00

City Flood Control Facilities

Lateral DA, a 36" RCP located in the Krameria Street right-of-way. The downstream end of Lateral DA connects to the proposed Lateral DA 42" RCP (Project No. 4-0-0632, Drawing No. 4-991) westerly for approximately 353 feet. Lateral DA includes, but is not limited to, manholes, junction structures, inlets, laterals, and transition structures.

Lateral D-1A, a 36" RCP, approximately 11 feet in length connecting to Line D-1 at Station 40+66.30.

Lateral D-1B, a 24" RCP, approximately 75 feet in length connecting to Line D-1 at Station 46+67.98.

Lateral D-1C, a 42" RCP, approximately 16 feet in length connecting to Line D-1 at Station 48+92.48.

Lateral DA1, a 30" RCP, approximately 39 feet in length connecting to Lateral DA at Station 11+67.70.

Lateral DA2, a 30" RCP, approximately 38 feet in length connecting to Lateral DA at Station 21+80.83.

Lateral DA3, a 30" RCP, approximately 38 feet in length connecting to Lateral DA at Station 22+35.75.

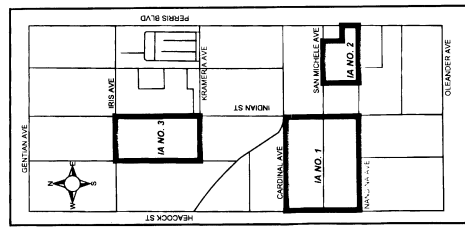
Estimated Cost of City Flood Control Facilities \$200,000.00

EXHIBIT B

**BOUNDARY MAP OF
COMMUNITY FACILITIES DISTRICT NO. 7
AND
IMPROVEMENT AREAS THERETO**

B - 1

MAP OF PROPOSED BOUNDARIES OF
COMMUNITY FACILITIES DISTRICT NO. 7
CITY OF MORENO VALLEY
COUNTY OF RIVERSIDE
STATE OF CALIFORNIA



Vicinity Map

MAP REF. NO.	ASSESSOR'S PARCEL NO.
1	316-170-001
2	316-170-002
3	316-170-004
4	316-170-006
5	316-170-007
6	316-170-010
7	316-170-014
8	316-180-002
9	316-180-002
10	316-180-003
11	316-180-005
12	316-180-008
13	316-180-008
14	316-180-009
15	316-180-010

LEGEND FOR SHEET 1

- IMPROVEMENT AREA NO. 1 (IA NO. 1) BOUNDARY
- MAP REFERENCE NUMBER
- ZONE 1
- ZONE 2

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MORENO VALLEY THIS 14 DAY OF MAY 2008.

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 7, CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF MORENO VALLEY AT A REGULAR MEETING THEREOF, HELD ON THE 13 DAY OF MAY 2008, BY ITS RESOLUTION NO. 2008-58

Deane H. Histed
CITY CLERK
CITY OF MORENO VALLEY

RIVERSIDE COUNTY RECORDERS, CERTIFICATE

FILED THIS 14TH DAY OF MAY 2008, AT 10 O'CLOCK A. M. IN BOOK 73 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS (AT PAGE(S) 16-B) IN THE OFFICE OF THE COUNTY RECORDER, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA.

FEES: \$ 13.00

INSTRUMENT NO.: 2008-02055915

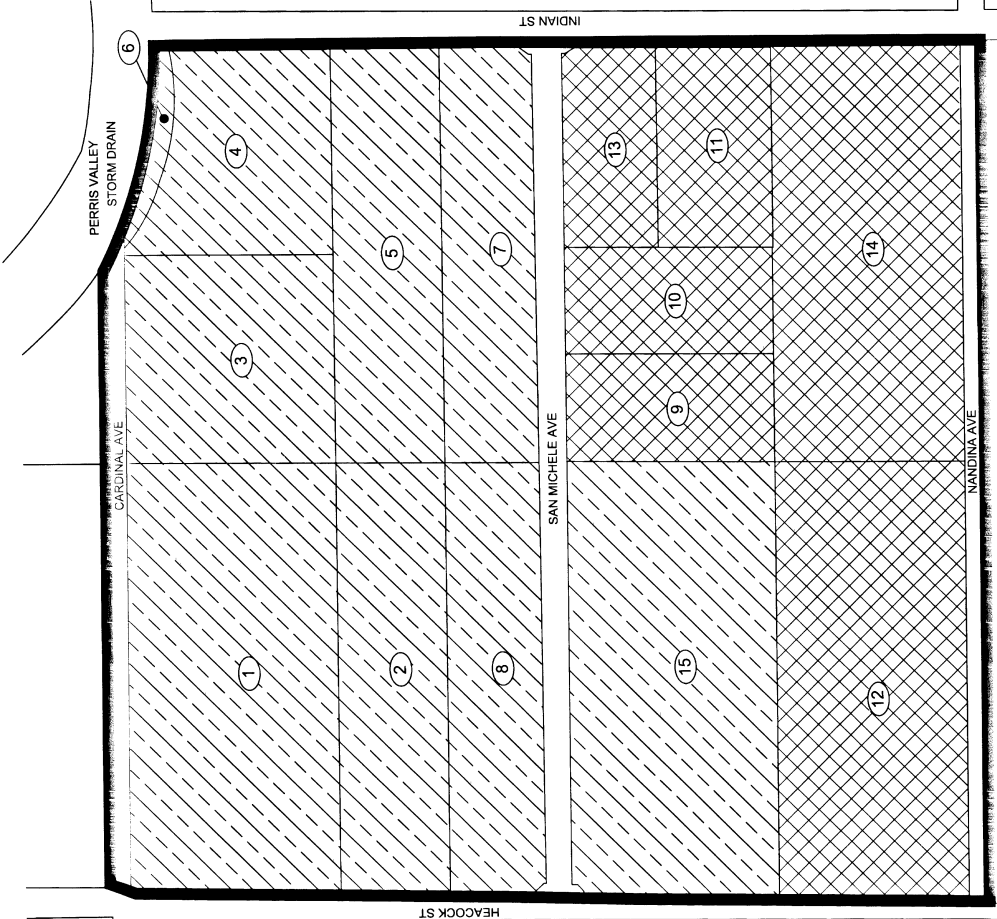
LARRY WARD, ASSESSOR-COUNTY CLERK-RECORDER

BY DEPUTY
COUNTY RECORDER
COUNTY OF RIVERSIDE

M. Garcia

THE LINES AND DIMENSIONS OF EACH LOT OR PARCEL SHOWN ON THIS DIAGRAM SHALL BE THOSE LINES AND DIMENSIONS AS SHOWN ON THE RIVERSIDE COUNTY ASSESSOR'S MAPS FOR THOSE PARCELS LISTED.

THE RIVERSIDE COUNTY ASSESSOR'S MAPS SHALL GOVERN FOR ALL DETAILS CONCERNING THE LINES AND DIMENSIONS OF SUCH LOTS OR PARCELS.

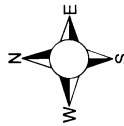
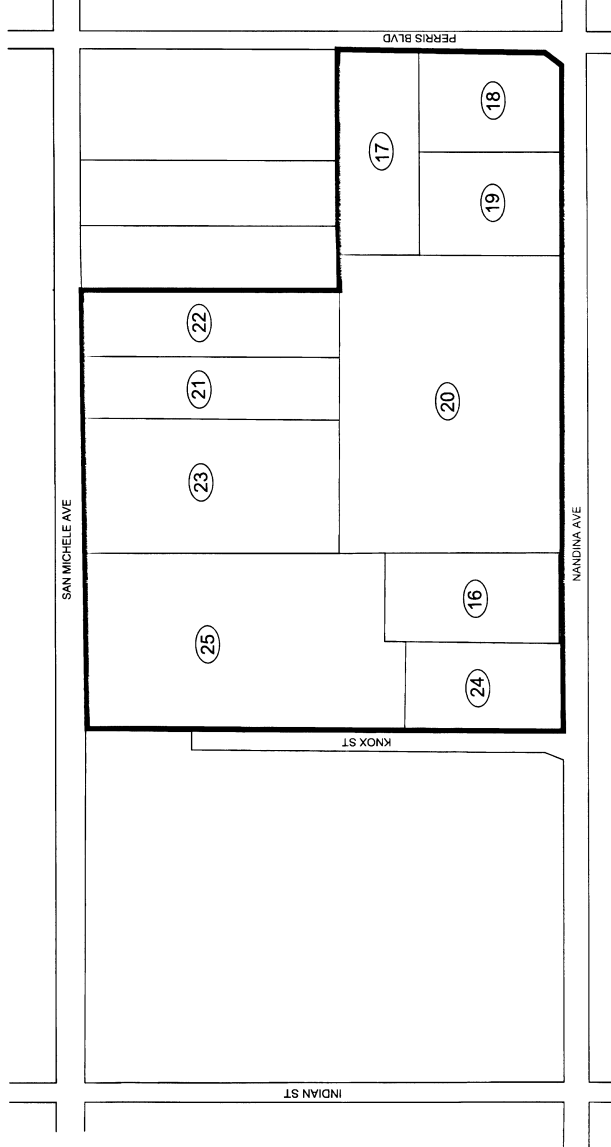


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SHEET 2 OF 3

MAP OF PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 7

CITY OF MORENO VALLEY
COUNTY OF RIVERSIDE
STATE OF CALIFORNIA



MAP REF. NO.	ASSESSOR'S PARCEL NO.
16	316-200-003
17	316-200-009
18	316-200-010
19	316-200-011
20	316-200-012
21	316-200-013
22	316-200-014
23	316-200-018
24	316-200-028
25	316-200-029

LEGEND FOR SHEET 2

— IMPROVEMENT AREA NO. 2 (A NO. 2) BOUNDARY

① MAP REFERENCE NUMBER

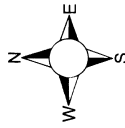
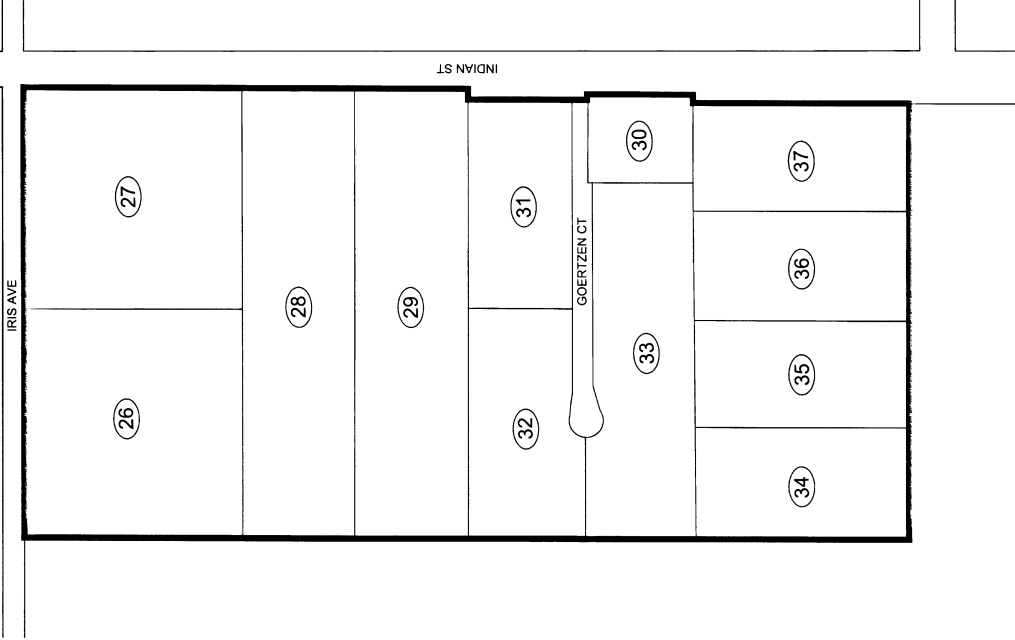


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SHEET 3 OF 3

MAP OF PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 7

CITY OF MORENO VALLEY
COUNTY OF RIVERSIDE
STATE OF CALIFORNIA



- LEGEND FOR SHEET 3**
- IMPROVEMENT AREA NO. 3 (IA NO. 3) BOUNDARY
 - ① MAP REFERENCE NUMBER

MAP REF NO.	ASSESSOR'S PARCEL NO.
26	316-020-002
27	316-020-003
28	316-020-004
29	316-020-005
30	316-020-012
31	316-020-013
32	316-020-014
33	316-020-015
34	316-020-016
35	316-020-017
36	316-020-018
37	316-020-019

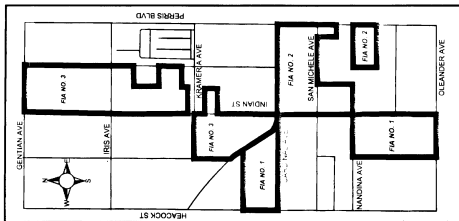


EXHIBIT C
THE TRIBUTARY PARCELS

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SHEET 1 OF 3

MAP OF PROPOSED BOUNDARIES OF
FUTURE ANNEXATION AREA OF
COMMUNITY FACILITIES DISTRICT NO. 7
CITY OF MORENO VALLEY
COUNTY OF RIVERSIDE
STATE OF CALIFORNIA



Vicinity Map

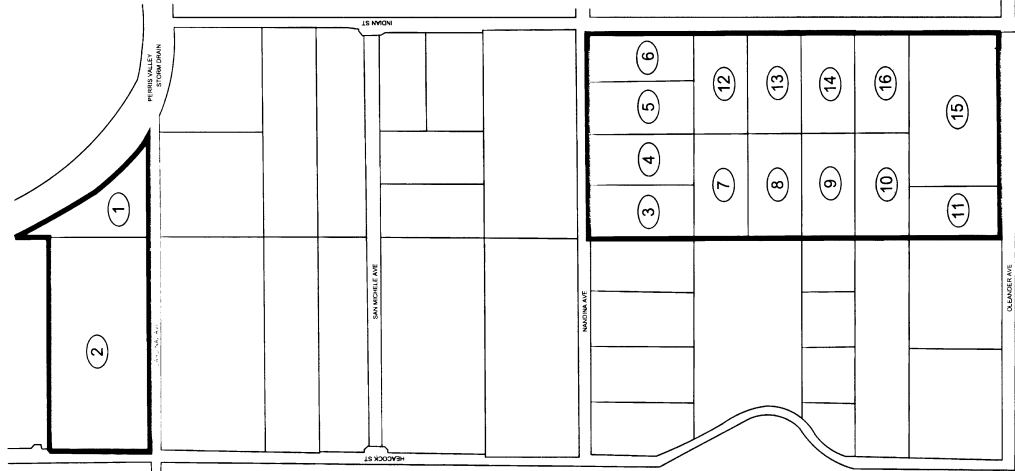
LEGEND FOR SHEET 1

BOUNDARIES OF FUTURE
ANNEXATION AREA OF IA NO. 1
OF CFD NO. 7 (FIA NO. 1)

MAP REFERENCE NUMBER



MAP REF NO.	ASSESSOR'S PARCEL NO.
1	316-210-013
2	316-210-045
3	316-210-005
4	316-210-006
5	316-210-007
6	316-210-008
7	316-210-010
8	316-210-011
9	316-210-019
10	316-210-020
11	316-210-026
12	316-210-051
13	316-210-055
14	316-210-057
15	316-210-069
16	316-210-077



FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MORENO VALLEY THIS 17 DAY OF MAY, 2008.

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF FUTURE ANNEXATION AREA OF COMMUNITY FACILITIES DISTRICT NO. 7, CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, WAS PREPARED IN ACCORDANCE WITH THE PROVISIONS OF THE MORENO VALLEY AT REGULAR MEETING THEREOF HELD ON THE 13 DAY OF MAY, 2008, BY ITS RESOLUTION NO. 2008-53

Gwen Halstead
CITY CLERK
CITY OF MORENO VALLEY

RIVERSIDE COUNTY RECORDERS CERTIFICATE

FILED THIS 16 TH DAY OF MAY, 2008, AT THE HOUR OF 8 O'CLOCK A. M. IN BOOK 75 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE(S) 9-11, IN THE OFFICE OF THE COUNTY RECORDER, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA.

FEES: \$ 13.00
INSTRUMENT NO.: 2008-066596

LARRY WARD, ASSESSOR-COUNTY CLERK-RECORDER

BY DEPUTY M. Stora
COUNTY RECORDER
COUNTY OF RIVERSIDE

THE LINES AND DIMENSIONS OF EACH LOT OR PARCEL SHOWN ON THIS DIAGRAM ARE FOR THE LIVES OF THE PARTIES AS SHOWN ON THE RIVERSIDE COUNTY ASSESSOR'S MAPS FOR THOSE PARCELS LISTED.

THE RIVERSIDE COUNTY ASSESSOR'S MAPS SHALL GOVERN FOR ALL DETAIL CONCERNING THE LINES AND DIMENSIONS OF SUCH LOTS OR PARCELS.



MuniFinancial

27040 W. Inland Empire Blvd., Suite 110, California, 92506-3641
Phone: (951) 597-3800 Fax: (951) 597-3610

MAP OF PROPOSED BOUNDARIES OF
 FUTURE ANNEXATION AREA OF
 COMMUNITY FACILITIES DISTRICT NO. 7

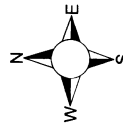
CITY OF MORENO VALLEY
 COUNTY OF RIVERSIDE
 STATE OF CALIFORNIA



LEGEND FOR SHEET 2

BOUNDARIES OF FUTURE
 ANNEXATION AREA OF IA NO. 2
 OF CFD NO. 7 (FIA NO. 2)

MAP REFERENCE NUMBER



MAP REF. NO.	ASSESSOR'S PARCEL NO.
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19	316-190-012
20	316-190-017
21	316-190-018
22	316-190-022
23	316-190-023
24	316-190-025
25	316-190-025
26	316-190-030
27	316-190-035
28	316-190-036
29	316-190-037
30	316-200-043
31	316-200-043
32	316-200-001
33	316-200-015
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38	316-210-035
39	316-210-037
40	316-210-038



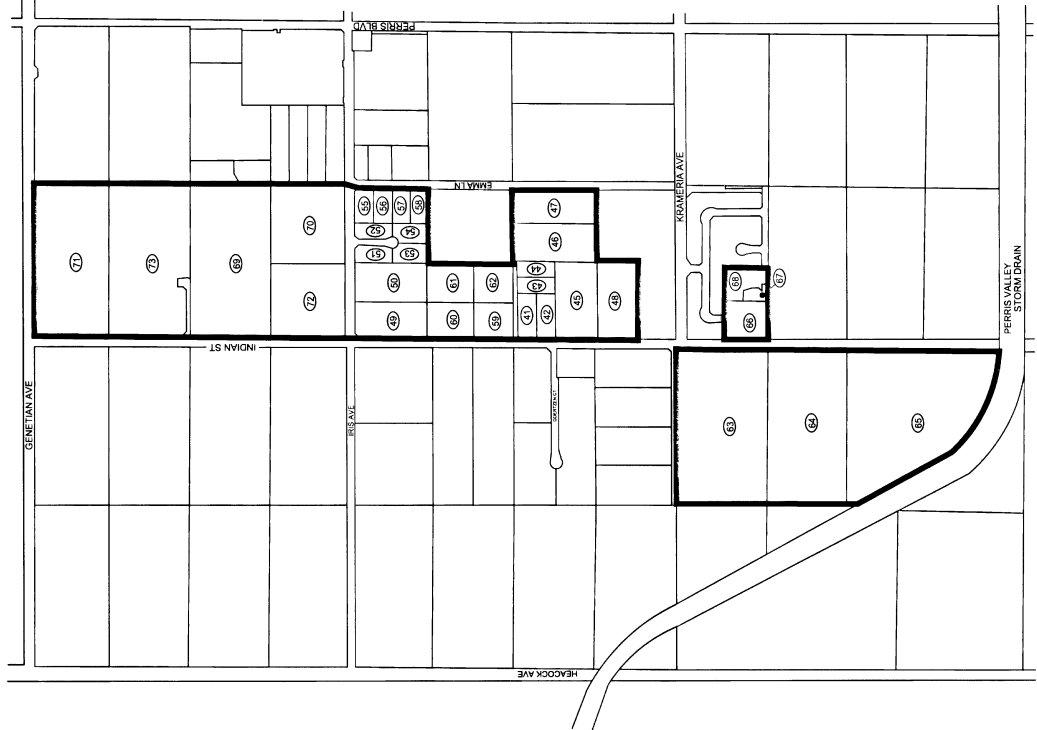
MuniFinancial
 27298 The Indivaria
 Suite 100
 Riverside, California 92509-3661
 Phone (951) 897-3600 Fax (951) 897-3610

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SHEET 3 OF 3

MAP OF PROPOSED BOUNDARIES OF
 FUTURE ANNEXATION AREA OF
 COMMUNITY FACILITIES DISTRICT NO. 7

CITY OF MORENO VALLEY
 COUNTY OF RIVERSIDE
 STATE OF CALIFORNIA

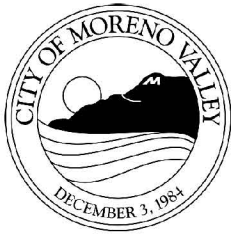


MAP REF NO.	ASSESSOR'S PARCEL NO.
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42	316-020-021
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57	316-030-009
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60	316-030-017
61	316-030-018
62	316-030-019
63	316-030-020
64	316-100-028
65	316-100-030
66	316-110-003
67	316-110-020
68	316-110-021
69	485-220-012
70	485-220-014
71	485-220-023
72	485-220-028
73	485-220-022

LEGEND FOR SHEET 3
 BOUNDARIES OF FUTURE
 ANNEXATION AREA OF IA NO. 3
 OF CFD NO. 7 (FIA NO. 3)
 MAP REFERENCE NUMBER



MuniFinancial
 27088 W. Inland
 Industry, California 92540-3681
 Phone (951) 687-3000 Fax (951) 687-3010



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

Report to City Council

TO: Mayor and City Council

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

AGENDA DATE: January 26, 2010

TITLE: ADOPT A MITIGATED NEGATIVE DECLARATION FOR
EDGEMONT WATER MASTER PLAN UPDATE
PROJECT NO. 08-19319310

RECOMMENDED ACTION

Staff recommends that the City Council:

Adopt a Mitigated Negative Declaration (MND) for the City of Moreno Valley Edgemont Water Master Plan Update Program and find that implementation of the Mitigation Monitoring and Reporting Program therein will reduce all program potential environmental impacts to an acceptable level.

BACKGROUND

The Box Springs Mutual Water Company (BSMWC) currently supplies potable water to the residences and businesses within its service area which is generally in the Edgemont area of the City. This approximately 430-acre area is bounded on the south by Alessandro Boulevard, on the west by Old 215, on the north by Eucalyptus Avenue between Old 215 and Day Street, and on the east along Day Street between Eucalyptus Avenue and Cottonwood Avenue, Cottonwood Avenue between Day Street, and Elsworth Street between Cottonwood Avenue and Alessandro Boulevard.

The potential development of this area, in conformance with the City's current General Plan (GP) and Codes, has been significantly inhibited by the lack of a water supply sufficient to provide fire suppression flow rates required for any significant new residential and commercial development.

On July 5, 2007, the City executed a contract with Webb and Associates, Inc. (Webb), for Professional Consultant Design Services to prepare the Edgemont Water Master Plan Update (EWMPU) for that area of the City which is coincident with the service area of the Box Springs Mutual Water Company (BSMWC). The professional services also

included an Initial Study (IS) in compliance with the California Environmental Quality Act (CEQA) and the City's rules and procedures for the Implementation of CEQA. Additionally the contracted work included an Environmental Assessment (EA) in accordance with National Environmental Policy Act (NEPA) and the regulations of the U.S. Environmental Protection Agency (EPA).

The City Council was provided a staff report, given a brief PowerPoint presentation and discussed the status of the EWMPU at its study session meeting of June 17, 2008.

DISCUSSION

Webb's efforts included extensive research and comprehensive technical analysis which was documented in six technical reports titled, "Water Infrastructure Analysis", "Water Quality Analysis", "Sewer System Analysis", "Absorption Study [of Potential Development]", "Added Facility Charge (AFC) Analysis" and "Financial Study" which was then overviewed in a Summary Report dated April 2008. All reports are on file in the Public Works Department. Inherent in this work was the identification of the water system facilities (infrastructure) necessary to provide a fully functional water system, capable of supporting full development of this area consistent with the City's General Plan. The City and BSMWC have cooperated in the preparation of the Edgemont Water Master Plan Update (EWMPU) for the area.

The necessary infrastructure facilities are discussed briefly in the Summary Report of the six technical reports and in detail in Section 10 of the Water Infrastructure Analysis report. Two infrastructure improvement alternatives, excerpted Figures 3 and 5 from the MND, are included herein as Attachments B1 and B2 for easy reference. The primary distinction between the two alternatives is the means to provide the necessary ultimate required water supply and water storage. Alternative 1 considers constructing one new additional water well and a reservoir within the BSMWC service area and Alternative 2 considers obtaining additional water supply from Western Municipal Water District (WMWD) without the need for any new storage facilities.

Environmental documentation, prepared by Webb, for this master plan program considered the potential impacts on the environment of both alternatives and was prepared in accordance with the requirements of both the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). The combined environmental document is titled "Initial Study/ Environmental Analysis for City of Moreno Valley Edgemont Water Master Plan Update" (IS/EA) and dated September 2009. This environmental documentation is programmatic, rather than the more typical construction-plan-approved, ready-for-construction environmental analysis. By utilizing the programmatic approach and evaluating both alternatives, the program can proceed forward at this time without the necessity of selecting one alternative or the other. A programmatic approach, however, does not necessarily preclude the need for additional or supplemental environmental technical analyses prior to implementation of project specific construction activity. For example should a new water reservoir be constructed as shown in Alternative 1, a more specific environmental analysis would be required for the particular site which, at this time, has not been identified.

Pursuant to Section 15073 of the State CEQA Guidelines the IS/EA and notice of intent to prepare a Mitigated Negative Declaration (MND) was circulated to responsible agencies and interested parties for review and comment. Notice was published on October 4, 2009 in the Press Enterprise describing the Project and advising the public of the preparation of a Mitigated Negative Declaration (MND); notice of time and place where the environmental documents could be inspected; and notice that the public review period ended on and comments could be submitted to the City until November 6, 2009.

The combined CEQA/NEPA document was prepared with consideration for the potential, although as yet unknown, availability of federal funds and the probable requirement that any project benefiting from such funds must comply with all federal environmental regulations (NEPA). Pursuant to the NEPA and EPA regulations, EPA published on its website on October 5, 2009 the IS/EA and notice of intent to prepare a Finding of No Significant Impact (FoNSI). This is noted here for information only, as the City is the CEQA Lead Agency and the action requested of the City Council on this matter relates only to CEQA. EPA will make its finding separately from the City.

The California Environmental Quality Act (CEQA) Section 15070 (Title 14–California Code of Regulations), states that a Negative Declaration (ND) or a Mitigated Negative Declaration (MND) may be prepared for a project when the Initial Study indicates that no significant effect on the environment will result from project implementation or when mitigation measures as described in the Initial Study are incorporated in the project implementation.

Following public notice duly published on October 4, 2009 in the Press Enterprise in compliance with all requirements of CEQA and the City's rules and procedures for implementing CEQA, the City received 3 comments prior to the close of the comment period and 1 subsequent. None of the comments received during the public comment period raised any new environmental issues. However, the City's consultant has responded to all comments received and these are attached as Appendix G in the Final Initial Study/Environmental Assessment (Final IS/EA). Recirculation of the IS/EA is not required.

Based on the findings of the IS/EA and written comments received, the City Planning Staff has determined, in compliance with CEQA and the City's Rules and Procedures for the Implementation of CEQA, that preparation of a Mitigated Negative Declaration is recommended. Mitigation measures identified in the Initial Study/ Environmental Assessment which are ultimately incorporated into the project plans and specifications and which will be implemented through the Mitigation Monitoring and Reporting Program (MMRP) will generally reduce all potential environmental impacts to an acceptable level. The Mitigated Negative Declaration with the Final Initial Study/Environmental Assessment, including the MMRP in Appendix F, is attached.

ALTERNATIVES

1. Adopt a Mitigated Negative Declaration (MND) for the City of Moreno Valley Edgemont Water Master Plan Update Program and find that implementation of the Mitigation Monitoring and Reporting Program therein will reduce all program potential environmental impacts to an acceptable level. *This is the recommended alternative and will advance a needed improvement program.*

2. Do not Adopt a Mitigated Negative Declaration (MND) for the City of Moreno Valley Edgemont Water Master Plan Update Program and do not find that implementation of the Mitigation Monitoring and Reporting Program therein will reduce all program potential environmental impacts to an acceptable level. *This alternative is not recommended, as it will not advance a needed improvement program.*

FISCAL IMPACT

Acting on this matter in accordance with the staff recommendation has minimal fiscal impact to the City. If approved, the City will be required to file a Notice of Determination (NOD) with the County Recorder, which requires payment of a fee of approximately \$2,100. This was anticipated and the amount has been included in the current Fiscal Year 2009/10 (FY 09/10) Capital Improvement Program Budget (Account No. 193.19310) for this project.

The EWMPU and IS/EA were funded by a grant from the EPA along with Local Agency grant participation monies from the City Redevelopment Agency (RDA) fund. The use of these grant monies is restricted to completing the master plan and related environmental documents and cannot be used for design, construction, operation, maintenance or any other purposes. There is no impact to the General Fund.

ANTICIPATED SCHEDULE:

Environmental Determination, Adopt Mitigated Negative Declaration January 2010

CITY COUNCIL GOALS

Upon approval of the recommended action contained in this staff report the following City Council Goals would be furthered:

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.

REVENUE DIVERSIFICATION:

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

PUBLIC FACILITIES AND CAPITAL PROJECTS:

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

POSITIVE ENVIRONMENT:

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

SUMMARY

The Final Initial Study/Environmental Assessment for the EWMPU identifies mitigation measures to be incorporated into the project design plans and specifications and includes a Mitigation Monitoring and Reporting Program (MMRP) in Appendix F to ensure the implementation of the mitigation measures during any subsequent construction. Acting in accordance with Staff's recommendation to adopt a Mitigated Negative Declaration (MND) will provide a program level environmental clearance for the EWMPU and ensure that the construction of improvements in accordance with this EWMPU and program MND will reduce all potential environmental impacts to an acceptable level in compliance with CEQA.

ATTACHMENTS

Attachment "A" – Project Location Map

Attachment "B1" – Edgemont Water Master Plan Update Infrastructure Alternative 1

Attachment "B2" – Edgemont Water Master Plan Update Infrastructure Alternative 2

Attachment "C" – Mitigated Negative Declaration with Final IS/EA including MMRP

Prepared By:
Mike Myers, P.E.
Consultant Project Manager

Concurred By:
John C. Terell, AICP
Planning Division Manager/Planning Official

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

Approved By:
Barry Foster
Economic Development Director

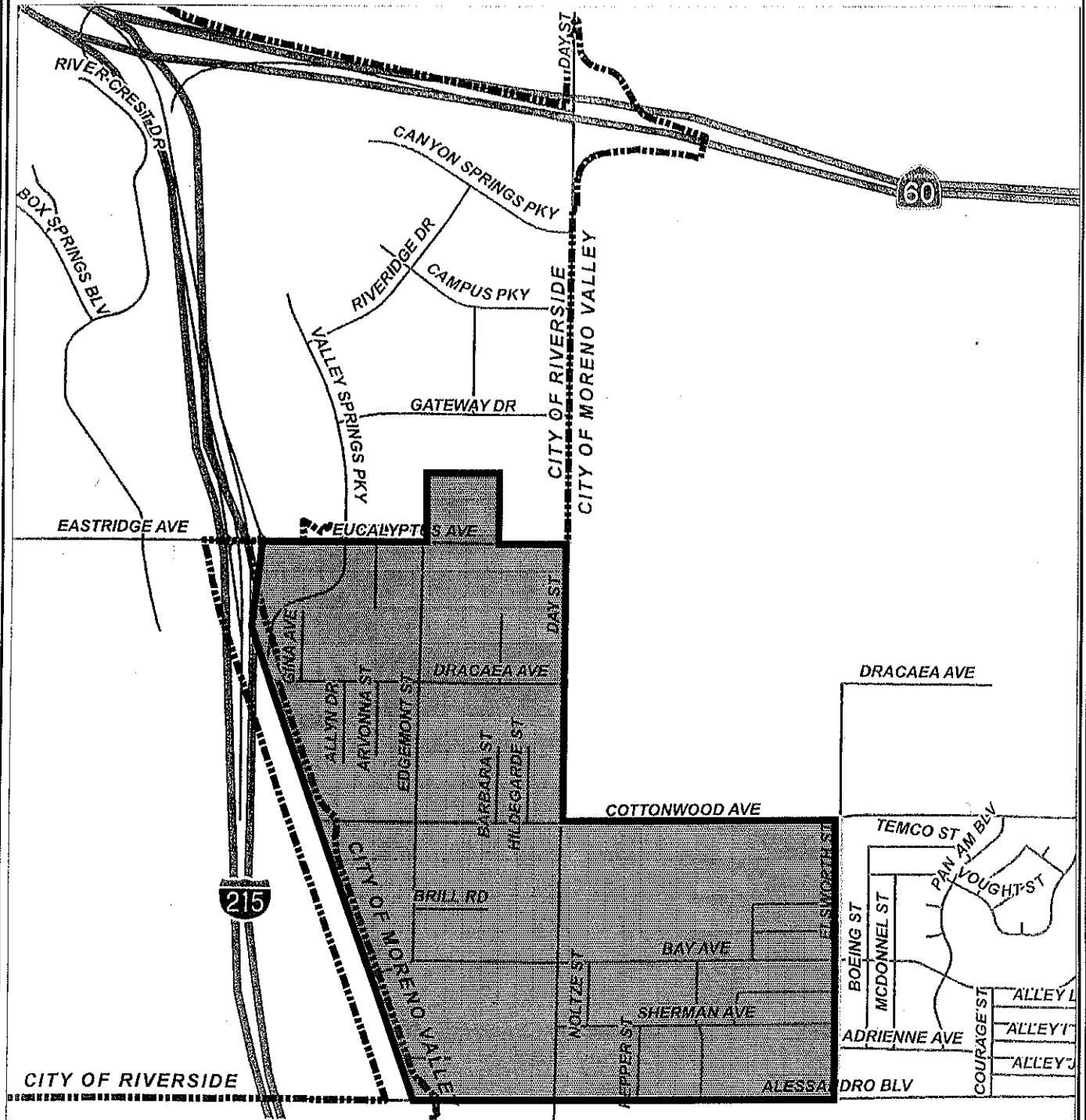
Concurred By:
Michele Patterson
Redevelopment & Neighborhood Programs Administrator

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

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

W:\CapProj\CapProj\PROJECTS\MikeM - 08-19319310 - Edgemont Water Master Plan Update\CC Reports\MND Staff Report\Staff Report - MND - (CC 01-26-10).doc

CITY OF MORENO VALLEY
 EDGEMONT WATER MASTER PLAN
 UPDATE
 BOX SPRINGS MUTUAL WATER COMPANY
 BOUNDARY MAP



PROJECT LOCATION MAP











ATTACHMENT "A"

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CITY OF MORENO VALLEY
EDGEMONT WATER MASTER PLAN
UPDATE
BOX SPRINGS MUTUAL WATER COMPANY
ALTERNATIVE 1
PROPOSED WATER FACILITIES

LEGEND

-  BSMWC BOUNDARY
-  PARCELS
-  CITY BOUNDARY
-  EXISTING 12" PIPELINE TO REMAIN
-  PROPOSED 8" PIPELINE
-  PROPOSED 12" PIPELINE
-  PROPOSED 16" PIPELINE
-  TANK, BOOSTER STATION AND HYDROPNEUMATIC PUMP SITE

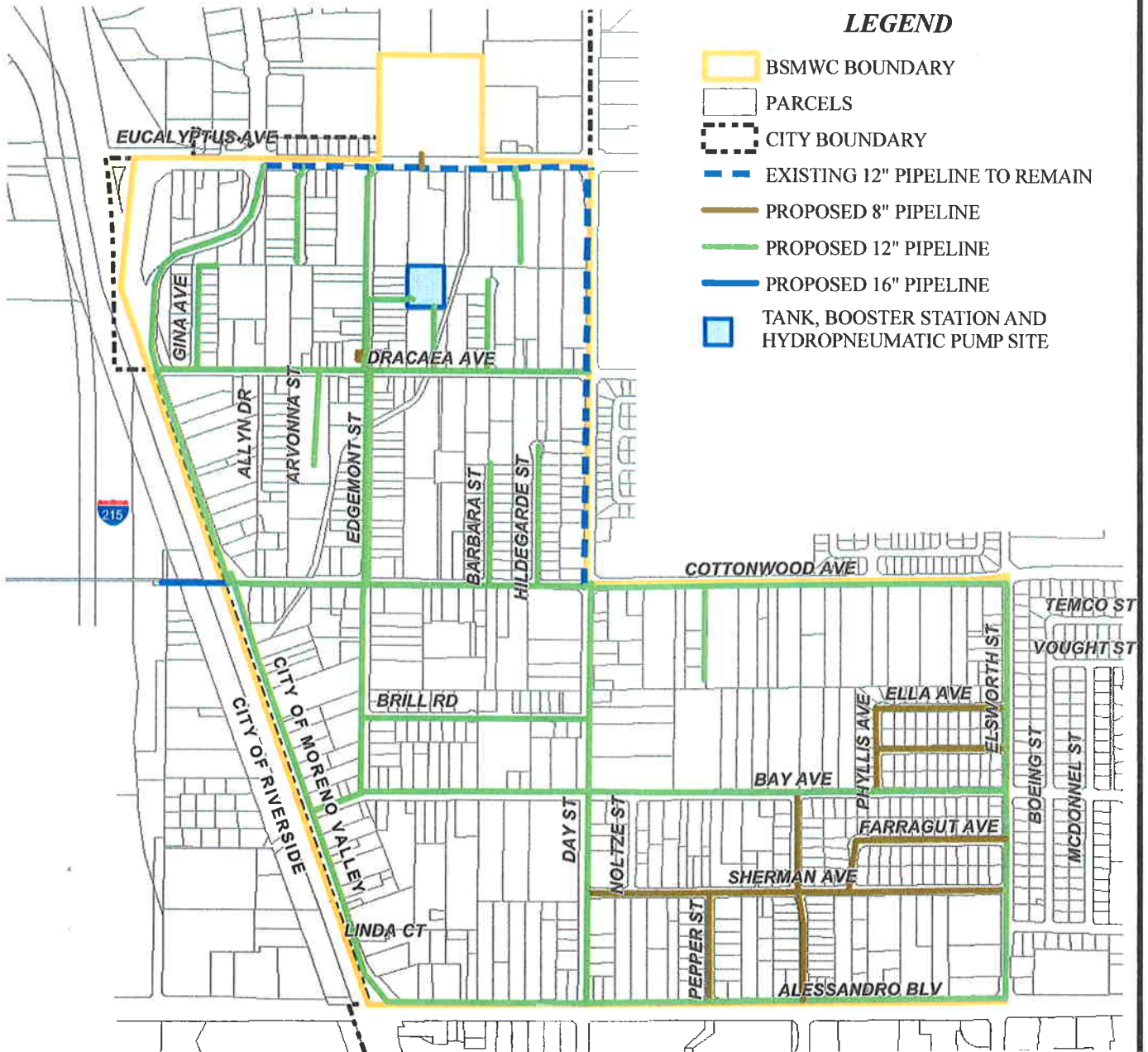


FIGURE 3



ALBERT A.
WEBB
 ASSOCIATES

Base source: Riverside County 2009

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Attachment "B1"

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CITY OF MORENO VALLEY
EDGEMONT WATER MASTER PLAN
UPDATE
BOX SPRINGS MUTUAL WATER COMPANY
ALTERNATIVE 2
PROPOSED WATER FACILITIES

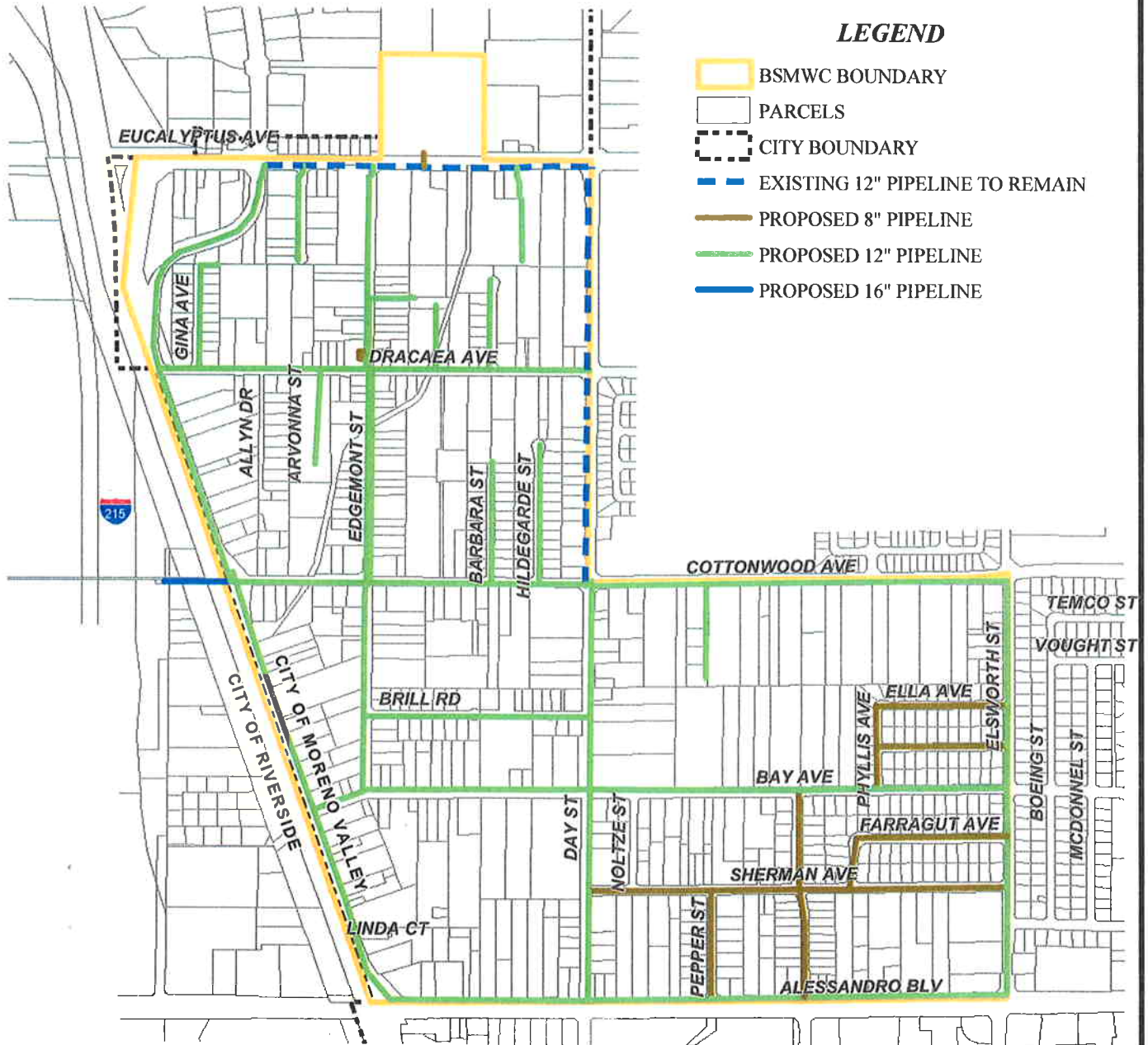


FIGURE 5



ALBERT A.
WEBB
 ASSOCIATES

Base source: Riverside County 2009

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Attachment "B2"

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NEGATIVE DECLARATION

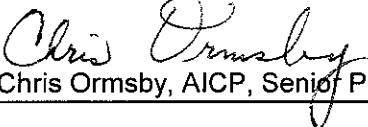
PROJECT TITLE AND FILE NUMBER: Edgemont Water Master Plan Update (EWMPU) (Project No. 08-19319310)	
PROJECT APPLICANT: City of Moreno Valley	TELEPHONE NUMBER: (951) 413-3229
PROJECT LOCATION: The approximately 430-acre area is bounded on the south by Alessandro Boulevard, on the west by Old 215, on the north by Eucalyptus Avenue between Old 215 and Day Street including the Midland School property north of Eucalyptus Avenue, and on the easterly limits along Day Street between Eucalyptus Avenue and Cottonwood, Cottonwood Avenue between Day Street, and Elsworth Street between Cottonwood Avenue and Alessandro Boulevard., in Riverside County, California	
PROJECT DESCRIPTION: The United States Environmental Protection Agency (EPA) has authorized the expenditure of funds awarded to the City of Moreno Valley (City) to analyze the existing Box Springs Mutual Water Company (BSMWC) water system and determine the adequacy of the existing system, determine any necessary system improvements and the associated costs of the improvements to comply with the current City of Moreno Valley General Plan and Land Use designations (ultimate development). Presently, the existing BSMWC water system is not up to City fire protection standards and codes. Furthermore, due to age and deterioration of the existing system, there is a potential for pipeline failure; thus, leading to a shutdown of the entire system and water will not be delivered to the public. The Water Infrastructure Analysis Study (WIAS) proposes two water system alternatives based on the additional water supply and improvements to water system facilities including storage, pipeline and pumping. Alternative No. 1 consists of maintaining the current system operational scheme, with additional water supply from additional groundwater extraction, and upgrading all existing BSMWC facilities (pipelines, reservoir, and hydropneumatic booster station). Alternative No. 2 consists of improvements to water system facilities (pipelines) and connecting to the Western Municipal Water District water system for both water supply and fire suppression needs. The National Environmental Policy Act also requires analysis of the No Action or No Project Alternative. The No Action Alternative would not adopt or implement the EWMPU and the WIAS would not be utilized to address the inadequacy of the existing system.	

FINDING

The City of Moreno Valley has reviewed the above project in accordance with the City of Moreno Valley's Rules and Procedures for the Implementation of the California Environmental Quality Act, and has determined that an Environmental Impact Report need not be prepared because:

- The proposed project will not have a significant effect on the environment.
- Although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because mitigation measures described in the attached Initial Study and hereby made a part of this Negative Declaration have been added to the project.

This determination is based upon an Initial Study. The public notice for the Intent to Adopt a Mitigated Negative Declaration was published on October 4th for a 30 day review period, and State Clearinghouse review concluded November 6, 2009. The project file, including the Initial Study and related documents is available for review during normal business hours (7:30 a.m. to 5:30 p.m. Monday through Thursday; City Hall is closed on Fridays) at the City of Moreno Valley, Community Development Department, Planning Division, 14177 Frederick Street, Moreno Valley, California 92553, Telephone (951) 413-3206.

PREPARED BY:  Chris Ormsby, AICP, Senior Planner	DATE: November 30, 2009
--	-----------------------------------

NOTICE

The public is invited to comment on the Negative Declaration. The appropriateness and adoption of the Negative Declaration is considered at the time of project approval in light of comments received.

DATE ADOPTED: _____	BY: _____
----------------------------	------------------

Attachment "C"

FINAL

INITIAL STUDY/
ENVIRONMENTAL ASSESSMENT

FOR

City of Moreno Valley
Edgemont Water Master Plan Update

Prepared for:
City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552-0805
Contact: Mike Myers
(909) 844-4846

Prepared by:
Albert A. Webb Associates
3788 McCray Street
Riverside, CA 92506

Contact: Cheryl DeGano
Principal Environmental Analyst
(951) 686-1070

December 2009

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INTRODUCTION AND PROJECT DESCRIPTION

1. INTRODUCTION AND SUMMARY

The Edgemont Water Master Plan Update (EWMPU) includes the Water Infrastructure Analysis Study (WIAS). The objective of the Water Infrastructure Analysis Study is to analyze the existing Box Springs Mutual Water Company (BSMWC) water system and determine the adequacy of the existing system, determine any necessary system improvements and the associated costs of the improvements to comply with the current City of Moreno Valley General Plan and Land Use designations (ultimate development). Presently, the BSMWC facilities cannot meet the City of Moreno Valley minimum fire flow requirements and therefore does not provide adequate fire protection for the approximately 600 existing residential customers and businesses. Further, the water system is aging and deteriorated and in need of replacement and rehabilitation.

Two Alternatives for improvements, plus the no action (or no project) alternative, were analyzed to meet the water supply and fire suppression needs of the ultimate development based on water storage facilities, pipeline facilities, pumping facilities and water supply.

Alternative No. 1 consists of maintaining the current system operational scheme, with additional water supply from additional groundwater extraction, and upgrading all existing BSMWC facilities (pipelines, reservoir, and hydropneumatic booster station). Alternative No. 2 consists of connecting to the Western Municipal Water District (WMWD) water system for both water supply and fire suppression needs (see **Project Description** below for a more detailed description). The no project alternative would not adopt or implement the EWMPU and the WIAS would not be utilized to address the inadequacy of the existing system.

The proposed improvements are located within the BSMWC service area on the western most end of the City of Moreno Valley and encompasses approximately 430 acres in the Edgemont area (refer to **Figure 1, Vicinity Map** and **Figure 2, Aerial Photograph**). Potable water for this portion of the City of Moreno Valley has been provided to residents through the BSMWC. BSMWC is a private shareholder company that was incorporated on June 9th 1920 by landowners to provide water to their lands. Water service for the remaining portion of the City of Moreno Valley is provided by Eastern Municipal Water District (EMWD). Primary water supply is provided via a groundwater well. BSMWC is located within the sphere of influence of WMWD and part of WMWD's Improvement District "B" as a result of the 1964 agreement to supplement water.

This initial study/environmental assessment (IS/EA) has been prepared to assess the potential for any significant environmental effects associated with BSMWC Water Infrastructure Analysis Study. The Lead Agency for this project is the City of Moreno Valley, as BSMWC cannot serve in that capacity pursuant to CEQA. This IS/EA has been prepared pursuant to the California Environmental Quality Act (CEQA, California Public Resources Code Sections 21000 *et seq.*), and the State CEQA Guidelines (California Code of Regulations Sections 15000 *et seq.*). Federal funding for the EWMPU and its associated environmental documentation is provided, in part, by The U.S. Environmental Protection Agency, thus this IS/EA also complies with the National Environmental Policy Act (NEPA). Please note that under CEQA, the proposed master plan of infrastructure facilities is referred to as a "project" and under NEPA it is referred to as an "action." For purposes of simplification, in this document, the proposed master plan will be referred to as a "project."

The City of Moreno Valley's Initial Study Checklist (Checklist), below, is used for purposes of evaluating the environmental impacts/effects of the project under both NEPA and CEQA. For the most part, the environmental issue areas analyzed in the Checklist are the same for NEPA and CEQA. For NEPA issues not addressed in the CEQA Checklist, a discussion of the proposed project's potential impacts related to those issues is provided at the end of the Checklist.

2. PURPOSE AND NEED FOR PROJECT

Currently, BSMWC water system facilities are hydraulically incapable of supplying the necessary fire flow demand to support existing property development conditions. Additionally, the water system is aging and deteriorated and in need of replacement and rehabilitation. The City of Moreno Valley has also recently adopted a General Plan Update which updated land use and zoning in the BSMWC service area. In order to meet the water and fire flow demand conditions for

the ultimate development, additional water supply must be acquired, and existing BSMWC water infrastructure, including storage, pipeline and pumping facilities, require improvements. Presently, the existing BSMWC water system is not up to City fire protection standards and codes. Furthermore, due to age and deterioration of the existing system, there is a potential for pipeline failure; thus, leading to a shutdown of the entire system and water will not be delivered to the public. Additionally, the BSMWC well water has nitrate levels exceeding the Maximum Contaminant Level (MCL) for drinking water standards and requires blending prior to delivery. Thus, the completed project will provide safe and clean drinking water to the residents in the City of Moreno Valley.

3. PROJECT DESCRIPTION

The Water Infrastructure Analysis Study proposes two water system alternatives based on the additional water supply and improvements to water system facilities including storage, pipeline and pumping. NEPA also requires analysis of the No Project Alternative. Thus, in addition to the two project alternatives, this IS/EA addresses environmental impacts associated with the No Project Alternative. The primary difference in the two project alternatives is the source of the water and the need for the storage reservoir/tank and pumps. Thus, unless specifically discussing impacts caused exclusively by the reservoir/tank or pumps (Alternative 1, only) or as otherwise noted, analysis of potential adverse environmental impacts in the following Checklist refers to both Alternative 1 and Alternative 2.

Alternative 1

Storage – The existing BSMWC storage capacity is 0.8 MG, provided by two (2) 0.4 MG storage tanks. The ultimate required storage is 3.11 MG. Therefore, the construction of an additional 2.3 MG storage tank is proposed to meet ultimate water demand conditions. The proposed 2.3 MG tank will be located within the current property where BSMWC has existing tanks, booster station and pumps (see **Figure 3, Alternative 1 Proposed Water Facilities**), north of Dracaea Avenue and east of Edgemont Street. The new tank will be located adjacent to the two existing storage tanks (refer to **Figure 4, Tank Area Site Plan**). The Storage Tank portion of the project will consist of construction of one new 2.3 MG above-ground reservoir, the installation of additional on-site pipeline to connect to existing water system and on-site drainage facilities including drainage and overflow pipeline to drain to existing Riverside County Flood Control storm drain channel to provide drainage of on- and off-site stormwater, and for reservoir overflow protection.

Activities related to reservoir construction include site clearing and grading, and drainage improvements. Equipment such as valves, controls and appurtenances, and overflow drain pipeline and other drainage related erosion control features will be constructed.

Pipeline – The WIAS proposes approximately 10 miles of water pipeline within BSMWC (refer to **Figure 3, Alternative 1 Proposed Water Facilities**). The distribution system consists of very old and undersized water mains. BSMWC has been upgrading waterlines and replacing these old and undersized pipelines, however the depth at which the lines were placed will most likely require reconstruction.

The majority of the pipelines will be installed utilizing traditional trenching techniques within existing paved roads and road right-of-way(s). The following table displays the total length of pipeline, by pipeline diameter needed to implement the Master Water Plan.

Table 1 – Alternative 1 Master Water Plan Proposed Pipeline

Pipeline	Quantity	Unit
8" Ø Waterline	8,500	L.F.
12" Ø Waterline	44,400	L.F.
16" Ø Waterline	410	L.F.

Additionally, the existing 4-inch metered connection with WMWD will be upsized to an 8-inch compound meter to be capable of providing the necessary flows. A proposed 12-inch diameter water pipeline will connect the proposed meter directly to the two (2) 0.4 MG storage tanks. The booster station and hydropneumatic tank will draw water from the two (2) 0.4 MG storage tanks and pump it to the distribution system. The discharge piping will be a 16-inch diameter water pipeline until its connection at Dracaea Avenue for a length of approximately 410 L.F. The proposed pipeline diameters are shown in **Figure 3** for this alternative.

Pumping – Pump stations, also known as booster stations, are facilities used to lift water conveyed in pipelines from one pressure zone to another. Pump stations are made up of piping, mechanical, and electrical components housed in an above ground pre-fabricated metal building. The buildings are typically between 20 x 30 to 20 x 40 feet in size and 10-12 feet tall. Pump stations are typically surrounded by a chain link fence or block wall. Pump station facilities may require an area of up to 150 x 100 feet or approximately 1/3 of an acre in size. The proposed pump station is located at the existing pump station site on the BSMWC tank property northeast of the intersection of Dracaea Avenue and Edgemont Street (refer to **Figure 4**).

Since the maximum fire flow is 4,000 gpm and the maximum day demand is 1,491 gpm, the existing pumps have to be replaced with three higher capacity pumps under this alternative.

Water Supply – Current primary water supply is provided via one well (No. 17) located within the BSMWC service area. Additional water supply would be provided through a second well proposed to be within BSMWC service area and supplemental water would continue to be supplied by WMWD as necessary for blending. The location of the proposed well site has not been determined. Therefore, this IS/EA will not include evaluation of the well site. However, the study will include investigation of the sustainability of additional groundwater extractions from the study area.

Alternative 2

Storage – No additional storage capacity is required for this alternative as BSMWC water system floats off WMWD water system. The existing storage tanks will only be used for blending the high-nitrate water from Well No. 17.

Pipeline – The WIAS proposes approximately 10 miles of water pipeline within BSMWC (refer to **Figure 5, Alternative 2 Proposed Water Facilities**). The distribution system consists of very old and undersized water mains. The BSMWC has been upgrading waterlines and replacing these old and undersized pipelines, however the depth at which the lines were placed will most likely require reconstruction.

The majority of the pipelines will be installed utilizing traditional trenching techniques within existing paved roads and road right-of-way(s). The following table displays the total length of pipeline, by pipeline diameter needed to implement the Master Water Plan.

Table 2 – Alternative 2 Master Water Plan Proposed Pipeline

Pipeline	Quantity	Unit
8" Ø Waterline	8,500	L.F.
12" Ø Waterline	44,170	L.F.
16" Ø Waterline	630	L.F.

Additionally, the existing 4-inch metered connection with WMWD will be upsized to a 12-inch compound meter. A proposed 16-inch and 12-inch diameter water pipeline will connect the proposed meter to the two (2) existing 0.4 MG storage tanks as well as the system. The booster station and hydropneumatic tank will continue to draw water from the two (2) 0.4 MG storage tanks and pump it to the distribution system. The proposed pipe diameters are shown in **Figure 5** for this alternative.

Pumping – Since the ultimate maximum daily demand of 1,491 gpm and the fire flow of 4,000 gpm will be supplied from WMWD, no additional pump improvements are required.

Water Supply – WMWD will supply the water needed to supplement Well No. 17.

No Project Alternative

Under a No Project Alternative, the EWMPU would not be adopted or implemented. All construction-related potential adverse environmental impacts would not occur. Thus, potential impacts to water quality, air quality, noise, traffic, safety, and all other construction impacts, which, due to implementation of mitigation measures, adherence to regulations, and/or best management construction practices are less than significant, would be eliminated. However, under this alternative, the Water Infrastructure Analysis Study would not be utilized to address the inadequacy of the existing system to bring it up to current City of Moreno Valley minimum fire flow requirements and therefore adequate fire protection would not be provided for the approximately 600 existing residential customers and businesses in the area. Further, the water system is aging and deteriorated and in need of replacement and rehabilitation which might be rectified over time, but not to standards that would support the City of Moreno Valley General Plan land uses for the area.

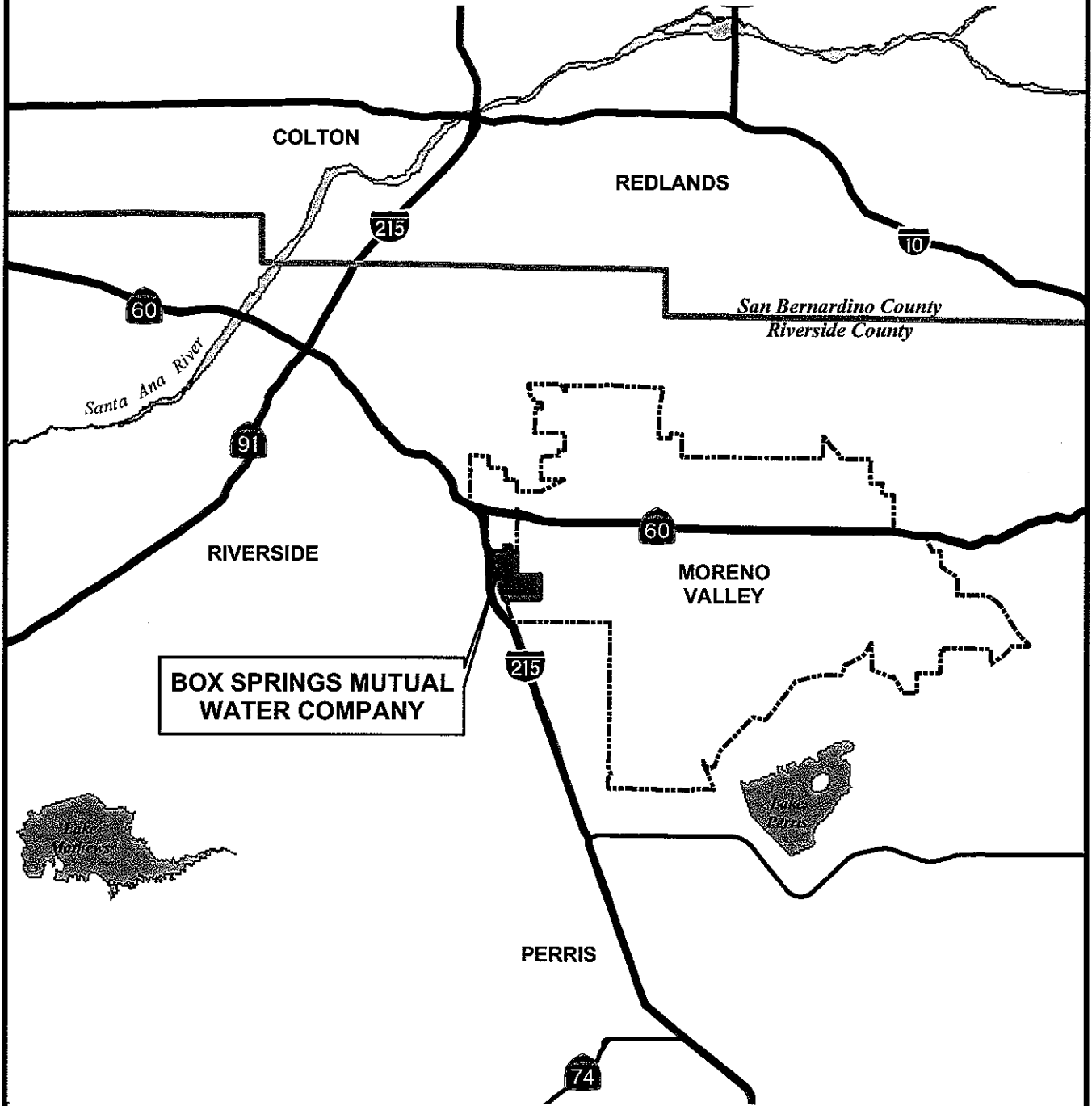
4. REQUIRED PERMITS AND APPROVALS

City of Moreno Valley will serve as the lead agency under the California Environmental Quality Act. Approval by City of Moreno Valley's City Council will be necessary for the project to proceed. According to the California Government Code Section 53091 (d) "building ordinances of a county or city shall not apply to the location or construction of facilities for the production, generation, storage, treatment, or transmission of water, wastewater, or electrical energy," and (e) "zoning ordinances of a county or city shall not apply to the location or construction of facilities for the production, generation, storage, treatment, or transmission of water..." Therefore, the construction of the proposed water facilities is exempt from zoning designations. Standard permitting requirements are expected to apply to the proposed well, tanks, pumps, and pipelines. These include:

- Compliance with California Regional Water Quality Control Board, Santa Ana Order No. R8-2003-0061 and NPDES Permit No. CAG98001, which establishes waste discharge requirements for discharges to surface waters which pose an insignificant (De Minimus) threat to water quality. Compliance would be required for the discharge of wash-water associated with pipeline flushing and blow-off water associated with pump maintenance of the proposed well.
- Compliance with California Department of Public Health, Title 22 California Code of Regulations for Drinking Water.
- Compliance with the South Coast Air Quality Management District Rule 1301 for operation of emergency diesel generators.
- Compliance with the South Coast Air Quality Management District Form 400, Application to obtain a Permit to Construct and Operate prior to installing and operating equipment.
- Compliance with the South Coast Air Quality Management District Rule 403 requirements controlling construction related fugitive dust emissions.
- Compliance with Riverside County Ordinance 682.3 in accordance with the California Water Well Standards (Department of Water Resources Bulletins 74-81 and 74-90).

- Compliance with the City of Moreno Valley Department of Public Works for encroachment permits to construct the pipeline within City roadways.
- Compliance with the City of Riverside Department of Public Works for encroachment permits to construct the pipeline within City roadways.
- Compliance with the County of Riverside Transportation and Land Management Department for encroachment permits to construct the pipeline within City roadways.
- Compliance with the Riverside County Flood Control and Water Conservation District for an encroachment permit if connection to storm drain facilities is required.

CITY OF MORENO VALLEY
EDGEMONT WATER MASTER PLAN
UPDATE
BOX SPRINGS MUTUAL WATER COMPANY
VICINITY MAP



**BOX SPRINGS MUTUAL
 WATER COMPANY**

FIGURE 1

ALBERT A.
WEBB
 ASSOCIATES



Not to Scale

CITY OF MORENO VALLEY
EDGEMONT WATER MASTER PLAN
UPDATE
BOX SPRINGS MUTUAL WATER COMPANY
AERIAL PHOTOGRAPH

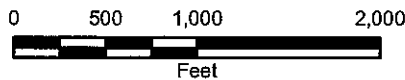


FIGURE 2

ALBERT A.
WEBB
 ASSOCIATES

Imagery by Digital Globe, March 2008.

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CITY OF MORENO VALLEY
EDGEMONT WATER MASTER PLAN
UPDATE
BOX SPRINGS MUTUAL WATER COMPANY
ALTERNATIVE 1
PROPOSED WATER FACILITIES

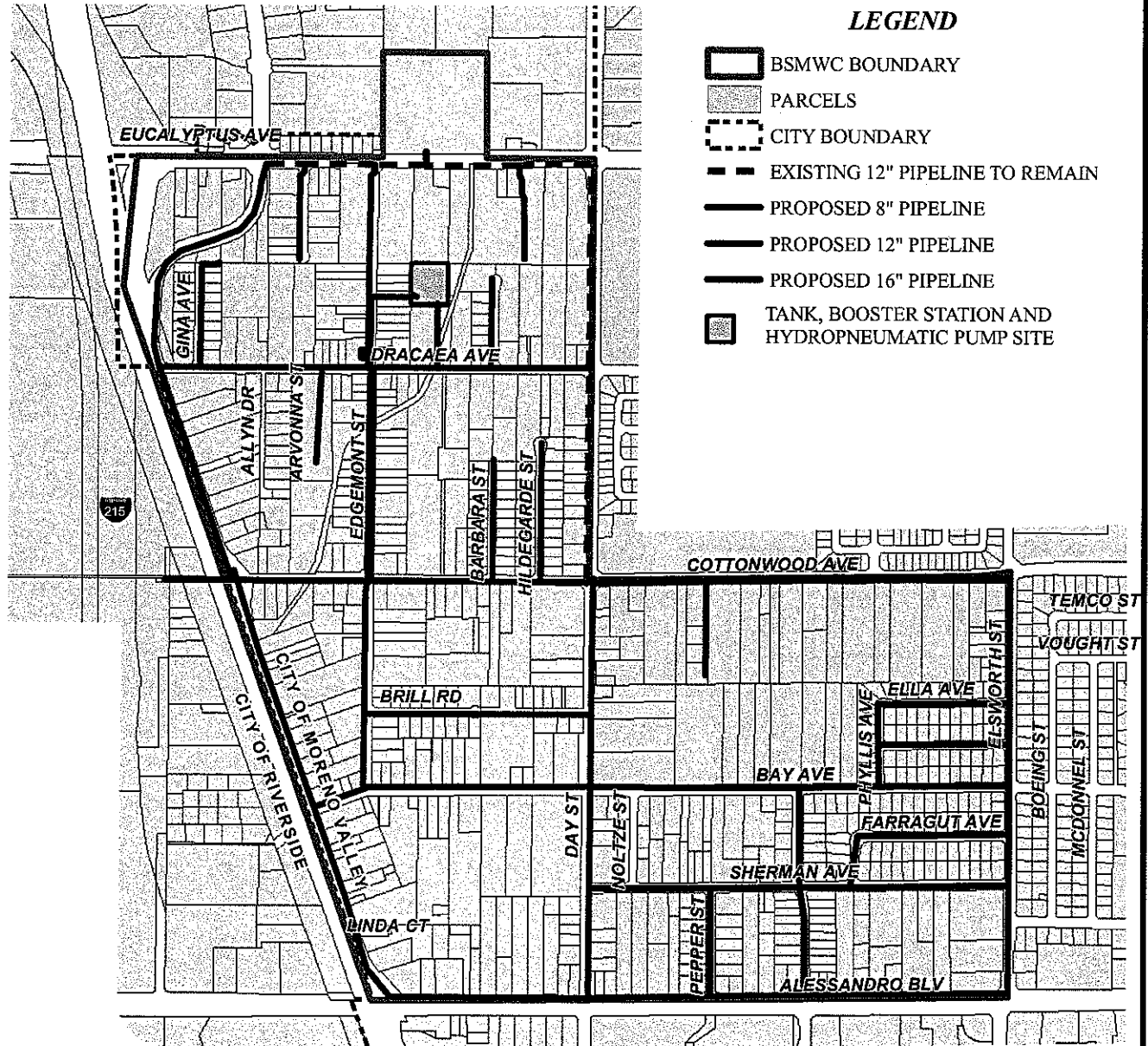
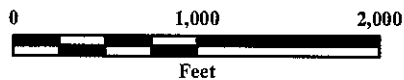


FIGURE 3

ALBERT A.
WEBB
 ASSOCIATES



Base source: Riverside County 2009

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CITY OF MORENO VALLEY
EDGEMONT WATER MASTER PLAN
UPDATE
BOX SPRINGS MUTUAL WATER COMPANY
TANK AREA SITE PLAN

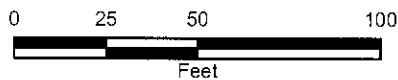
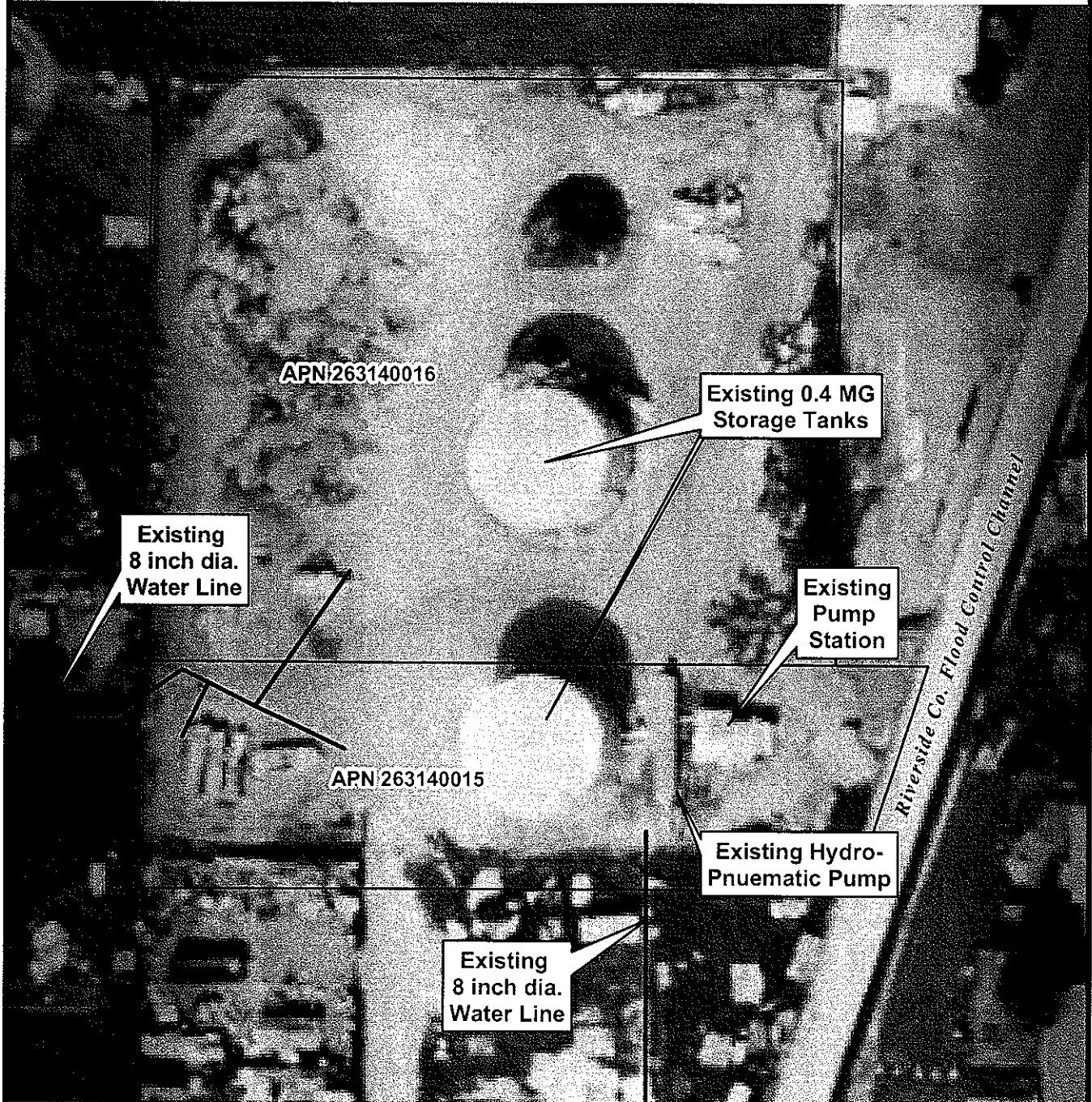


FIGURE 4

ALBERT A.
WEBB
ASSOCIATES

Imagery by Digital Globe, March 2008.

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CITY OF MORENO VALLEY
EDGEMONT WATER MASTER PLAN
UPDATE
BOX SPRINGS MUTUAL WATER COMPANY
ALTERNATIVE 2
PROPOSED WATER FACILITIES

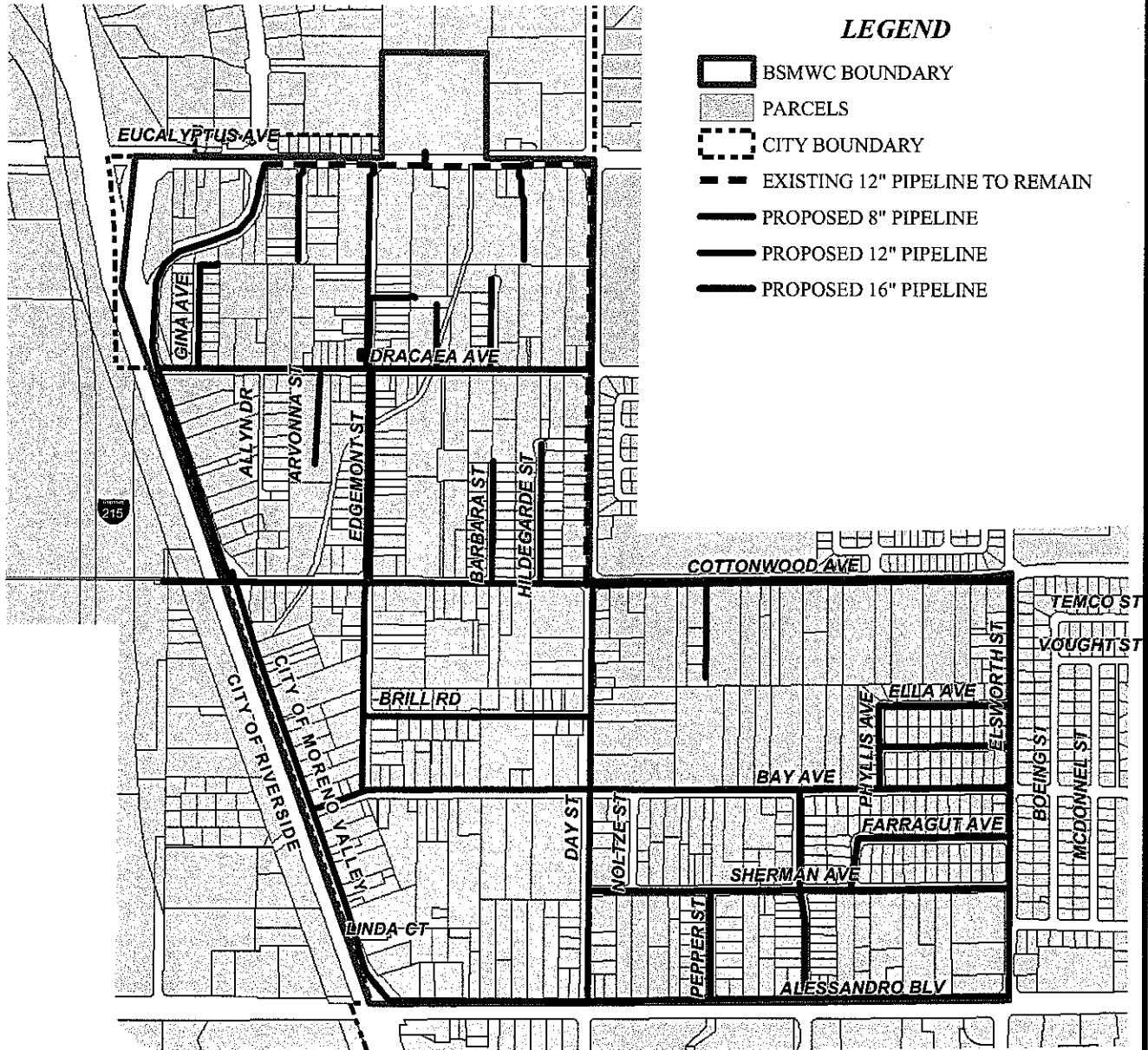
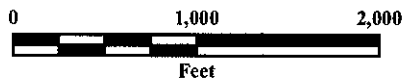


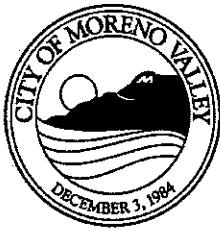
FIGURE 5

ALBERT A.
WEBB
 ASSOCIATES



Base source: Riverside County 2009

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**INITIAL STUDY/ENVIRONMENTAL ASSESSMENT
ENVIRONMENTAL CHECKLIST FORM
CITY OF MORENO VALLEY/
U.S. ENVIRONMENTAL PROTECTION AGENCY**

1. **Project Title:**
Edgemont Water Master Plan Update

2. **Lead Agency Name and Address:**
City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552-0805

Contact Person and Phone Number:

Chris Ormsby
Community Development Department – Planning Division
City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552-0805
(951) 413-3229

3. **Cooperating Agency**
U.S. Environmental Protection Agency (EPA)
Region 9
Southern California Field Office
600 Wilshire Blvd., Suite 1460
Los Angeles, CA 90017

Grant Manager and Phone Number:

Howard Kahan
Environmental Scientist
(213) 244-1819
Email: kahan.howard@epa.gov

Federal Project Number: XP-96972201-3

4. **Project Location:**
The project is located within the Box Springs Mutual Water Company (BSMWC) boundary on the western most end of the City of Moreno Valley and encompasses approximately 430 acres in the Edgemont area, generally located north of Alessandro Blvd, east of I-215, south of Eucalyptus Avenue, and west of Elsworth Street.

5. **Project Sponsor's Name and Address:**
City of Moreno Valley
Public Works, Mike Myers
14177 Frederick Street
Moreno Valley, CA 92552-0805

6. **General Plan, Zoning, and Specific Plan Designations:**
The proposed project pipelines would be constructed within road right-of-way(s), while the storage tank and booster station upgrade would be located on BSMWC property (APN 263-140-016 and 263-140-015). The land use designations under City of Moreno Valley's 2007 General Plan for the project area are a variety of residential, commercial, public facilities, and open space recreational. The current zoning over the project area is a mixture of residential, industrial, office, and commercial.

7. Description of the Project:

See Project Description.

8. Surrounding Land Uses and Setting:

The project area is within the City of Moreno Valley. The dominant existing development and land uses in the area include single-family homes on large lots, multi-family residential, and small residential subdivisions interspersed with undeveloped lots, and some business/commercial near major roads. To the north of the project area is the Box Springs Mountain Park, west of the site is the 215 Freeway and the City of Riverside. East of the site is mostly residential, together with commercial, office, and open space land uses within the City of Moreno Valley. About one mile to the south of the site is March Air Reserve Base.

9. Other public agencies whose approval is required:

See page 4, above.

10. Total Cost of Project/Action and EPA and City Portions

The WIAS indicates the project cost¹ for Alternative 1 is \$15,161,440; the project cost for Alternative 2 is \$14,957,250. The water system facilities identified in Alternative 1 and Alternative 2 are Master Plan facilities and are not funded at this time.

The cost of the first phase of the EWMPU and WIAS is \$437,455, which will be funded by the EPA grant and the City of Moreno Valley as shown below.

EPA Portion	55%:	\$240,600
City Portion	45%:	\$196,855
Project/Action Total Cost	100%:	\$437,455

11. Construction Dates

Construction of the reservoir (Alternative 1 only) is expected to begin in mid July 2010 and take approximately 4 months to complete.

Construction of the water pipeline is expected to begin within the next two years.

¹ Project cost is 1.4 times construction cost. Project cost includes construction costs, construction contingencies, design engineering (including preparation of plans and specifications) design and construction surveying and mapping, geotechnical evaluation and report, engineering contract administration, and field inspections.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

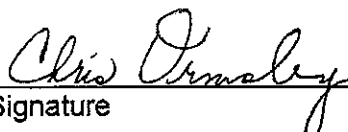
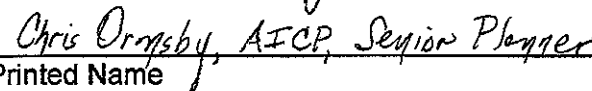
The environmental factors checked below (■) would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

	Aesthetics		Hazards & Hazardous Materials		Public Services
	Agricultural Resources		Hydrology/Water Quality		Recreation
	Air Quality		Land Use/Planning		Transportation/Traffic
	Biological Resources		Mineral Resources		Utilities/Service Systems
	Cultural Resources		Noise		Mandatory Findings of Significance
	Geology/Soils		Population/Housing		

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.	
I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.	■
I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.	
I find that the proposed project MAY have a "potential significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.	
I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.	


 Signature _____ Date 9/22/09

 Printed Name _____ For _____

EVALUATION OF ENVIRONMENTAL IMPACTS

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g. the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Potentially Significant Unless Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section 17, "Earlier Analysis," may be cross-referenced).
- 5) Earlier analysis may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063 (c) (3) (d). In this case, a brief discussion should identify the following:
 - (a) Earlier Analysis Used. Identify and state where they are available for review.
 - (b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - (c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g. general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
- 9) The analysis of each issue should identify: (a) the significance criteria or threshold used to evaluate each question; and (b) the mitigation measure identified, if any, to reduce the impact to less than significant.
- 10) Each Alternative, including the No Project Alternative was discussed and analyzed per the NEPA policies for implementing NEPA.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/Program EIR is Sufficient	Less Than Significant Impact	No Impact
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1. AESTHETICS.

The following determinations were made utilizing the following resources: WIAS, MVGP, MVGP EIR

Would the project:

a) Have a substantial adverse effect on a scenic vista?		■			
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Substantiation:

Alternative 1:

Underground pipeline improvements of the City of Moreno Valley WIAS will not permanently alter views of or from, local mountains or other scenic vistas. Small buildings associated with the future booster stations and hydropneumatic tank will range from approximately 10 x 12 feet to 20 x 40 feet in size and up to 10–12 feet tall. These proposed structures will be located on the same site where such existing facilities are located. Structures associated with proposed booster stations and hydropneumatic tank due to their small size, will not significantly impact scenic vistas.

The proposed tank site currently has two 0.4 MG tanks which are located above ground. The proposed new 2.3 MG tank will also be above ground and located immediately adjacent to the existing 0.4 MG tanks. The proposed tank in Alternative 1 is planned to have a height of 30 feet and a diameter of 120 feet.

The tank site is surrounded by residences on the south and west, a vacant lot on the north, and the Riverside Flood Control Channel on the east. The existing tanks do not block any views from public streets to the mountains and the proposed tank would similarly not disrupt views.

The existing tanks are painted a light green color which does not stand out or create glare. To assure the proposed tank does not create glare or an unsightly situation, it should be painted a similarly muted, non-glare color. Other above-ground facilities including booster station and pumps will be housed inside buildings, so no unsightly areas will be visible from adjacent areas. In order to reduce the level of impact to less than significant, the proposed tank exposed surfaces shall be painted to complement the existing tanks and to blend into the environment. Therefore, implementation of **MM Aes 1** will reduce the potential aesthetic impacts to a less than significant level.

MM Aes 1: To assure the proposed tank(s) does/do not create glare or an unsightly situation, the construction specifications for the proposed tank(s) shall require that the proposed tanks be painted to complement the existing tanks and to blend into the environment. (Applicable to Alternative 1, only.)

Alternative 2:

Underground pipeline improvements of the City of Moreno Valley Water WIAS will not permanently alter views of or views from local mountains or other scenic vistas as the pipeline project shall be installed below ground. Therefore, impacts are considered less than significant and no mitigation is required.

No Project Alternative:

No action shall be taken under the No Project Alternative; no impacts are anticipated.

b) Substantially damage scenic resources, including, but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?					■
---	--	--	--	--	---

Substantiation:

Alternative 1:

See response to item 1. a). The pipeline portion of the project will take place within the road right-of-way; as such, will not damage scenic resources such as trees, rock outcroppings, or historic buildings. Gilman Springs Road, State Route 60, and Moreno Beach Drive are designated as local scenic roads by Policy 7.7.3 of the City of Moreno Valley General Plan; however, the closest scenic route to the project site is State Route 60, which is approximately 0.7 miles to the north. State Route 60 will not be impacted in any way. There are no State Scenic Highways within the project area. Therefore, no impacts to scenic resources will occur.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

c) Substantially degrade the existing visual character or quality of the site and its surroundings?				■	
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Substantiation:

Alternative 1:

See response to item 1. a) & b). Construction activities will create a temporary aesthetic nuisance for motorists and local residents. Exposed surfaces, construction debris, and construction equipment may temporarily impact the aesthetic quality of the immediate area. Construction impacts will be short term and will cease upon project completion and, therefore, are considered less than significant.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative; therefore, no impacts are anticipated.

d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?				■	
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Substantiation:

Alternative 1:

As the pipeline facilities will be underground, there will be no new source of substantial light or glare which would adversely affect day or nighttime views in the area.

The site is not located within the Mt. Palomar Observatory area of concern for night lighting. Structures associated with the proposed tank will have a motion sensor security light at the site. This type of light will not be a significant adverse source of day or nighttime light because it will only turn on in the event that motion is detected at the tank site. This motion-sensitive lighting will be directed at the tanks and will not be pointed toward the surrounding areas, or any residence. The structures will not have glass or other reflective exterior walls; glare will not impact day or nighttime views around the structures. Impacts from light and glare are considered to be less than significant.

Alternative 2:

As the pipeline facilities will be underground, there will be no new source of substantial light or glare which would adversely affect day or nighttime views in the area. Therefore, no impacts are anticipated.

No Project Alternative:

No action shall be taken under the No Project Alternative; therefore, no impacts are anticipated.

e) Exceed an applicable LRDP or Program EIR standard of significance?				■	
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Substantiation:

Alternative 1:

There is no Long Range Development Plan (LRDP) or Program EIR for the project or project area. The project is planning for the infrastructure necessary to support development pursuant to the City of Moreno Valley General Plan. Therefore, there are no project impacts related to exceeding any applicable LRDP or Program EIR standard of significance.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

There is no Long Range Development Plan (LRDP) or Program EIR for the project or project area. Therefore, the No Project Alternative will not exceed an applicable LRDP or Program EIR standard of significance.

2. AGRICULTURE RESOURCES

The following determinations were made utilizing the following resources: GISMV, MVGP, MVGP EIR

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project?

a) Convert Prime Farmland, Unique Farmland or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency to non-agricultural use?					■
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Substantiation:

Alternative 1:

According to the City of Moreno Valley General Plan EIR Figure 5.8-1 Important Farmlands, the entire proposed project area is located in an area designated as Urban and Built-Up Land. The pipeline segments will be constructed within the road right-of-way (ROW) and are not expected to interfere with any existing agricultural production. The water facilities proposed at BSMWC's current tank site including tank, booster station and hydropneumatic pump will not affect agriculture or land potentially utilized for agricultural activity; therefore, Alternative 1 will have no impact with regard to converting farmland to non-agricultural use.

Alternative 2:

According to the City of Moreno Valley General Plan EIR Figure 5.8-1 Important Farmlands, the entire proposed project area is located in an area designated as Urban and Built-Up Land. The pipeline segments will be constructed within the road ROW and are not expected to interfere with any existing agricultural production. Therefore, Alternative 2 will have no impact with regard to converting farmland to non-agricultural use.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated to agricultural resources.

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?					■
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Substantiation:

Alternative 1:

Zoning designations within the project area do not include agricultural zoning. According to the City of Moreno Valley General Plan, no land within the planning area is currently under a Williamson Act contract; therefore, Alternative 1 will not impact existing agricultural zoning or land under a Williamson Act contract.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?					■
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Substantiation:

Alternative 1:

See response to items 2.a) and 2.b) above.

Alternative 2:

See response to items 2.a) and 2.b) above.

No Project Alternative:

No action shall be taken under the No Project Alternative; therefore, no impacts are anticipated.

d) Exceed an applicable LRDP or Program EIR standard of significance?					■
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Substantiation:

Alternative 1:

There is no Long Range Development Plan (LRDP) or Program EIR for the project or project area. The project is planning for the infrastructure necessary to support development pursuant to the City of Moreno Valley General Plan. Therefore, there are no project impacts related to exceeding any applicable LRDP or Program EIR standard of significance.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

There is no Long Range Development Plan (LRDP) or Program EIR for the project or project area. Therefore, the No Project Alternative will not exceed an applicable LRDP or Program EIR standard of significance.

3. AIR QUALITY:

The following determinations were made utilizing the following resources: SCAQMD, WEBB, MVGP EIR, MVGP

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?				■	
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Substantiation:

Alternative 1:

The proposed project site is within the South Coast Air Basin (SCAB) which is in the jurisdiction of the South Coast Air Quality Management District (SCAQMD). The SCAQMD establishes the Air Quality Management Plan (AQMP) for the SCAB, which sets forth a comprehensive program that will lead the SCAB into compliance with all federal and state air quality standards. To achieve compliance with these standards, the AQMP establishes control measures and emission reductions based upon future development scenarios derived from land use, population, and employment characteristics defined in consultation with local governments. Accordingly, a project's conformance with the AQMP is determined by demonstrating that it is consistent with the local land use plans and/or population projections that were used in the AQMP.

Construction of the proposed project in and of itself will not alter land use plans throughout the project area, as the facilities will be located underground or be located at BSMWC property where existing facilities are located. The Water Infrastructure Analysis Study proposes improvements to BSMWC's existing water system based on the additional needs brought about by increased water demands due to the City of Moreno Valley's planned redevelopment of the

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/Program EIR is Sufficient	Less Than Significant Impact	No Impact

area consistent with the General Plan. BSMWC does not have land use authority; however, the planned redevelopment is part of the local land use plan, and possible air quality impacts brought about by any increased population due to the redevelopment, has already been considered and analyzed in the City of Moreno Valley General Plan EIR. Therefore, the project is consistent with the local land use plans and does not conflict with or obstruct the implementation of the AQMP. The impact is considered less than significant.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?



Substantiation:

Alternative 1:

Air quality impacts can be described in short-term and long-term perspectives. Short-term impacts will occur during site grading and project construction. Long-term air quality impacts will occur once the project is in operation.

Short-term emissions consist of fugitive dust and other particulate matter, as well as, exhaust emissions generated by construction-related vehicles. Short-term impacts will also include emissions generated during construction as a result of operation of personal vehicles by construction workers, asphalt degassing and architectural coating (painting) operations during construction.

The project will be required to comply with existing SCAQMD rules for the reduction of fugitive dust emissions. SCAQMD Rule 403 establishes these procedures. Compliance with this rule is achieved through application of standard best management practices in construction and operation activities, such as, application of water or chemical stabilizers to disturbed soils; covering haul vehicles; restricting vehicle speeds on unpaved roads to 15 mph; sweeping loose dirt from paved site access roadways; cessation of construction activity when winds exceed 25 mph; and establishing a permanent, stabilizing ground cover on finished sites. In addition, projects that disturb 50 acres or more of soil or move 5,000 cubic yards of materials per day, are required to submit a Fugitive Dust Control Plan or a Large Operation Notification Form to SCAQMD. Based on the size of the project (disturbs a total of approximately 4.32 acres), a Fugitive Dust Control Plan or Large Operation Notification would not be required.

Regional Significance Threshold Analysis

The thresholds contained in the SCAQMD CEQA Air Quality Handbook are considered regional thresholds and are shown in **Table 3**. These regional thresholds were developed based on the SCAQMD's treatment of a major stationary source.

Table 3, SCAQMD CEQA Regional Significance Thresholds

Emission Threshold	Units	VOC	NO _x	CO	SO _x	PM-10	PM-2.5
Daily Threshold – Construction	lbs/day	75	100	550	150	150	55
Daily Threshold – Operations	lbs/day	55	55	550	150	150	55

Short-term emissions were evaluated using the URBEMIS 2007 for Windows version 9.2.4 for Windows computer program (CARB 2007). The model evaluated emissions resulting from site grading and project construction. The default parameters within URBEMIS were used and these default values reflect a worst-case scenario which means that the actual project emissions are expected to be equal to or less than the estimated construction emissions.

Exact phasing of construction is unknown; however, the water infrastructure improvements are expected to commence construction within the next two years. The entire Water Master Plan system would not be constructed simultaneously, but rather, in a phased manner. To estimate the "worst-case" scenario construction emissions for the purpose of this analysis, the largest project would be the construction of the 2.3 MG reservoir together with the longest section of water

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/Program EIR is Sufficient	Less Than Significant Impact	No Impact

pipeline along Cottonwood Avenue between Old 215 Frontage Road and Ellsworth Street. Any other construction scenarios that could occur during the project will have construction emissions equal to, or less than, the emissions modeled in the aforementioned scenario.

Short-Term Impacts

In addition to the default values used, several assumptions relevant to model input for short-term construction emission estimates had to be made to run the model. These assumptions are:

- Pipeline construction will take place within the road right-of ways, with no structures present; therefore, no demolition of structures will be necessary.
- The construction of the reservoir is expected to begin mid July 2010 and take approximately 4 months to complete.
- The construction of the water pipeline is assumed to begin mid- 2010 and take approximately 2.5 months to complete.
- Construction of 4,936 linear feet of 12-inch diameter water pipeline will include trenching and paving.
- It is estimated that a maximum of 0.83 acres could be disturbed in one day for the pipeline and reservoir.
- Re-paving within the road rights-of-way will occur during the last month of construction.

The construction equipment estimated to be used is shown in **Appendix A**, Air Quality Analysis Supporting Information, February 16, 2009. **Table 4**, below, summarizes the estimated construction emissions.

Table 4, Estimated Daily Construction Emissions for Alternative 1

Activity/Year	Peak Daily Emissions (lb/day)					
	VOC	NO _x	CO	SO ₂	PM-10	PM-2.5
SCAQMD Daily Construction Thresholds	75	100	550	150	150	55
Grading/Excavation/Construction for Pipeline	4.81	33.95	18.86	0.00	10.45	3.50
Paving ¹	2.98	17.01	11.25	0.00	1.44	1.32
Maximum for Construction of Pipeline²	4.81	33.95	18.86	0.00	10.45	3.50
Exceeds Threshold?	No	No	No	No	No	No
Grading/Excavation for Reservoir	3.04	25.05	13.50	0.00	3.85	1.70
Construction of Reservoir ³	50.09	23.09	16.45	0.01	1.72	1.55
Maximum for Construction of Reservoir²	50.09	25.05	16.45	0.01	3.85	1.70
Exceeds Threshold?	No	No	No	No	No	No

Notes: See Appendix A for model output report.
¹ Paving occurs after grading/excavation/construction of pipelines.
² Maximum corresponds to the highest emissions for each construction phase.
³ Includes paving and painting.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/Program EIR is Sufficient	Less Than Significant Impact	No Impact

Evaluation of the data in **Table 4** indicates that the short-term criteria pollutant emissions from the construction of this project are below the SCAQMD daily regional thresholds for all criteria pollutants.

Long-Term Impacts

Long-term air quality impacts occur once the project is in operation. The only source of operational emissions from water pipelines and/or reservoir would be infrequent vehicle trips by maintenance personnel. Because the BSMWC employs fewer than five employees, any associated emissions would be negligible; therefore, no long-term impacts were estimated.

Regional Analysis Conclusion

Emissions of criteria pollutants both during the construction and operation of the project are below SCAQMD regional thresholds; therefore, the impact is considered less than significant.

Greenhouse Gas Emissions

The recently updated URBEMIS model calculates carbon dioxide emissions from fuel usage by construction equipment and construction-related activities, like worker trips, for the project in tons per year (one ton equals 2,000 pounds). The URBEMIS estimate does not analyze emissions from construction related electricity or natural gas. Construction related electricity and natural gas emissions vary based on the amount of electric power used during construction and other unknown factors which make them too speculative to quantify. Life-cycle emissions associated with the manufacture of building materials are also not quantified in this analysis although they undoubtedly exist. Quantification was not attempted because of the large spatio-temporal variation in sources for building products used to construct the project and the consequent large uncertainty associated with the resulting emissions. For this reason, to attempt to quantify life-cycle emissions of materials would be speculative. This conclusion is consistent with recent guidance on quantification of emissions for commercial projects presented by the California Air Pollution Control Officer's Association (CAPCOA) guidance on CEQA and Climate Change.

Table 5 summarizes the output results and presents the emissions estimates in metric tonnes (Mt) of CO₂ (one metric tonne equals approximately 2,205 pounds) from construction of the reservoir and associated pipelines (Alternative 1).

Table 5, Project Construction Equipment CO₂ Emissions for Alternative 1

Year/Description	Total tons CO ₂	Maximum Mt CO ₂ /year
2010/ Water Pipelines	81.36	73.81
2010/ Reservoir	70.68	64.12

¹ calculations based on URBEMIS output.

Evaluation of the data in **Table 5**, above indicates an estimated maximum of 73.81 MtCO₂/year will occur from project construction equipment. The draft Greenhouse Gas (GHG) threshold from CARB has yet to identify a performance standard for construction-related emissions for industrial or commercial projects. When compared to the draft SCAQMD thresholds, construction is below the recommended threshold of 3,000 MtCO₂/year for residential/commercial projects (SCAQMD 2008).

Since Alternative 1 will not violate any air quality standard or contribute substantially to an existing or projected air quality violation, or contribute substantially to an increase in GHG emissions, impacts will be less than significant in this regard.

Alternative 2:

Alternative 2 entails the installation of pipelines only and does not include construction of the reservoir. Daily construction emissions for Alternative 2 are presented in Table 6, below.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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Table 6, Estimated Daily Construction Emissions for Alternative 2

Activity/Year	Peak Daily Emissions (lb/day)					
	VOC	NO _x	CO	SO ₂	PM-10	PM-2.5
SCAQMD Daily Construction Thresholds	75	100	550	150	150	55
Grading/Excavation/ Construction for Pipeline	4.81	33.95	18.86	0.00	10.45	3.50
Paving ¹	2.98	17.01	11.25	0.00	1.44	1.32
Maximum for Construction of Pipeline²	4.81	33.95	18.86	0.00	10.45	3.50
Exceeds Threshold?	No	No	No	No	No	No

Notes: See Appendix A for model output report.
¹Paving occurs after grading/excavation/construction of pipelines.
²Maximum corresponds to the highest emissions for each construction phase.
³Includes paving and painting.

As indicated in **Table 6** above; the short term criteria pollutant emissions for the construction of Alternative 2 are below the SCAQMD daily regional thresholds for all criteria pollutants.

Table 7 summarizes the output results and presents the emissions estimates from construction of the Alternative 2 pipelines in Mt of CO₂

Table 7, Project Construction Equipment CO₂ Emissions for Alternative 2

Year/Description	Total tons CO ₂	Maximum Mt CO ₂ /year
2010/ Water Pipelines	81.36	73.81

¹ calculations based on URBEMIS output.

Evaluation of the data in **Table 7**, above indicates an estimated maximum of 73.81 MtCO₂/year will occur from project construction equipment. When compared to the draft SCAQMD GHG thresholds, construction is below the recommended threshold of 3,000 MtCO₂/year for residential/commercial projects (SCAQMD 2008).

Since Alternative 2 will not violate any air quality standard or contribute substantially to an existing or projected air quality violation, or contribute substantially to an increase in GHG emissions, impacts will be less than significant in this regard.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?							■	
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Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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Substantiation:

Alternative 1:

Implementation of the proposed project will create short-term temporary emissions as discussed in the response to items 3.a) and 3.b) above. After construction, the project will not contribute to a cumulatively considerable net increase in criteria pollutants. Therefore, Alternative 1 will have a less than significant cumulative impact on air quality.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

d) Expose sensitive receptors to substantial pollutant concentrations?				■	
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Substantiation:

Alternative 1:

Project-related short-term construction emissions and contributions to GHG are discussed in the responses to items 3.b) and 3.c), above. Additional information regarding exposure of sensitive receptors is presented in the following paragraphs.

Localized Significance Threshold Analysis

Background

As part of the SCAQMD's Environmental Justice Program, attention has been focused on localized effects of air quality which can directly affect sensitive receptors. Staff at SCAQMD has developed localized significance threshold (LST) methodology that can be used by public agencies to determine whether or not a project may generate significant adverse localized air quality impacts (both short-term and long-term). LSTs represent the maximum emissions from a project that will not cause or contribute to an exceedance of the most stringent applicable federal or state ambient air quality standard, and are developed based on the ambient concentrations of that pollutant for each source receptor area (SRA).

Methodology

The emissions analyzed under the LST methodology are NO₂, CO, PM-10, and PM-2.5. For attainment pollutants, nitrogen dioxide (NO₂) and CO, the LSTs are derived using an air quality dispersion model to back-calculate the emissions per day that would cause or contribute to a violation of any ambient air quality standard for a particular source receptor area. LSTs for NO₂ and CO are derived by adding the incremental emission impacts from the project activity to the peak background NO₂ and CO concentrations and comparing the total concentration to the most stringent ambient air quality standards. The most stringent standard for NO₂ is the 1-hour state standard of 18 parts per hundred million and for CO it is the 1-hour and 8-hour state standards of 9 parts per million (ppm) and 20 ppm, respectively. For PM-10 and PM-2.5, which the SCAB is non-attainment, the construction LST is derived using an air quality dispersion model to back-calculate the emissions necessary to make an existing violation in the specific source receptor area worse, using the allowable change in concentration thresholds approved by the SCAQMD. For PM-10 and PM-2.5, the allowable change in concentration threshold is 10.4 µg/m³.

Short-Term Analysis

For short-term construction emissions, it is estimated that the maximum area to be disturbed for the previously analyzed pipeline alignment and reservoir construction would be 0.83 acres a day. Under the LST analysis methodology, only the on-site emissions need to be considered. SCAQMD has developed a series of worksheets for use by projects in order to determine the on-site emissions for LST analysis purposes. SCAQMD has provided LST lookup tables to allow users to readily determine if the daily emissions for proposed construction activities could result in significant localized air quality impacts for projects 5 acres or smaller. It is anticipated that an area no larger than 1 acre would be disturbed at any one time during construction. Therefore, the LST lookup tables (<http://www.aqmd.gov/ceqa/handbook/LST/LST.html>) and worksheets shown in the lookup tables for the 1-acre site were used to estimate construction emissions.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/Program EIR is Sufficient	Less Than Significant Impact	No Impact

The nearest sensitive receptors to the analyzed pipeline alignment and tank, and the remainder of the pipeline alignments, are existing residences located adjacent to the project roadways or the tank site. In order to ensure a worst-case analysis, the receptor distance of 25 meters (82 feet) was used. Results are not totaled because the various construction activities do not occur simultaneously. The results are summarized in **Table 8, LST Results for Construction Emissions**.

Table 8, LST Results for Daily Construction Emissions

Pollutant	CO (lbs/day)	NO _x (lbs/day)	PM-10 (lbs/day)	PM-2.5 (lbs/day)
LST Threshold (1 acre)	418	144	4	3
Grading/Trenching	18.6	35.7	2.3	1.9
Construction	11.4	25.6	1.4	1.3
Architectural Coating and Paving	10.3	18.0	1.3	1.2
Exceeds Threshold?	No	No	No	No

Short-term construction emissions of CO, NO_x, PM-10, and PM-2.5 do not exceed the SCAQMD established localized thresholds of significance.

Long-Term Analysis

According to the SCAQMD's LST methodology, the operational emissions to be analyzed are from on-site stationary sources and on-site mobile source emissions. Off-site mobile source emissions should not be included in the analysis. Long-term air quality impacts occur once the project is in operation. The only ongoing source of operational emissions from the water pipeline and/or reservoir would be infrequent vehicle trips by maintenance personnel. Any associated emissions would be negligible; therefore, no long-term impacts were estimated.

LST Conclusion

Based on the LST analysis of the proposed project, the short-term construction will not exceed the thresholds at the nearest sensitive receptor for NO_x, CO, PM-10, or PM-2.5. Therefore, neither localized air quality impacts from the short-term construction nor long-term operations will result in any exceedance of the localized significance thresholds.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

e) Create objectionable odors affecting a substantial number of people?					■	
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Substantiation:

Alternative 1:

The major potential for objectionable odors is limited to the construction period when diesel powered construction equipment is in use. These odors are temporary and mobile; therefore, are not considered potentially significant.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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f) Exceed an applicable LRDP or Program EIR standard of significance?					■
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Substantiation:

Alternative 1:
 There is no Long Range Development Plan (LRDP) or Program EIR for the project or project area. The project is planning for the infrastructure necessary to support development pursuant to the City of Moreno Valley General Plan. Therefore, there are no project impacts related to exceeding any applicable LRDP or Program EIR standard of significance.

Alternative 2:
 Impacts are the same as Alternative 1 above.

No Project Alternative:
 There is no Long Range Development Plan (LRDP) or Program EIR for the project or project area. Therefore, the No Project Alternative will not exceed an applicable LRDP or Program EIR standard of significance.

4. BIOLOGICAL RESOURCES
 The following determinations were made utilizing the following resources: ESI, RCGP, MVGP, MVGP EIR, USGS, and MSHCP.

Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U. S. Fish and Wildlife Service?	■				
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Substantiation:

Alternative 1:
 Results of the General Biological Resource Evaluation (ESI) indicate that no special-status plant species were detected on site during the reconnaissance survey and none are expected due to lack of suitable habitat located within the proposed Edgemont Water Master Plan alignments. The site is not located within the Western Riverside County Multi-species Habitat Conservation Plan (MSHCP) narrow Endemic Plant Species Survey Area.

No special-status wildlife species were observed during the ESI survey and none are expected directly within the alignment due to lack of suitable habitat along the paved and road shoulder, and on the tank site. However, several wildlife species have potential to occur within the larger vacant parcels located throughout the project area adjacent to project locations/alignments. Construction adjacent to these vacant parcels/habitats could result in indirect impacts.

Special-status habitat types are vegetation communities that support concentrations of sensitive plant or wildlife species, are of relatively limited distribution, or are of particular value to wildlife. Special-status habitats known from the site vicinity include Riversidean Alluvial Fan Sage Scrub, Southern Coast Live Oak Riparian Forest, Southern Cottonwood Willow Riparian Forest, Southern Riparian Forest, Southern Sycamore Alder Riparian Woodland, and Southern Willow Scrub. However, no special-status habitats were recorded by ESI on the proposed alignments within the tank site boundary.

The western Burrowing Owl (WBO) is considered a MSHCP Group 3 species, California Species of Special Concern, and Federal species of Concern. No direct burrowing owl observations or sign (pellets, fecal material, or prey remains) were recorded during the November/December ESA 2008 MSHCP WBO habitat assessment. No potential nesting sites (i.e. ground squirrel burrows) for burrowing owls were recorded directly along the alignment due to substrate disturbances from recurring anthropogenic activities (i.e., human influences on nature). Additionally, no ground squirrels (an important indicator species) were observed directly along the alignment. Therefore, no suitable habitat is

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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present within the roadway and shoulder areas. However, suitable habitat is present in some vacant areas adjacent to the alignment and the tank site.

Construction activities would not be expected to directly impact federal- or state-listed threatened or endangered species, jeopardize the continued existence of listed species (or special-status species), nor directly impact designated critical habitat. Site development would also not be expected to substantially alter the diversity of plants or wildlife in the area because of current degraded site conditions. The mostly temporary loss of degraded habitats would not be expected to substantially affect special-status resources or cause a population of plant or wildlife species to drop below self-sustaining levels. The project would also be considered consistent with MSHCP conservation objectives for the survey area. Accordingly, preliminary survey results suggest that impacts to special-status biological resources are considered less than significant as a result of project-related activities.

However, the WBO and many other native bird species are protected under the federal Migratory Bird Treaty Act (MBTA) of 1918 (16 U.S.C. 703-711) and California Department of Fish and Game (CDFG) Code section 3503, 3503.5, and 3800 which prohibit take, possession, or destruction of birds, their nests or eggs. If active nests of any special-status or native species would be lost or indirectly impacted as a result of grading and/or construction activities, adverse impacts could result and the project would be in conflict with these regulations. In order to avoid violation of the MBTA or CDFG Code sections, guidelines suggest that project-related disturbances at active nesting territories be reduced or eliminated during the nesting cycle (February 1 to August 31). Mitigation measure **MM Bio 1**, below, will avoid violation of these regulations and any potential impacts to WBO and other migratory native bird species protected by the MBTA.

MM Bio 1: Construction activities involving heavy equipment should avoid the avian breeding season (February 1 – August 31). If construction occurs outside this timeframe, no further action is required. If construction-related activities involving heavy equipment are proposed during the avian breeding season, a pre-activity survey conducted in areas potentially affected (directly or indirectly) by project implementation is required prior to development to determine if active nests of protected species are present in the construction zone or within an appropriate buffer area as part of project approval. Preconstruction surveys within suitable habitat should be conducted within 30 days of construction activities to determine if active nests protected by the MBTA or CDFG are present in the construction zone for CEQA compliance. If ground-disturbing activities are delayed or suspended for more than 30 days after the preconstruction survey, the site should be resurveyed if suitable habitat is present. Results of a pre-activity nesting survey would determine the appropriate measures (if necessary) to reduce potentially adverse impacts to those species that may be found to breed in the area. Unless otherwise specified in the preconstruction survey, if active nests are located, no grading or heavy equipment activity should take place within at least 300 feet of an active raptor nest and 100 feet of most common songbird nests.

Alternative 2:

Impacts and mitigation are the same as Alternative 1 above. Mitigation measure **MM Bio 1** applies to Alternative 2.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

b) Have a substantially adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish (CDFG) and Game or U. S. Fish and Wildlife Service?				■	
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Substantiation:

Alternative 1:

The ESI survey evaluated resources for their potential to be considered jurisdictional, although no formal delineation for either state or federal wetland jurisdiction was conducted. Two detention basins have terminated what may have once been natural flows through the project area. One concrete-lined box channel traverses the project area and eventually flows into Sycamore Canyon Creek as it conveys flows toward a concrete culvert beneath Old 395 frontage and I-215.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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Riparian vegetation (off site) is present on the west side of the Old 395 frontage road and I-215. Sycamore Canyon Creek is ultimately tributary to the Santa Ana River. Therefore, the concrete channel may qualify as waters of the U.S. and streambeds because of its downstream connection. Currently, no riparian habitat is present within the drainage. Permitting from regulatory agencies (e.g. CDFG, U.S. Army Corp of Engineers (USACE), Regional Water Quality Control Board (RWQCB) may be required if impacts to the drainage were proposed.

The project pipeline alignments cross the drainage channel alignment several times through the study area and drainage from the tank site will continue, as it currently does, into the channel. It is envisioned that the pipelines would be installed via boring techniques under the channel which would avoid impacts to the channel.

MSHCP Section 6.1.2 was reviewed for consistency with the proposed project. No evidence of any natural stream courses, riparian areas, or vernal pools was recorded on site by ESI.

As stated above, all of the pipeline replacements will take place within previously disturbed road rights-of-way. There is no riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service within the construction footprint for the pipeline improvements; therefore, the potential impact is considered less than significant.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?					■
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Substantiation:

Alternative 1:

Ecological Sciences Inc., General Biological Resources Evaluation for the City of Moreno Valley Edgemont Master Water Plan states that no evidence of any natural stream courses, riparian areas, vernal pools or federally protected wetlands was recorded within the proposed facilities site or pipeline alignments. No impacts to wetlands defied under Section 404 of the Clean Water Act are expected.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

d) Interfere substantially with the movement of any resident or migratory fish or wildlife species or with established native resident migratory wildlife corridors, or impede the use of native wildlife nursery sites?					■
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Substantiation:

Alternative 1:

The proposed project site is surrounded by existing development, and therefore, it is highly unlikely that the subject site occupies an important location relative to regional wildlife corridors. As such, project implementation would not be expected to have any substantial effect on local or regional wildlife movement.

Alternative 2:

Impacts are the same as Alternative 1 above.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				■	
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Substantiation:

Alternative 1:

The pipeline replacements will take place within previously disturbed road rights-of-way. There is no suitable habitat for sensitive biological resources within the road rights-of-way or within the project footprint. Additionally, the new tank and other water facilities proposed are to be located within disturbed area with existing water facilities including tanks, booster station and hydropneumatic pump.

In Chapter 9 of the Moreno Valley General Plan, Objective 7.4 is to "maintain, protect, and preserve biologically significant habitats where practical, including San Jacinto Wildlife Area, riparian area, habitats of rare and endangered species, and other areas of natural significance." The project area is not located near the San Jacinto Wildlife Area.

Policy 7.4.1 requires all development, including roads, proposed to be adjacent to riparian and other biologically sensitive habitats, to provide adequate buffers to mitigate impacts to such areas. The project does not conflict with this policy, as all of the pipeline replacements will take place within previously disturbed road rights-of-way. There is no riparian habitat or other sensitive natural community adjacent to or within the construction footprint for the pipeline alignments.

Policy 7.4.2 limits the removal of natural vegetation in hillside areas when retaining natural habitat does not pose threats to public safety. The project area is not located on any hillside areas.

Policy 7.4.3 preserves natural drainage courses in their natural state and the natural hydrology, unless the protection of life and property necessitate improvements, such as, concrete channels. The project area does not contain natural drainage courses.

Policy 7.4.4 incorporates significant rock formations into the design of hillside developments. The project area is within previously disturbed road rights-of-way, and not located near any significant rock formations or hillsides.

Policy 7.4.5 states that the City shall fulfill its obligations set forth within any agreement(s) and permit(s) that the City may enter into for the purpose of implementing the Western Riverside County Multispecies Habitat Conservation Plan. The proposed project will not conflict with the Western Riverside County MSHCP. See IV. f) below for a more detailed discussion.

The project does not conflict with any local policies or ordinances protecting biological resources; therefore, the potential impact is considered less than significant.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservation Community Plan, other approved local, regional, or state habitat conservation plan?				■	
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Substantiation:

Alternative 1:
 The project area is located within the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) area. Specifically, the site is located within the boundaries of the Reche Canyon / Badlands Area of the MSHCP. However, the subject site is not located within a proposed criteria area, cell, or subunit, and is considered an independent cell group.

The project will not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan because the water pipeline replacements and water facility improvements will take place within previously disturbed road rights-of-ways and previously disturbed areas, and 1) there are no riparian habitats/wetlands (including open water and marsh) within the project area; 2) there is no Coastal Sage Scrub/ Riversidean Alluvial Fan Sage Scrub within the project alignment; the project area is surrounded by built-up, urban land uses and vegetation adjacent to the project area which consists of Residential/Urban/Exotic and non-native grassland which are not considered sensitive natural communities; 3) there are no suitable raptor foraging/ wintering habitats; and 4) the project area is not located within or near any MSHCP cores or linkages and is south of the Box Springs Mountain Reserve. Interstate 60 runs between the Reserve and the project area and acts as a barrier to any significant migratory wildlife. Therefore, impacts are considered less than significant. See also responses to items 4.a) through 4.e), above.

Alternative 2:
 Impacts are the same as Alternative 1 above.

No Project Alternative:
 No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

g) Exceed an applicable LRDP or Program EIR standard of significance?					■
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Substantiation:

Alternative 1:
 There is no Long Range Development Plan (LRDP) or Program EIR for the project or project area. The project is planning for the infrastructure necessary to support development pursuant to the City of Moreno Valley General Plan. Therefore, there are no project impacts related to exceeding any applicable LRDP or Program EIR standard of significance.

Alternative 2:
 Impacts are the same as Alternative 1 above.

No Project Alternative:
 There is no Long Range Development Plan (LRDP) or Program EIR for the project or project area. Therefore, the No Project Alternative will not exceed an applicable LRDP or Program EIR standard of significance.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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5. CULTURAL RESOURCES

The following determinations were made utilizing the following resources: CRM, MVGP EIR

Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?				■	
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Substantiation:

Alternative 1:

The results of the historical records search performed by CRM Tech indicated five historic-period buildings, designated as Sites 33-6915 through 33-6919 and built between 1920 and 1947, were previously recorded along the project route. Per the Historical Resources Survey Report, it was ascertained that since they are located outside the project boundaries, the proposed project has no potential to affect these buildings, either directly or indirectly. No other potential "historical resources," as defined by Section 15064.5 of the State CEQA Guidelines, were encountered during the course of this study. In addition, the subsurface sediments within the project area appear to be relatively low in sensitivity for potentially significant archaeological deposits. Therefore, less than significant impacts are anticipated.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?		■			
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Substantiation:

Alternative 1:

According to the Moreno Valley General Plan EIR Cultural Resources Section, the majority of the prehistoric archeological locations in the City of Moreno Valley consist of "slicks" which are generally found around valley edges where suitable rock outcrops occur. The project area is not located near any rock outcrops. Nor is the project area within the vicinity of any of the "complexes" referred to in Figure 5.10-2, Locations of Prehistoric Sites.

In addition, according to the Historical/Archaeological Resources Survey Report prepared by Ecological Sciences, Inc., 33 historical/archaeological sites and two isolates were recorded within a one-mile radius outside the project boundaries. However, none of these sites were found in the immediate vicinity of the project area.

This project consists of construction and installation of replacement water pipelines and water facilities. The project facilities will be constructed within the disturbed areas of existing roadways and BSMWC property. The exact depth of new pipelines may vary in depth from the original pipeline installations. To prevent potential impacts to archeological resources and in the unlikely event that archeological material is discovered during any earth-moving operations, **MM Cultural 1** shall be implemented. Considering the disturbed nature (urban use) of the project site and the area surrounding the proposed pipeline alignments and that construction will occur within the roadways, impacts to archeological resources are anticipated to be less than significant with mitigation measure **MM Cultural 1**.

MM Cultural 1: To prevent potential impacts to archeological resources and in the unlikely event that archeological material is discovered during any earth-moving operations, the construction specifications for grading and construction activities shall include the requirement that should any archeological resources be inadvertently discovered during grading or construction, construction activities shall be moved to other parts of the project site and a qualified archeologist shall be contacted to determine the significance of these resources. If the find is determined to be a historical or unique archeological resource, as defined in Section 15064.5 of the CEQA Guidelines, avoidance or other appropriate measures shall be implemented.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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Alternative 2:
Impacts and mitigation are the same as Alternative 1 above. Mitigation measure **MM Cultural 1** applies to Alternative 2.

No Project Alternative:
No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?		■			
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Substantiation:

Alternative 1:
According to the RCGP Figure OS-8, Paleontological Sensitivity, the project area lies within High B (Hb), which indicates that fossils are likely to be encountered at or below 4 feet of depth, and may be impacted during excavation during construction activities. The project facilities will be constructed within the disturbed areas of existing roadways and BSMWC property. However, the pipelines may vary in depth greater than 4 feet from the original pipeline installation.

The City of Moreno Valley General Plan EIR shows that according to Figure 5.10-3, Paleontologic Resource Sensitive Areas, the project area is within an area of low paleontologic sensitivity. These two local sources of information conflict, so mitigation may be warranted. Therefore, with implementation of mitigation measure **MM Cultural 2**, this impact is considered less than significant.

MM Cultural 2: To prevent potential impacts to paleontological resources and in the unlikely event that paleontological material is discovered during any earth-moving operations, the construction specifications for grading and construction activities shall include the requirement that should any paleontological resources be inadvertently discovered during grading or construction, construction activities shall be moved to other parts of the project site and a qualified paleontologist shall be contacted to determine the significance of these resources. If the find is determined to be of paleontological significance, monitoring and/or removal, or other appropriate measures, shall be implemented.

Alternative 2:
Impacts are the same as Alternative 1 above. Mitigation measure **MM Cultural 2** applies to Alternative 2.

No Project Alternative:
No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

d) Disturb any human remains, including those interred outside of formal cemeteries?				■	
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Substantiation:

Alternative 1:
Considering that the proposed construction area is previously disturbed and that there are no known formal cemeteries or informal family burial plots, the project is not expected to disturb any human remains. The City of Moreno Valley's existing regulations and practices, County of Riverside regulations, and California state laws require interruption of work and consultation with the county coroner and Native American tribes regarding human remains in the unlikely event that unknown human remains are uncovered during construction activities. (*Health and Safety Code Section 7052 and 7050.5*. Section 7052 of the California Health and Safety Code.) Therefore, potential impacts will be less than significant through implementation of existing regulations.

Alternative 2:
Impacts are the same as Alternative 1 above.

No Project Alternative:
No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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e) Exceed an applicable LRDP or Program EIR standard of significance?					■
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Substantiation:

Alternative 1:
 There is no Long Range Development Plan (LRDP) or Program EIR for the project or project area. The project is planning for the infrastructure necessary to support development pursuant to the City of Moreno Valley General Plan. Therefore, there are no project impacts related to exceeding any applicable LRDP or Program EIR standard of significance.

Alternative 2:
 Impacts are the same as Alternative 1 above.

No Project Alternative:
 There is no LRDP or Program EIR for the project or project area. Therefore, the No Project Alternative will not exceed an applicable LRDP or Program EIR standard of significance.

6. GEOLOGY AND SOILS
 The following determinations were made utilizing the following resources: GEO, GIS, RCGP, MVGP, MVGP EIR, RCBLAP, and NRCS.

Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving: (i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				■	
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Substantiation:

Alternative 1:
 Within the approximately ¾ square mile project area, there are no County Fault Zones or Alquist-Priolo Earthquake Fault Zones as mapped in the Riverside County General Plan. There are no known faults transecting the project area, and according to the City of Moreno Valley General Plan EIR, the closest fault line is the San Jacinto Fault approximately 4½ miles east of the project area. Therefore, rupture of earthquake faults is anticipated to have a less than significant impact on the proposed project.

Alternative 2:
 Impacts are the same as Alternative 1 above.

No Project Alternative:
 No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

(ii) Strong seismic ground shaking?		■			
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Substantiation:

Alternative 1:
 The project is located within Riverside County very high and moderate ground shaking zones for seismic activity. The proposed project consists of water facilities which must be designed in compliance with applicable codes adopted by the City of Moreno Valley and California Building Code (CBC) which address seismic activity.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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Many of the water facilities, such as pipelines, booster stations and pumps will be located underground and/or low to the ground with small associated structures. Pipeline design will include valves and blow-offs that can isolate damage and limit loss of water during earthquake-induced breaks in the pipeline. Design of water facilities will follow standard seismic design criteria, including those outlined by the American Water Works Association (AWWA). Therefore, potential impacts to people and structures from rupture of a known earthquake fault are less than significant.

Tanks, due to their large water holding capacity and general location, at higher elevations than surrounding development, could expose people and/or structures to flooding hazards if ruptured by an earthquake. A mitigation measure is required to ensure that any potential adverse impacts to people or structures remain less than significant.

MM Geo 1: Geotechnical investigations shall be conducted prior to approval of any proposed water reservoir (tank) in the Water Infrastructure Analysis Study. The geotechnical investigation recommendations, required to reduce potential impacts to less than significant levels, shall be incorporated into preliminary and final design of the proposed reservoir. (Applicable to Alternative 1, only.)

Alternative 2:

Alternative 2 does not propose any aboveground facilities. The pipelines will be located underground and will include valves and blow-offs that can isolate damage and limit loss of water during earthquake-induced breaks in the pipeline. Pipeline design will follow standard seismic design criteria, including those outlined by the AWWA. Therefore, potential impacts to people and structures from rupture of a known earthquake fault are less than significant and no mitigation is required for Alternative 2.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

(iii) Seismic-related ground failure, including liquefaction?				■	
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Substantiation:

Alternative 1:

The proposed project site is located in seismically active Southern California; therefore, moderate to severe seismic shaking could occur in the project area. No evidence of faulting, deep-seated landsliding, or rockfall hazard on or immediately adjacent to the site, was observed during the site investigation by a Geotechnical Engineer (GEO). The proposed project will be constructed to meet current CBC seismic standards. Therefore, impacts from seismically-induced ground failure are considered less than significant.

Liquefaction is a process by which water-saturated materials lose strength and fail during strong ground shaking. Typically, liquefaction is a concern in areas of shallow groundwater. Liquefaction occurs primarily in saturated, loose, and fine to medium-grained soils in areas where the groundwater table is within approximately 50 feet of the surface. According to the RCIP Reche Canyon/Badlands Area Plan, the project area has very high and moderate liquefaction susceptibility for shallow groundwater susceptible sediments and low liquefaction susceptibility for deep groundwater susceptible sediments. According to Figure 6-3 of the Moreno Valley General Plan, the project area is just north of a potential liquefaction zone. The groundwater depth level in the project area ranges from 100 to 150 feet below ground surface. Therefore, impacts from seismically-induced liquefaction are considered less than significant.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

(iv) Landslides?				■	
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Substantiation:

Alternative 1:

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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The term "landslide," describes a wide variety of processes that result in the downward and outward movement of slope-forming materials including rock, soil, artificial fill, or a combination of these. The materials may move down slopes by falling, toppling, sliding, spreading, or flowing.

According to the RCIP Reche Canyon Area Plan, the project area is not located within any steep slope areas, or areas of slope instability; therefore, there is no potential impact to the site from landslides.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

b) Result in substantial soil erosion or the loss of topsoil?		■			
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Substantiation:

Alternative 1:

Pursuant to existing regulatory requirements, the City (entity constructing the facilities) will obtain coverage under the National Pollutant Elimination System (NPDES) general construction permit from the State Water Resources Control Board and prepare a Storm Water Pollution Prevention Plan (SWPPP) prior to the start of construction activities that disturb an area of one acre or more. The SWPPP will incorporate applicable Best Management Practices (BMPs) to reduce loss of topsoil or substantial erosion. Implementation of the BMPs identified in the SWPPPs prepared for individual projects will assure that potential erosion impacts from proposed facility construction remain less than significant.

Upon completion of pipelines, existing roads will be returned to pre-existing conditions, i.e., returned to grade and repaved. Upon completion of proposed storage tank and pump station facilities, the area surrounding the improved site will be returned to pre-existing conditions. Within the facility site improvements such as paving, soil stabilization, and on- and off-site drainage improvements, will be incorporated as necessary. Due to their relatively small footprint and implementation of site improvements, substantial soil erosion and loss of topsoil is not anticipated from these proposed facilities.

The reservoir proposed in Alternative 1 may require some site preparation and grading. Implementation of **MM Geo 1** will assist in characterizing localized soil conditions which will assist in the development of appropriate erosion control measures in the SWPPP.

Alternative 2:

Upon completion of pipelines, existing roads will be returned to pre-existing conditions, i.e., returned to grade and repaved. Upon completion of proposed storage tank and pump station facilities, the area surrounding the improved site will be returned to pre-existing conditions. Within the facility site improvements such as paving, soil stabilization, and on- and off-site drainage improvements, will be incorporated as necessary. Due to their relatively small footprint and implementation of site improvements, substantial soil erosion and loss of topsoil is not anticipated from the pipelines proposed in Alternative 2; impacts would be less than significant and no mitigation is required.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?		■			
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Substantiation:

Alternative 1:

There are no known fault lines that cross through the project area. According to the Moreno Valley General Plan EIR,

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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the project site is located on top of Perris Bedrock and Quaternary Alluvium. The soil survey shows that the project area contains approximately 19.9% Cieneba rocky sandy loam, and 80.1% Monserate sandy loam. The materials within the valley area are characterized by Pliocene - Pleistocene alluvium ranging from relatively thin (20 feet to 200 feet) to intermediate thickness (up to 2,000 feet), overlaying the primarily granitic bedrock. Monserate soil association is found adjacent to and within the eastern half of the March Air Reserve Base. It consists of well-drained soils that developed in alluvium from predominantly granitic materials. Soil stability is considered fair to good with minimal erosion potential. Cieneba soil association is found on uplands located in the Box Springs Mountains area, and extends east to Reche Canyon, and into the Mount Russell area. Soil stability is generally considered fair with marginal potential for erosion. Because the project does not include the construction of habitable structures, and **MM Geo 1** will be implemented prior to construction of tank, the potential hazards to the project from soil instability are considered less than significant.

Lateral spreading refers to landslides that commonly form on gentle slopes, and that have rapid fluid-like flow movement, like water. Lateral spreads are distinctive because they usually occur on very gentle slopes or flat terrain. The dominant mode of movement is lateral extension accompanied by shear or tensile fractures. The failure in a lateral spread event is caused by liquefaction, the process whereby saturated, loose, and cohesionless sediments (usually sands and silts) are transformed from a solid into a liquefied state. Failure is usually triggered by rapid ground motion, such as that experienced during an earthquake, but can also be artificially induced. Lateral spreading is not expected because site conditions are not suitable for liquefaction to occur. In addition, **MM Geo 1** will be implemented, so the potential hazards to the tank from lateral spreading are considered less than significant.

According to the Riverside County General Plan Figure S-7, the project area is within a subsidence susceptible area, but no subsidence has been documented within the project area. However, with the implementation of **MM Geo 1**, the potential hazards to the tank from lateral spreading, subsidence, liquefaction or collapse are considered less than significant.

See responses to items 6.a)(iii) and 6.a)(iv), above.

Some of the soils listed above in the MVGP have poor to fair stability and are considered to be potentially expansive. Soils prone to collapse are commonly associated with wind-laid sands and silts, and alluvial fan and mudflow sediments deposited during flash floods. However, with the implementation of **MM Geo 1**, the potential hazards to the tank from collapse and expansive soils are considered less than significant.

The pipelines will be located underground and will include valves and blow-offs that can isolate damage and limit loss of water in the event of a break in the pipeline. Pipeline design will follow standard seismic design criteria, including those outlined by the AWWA; therefore, potential impacts lateral spreading, subsidence, liquefaction or collapse are considered less than significant.

Alternative 2:

Alternative 2 does not propose any aboveground facilities. The pipelines will be located underground and will include valves and blow-offs that can isolate damage and limit loss of water in the event of a break in the pipeline. Pipeline design will follow standard seismic design criteria, including those outlined by the AWWA. Therefore, potential impacts from lateral spreading, subsidence, liquefaction or collapse are considered less than significant, and no mitigation is required for Alternative 2.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

d) Be located on expansive soil, as defined in Table 18-a-B of the Uniform Building Code (1994), creating substantial risks to life or property?		■			
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Substantiation:

Alternative 1:

Soils within the project area consist of Cieneba and Monserate soils (see VI (c)). Monserate soil association is found adjacent to and within the eastern half of the March Air Reserve Base. It consists of well-drained soils that developed in

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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alluvium from predominantly granitic materials. Soil stability is considered fair to good with minimal erosion potential. Cieneba soil association is found on uplands located in the Box Springs Mountains area, and extends east to Reche Canyon, and into the Mount Russell area. Soil stability is generally considered fair.

However, where expansive soils could potentially be observed, with the implementation of **MM Geo 1**, the potential hazard to the tank from expansive soils is considered less than significant.

The pipelines will be located underground and will include valves and blow-offs that can isolate damage and limit loss of water in the event of a break in the pipeline. Pipeline design will follow standard seismic design criteria, including those outlined by the AWWA; therefore, potential impacts from expansive soils are considered less than significant.

Alternative 2:

Alternative 2 does not propose any aboveground facilities. The pipelines will be installed below ground and will include valves and blow-offs that can isolate damage and limit loss of water in the event of a break in the pipeline. Additionally, pipeline design will follow standard seismic design criteria, including those outlined by the AWWA. Therefore, potential impacts associated with expansive soils are less than significant and no mitigation is required.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?					■
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Substantiation:

Alternative 1:

The proposed project does not involve the construction of septic tanks or any other alternative wastewater disposal systems. The project will improve the situation and will not cause any adverse significant effects.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

f) Exceed an applicable LRDP or Program EIR standard of significance?					■
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Substantiation:

Alternative 1:

There is no Long Range Development Plan (LRDP) or Program EIR for the project or project area. The project is planning for the infrastructure necessary to support development pursuant to the City of Moreno Valley General Plan. Therefore, there are no project impacts related to exceeding any applicable LRDP or Program EIR standard of significance.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

There is no LRDP or Program EIR for the project or project area. Therefore, the No Project Alternative will not exceed an applicable LRDP or Program EIR standard of significance.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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7. HAZARDS AND HAZARDOUS MATERIALS

The following determinations were made utilizing the following resources: WEBB, EDR, MVGP EIR

Would the project?

a) Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials?					■
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Substantiation:

Alternative 1:

The City's WIAS proposes improvements to BSMWC's existing water facilities based on the additional needs brought about by increased water demands due to the City of Moreno Valley's planned redevelopment of the area served by BSMWC, and will not create a significant hazard through routine transport, use, or disposal of hazardous materials. No impacts are anticipated.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the likely release of hazardous materials into the environment?					■
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Substantiation:

Alternative 1:

Potentially hazardous materials associated with construction equipment such as fuels, lubricants, and solvents may be present in relatively small amounts during facility construction. The potential for accidental release of any hazardous contaminants is minimal as quantities sufficient to cause a significant hazard to the public or environment will not be used on site. See discussion in response to time 7a), above.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				■	
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Substantiation:

Alternative 1:

See response to item 7a) above.

The closest existing school to the project area is Edgemont Elementary School located on Eucalyptus Avenue just adjacent to the northern project boundary. Therefore, if this school is occupied during construction of the pipelines, there is a potential for dust from excavation, exhaust fumes and the accidental release of petroleum products from construction vehicles, which might pose a hazard to the school children. However, construction emissions (including fugitive dust) were evaluated in the air section of this document and found to be less than significant. Therefore, because the project does not involve transport or storage of hazardous materials, and the air quality impacts from fugitive dust (PM10) and other construction-related pollutants were found to be less than significant, less than significant impacts to the school are anticipated.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result would it create a significant hazard to the public or the environment?

■

Substantiation:

Alternative 1:

A search of available environmental records was conducted by Environmental Data Resources, Inc. (EDR) for documented hazardous material sites, like those referred to in Government Code Section 65962.5, in the project area. Hazardous material sites identified on the CERCLIS (Comprehensive Environmental Response, Compensation and Liability Information System), CAL-SITES (source: California Department of Toxic Substance Control), and LUST (Leaking Underground Storage Tank Incident Reports from the State Water Resources Control Board) that are located within a quarter mile of project alignments were evaluated for their potential to be encountered and/or unearthed during future construction activities. Based on the EDR report, there are three LUST sites and one National Priority List (NPL) site, or Superfund site, within one quarter mile of the proposed alignments.

Table 9, Hazardous Material Sites Within ¼ mile of Project

Site Address	Database Lists	Description	Water Pipeline in Vicinity
March Air Reserve Base at 610 Meyer Drive, Bldg 24	NPL, CERCLIS, RCRA-LQG, US ENG CONTROLS, US INST CONTROL, DOD, ROD, FINDS	This site is listed as a superfund site. The U.S. Air Force, due to its primary mission in national defense, has long been engaged in a wide variety of operations that involve the use, storage, and disposal of hazardous waste. In 1980, the Installation Restoration Program (IRP) was developed by the Department of Defense (DOD) to locate and clean up hazardous waste sites. At March AFB, aircraft maintenance, fuel storage operations, fire-training exercises, and base operations have generated a variety of hazardous wastes. Consequently, several areas of soil and groundwater on base have been contaminated. In September 1983 the IRP process began. The results were records indicating 30 potentially contaminated sites which required further investigation. A second study, completed in March 1987, indicated that 5 of the 30 sites required even further investigation to determine	Nearest project is the Alessandro Pipeline project approximately 5,750 feet northwest of this site.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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		<p>the type and extent of contamination in the soil and groundwater. In June 1987, further investigation was done, indicating that additional work was required to better define the extent of contamination and to research possible off-base migration of TCE in groundwater. In November 1989, March AFB was added to the National Priorities List (NPL) primarily due to the contamination of groundwater on base. In September 1990, a Federal Facilities Agreement (FFA) was signed by the Air Force, U.S. Environmental Protection Agency (EPA), and the State of California.</p>	
<p>Charles Bois Liquors at 21840 Alessandro Blvd</p>	<p>LUST, Cortese, HIST US</p>	<p>This site is listed as a leaking underground storage tank and was discovered on 9/26/86 by the owner who discovered gasoline on the ground. The leak was caused by corroded pipes. Drinking water aquifer was affected. Plan: to excavate and dispose of contaminated soil. Facility status: Pollution Characterization.</p>	<p>Nearest project is the Alessandro Pipeline project to be located within the right-of-way directly adjacent to this site.</p>
<p>Flite Chief at 22144 Alessandro Blvd</p>	<p>LUST, Cortese, CA FID UST, SWEEPS UST, HAZNET</p>	<p>This site is listed as a leaking underground storage tank and was discovered on 5/28/91 by inventory control. The leak source was piping. Soil only was affected. Plan: to excavate and dispose of contaminated soil. Close date: 2/16/93.</p>	<p>Nearest project is the Alessandro Pipeline project to be located within the right-of-way directly adjacent to this site.</p>
<p>Gas 4 Less at 22144 Alessandro Blvd</p>	<p>LUST, Cortese, CA FID UST, SWEEPS UST, HAZNET</p>	<p>This site is listed as a leaking underground storage tank and was discovered on 9/13/99 by tank closure. The leak source is unknown. Soil only was affected. Plan: to excavate and dispose of the contaminated soil. Facility status: Leak being confirmed.</p>	<p>Nearest project is the Alessandro Pipeline project to be located within the right-of-way directly adjacent to this site.</p>
<p>Federal Records: National Priority List (NPL), Comprehensive Environmental Response, Compensation and Liability Information System (CERCLIS), Resource Conservation and Recovery Act – Small or Large Quantity Generators (RCRA-S or LQG), Record of Decision (ROD), Facility Index System (FINDS).</p> <p>State and Local Records: Leaking Underground Storage Tank incident reports (LUST), Underground Storage Tank database (UST), California Facility Inventory Database (CAL FID UST), California Water Resources Control Board – Waste Discharge System (WDS), CORTESE (source – Environmental Protection Agency/Office of Emergency Information), Historical UST Registered Database (HIST UST), Statewide Environmental Evaluation and Planning System (SWEEPS), Hazardous waste manifests (HAZNET).</p>			

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/Program EIR is Sufficient	Less Than Significant Impact	No Impact
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Table 7 lists the sites identified in the EDR report as having the most likely potential of having impacted soil and groundwater. When future Water Master Plan facilities are proposed, and therefore constructed, precautions must be made to protect construction workers, as well as the project pipelines themselves from exposure to hazardous materials. Therefore, in order to protect future workers and facilities from being located on or near a contaminated property, the following mitigation measure is required. With this implemented, impacts related to hazardous waste sites are considered less than significant.

MM Haz 1: In order to protect future workers and facilities from being located on or near a contaminated property, the construction specifications for grading and construction activities shall include the requirement that if during construction of any Water Master Plan facilities, soil and/or groundwater contamination is accidentally discovered or suspected, construction in the area shall cease, and appropriate Health and Safety measures shall be implemented. The contractors hired by the City (or entity constructing the facilities) shall contact the City of Moreno Valley Fire Department and/or State Department of Toxic Substance Control to obtain the necessary information on appropriate remediation measures, oversight responsibility, and their implementation.

Alternative 2:

Impacts are the same as Alternative 1 above. Mitigation measure **MM Haz 1** also applies to Alternative 2.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?

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Substantiation:

Alternative 1:

The project area is located within the March Air Reserve Base's adopted airport land use plans. The project does not involve housing, but will temporarily place workers in outdoor locations where they may be subject to noise related to the airport's use. However, the project area is within the MARB influence area and within Safety Zone Area II, and would only subject persons working there to safety hazard for the short-term duration of construction. Therefore, the short-term exposure of workers to the safety hazard from airport activity will have a less than significant impact.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?

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Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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Substantiation:

Alternative 1:
The Perris Valley Airstrip is approximately 11 miles southeast of the project area and too far away to expose those working in the area to a safety hazard; therefore, there is no impact.

Alternative 2:
Impacts are the same as Alternative 1 above.

No Project Alternative:
No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

g) Impair implementation of, or physically interfere with an adopted emergency response plan or emergency evacuation plan?				■	
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Substantiation:

Alternative 1:
The project when operational will not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. The proposed facilities will not permanently alter existing public roads. Temporary construction equipment activity and excavation associated with facility construction could present the potential for temporary safety hazards. However, standard construction practices and conditions of local agency permits require implementation of traffic signaling and control measures during construction to minimize potential hazards. Therefore, impacts are considered less than significant.

Alternative 2:
Impacts are the same as Alternative 1 above.

No Project Alternative:
No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?					■
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Substantiation:

Alternative 1:
Normal operating conditions of the proposed facilities do not present any potential risk of damage caused by fire, as they will be located underneath the ground surface. In addition, the proposed water facilities are to ensure that there is adequate fire flow capacity. According to the Reche Canyon/Badlands Area Plan and City of Moreno Valley General Plan EIR Figure 5.5-2, the project area is not located in a wildfire zone; therefore, there is no impact.

Alternative 2:
Impacts are the same as Alternative 1 above.

No Project Alternative:
No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

i) Exceed an applicable LRDP or Program EIR standard of significance?					■
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Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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Substantiation:

Alternative 1:

There is no Long Range Development Plan (LRDP) or Program EIR for the project or project area. The project is planning for the infrastructure necessary to support development pursuant to the City of Moreno Valley General Plan. Therefore, there are no project impacts related to exceeding any applicable LRDP or Program EIR standard of significance.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

There is no LRDP or Program EIR for the project or project area. Therefore, the No Project Alternative will not exceed an applicable LRDP or Program EIR standard of significance.

8. HYDROLOGY AND WATER QUALITY

The following determinations were made utilizing the following resources: GEOSCIENCE, WEBB, MVGP EIR, and USGS

Would the project:

a) Violate any water quality standards or waste discharge requirements?

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Substantiation:

Alternative 1:

The proposed projects will comply with established programs requiring control of erosion and sedimentation at construction sites (State General NPDES permit and Regional Board Order 99-08 for construction-period stormwater discharges). The program will require the development of a Stormwater Pollution Prevention Plan (SWPPP), which requires installation of erosion control and sedimentation control devices throughout the project area for the entire construction phase. This will serve to protect most water resources throughout the project area from pollution caused by project construction. With adherence to the SWPPP, the impact is considered less than significant.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?

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Substantiation:

Alternative 1:

According to the Ground Water Basin Assessment prepared by Geoscience Support Services, Inc. for BSMWC, ground water has been rising in the BSMWC service area since 1975 and within the study area as a whole since the early 1990's. Based on the investigation and analysis performed by Geoscience, additional ground water can be extracted by constructing an additional well within the boundaries of the BSMWC service area. Therefore, impacts are considered to be less than significant.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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See also, response to item 16d), below, for more detailed information regarding ground water supplies.

Alternative 2:

Water supply to supplement BSMWC ultimate demand would be provided by WMWD. Table 13 of WMWD's Urban Water Management Plan-2005, lists Sales to Other Agencies in acre feet per year. Sales to Box Springs Mutual Water Company are listed as shown below:

Year	Acre Feet/Year
2000	121
2005	132
2010-2030	448

Thus, from 2010 through 2030, WMWD has already accounted for the need to sell approximately an additional 316 acre-feet per year to BSMWC. Thus, Alternative 2, which assumes no additional groundwater development, would require an additional 88 acre-ft/year. Table 15 of WMWD's Urban Water Management Plan-2005 indicates that Total Water Use is projected to be 122,099 acre-ft/year. Alternative 2's 88 acre-feet/year represents a miniscule amount of the overall water demand and poses less than significant negative environmental impacts associated with water supply.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?				■	
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Substantiation:

Alternative 1:

Construction of the proposed replacement water pipelines will not alter the existing drainage pattern within the project area as they will be underground and are within road rights-of-way or within previously disturbed BSMWC property. The water facilities proposed at the existing BSMWC site does not directly affect streams or a river. The improved site will contain an on-site storm water collection system that will collect site surface drainage, as well as intercepted off-site drainage, and direct it to an existing off-site storm drain channel. No new connections to this channel are anticipated. However, if a new connection is required, review and approval by Riverside County Flood Control and Water Conservation District, State Regional Water Quality Control Board, CDFG, or U.S. Army Corp of Engineers may be required. Construction of these facilities will not substantially alter the existing drainage of the site. Impacts are considered less than significant.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or surface runoff in a manner which would result in flooding on- or off site?				■	
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Substantiation:

Alternative 1:

The proposed replacement water pipelines are located within existing paved roads and will not create new impervious surfaces that would increase runoff. The proposed water facilities including tank, and pumps will be located at the existing improved BSMWC tank site. Construction of these facilities will not alter the existing drainage pattern within

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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the project area and will not contribute any significant amount of additional surface runoff. Therefore, the proposed development would not result in flooding and will have a less than significant impact.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

e) Create or contribute runoff which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?				■	
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Substantiation:

Alternative 1:

The proposed project involves minimal alteration of the existing surface conditions. All pipelines will be constructed underground in existing road rights-of-way. Following construction, surface conditions will be restored. Therefore, the impact will be less than significant.

Additionally, the proposed project would not contribute runoff water that would exceed storm water drainage systems. Because the District will comply with NPDES general construction permit requirements, no substantial sources of polluted runoff will be generated from project construction or operations. Potential impacts are less than significant.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

f) Otherwise substantially degrade water quality?				■	
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Substantiation:

Alternative 1:

See response to item 8.a) above.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

g) Place housing within a 100-year floodplain, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?					■
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Substantiation:

Alternative 1:

The proposed project does not include the construction of housing; therefore, there is no impact.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?					■
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Substantiation:

Alternative 1:
Based on the City of Moreno Valley General Plan EIR Figure 5.5-2, there are portions of the replacement pipeline project area that are located within the 100-year flood plain. However, the proposed pipeline replacement project does not involve any above ground structures; therefore, there is no impact.

The water facilities proposed located at the BSMWC site are not located within a 100-year flood hazard zone; therefore, there is no impact.

Alternative 2:
As discussed in the response to item 8h), there are portions of the replacement pipeline project area that are located within the 100-year flood plain. However, because the proposed pipeline replacement project does not involve any above ground structures; there is no impact in this regard.

No Project Alternative:
No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?					■
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Substantiation:

Alternative 1:
The project area is not located within a dam inundation area; therefore, there is no impact.

Alternative 2:
Impacts are the same as Alternative 1 above.

No Project Alternative:
No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

j) Inundation by seiche, tsunami, or mudflow?					■
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Substantiation:

Alternative 1:
The closest significant water body capable of generating a seiche (a standing wave in an enclosed or partially enclosed body of water) is at least 6 miles to the southeast of the project vicinity (Lake Perris), and any seiche generated by seismic activity would be unlikely to reach the project area which is upstream from the lake.

A tsunami is a series of waves created when a body of water, such as an ocean, is rapidly displaced. The site is located over 100 miles from the ocean with intervening mountains. No impacts from tsunami could reach the site.

The project area is relatively flat, and the closest area with elevation to create any kind of mudflow is the Box Springs Mountains. Therefore, the physical conditions associated with these phenomena are not present in the project vicinity, and there is no impact.

Alternative 2:
Impacts are the same as Alternative 1 above.

No Project Alternative:
No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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k) Exceed an applicable LRDP or Program EIR standard of significance?					■
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Substantiation:

Alternative 1:
 There is no Long Range Development Plan (LRDP) or Program EIR for the project or project area. The project is planning for the infrastructure necessary to support development pursuant to the City of Moreno Valley General Plan. Therefore, there are no project impacts related to exceeding any applicable LRDP or Program EIR standard of significance.

Alternative 2:
 Impacts are the same as Alternative 1 above.

No Project Alternative:
 There is no LRDP or Program EIR for the project or project area. Therefore, the No Project Alternative will not exceed an applicable LRDP or Program EIR standard of significance.

9. LAND USE AND PLANNING
 The following determinations were made utilizing the following resources: Project, GISMV, MVGP, MVGP EIR, CAL CODES

Would the project:

a) Physically divide an established community?					■
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Substantiation:

Alternative 1:
 The WIAS proposes improvements to the BSMWC's existing water facilities based on the additional needs brought about by increased water demands due to the City of Moreno Valley's planned redevelopment of the area served by BSMWC. All of the proposed pipeline replacements will be underground and the tank, and pump facilities are located on improved property owned by BSMWC; therefore, this project cannot divide a community. Construction of these facilities will not divide the established community.

Alternative 2:
 Impacts are the same as Alternative 1 above.

No Project Alternative:
 No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

b) Conflict with an applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?					■
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Substantiation:

Alternative 1:
 The proposed pipelines will be utilized by approved developments throughout the area of BSMWC. According to the MVGP (Figure 2-2, Land Use Map) Upon completion of pipelines, existing roads will be returned to pre-existing conditions, i.e., returned to grade and repaved. Upon completion of proposed storage tank and pump station facilities, the area surrounding the improved site will be returned to pre-existing conditions. Within the facility site improvements such as paving, soil stabilization, and on- and off-site drainage improvements, will be incorporated as necessary. Due to their relatively small footprint and implementation of site improvements, substantial soil erosion and loss of topsoil is not anticipated from the pipelines proposed in Alternative 2; impacts would be less than significant and no mitigation is required.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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Land use for the project area is designated as Residential/Office, Business Park/Light Industrial, Commercial, and Residential: Max 5 du/ac. The project zoning is: Office, Business Park/Light Industrial, Commercial, Office Commercial, and Residential: Max 5 du/ac, Max 10 du/ac, Max 15 du/ac. According to the California Government Code Section 53091 (d) "building ordinances of a county or city shall not apply to the location or construction of facilities for the production, generation, storage, treatment, or transmission of water, wastewater, or electrical energy," and (e) "zoning ordinances of a county or city shall not apply to the location or construction of facilities for the production, generation, storage, treatment, or transmission of water...". Therefore, the construction of the proposed water facilities is exempt from zoning designations, and there is no impact.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

One purpose of the project is to improve fire flows to the area to allow for development of General Plan land uses. The No Project Alternative would not support development under the MVGP; and would therefore impede implementation of certain General Plan Policies

c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				■	
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Substantiation:

Alternative 1:

The project area is located within the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) Fee Area. BSMWC is not a Permittee under the MSHCP, and as such, is not subject to it; however, the City of Moreno Valley is a permittee and the project will be subject to MSHCP compliance. The project is not a part of any Cell, Cell Group or Sub-Units of the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP). See response to item 4. f), above.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

d) Exceed an applicable LRDP or Program EIR standard of significance?					■
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Substantiation:

Alternative 1:

There is no Long Range Development Plan (LRDP) or Program EIR for the project or project area. The project is planning for the infrastructure necessary to support development pursuant to the City of Moreno Valley General Plan. Therefore, there are no project impacts related to exceeding any applicable LRDP or Program EIR standard of significance.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

There is no LRDP or Program EIR for the project or project area. Therefore, the No Project Alternative will not exceed an applicable LRDP or Program EIR standard of significance.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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10. MINERAL RESOURCES

The following determinations were made utilizing the following resources: MVGP, MVGP EIR.

Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?					■
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Substantiation:

Alternative 1:

According to the MVGP and MVGP EIR, mineral resources known to be located within the study area are common material such as sand, gravel, and rock. These deposits are not considered to be of significant economic value and therefore are not listed as deposits of statewide or regional significance. The construction of the pipelines will occur within road rights-of way, and the project is not expected to impact any significant mineral resources.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?					■
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Substantiation:

Alternative 1:

See response to item 10a) above.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

c) Exceed an applicable LRDP or Program EIR standard of significance?					■
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Substantiation:

Alternative 1:

There is no Long Range Development Plan (LRDP) or Program EIR for the project or project area. The project is planning for the infrastructure necessary to support development pursuant to the City of Moreno Valley General Plan. Therefore, there are no project impacts related to exceeding any applicable LRDP or Program EIR standard of significance.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

There is no LRDP or Program EIR for the project or project area. Therefore, the No Project Alternative will not exceed an applicable LRDP or Program EIR standard of significance.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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<p>11. NOISE The following determinations were made utilizing the following resources: Project, MVGP, MVGP EIR Ord. No. 11.80.030.</p>					
<p>Would the project result in:</p>					
<p>a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?</p>				■	
<p>Substantiation:</p> <p>Alternative 1: Adoption of the EWMPU will not result in noise impacts as the proposed noise-generating (pumps) facilities are replacements of existing facilities at BSMWC site and pipeline improvements are underground. Therefore, the proposed project is not expected to be a significant source of new noise. However, construction of the water facilities and pipeline will involve the use of heavy equipment such as backhoes, trenchers, and bulldozers that could exceed noise levels of 65 decibels on a short term basis.</p> <p>City of Moreno Valley Municipal Code, Chapter 11.80.030, D7, limits the hours of construction. "No person shall operate or cause the operation of any tools or equipment used in construction, drilling, repair, alteration, or demolition work between the hours of eight p.m. and seven a.m. the following day such that the sound there from creates a noise disturbance, except for emergency work by public service utilities or for other work approved by the city manager or designee." Construction will comply with this ordinance to minimize potential noise impacts related to project construction activities on nearby residences. Therefore, construction noise impacts are considered less than significant.</p> <p>Alternative 2: The pipeline improvements proposed in Alternative 2 will be located underground; therefore, the proposed project is not expected to be a significant source of new permanent noise. Construction of the pipelines will involve the use of heavy equipment such as backhoes, trenchers, and bulldozers that could exceed noise levels of 65 decibels on a short term basis. However, since construction will comply with Chapter 11.80.030, D7 of the City of Moreno Valley Municipal Code, noise impacts are considered less than significant.</p> <p>No Project Alternative: No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.</p>					
<p>b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?</p>				■	
<p>Substantiation:</p> <p>Alternative 1: The level of groundborne noise and/or vibrations is not expected to be excessive based on the short-term duration of construction, and will be intermittent in nature. Therefore the impact is considered less than significant.</p> <p>Alternative 2: Impacts are the same as Alternative 1 above.</p> <p>No Project Alternative: No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.</p>					
<p>c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?</p>				■	
<p>Substantiation:</p> <p>Alternative 1: As the project consists of the installation of replacement water facilities and water pipelines, it will not be a source of</p>					

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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substantial operational noise (permanent noise). Therefore, impacts are considered less than significant.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

d) A substantially temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

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Substantiation:

Alternative 1:

See response to items 11.a) and 11.c). There is the potential for temporary increases in the ambient noise levels during construction. Although construction-generated noise is temporary it will take place within road rights-of-way, adjacent to sensitive receptors (i.e. houses, schools). However, due to the temporary nature of the impact and adherence to Municipal Code, Chapter 11.80.030, D7, the impact will be less than significant.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

e) For a project located within an airport land use plan, or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

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Substantiation:

Alternative 1:

The project does not involve the construction of any dwelling units. Also, the project area is located within the March Air Reserve Base's adopted airport land use plans. The project does not involve housing but will temporarily place workers in outdoor locations where they may be subject to noise related to the airport's use. However, the project area is within the MARB influence area, specifically within the 60 and 65 Community Noise Equivalent Level (CNEL) contour and Accident Potential Zone (APZ) Area II, and would only subject persons working there to airport noise for the short-term duration of construction. Therefore, due to short-term duration of exposure to airport noise, there is a less than significant impact to workers' exposure to airport noise.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

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Substantiation:

Alternative 1:

The Perris Valley Airstrip is approximately 11 miles southeast of the project area and too far away to expose those working in the area to excessive private airstrip noise levels; therefore, there is no impact.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

g) Exceed an applicable LRDP or Program EIR standard of significance?

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Substantiation:

Alternative 1:

There is no Long Range Development Plan (LRDP) or Program EIR for the project or project area. The project is planning for the infrastructure necessary to support development pursuant to the City of Moreno Valley General Plan. Therefore, there are no project impacts related to exceeding any applicable LRDP or Program EIR standard of significance.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

There is no LRDP or Program EIR for the project or project area. Therefore, the No Project Alternative will not exceed an applicable LRDP or Program EIR standard of significance.

12. POPULATION AND HOUSING

The following determinations were made utilizing the following resources: MVGP, and Project Proposal.

Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

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Substantiation:

Alternative 1:

The Water Master Plan proposes improvements to BSMWC's existing water system based on the additional needs brought about by increased water demand due to the City of Moreno Valley's planned redevelopment of the area served by BSMWC which is to be consistent with adopted General Plan land use designations. The population growth has already been accounted for in the Housing Element of the MVGP and MVGP EIR, and the water improvements are in response to the planned increased demand; therefore, the impact is considered less than significant.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?

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Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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Substantiation:

Alternative 1:
The proposed water pipeline replacements and other water facilities will be constructed (i) within existing road rights-of-way or (ii) on the same site as BSMWC's existing tank and pumping facilities (Figures 3 and 4), and as such will not displace existing housing. Therefore, impacts are considered to be less than significant in this regard.

Alternative 2:
The proposed water pipeline replacements will be constructed within existing road rights-of-way (Figure 5) and as such will not displace existing housing. Therefore, Impacts are considered to be less than significant.

No Project Alternative:
No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				■	
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Substantiation:

Alternative 1:
See response to item 12.b) above.

Alternative 2:
Impacts are the same as Alternative 1 above.

No Project Alternative:
No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

d) Exceed an applicable LRDP or Program EIR standard of significance?					■
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Substantiation:

Alternative 1:
There is no Long Range Development Plan (LRDP) or Program EIR for the project or project area. The project is planning for the infrastructure necessary to support development pursuant to the City of Moreno Valley General Plan. Therefore, there are no project impacts related to exceeding any applicable LRDP or Program EIR standard of significance.

Alternative 2:
Impacts are the same as Alternative 1 above.

No Project Alternative:
There is no LRDP or Program EIR for the project or project area. Therefore, the No Project Alternative will not exceed an applicable LRDP or Program EIR standard of significance.

13. PUBLIC SERVICES
The following determinations were made utilizing the following resources: MVGP EIR and MVGP.

Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered government facilities, need for new or physically altered government facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

a) Fire protection?					■
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Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/Program EIR is Sufficient	Less Than Significant Impact	No Impact
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Substantiation:

Alternative 1:
The proposed project would not impact fire protection or fire service ratios. The project creates no new homes or businesses and the proposed pipelines are underground. Additionally, the proposed water facilities will provide additional fire flow and emergency storage, thereby improving fire services and facilities.

Alternative 2:
Impacts are the same as Alternative 1 above.

No Project Alternative:
The No Project Alternative would not provide improved fire flows thus continuing an existing adverse safety condition.

b) Police protection?					■
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Substantiation:

Alternative 1:
The proposed project would not impact police protection or police service ratios. The project creates no new homes or businesses; therefore, having no direct impact on police services or facilities.

Alternative 2:
Impacts are the same as Alternative 1 above.

No Project Alternative:
No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

c) Schools?					■
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Substantiation:

Alternative 1:
The proposed project creates no new homes; therefore, in and of itself, it will not generate additional students. Therefore, it has no direct impact to schools.

Alternative 2:
Impacts are the same as Alternative 1 above.

No Project Alternative:
No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

d) Parks?					■
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Substantiation:

Alternative 1:
The proposed project creates no new homes; and therefore, in and of itself, will not generate additional need for park or recreational facilities. Therefore, it has no direct impact to parks.

Alternative 2:
Impacts are the same as Alternative 1 above.

No Project Alternative:
No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

e) Other public facilities?					■
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Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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Substantiation:

Alternative 1:
The proposed project creates no new homes or businesses; and therefore, does not create a need for expanded utilities such as gas, electricity, phone, or cable services, and will have no direct impact on these public facilities/services.

Alternative 2:
Impacts are the same as Alternative 1 above.

No Project Alternative:
No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

f) Exceed an applicable LRDP or Program EIR standard of significance?					■
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Substantiation:

Alternative 1:
There is no LRDP or Program EIR for the project or project area. The project is planning for the infrastructure necessary to support development pursuant to the City of Moreno Valley General Plan. Therefore, there are no project impacts related to exceeding any applicable LRDP or Program EIR standard of significance.

Alternative 2:
Impacts are the same as Alternative 1 above.

No Project Alternative:
There is no LRDP or Program EIR for the project or project area. Therefore, the No Project Alternative will not exceed an applicable LRDP or Program EIR standard of significance.

14. RECREATION
The following determinations were made utilizing the following resources: MVGP.

a) Would the project increase the use of existing neighborhood or regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?					■
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Substantiation:

Alternative 1:
The project will provide improved water facilities to the BSMWC service area and would not result in the need to use, nor increase the use, of existing neighborhood and regional parks or other recreational facilities. Therefore, the project will have no impact.

Alternative 2:
Impacts are the same as Alternative 1 above.

No Project Alternative:
No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?					■
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Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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Substantiation:

Alternative 1:
The proposed project will provide improved water facilities to the BSMWC service area and is not required to include recreational facilities in their design, or require the construction or expansion of recreational facilities. Thus, the project will have no impact related to this issue.

Alternative 2:
Impacts are the same as Alternative 1 above.

No Project Alternative:
No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

c) Exceed an applicable LRDP or Program EIR standard of significance?				■	
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Substantiation:

Alternative 1:
There is no LRDP or Program EIR for the project or project area. The project is planning for the infrastructure necessary to support development pursuant to the City of Moreno Valley General Plan. Therefore, there are no project impacts related to exceeding any applicable LRDP or Program EIR standard of significance.

Alternative 2:
Impacts are the same as Alternative 1 above.

No Project Alternative:
There is no LRDP or Program EIR for the project or project area. Therefore, the No Project Alternative will not exceed an applicable LRDP or Program EIR standard of significance.

15. TRANSPORTATION/TRAFFIC
The following determinations were made utilizing the following resources: MVGP and Project Proposal.

Would the project:

a) Cause an increase in the traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?				■	
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Substantiation:

Alternative 1:
Construction activities will temporarily increase traffic volumes in the immediate project area associated with construction and worker commute vehicles. This traffic increase will not be substantial in relation to existing traffic and is temporary in nature. Impacts are less than significant for these reasons.

Alternative 2:
Impacts are the same as Alternative 1 above.

No Project Alternative:
No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion				■	
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Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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management agency for designated roads or highways?					
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Substantiation:

Alternative 1:
See response to item 15. a).

Alternative 2:
Impacts are the same as Alternative 1 above.

No Project Alternative:
No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?					■
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Substantiation:

Alternative 1:
The project area is located within the airport influence area for March Air Force Reserve Base but the nature of proposed water pipeline improvements and water facilities will not create a change in air traffic levels.

Alternative 2:
Impacts are the same as Alternative 1 above.

No Project Alternative:
No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

d) Substantially increase hazards to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?					■
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Substantiation:

Alternative 1:
The proposed facilities will not permanently alter existing public roads. Temporary construction equipment activity and excavation associated with facility construction could present the potential for temporary safety hazards. However, standard construction practices and conditions of local agency permits require implementation of traffic control plans or traffic signaling and control measures during construction to minimize potential hazards.

Alternative 2:
Impacts are the same as Alternative 1 above.

No Project Alternative:
No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

e) Result in inadequate emergency access?					■
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Substantiation:

Alternative 1:
See response to items 15.a) and 15.d), above.

Alternative 2:
Impacts are the same as Alternative 1 above.

No Project Alternative:
No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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f) Result in inadequate parking capacity?					■
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Substantiation:

Alternative 1:
The project consists of the construction and installation of replacement water pipelines and water facilities and will not have any effect on parking capacity.

Alternative 2:
Impacts are the same as Alternative 1 above.

No Project Alternative:
No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

g) Conflict with adopted policies or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?					■
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Substantiation:

Alternative 1:
The project consists of the construction and installation of replacement water pipelines and water facilities and will not conflict with adopted policies, plans, or programs supporting alternative transportation.

Alternative 2:
Impacts are the same as Alternative 1 above.

No Project Alternative:
No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

h) Exceed an applicable LRDP or Program EIR standard of significance?					■
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Substantiation:

Alternative 1:
There is no LRDP or Program EIR for the project or project area. The project is planning for the infrastructure necessary to support development pursuant to the City of Moreno Valley General Plan. Therefore, there are no project impacts related to exceeding any applicable LRDP or Program EIR standard of significance.

Alternative 2:
Impacts are the same as Alternative 1 above.

No Project Alternative:
There is no LRDP or Program EIR for the project or project area. Therefore, the No Project Alternative will not exceed an applicable LRDP or Program EIR standard of significance.

16. UTILITIES AND SERVICE SYSTEMS
The following determinations were made utilizing the following resources: WEBB, MVGP, GEOSCIENCE, WMWD

Would the project:

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?					■
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Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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Substantiation:

Alternative 1:
Adoption of the Water Master Plan will not generate wastewater, and would not exceed wastewater treatment requirements of the RWQCB. No impacts are anticipated.

Alternative 2:
Impacts are the same as Alternative 1 above.

No Project Alternative:
No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

b) Require or result in construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?					■
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Substantiation:

Alternative 1:
Construction of the water facilities proposed in the EWMPU will not require the construction of new water or wastewater treatment facilities or expansion of existing facilities. No new water or wastewater treatment facilities are required. Therefore, no impacts are anticipated.

Alternative 2:
Impacts are the same as Alternative 1 above.

No Project Alternative:
No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				■	
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Substantiation:

Alternative 1:
Construction of the proposed facilities at the existing BSMWC tank site will require the construction of an on-site drainage system to direct all on-site, as well as intercepted off-site drainage, through the on-site storm water collection system. A proposed storm drain will be constructed on-site to convey runoff from the reservoir site to the existing Riverside County Flood Control facility east of the BSMWC site. The construction of the storm drain will occur on-site and within road rights-of-way and will not result in significant environmental effects, and potential impacts are less than significant.

Alternative 2:
Construction of the proposed water pipelines will not require or result in the construction of new storm water drainage facilities or expansion of existing facilities. Therefore, no impacts are anticipated.

No Project Alternative:
No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				■	
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Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact

Substantiation:

Alternative 1:

Construction of the proposed water facilities does not require a water supply. However, the purpose of the proposed water facilities is to lay out a plan for the type and location of water facilities needed to serve the properties within BSMWC's boundaries based upon the City of Moreno Valley General Plan land use designations within the BSMWC's service area. Therefore, the availability of water is critical to the need for and viability of the project.

For this reason and in support of Alternative 1, GEOSCIENCE Support Services, Inc. prepared a *Ground Water Basin Assessment for the Box Springs Mutual Water Company Service Area Rezoing* (GEOSCIENCE). This report is summarized here with respect to water supply. During the period from 2000 to 2006, BSMWC extracted an average of 379 acre-feet of ground water per year (acre-ft/year) from the ground water aquifer beneath the service area through one well (Well No. 17). In addition, BSMWC purchases water from WMWD. During this same time period, BSMWC purchased 107 acre-ft/year from WMWD for a total annual average water supply of 486 acre-ft/year. Based on the City of Moreno Valley's long-term General Plan land uses, it is projected that 890 acre-ft/year will be needed in the BSMWC service area. As such, an additional 404 acre-ft/year will be required to meet projected water demand. A portion of the project water demand will be met by additional ground water development, but due to ground water quality issues in the area, it is anticipated that mixing of ground water with water purchased from WMWD will still be necessary to meet the requirements for potable use.

The following summarizes the findings of the GEOSCIENCE study:

- The study area has a surface water catchment area of approximately 14,800 acres. Natural surface run-off likely provides minimum amounts of ground water recharge due to poorly draining surface soils.
- Well No. 17 is the only active well for BSMWC and provides the quantity of water described above.
- The ground water aquifer beneath the study area consists of primarily sand, gravel, boulders, and clay and overlies an eroded bedrock surface. The aquifer is 60 to 500 feet thick beneath the study area and thickens in the buried channels to the south.
- Ground water has been rising in the BSMWC service area since 1975 and within the study area as a whole since the early 1990s.
- Precipitation falling on the catchment area tributary to the study area is anticipated to contribute 660 to 1100 acre-ft/year to the ground water system.
- Based on the potential volume of irrigation water in the study area catchment, and a potential infiltration of about 15%, potential recharge volumes to the study area from landscape irrigation would be 100 to 170 acre-ft/year.
- Subsurface inflow to the BSMWC service area under current high ground water conditions is approximately 1400 acre-ft/year. A portion of this water not currently extracted (379 acre-ft/year) can likely be recovered by use of an additional pumping well within the BSMWC service area.

Perennial yield was estimated using three methodologies. Based on that analysis, the range of maximum perennial yield estimated for the study area is currently 760 to 2600 acre-ft/year. Rising ground water levels in the study area suggests that additional ground water can be extracted by constructing an additional well within the boundaries of the BSMWC service area. Thus, the ground water basin in the vicinity of the study area can sustain additional extractions needed to meet projected land use development. Impacts to water supply are considered less than significant.

Alternative 2:

Alternative 2 would require an additional 404 acre-ft/year to meet projected demand, however, that water would come from WMWD. Table 13 of WMWD's Urban Water Management Plan-2005, lists Sales to Other Agencies in acre feet per year. Sales to Box Springs Mutual Water Company are listed as shown below:

Year	Acre Feet/Year
2000	121
2005	132
2010-2030	448

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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From 2010 through 2030, WMWD has already accounted for the need to sell approximately an additional 316 acre-feet per year to BSMWC. Thus, Alternative 2, which assumes no additional groundwater development, would require an additional 88 acre-ft/year. Table 15 of WMWD's Urban Water Management Plan-2005 indicates that Total Water Use is projected to be 122,099 acre-ft/year. Alternative 2's 88 acre-feet/year represents a miniscule amount of the overall water demand and poses less than significant negative environmental impacts associated with water supply.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

e) Result in a determination by the wastewater treatment provider which serves or may serve the project determined that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?					■
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Substantiation:

Alternative 1:

See response to item 16.b), above.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				■	
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Substantiation:

Alternative 1:

The operations of the proposed water facilities will not generate solid waste. Some solid waste may be generated during the construction of Water Master Plan facilities and potentially from maintenance. Local landfills are anticipated to be able to accommodate the minimal construction and maintenance waste from these facilities. Therefore, impacts are less than significant.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

g) Comply with federal, state, and local statutes and regulations related to solid waste?				■	
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Substantiation:

Alternative 1:

See response to item 16.f), above.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
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h) Exceed an applicable LRDP or Program EIR standard of significance?					■
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Substantiation:

Alternative 1:
 There is no LRDP or Program EIR for the project or project area. The project is planning for the infrastructure necessary to support development pursuant to the City of Moreno Valley General Plan. Therefore, there are no project impacts related to exceeding any applicable LRDP or Program EIR standard of significance.

Alternative 2:
 Impacts are the same as Alternative 1 above.

No Project Alternative:
 There is no LRDP or Program EIR for the project or project area. Therefore, the No Project Alternative will not exceed an applicable LRDP or Program EIR standard of significance.

17. MANDATORY FINDINGS OF SIGNIFICANCE
 The following determinations were made utilizing the following resources: CRM TECH, ESI, EDR, GEO, MVGP, MVGP EIR, WEBB

a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of an endangered, rare or threatened plant or animal, or eliminate important examples of the major periods of California history or prehistory?				■	
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Substantiation:

Alternative 1:
 The project will involve the installation of pipelines in road rights-of-way and the installation of proposed water facilities within BSMWC property. The proposed project will not substantially degrade the quality of the environment or reduce the habitat of fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, or reduce the number or restrict the range of a rare or endangered plant or animal and the impact is considered less than significant.

Likewise, the project will not eliminate important examples of the major periods of California history or prehistory.

See Sections 4, Biological Resources, and 5, Cultural Resources, above.

Alternative 2:
 Impacts are the same as Alternative 1 above.

No Project Alternative:
 No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of the past projects, the effects of other current projects, and the effects of probable future projects.)				■	
--	--	--	--	---	--

Substantiation:

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
-----------------------------------	--------------------------------	--	--	------------------------------	-----------

Alternative 1:

In the relatively short-term, the proposed project may have some environmental impacts associated with the installation of the water pipeline; however, those impacts are considered less than significant and not cumulatively considerable as the pipeline will be underground and is being constructed in response to increased water demands due to the City of Moreno Valley's planned redevelopment of the area served by BSMWC.

In addition, **Table 5** in response to item 3.b), indicates that an estimated maximum 73.81 MtCO₂/year will occur from project construction equipment. The draft GHG threshold from CARB has yet to identify a performance standard for construction-related emissions for industrial or commercial projects. When compared to the draft SCAQMD thresholds, construction is below the recommended threshold of 3,000 MtCO₂/year for residential/commercial projects (SCAQMD 2008). Therefore, the cumulative impact from GHG emissions is also considered less than significant.

The project also includes the installation of a proposed ground water well. However, according to the Ground Water Basin Assessment prepared by Geoscience Support Services, Inc. for BSMWC, ground water has been rising in the BSMWC service area since 1975 and within the study area as a whole since the early 1990's. Based on the investigation and analysis performed by Geoscience, additional ground water can be extracted within the boundaries of the BSMWC and will not have a cumulatively considerable impact. Therefore, impacts are considered to be less than significant.

Alternative 2:

Impacts with respect to GHG are the same as Alternative 1 above. Alternative 2 proposes to install pipeline alignments only; therefore, the discussion and analysis of the water facilities (including well development) within BSMWC property does not apply.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?					■
---	--	--	--	--	---

Substantiation:

Alternative 1:

The construction of proposed water facilities and pipelines will not cause substantial adverse effects on human beings, directly or indirectly. The replacement of older pipelines will lessen potential impacts associated with older pipelines and provide adequate fire flows for the area, thus reducing potential harm to humans.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

No action shall be taken under the No Project Alternative. Therefore, no impacts are anticipated.

d) Exceed an applicable LRDP or Program EIR standard of significance?					■
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Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Impact for which LRDP/ Program EIR is Sufficient	Less Than Significant Impact	No Impact
--	--------------------------------	--	--	------------------------------	-----------

Substantiation:

Alternative 1:

There is no LRDP or Program EIR for the project or project area. The project is planning for the infrastructure necessary to support development pursuant to the City of Moreno Valley General Plan. Therefore, there are no project impacts related to exceeding any applicable LRDP or Program EIR standard of significance.

Alternative 2:

Impacts are the same as Alternative 1 above.

No Project Alternative:

There is no LRDP or Program EIR for the project or project area. Therefore, the No Project Alternative will not exceed an applicable LRDP or Program EIR standard of significance.

REFERENCES

The following documents were referred to as information sources during preparation of this document. They are available for public review at the locations abbreviated after each listing and spelled out at the end of this section. Some of these documents may also be available at the Riverside City and County Public Library, 3581 Seventh Street, Riverside, CA 92502-0468, and/or at branches of the library.

<u>Cited As:</u>	<u>Source:</u>
CAL CODES	California Codes, Government Code, Section 53091 (d) and (e). (Available at www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=53001-54000&file=53090-53097.5)
CRM TECH	CRM TECH, <i>Historical/Archaeological Resources Survey Report for Edgemont Water Master Plan Update</i> , December 18, 2008. (Appendix D)
EDR	Environmental Data Resources Inc., <i>Edgemont Community Services District EDR Radius Map Report</i> , June 13, 2008. (Available at the City of Moreno Valley Planning Department.)
ESI	Ecological Sciences, Inc., <i>General Biological Resources Evaluation for City of Moreno Valley Edgemont Water Master Plan</i> , January 2, 2009. (Appendix B)
EWMPU	Albert A. Webb Associates, <i>Edgemont Water Master Plan Update, Water Infrastructure Analysis</i> , April 2008. (Available at the City of Moreno Valley Planning Department)
GEO	C.H.J. Incorporated, <i>Geotechnical Investigation-Proposed Day Street Sewer Line Replacement Project</i> , December 21, 2007. (Available at the City of Moreno Valley Planning Department)
GEOSCIENCE	GEOSCIENCE Support Services, Inc., <i>Ground Water Basin Assessment for the Box Springs Mutual Water Company Service Area Rezoning</i> , January 9, 2009. (Available at the City of Moreno Valley Planning Department.)
GIS	County of Riverside Geographic Information System Database. (Available at www3.tlma.co.riverside.ca.us/pa/rclis/index.html)
GISMV	Moreno Valley GIS Online. (Available at www.moreno-valley.ca.us/city_hall/city_maps.shtml)
MVGP	City of Moreno Valley, <i>Moreno Valley General Plan</i> , July 11, 2006. (Available at the City of Moreno Valley Planning Department and at www.ci.moreno-valley.ca.us/city_hall/general_plan.shtml)
MVGP EIR	City of Moreno Valley, <i>Final Environmental Impact Report</i> , July 2006. (Available at the City of Moreno Valley Planning Department and at www.ci.moreno-valley.ca.us/city_hall/general_plan.shtml)
MSHCP	County of Riverside, <i>Riverside County Multi-Species Habitat Conservation Plan</i> , June 17, 2003. (Available at the Riverside County Planning Department and at www.rcip.org)
NRCS	U.S. Department of Agriculture, Soil Conservation Service, <i>Soil Survey, Western Riverside Area, California</i> , November 1971. (Available at USDA.)
Project Proposal	Albert A. Webb Associates, <i>Edgemont Water Master Plan Update, Proposal for Water Supply Assessment</i> , May 2008. (Available at the City of Moreno Valley Planning Department)
RCIP EIR	County of Riverside, <i>Riverside County Integrated Project, General Plan Draft Program Environmental Impact Report</i> , March 2003. (Available at the Riverside County Planning Department and at www.rcip.org)
RCBLAP	County of Riverside, <i>Reche Canyon/Badlands Area Plan</i> , October 2003. (Available at the Riverside County Planning Department and at rcip.org/documents/general_plan_toc1.htm)
RCGP	County of Riverside, <i>Riverside County General Plan</i> , October 2003. (Available at the Riverside County Planning Department and at www.rclma.org/generalplan/gp.html)
SCAQMD	South Coast Air Quality Management District, <i>CEQA Air Quality Handbook</i> , April 1993, with November 1993 Update. (Available at SCAQMD.)
USGS	United States Department of the Interior Geological Survey, Riverside East Quadrangle, California-Riverside Co. 7.5 Minute Series (Topographic) NE/4 Riverside 15' Quadrangle. (Available at http://store.usgs.gov/b2c_usgs/b2c/start.do)

WEBB Albert A. Webb Associates, *Air Quality Analysis Supporting Information, Edgemont Water Master Plan*, February 16, 2009. (Appendix A)

WMWD Western Municipal Water District, *Urban Water Management Plan–2005*, December 2005. (Available at <http://www.wmwd.com/pdfs/UrbanWaterMgtPlan.pdf>)

LOCATION OF REFERENCE MATERIAL

<u>Location:</u>	<u>Address:</u>
City of Moreno Valley	14177 Frederick Street P.O. Box 88005 Moreno Valley, CA 92552
Riverside County – Planning	Riverside County Planning Department 4080 Lemon Street 9 th Floor Riverside, CA 92502
SCAQMD	South Coast Air Quality Management District 21865 East Copley Drive Diamond Bar, CA 91765-4182
USDA	U.S. Department of Agriculture Natural Resource Conservation Service (formerly Soil Conservation Service) 1299 Columbia Avenue, Suite E-5 Riverside, CA 92507

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National Environmental Policy Act (NEPA)

Supplement

City of Moreno Valley Edgemont Water Master Plan Update

1. PURPOSE AND NEED FOR PROJECT

Currently, BSMWC water system facilities are hydraulically incapable of supplying the necessary fire flow demand to support existing property development conditions. Additionally, the water system is aging and deteriorated and in need of replacement and rehabilitation. The City of Moreno Valley has also recently adopted a General Plan Update which updated land use and zoning in the BSMWC service area. In order to meet the water and fire flow demand conditions for the ultimate development, additional water supply must be acquired, and existing BSMWC water infrastructure, including storage, pipeline and pumping facilities require improvements.

2. ALTERNATIVES:

Alternative No. 1 consists of maintaining the current system operational scheme, with additional water supply from additional groundwater extraction, and upgrading all existing BSMWC facilities (pipelines, reservoir, and hydropneumatic booster station). (See the Project Description on page 2 for details.) This alternative would require the construction of a new reservoir/tank to store groundwater. Thus, in addition to basic construction-related impacts associated with both alternatives, Alternative 1 results in potential impacts associated with Aesthetics and Geology, which can be mitigated to less than significant with the implementation of mitigation measures MM Aes 1, page 15 and MM Geo 1, page 28. Potential construction-related impacts to migratory birds (if construction occurs during the nesting season) and potential impacts related to inadvertent finds of archaeological or paleontological resources can be avoided or mitigated to less than significant through the implementation of MM Bio 1, page 24 and MM Cultural 1 and 2, page 27. Water supply can be provided through supplies available within the local groundwater basin. Thus, Alternative 1 would have no significant adverse affect on the environment which cannot be reduced to less than significant through regulation, best construction practices, and/or mitigation.

Alternative No. 2 consists of connecting to the WMWD water system for both water supply and fire suppression needs, therefore, no water storage facilities are needed for this alternative. (See the Project Description on page 3 for details.) Potential construction-related impacts to migratory birds (if construction occurs during the nesting season) and potential impacts related to inadvertent finds of archaeological or paleontological resources can be avoided or mitigated to less than significant through the implementation of MM Bio 1, page 24 and MM Cultural 1 and 2, page 27. Water supply can be provided by WMWD. Thus, Alternative 2 would have no significant adverse affect on the environment which cannot be reduced to less than significant through regulation, best construction practices, and/or mitigation.

Under a No Project Alternative, the EWMPU would not be adopted or implemented. All construction-related potential adverse environmental impacts would not occur. Thus, potential impacts to water quality, air quality, noise, traffic, safety and all other construction impacts, which, due to implementation of mitigation measures, adherence to regulations, and/or best management construction practices are less than significant, would be eliminated. However, under this alternative, the Water Infrastructure Analysis Study would not be utilized to address the inadequacy of the existing system to bring it up to current City of Moreno Valley minimum fire flow requirements and therefore adequate fire protection would not be provided for the approximately 600 existing residential customers and businesses in the area. Further, the water system is aging and deteriorated and in need of replacement and rehabilitation which might be rectified over time, but not to standards that would support the City of Moreno Valley General Plan land uses for the area.

3. AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES:

3.1 Archeological and Historical Preservation Act

The project area is not considered to be sensitive to possible historic and cultural resources. Mitigation measures MM Cultural 1 and 2 address potential impacts to inadvertently discovered resources.

An Historical/Archaeological Resources Survey Report for Edgemont Water Master Plan Update, dated December 18, 2008 and found in Appendix D, herein, was prepared by CRM TECH. The study found no archeological resources within the project area. CRM TECH indicated five historic-period buildings, designated as Sites 33-6915 through 33-6919 and built between 1920 and 1947, were previously recorded along the project route. It was ascertained that since they are located outside the project boundaries, the proposed project has no potential to affect these buildings, either directly or indirectly. No other potential "historical resources," as defined by Section 15064.5 of the CEQA Guidelines, were encountered during the course of this study.

EPA received concurrence from the State Historic Preservation Office that no historic properties will be affected.

3.2 Clean Air Act

Minor amounts of dust could be created during excavation and construction however, the project will be required to comply with existing SCAQMD rules for the reduction of fugitive dust emissions. SCAQMD Rule 403 establishes these procedures. The project incorporates accepted best management practices which meets these air quality requirements and conforms with the Clean Air Act. Therefore negative impacts related to the Clean Air Act are less than significant.

3.3 Coastal Barrier Resources Act

The project is not within a Coastal Zone and therefore the Coastal Barrier Resources Act is not applicable.

3.4 Coastal Zone Management Act

The project is not within a Coastal Zone Management Area and therefore the Coastal Zone Management Act is not applicable.

3.5 Endangered Species Act

A field review of the project area has determined that there are no endangered species within the project area. Therefore negative impacts related to the Endangered Species Act.

EPA received concurrence from the U.S. Fish and Wildlife Service that threatened or endangered species will be affected.

3.6 Environmental Justice

No adverse impacts to minority and low-income populations will result from the proposed project. No potential adverse effects to human health have been identified. Therefore negative impacts related to the Environmental Justice are less than significant.

3.7 Floodplain Management

There are portions of the replacement pipeline portion of the project area that are located within the 100-year flood plain. However, the proposed pipeline replacement project does not involve any above ground

structures that could affect the floodplain; therefore, there is no impact. The water facilities proposed located at the BSMWC site (Alternative 1, only) are not located within a 100-year flood hazard zone; therefore, there is no impact.

The project is located in the City of Moreno Valley, California on existing paved city streets in a primarily residential area with some commercial and light industrial areas around the outside border of the project area. Construction for Alternative 1 and 2 will include underground water pipe work within existing paved streets with no above ground structures. Alternative 1 will also include above-ground water storage reservoir and pumping facilities. The project will have a short term affect on the site drainage in that the contractor will use water quality and erosion and siltation control measures during construction that may temporarily divert, impede, or retain street runoff water. The contractor will use best management practices required in the project SWPPP; and such water quality and erosion and siltation control measures will provide for normal rainfall runoff without impeding the flow substantially and without causing an increase in rainfall runoff depth or damage and without degrading water quality.

The project does not increase the existing stormwater runoff flow depth since no additional drainage area is being added to the existing drainage area.

The project does not construct any structures that would substantially impede rainfall runoff.

The project does not construct structures that will redirect flow to any existing storm water channel that is not designed to accept the flow.

Therefore project impacts are less than significant related to floodplain management and effects on the 100-year floodplain protection program.

3.8 Protection of Wetlands,

There are no federally or state protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) within the project area.

Therefore there are no project impacts related to substantial adverse effects on federally or state protected wetlands.

3.9 Farmland Protection Policy Act

There are no farmlands including prime farmland, unique farmland, or farmland of statewide or federal importance as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency within the project area.

Therefore there are no project impacts related to farmland, prime farmland, unique farmland, or farmland of statewide or federal importance.

3.10 Fish and Wildlife Coordination Act

No special-status plant species were detected on site during the reconnaissance survey and none are expected due to lack of suitable habitat located within the proposed Edgemont Water Master Plan alignments. The site is not located within the Western Riverside County Multi-species Habitat Conservation Plan (MSHCP) narrow Endemic Plant Species Survey Area.

No special-status wildlife species were observed and none are expected directly within the alignment due to lack of suitable habitat along the paved and road shoulder, and on the tank site.

No special-status habitats were recorded on the proposed alignments or within the tank site boundary.

Therefore there are no project impacts related to substantial adverse effects, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.

3.11 National Historic Preservation Act

The project is located in the City of Moreno Valley, California on existing paved city streets in a primarily residential area with some commercial and light industrial areas around the outside border of the project area. The land is relatively flat with no hills or rock outcroppings. Construction for Alternative 1 and 2 will include underground water pipe work within existing paved streets with no above ground structures. Alternative 1 will also include above-ground water storage reservoir and pumping facilities. The streets will be repaired back to their original condition, or better. There are no rock outcroppings within the project area. There are no State Scenic Highways within the project area.

An Historical/Archaeological Resources Survey Report for Edgemont Water Master Plan Update, dated December 18, 2008 and found in Appendix D, herein, was prepared by CRM TECH. The study found no archeological resources within the project area. CRM TECH indicated five historic-period buildings, designated as Sites 33-6915 through 33-6919 and built between 1920 and 1947, were previously recorded along the project route. It was ascertained that since they are located outside the project boundaries, the proposed project has no potential to affect these buildings, either directly or indirectly. No other potential "historical resources," as defined by Section 15064.5 of the CEQA Guidelines, were encountered during the course of this study. No scenic resources (including trees and rock outcroppings), no unique paleontological resources or site or unique geologic features, no formal cemeteries, and no known human remains interred within the project area.

Therefore there are no project impacts related to historical resource, historic buildings, scenic resources (including trees and rock outcroppings), unique paleontological resources or site or unique geologic features, formal cemeteries, and known human remains interred within the project area.

3.12 Safe Drinking Water Act Publication

The project site is not located in a USEPA "sole source" aquifer.

The project is located in the City of Moreno Valley, California on existing paved city streets in a primarily residential area with some commercial and light industrial areas around the outside border of the project area. All construction will be underground storm drain and catch basin work within existing paved streets with no above ground structures. The depth to ground water is approximately 50 feet below ground surface, therefore trenching for pipes which will range between 5 and 20 feet in depth will not affect the ground water supply or interfere with groundwater recharge.

The project will be obtaining water from the BSMWC and will use only the normal amount of water for this type of construction which will primarily be used for compaction of trench fill.

Construction of the proposed water facilities does not require a water supply. However, the purpose of the proposed water facilities is to lay out a plan for the type and location of water facilities needed to serve the properties within BSMWC's boundaries based upon the City of Moreno Valley General Plan land use designations within the BSMWC's service area. Therefore, the availability of water is critical to the need for and viability of the project.

Alternative 1 - For this reason and in support of Alternative 1, GEOSCIENCE Support Services, Inc. prepared a *Ground Water Basin Assessment for the Box Springs Mutual Water Company Service Area Rezoing*. Ground water has been rising in the BSMWC service area since 1975 and within the study area as a whole since the early 1990's. In large part due to increased irrigation with respect to development which has occurred elsewhere within the study area. Based on the investigation and analysis performed by Geoscience, additional ground water can be extracted by constructing an additional well within the boundaries of the BSMWC service area. (The location of such a well is unknown and potential impacts of well construction are not analyzed in this IS/EA.) Extraction of an additional 404 acre-ft/year from the ground water basin would not negatively affect safe yield. Additional development within the project area will result in additional landscaped areas which will be irrigated and will contribute to recharge of the basin.

Alternative 2 - Alternative 2 would require an additional 88 acre-feet/year to be imported from WMWD which represents a miniscule amount of the overall water demand and poses less than significant negative environmental impacts associated with water supply.

Therefore project impacts are less than significant related to substantially depleting groundwater supplies or interfering substantially with groundwater quality or recharge or a lowering of the local groundwater table level.

3.13 Wild and Scenic Rivers Act

The project is not within a Wild or Scenic River (or watershed) area and therefore the Wild and Scenic Rivers Act is not applicable.

3.14 Migratory Birds

A field review of the project area did not detect migratory birds within the project area. However, several species have potential to occur within the larger vacant parcels located throughout the project area adjacent to project locations/alignments. Construction adjacent to these vacant parcels/habitats could result in indirect impacts. The Western Burrowing Owl (WBO) and many other native bird species are protected under the federal Migratory Bird Treaty Act (MBTA) of 1918 (16 U.S.C. 703-711) and California Department of Fish and Game (CDFG) Code section 3503, 3503.5, and 3800 which prohibit take, possession, or destruction of birds, their nests or eggs. If active nests of any special-status or native species would be lost or indirectly impacted as a result of grading and/or construction activities, adverse impacts could result and the project would be in conflict with these regulations. In order to avoid violation of the MBTA or CDFG Code sections, guidelines suggest that project-related disturbances at active nesting territories be reduced or eliminated during the nesting cycle (February 1 to August 31). Mitigation measure MM Bio 1, will avoid violation of these regulations and any potential impacts to WBO and other migratory native bird species protected by the MBTA.

Therefore the impacts related to migratory birds is less than significant.

3.15 Essential Fish Habitat

Essential Fish Habitat (EFH) is defined as "...those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." "Waters" include aquatic areas and their associated physical, chemical, and biological properties that are used by fish. "Substrate" includes sediment, hard bottom, structures underlying the waters, and associated biological communities. The project is not within aquatic areas and therefore will not affect EFH.

Appendix A

Air Quality Analysis Supporting Information

EDGEMONT COMMUNITY SERVICES DISTRICT WATER MASTER PLAN

Air Quality Analysis Supporting Information

February 16, 2009

Regional Significance Threshold Analysis

The thresholds contained in the SCAQMD CEQA Air Quality Handbook are considered regional thresholds and are shown in the table below. These regional thresholds were developed based on the SCAQMD's treatment of a major stationary source.

SCAQMD CEQA Daily Regional Significance Thresholds

Emission Threshold	Units	ROG	NO_x	CO	SO_x	PM-10	PM-2.5
Construction	lbs/day	75	100	550	150	150	55
Operations	lbs/day	55	55	550	150	150	55

Air quality impacts can be described in a short-term and long-term perspective. Short-term impacts will occur during site grading and project construction. Long-term air quality impacts will occur once the project is in operation. There are no long-term impacts related to reservoir tank and pipeline operation, therefore, only short-term impacts were evaluated.

The project will be required to comply with existing SCAQMD rules for the reduction of fugitive dust emissions. SCAQMD Rule 403 establishes these procedures. Compliance with this rule is achieved through application of standard best management practices in construction and operation activities, such as application of water or chemical stabilizers to disturbed soils, managing haul road dust by application of water, covering haul vehicles, restricting vehicle speeds on unpaved roads to 15 mph, sweeping loose dirt from paved site access roadways, cessation of construction activity when winds exceed 25 mph and establishing a permanent, stabilizing ground cover on finished sites. In addition, projects that disturb 50 acres or more of soil or move 5,000 cubic yards of materials per day are required to submit a Fugitive Dust Control Plan or a Large Operation Notification Form to SCAQMD. Based on the total size project area (4.32 acres) a Fugitive Dust Control Plan or Large Operation Notification would not be required.

SCAQMD Rule 1113 governs the sale of architectural coatings and limits the volatile organic content (VOC) in paints and paint solvents. Although this rule does not directly apply to the project, it does dictate the VOC content of paints available for use during building construction.

Short-term emissions were evaluated using the URBEMIS 2007 for Windows version 9.2.4 computer program. Short-term emissions consist of fugitive dust and other

particulate matter, as well as exhaust emissions generated by construction-related vehicles. Short-term impacts will also include emissions generated during construction as a result of operation of personal vehicles by construction workers and asphalt degassing operations during construction.

Source Receptor Area (SRA) 24, Air Quality Monitoring Summary – 1998–2007

	Pollutant/Standard Source: SCAQMD	Monitoring Year									
		1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
No. Days Exceeded	Ozone :										
	Health Advisory - 0.15 ppm	--	--	--	5	1	1	0	0	3	0
	California Standard:										
	1-Hour - 0.09 ppm	30	10	65	73	59	67	37	11	76	
	8-Hour - 0.07 ppm ^a	--	--	--	--	--	--	47	18	84	
	Federal Primary Standards:										
	8-Hour - 0.08 ppm (0.075 ppm) ^a	28	7	41	58	41	47	19	3	53	37(73)
Max 1-Hour Conc. (ppm)	0.15	0.11	0.16	0.152	0.147	0.155	0.128	0.126	0.17	0.139	
Max 8-Hour Conc. (ppm)	0.13	0.10	0.126	0.136	0.117	0.121	0.103	0.103	0.122	0.116	
No. Days Exceeded	Carbon Monoxide^b :										
	California Standard:										
	1-Hour - 20 ppm	0	0	0	0	0	0	0	0	0	0
	8-Hour - 9.0 ppm	0	0	0	0	0	0	0	0	0	0
	Federal Primary Standards:										
	1-Hour - 35 ppm	0	0	0	0	0	0	0	0	0	0
	8-Hour - 9.0 ppm	0	0	0	0	0	0	0	0	0	0
Max 1-Hour Conc. (ppm)	6.0	7.0	5.0	5.0	8.0	5	4	3	3	4	
Max 8-Hour Conc. (ppm)	4.6	4.4	4.3	3.4	3.0	3.7	3.0	2.5	2.1	2.9	
No. Days Exceeded	Nitrogen Dioxide^b :										
	California Standard:										
	1-Hour - 0.18 ppm,	0	0	0	0	0	0	0	0	0	0
	Federal Standard:										
	Annual Arithmetic Mean (AAM) (ppm)	0.023	0.025	0.024	0.025	0.024	0.022	0.017	0.022	0.020	0.021
Max. 1-Hour Conc. (ppm)	0.10	0.13	0.10	0.15	0.10	0.09	0.09	0.08	0.08	0.07	
No. Days Exceeded	Sulfur Dioxide^b :										
	California Standards:										
	1-Hour - 0.25 ppm	0	0	0	0	0	0	0	0	0	0
	24-Hour - 0.04 ppm	0	0	0	0	0	0	0	0	0	0
	Federal Primary Standards:										
	24-Hour - 0.14 ppm	0	0	0	0	0	0	0	0	0	0
	Annual Standard - 0.03 ppm ^d	No	No	No	No	No	No	No	No	No	No
Max. 1-Hour Conc. (ppm)	0.03	0.03	0.11	0.02	0.02	0.02	0.02	0.02	0.01	0.02	
Max. 24-Hour Conc. (ppm)	0.010	0.011	0.041	0.011	0.002	0.012	0.015	0.011	0.004	0.002	
No. Days Exceeded	Suspended Particulates (PM10):										
	California Standards:										
	24-Hour - 50 µg/m ³	14	30	13	16	24	19	15	19	19	32
	Federal Primary Standards:										
	24-Hour - 150 µg/m ³	0	0	0	0	0	0	0	0	0	0
Annual Arithmetic Mean (µg/m ³) ^e	36.1	50.0	41.1	40.8	45.2	43.9	41.4	39.2	45.0	54.8	
Max. 24-Hour Conc. (µg/m ³)	98	112	87	86	100	142	83	80	125	120	
No. Days Exceeded	Suspended Particulates (PM2.5)^b :										
	California and Federal Primary Standards:										
	24-Hour - 65 µg/m ³ (35µg/m ³) ^f	--	9	11	19	8	8	5	4	1(32)	3(33)
	Annual Arithmetic Mean (µg/m ³) ^g	--	30.9	28.2	31.3	27.5	24.9	22.1	21.0	19.0	19.1
Max. 24-Hour Conc. (µg/m ³)	--	111.2	119.6	98.0	77.6	104.3	91.7	98.7	68.5	75.7	

Note -- No data available.

- a. 2004 is first year of SCAQMD records for State 8-hour Ozone standard. Federal 8-hour ozone standard 0.075 ppm effective May 27, 2008.
- b. Metro Riverside County 1 air monitoring station (SRA 23) data summaries used.
- c. Federal NO₂ standard is AAM > 0.053; State NO₂ standard of AAM > 0.030 effective March 20, 2008.
- d. Yes or No indicating whether or not the standard has been exceeded for that year.
- e. Federal PM-10 standard is AAM > 50µg/m³ was revoked December 17, 2006. State standard is AAM > 20µg/m³, effective July 5, 2003.
- f. 1999 is first year of SCAQMD records for Federal 24-hour PM-2.5 standard and data summary. Threshold changed to 35µg/m³ in 2006.
- g. Federal PM-2.5 standard is annual average (AAM) > 15µg/m³. State standard is annual average (AAM) > 12µg/m³.

The objective of this Water Infrastructure Analysis is to analyze the existing Box Springs Municipal Water Company (BSMWC) water system and determine the adequacy of the existing system, determine any necessary system improvements and the associated costs of the improvements to comply with the current City of Moreno Valley General Plan and Land Use designations. Presently, the BSMWC facilities cannot meet the City of Moreno Valley minimum fire flow requirements and therefore does not provide adequate fire protection for the approximately 600 existing residential customers and businesses. Further, the water system is aging and deteriorated and in need of replacement and rehabilitation. Two alternatives for improvement were analyzed to meet the water supply and fire suppression needs of the ultimate development based on water storage facilities, pipeline facilities, pumping facilities and water supply. Alternative No. 1 consists of maintaining the current system operational scheme, with additional water supply from Western Municipal Water District (WMWD) and upgrade all existing BSMWC facilities (pipelines, reservoir, and hydropneumatic booster station). Alternative No. 2 consists of connecting to the WMWD water system for both water supply and fire suppression needs

For the purposes of this air quality analysis, and as a worst-case scenario, the reservoir proposed in Alternative 1 together with, the longest section of water pipeline that may be built at one time was modeled to determine its construction impact.

Alternative 1 proposes the construction of a 2.3 MG storage tank (reservoir) to meet ultimate water demand conditions. The proposed 2.3 MG tank will be located within the BSMWC service area, on the western most end of the City of Moreno Valley, adjacent to the two existing storage tanks.

The worst-case scenario consists of installing 4,936 linear feet of 12-inch diameter along Cottonwood Avenue (between Old 215 Frontage Road and Elsworth Street) and 410 linear-feet of 16-inch diameter water pipelines connected to the 12-inch pipeline within the road right-of-way of Cottonwood Avenue and also connecting the proposed 2.3 MG reservoir to Dracaea Avenue. The disturbance area for the reservoir would be approximately 1 acre. The results for both the reservoir and the pipelines are displayed in the table on the next page.

Short-term emissions were evaluated using the URBEMIS 2007 version 9.2.4 for Windows computer program. The model evaluated emissions resulting from fugitive dust as well as exhaust emissions generated by earthmoving activities, construction, trenching, pipeline installation, painting of the reservoir tank, and subsequent paving.

The construction of the pipelines is assumed to start May 2010 and last for approximately 2.5 months, with re-paving within road rights-of-way (ROW) occurring last. Construction of the reservoir will not occur at the same time as pipeline construction. The construction of the reservoir is expected to begin in mid July 2010 and take approximately 4 months to complete, painting and asphalt will occur during the last 2 weeks of construction. Construction equipment modeled for the reservoir includes 1 grader, 1 rubber-tired dozer, 3 tractor/loader/backhoes, 1 water-truck, 1 cement and mortar mixer, 1 paver, 1 roller, 1

crane and 2 forklifts. Construction equipment modeled for the water pipelines includes 1 crane, 1 rubber-tired dozer, 2 tractor/loader/backhoes, 1 trencher, 2 welders, 1 water truck, 2 cement and mortar mixers, 1 concrete/industrial saw, 1 paver, 1 paving equipment, and 1 roller. The "Paving Phase" is assumed to occur after the pipelines are in place and have been tested.

Estimated Daily Construction Emissions

Activity/Year	Peak Daily Emissions (lb/day)					
	VOC	NO _x	CO	SO ₂	PM-10	PM-2.5
SCAQMD Daily Construction Thresholds	75	100	550	150	150	55
Grading/Excavation/ Construction for Pipeline	4.81	33.95	18.86	0.00	10.45	3.50
Paving ¹	2.98	17.01	11.25	0.00	1.44	1.32
Maximum²	4.81	33.95	18.86	0.00	10.45	3.50
Exceeds Threshold?	No	No	No	No	No	No
Grading/Excavation for Reservoir	3.04	25.05	13.50	0.00	3.85	1.70
Construction of Reservoir ³	50.09	23.09	16.45	0.01	1.72	1.55
Maximum²	50.09	25.05	16.45	0.01	3.85	1.70
Exceeds Threshold?	No	No	No	No	No	No

Notes: See Appendix A for model output report.

¹ Paving occurs after grading/excavation/construction of pipelines.

² Maximum corresponds to the highest emissions for each construction phase.

³ Includes paving and painting.

Evaluation of the above table indicates that all criteria pollutant emissions from the construction of this project are below the SCAQMD daily regional thresholds.

Localized Significance Threshold Analysis

Background

Recently, as part of the SCAQMD's environmental justice program, attention has been focused on localized effects of air quality. Staff at SCAQMD has developed localized significance threshold (LST) methodology that can be used by public agencies to determine whether or not a project may generate significant adverse localized air quality impacts (both short-term and long-term). LSTs represent the maximum emissions from a project that will not cause or contribute to an exceedance of the most stringent applicable federal or state ambient air quality standard, and are developed based on the ambient

concentrations of that pollutant for each source receptor area (SRA). This project is located within SRA 24.

Short-Term Analysis

For short-term construction emissions, it is estimated that the maximum area to be disturbed for the previously analyzed pipeline alignment and reservoir construction would be 0.83 acres a day. Under the LST analysis methodology, only the on-site emissions need to be considered. SCAQMD has developed a series of worksheets for use by projects in order to determine the on-site emissions for LST analysis purposes. SCAQMD has provided LST lookup tables to allow users to readily determine if the daily emissions for proposed construction activities could result in significant localized air quality impacts for projects 5 acres or smaller. It is anticipated that an area no larger than 1 acre would be disturbed at any one time during construction. Therefore, the LST lookup tables (<http://www.aqmd.gov/ceqa/handbook/LST/LST.html>) and worksheets show in the look-up tables for the 1-acre site were used to estimate construction emissions.

The nearest sensitive receptors to the analyzed pipeline alignment, and the remainder of the pipeline alignments, are existing residences located adjacent to the project roadways. In order to ensure a worst-case analysis, the receptor distance of 25 meters (82 feet) was used. The results are summarized below.

LST Results for Daily Construction Emissions

Pollutant	CO (lbs/day)	NO_x (lbs/day)	PM-10 (lbs/day)	PM-2.5 (lbs/day)
LST Threshold (1 acre)	418	144	4	3
Grading/Trenching	18.6	35.7	2.3	1.9
Construction	11.4	25.6	1.4	1.3
Architectural Coating and Paving	10.3	18.0	1.3	1.2
Exceeds Threshold?	No	No	No	No

Short-term construction emissions of CO, NO_x, PM-10, and PM-2.5 do not exceed the SCAQMD established localized thresholds of significance.

Greenhouse Gas Analysis

The recently updated URBEMIS model calculates carbon dioxide emissions from fuel usage by construction equipment and construction-related activities, like worker trips, for the project in tons per year (one ton equals 2,000 pounds). The URBEMIS estimate does not analyze emissions from construction related electricity or natural gas. Construction related electricity and natural gas emissions vary based on the amount of electric power used during construction and other unknown factors which make them too speculative to quantify. Life-cycle emissions associated with the manufacture of building materials are also not quantified in this analysis although they undoubtedly exist. Quantification was

not attempted because of the large spatio-temporal variation in sources for building products used to construct the project and the consequent large uncertainty associated with the resulting emissions. For this reason, to attempt to quantify life-cycle emissions of materials would be speculative. This conclusion is consistent with recent guidance on quantification of emissions for commercial projects presented by the California Air Pollution Control Officer's Association (CAPCOA) guidance on CEQA and Climate Change.

The following table summarizes the output results and presents the emissions estimates in metric tonnes (Mt) of CO₂ (one metric tonne equals approximately 2,205 pounds) from construction of the reservoir and associated pipelines.

Project Construction Equipment CO₂ Emissions¹

Year/Description	Total tons CO₂	Maximum Mt CO₂/year
2010/ Water Pipelines	81.36	73.81
2010/ Reservoir	70.68	64.12

¹ calculations based on URBEMIS output.

Evaluation of the table above indicates that an estimated maximum of 73.81 MtCO₂ /year will occur from project construction equipment over the course of the estimated construction period of approximately 1 year. The draft GHG threshold from CARB has yet to identify a performance standard for construction-related emissions for industrial or commercial projects. When compared to the draft SCAQMD thresholds, construction is below the recommended threshold of 3,000 MtCO₂ /year for residential/commercial projects (SCAQMD 2008).

Long-Term Analysis

According to the SCAQMD's LST methodology, the operational emissions to be analyzed are from on-site stationary sources and on-site mobile source emissions. Off-site mobile source emissions should not be included in the analysis. Long-term air quality impacts occur once the project is in operation. The only source of operational emissions from the water pipeline and/or reservoir would be infrequent vehicle trips by maintenance personnel. Any associated emissions would be negligible; therefore, no long-term impacts were estimated.

REFERENCES

The following documents were referred to as general information sources during preparation of this document. They are available for public review at the locations abbreviated after each listing and spelled out at the end of this section. Some of these documents are also available at public libraries and at other public agency offices.

- CAPCOA California Air Pollution Control Officer's Association, *CEQA and Climate Change*, January 2008. (Available on the internet on June 23, 2008 at <http://www.capcoa.org>)
- SCAQMD 2008 South Coast Air Quality Management District, *Draft AQMD Staff CEQA Greenhouse Gas Significance Threshold*, October 2008. (Available on the Internet on November 20, 2008 at <http://www.aqmd.gov/ceqa/hdbk.html>)
- SCAQMD 1993 South Coast Air Quality Management District, *CEQA Air Quality Handbook*, November 1993. (Available at SCAQMD.)
- URBEMIS Rimpo and Associates Inc, *URBEMIS 2007 for Windows Computer Program and User's Guide, Version 9.2.4.*, February 2008. (Available on the internet on June 16, 2008 at <http://www.urbemis.com/>)
- SCAQMD South Coast Air Quality Management District
21865 East Copley Drive
Diamond Bar, CA 91765-4182

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Urbemis 2007 Version 9.2.4

Combined Summer Emissions Reports (Pounds/Day)

File Name: E:\ECSD lank.urb924
 Project Name: ECSD Water tank
 Project Location: Riverside County
 On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006
 Off-Road Vehicle Emissions Based on: OFFROAD2007

Summary Report:

CONSTRUCTION EMISSION ESTIMATES

	ROG	NOx	CO	SO2	PM10.Dust	PM10.Exhaust	PM10	PM2.5.Dust	PM2.5.Exhaust	PM2.5	CO2
2010 TOTALS (bs/day unmitigated)	48.67	25.05	13.50	0.01	5.01	1.25	6.26	1.05	1.15	2.20	2,371.71
2010 TOTALS (bs/day mitigated)	48.67	25.05	13.50	0.01	2.60	1.25	3.85	0.54	1.15	1.70	2,371.71

Construction Unmitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Summer Pounds Per Day, Unmitigated

	ROG	NOx	CO	SO2	PM10.Dust	PM10.Exhaust	PM10	PM2.5.Dust	PM2.5.Exhaust	PM2.5	CO2
Time Slice 07/19/2010-08/13/2010 Active Days: 20	3.04	25.05	13.50	0.00	5.01	1.25	6.26	1.05	1.15	2.20	2,371.71
Mass Grading 07/19/2010-08/13/2010	3.04	25.05	13.50	0.00	5.01	1.25	6.26	1.05	1.15	2.20	2,371.71
Mass Grading Dust	0.00	0.00	0.00	0.00	5.00	0.00	5.00	1.04	0.00	1.04	0.00
Mass Grading Off Road Diesel	3.00	24.99	12.46	0.00	0.00	1.25	1.25	0.00	1.15	1.15	2,247.32
Mass Grading On Road Diesel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Mass Grading Worker Trips	0.03	0.06	1.04	0.00	0.01	0.00	0.01	0.00	0.00	0.01	124.39
Time Slice 08/16/2010-10/29/2010 Active Days: 55	1.43	11.35	8.17	0.01	0.02	0.86	0.69	0.01	0.61	0.62	1,499.30
Building 08/16/2010-10/29/2010	1.43	11.35	8.17	0.01	0.02	0.66	0.69	0.01	0.61	0.62	1,499.30
Building Off Road Diesel	1.21	9.16	4.81	0.00	0.00	0.58	0.58	0.00	0.53	0.53	883.39
Building Vendor Trips	0.17	2.08	1.44	0.00	0.01	0.08	0.10	0.00	0.08	0.08	378.34
Building Worker Trips	0.06	0.11	1.91	0.00	0.01	0.01	0.02	0.00	0.01	0.01	227.58
Time Slice 11/01/2010-11/12/2010 Active Days: 10	48.67	11.71	8.28	0.00	0.01	1.01	1.02	0.00	0.93	0.93	1,146.27
Asphalt 11/01/2010-11/12/2010	1.99	11.71	7.71	0.00	0.01	1.01	1.02	0.00	0.93	0.93	1,078.64
Paving Off-Gas	1.86	11.33	6.55	0.00	0.00	0.99	0.99	0.00	0.00	0.00	0.00
Paving Off Road Diesel	0.02	0.33	0.12	0.00	0.00	0.01	0.01	0.00	0.01	0.01	908.50
Paving On Road Diesel	0.03	0.06	1.04	0.00	0.01	0.00	0.01	0.00	0.00	0.01	45.64
Coating 11/01/2010-11/12/2010	46.67	0.03	0.57	0.00	0.00	0.00	0.01	0.00	0.00	0.01	124.39
Architectural Coating	46.66	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	67.73
Coating Worker Trips	0.02	0.03	0.57	0.00	0.00	0.00	0.01	0.00	0.00	0.00	0.00

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Phase Assumptions

Phase: Mass Grading 07/19/2010 - 08/13/2010 - Mass Site Grading/Excavation

Total Acres Disturbed: 1

Maximum Daily Acreage Disturbed: 0.25

Fugitive Dust Level of Detail: Default
20 lbs per acre-day

On Road Truck Travel (VMT): 0

Off-Road Equipment:

- 1 Graders (174 hp) operating at a 0.61 load factor for 6 hours per day
- 1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 6 hours per day
- 1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 7 hours per day
- 1 Water Trucks (189 hp) operating at a 0.5 load factor for 8 hours per day

Phase: Paving 11/01/2010 - 11/12/2010 - Asphaltting around tank

Acres to be Paved: 0.3

Off-Road Equipment:

- 1 Cement and Mortar Mixers (10 hp) operating at a 0.56 load factor for 6 hours per day
- 1 Pavers (100 hp) operating at a 0.62 load factor for 7 hours per day
- 1 Rollers (95 hp) operating at a 0.56 load factor for 7 hours per day
- 1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 7 hours per day

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Phase: Building Construction 09/16/2010 - 10/29/2010 - Reservoir construction

Off-Road Equipment:

- 1 Cranes (399 hp) operating at a 0.43 load factor for 4 hours per day
- 2 Forklifts (145 hp) operating at a 0.3 load factor for 6 hours per day
- 1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 8 hours per day

Phase: Architectural Coating 11/01/2010 - 11/12/2010 - Painting tank

Rule: Residential Interior Coatings begins 01/01/2005 ends 06/30/2008 specifies a VOC of 100

Rule: Residential Interior Coatings begins 07/01/2008 ends 12/31/2040 specifies a VOC of 50

Rule: Residential Exterior Coatings begins 01/01/2005 ends 06/30/2008 specifies a VOC of 250

Rule: Residential Exterior Coatings begins 07/01/2008 ends 12/31/2040 specifies a VOC of 100

Rule: Nonresidential Interior Coatings begins 01/01/2005 ends 12/31/2040 specifies a VOC of 250

Rule: Nonresidential Exterior Coatings begins 01/01/2005 ends 12/31/2040 specifies a VOC of 250

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Injunction Mitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Summer Pounds Per Day, Mitigated

	SO ₂	CO	NO _x	CO ₂	PM10 Exhaust	PM10 Dust	PM10 Exhaust	PM10	PM2.5 Dust	PM2.5 Exhaust	PM2.5	CO ₂
Time Slice 07/19/2010-08/13/2010 Active Days: 20	0.00	13.50	25.05	13.50	2.60	2.60	1.25	3.85	0.54	1.15	1.70	2,371.71
Mass Grading 07/19/2010-08/13/2010	0.00	13.50	25.05	13.50	2.60	2.60	1.25	3.85	0.54	1.15	1.70	2,371.71
Mass Grading Dust	0.00	0.00	0.00	0.00	2.59	2.59	0.00	2.59	0.54	0.00	0.54	0.00
Mass Grading Off Road Diesel	0.00	12.46	24.99	12.46	0.00	0.00	1.25	1.25	0.00	1.15	1.15	2,247.32
Mass Grading On Road Diesel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Mass Grading Worker Trips	0.03	1.04	0.06	1.04	0.01	0.01	0.00	0.01	0.00	0.00	0.01	124.39
Time Slice 08/16/2010-10/29/2010 Active Days: 55	0.01	8.17	11.35	8.17	0.02	0.02	0.66	0.69	0.01	0.61	0.62	1,499.30
Building 08/16/2010-10/29/2010	0.01	8.17	11.35	8.17	0.02	0.02	0.66	0.69	0.01	0.61	0.62	1,499.30
Building Off Road Diesel	0.00	4.81	9.16	4.81	0.00	0.00	0.58	0.58	0.00	0.53	0.53	893.39
Building Vendor Trips	0.00	1.44	2.08	1.44	0.01	0.01	0.08	0.10	0.00	0.06	0.08	378.34
Building Worker Trips	0.00	1.91	0.11	1.91	0.01	0.01	0.01	0.02	0.00	0.01	0.01	227.56
Time Slice 11/01/2010-11/12/2010 Active Days: 10	0.00	8.28	11.74	8.28	0.01	0.01	1.01	1.02	0.00	0.93	0.93	1,146.27
Asphalt 11/01/2010-11/12/2010	0.00	7.71	11.71	7.71	0.01	0.01	1.01	1.02	0.00	0.93	0.93	1,076.54
Paving Off-Gas	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Paving Off Road Diesel	0.00	6.55	11.33	6.55	0.00	0.00	0.99	0.99	0.00	0.91	0.91	908.50
Paving On Road Diesel	0.00	0.12	0.33	0.12	0.00	0.00	0.01	0.01	0.00	0.01	0.01	45.64
Paving Worker Trips	0.00	1.04	0.05	1.04	0.01	0.01	0.00	0.01	0.00	0.00	0.01	124.39
Coating 11/01/2010-11/12/2010	0.00	0.57	0.03	0.57	0.00	0.00	0.03	0.01	0.00	0.00	0.00	67.73
Architectural Coating	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Coating Worker Trips	0.00	0.57	0.03	0.57	0.00	0.00	0.00	0.01	0.00	0.00	0.00	67.73

Construction Related Mitigation Measures

The following mitigation measures apply to Phase: Mass Grading 07/19/2010 - 08/13/2010 - Mass Site Grading/Excavation
 For Soil Stabilizing Measures, the Water exposed surfaces 3x daily watering mitigation reduces emissions by:
 PM10: 61% PM2.5: 61%

Combined Winter Emissions Reports (Pounds/Day)

File Name: E:\ECSD tank.urb924

Project Name: ECSD Water tank

Project Location: Riverside County

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

Summary Report:

CONSTRUCTION EMISSION ESTIMATES

	ROG	NOx	CO	SO2	PM10 Dust	PM10 Exhaust	PM10	PM2.5 Dust	PM2.5 Exhaust	PM2.5	CO2
2010 TOTALS (lbs/day unmitigated)	48.67	25.05	13.50	0.01	5.01	1.25	6.26	1.05	1.15	2.20	2,371.71
2010 TOTALS (lbs/day mitigated)	48.67	25.05	13.50	0.01	2.60	1.25	3.85	0.54	1.15	1.70	2,371.71

Construction Unmitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Winter Pounds Per Day, Unmitigated

	ROG	NOx	CO	SO2	PM10 Dust	PM10 Exhaust	PM10	PM2.5 Dust	PM2.5 Exhaust	PM2.5	CO2
Time Slice 07/19/2010-08/13/2010	3.04	25.05	13.50	0.00	5.01	1.25	6.26	1.05	1.15	2.20	2,371.71
Active Davs: 20											
Mass Grading 07/19/2010-08/13/2010	3.04	25.05	13.50	0.00	5.01	1.25	6.26	1.05	1.15	2.20	2,371.71
Mass Grading Dust	0.00	0.00	0.00	0.00	5.00	0.00	5.00	1.04	0.00	1.04	0.00
Mass Grading Off Road Diesel	3.00	24.99	12.46	0.00	0.00	1.25	1.25	0.00	1.15	1.15	2,247.32
Mass Grading On Road Diesel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Mass Grading Worker Trips	0.03	0.06	1.04	0.00	0.01	0.00	0.01	0.00	0.00	0.01	124.39
Time Slice 08/16/2010-10/29/2010	1.43	11.35	8.17	0.01	0.02	0.66	0.69	0.01	0.61	0.62	1,499.30
Active Davs: 55											
Building 08/16/2010-10/29/2010	1.43	11.35	8.17	0.01	0.02	0.66	0.69	0.01	0.61	0.62	1,499.30
Building Off Road Diesel	1.21	9.16	4.81	0.00	0.00	0.58	0.58	0.00	0.53	0.53	893.39
Building Vendor Trips	0.17	2.08	1.44	0.00	0.01	0.08	0.10	0.00	0.08	0.08	378.34

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1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 7 hours per day

Phase: Building Construction 08/16/2010 - 10/29/2010 - Reservoir construction

Off-Road Equipment:

1 Cranes (399 hp) operating at a 0.43 load factor for 4 hours per day

2 Forklifts (145 hp) operating at a 0.3 load factor for 6 hours per day

1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 8 hours per day

Phase: Architectural Coating 11/01/2010 - 11/12/2010 - Painting tank

Rule: Residential Interior Coatings begins 01/01/2005 ends 06/30/2008 specifies a VOC of 100

Rule: Residential Interior Coatings begins 07/01/2008 ends 12/31/2040 specifies a VOC of 50

Rule: Residential Exterior Coatings begins 01/01/2005 ends 06/30/2008 specifies a VOC of 250

Rule: Residential Exterior Coatings begins 07/01/2008 ends 12/31/2040 specifies a VOC of 100

Rule: Nonresidential Interior Coatings begins 01/01/2005 ends 12/31/2040 specifies a VOC of 250

Rule: Nonresidential Exterior Coatings begins 01/01/2005 ends 12/31/2040 specifies a VOC of 250

Construction Mitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Winter Pounds Per Day, Mitigated

	ROG	NOx	CO	SO2	PM10 Dust	PM10 Exhaust	PM10	PM2.5 Dust	PM2.5 Exhaust	PM2.5	CO2
Time Slice 07/19/2010-08/13/2010 Active Days: 20 Mass Grading 07/19/2010-08/13/2010 Mass Grading Dust	3.04	25.05	13.50	0.00	2.60	1.25	3.85	0.54	1.15	1.70	2,371.71
Mass Grading Off Road Diesel	3.00	24.99	12.46	0.00	0.00	1.25	1.25	0.00	1.15	1.15	2,371.71
Mass Grading On Road Diesel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Mass Grading Worker Trips	0.03	0.06	1.04	0.00	0.01	0.00	0.01	0.00	0.00	0.01	124.39
Time Slice 08/16/2010-10/29/2010 Active Days: 55 Building 08/16/2010-10/29/2010	1.43	11.35	8.17	0.01	0.02	0.66	0.69	0.01	0.61	0.62	1,499.30
Building Off Road Diesel	1.43	11.35	8.17	0.01	0.02	0.66	0.69	0.01	0.61	0.62	1,499.30
Building Off Road Diesel	1.21	9.16	4.81	0.00	0.00	0.58	0.58	0.00	0.53	0.53	893.39

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Building Vendor Trips	0.17	2.08	1.44	0.00	0.01	0.08	0.10	0.00	0.08	0.08	0.08	378.34
Building Worker Trips	0.06	0.11	1.91	0.00	0.01	0.01	0.02	0.00	0.01	0.01	0.01	227.58
Time Slice 11/01/2010-11/12/2010 Active Days: 10	<u>48.67</u>	11.74	8.28	0.00	0.01	1.01	1.02	0.00	0.93	0.93	0.93	1,146.27
Asphalt 11/01/2010-11/12/2010	1.99	11.71	7.71	0.00	0.01	1.01	1.02	0.00	0.93	0.93	0.93	1,078.54
Paving Off-Gas	0.08	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Paving Off Road Diesel	1.86	11.33	6.55	0.00	0.00	0.99	0.99	0.00	0.91	0.91	0.91	908.50
Paving On Road Diesel	0.02	0.33	0.12	0.00	0.00	0.01	0.01	0.00	0.01	0.01	0.01	45.64
Paving Worker Trips	0.03	0.06	1.04	0.00	0.01	0.00	0.01	0.00	0.00	0.00	0.01	124.39
Coating 11/01/2010-11/12/2010	46.67	0.03	0.57	0.00	0.00	0.00	0.01	0.00	0.00	0.00	0.00	67.73
Architectural Coating	46.66	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Coating Worker Trips	0.02	0.03	0.57	0.00	0.00	0.00	0.01	0.00	0.00	0.00	0.00	67.73

Construction Related Mitigation Measures

The following mitigation measures apply to Phase: Mass Grading 07/19/2010 - 08/13/2010 - Mass Site Grading/Excavation
For Soil Stabilizing Measures, the Water exposed surfaces 3x daily watering mitigation reduces emissions by:

PM10: 61% PM25: 61%

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Urbemis 2007 Version 9.2.4

Combined Winter Emissions Reports (Pounds/Day)

File Name: E:\water project.urb924
 Project Name: Edgemont Water District Water Analysis 08-278
 Project Location: Riverside County
 On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006
 Off-Road Vehicle Emissions Based on: OFFROAD2007

Summary Report:

CONSTRUCTION EMISSION ESTIMATES

	ROG	NOx	CO	SO2	PM10 Dust	PM10 Exhaust	PM10	PM2.5 Dust	PM2.5 Exhaust	PM2.5	CO2
2010 TOTALS (lbs/day unmitigated)	4.81	33.95	18.86	0.00	16.61	1.84	18.45	3.47	1.70	5.17	3,255.62
2010 TOTALS (lbs/day mitigated)	4.81	33.95	18.86	0.00	8.61	1.84	10.45	1.80	1.70	3.50	3,255.62

Construction Unmitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Winter Pounds Per Day, Unmitigated

	ROG	NOx	CO	SO2	PM10 Dust	PM10 Exhaust	PM10	PM2.5 Dust	PM2.5 Exhaust	PM2.5	CO2
Time Slice 05/03/2010-07/02/2010 Active Days: 45	4.81	33.95	18.86	0.00	16.61	1.84	18.45	3.47	1.70	5.17	3,255.62
Fine Grading 05/03/2010-07/02/2010	4.81	33.95	18.86	0.00	16.61	1.84	18.45	3.47	1.70	5.17	3,255.62
Fine Grading Dust	0.00	0.00	0.00	0.00	16.60	0.00	16.60	3.47	0.00	3.47	0.00
Fine Grading Off Road Diesel	4.75	33.84	17.04	0.00	0.00	1.84	1.84	0.00	1.69	1.69	3,037.93
Fine Grading On Road Diesel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Fine Grading Worker Trips	0.06	0.11	1.83	0.00	0.01	0.01	0.02	0.00	0.01	0.01	217.69
Time Slice 07/05/2010-07/16/2010 Active Days: 10	2.98	17.01	11.25	0.00	0.01	1.43	1.44	0.01	1.31	1.32	1,622.27
Asphalt 07/05/2010-07/16/2010	2.98	17.01	11.25	0.00	0.01	1.43	1.44	0.01	1.31	1.32	1,622.27
Paving Off-Gas	0.22	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Paving Off Road Diesel	2.64	16.01	9.11	0.00	0.00	1.38	1.38	0.00	1.27	1.27	1,278.30
Paving On Road Diesel	0.06	0.90	0.32	0.00	0.00	0.03	0.04	0.00	0.03	0.03	126.28
Paving Worker Trips	0.06	0.11	1.83	0.00	0.01	0.01	0.02	0.00	0.01	0.01	217.69

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Phase Assumptions

Phase: Fine Grading 05/03/2010 - 07/02/2010 - Construction, trenching, grading for water pipe

Total Acres Disturbed: 3.32

Maximum Daily Acreage Disturbed: 0.83

Fugitive Dust Level of Detail: Default

20 lbs per acre-day

On Road Truck Travel (VMT): 0

Off-Road Equipment:

- 1 Cranes (399 hp) operating at a 0.43 load factor for 8 hours per day
- 1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 6 hours per day
- 1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 7 hours per day
- 1 Trenchers (63 hp) operating at a 0.75 load factor for 8 hours per day
- 2 Welders (45 hp) operating at a 0.45 load factor for 8 hours per day
- 1 Water Trucks (189 hp) operating at a 0.5 load factor for 8 hours per day

Phase: Paving 07/05/2010 - 07/16/2010 - Re-pave within ROW

Res to be Paved: 0.83

Off-Road Equipment:

- 1 Concrete/Industrial Saws (10 hp) operating at a 0.56 load factor for 6 hours per day
- 1 Pavers (100 hp) operating at a 0.62 load factor for 7 hours per day
- 1 Paving Equipment (104 hp) operating at a 0.53 load factor for 8 hours per day
- 1 Rollers (95 hp) operating at a 0.56 load factor for 7 hours per day
- 1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 7 hours per day

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Construction Mitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Winter Pounds Per Day, Mitigated

	ROG	NOx	CO	SO2	PM10 Dust	PM10 Exhaust	PM10	PM2.5 Dust	PM2.5 Exhaust	PM2.5	CO2
Time Slice 05/03/2010-07/02/2010 Active Days: 45	<u>4.81</u>	<u>33.95</u>	<u>18.86</u>	0.00	<u>8.61</u>	<u>1.84</u>	<u>10.45</u>	<u>1.80</u>	<u>1.70</u>	<u>3.50</u>	<u>3,255.62</u>
Fine Grading 05/03/2010-07/02/2010	4.81	33.95	18.86	0.00	8.61	1.84	10.45	1.80	1.70	3.50	3,255.62
Fine Grading Dust	0.00	0.00	0.00	0.00	8.60	0.00	8.60	1.80	0.00	1.80	0.00
Fine Grading Off Road Diesel	4.75	33.84	17.04	0.00	0.00	1.84	1.84	0.00	1.69	1.69	3,037.93
Fine Grading On Road Diesel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Fine Grading Worker Trips	0.06	0.11	1.83	0.00	0.01	0.01	0.02	0.00	0.01	0.01	217.69
Time Slice 07/05/2010-07/16/2010 Active Days: 10	2.98	17.01	11.25	<u>0.00</u>	0.01	1.43	1.44	0.01	1.31	1.32	1,622.27
Asphalt 07/05/2010-07/16/2010	2.98	17.01	11.25	0.00	0.01	1.43	1.44	0.01	1.31	1.32	1,622.27
Paving Off-Gas	0.22	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Paving Off Road Diesel	2.64	16.01	9.11	0.00	0.00	1.38	1.38	0.00	1.27	1.27	1,278.30
Paving On Road Diesel	0.06	0.90	0.32	0.00	0.00	0.03	0.04	0.00	0.03	0.03	126.28
Paving Worker Trips	0.06	0.11	1.83	0.00	0.01	0.01	0.02	0.00	0.01	0.01	217.69

Construction Related Mitigation Measures

The following mitigation measures apply to Phase: Fine Grading 05/03/2010 - 07/02/2010 - Construction, trenching, grading for water pipe
For Soil Stabilizing Measures, the Water exposed surfaces 3x daily watering mitigation reduces emissions by:

PM10: 61% PM25: 61%

Combined Summer Emissions Reports (Pounds/Day)

File Name: E:\water project.urb924
 Project Name: Edgemont Water District Water Analysis 08-278
 Project Location: Riverside County
 On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006
 Off-Road Vehicle Emissions Based on: OFFROAD2007

Summary Report:

CONSTRUCTION EMISSION ESTIMATES

	ROG	NOX	CO	SO2	PM10 Dust	PM10 Exhaust	PM2.5 Dust	PM2.5 Exhaust	PM2.5	CO2
2010 TOTALS (lbs/day unmitigated)	4.81	33.95	18.86	0.00	16.61	1.84	3.47	1.70	5.17	3,255.62
2010 TOTALS (lbs/day mitigated)	4.81	33.95	18.86	0.00	8.61	1.84	1.80	1.70	3.50	3,255.62

Construction Unmitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Summer Pounds Per Day, Unmitigated

	ROG	NOX	CO	SO2	PM10 Dust	PM10 Exhaust	PM2.5 Dust	PM2.5 Exhaust	PM2.5	CO2
Time Slice 05/03/2010-07/02/2010 Active Days: 45	4.81	33.95	18.86	0.00	16.61	1.84	3.47	1.70	5.17	3,255.62
Fine Grading 05/03/2010-07/02/2010	4.81	33.95	18.86	0.00	16.61	1.84	3.47	1.70	5.17	3,255.62
Fine Grading Dust	0.00	0.00	0.00	0.00	16.60	0.00	3.47	0.00	3.47	0.00
Fine Grading Off Road Diesel	4.75	33.84	17.04	0.00	0.00	1.84	0.00	1.69	1.69	3,037.93
Fine Grading On Road Diesel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Fine Grading Worker Trips	0.06	0.11	1.83	0.00	0.01	0.01	0.00	0.01	0.01	217.69
Time Slice 07/05/2010-07/16/2010 Active Days: 10	2.98	17.01	11.25	0.00	0.01	1.43	0.01	1.31	1.32	1,622.27
Asphalt 07/05/2010-07/16/2010	2.98	17.01	11.25	0.00	0.01	1.43	0.01	1.31	1.32	1,622.27
Paving Off-Gas	0.22	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Paving Off Road Diesel	2.64	16.01	9.11	0.00	0.00	1.38	0.00	1.27	1.27	1,278.30
Paving On Road Diesel	0.06	0.90	0.32	0.00	0.00	0.03	0.00	0.03	0.03	126.28
Paving Worker Trips	0.06	0.11	1.83	0.00	0.01	0.01	0.00	0.01	0.01	217.69

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Phase Assumptions

Phase: Fine Grading 05/03/2010 - 07/02/2010 - Construction, trenching, grading for water pipe

Total Acres Disturbed: 3.32

Maximum Daily Acreage Disturbed: 0.83

Fugitive Dust Level of Detail: Default

20 lbs per acre-day

On Road Truck Travel (VMT): 0

Off-Road Equipment:

1 Cranes (399 hp) operating at a 0.43 load factor for 8 hours per day

1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 6 hours per day

1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 7 hours per day

1 Trenchers (63 hp) operating at a 0.75 load factor for 8 hours per day

2 Welders (45 hp) operating at a 0.45 load factor for 8 hours per day

1 Water Trucks (189 hp) operating at a 0.5 load factor for 8 hours per day

Phase: Paving 07/05/2010 - 07/16/2010 - Re-pave within ROW

41 Acres to be Paved: 0.83

1 Off-Road Equipment:

2 Cement and Mortar Mixers (10 hp) operating at a 0.56 load factor for 6 hours per day

1 Concrete/Industrial Saws (10 hp) operating at a 0.73 load factor for 8 hours per day

1 Pavers (100 hp) operating at a 0.62 load factor for 7 hours per day

1 Paving Equipment (104 hp) operating at a 0.53 load factor for 8 hours per day

1 Rollers (95 hp) operating at a 0.56 load factor for 7 hours per day

1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 7 hours per day

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Construction Mitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Summer Pounds Per Day, Mitigated

	<u>ROG</u>	<u>NOX</u>	<u>CO</u>	<u>SO2</u>	<u>PM10 Dust</u>	<u>PM10 Exhaust</u>	<u>PM10</u>	<u>PM2.5 Dust</u>	<u>PM2.5 Exhaust</u>	<u>PM2.5</u>	<u>CO2</u>
Time Slice 05/03/2010-07/02/2010 Active Days: 45	<u>4.81</u>	<u>33.95</u>	<u>18.86</u>	0.00	<u>8.61</u>	<u>1.84</u>	<u>10.45</u>	<u>1.80</u>	<u>1.70</u>	<u>3.50</u>	<u>3,255.62</u>
Fine Grading 05/03/2010-07/02/2010	4.81	33.95	18.86	0.00	8.61	1.84	10.45	1.80	1.70	3.50	3,255.62
Fine Grading Dust	0.00	0.00	0.00	0.00	8.60	0.00	8.60	1.80	0.00	1.80	0.00
Fine Grading Off Road Diesel	4.75	33.84	17.04	0.00	0.00	1.84	1.84	0.00	1.69	1.69	3,037.93
Fine Grading On Road Diesel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Fine Grading Worker Trips	0.06	0.11	1.83	0.00	0.01	0.01	0.02	0.00	0.01	0.01	217.69
Time Slice 07/05/2010-07/16/2010 Active Days: 10	<u>2.98</u>	<u>17.01</u>	<u>11.25</u>	<u>0.00</u>	<u>0.01</u>	<u>1.43</u>	<u>1.44</u>	<u>0.01</u>	<u>1.31</u>	<u>1.32</u>	<u>1,622.27</u>
Asphalt 07/05/2010-07/16/2010	2.98	17.01	11.25	0.00	0.01	1.43	1.44	0.01	1.31	1.32	1,622.27
Paving Off-Gas	0.22	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Paving Off Road Diesel	2.64	16.01	9.11	0.00	0.00	1.38	1.38	0.00	1.27	1.27	1,278.30
Paving On Road Diesel	0.06	0.90	0.32	0.00	0.00	0.03	0.04	0.00	0.03	0.03	126.28
Paving Worker Trips	0.06	0.11	1.83	0.00	0.01	0.01	0.02	0.00	0.01	0.01	217.69

Construction Related Mitigation Measures

The following mitigation measures apply to Phase: Fine Grading 05/03/2010 - 07/02/2010 - Construction, trenching, grading for water pipe
 For Soil Stabilizing Measures, the Water exposed surfaces 3x daily watering mitigation reduces emissions by:
 PM10: 61% PM25: 61%

Construction Emissions

Pipelines

Year	Annual Tons	Annual MT CO2
2010	81.36	73.81
Total		73.81

Reservoir

Year	Annual Tons	Annual MT CO2
2010	70.68	64.12
Total		64.12

Project	Total Tons CO2	Total MT CO2
pipelines	81.36	73.81
resevoir	70.68	64.12
Total	152.04	137.93

* Annual tons obtained from URBEMIS output.

Combined Annual Emissions Reports (Tons/Year)

File Name: E:\ECSD tank.urb924

Project Name: ECSD Water tank

Project Location: Riverside County

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

Summary Report:

CONSTRUCTION EMISSION ESTIMATES

	<u>CO2</u>
2010 TOTALS (tons/year unmitigated)	70.68
2010 TOTALS (tons/year mitigated)	70.68
Percent Reduction	0.00

Construction Unmitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Annual Tons Per Year, Unmitigated

	<u>CO2</u>
2010	70.68
Mass Grading 07/19/2010-08/13/2010	23.72
Mass Grading Dust	0.00
Mass Grading Off Road Diesel	22.47
Mass Grading On Road Diesel	0.00
Mass Grading Worker Trips	1.24
Building 08/16/2010-10/29/2010	41.23
Building Off Road Diesel	24.57
Building Vendor Trips	10.40
Building Worker Trips	6.26
Asphalt 11/01/2010-11/12/2010	5.39
Paving Off-Gas	0.00
Paving Off Road Diesel	4.54
Paving On Road Diesel	0.23
Paving Worker Trips	0.62
Coating 11/01/2010-11/12/2010	0.34
Architectural Coating	0.00
Coating Worker Trips	0.34

Phase Assumptions

Phase: Mass Grading 07/19/2010 - 08/13/2010 - Mass Site Grading/Excavation

Total Acres Disturbed: 1

Maximum Daily Acreage Disturbed: 0.25

Fugitive Dust Level of Detail: Default

20 lbs per acre-day

On Road Truck Travel (VMT): 0

Off-Road Equipment:

1 Graders (174 hp) operating at a 0.61 load factor for 6 hours per day

1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 6 hours per day

1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 7 hours per day

1 Water Trucks (189 hp) operating at a 0.5 load factor for 8 hours per day

Phase: Paving 11/01/2010 - 11/12/2010 - Asphaltting around tank

Acres to be Paved: 0.3

Off-Road Equipment:

1 Cement and Mortar Mixers (10 hp) operating at a 0.56 load factor for 6 hours per day

1 Pavers (100 hp) operating at a 0.62 load factor for 7 hours per day

1 Rollers (95 hp) operating at a 0.56 load factor for 7 hours per day

1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 7 hours per day

Phase: Building Construction 08/16/2010 - 10/29/2010 - Reservoir construction

Off-Road Equipment:

1 Cranes (399 hp) operating at a 0.43 load factor for 4 hours per day

2 Forklifts (145 hp) operating at a 0.3 load factor for 6 hours per day

1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 8 hours per day

Phase: Architectural Coating 11/01/2010 - 11/12/2010 - Painting tank

Rule: Residential Interior Coatings begins 01/01/2005 ends 06/30/2008 specifies a VOC of 100

Rule: Residential Interior Coatings begins 07/01/2008 ends 12/31/2040 specifies a VOC of 50

Rule: Residential Exterior Coatings begins 01/01/2005 ends 06/30/2008 specifies a VOC of 250

Rule: Residential Exterior Coatings begins 07/01/2008 ends 12/31/2040 specifies a VOC of 100

Rule: Nonresidential Interior Coatings begins 01/01/2005 ends 12/31/2040 specifies a VOC of 250

Rule: Nonresidential Exterior Coatings begins 01/01/2005 ends 12/31/2040 specifies a VOC of 250

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Urbemis 2007 Version 9.2.4

Combined Annual Emissions Reports (Tons/Year)

File Name: E:\water project.urb924

Project Name: Edgemont Water District Water Analysis 08-278

Project Location: Riverside County

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

Summary Report:

CONSTRUCTION EMISSION ESTIMATES

	<u>CO2</u>
2010 TOTALS (tons/year unmitigated)	81.36
2010 TOTALS (tons/year mitigated)	81.36
Percent Reduction	0.00

Construction Unmitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Annual Tons Per Year, Unmitigated

	<u>CO2</u>
2010	81.36
Fine Grading 05/03/2010-07/02/2010	73.25
Fine Grading Dust	0.00
Fine Grading Off Road Diesel	68.35
Fine Grading On Road Diesel	0.00
Fine Grading Worker Trips	4.90
Asphalt 07/05/2010-07/16/2010	8.11
Paving Off-Gas	0.00
Paving Off Road Diesel	6.39
Paving On Road Diesel	0.63
Paving Worker Trips	1.09

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Phase Assumptions

Phase: Fine Grading 05/03/2010 - 07/02/2010 - Construction, trenching, grading for water pipe

Total Acres Disturbed: 3.32

Maximum Daily Acreage Disturbed: 0.83

Fugitive Dust Level of Detail: Default

20 lbs per acre-day

On Road Truck Travel (VMT): 0

Off-Road Equipment:

1 Cranes (399 hp) operating at a 0.43 load factor for 8 hours per day

1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 6 hours per day

1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 7 hours per day

1 Trenchers (63 hp) operating at a 0.75 load factor for 8 hours per day

2 Welders (45 hp) operating at a 0.45 load factor for 8 hours per day

1 Water Trucks (189 hp) operating at a 0.5 load factor for 8 hours per day

Phase: Paving 07/05/2010 - 07/16/2010 - Re-pave within ROW

Acres to be Paved: 0.83

Off-Road Equipment:

2 Cement and Mortar Mixers (10 hp) operating at a 0.56 load factor for 6 hours per day

1 Concrete/Industrial Saws (10 hp) operating at a 0.73 load factor for 8 hours per day

1 Pavers (100 hp) operating at a 0.62 load factor for 7 hours per day

1 Paving Equipment (104 hp) operating at a 0.53 load factor for 8 hours per day

1 Rollers (95 hp) operating at a 0.56 load factor for 7 hours per day

1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 7 hours per day

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Construction Mitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Annual Tons Per Year, Mitigated

	<u>CO2</u>
2010	81.36
Fine Grading 05/03/2010-07/02/2010	73.25
Fine Grading Dust	0.00
Fine Grading Off Road Diesel	68.35
Fine Grading On Road Diesel	0.00
Fine Grading Worker Trips	4.90
Asphalt 07/05/2010-07/16/2010	8.11
Paving Off-Gas	0.00
Paving Off Road Diesel	6.39
Paving On Road Diesel	0.63
Paving Worker Trips	1.09

Construction Related Mitigation Measures

The following mitigation measures apply to Phase: Fine Grading 05/03/2010 - 07/02/2010 - Construction, trenching, grading for water pipe
For Soil Stabilizing Measures, the Water exposed surfaces 3x daily watering mitigation reduces emissions by:

PM10: 61% PM25: 61%

Construction Mitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Annual Tons Per Year, Mitigated

	<u>CO2</u>
2010	70.68
Mass Grading 07/19/2010-08/13/2010	23.72
Mass Grading Dust	0.00
Mass Grading Off Road Diesel	22.47
Mass Grading On Road Diesel	0.00
Mass Grading Worker Trips	1.24
Building 08/16/2010-10/29/2010	41.23
Building Off Road Diesel	24.57
Building Vendor Trips	10.40
Building Worker Trips	6.26
Asphalt 11/01/2010-11/12/2010	5.39
Paving Off-Gas	0.00
Paving Off Road Diesel	4.54
Paving On Road Diesel	0.23
Paving Worker Trips	0.62
Coating 11/01/2010-11/12/2010	0.34
Architectural Coating	0.00
Coating Worker Trips	0.34

Construction Related Mitigation Measures

The following mitigation measures apply to Phase: Mass Grading 07/19/2010 - 08/13/2010 - Mass Site Grading/Excavation

For Soil Stabilizing Measures, the Water exposed surfaces 3x daily watering mitigation reduces emissions by:

PM10: 61% PM25: 61%

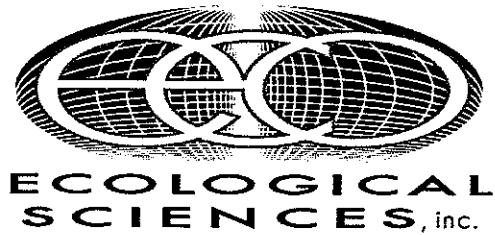
Summary of One Acre Site Example Results By Phase

Total On-Site	CO	NOx	PM10	PM2.5
Demolition	11.2	19.1	1.7	1.4
Site Preparation	7.7	17.3	1.3	0.9
Grading	18.6	35.7	2.3	1.9
Building	11.4	25.6	1.4	1.3
Arch Coating and Paving	10.3	18.0	1.3	1.2
Localized Significance Threshold*	151.0	103.0	4.0	3
Exceed Significance?	NO	NO	NO	NO

* For illustration purposes only, this analysis is based on the most stringent LSTs. Please consult App. C of the Methodology Paper for applicable LSTs.

Appendix B

General Biological Resources Evaluation



General Biological Resource Evaluation

City of Moreno Valley Edgemont Water Master Plan

Site Location:
±430-acre Master Plan Area
Riverside East USGS Quadrangle
Township 3 South, Range 4 West, Sections 10/11
Riverside County, California

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Surveys Conducted On:
November 18, 2008
December 17, 2008
December 22, 2008

Report Date:
January 2, 2009

General Biological Resource Evaluation

City of Moreno Valley
Edgemont Water Master Plan

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City of Moreno Valley
Edgemont Water Master Plan
January 2, 2009

Executive Summary

Ecological Sciences, Inc. conducted a general biological resource evaluation within the subject ±430-acre Edgemont Water Master Plan area (site) in November and December 2008. The project generally consists of installation of water infrastructure such as 8-16-inch pipelines, tank, booster, and a well site.

Particular emphasis of the biological analysis was placed on the sites' potential to support sensitive (or special-status) biological resources (i.e., those resources that have been afforded special recognition by federal, state, and/or local resource agencies or jurisdictions, or recognized conservation organizations). This report generally discusses biological resources either known or expected to occur based on results of reconnaissance-level field surveys, habitats present, and review of pertinent literature.

The proposed project traverses both undeveloped and developed areas, of which the major land use is developed roadways. Results of the survey effort indicate that habitats present within the site are generally considered of a low biological constraint and value. This designation is due to the high level of disturbance due to long-standing urban-related activities resulting in low biological diversity, absence of native plant communities, and the overall low potential for special-status species to utilize or reside within areas proposed for development. No threatened or endangered species are likely to occur in areas proposed for construction activities due to the highly disturbed site conditions. As such, construction activities would not likely jeopardize the continued existence of listed species, nor would construction adversely impact any designated critical habitat.

While no native habitat communities are present on the site, and no federal- or state-listed species are expected to occur on the site due to absence of suitable habitat, several special-status species (i.e. nesting native bird species) known from the vicinity could potentially occur adjacent to the site despite highly disturbed site conditions. Depending upon the species and seasonal timing of construction activities, a pre-activity survey, and potentially other measures, may be necessary prior to or during construction activities in order to avoid or further reduce impacts to potentially occurring sensitive biological resources.



Introduction

This report presents findings of a reconnaissance-level biological survey completed by Ecological Sciences, Inc. within the ±430-acre Edgemont Water Master Plan area. Results of this biological resource evaluation are intended to provide the applicant and reviewing regulatory agencies with preliminary biological information required for planning and permitting decisions concerning the proposed project.

As part of the environmental review process, projects proposed in the area that contain potentially suitable habitat to support sensitive biological resources must demonstrate to reviewing agencies that potential project-related impacts to sensitive biological resources are adequately addressed and mitigated pursuant to the California Environmental Quality Act (CEQA) and the federal Endangered Species Act (Act) of 1973, as amended. The survey area is also located within the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) area. Specifically, the site is located within the boundaries of the Reche Canyon / Badlands Area of the Western Riverside County Multiple Species Habitat Conservation Plan. However, the subject site is not located within a proposed criteria area, cell, subunit, and is considered an independent cell group per general parcel summary review. No potential conservation areas are mapped for the site as well. Nonetheless, some selected parcels are located within areas that require habitat assessments for the western burrowing owl (*Athene cunicularia hypugea*-WBO) per online parcel summary review (online custom reporting, RCIP website 2003).

This report describes the general biological resources present on site, provides a general assessment of sensitive biological resources either actually or potentially present based on existing site conditions, and generally analyzes constraints to development posed by the potential presence of sensitive biological resources. The potential occurrence of sensitive biological resources is solely based on results of a reconnaissance-level field survey, habitats present, and pertinent literature/database review. No focused surveys for potentially occurring sensitive biological resources were conducted as a part of this specific biological evaluation. Therefore, conclusions relative to potential presence or absence of certain sensitive biological resources are based solely on the nature of habitat present. For the purposes of this report, study area, project area, and/or site are used interchangeable.

Project Location

The site (master plan area) is located in Riverside County, California (**Plate 1**). Specifically, the site is located south of Eucalyptus Avenue, north of Alessandro Boulevard, east of Interstate 215, and west of Elsworth Street in the City of Moreno Valley. The site occurs on the "Riverside East" USGS 7.5-minute quadrangle map, Township 3 South, Range 4 West, comprising a portion of Sections 10 and 11 (**Plate 2**). **Plate 3** provides an aerial overview of the proposed project alignment.

General Regulatory Overview

Biological resources within the project site fall under the jurisdiction of multiple federal and state agencies, including, but not necessarily limited to, California Department of Fish and Game (CDFG), Regional Water Quality Control Board (RWQCB), U.S. Army Corps of Engineers (USACE), Natural Resources Conservation Service (NRCS), U.S. Fish and Wildlife Service (USFWS or Service), City of Moreno Valley (City), and/or the County of Riverside (County).

Constraints posed by biological resources upon development of the proposed project were generally evaluated by ranking the following sensitive biological issues, listed in descending order of significance: (1) a federally or state-listed endangered or threatened species of plant or animal; (2) streambeds, wetlands, and their associated vegetation; (3) habitats suitable to support a federally or state-listed endangered or threatened species of plant or wildlife; (4) species designated as candidates for federal listing; (5) habitat, other than wetlands, considered sensitive by regulatory agencies or resource conservation organizations; (6) and other species or issues of special concern to agencies, resource conservation organizations, or other interest groups.



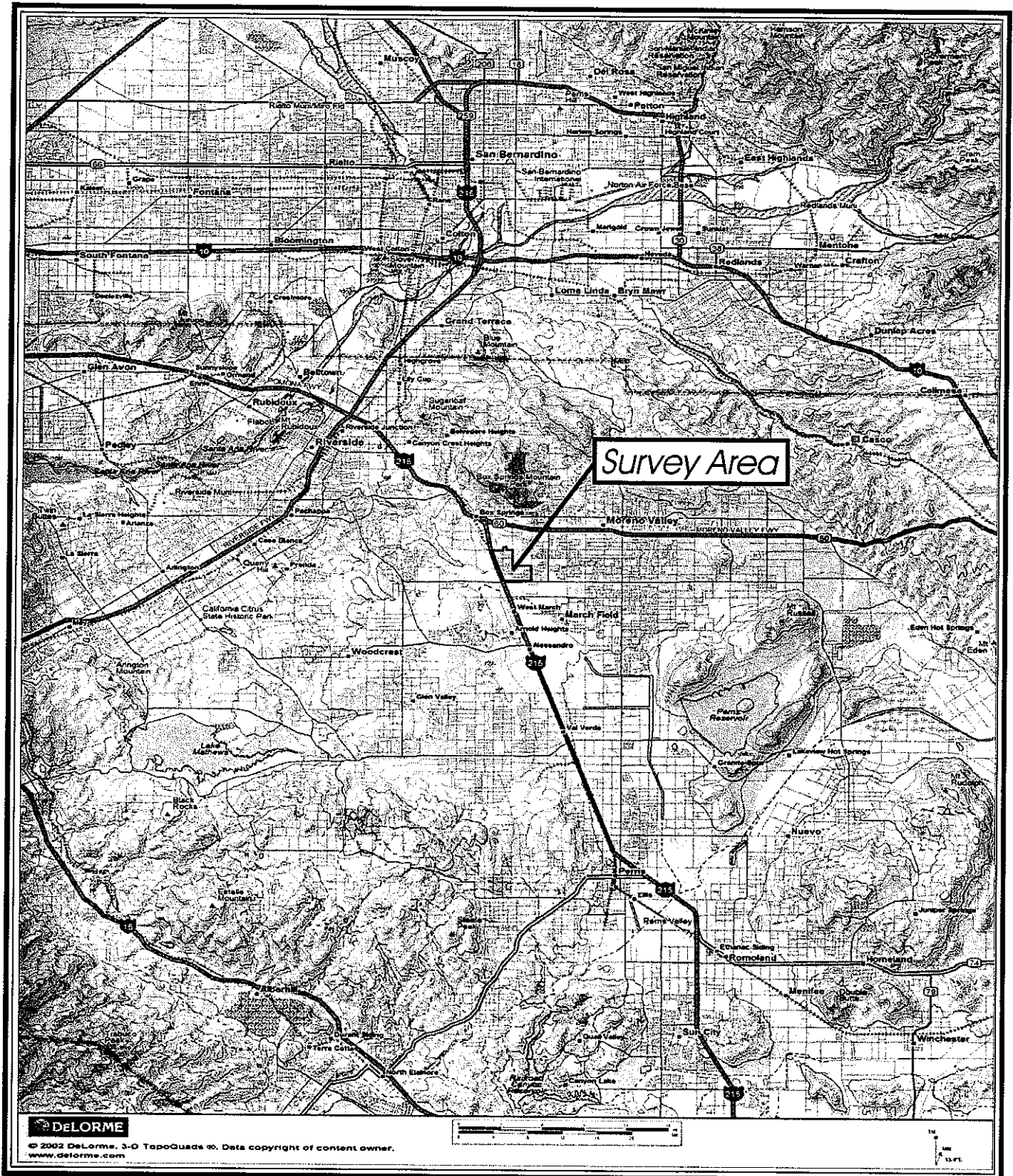


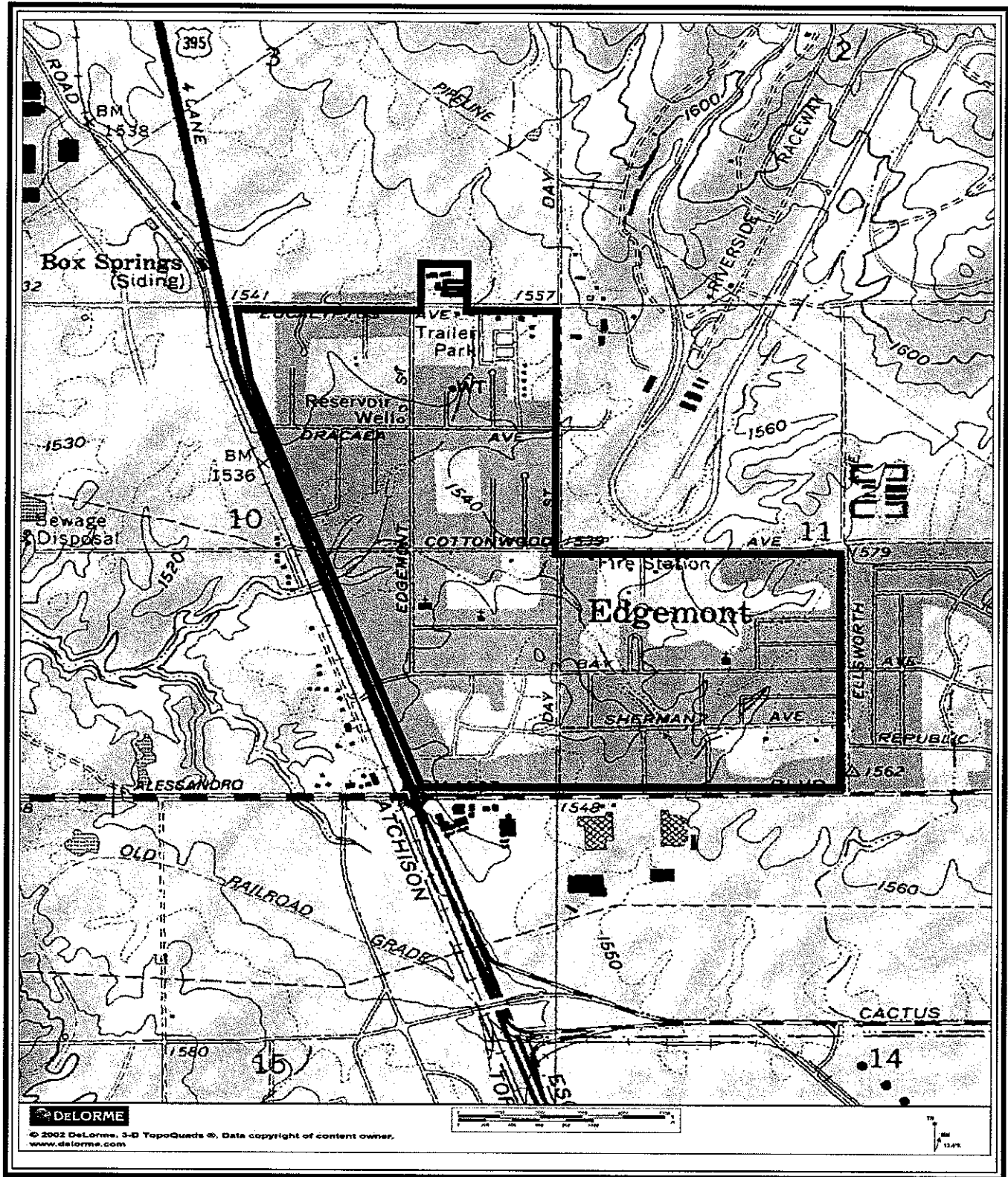
plate 1


Regional Site Location

Edgemont Water Master Plan



January 2009




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 January 2009

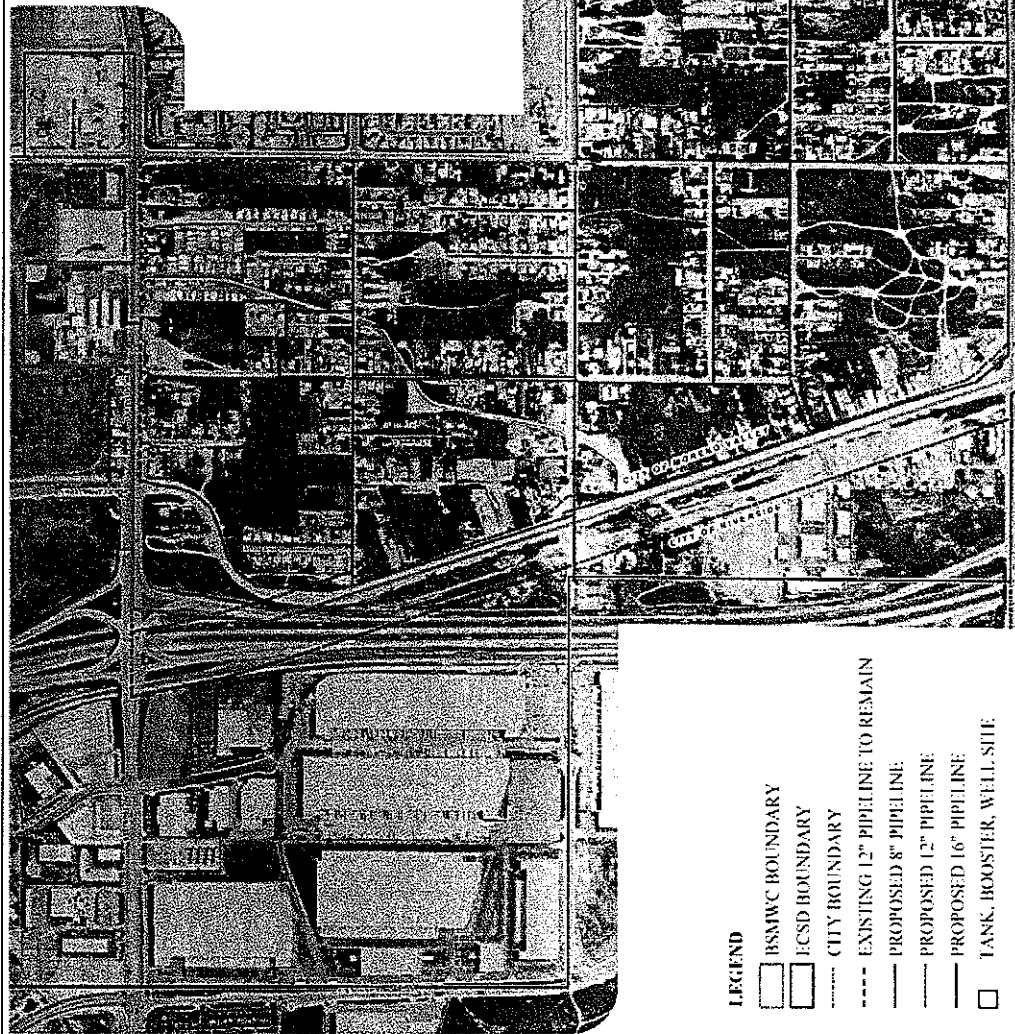
 BSMWC Boundary

plate 2

USGS Topographic Vicinity Map
 Edgemont Water Master Plan

CITY OF MORENO VALLEY
EDGEMONT WATER MASTER PLAN
UPDATE

BOX SPRINGS MUTUAL WATER COMPANY
ALTERNATIVE 1
PROPOSED PIPE DIAMETERS



WEBB
 ASSOCIATES

plate 3

Aerial Vicinity Map
 Edgемont Water Master Plan

- LEGEND**
- BSMWC BOUNDARY
 - ECSD BOUNDARY
 - CITY BOUNDARY
 - EXISTING 12" PIPELINE TO REMAIN
 - PROPOSED 8" PIPELINE
 - PROPOSED 12" PIPELINE
 - PROPOSED 16" PIPELINE
 - TANK, BOOSTER, WELL SITE



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General WBO Regulatory Overview

The WBO is also considered a MSHCP Group 3 species, California Species of Special Concern, Federal Species of Concern, Partners in Flight Priority Bird Species, and Fish and Wildlife Service Species of Management Concern. Although this special-status species is not protected by state or federal endangered species acts, the WBO is protected under the federal Migratory Bird Treaty Act (MBTA) of 1918 (16 U.S.C. 703-711) and California Department of Fish and Game (CDFG) Code sections 3503, 3503.5, and 3800. These sections prohibit take, possession, or destruction of birds, their nests or eggs. If it were later determined that active nests would be lost as a result of site-preparation, it would be in conflict with these regulations, as well as MSHCP species-specific objectives, and could also be considered a significant impact under CEQA.

The general process for those projects subject to CEQA or occurring within an MSHCP WBO survey area begins with the performance of **focused surveys** to determine if the WBO is foraging or nesting on or adjacent to the site prior to development. Current MSHCP WBO survey protocol includes four separate breeding season surveys conducted between March 1 and August 31. Per MSHCP Burrowing Owl Survey Instructions (3-31-06), surveys should be conducted during weather that is conducive to observing owls outside their burrows and detecting burrowing owl sign. Surveys will not be accepted if they are conducted within 5 days following rain, during rain, high winds (> 20 mph), dense fog, or temperatures over 90 °F. Focused surveys should be conducted in the morning one hour before sunrise to two hours after sunrise or in the early evening two hours before sunset to one hour after sunset. A systematic **survey for burrows, burrowing owls, and owl sign** should be conducted by walking through suitable habitat over the entire survey area (i.e. the project site and within 150 meters). Pedestrian survey transects need to be spaced to allow 100 percent visual coverage of the ground surface. The distance between transect center lines should be no more than 30 meters (± 100 feet) and should be reduced to account for differences in terrain, vegetation density, and ground surface visibility. Upon arrival at the survey area and prior to initiating the walking surveys, surveyors using binoculars and/or spotting scopes should scan all suitable habitat, location of mapped burrows, owl sign, and owls, including perch locations to ascertain owl presence.

All project sites containing burrows or suitable habitat (based on Step I/Habitat Assessment) whether owls were found or not, require **pre-construction surveys** that shall be conducted within 30 days prior to ground disturbance to avoid direct take of burrowing owls (MSHCP Species-Specific Objective 6). If ground-disturbing activities are delayed or suspended for more than 30 days after the survey, the site should be resurveyed for owls if suitable habitat is present.

Additional MSHCP Conservation Objectives

Although the site is located outside a MSHCP criteria area, it must also be reviewed for consistency with additional MSHCP Objectives such as **Section 6.1.2-Riparian/Riverine Areas and Vernal Pools**. The MSHCP defines **(1) Riparian/Riverine Areas** as lands which contain habitat dominated by trees, shrubs, persistent emergents, or emergent mosses and lichens, which occur close to or which depend upon soil moisture from a nearby fresh water source; or areas with fresh water flow during all or a portion of the year; **(2) Vernal pools** are seasonal wetlands that occur in depression areas that have wetlands indicators of all three parameters (soils, vegetation and hydrology) during the wetter portion of the growing season but normally lack wetlands indicators of hydrology and/or vegetation during the drier portion of the growing season. Obligate hydrophytes and facultative wetlands plant species are normally dominant during the wetter portion of the growing season, while upland species (annuals) may be dominant during the drier portion of the growing season. The determination that an area exhibits vernal pool characteristics, and the definition of the watershed supporting vernal pool hydrology, must be made on a case-by-case basis. Such determinations should consider the length of the time the area exhibits upland and wetland characteristics and the manner in which the area fits into the overall ecological system as a wetland. Evidence concerning the persistence of an area's wetness can be obtained from its history, vegetation, soils, and drainage characteristics, uses to which it has been subjected, and weather



and hydrologic records; and (3) **Fairy Shrimp**-for Riverside, vernal pool and Santa Rosa fairy shrimp, mapping of stock ponds, ephemeral pools and other features shall also be undertaken as determined appropriate by a qualified biologist.

Protected MSHCP species associated with 6.1.2 habitats include special-status plants, invertebrates, amphibians, birds, and fish (some of which are addressed in this report as appropriate). Plant species include Brand's Phacelia (*Phacelia stellaris*), California Orcutt grass (*Orcuttia californica*), California black walnut (*Juglans californica*), Coulter's matilija poppy (*Romneya coulteri*), Engelman oak (*Quercus engelmannii*), Fish's milkwort (*Polygala cornuta* spp. *fishiae*), graceful tarplant (*Holocarpha virgata* ssp. *elongata*), lemon lily (*Lilium parryi*), Mojave tarplant (*Hemizonia mohavensis*), mud nama (*Nama stenocarpum*), ocellated Humboldt lily (*Lilium humboldtii* ssp. *ocellatum*), Orcutt's brodiaea (*Brodiaea orcuttii*), Parish's meadowfoam (*Limnanthes gracilis* ssp. *parishii*), San Jacinto Valley crownscale (*Atriplex coronata* var. *notatior*), San Miguel savory (*Satureja chandleri*), Santa Ana River woolly-star (*Eriastrum densifolium* ssp. *sanctorum*), slender-horned spineflower (*Dodecahema leptoceras*), smooth tarplant (*Centromadia pungens* ssp. *laevis*), spreading navarretia (*Navarretia fossalis*), thread-leaved brodiaea (*Brodiaea filifolia*), and vernal barley (*Hordeum intercedans*). Invertebrate species include Riverside fairy shrimp (*Streptocephalus wootoni*) and vernal pool fairy shrimp (*Branchinecta lynchi*). Fish species include Santa Ana sucker (*Catostomus santaanae*). Amphibian species include arroyo toad (*Bufo californicus*), mountain yellow-legged frog (*Rana muscosa*), and California red-legged frog (*Rana aurora draytonii*). Bird species include bald eagle (*Haliaeetus leucocephalus*), least Bell's vireo (*Vireo bellii pusillus*), peregrine falcon (*Falco peregrinus*), southwestern willow flycatcher (*Empidonax traillii extimus*), and yellow-billed cuckoo (*Coccyzus americanus*). All of these species are not necessarily specific to the subject study area.

In addition to Section 6.1.2, **riparian/wetland habitats** are also considered sensitive by resource conservation agencies. Drainages, streambed, and creeks are potentially considered "waters of the United States" subject to jurisdiction by the U.S. Army Corps of Engineers (USACOE). In addition, a 1601 agreement with the Department of Fish and Game (CDFG) would be required prior to any disturbances upon stream-associated habitats. Under Section 404 of the Federal Clean Water Act, the USAOCE regulates fill material discharged into "waters of the U.S.," including wetlands. Waters of the U.S. include streams, rivers, lakes, and tributaries thereof. Wetlands are defined through a "three-parameter test" involving wetland hydrology, wetland vegetation, and hydric soils. USACOE jurisdiction extends to the ordinary high water mark (Q2.5 event) or to the edge of the wetland. If a project is determined to need a permit from the USACOE, then the Regional Water Quality Control Board (RWQCB), which regulates discharges to Waters of the State under authority of the Porter-Cologne Water Quality Act, reviews the action and may issue a Section 401 certification. Section 1600 of the CDFG Code authorizes the CDFG to regulate impacts to streambeds. CDFG considers most drainages to be "streambeds" unless they are demonstrated to be otherwise. A stream is defined as a body of water that flows at least periodically or intermittently through a bed or channel having banks and that supports fish or other aquatic life.

Investigative Methods

This biological analysis is based on information compiled through field reconnaissance, extensive literature review and applicable reference materials. Methods used in this study are outlined below.

Literature Review

Various data sources were reviewed to evaluate the occurrence potential of special-status species at the project site. Special-status or sensitive species are those that have been afforded special protection or recognition by federal, state, or recognized resource conservation agencies due principally to declining or limited populations, mainly as a result of habitat reduction. Historical occurrence records of special-status plant and wildlife species were obtained from the California Natural Diversity Data Base (CNDDDB 2007) and California Native Plant Society (CNPS) online inventory for the Riverside East and surrounding



USGS 7.5-minute quadrangle maps. The most recent sensitive species lists maintained by the Service and CDFG were also reviewed. Other data sources reviewed where necessary include: (1) literature pertaining to habitat requirements of special-status species potentially occurring in the project site, (2) distributional data contained in Hall (1981), Garrett and Dunn (1981), Grinnell and Miller (1944), and CNPS (2001); and (3) Western Riverside County Multiple Species Habitat Conservation Plan MSHCP (2003).

Sources used to determine the sensitivity status of biological resources included: **Plants**- U.S. Fish and Wildlife Service (USFWS 1996, 1999), California Department of Fish and Game (CDFG 2003), California Natural Diversity Data Base (CNDDB 2007), and CNPS (2001); **Wildlife**-USFWS (1996, 1999), CDFG (2003), CNDDB (2007); **Habitats**- CNDDB (2007).

Field Survey

Ecological Sciences, Inc. conducted a reconnaissance-level survey on November 18, December 17 (partial survey due to rain), and December 21, 2008 to identify existing biological resources present on the subject site. During the survey effort, Ecological Sciences biologists characterized on-site habitats and evaluated their potential to support sensitive biological resources. On-site resources were identified by walking or driving meandering transects throughout the site. An aerial photograph and topographic map was used to aid the survey effort. Weather conditions varied from warm and clear, to cool and overcast with air temperatures of approximately 55-90 °F.

Floral and Faunal Inventory

Plants encountered during the survey were recorded in terms of their relative abundance and host habitat (plant community) type. Any species not readily identifiable in the field were later identified using plant taxonomy keys. Plant taxonomy and common plant names follow Hickman (1993). Common plant names, where not available from Hickman (1993) are taken from Munz (1974). Names used to describe plant communities are based on the nomenclature of Holland (1986) where applicable, with modifications to accommodate non-described communities.

Wildlife was detected during the course of the field survey by sight, calls, tracks, scat, or other diagnostic sign. In addition to species actually detected, expected use of the site by other wildlife was determined from habitat analysis of the site, combined with known habitat preferences of locally occurring wildlife species. Analysis of potential wildlife movement corridors associated with the property was based on information compiled from a cursory review of topographic and aerial maps of the area. Vertebrate taxonomy used in this report follows Collins (1990) for amphibians and reptiles, the American Ornithologists' Union (1989, 1993) for birds, and Jones et al. (1982) for mammals.

Preliminary Jurisdictional Evaluation

Potential jurisdictional wetlands features subject to regulation under the federal Clean Water Act and CDFG Code were generally evaluated during the reconnaissance site survey. USACE jurisdiction is generally evaluated based on the definition of waters of the United States, as defined at 33 CFR Part 328, including adjacent or isolated wetlands as defined by the Corps of Engineers Wetland Delineation Manual (1987). CDFG jurisdiction was evaluated based on Fish and Game Code Section 1600. No formal wetland delineation was conducted as part of this general biological resource evaluation.

Existing Biological Environment

The subject master plan area is characterized by rural residential development. The alignments traverse existing developed areas, of which the major land use is roadways (paved) and road shoulders (compacted soils). The proposed alignments occur along residential streets adjacent to existing houses and undeveloped ruderal areas such as relatively large vacant fields routinely exposed to discing activities. A concrete-lined channel with some water flow to the southwest bisects the northwestern portion of the study area (unnamed blue line drainage on USGS topography maps). **Appendix A**



photographically illustrates existing site conditions from various and representative locations along the proposed alignment.

Vegetation

Ruderal plants recorded on road shoulders and peripheral areas (outside the paved roadways) included various non-native grasses and weedy species such as foxtail chess (*Bromus madritensis* spp. *rubens*), riggut grass (*Bromus diandrus*), Russian thistle (*Salsola tragus*), mustard (*Brassica/Hirschfeldia* spp.), tree tobacco (*Nicotiana glauca*), cheeseweed (*Malva parviflora*), filaree (*Erodium* sp.), common sow thistle (*Sonchus oleraceus*), spurge (*Euphorbia* sp.), pigweed (*Amaranthus albus*), jimsonweed (*Datura wrightii*), castor bean (*Ricinus communis*), prickly lettuce (*Lactuca serriola*), fleabane (*Conyza bonariensis*), and oleander (*Nerium oleander*). Native species such as telegraph weed (*Heterotheca grandiflora*), ragweed (*Ambrosia psilostachya*), horseweed (*Conyza canadensis*), and common sunflower (*Helianthus annuus*) were also recorded.

Exotic or planted trees located along most streets included gum trees (*Eucalyptus* spp.), pepper trees (*Schinus molle*), olive (*Olea* sp.), palms (*Washingtonia* sp. and *Phoenix* sp.), pines (*Pinus* spp.), juniper (*Juniperus* spp.), salt cedar (*Tamarix* sp.), cottonwood (*Populus fremonti*), sweet gum (*Liquidambar styraciflua*), tree-of-heaven (*Ailanthus glandulosa*), and many other ornamental species such as Spanish broom (*Spartium junceum*).

Wildlife

Bird species recorded during the survey effort included mostly those that are accustomed to nearby residential development such as American crow (*Corvus brachyrhynchos*), mourning dove (*Zenaidura macroura*), rock dove (*Columba livia*), black phoebe (*Sayornis nigricans*), northern mockingbird (*Mimus polyglottos*), western meadowlark (*Sturnella neglecta*), European starling (*Sturnus vulgaris*), house finch (*Carpodacus mexicanus*), and house sparrow (*Passer domesticus*).

Soils

A general surface soils analysis was also conducted along the alignments due to the close association of certain special-status plant species to particular soil types (e.g., clay or alkaline). Shoulder soils were generally highly compacted throughout the site from long-standing vehicle parking.

Soil Conservation Map Review

Based on a review of the Soil Survey, Western Riverside Area, California (USDA, Soil Conservation Service 1971), the subject site is mapped as containing Monserate sandy loam (0-5% slopes), Monserate sandy loam (5-8% slopes), and Monserate sandy loam (8-15% slopes). Due to long-standing urban uses that have included asphalt and/or fill material placement, these soils types may no longer be present. Moreover, extensive exposure to disturbances over many years have likely altered soil characteristics/microhabitat conditions within non-paved surfaces in ways currently unsuitable to support sensitive plant species. **Plate 4** illustrates mapped area soils.

Special-Status Biological Resource Evaluation

Discussed in this section are plant and wildlife species potentially present in the study area that have been afforded special recognition by federal or state agencies. The focus of this discussion is on those species that would potentially pose considerable constraints on the proposed project because of their high sensitivity status (listed or proposed for listing as rare, threatened, or endangered) with state and/or federal resource agencies. In addition, plants included on Lists 1, 2, 3, or 4 of the CNPS inventory are also considered of special-status. Vegetation communities that are unique, of relatively limited distribution, or of particular value to wildlife and considered sensitive by state and/or federal resource



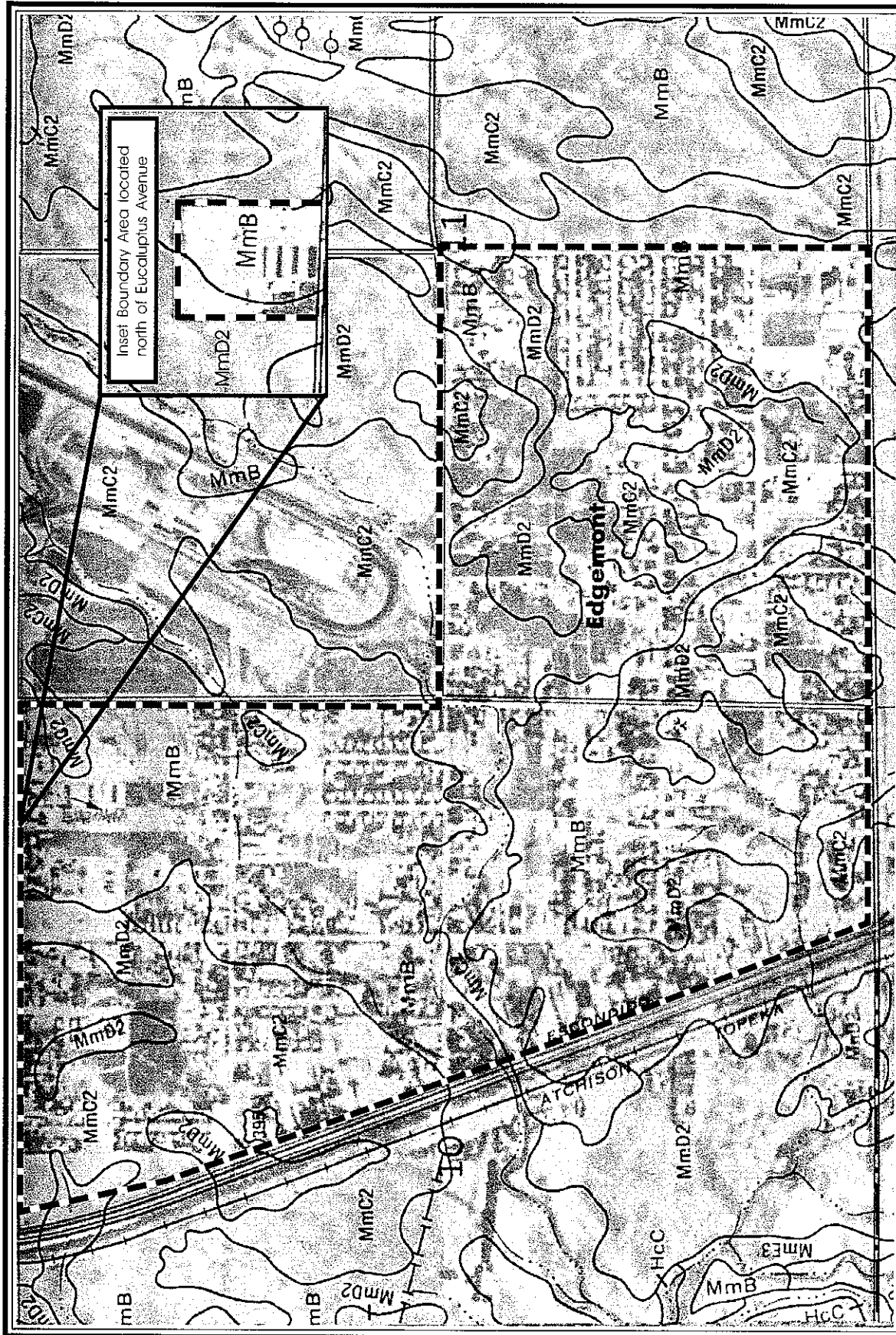


plate 4

Project Area Soils

Edgemont Water Master Plan

Map Key

- MmB = Monserate sandy loam (0-5% slopes)
- MmC2 = Monserate sandy loam (5-8% slopes)
- MmD2 = Monserate sandy loam (8-15% slopes)

--- = Study Area Boundary



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agencies are also discussed.

In general, those species presented in **Tables 1 and 2** that are “not expected” or that have a “low occurrence potential” correspond to “less than significant” under CEQA. The occurrence potential of special-status plant and wildlife species is primarily based on habitat types present, occurrence records of sensitive species from the site vicinity, and results of the on-site reconnaissance survey. No focused botanical or zoological surveys were conducted.

Special-Status Plant Species

No special-status plant species were detected on site during the reconnaissance survey and none are expected due to lack of suitable habitat. The site is not located within a MSHCP Narrow Endemic Plant Species Survey Area. Special-status plant species known from the region that potentially occur within the project site are summarized below in **Table 1**.

Special-Status Wildlife Species

No special-status wildlife species were observed and none are expected directly within the alignment due to lack of suitable habitat along the paved and road shoulder alignments. However, several species have potential to occur within the larger vacant parcels located adjacent to the alignment. Accordingly, sensitive wildlife species potentially occurring on the project site summarized below in **Table 2** are associated with adjacent habitats (i.e., potential indirect impacts).

Special-Status Habitats

Special-status habitat types are vegetation communities that support concentrations of sensitive plant or wildlife species, are of relatively limited distribution, or are of particular value to wildlife (CNDDDB). Although sensitive habitats are not necessarily afforded legal protection unless they support protected species, potential impacts to them may increase concerns and mitigation suggestions by resources agencies. Special-status habitats known from the site vicinity include Riversidean Alluvial Fan Sage Scrub, Southern Coast Live Oak Riparian Forest, Southern Cottonwood Willow Riparian Forest, Southern Riparian Forest, Southern Sycamore Alder Riparian Woodland, and Southern Willow Scrub. No special-status habitats were recorded on the proposed alignments or within the BSMWC boundary.

Table 1

Special-Status Plant Species Known from the Site Vicinity¹

Scientific and Common Name	Status		Habitat Requirements	Flowering Period	Occurrence Potential
	Federal	State			
Munz's Onion <i>Allium munzii</i>	FE	CT	1B	Cheparral, sage scrub, grassland, woodlands with clay soils	March-May Not Expected: suitable habitat not present
San Jacinto Valley crowscale <i>Atriplex coronata</i> var. <i>notata</i>	FE	--	1B	Alkali flats, playas	April-August Not Expected: suitable habitat not present
California Orcutt grass <i>Orcuttia californica</i>	FE	CE	1B	Meadows, vernal pools	April-June Not Expected: suitable habitat not present
Parish's brittlescale <i>Atriplex parishii</i>	FSC	--	1B	Alkali meadows, chenopod scrub, playas	June-October Not Expected: suitable habitat not present
Thread-leaved brodiaea <i>Brodiaea filifolia</i>	FE	CE	1B	Vernal pools, scrub, woodland, grasslands with clay soils	March-June Not Expected: suitable habitat not present
Coulter's goldfields <i>Lasthenia glabrata</i> ssp. <i>coulteri</i>	FSC	--	1B	Playas, vernal pools	February-June Not Expected: suitable habitat not present
Little mousetail <i>Myosurus minimus</i> var. <i>apus</i>	FSC	--	1B	Vernal pools	March-June Not Expected: suitable habitat not present
Spreading navarretia <i>Navarretia fossalis</i>	FT	--	1B	Meadows, vernal pools	April-June Not Expected: suitable habitat not present
Smooth tarplant <i>Centromadia pungens</i> ssp. <i>laevis</i>	FSC	--	1B	Alkaline grasslands, meadows, playas, scrub habitats	April-September Not Expected: suitable habitat not present
Paniculate tarplant <i>Deinandra paniculata</i>	--	--	4	Coastal scrub, valley and foothill grassland; usually vernal mesic	April-November Not Expected: suitable habitat not present
Slender-horned spineflower <i>Dodecathema leptoceras</i>	FE	CE	1B	Chaparral, alluvial fan sage scrub; terraces and washes	April-June Not Expected: suitable habitat not present
Graceful tarplant <i>Holocarpha virgata</i> ssp. <i>elongata</i>	FSC	--	4	Woodlands, grasslands, scrub habitats	August-November Not Expected: suitable habitat not present
Southern tarplant <i>Centromadia parryi</i> ssp. <i>australis</i>	--	--	1B	Marshes and swamp margins, valley and foothill grasslands; vernal pools	May-November Not Expected: suitable habitat not present
San Diego ambrosia <i>Ambrosia pumila</i>	FPE	--	1B	Chaparral, coastal scrub, grasslands, vernal pools with sandy loam or clay soils (20-415M)	May-September Not Expected: suitable habitat not present
Johnston's rock cress <i>Arabis johnstoni</i>	--	--	1B	Chaparral, lower montane coniferous forest; often on eroded clay	February-June Not Expected: suitable habitat not present on site; known from fewer than 10 occurrences in the southern San Jacinto Mountains
Davidson's saltscale <i>Atriplex serenana</i> var. <i>davidsonii</i>	--	--	1B	Coastal bluff scrub, coastal scrub/alkaline, 10-200 meters in elevation	April-October Not Expected: suitable habitat not present
Nevin's barberry <i>Berberis nevinii</i>	FE	SE	1B	Chaparral, cismontane woodland, coastal scrub, riparian scrub/ sandy or gravelly soils	March-April Not Expected: suitable habitat not present on site; fewer than 1,000 plants likely remain



Table 1-continued

Special-Status Plant Species Known from the Site Vicinity

Scientific and Common Name	Federal	Status State	CNPS	Habitat Requirements	Flowering Period	Occurrence Potential
Munz's mariposa lily <i>Calochortus palmeri</i> var. <i>munzii</i>	--	--	1B	Chaparral, lower montane coniferous forest	June-July	Not Expected: suitable habitat not present on site; known from only a few locations in the San Jacinto Mountains
Vail Lake ceanothus <i>Ceanothus ophiocilius</i>	FE	SE	1B	Chaparral (gabbroic or pyroxenite-rich outcrops)	February-March	Not Expected: suitable habitat not present on site; known from only three occurrences near Vail Lake
Many-stemmed dudleya <i>Dudleya multicaulis</i>	--	--	1B	Chaparral, coastal scrub, valley and foothill grassland/ often clay soils	April-July	Not Expected: suitable habitat not present
Santa Ana River woollystar <i>Eriastrum densifolium</i> ssp. <i>sanctorum</i>	FE	SE	1B	Coastal scrub (alluvial fan)	June-September	Not Expected: suitable habitat not present on site; outside species known range; known only from Santa Ana River
San Jacinto Mountains bedstraw <i>Galium angustifolium</i> ssp. <i>jacinticum</i>	--	--	1B	Lower montane coniferous forest	June-August	Not Expected: suitable habitat not present
Hearth-leaved pitcher sage <i>Lepechinia carciophylla</i>	--	--	1B	Closed cone coniferous forest, chaparral, cismontane woodland	April-July	Not Expected: suitable habitat not present
San Miguel savory <i>Satureja chandleri</i>	--	--	1B	Chaparral, cismontane woodland, coastal scrub, riparian woodland, grasslands/ rocky, gabbroic or metavolcanic soils	March-July	Not Expected: suitable habitat not present
Wright's trichocoronis <i>Trichocoronis wrightii</i> var. <i>wrightii</i>	--	--	2	Meadows and seeps, marshes and swamps, riparian scrub, vernal pools/ alkaline soils	May-September	Not Expected: suitable habitat not present
Brand's phacelia <i>Phacelia stellaris</i>	--	--	1B	Coastal dunes, coastal scrub	March-June	Not Expected: suitable habitat not present; known from fewer than five occurrences
Additional Potentially Occurring Species						
Intermediate mariposa lily <i>Calochortus weedii</i> var. <i>intermedius</i>	FSC	--	1B	Chaparral, coastal scrub, grasslands; often associated with dry, rocky, open slopes	May-July	Not Expected: suitable habitat not present
Plummer's mariposa lily <i>Calochortus plummerae</i>	FSC	--	1B	Chaparral, coastal scrub, grasslands; often associated with granitic soils	May-July	Not Expected: suitable habitat not present
South Coast saltscale <i>Atriplex pacifica</i>	FSC	--	1B	Coastal bluff scrub, playas, chenopod scrub	March-October	Not Expected: suitable habitat not present
Coulter's saltbush <i>Atriplex coulteri</i>	--	--	1B	Coastal bluff scrub, coastal scrub, valley/foothill grasslands; alkaline and clay soils	March-October	Not Expected: suitable habitat not present



Table 1-continued

Special-Status Plant Species Known from the Site Vicinity¹

Scientific and Common Name	Status		CNPS	Habitat Requirements	Flowering Period	Occurrence Potential
	Federal	State				
Parry's spineflower <i>Chorizanthe parryi</i> ssp. <i>parryi</i>	FSC	--	3	Chaparral and coastal scrub; associated with sandy or rocky openings.	April-June	Not Expected: suitable habitat not present
Long-spined spineflower <i>Chorizanthe polygonoides</i> var. <i>longispina</i>	FSC	--	1B	Chaparral, sage scrub, grasslands, often with clay soils	April-July	Not Expected: suitable habitat not present
California spineflower <i>Mucrona californica</i>	--	--	4	Chaparral, cismontane woodland, coastal dunes, coastal scrub, grasslands with sandy soils	March-August	Not Expected: suitable habitat not present
Palmer's grapplehook <i>Harpagonella palmeri</i>	FSC	--	2	Chaparral, grasslands, sage scrub with clay soils	March-April	Not Expected: suitable habitat not present
Round-leaved filaree <i>Erodium macrophyllum</i>	--	--	2	Cismontane woodland, valley and foothill grassland with clay soils	March-May	Not Expected: suitable habitat not present
Robinson's pepper-grass <i>Lepidium virginicum</i> var. <i>robinsonii</i>	--	--	1B	Chaparral and coastal scrub; dry soils	January-July	Not Expected: suitable habitat not present
California muhly <i>Muhlenbergia californica</i>	--	--	4	Chaparral, coastal scrub, lower montane coniferous forest; moist conditions	July-September	Not Expected: suitable habitat not present
Chaparral sand verbena <i>Abronia villosa</i> var. <i>aurita</i>	--	--	1B	Chaparral, coastal scrub with sandy soils	January-August	Not Expected: suitable habitat not present
Salt spring checkerbloom <i>Sidalcea neomexicana</i>	--	--	2	Chaparral, coastal scrub, lower montane coniferous forest; moist conditions	March-June	Not Expected: suitable habitat not present
Vernal barley <i>Hordeum intercedans</i>	--	--	3	Coastal dunes, coastal scrub, grasslands (saline flats and depressions)	March-June	Not Expected: suitable habitat not present
Southern California black walnut <i>Juglans californica</i> var. <i>californica</i>	--	--	4	Chaparral, cismontane woodland, coastal sage scrub	March-May	Not Expected: would likely have been detected if present
Tecate cypress <i>Cupressus forbesii</i>	--	--	1B	Closed-cone coniferous forest; chaparral	Evergreen	Not Expected: suitable habitat not present

TABLE 1 KEY:

¹Based on review of CNDDDB (2007), CNPS online databases, and other pertinent literature sources.

Status:

- Federal
- FE: Federally Endangered
- FT: Federally Threatened Species
- FPE: Federally Proposed Endangered
- FPT: Federally Proposed Threatened
- FC: Federal Candidate Species
- FSC: Federal Species of Concern

State

- CE: State Endangered
- CT: State Threatened
- CR: State Rare

CNPS

- List 1A: Plants presumed extinct in California.
- List 1B: Plants rare and endangered in California and elsewhere
- List 2: Plants rare and endangered in California, but more common elsewhere
- List 3: Taxa about which more information is needed
- List 4: Plants of limited distribution



Table 2

Special-Status Wildlife Species Known from the Site Vicinity¹

Common Name Scientific Name	Status		Habitat Requirements		Occurrence/Potential
	Federal	State			
INVERTEBRATES					
Delhi sands flower-loving fly <i>Rhaphiomidas terminatus abdominalis</i>	FE	--		Delhi soils with sparse vegetation	Not Expected: suitable habitat not present
FISH					
Arroyo chub <i>Gila arcuati</i>	FSC	CSC		Slow moving or backwater sections of streams with sandy or mud substrates	Not Expected: suitable habitat not present
Santa Ana sucker <i>Catostomus sartaanae</i>	FSC	CSC		Small to medium sized perennial streams	Not Expected: suitable habitat not present
AMPHIBIANS AND REPTILES					
Arroyo toad <i>Bufo californicus</i>	FE		CSC	Rivers with sandy banks and loose gravelly areas, open canopy	Not Expected: suitable habitat not present
Western spadefoot toad <i>Scaphiopus hammondi</i>	--		CSC	Relatively open grasslands, scrublands, and woodlands with fine, loose soil	Not Expected: suitable habitat not present
San Diego horned lizard <i>Phrynosoma coronatum blainvillii</i>	FSC		CSC	Relatively open grasslands, scrublands, and woodlands with fine, loose soil	Not Expected: suitable habitat not present
Orange-throated whiptail <i>Cnemidophorus hyperythrus beldingi</i>	FSC		CSC	Relatively open grasslands, scrublands, and woodlands with fine, loose soil	Not Expected: suitable habitat not present
Coastal western whiptail <i>Cnemidophorus tigris multiscutatus</i>	--	◆		Sage scrub, chaparral, grassland	Not Expected: suitable habitat not present
Northern red diamond rattlesnake <i>Crotalus ruber ruber</i>	--		CSC	Sage scrub, chaparral, grasslands	Not Expected: suitable habitat not present
Southwestern pond turtle <i>Clemmys marmorata pallida</i>	--		CSC	Permanent or nearly permanent bodies of water with basking sites	Not Expected: suitable habitat not present
San Bernardino ringneck snake <i>Diadophis punctatus modestus</i>	FSC		--	Woodlands, shrublands, mesic areas with woodrock debris	Not Expected: suitable habitat not present
San Diego mountain kingsnake <i>Lampropeltis zonata pulchra</i>	FSC		CSC	Forests and shrublands	Not Expected: suitable habitat not present
Coast patch-nosed snake <i>Salvadora hexalepis virgultea</i>	FSC		CSC	Shrublands with low structure and minimum density, friable soils	Not Expected: suitable habitat not present
Rosy boa <i>Lichanura trivirgata</i>	FSC		--	Desert and chaparral with moderate to dense vegetation and rocky cover	Not Expected: suitable habitat not present
BIRDS					
White-tailed kite <i>Elanus leucurus</i>	MINBMC		CFP	Open vegetation and uses dense woodlands for cover	Moderate Potential: may forage over vacant lands adjacent to alignments; no suitable nesting habitat present
Northern harrier <i>Circus cyaneus</i>	--		CSC	Coastal salt marsh, freshwater marsh, grasslands, and agricultural fields	Moderate Potential: may forage over vacant lands adjacent to alignments; no suitable nesting habitat present



Table 2-continued

Special-Status Wildlife Species Known from the Site Vicinity¹

Common Name Scientific Name	Status		Habitat Requirements	Occurrence Potential
	Federal	State		
Swainson's hawk <i>Buteo swainsoni</i>	--	CT	Breeds in stands with few trees such as juniper, riparian areas. Forages over grasslands, agricultural fields supporting rodent populations.	Low Potential: may occasionally forage over the adjacent vacant areas during migration; no suitable nesting habitat present
Ferruginous hawk <i>Buteo regalis</i>	FSC, MNBMC	CSC	Grasslands, agricultural fields, and open scrublands	Moderate Potential: possibly forages over adjacent vacant areas as seasonal migrant; does not breed in area Not Expected: suitable habitat not present
Bald eagle <i>Haliaeetus leucocephalus</i>	FT	CE	Ocean shore, lake margins & rivers for both nesting and wintering	Low Potential: may occasionally forage over adjacent vacant areas; no suitable nesting habitat present
Golden eagle <i>Aquila chrysaetos</i>	--	CSC, CFP	Mountains, deserts, and open country	Low Potential: marginally suitable foraging habitat present in adjacent vacant areas
Sharp-shinned hawk <i>Accipiter striatus</i>	--	CSC	Woodlands; forages over chaparral and scrublands	Moderate Potential: potentially suitable foraging habitat present in adjacent vacant areas
Cooper's hawk <i>Accipiter cooperii</i>	--	CSC	Dense stands of live oaks and riparian woodlands	Low Potential: may forage over adjacent vacant areas in winter; no suitable nesting habitat present
Prairie falcon <i>Falco mexicanus</i>	--	CSC	Grasslands, savannas, rangeland, agricultural fields, and desert scrub; requires sheltered cliff faces for shelter	Not Expected: suitable habitat not present
Merlin <i>Falco columbarius</i>	--	CSC	Open habitats	Moderate Potential: some potential habitat present in adjacent vacant areas; known to occur in certain disturbed situations Not Expected: suitable habitat not present
Burrowing owl <i>Athene cucularia</i>	FSC, MNBMC	CSC	Grasslands and open scrub	Not Expected: suitable habitat not present
Long-eared owl <i>Asio otus</i>	--	CSC	Riparian bottomlands to tall willows and cottonwoods; oaks along stream courses	Not Expected: suitable habitat not present
Western snowy plover <i>Charadrius alexandrinus nivosus</i>	FT (pacific coastal population)	CSC	Sandy beaches, salt pond levees and shores, gravelly or friable soils for nesting	Not Expected: suitable habitat not present
Mountain plover <i>Charadrius montanus</i>	PT	CSC	Agricultural areas, fallow fields, grasslands, prairies	Not Expected: suitable habitat not present
Least Bell's vireo <i>Vireo bellii pusillus</i>	FE	CE	Willow dominated riparian habitat with dense understory	Not Expected: suitable habitat not present
Southwestern willow flycatcher <i>Empidonax traillii eximius</i>	FE	--	Riparian habitats along rivers, streams, or other wetlands usually with standing water	Not Expected: suitable habitat not present
Western yellow-billed cuckoo <i>Coccyzus americanus occidentalis</i>	--	CE	Riparian forest nester, lower flood-bottoms of larger river systems	Not Expected: suitable habitat not present



Table 2-continued

Special-Status Wildlife Species Known from the Site Vicinity¹

Common Name Scientific Name	Status		Habitat Requirements	Occurrence Potential
	Federal	State		
Yellow warbler <i>Dendroica petechia</i>	--	CSC	Riparian thickets and woodlands	Not Expected: suitable habitat not present
Yellow-breasted chat <i>Icteria virens</i>	--	CSC	Riparian thickets and riparian woodlands with dense understory	Not Expected: suitable habitat not present
California horned lark <i>Eremophila alpestris acia</i>	--	CSC	Grasslands, disturbed areas, agriculture fields, and beach areas	Moderate Potential: potentially suitable habitat present in vacant areas adjacent to the alignment
California coastal gnatcatcher <i>Polyptila californica californica</i>	FT	CSC	Coastal sage scrub in areas of flat or gently sloping terrain	Not Expected: suitable habitat not present
Loggerhead shrike <i>Lanius ludovicianus</i>	--	CSC	Grasslands with scattered shrubs, trees, fences or other perches	Moderate Potential: potentially suitable foraging habitat present in adjacent vacant areas
Coastal cactus wren <i>Campylorhynchus brunneicapillus couesi</i>	--	CSC	Desert succulent scrub, desert wash, scrub and chaparral habitats with cactus	Not Expected: suitable habitat not present
S. California rufous-crowned sparrow <i>Aimophila ruficeps canescens</i>	--	CSC	Coastal sage scrub, grasslands	Not Expected: suitable habitat not present
Grasshopper sparrow <i>Ammodramus savannarum</i>	MINBMC	--	Coastal sage scrub, grassland	Not Expected: suitable habitat not present
Bell's sage sparrow <i>Amphispiza belli belli</i>	MINBMC	CSC	Coastal sage scrub, chaparral	Not Expected: suitable habitat not present
Tricolored blackbird (wintering) <i>Agelaius tricolor</i>	--	CSC	Marshes for nesting; forages in fields and scrub habitats	Not Expected: suitable habitat not present
MAMMALS				
Long-eared myotis <i>Myotis evotis</i>	FSC	--	Found in nearly all brush, woodland, and forest habitats from sea level to at least 9,000 ft.	Low Potential: limited foraging and no roosting habitat present
Small-footed myotis <i>Myotis ciliolabrum</i>	FSC	--	Arid wooded and brushy uplands near water from sea level to at least 9,000 ft.	Low Potential: limited foraging and no roosting habitat present
Fringed myotis <i>Myotis thysanodes</i>	FSC	--	Utilizes open habitats and early successional stages, streams, lakes, and ponds from sea level to at least 9,350 ft.	Low Potential: limited foraging and no roosting habitat present
Long-legged myotis <i>Myotis volans</i>	FSC	--	Found in nearly all brush, woodland, and forested habitats from sea level to around 9,000 ft.; a bat primarily of coniferous forests	Low Potential: limited foraging and no roosting habitat present
Yuma myotis <i>Myotis yumanensis</i>	FSC	CSC	Found in a variety of habitats; optimal habitats are open forests and woodlands with sources of water over within to feed	Low Potential: limited foraging and no roosting habitat present



Table 2-continued

Special-Status Wildlife Species Known from the Site Vicinity¹

Common Name Scientific Name	Status		Habitat Requirements	Occurrence Potential
	Federal	State		
Spotted bat <i>Euderma maculata</i>	FSC	CSC	Deserts, scrublands, chaparral, and coniferous woodlands; highly associated with prominent rock features	Low Potential: limited foraging and no roosting habitat present
Pale big-eared bat <i>Corynorhinus townsendii pallescens</i>	FSC (Full Species)	CSC (Full Species)	Utilizes a variety of communities, including conifer and oak woodlands and forests, arid grasslands and deserts, and high-elevation forests and meadows	Low Potential: limited foraging and no roosting habitat present
Pallid bat <i>Antrozous pallidus</i>	--	CSC	Arid habitats, including grasslands, shrublands, woodlands, and forests; prefers rocky outcrops, cliffs, and crevices with access to open habitats for foraging	Low Potential: limited foraging and no roosting habitat present
Western mastiff bat <i>Eumops perotis</i>	FSC (ssp. <i>californicus</i>)	CSC	Primarily arid lowlands and coastal basins with rugged, rocky terrain, along with suitable crevices for day-roosts; primarily a cliff-dweller	Low Potential: limited foraging habitat present; known to occasionally occur in buildings under certain circumstances
San Diego black-tailed jackrabbit <i>Lepus californicus bennettii</i>	--	CSC	Grasslands, shrublands	Moderate Potential: potentially suitable habitat present in adjacent vacant areas
Northwestern San Diego pocket mouse <i>Chaetodipus fallax fallax</i>	--	CSC	Open shrublands, sandy areas	Not Expected: suitable habitat not present
Dulzura pocket mouse <i>Chaetodipus californicus formosus</i>	--	CSC	Coastal scrub, chaparral, grassland	Not Expected: suitable habitat not present
Los Angeles pocket mouse <i>Perognathus longimembris brevinasus</i>	FSC	CSC	Grasslands, open sage scrub	Not Expected: suitable habitat not present
San Bernardino kangaroo rat <i>Dipodomys merriami parvus</i>	FE	CSC	Coastal scrub, chaparral, grassland	Not Expected: suitable habitat not present
Stephens' kangaroo rat <i>Dipodomys stephensi</i>	FE	CE	Grasslands, open sage scrub	Not Expected: suitable habitat not present
San Diego desert woodrat <i>Neotoma lepida intermedia</i>	--	CSC	Moderate to dense sage scrub; rocky outcrops	Not Expected: suitable habitat not present
Southern grasshopper mouse <i>Onychomys torridus ramona</i>	FSC	CSC	Alkali desert scrub, desert riparian areas and a variety of other desert habitats; succulent scrub, wash, riparian, mixed chaparral	Not Expected: suitable habitat not present
American badger <i>Taxidea taxus</i>	--	◆	Drier open stages of shrub, forest, and herbaceous habitats with friable soils	Not Expected: suitable habitat not present



Table 2-continued

Special-Status Wildlife Species Known from the Site Vicinity¹

TABLE 2 KEY:

¹ Based on review of CNDDDB (2007) and other pertinent literature sources. (nesting) =For most taxa the CNDDDB is interested in sightings for the presence of resident populations. For some species (primarily birds), the CNDDDB only tracks certain parts of the species range or life history (e.g., nesting locations). The area or life stage is indicated in parenthesis after the common name.

Status:

- Federal
- FE: Federally Endangered
- FT: Federally Threatened
- FPE: Federally Proposed Endangered
- FPT: Federally Proposed Threatened
- FC: Federal Candidate for listing as threatened or endangered
- FSC: Federal Species of Concern-not formally protected under law
- MNBM/C: Migratory Nongame Birds of Management Concern (not shown for federally listed or proposed threatened or endangered species)

State

- CE: California Endangered
- CT: California Threatened
- CCE: California Candidate (Endangered)
- CCT: California Candidate (Threatened)
- CFP: California Fully Protected
- CP: California Protected
- CSC: California Special Concern
- ◆ : California Special Animal (species with no official federal or state status, but are included on CDFG's Special Animals list)



Jurisdictional Overview

The USACOE, RWQCB, and CDFG potentially consider drainages, streambeds, and creeks jurisdictional. A formal delineation for either state or federal wetland jurisdiction was not conducted for this analysis. However, on-site resources were generally evaluated for their potential to be considered jurisdictional during the field survey effort. Several unnamed blue-line drainages bisect the site per review of the Riverside East USGS 7.5-minute quadrangle map. However, all but one concrete-lined channel no longer appear to be present. A large detention basin located off-site (intersection of Cottonwood Avenue and Day Street) appears to have long-since terminated flows in the southern portion of the study area. Another basin is located north of Eucalyptus Avenue. The Eucalyptus basin occurs near the mapped blue-line at the northern part of the concrete-lined box channel. The concrete drainage eventually flows into Sycamore Canyon Creek as it conveys flows toward a concrete culvert beneath the Old 215 Frontage and Interstate 215. Riparian vegetation (off site) is present on the west side of the Old 215 Frontage Road and Interstate 215. Sycamore Canyon Creek ultimately flows northwestward to the Canyon Crest Golf Course and flood control basin. From this point, water flows through the City of Riverside to the Santa Ana River via Tequesquite Arroyo.

The concrete channel may qualify as ***waters of the U.S. and streambeds*** because of its downstream connection. Urban development in the vicinity has resulted in conveyance of storm runoff from paved surfaces with underground pipes and open channels to convey flow. Nuisance flows from the urbanized watershed provide a perennial source for the drainage. Water likely trickles through the channel in low-flow periods and experiences some flushing during and shortly after storm events. Routine maintenance to remove vegetation and sediment buildup may be periodically conducted to ensure proper function. Because this feature is an artificial channel created from upland areas to convey urban runoff, the USACE and RWQCB may or may not choose to regulate impacts to the channel (if any). CDFG may regulate concrete-lined channels and storm drain features if they support habitat for wildlife and/or discharge into natural waterbodies, such as streams or lakes. Currently no riparian habitat is present within the drainage. Permitting from regulatory agencies (e.g., CDFG, USACE, RWQCB) may be required if impacts to the drainage were proposed.

MSHCP objectives reviewed for consistency during the survey effort included ***Riparian/Riverine Areas and Vernal Pools*** (Section 6.1.2). No evidence of any natural stream courses, riparian areas, or vernal pools was recorded on site. The concrete box channel located in the northwestern portion of the site was wet at the time of the survey but does not support emergent vegetation (no trees or shrubs). Section 6.1.2 of the MSHCP (Survey, Mapping, and Documentation Requirements) define Riparian/Riverine Areas, Vernal Pools, and Fairy Shrimp habitat. The MSHCP states "With the exception of wetlands created for the purpose of providing wetlands habitat or resulting from human actions to create open waters or from the alteration of natural stream courses, areas demonstrating characteristics which are artificially created are not included in these definitions". The site does not support habitat suitable for species associated with 6.1.2 habitat types.

Wildlife Movement Corridors

The proposed project site is surrounded by existing development, and therefore, it is highly unlikely that the subject site occupies an important location relative to regional wildlife corridors. As such, project implementation would not be expected to have any substantial effect on local or regional wildlife movement.

Discussion

The level of constraint that a sensitive biological resource would pose to potential development typically depends on the following criteria: (1) the relative value of that resource; (2) the amount or degree of impact to the resource; (3) whether or not impacts to the resource would be in violation of state and/or federal regulations or laws; (4) whether or not impacts to the resource would require permitting by



resource agencies; and (5) the degree to which impacts on the resource would otherwise be considered "significant" under CEQA.

Areas of the site proposed for direct impacts (i.e., paved roads and dirt road shoulders) have a low biological constraint rating based on the degree in which expected impacts to on-site resources would meet the criteria discussed above. This designation is due to the high level of site disturbances associated with roadways, resulting in low biological diversity (i.e., replacement and exclusion of most native species with just a few non-native species) and an overall low potential for special-status species to utilize or reside within areas proposed for development due to absence of suitable habitat. Although no native habitat types are present, and no federal- or state-listed species are expected to occur due to absence of suitable habitat within the alignment, the potential presence of several special-status species (e.g., those with a moderate occurrence potential adjacent to the site) may impose some degree of constraint to development depending upon the nature of impacts on these resources, as well as on the particular species and seasonal timing of construction activities. During permitting procedures, measures to avoid or further reduce potential project-related impacts to sensitive biological resources may be necessary as part of project approval.

No **special-status plant species** are expected within the alignments due to lack of suitable habitat. Long-standing anthropogenic disturbances have likely altered soil chemistry and other substrate characteristics along road shoulders such that on-site soils are not capable of supporting sensitive plant species known from the site vicinity. Site development would not eliminate significant amounts of habitat for potentially occurring special-status plant species, reduce population size of sensitive plant species below self-sustaining levels on a local or regional basis, nor constitute a CEQA-significant impact to any special-status plant species.

No **special-status wildlife species** are expected within the alignments due to lack of suitable habitat. Those species that have at least a moderate occurrence potential to occur adjacent to the site were all deemed by the Service to be too widespread and common to warrant listing as threatened or endangered, and as such, were removed from formal sensitive species status. At present, they have no state or federal listing status. They are included herein for discussion since they were formerly considered for listing, and because they are relatively common throughout the region. The loss of highly disturbed roadway habitat would not constitute a CEQA-significant impact to any of these species, nor amount to a measurable impact within southern California or their overall range.

Development of the proposed project would not remove habitat potentially suitable for foraging by **sensitive raptors** during winter or migration periods. Removal of disturbed roadway areas would not constitute CEQA-significant adverse impacts to any of the affected species locally or regionally.

No direct **burrowing owl** observations or sign (pellets, fecal material, or prey remains) were recorded during the November/December 2008 MSHCP WBO habitat assessment. Birds observed generally included those species that are accustomed to nearby human presence. No nesting refugia (e.g., ground squirrel burrows) for WBO was recorded directly along the alignment due to substrate disturbances from recurring anthropogenic activities. In addition, no ground squirrels (an important indicator species) were observed directly along the alignment during the survey effort. No suitable WBO nesting or foraging habitat is currently present within the roadway and shoulder areas. However, suitable habitat is present in some vacant areas adjacent to the alignment.

Although the WBO and many other **native bird species** are not protected by state or federal/state endangered species acts, most are protected under the federal Migratory Bird Treaty Act (MBTA) of 1918 (16 U.S.C. 703-711) and California Department of Fish and Game (CDFG) Code sections 3503, 3503.5, and 3800 which prohibits take, possession, or destruction of birds, their nests or eggs. If it were later determined that active nests of any of special-status or native species would be lost or indirectly impacted as a result of site-preparation, it could result in adverse impacts and would be in conflict with these regulations. Owl survival can be adversely affected by disturbance (e.g., foraging habitat loss) even when



impacts to individual birds and nest/burrows are avoided (CDFG 1995). Per CDFG guidelines, impacts to WBO should be considered to occur if there is (1) disturbance within 50 meters (± 160 feet) of a burrow, destruction of natural or artificial burrows, or destruction and/or degradation of foraging habitat within 100 meters (± 320 feet) of a burrow. It is important to minimize disturbance near occupied burrows during all seasons.

In order to avoid violation of the MBTA or CDFG Code sections, guidelines suggest that project-related disturbances at active nesting territories be reduced or eliminated during the nesting cycle (February 1 to August 31). If construction-related activities involving heavy equipment are proposed during the avian breeding season, a pre-activity survey conducted in areas potentially affected (directly or indirectly) by project implementation is recommended prior to development to determine if active nests of protected species are present in the construction zone or within an appropriate buffer area as part of project approval. Preconstruction surveys within suitable habitat should be conducted within 30 days of construction activities to determine if active nests protected by the MBTA and CDFG are present in the construction zone for CEQA compliance. If ground-disturbing activities are delayed or suspended for more than 30 days after the preconstruction survey, the site should be resurveyed if suitable habitat is present. Results of a pre-activity nesting survey would determine the appropriate measures (if necessary) to reduce potentially adverse impacts to those species that potentially breed in the area.

If active nests are located, no grading or heavy equipment activity should take place within at least 300 feet of an active raptor nest and 100 feet of most common songbird nests (per the 1995 CDFG staff report regarding the WBO, if active nests are located, no grading or heavy equipment activity should take place within at least 250 feet of an active nest during the breeding season, and 160 feet during the non-breeding season). When active nests are no longer present during subsequent site surveys, construction activities would not impact native species protected under the MBTA and CDFG code during the nesting cycle. Development activities performed well outside of the avian breeding season (September 1 to January 31) would generally eliminate the need to conduct pre-activity nesting surveys for most native species known from the site vicinity, and likely ensure that there were no constraints to construction relative to the MBTA/CDFG code. Compliance with the MBTA/CDFG codes would be necessary prior to development, however no special permit or approval is typically required in most instances.

Conclusion

Results of the 2008 general biological resource evaluation indicate that habitats located within the proposed Edgemont Water Master Plan alignments represent low biological resource values/constraints based on the degree in which expected impacts to on-site resources would meet the criteria discussed above and the context in which they occur (e.g., highly disturbed site conditions present in a predominantly degraded environment). This designation is primarily due to the high level of site disturbances associated with long-standing urban and associated infrastructure development (roads) resulting in low biological diversity (i.e., replacement and exclusion of most native species with just a few non-native species), absence of special-status plant communities, and low potential for special-status species to utilize or reside within areas proposed for direct impacts.

Construction activities would not be expected to directly impact federal- or state-listed threatened or endangered species, jeopardize the continued existence of listed species (or special-status species), nor directly impact designated critical habitat. Site development would also not be expected to substantially alter the diversity of plants or wildlife in the area because of current degraded site conditions. The mostly temporary loss of degraded habitats would not be expected to substantially affect special-status resources or cause a population of plant or wildlife species to drop below self-sustaining levels. The project would also be considered consistent with MSHCP conservation objectives for the survey area. Accordingly, preliminary survey results suggest that no significant impacts to special-status biological resources are expected as a result of project-related activities.



During permitting procedures, certain measures (i.e., nesting avian surveys) to avoid or further reduce potential project-related impacts to sensitive biological resources may be required by reviewing agencies as part of project approval.

φ

I hereby certify that the statements and exhibits furnished herein present the data and information required for this biological survey, and that the facts, statements, and information presented herein are true and correct to the best of my knowledge and belief. If you have any questions regarding the results presented in this report, please don't hesitate to call.

Sincerely,

Ecological Sciences, Inc.



Scott D. Cameron
Principal Biologist



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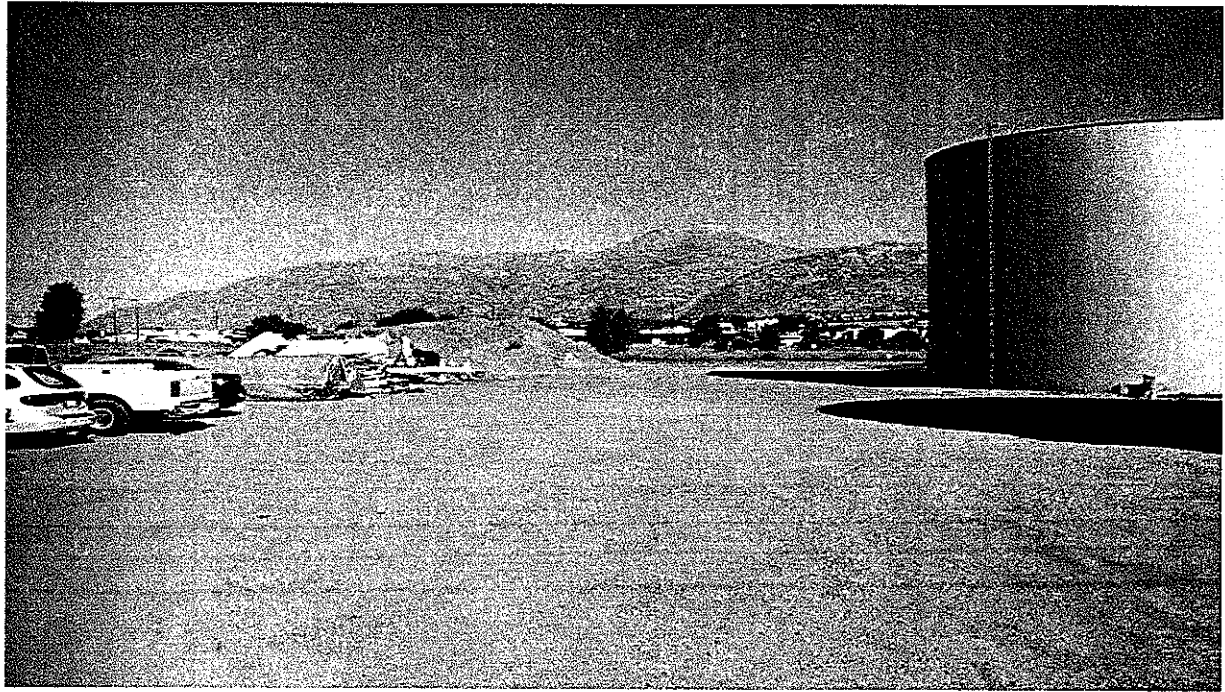
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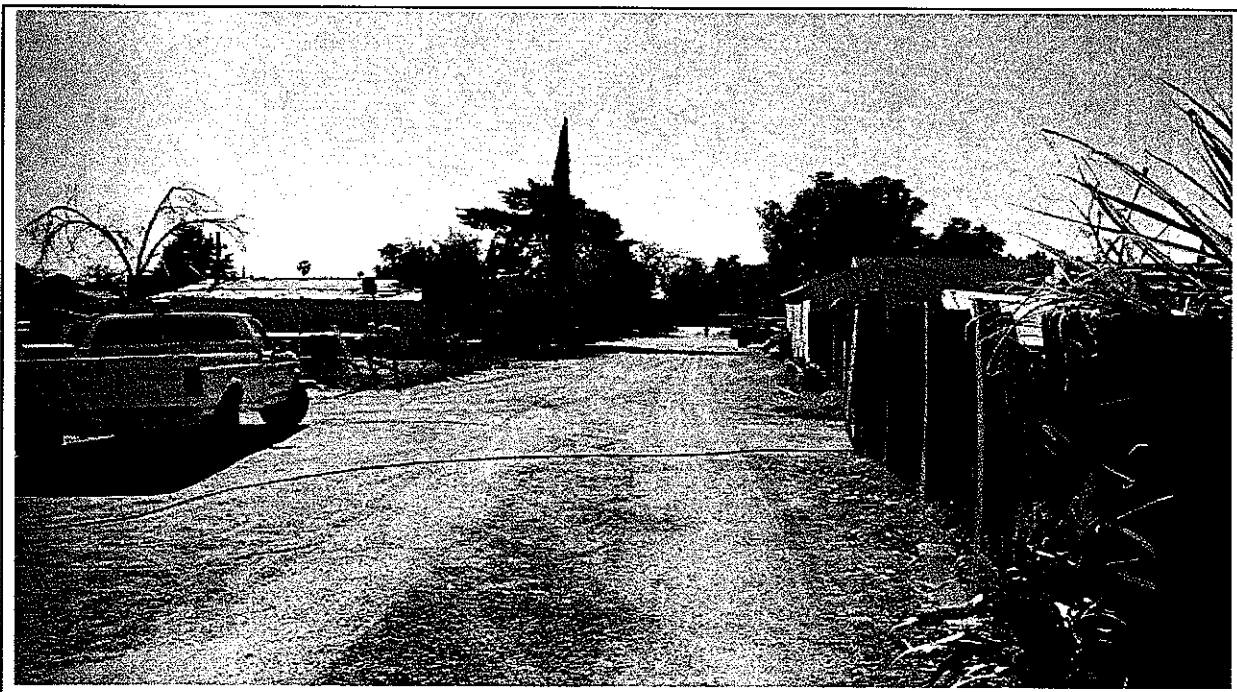


Appendix A
Site Photographs

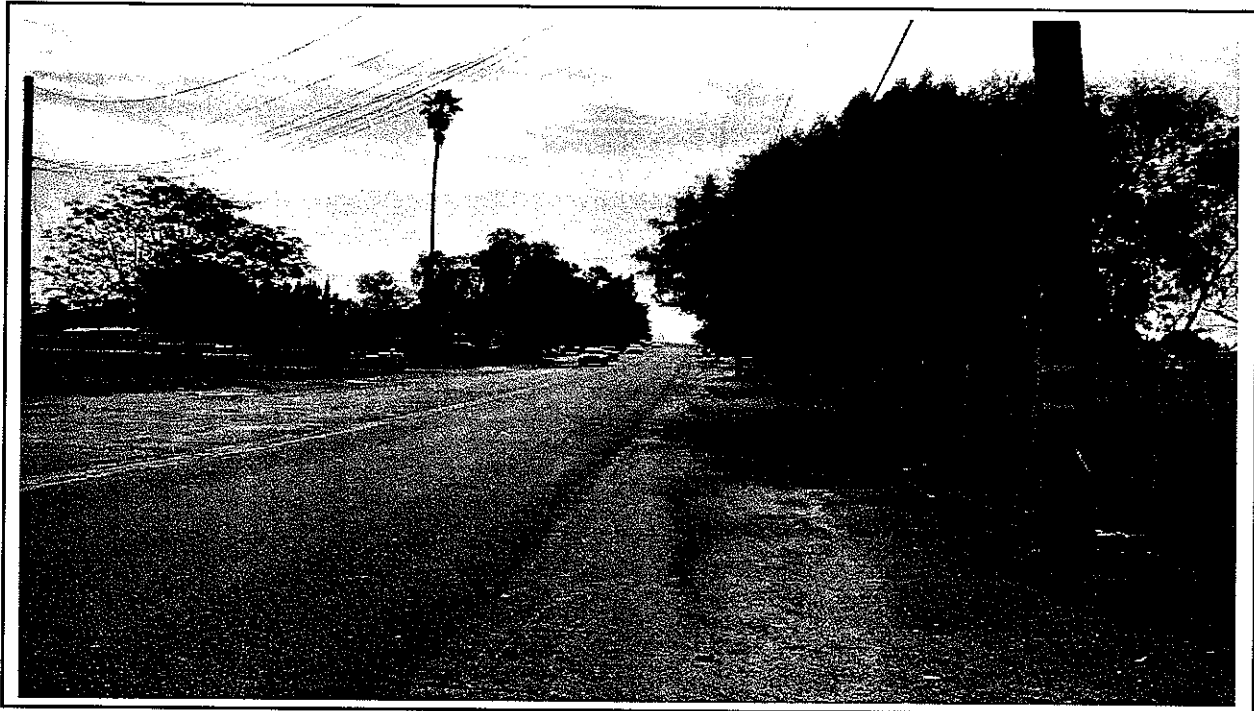




View to north from tank, booster, well site



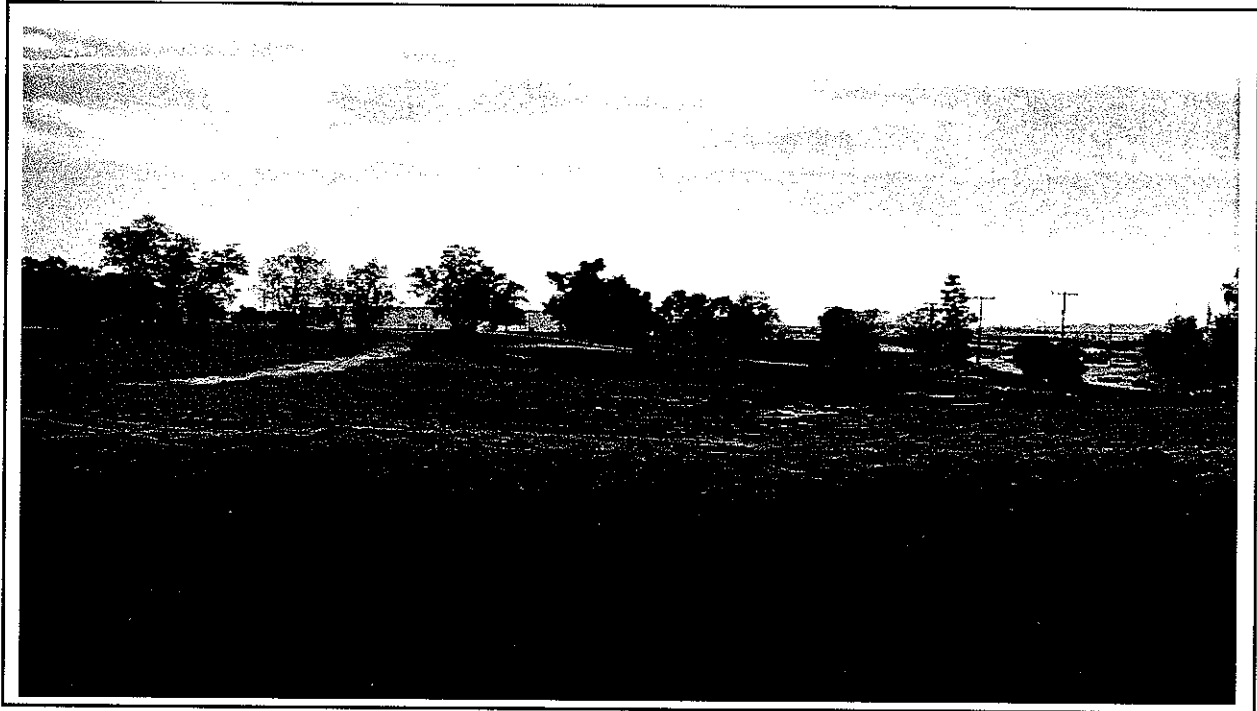
View to south along access road to tank, booster, well site



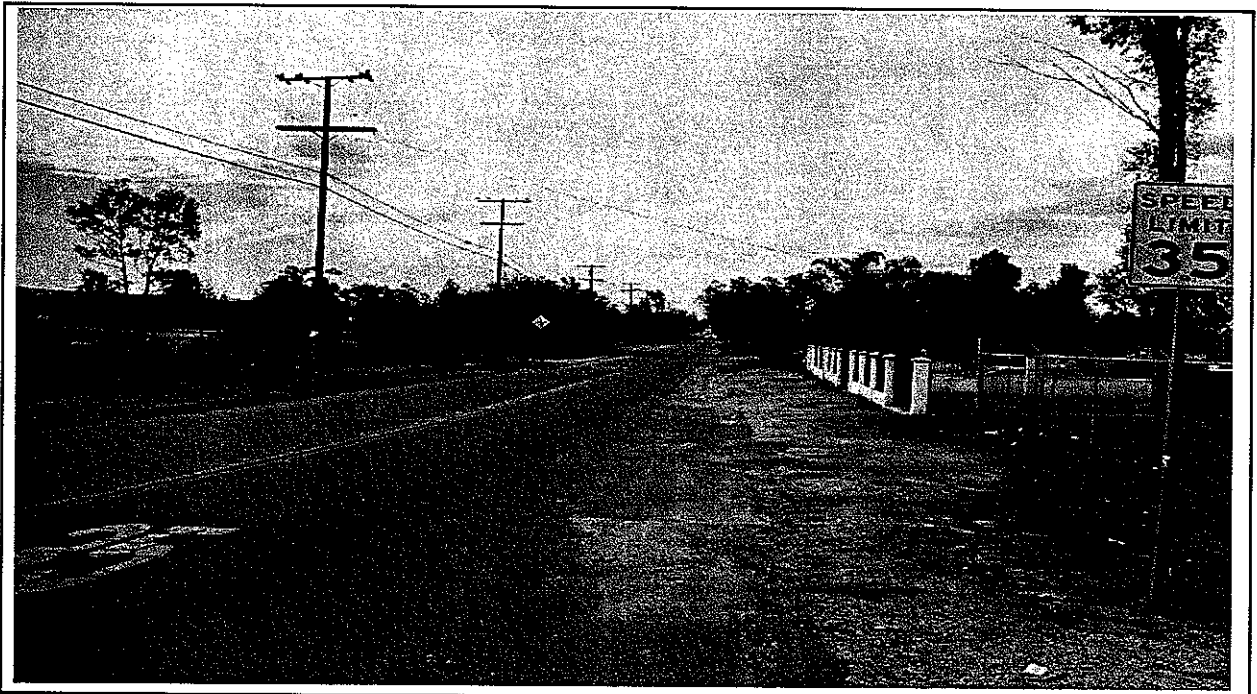
View to south along Day Street



View to west along Day Street



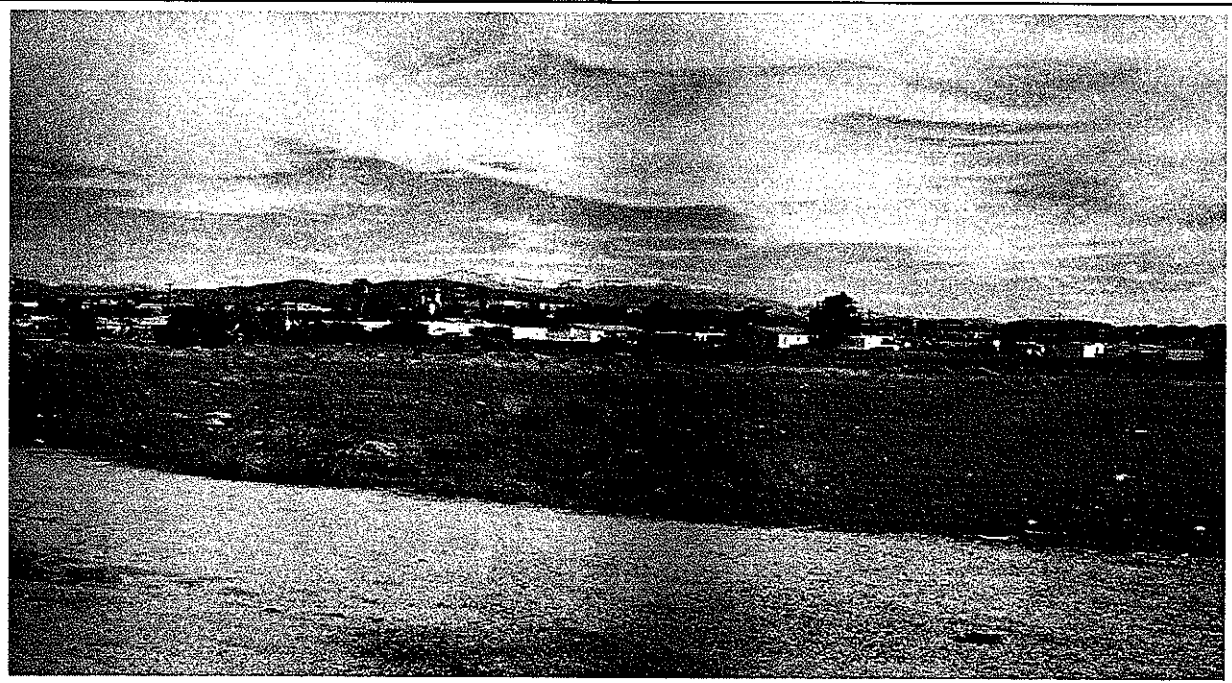
View to south along Sherman Avenue



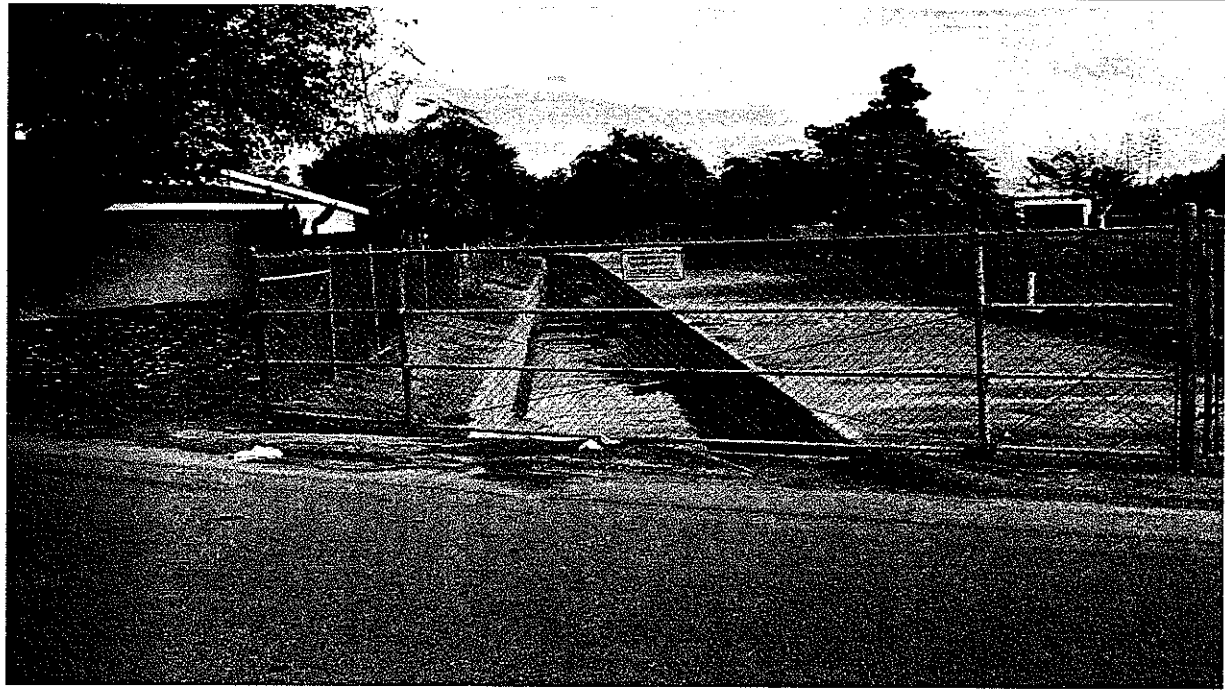
View to west along Bay Avenue



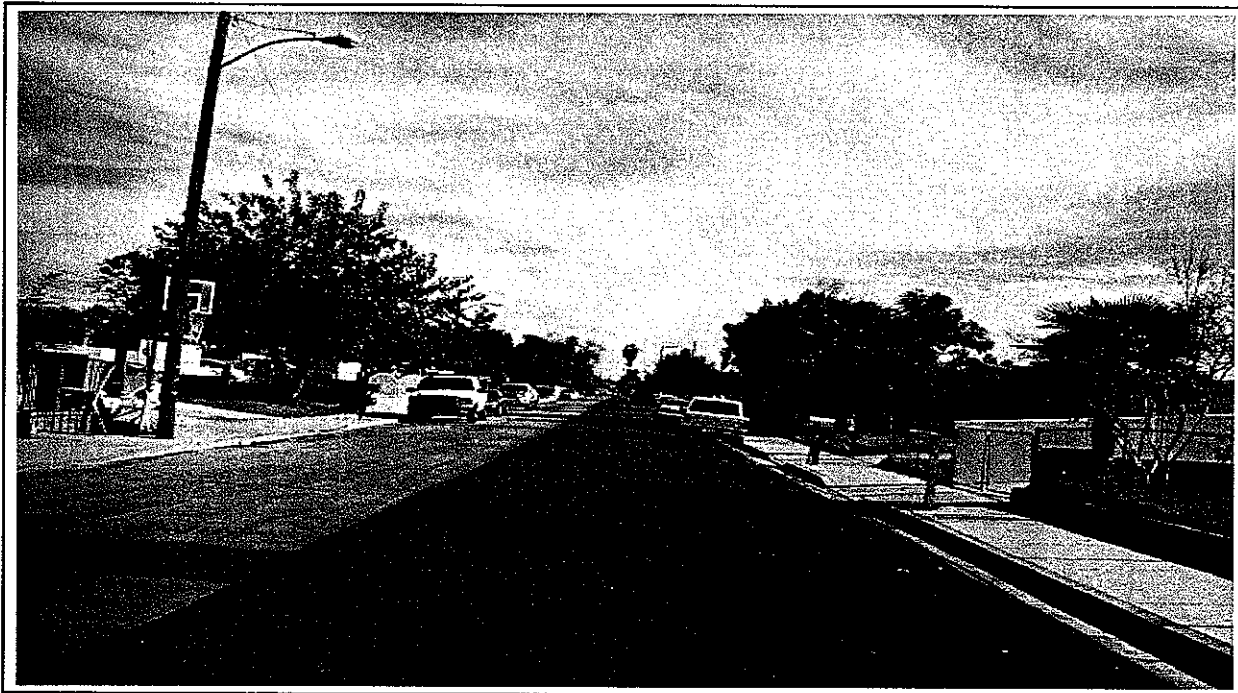
View to south along Edgemont Street



View to northeast along northern Edgemont Street



View to northeast of concrete drainage channel along Edgemont Street



View to east on Ella Avenue



View to south along Arvonna Street



View to northeast from Old 215 Frontage Road

Appendix B
Riverside County Biological Reporting Forms



BIOLOGICAL REPORT SUMMARY SHEET

(Submit two copies to the County)

Applicant Name:	Albert A. Webb Associates for the City of Moreno Valley		
Assessor's Parcel Number (APN):	430-acre Moreno Valley Edgemont Water Master Plan		
APN cont.:			
Site Location: Section:	10/11	Township:	3 South Range: 4 West
Site Address:			
Related Case Number(s):	PDB Number:		

CHECK SPECIES SURVEYED FOR	SPECIES or ENVIRONMENTAL ISSUE OF CONCERN	(Circle Yes, No or N/A regarding species findings on the referenced site)		
		Yes	No	N/A
	Arroyo Southwestern Toad	Yes	No	(N/A)
X	Blue-line Stream(s) (concrete lined channel)	(Yes)	No	N/A
	Coachella Valley Fringed-Toed Lizard	Yes	No	(N/A)
	Coastal California Gnatcatcher	Yes	No	(N/A)
X	Coastal Sage Scrub	Yes	(No)	N/A
	Delhi Sands Flower-Loving Fly	Yes	No	(N/A)
	Desert Pupfish	Yes	No	(N/A)
	Desert Slender Salamander	Yes	No	(N/A)
	Desert Tortoise	Yes	No	(N/A)
	Flat-Tailed Horned Lizard	Yes	No	(N/A)
	Least Bell's Vireo	Yes	No	(N/A)
X	Oak Woodlands	Yes	(No)	N/A
	Quino Checkerspot Butterfly	Yes	No	(N/A)
	Riverside Fairy Shrimp	Yes	No	(N/A)
	Santa Ana River Woollystar	Yes	No	(N/A)
	San Bernardino Kangaroo Rat	Yes	No	(N/A)
	Slender Horned Spineflower	Yes	No	(N/A)
	Stephen's Kangaroo Rat	Yes	No	(N/A)
X	Vernal Pools	Yes	(No)	N/A
X	Wetlands (concrete lined channel)	Yes	(No)	N/A

E-3.1

CHECK SPECIES SURVEYED FOR	SPECIES or ENVIRONMENTAL ISSUE OF CONCERN	(Circle Yes, No or N/A regarding species findings on the referenced site)		
		Yes	No	N/A
X	Other Burrowing Owl Habitat	Yes	<input checked="" type="radio"/> No	N/A
X	Other 6.1.2 Habitat	Yes	<input checked="" type="radio"/> No	N/A
	Other	Yes	No	N/A
	Other	Yes	No	N/A
	Other	Yes	No	N/A
	Other	Yes	No	N/A
	Other	Yes	No	N/A
	Other	Yes	No	N/A
	Other	Yes	No	N/A
	Other	Yes	No	N/A
	Other	Yes	No	N/A
	Other	Yes	No	N/A
	Other	Yes	No	N/A

Species of concern shall be any unique, rare, endangered, or threatened species. It shall include species used to delineate wetlands and riparian corridors. It shall also include any hosts, perching, or food plants used by any animals listed as rare, endangered, threatened or candidate species by either State, or Federal regulations, or for Riverside County as listed by the California Department of Fish and Game Natural Diversity Data Base (NDDDB).

I declare under penalty of perjury that the information provided on this summary sheet is in accordance with the information provided in the biological report.

Ecological Sciences, Inc. January 2, 2009

Signature and Company Name

Report Date

IC(a) Permit Number (if applicable)

Permit Expiration Date

County Use Only	
Received by:	Date:
PD-B#:	

LEVEL OF SIGNIFICANCE CHECKLIST
For Biological Resources
 (Submit Two Copies)

Case Number: _____ Lot/Parcel No. _____ EA Number _____

Wildlife & Vegetation

Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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(Check the level of impact that applies to the following questions)

- a) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservation Community Plan, or other approved local, regional, or state conservation plan?
 Participation in MSHCP required
- b) Have a substantial adverse effect, either directly or through habitat modifications, on any endangered, or threatened species, as listed in Title 14 of the California Code of Regulations (Sections 670.2 or 670.5) or in Title 50, Code of Federal Regulations (Sections 17.11 or 17.12)?
- c) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U. S. Wildlife Service?
- d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident migratory wildlife corridors, or impede the use of native wildlife nursery sites?
- e) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U. S. Fish and Wildlife Service?
- f) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?
- g) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Source: CGP Fig. VI.36-VI.40

Findings of Fact: No direct observations of sensitive biological resources observed along the proposed alignments in November/December 2008. Site highly degraded at the time of the survey due to long-standing urban uses.

Proposed Mitigation: Conduct pre-activity nesting bird surveys if construction proposed during the nesting cycle

Monitoring Recommended: None unless nesting birds present during construction

E-4.1

Appendix C

Fish and Wildlife Concurrence

Memo to File.

US FWS concurrence

6/29/09 4:00 pm

Received a phone call from Kathleen Pollett of the US FWS regarding the EPA project to the City of Moreno Valley (XP-96972201-3). The US FWS agreed with the determination that the project will have no effect on endangered species. Please note that this is different from EPA's determination in the letter of "not likely to adversely effect threatened or endangered species or their habitat" sent May 29,2009. EPA agrees with US FWS determination. This memo is used as concurrence with Section 7 of the Endangered Species Act.

From Howard Kahan

Appendix D

Historical/Archaeological Resources Survey Report

MANAGEMENT SUMMARY

In November and December 2008, at the request of Albert A. Webb Associates, CRM TECH performed a cultural resources study for an update to the Edgemont Water Master Plan in the City of Moreno Valley, Riverside County, California. The subject of the study includes approximately seven linear miles of pipeline routes lying within the existing rights-of-way of various public roadways in the Edgemont area of the city and a tank, booster, and well site that measures approximately 250x250 feet in size. The entire project area is located generally south of Eucalyptus Avenue, east of the Old 215 Frontage Road, north of Alessandro Boulevard, and west of Elsworth Street, within Sections 3, 10, and 11, T3S R4W, San Bernardino Base Meridian.

The study is part of the environmental review process for the proposed update to the Edgemont Water Master Plan, which calls for the installation of water pipelines ranging in diameter from 8 to 16 inches and the construction of a new water tank, booster, and well. The City of Moreno Valley, as the lead agency for the project, required the study in compliance with the California Environmental Quality Act (CEQA). Since State Revolving Fund will be used for the project, the study is carried out in compliance with the CEQA-Plus procedures, as established by the U.S. Environmental Protection Agency and the State Water Resources Control Board, and in consistency with the requirements of Section 106 of the National Historic Preservation Act.

The purpose of the study is to provide the City of Moreno Valley and any other responsible public agency or agencies with the necessary information and analysis to determine whether the project would cause substantial adverse changes to any historical/archaeological resources that may exist in or around the project area, as mandated by CEQA. In order to identify and evaluate such resources, CRM TECH conducted a historical/archaeological resources records search, pursued historical and geomorphologic research, contacted Native American representatives, and carried out a systematic field survey.

The results of the records search indicate that five historic-period buildings, designated as Sites 33-6915 through 33-6919 and built between 1920 and 1947, were previously recorded along the project route. Through further research, including the field survey, it was ascertained that since they are located outside the project boundaries, the proposed project has no potential to affect these buildings, either directly or indirectly. No other potential "historical resources," as defined by CEQA, were encountered during the course of the study. In addition, the subsurface sediments within the project area appear to be relatively low in sensitivity for potentially significant archaeological deposits.

Based on these findings, and pursuant to Calif. PRC §21084.1, CRM TECH recommends to the City of Moreno Valley and other responsible public agency or agencies a conclusion that *no "historical resources" will be affected by the proposed project.* No further cultural resources investigation is recommended for the project unless construction plans undergo such changes as to include areas not covered by this study. However, if buried cultural materials are encountered during any earth-moving operations associated with the project, all work in that area should be halted or diverted until a qualified archaeologist can evaluate the nature and significance of the finds.

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INTRODUCTION

In November and December 2008, at the request of Albert A. Webb Associates, CRM TECH performed a cultural resources study for an update to the Edgemont Water Master Plan in the City of Moreno Valley, Riverside County, California (Fig. 1). The subject of the study includes approximately seven linear miles of pipeline routes lying within the existing rights-of-way of various public roadways in the Edgemont area of the city and a tank, booster, and well site that measures approximately 250x250 feet in size. The entire project area is located generally south of Eucalyptus Avenue, east of the Old 215 Frontage Road, north of Alessandro Boulevard, and west of Elsworth Street, within Sections 3, 10, and 11, T3S R4W, San Bernardino Base Meridian (Fig. 2).

The study is part of the environmental review process for the proposed update to the Edgemont Water Master Plan, which calls for the installation of water pipelines ranging in diameter from 8 to 16 inches and the construction of a new water tank, booster, and well. The City of Moreno Valley, as the lead agency for the project, required the study in compliance with the California Environmental Quality Act (CEQA; PRC §21000, et seq.). Since State Revolving Fund will be used for the project, the study is carried out in compliance with the CEQA-Plus procedures, as established by the U.S. Environmental Protection Agency and the State Water Resources Control Board, and in consistency with the requirements of Section 106 of the National Historic Preservation Act (NHPA; 36 CFR 800).

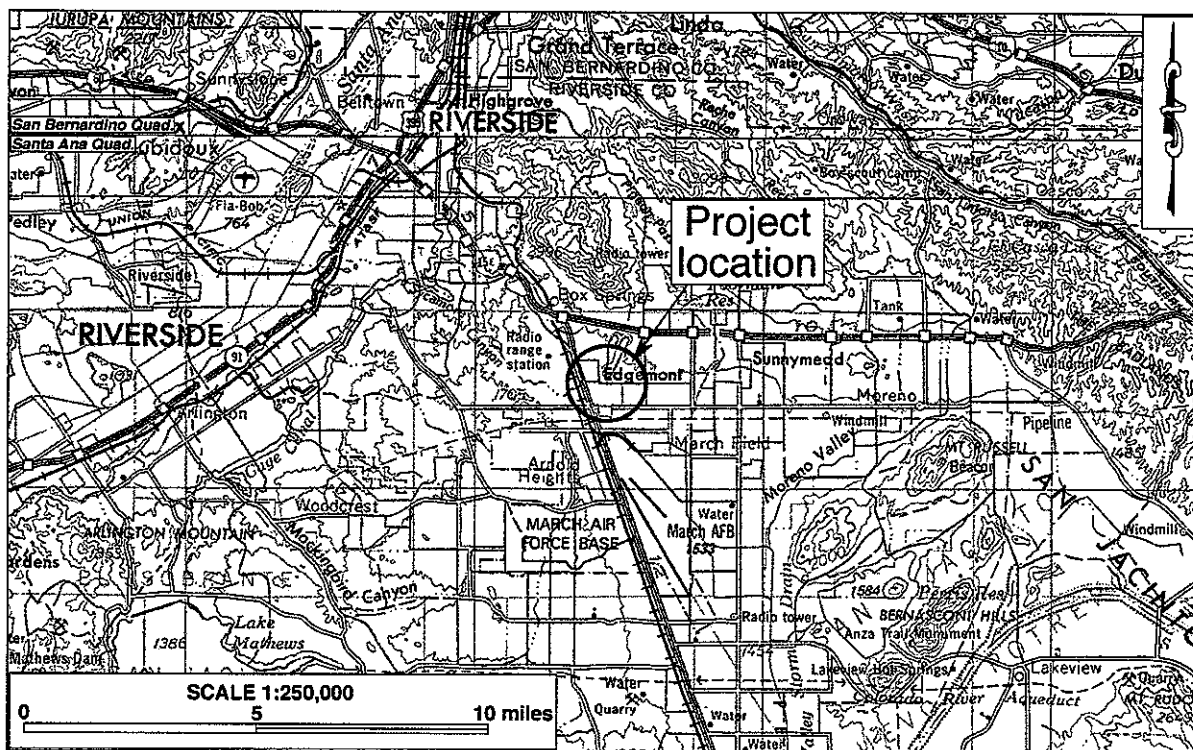


Figure 1. Project vicinity. (Based on USGS San Bernardino and Santa Ana, Calif., 1:250,000 quadrangles [USGS 1969; 1979])

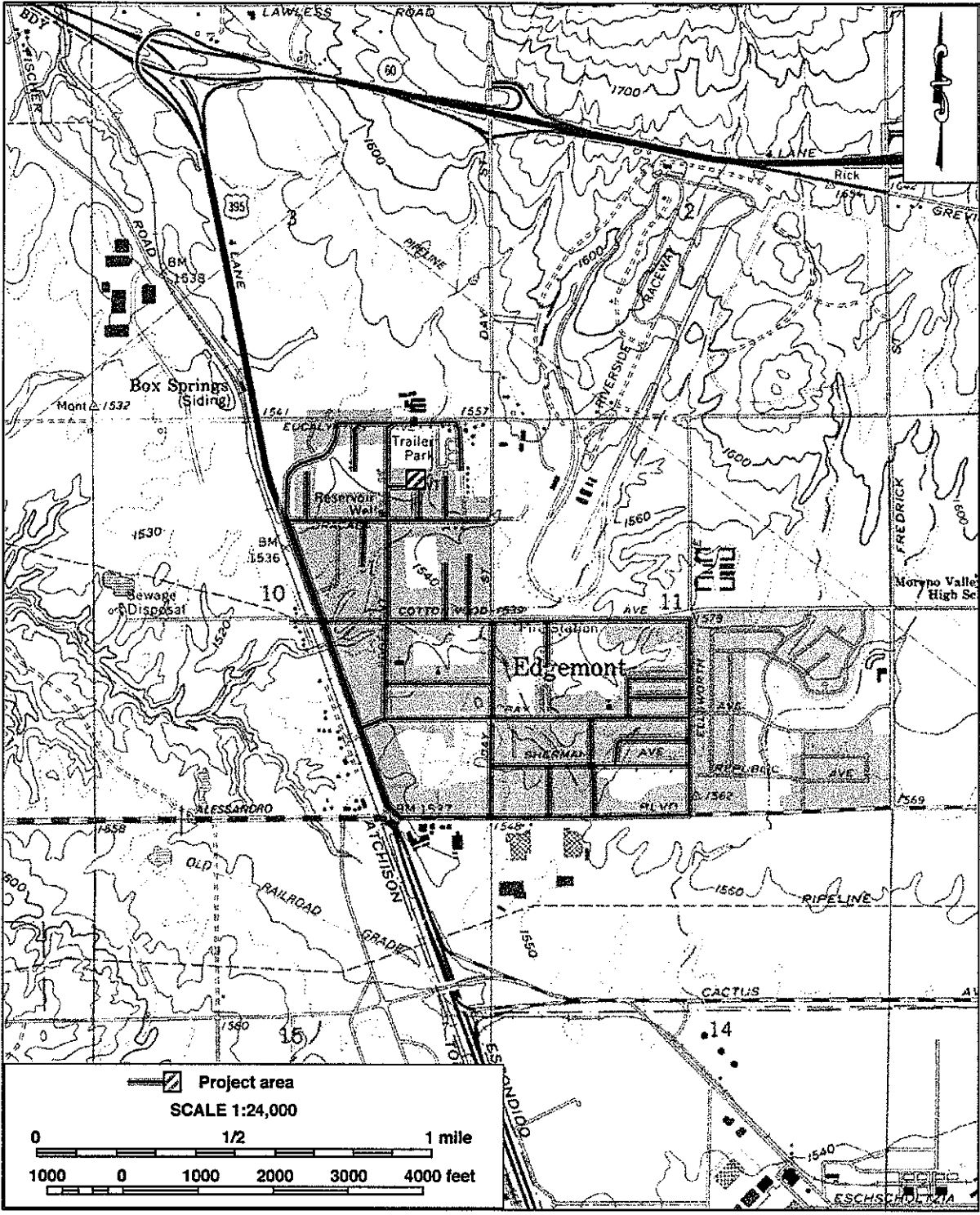


Figure 2. Project area. (Based on USGS Riverside East, Calif., 1:24,000 quadrangle [USGS 1980])

The purpose of the study is to provide the City of Moreno Valley and any other responsible public agency or agencies with the necessary information and analysis to determine whether the project would cause substantial adverse changes to any historical/ archaeological resources that may exist in or around the project area, as mandated by CEQA. In order to identify and evaluate such resources, CRM TECH conducted a historical/ archaeological resources records search, pursued historical and geomorphologic research, contacted Native American representatives, and carried out a systematic field survey. The following report is a complete account of the methods, results, and final conclusion of the study.

SETTING

ENVIRONMENTAL SETTING

Current Natural Setting

The project area is located in the Edgemont neighborhood of the City of Morenoa Valley, near the boundary between the Cities of Moreno Valley and Riverside. The climate and environment of the surrounding area are typical of the southern California inland valleys, featuring an average annual rainfall of less than 12 inches and temperatures that reach over 100 degrees Fahrenheit in summer and near freezing in winter.

The project area lies across the relatively level valley floor, with elevations ranging between 1,540 and 1,580 feet above mean sea level. The pipelines routes are situated within the paved rights-of-way of roadways in a fully developed urban/ suburban settings (Fig. 3). Past developments have removed almost all traces of the native landscape along these



Figure 3. Overview of the current natural setting along the project route. (Photo taken on November 18, 2008; view of the east)

roadways. As a result, vegetation noted near the pipeline routes consists mostly of introduced landscaping plants. The proposed tank, booster, and well site lies to the north of Dracaea Avenue and the east of Edgemont Street, where two large water tanks and a well are currently located. The area has evidently been leveled in the past, and has been cleared of vegetation repeatedly. The remaining vegetation in and near the project area includes tumbleweeds, wild mustards, various landscaping trees and bushes, and the typical small grasses and shrubs.

Geological Setting

The project area is located in the northern portion of the Peninsular Ranges Province, which is bounded on the north by the Transverse Ranges Province, on the northeast by the Colorado Desert Province, and on the west by the Pacific Ocean (Jenkins 1980:40-41; Harms 1996:150). This province consists of a well-defined geologic and physiographic unit occupying the southwest portion of the State of California and extending to the tip of Baja California (Jahns 1954:29; Harms 1996:130).

The surface geology in the project vicinity was mapped by Rogers (1965) as **Qal**, or alluvium of Holocene age. Dibblee (2003) mapped the project area mainly as **Qa**, also defined as alluvium of Holocene age, and a small amount of **Qoa**, or older alluvium of Pleistocene age, which is present only in the northeast quarter of the southwest quarter of Section 11. Knecht (1971:46-47; Map Sheets 27, 43) mapped the surface soils in the area as **MmB**, **MmC2**, and **MmD2**, all of which belong to the Monserate Series and develop in alluvium derived predominantly from granitic rocks.

CULTURAL SETTING

Prehistoric Context

It is widely acknowledged that human occupation in what is now the State of California began 8,000-12,000 years ago. In attempting to describe and understand the cultural processes that occurred in the ensuing years, archaeologists have developed a number of chronological frameworks that endeavor to correlate the technological and cultural changes that are observable in archaeological records to distinct time periods. Unfortunately, none of these chronological frameworks has been widely accepted, and none has been developed specifically for the so-called Inland Empire, the nearest ones being for the Colorado Desert and Peninsular Ranges area (Warren 1984) and for the Mojave Desert (Warren and Crabtree 1986).

The development of an overall chronological framework for the region is hindered by the lack of distinct stratigraphic layers of cultural sequences that could be dated by absolute dating methods to provide concrete dates. Since results from archaeological investigations in this region have yet to be synthesized into an overall chronological framework, most archaeologists tend to follow a chronology adapted from a scheme developed by William J. Wallace in 1955 and modified by others (Wallace 1955; 1978; Warren 1968; Chartkoff and Chartkoff 1984; Moratto 1984). Although the beginning and ending dates of the different horizons or periods may vary, the general framework of prehistory in this region under this chronology consists of the following four periods:

- Early Hunting Stage (ca. 10000 BC-6000 BC), which was characterized by human reliance on big game animals, as evidenced by large, archaic-style projectile points and the relative lack of plant-processing artifacts;
- Millingstone Horizon (ca. 6000 BC-AD 1000), when plant foods and small game animals came to the forefront of subsistence strategy, and from which a large number of millingstones, especially well-made, deep-basin metates, were left;
- Late Prehistoric Period (ca. AD 1000-1500), during which a more complex social organization, a more diversified subsistence base—as evidenced by smaller projectile points, expedient millingstones and, later, pottery—and regional cultures and tribal territories began to develop;
- Protohistoric Period (ca. AD 1500-1700s), which ushered in long-distance contact with Europeans, and thereby led to the Historic Period.

Ethnohistoric Context

According to current ethnohistorical scholarship, what is now the City of Moreno Valley lies on the border between the traditional territories of three Native American groups: the Serrano of the San Bernardino Mountains, the Luiseño of the Perris-Elsinore region, and the Gabrielino of the San Gabriel Valley. Kroeber (1925:Plate 57) suggests that the Native Americans of the Moreno Valley area were probably Luiseño, Reid (1968:8-9) states that they were Serrano, and Strong (1929:7-9, 275) claims that they were Gabrielino. In any case, there also occurred a late influx of Cahuilla during the 19th century (Bean 1978).

Whatever the linguistic affiliation, Native Americans along the Santa Ana River exhibited similar social organization and resource procurement strategies. Villages were based on clan or lineage groups. Their home/base sites are marked by midden deposits, often with bedrock mortar features. During their seasonal rounds to exploit plant resources, small groups often ranged some distances in search of specific plants and animals. Their gathering strategies often left behind signs of special use sites, usually grinding slicks on bedrock boulders, at the locations of the resources.

Historic Context

In comparison to other nearby communities such as Riverside and San Jacinto, the City of Moreno Valley is a "late-boomer" both in early development in the 19th century and in urban growth in the 20th. By the mid-19th century, the area that constitutes present-day Moreno Valley remained essentially uninhabited, despite its location on a plain surrounded by several large Mexican land grants. In 1853-1855, when the U.S. government initiated the first official land survey in southern California, the only man-made features observed in the area were a few roads crisscrossing the desert floor, including a wagon road from San Bernardino to Temecula, a second one leading to San Jacinto, and several unidentified roads or trails.

The Moreno Valley area remained unclaimed public land until 1870, when a large tract of 13,471 acres was purchased from the U.S. government in one single transaction. It was on this vast acquisition that the 11,560-acre Alessandro Tract and the town of Alessandro, where the March Air Reserve Base lies today, were laid out and offered to settlers in 1887 (Gunther 1984:11), during a land boom that swept through southern California in the 1880s. After this initial development scheme failed, the developers of Redlands in San Bernardino

County, fresh from their acclaimed success in creating the Bear Valley reservoir and the thriving Redlands colony, took over the Alessandro Tract with the intention of irrigating the land with an elaborate water system (*ibid.*).

Water from the Bear Valley reservoir reached the Moreno Valley area in 1891, ushering in a few years of prosperity in the early 1890s. Two more communities came into being in the vicinity during this brief boom: New Haven, soon to be renamed Moreno, and Midland, also known as Armada (Gunther 1984:323, 333). However, the boom soon turned to bust during the drought of the late 1890s, when Bear Valley water was no longer delivered to the Moreno Valley area. As a result, the budding towns in the area became largely abandoned, and many of the buildings were taken up and moved to Riverside (*ibid.*:13, 334).

During the early 20th century, the Moreno Valley area began to recover slowly. In 1912, a 1,100-acre portion of the original Alessandro Tract was re-subdivided as the Sunnymead Orchard Tract (County Surveyor 1912), thus bestowing on the community formerly known as Midland or Armada the new name of Sunnymead. Eleven years later, a series of land development projects began just to the west of Sunnymead, which ultimately resulted in the establishment of the community of Edgemont (Gunther 1984:171-172).

Despite these development efforts, Moreno Valley's economic prospect was severely hampered by the lack of reliable water supply until 1973, after the completion of the California Aqueduct and its southern terminus, Lake Perris (Gunther 1984:334). Since then, the promise of affordable housing brought an influx of commuters to the Moreno Valley area, setting off a period of rapid growth and urbanization. By 1984, when residents in the communities of Moreno, Sunnymead, and Edgemont voted to incorporate as the City of Moreno Valley, the new city had already become the second most populous in Riverside County (*ibid.*), thanks mainly to its attraction as a "bedroom community."

RESEARCH METHODS

RECORDS SEARCH

On November 5, 2008, CRM TECH archaeologist Nina Gallardo (see App. 1 for qualifications) conducted the historical/archaeological resources records search at the Eastern Information Center (EIC), University of California, Riverside. During the records search, Gallardo examined maps and records on file at the EIC for previously identified cultural resources in or near the project area, and existing cultural resources reports pertaining to the vicinity. Previously identified cultural resources include properties designated as California Historical Landmarks, Points of Historical Interest, or Riverside County Landmarks, as well as those listed in the National Register of Historic Places, the California Register of Historical Resources, or the California Historical Resources Inventory.

For the current study, the scope of the records search included the standard one-mile radius from the project location and an expanded five-mile radius to identify, in particular, prehistoric—i.e., Native American—archaeological resources in similar geomorphologic contexts. The purpose of the expanded records search is to assess the sensitivity of the

project route for prehistoric archaeological resources and help determine the potential of encountering significant subsurface cultural deposits during earth-moving activities associated with the project.

GEOMORPHOLOGIC ANALYSIS

As part of the research procedures, CRM TECH geologist Harry M. Quinn (see App. 1 for qualifications) pursued geomorphologic analysis to assess the project area's potential for the deposition and preservation of subsurface cultural deposits from the prehistoric period, which cannot be detected through a standard surface archaeological survey. Sources consulted for this purpose included topographic and geologic maps published by the U.S. Geological Survey (USGS) and soils reports in the vicinity of the project. Findings from these sources were used to develop a geomorphologic history of the project vicinity and address geoarchaeological sensitivity of the vertical project area.

HISTORICAL RESEARCH

Historical background research for this study was conducted by CRM TECH historian Bai "Tom" Tang (see App. 1 for qualifications) on the basis of published literature in local and regional history and historic maps of the Moreno Valley area. Among maps consulted for this study were the U.S. General Land Office's (GLO) land survey plat map dated 1855 and the USGS' topographic maps dated 1901, 1942, and 1953. These maps are collected at the Science Library of the University of California, Riverside, and the California Desert District of the U.S. Bureau of Land Management, located in Moreno Valley.

NATIVE AMERICAN PARTICIPATION

On November 3, 2008, CRM TECH submitted a written request to the State of California's Native American Heritage Commission for a records search in the commission's sacred lands file. Following the commission's recommendations, CRM TECH further contacted a total of 13 Native American representatives in the region in writing on November 11 to solicit local Native American input regarding any possible cultural resource concerns over the proposed project. Telephone consultations were subsequently carried out between November 25 and December 3, when one more tribal representative was added to the contact list. The correspondences between CRM TECH and the Native American representatives are attached to this report in Appendix 2.

FIELD SURVEY

On November 18, 2008, CRM TECH archaeologist Daniel Ballester (see App. 1 for qualifications) carried out the field survey of the project area. Since the proposed pipeline alignments are almost entirely confined within the heavily disturbed rights-of-way of existing roads, most of the survey was conducted at a reconnaissance level by driving along the project route and visually inspecting the surrounding ground surface for any indications of potential cultural resources.

A more intensive survey was conducted on foot at the proposed tank, booster, and well site by walking parallel north-south transects spaced 15 meters (approx. 50 feet) apart. In this way, the entire project area was systematically and carefully examined for any evidence of

human activities dating to the prehistoric or historic periods (i.e., 50 years or older). Since the pipeline routes are the under road pavement, visibility of native ground surface at those locations was poor, while ground visibility within the tank, booster, and well site was good (85%).

RESULTS AND FINDINGS

RECORDS SEARCH

According to EIC records, the westernmost portion of the project area may have been covered by a previous cultural resources survey along the Interstate 215 right-of-way (Fig. 4), and five historic-period buildings were previously recorded along portions of the proposed pipeline route. Designated Sites 33-6915 to 33-6919, these buildings were constructed between 1920 and 1947, and were located at 21730 and 21874 Bay Avenue, 21613 and 21768 Cottonwood Avenue, and 13694 Edgemont Street. One of them, 33-6915, was described as a bungalow, while the other four were vernacular houses of wood-frame and stone-masonry construction. All five of the buildings were recorded in the 1980s during a countywide historic building reconnaissance as relatively good examples of early residences in the Edgemont area.

Outside the project boundaries but within a one-mile radius, EIC records show more than 30 other studies covering various tracts of land and linear features (Fig. 4). As a result of these and other similar studies in the vicinity, 44 additional historical/archaeological sites and 2 isolates—i.e., localities with fewer than three artifacts—were previously recorded within the one-mile radius, as listed in Table 1 (see App. 3 for locations of prehistoric sites). None of these sites or isolates was found in the immediate vicinity of the project area, and thus none of them requires further consideration during this study.

As discussed above, the expanded records search covered the Box Springs, Riverside, and Moreno Valley areas within a five-mile radius of the project location for the purpose of identifying any prehistoric archaeological sites situated in the same or a similar geomorphologic context as the project area. The results indicate that no prehistoric sites or isolates were previously recorded on the valley floor around the project location, and only a few sites were found on the rugged terrain of the Box Springs Mountains to the north. In contrast, a large number of prehistoric milling sites have been recorded in clusters in the foothills and on elevated terraces to the west, east, and southeast.

Overall, the locations and types of prehistoric sites identified through the expanded records search appear to support existing prehistoric hunter-gatherer settlement-subsistence models for Inland California, which suggest longer-term residential settlement was more likely to occur on elevated terraces, hills, and finger ridges near permanent or reliable sources of water, while the valley floor was more often utilized in resource procurement efforts, travel, and opportunistic camping.

GEOMORPHOLOGIC ANALYSIS

The results of the geomorphologic research reveal that the alluvial sediments present in and near the project area are primarily of Holocene age or older (Rogers 1965; Diblee 2003).

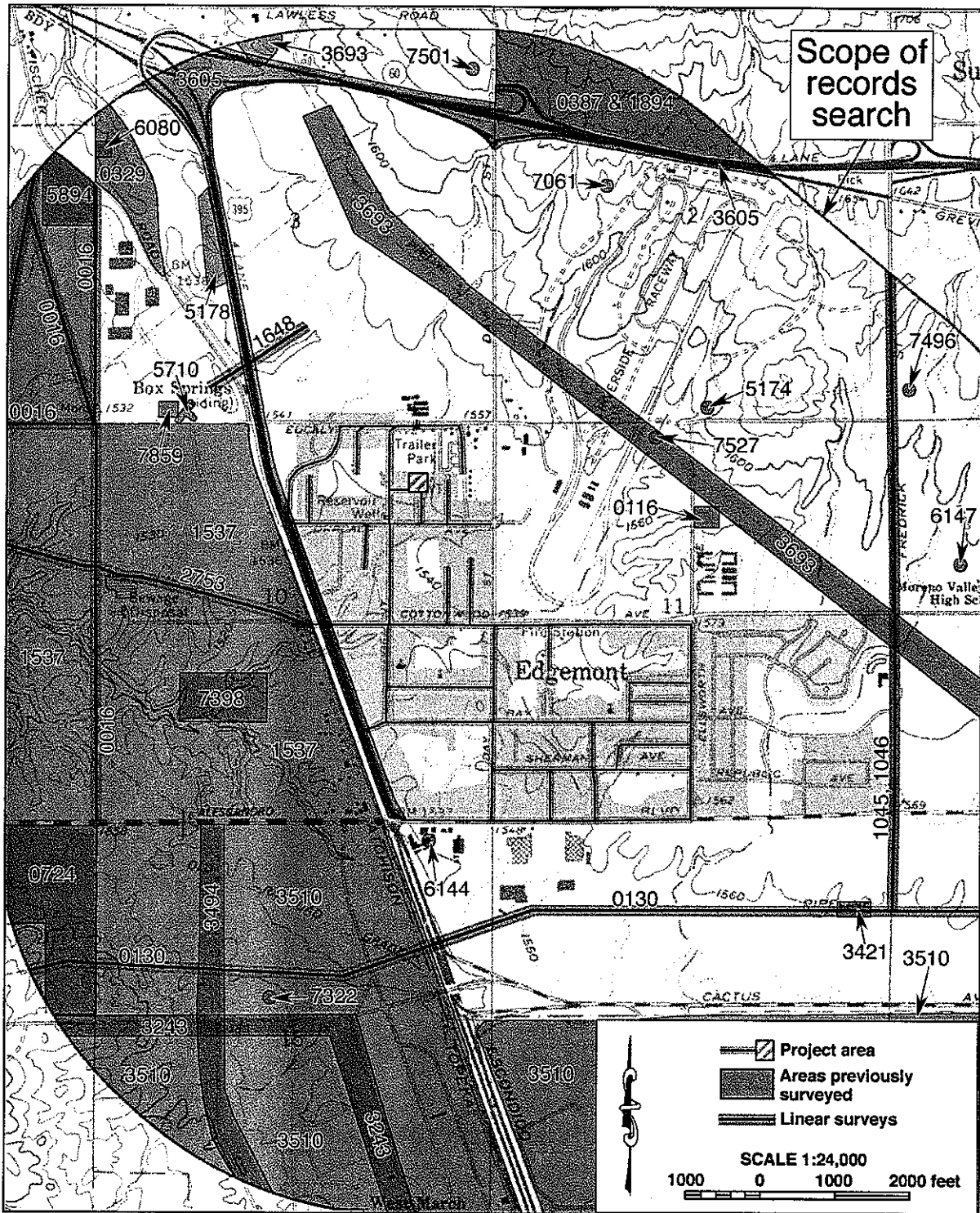


Figure 4. Previous cultural resources studies in the vicinity of the project area, listed by EIC file number.

Table 1. Previously Recorded Cultural Resources within a One-Mile Radius		
Site No.	Recorded by/Date	Description
33-2436	McCarthy 1982	Eight scattered boulders with 16 milling slicks
33-2502	McCarthy 1982	Six boulders with 13 slicks
33-2503	McCarthy 1982	Three boulders with 12 slicks
33-2504	McCarthy 1982	A single boulder with two slicks
33-2505	McCarthy 1982	Eight boulders with 10 slicks
33-2506	McCarthy 1982	A single boulder with one slick
33-2507	McCarthy 1982; Drover 1991	Three boulders with 10 slicks
33-2508	McCarthy 1982	Two boulders with six slicks
33-2509	McCarthy 1982	Thirteen boulders with 23 slicks
33-2510	McCarthy 1982; Drover and Smith 1991	Three boulders with nine slicks
33-2511	McCarthy 1982; Drover and Smith 1991	A single boulder with three slicks
33-2512	McCarthy 1982; Drover and Smith 1991	Seven boulders with 14 slicks
33-2513	McCarthy 1982	Seven boulders with 14 slicks
33-2514	McCarthy 1982	A single boulder with one slick
33-2515	McCarthy 1982	A single boulder with one slick
33-2516	McCarthy 1982	A single boulder with one slick
33-2517	McCarthy 1982	Four boulders with five slicks
33-2518	McCarthy 1982; Drover and Smith 1991	A single boulder with one slick
33-2519	McCarthy 1982; Drover and Smith 1991	Three boulders with three slicks and one mortar
33-2520	McCarthy 1982	Four boulders with eight slicks
33-2521	McCarthy 1982; Drover and Smith 1991	A single boulder with one slick
33-2522	McCarthy 1982	Two boulders with four slicks
33-2523	McCarthy 1982	A single boulder with three slicks
33-2524	McCarthy 1982	A single boulder with three slicks
33-3078	Drover 1985	A single milling slick
33-5423	Giacomini 1994	A single boulder with three milling slicks
33-5424	Giacomini 1994	A single boulder with one milling slick
33-5425	Giacomini 1994	Numerous bedrock milling features
33-5426	Giacomini 1994	Four milling slicks and a basin
33-5427	Giacomini 1994	Two boulders with two slicks
33-5433	Giacomini 1994	Eight bedrock milling features
33-5451	Giacomini 1994	A single boulder with one slick
33-5452	Giacomini 1994	Ten boulders with 16 slicks
33-5454	Giacomini 1994	Concrete slab foundations
33-5456	Giacomini 1994	Two concrete slab foundations
33-5457	Giacomini 1994	Thirteen boulders with 25 slicks
33-6915*	Warner 1983	Bungalow, 1947
33-6916*	Warner 1983	Vernacular wood-frame house, 1938
33-6917*	Warner 1983	Vernacular wood-frame house, 1930
33-6918*	Warner 1983	Vernacular stone house, 1941
33-6919*	Warner 1983	Vernacular wood-frame house, 1920
33-7721	McDonald 1996	A single boulder with one slick
33-7722	McDonald 1996	Two boulders with milling features
33-7723	McDonald 1996	Five boulders with 18 slicks
33-11502	Dahdul 2002	Two boulders with five slicks
33-15323	Dice and Sanka 2006	Twelve milling surfaces
33-15324	Dice and Porter 2006	Nine milling surfaces
33-15326	Dice 2006	Historic-period refuse deposit
33-15336	Ahmet and Bholat 2006; Ahmet 2007	One grinding slick
33-15656	Aislin-Kay and Sanka 2006	Isolated quartzite flake
33-15657	Aislin-Kay and Sanka 2006	Isolated granitic mano

* Recorded adjacent to the current project boundaries.

According to Knecht (1971), the surface soils along the project route are derived predominantly from granitic rocks. The foothills and terraces in the surrounding area have numerous granitic outcroppings, many of which bear milling slicks created and utilized occasionally by Native Americans for food processing.

The valley floor on which the project area is located does not exhibit the prevalence of granitic outcroppings—and thus milling features—noted to the west, east, and southeast. Furthermore, while seasonal drainages may have traversed the project vicinity in prehistoric times, the area appears to lack permanent water sources. Therefore, it is unlikely for any large habitation sites to be encountered along the project route.

HISTORICAL RESEARCH

Historical sources consulted for this study suggest that while a "Wagon Road to Timicula" was known to cross the project area in a northwest-southeast direction in the 1850s, no other evidence of human activities was found in or near the project area at that time (Fig. 5). In the late 1890s, in contrast, the cultural landscape of the Alessandro-Armada area clearly demonstrated the results of growth during the late 19th century, represented by an extensive network of roads lined with scattered buildings (Fig. 6). The Southern California Railroad, a Santa Fe subsidiary, was located just to the southwest of the project area, but none of the buildings appears to have been within the project boundaries (Fig. 6).

By the 1930s, most of the streets along the project route had come into existence, including Alessandro Boulevard, Eucalyptus Avenue, Edgemont Street, Cottonwood Avenue, and Bay Avenue, with numerous buildings along them (Fig. 7). The surrounding area, now a part of the Edgemont development, experienced further growth in the post-WWII era, as reflected by the increased numbers of streets and buildings, most of them presumably residences (Fig. 8). Based on these historic maps, much of the current landscape of the project vicinity reflects the results of growth dating to the early and mid-20th century.

NATIVE AMERICAN PARTICIPATION

In response to CRM TECH's inquiry, the Native American Heritage Commission reports that the sacred lands record search identified no Native American cultural resources in the project area. However, noting that the absence of specific site information in the sacred lands file does not indicate that such resources do not exist, the commission recommends that local Native American groups be contacted for further information, and provided a list of potential contacts in the region (see App. 2).

Upon receiving the commission's reply, CRM TECH initiated correspondence with all nine individuals on the referral list and the organizations they represent. In addition, John Tommy Rosas, Tribal Administrator and Litigator for the Tongva Ancestral Territorial Tribal Nation, John Gomez, Jr., Cultural Resources Coordinator for the Ramona Band of Cahuilla Indians, Joseph Ontiveros, Monitoring Coordinator for the Soboba Band of Luiseno Indians, and Anna Hoover, Cultural Analysis for the Temecula Band of Luiseño Mission Indians, were also contacted in writing. Once telephone consultations began, Marcie Russell, Financial Director for the Santa Rosa Band of Mission Indians, was also added to the contact list. As of this time, four verbal responses and three written replies have been received (see App. 2).

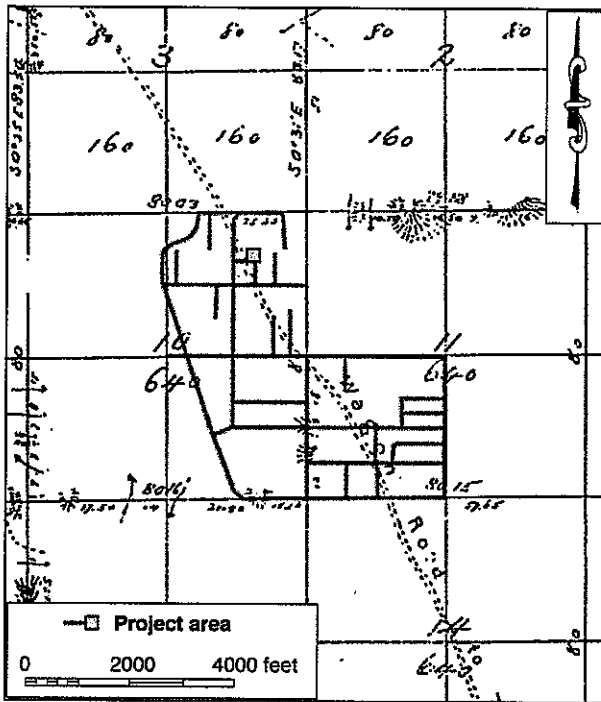


Figure 5. The project area and vicinity in 1853-1855.
(Source: GLO 1855)

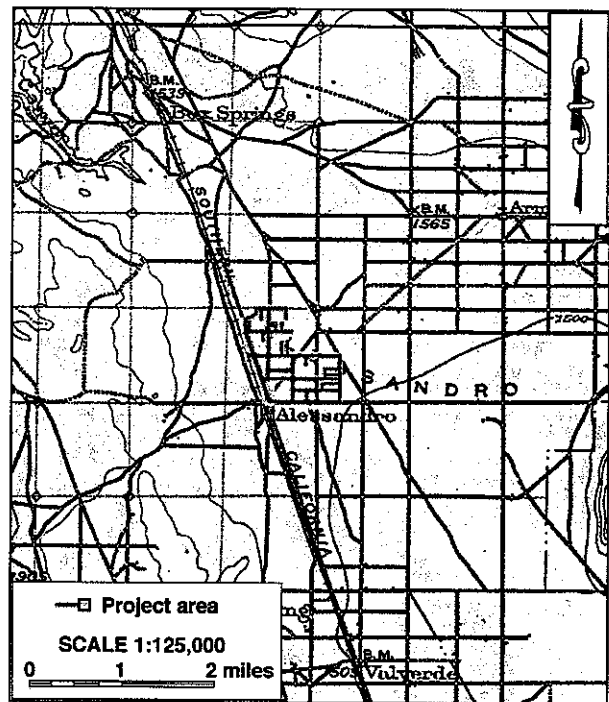


Figure 6. The project area and vicinity in 1897-1898.
(Source: USGS 1901)

In a telephone conversation on November 25, Joseph Ontiveros of the Soboba Band expressed his concerns over cultural resources in the project area in light of the presence of traditional Native American trade routes in the region. He requested to be notified by the project proponent prior to any ground-disturbing activities, and recommended Native American monitoring by a member of the Soboba Band during the project. In addition, Mr. Ontiveros requested a copy of the report upon completion. In a letter dated December 1, Mr. Ontiveros restated these requests.

In e-mails dated November 11 and 25, John Tommy Rosas of the Tongva Ancestral Territorial Tribal Nation also expresses concerns over the possibility of encountering Native American sites and requests archaeological monitoring during ground-disturbing activities. If a qualified archaeologist is not on site, he recommends

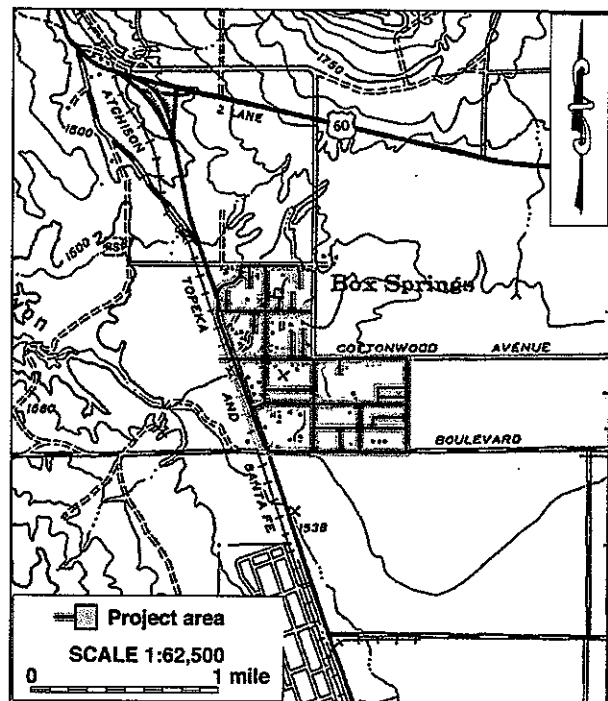


Figure 7. The project area and vicinity in 1939.
(Source: USGS 1942)

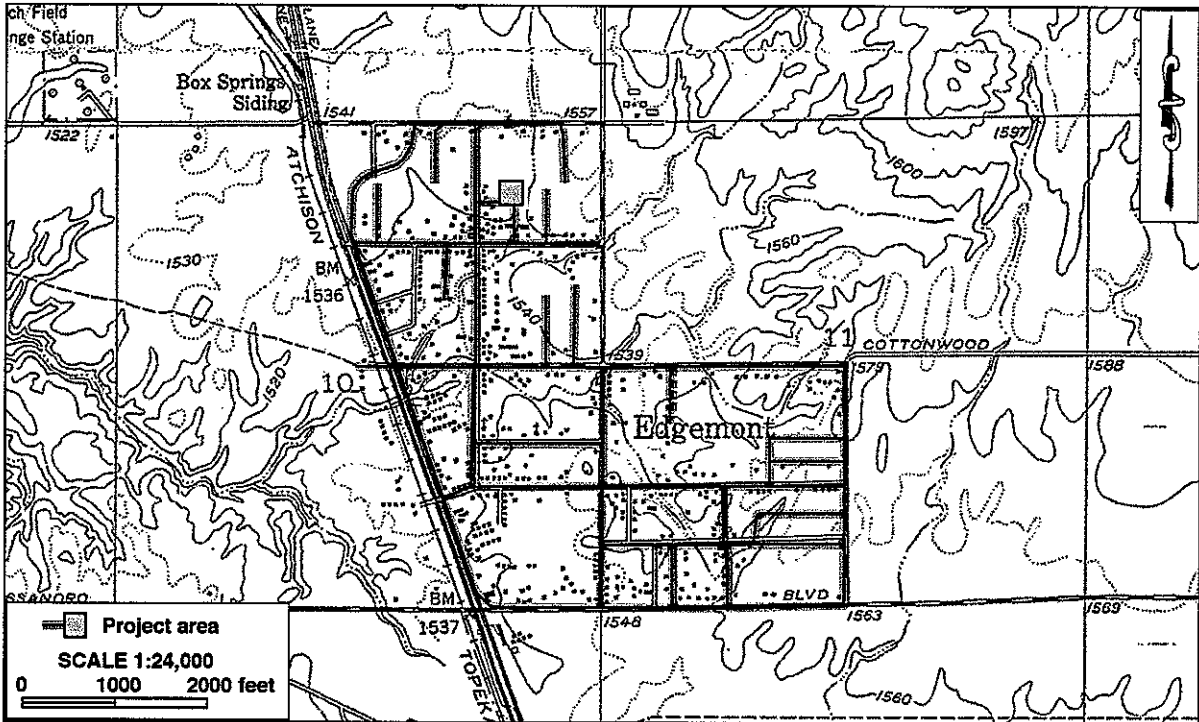


Figure 8. The project area and vicinity in 1951-1953. (Source: USGS 1953)

that all construction personnel be trained to identify Native American cultural resources and burials. Mr. Rosas further requests photographs of various sections of future trenches, that all proper procedures be followed during the project, that CRM TECH continue to be involved throughout the project, and that his group be kept informed about the progress.

In a letter dated November 25, Anna Hoover states that the Temecula Band identifies the project area as a part of its ancestral lands, and requests copies of all archaeological documentations pertaining to the project and further consultation with the City of Moreno Valley. In addition, Ms. Hoover requests to be notified if subsurface Native American cultural resources are encountered during the project, and reserves the right to provide additional comments regarding the treatment and disposition of all artifacts.

When received by telephone, Michael Contreras, Jr., of the Morongo Band of Mission Indians, Marcie Russell of the Santa Rosa Band of Mission Indians, and Goldie Walker of the Serrano Nation of Indians expressed no concerns regarding this project. Ms. Walker and Ms. Russell, however, requested that the project proponent notify their respective tribes if any cultural Native American cultural resources were discovered in the project area.

FIELD SURVEY

The field survey produced completely negative results for potential cultural resources within or immediately adjacent to the project area. The entire project area was closely inspected for any evidence of human activities dating to the prehistoric or historic periods,

but none was found. The five previously recorded historic-period buildings along the project route were found to be well outside of the proposed pipeline right-of-way, and the project has no potential to impact any of them, either directly or indirectly. Therefore, none of these buildings requires further consideration in this study. No buildings, structures, objects, sites, features, or artifacts more than 50 years of age were encountered within or adjacent to the project area during the field survey.

DISCUSSION

The purpose of this study is to identify any cultural resources within or adjacent to the project area, and to assist the City of Moreno Valley in determining whether such resources meet the official definition of "historical resources," as provided in the California Public Resources Code, in particular CEQA.

According to PRC §5020.1(j), "'historical resource' includes, but is not limited to, any object, building, site, area, place, record, or manuscript which is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California." More specifically, CEQA guidelines state that the term "historical resources" applies to any such resources listed in or determined to be eligible for listing in the California Register of Historical Resources, included in a local register of historical resources, or determined to be historically significant by the Lead Agency (Title 14 CCR §15064.5(a)(1)-(3)).

Regarding the proper criteria for the evaluation of historical significance, CEQA guidelines mandate that "a resource shall be considered by the lead agency to be 'historically significant' if the resource meets the criteria for listing on the California Register of Historical Resources" (Title 14 CCR §15064.5(a)(3)). A resource may be listed in the California Register if it meets any of the following criteria:

- (1) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage.
- (2) Is associated with the lives of persons important in our past.
- (3) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values.
- (4) Has yielded, or may be likely to yield, information important in prehistory or history. (PRC §5024.1(c))

As discussed above, research procedures conducted during this study indicate that no potential "historical resources" are present within or immediately adjacent to the project area. While five historic-period buildings (Sites 33-6915 to 33-6919) were previously recorded along the project route, none of these buildings is situated close enough to the project right-of-way to be affected by the proposed installation of pipelines. Throughout the course of the study, no other potential "historical resources" were identified, and the subsurface sediments within the project area appear to be relatively low in sensitivity for potentially significant archaeological deposits. Based on these findings, and in light of the criteria listed above, the present study concludes that *no historical resources exist within or adjacent to the project area.*

CONCLUSION AND RECOMMENDATIONS

CEQA establishes that "a project that may cause a substantial adverse change in the significance of a historical resource is a project that may have a significant effect on the environment" (PRC §21084.1). "Substantial adverse change," according to PRC §5020.1(q), "means demolition, destruction, relocation, or alteration such that the significance of a historical resource would be impaired."

Since no "historical resources," as defined by CEQA regulations, have been identified within or adjacent to the project area during this study, and since the subsurface sediments within the project area appear to be relatively low in archaeological sensitivity, CRM TECH presents to the City of Moreno Valley the following recommendations regarding the proposed project:

- No historical resources exist within or adjacent to the project area, and thus the project as currently proposed will not cause a substantial adverse change to any historical resources.
- No further cultural resources investigation is necessary for the proposed project unless construction plans undergo such changes as to include areas not covered by this study.
- If buried cultural materials are discovered during any earth-moving operations associated with the project, all work in that area should be halted or diverted until a qualified archaeologist can evaluate the nature and significance of the finds.

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**APPENDIX 1:
PERSONNEL QUALIFICATIONS**

**PRINCIPAL INVESTIGATOR/HISTORIAN
Bai "Tom" Tang, M.A.**

Education

- 1988-1993 Graduate Program in Public History/Historic Preservation, UC Riverside.
1987 M.A., American History, Yale University, New Haven, Connecticut.
1982 B.A., History, Northwestern University, Xi'an, China.
- 2000 "Introduction to Section 106 Review," presented by the Advisory Council on
Historic Preservation and the University of Nevada, Reno.
1994 "Assessing the Significance of Historic Archaeological Sites," presented by the
Historic Preservation Program, University of Nevada, Reno.

Professional Experience

- 2002- Principal Investigator, CRM TECH, Riverside/Colton, California.
1993-2002 Project Historian/Architectural Historian, CRM TECH, Riverside, California.
1993-1997 Project Historian, Greenwood and Associates, Pacific Palisades, California.
1991-1993 Project Historian, Archaeological Research Unit, UC Riverside.
1990 Intern Researcher, California State Office of Historic Preservation,
Sacramento.
- 1990-1992 Teaching Assistant, History of Modern World, UC Riverside.
1988-1993 Research Assistant, American Social History, UC Riverside.
1985-1988 Research Assistant, Modern Chinese History, Yale University.
1985-1986 Teaching Assistant, Modern Chinese History, Yale University.
1982-1985 Lecturer, History, Xi'an Foreign Languages Institute, Xi'an, China.

Honors and Awards

- 1988-1990 University of California Graduate Fellowship, UC Riverside.
1985-1987 Yale University Fellowship, Yale University Graduate School.
1980, 1981 President's Honor List, Northwestern University, Xi'an, China.

Cultural Resources Management Reports

Preliminary Analyses and Recommendations Regarding California's Cultural Resources Inventory System (With Special Reference to Condition 14 of NPS 1990 Program Review Report). California State Office of Historic Preservation working paper, Sacramento, September 1990.

Numerous cultural resources management reports with the Archaeological Research Unit, Greenwood and Associates, and CRM TECH, since October 1991.

Membership

California Preservation Foundation.

PRINCIPAL INVESTIGATOR/ARCHAEOLOGIST
Michael Hogan, Ph.D., RPA *

Education

- 1991 Ph.D., Anthropology, University of California, Riverside.
1981 B.S., Anthropology, University of California, Riverside; with honors.
1980-1981 Education Abroad Program, Lima, Peru.
- 2002 Section 106—National Historic Preservation Act: Federal Law at the Local Level. UCLA Extension Course #888.
2002 "Recognizing Historic Artifacts," workshop presented by Richard Norwood, Historical Archaeologist.
2002 "Wending Your Way through the Regulatory Maze," symposium presented by the Association of Environmental Professionals.
1992 "Southern California Ceramics Workshop," presented by Jerry Schaefer.
1992 "Historic Artifact Workshop," presented by Anne Duffield-Stoll.

Professional Experience

- 2002- Principal Investigator, CRM TECH, Riverside/Colton, California.
1999-2002 Project Archaeologist/Field Director, CRM TECH, Riverside.
1996-1998 Project Director and Ethnographer, Statistical Research, Inc., Redlands.
1992-1998 Assistant Research Anthropologist, University of California, Riverside
1992-1995 Project Director, Archaeological Research Unit, U. C. Riverside.
1993-1994 Adjunct Professor, Riverside Community College, Mt. San Jacinto College, U.C. Riverside, Chapman University, and San Bernardino Valley College.
1991-1992 Crew Chief, Archaeological Research Unit, U. C. Riverside.
1984-1998 Archaeological Technician, Field Director, and Project Director for various southern California cultural resources management firms.

Research Interests

Cultural Resource Management, Southern Californian Archaeology, Settlement and Exchange Patterns, Specialization and Stratification, Culture Change, Native American Culture, Cultural Diversity.

Cultural Resources Management Reports

Author and co-author of, contributor to, and principal investigator for numerous cultural resources management study reports since 1986.

Memberships

* Register of Professional Archaeologists.
Society for American Archaeology.
Society for California Archaeology.
Pacific Coast Archaeological Society.
Coachella Valley Archaeological Society.

PROJECT ARCHAEOLOGIST/REPORT WRITER
Deirdre Encarnación, M.A.

Education

- 2003 M.A., Anthropology, San Diego State University, California.
2000 B.A., Anthropology, minor in Biology, with honors; San Diego State University, California.
1993 A.A., Communications, Nassau Community College, Garden City, N.Y.
- 2001 Archaeological Field School, San Diego State University.
2000 Archaeological Field School, San Diego State University.

Professional Experience

- 2004- Project Archaeologist/Report Writer, CRM TECH, Riverside/Colton, California.
2001-2003 Part-time Lecturer, San Diego State University, California.
2001 Research Assistant for Dr. Lynn Gamble, San Diego State University.
2001 Archaeological Collection Catalog, SDSU Foundation.

PROJECT ARCHAEOLOGIST
Nina Gallardo, B.A.

Education

- 2004 B.A., Anthropology/Law and Society, University of California, Riverside.

Professional Experience

- 2004- Project Archaeologist, CRM TECH, Riverside/Colton, California.
• Surveys, excavations, mapping, and records searches.

Honors and Awards

- 2000-2002 Dean's Honors List, University of California, Riverside.

PROJECT ARCHAEOLOGIST/FIELD DIRECTOR
Daniel Ballester, B.A.

Education

- 1998 B.A., Anthropology, California State University, San Bernardino.
1997 Archaeological Field School, University of Las Vegas and University of California, Riverside.
1994 University of Puerto Rico, Rio Piedras, Puerto Rico.
2007 Certificate in Geographic Information Systems (GIS), California State University, San Bernardino.
2002 "Historic Archaeology Workshop," presented by Richard Norwood, Base Archaeologist, Edwards Air Force Base; presented at CRM TECH, Riverside, California.

Professional Experience

- 2002- Field Director, CRM TECH, Riverside/Colton, California.
• Report writing, site record preparation, and supervisory responsibilities over all aspects of fieldwork and field crew.
1999-2002 Project Archaeologist, CRM TECH, Riverside, California.
• Survey, testing, data recovery, monitoring, and mapping.
1998-1999 Field Crew, K.E.A. Environmental, San Diego, California.
• Two and a half months of excavations on Topomai village site, Marine Corp Air Station, Camp Pendleton.
1998 Field Crew, A.S.M. Affiliates, Encinitas, California.
• Two weeks of excavations on a site on Red Beach, Camp Pendleton, and two weeks of survey in Camp Pendleton, Otay Mesa, and Encinitas.
1998 Field Crew, Archaeological Research Unit, University of California, Riverside.
• Two weeks of survey in Anza Borrego Desert State Park and Eureka Valley, Death Valley National Park.

APPENDIX 2

CORRESPONDENCE WITH
NATIVE AMERICAN REPRESENTATIVES*

* A total of 13 local Native American representatives were contacted in writing; a sample letter is included in this report.



1016 E. Cooley Drive
Suite B
Colton, CA 92324
909-824-6400 · Tel
909-824-6405 · Fax

To: Native American
Heritage Commission

Fax: (916) 657-5390

From: Nina Gallardo

Date: November 3, 2008

Number of pages (including this cover sheet):

2

HARDCOPY:

will follow by mail

will not follow unless requested

RE: Sacred Land records search

This is to request a Sacred Lands records search

Name of project:
Edgemont Water Master Plan
CRM TECH #2291

Project size:
430 acres

Location:
In the City of Moreno Valley
Riverside County

USGS 7.5' quad sheet data:
Riverside East, Calif.
Sections 3, 10 & 11, T3S R4W, SBBM

Please call if you need more information or have any questions.

Results may be faxed to the number above.

I appreciate your assistance in this matter.

Map included

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-6251
Fax (916) 657-5390
Web Site www.nahc.ca.gov
e-mail: ds_nahc@pacbell.net



November 7, 2008

Ms. Nina Gallardo, RPA
CRM TECH
1016 E. Cooley Drive, Suite B
Colton, CA 92324

Sent by FAX to: 909-824-6405
Number of pages: 3

Re: Request for a Sacred Lands File records search and Native American Contacts list for the proposed Edgemont Water Master Plan Project, located in the City of Moreno Valley, Riverside County, California

Dear Ms. Gallardo:

The Native American Heritage Commission (NAHC) was able to perform a record search of its Sacred Lands File (SLF) for the affected project area/area of potential effect (APE). The SLF failed to indicate the presence of Native American cultural resources in the immediate project area. The absence of a Native American cultural resource does not indicate that it does not exist.

Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries once a project is underway. Enclosed are the names of culturally affiliated Native American Contacts that may have knowledge of cultural resources in the project area. A list of Native American contacts is attached to assist you. It is advisable to contact the persons listed; if they cannot supply you with specific information about the impact on cultural resources.

Lead agencies should consider avoidance, as defined in Section 15370 of the California Environmental Quality Act (CEQA) when significant cultural resources could be affected by a project. Also, Public Resources Code Section 15064.5(f) and Section 15097.98 and Health & Safety Code Section 7050.5 provide for provisions for accidentally discovered archeological resources during construction and mandate the processes to be followed in the event of an accidental discovery of any human remains in a project location other than a 'dedicated cemetery. Discussion of these should be included in your environmental documents, as appropriate.

If you have any questions about this response to your request, please do not hesitate to contact me at (916) 653-6251.

Sincerely,


Dave Singleton
Program Analyst

Attachment: Native American Contact List

Native American Contacts
Riverside County
November 7, 2008

Pechanga Band of Mission Indians
Paul Macarro, Cultural Resource Center
 P.O. Box 1477 Luiseno
 Temecula , CA 92593
 (951) 308-9295 Ext 8106
 (951) 676-2768
 (951) 506-9491 Fax

Santa Rosa Band of Mission Indians
John Marcus, Chairman
 P.O. Box 609 Cahuilla
 Hemet , CA 92546
 srtribaloffice@aol.com
 (951) 658-5311
 (951) 658-6733 Fax

Ramona Band of Cahuilla Mission Indians
Joseph Hamilton, Chairman
 P.O. Box 391670 Cahuilla
 Anza , CA 92539
 admin@ramonatribe.com
 (951) 763-4105
 (951) 763-4325 Fax

Morongo Band of Mission Indians
Michael Contreras, Cultural Heritage Prog. Manager
 13000 Fields Road Cahuilla
 Banning , CA 92220 Serrano
 (951) 755-5025
 (951)201-1866 - cell
 (951) 922-0105 Fax

San Manuel Band of Mission Indians
James Ramos, Chairperson
 26569 Community Center Drive Serrano
 Highland , CA 92346
 (909) 864-8933
 (909) 864-3724 - FAX
 (909) 864-3370 Fax

San Manuel Band of Mission Indians
Ann Brierty, Environmental Department
 101 Pure Water Lane Serrano
 Highland , CA 92346
 abrierty@sanmanuel-nsn.gov
 (909) 863-5899 EXT-4321
 (909) 862-5152 Fax

Soboba Band of Mission Indians
Robert Salgado, Chairperson
 P.O. Box 487 Luiseno
 San Jacinto , CA 92581
 dhill@soboba-nsn.gov
 (951) 654-2765
 (951) 654-4198 - Fax

Serrano Nation of Indians
Goldie Walker
 6588 Valaria Drive Serrano
 Highland , CA 92346
 (909) 862-9883

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed Edgemont Water Master Plan (CRM TECH #2291), 430-acres located in the City of Moreno Valley; Riverside County, California for which a Sacred Lands File search and Native American Contacts list were requested.

Native American Contacts
Riverside County
November 7, 2008

Soboba Band of Luiseno Indians
Erica Helms, Cultural Resources Manager
P.O. Box 487 Luiseno
San Jacinto, CA 92581
dhill@soboba-nsn.gov
(951) 654-2765
FAX: (951) 654-4198

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed Edgemont Water Master Plan (CRM TECH #2291), 430-acres located in the City of Moreno Valley, Riverside County, California for which a Sacred Lands File search and Native American Contacts list were requested.

November 11, 2008

Joseph Ontiveros, Monitoring Coordinator
Soboba Band of Luiseño Indians
P. O. Box 487
San Jacinto, CA 92381

RE: Edgemont Water Master Plan
In the City of Moreno Valley, Riverside County
CRM TECH Contract #2291

Dear Mr. Ontiveros:

As part of a cultural resources study for the project referenced above, I am writing to request your input on potential Native American cultural resources in or near the project area. Please respond at your earliest convenience if you have any specific knowledge of sacred/religious sites or other sites of Native American traditional cultural value within or near the project area. The lead agency for this project is the City of Moreno Valley for CEQA-compliance purposes. Federal funds may be involved at a later point.

The proposed 430-acre project involves the replacement of existing water lines as well as the placement of new lines, and possibly the installation of a new well. The project area is located north of Alessandro Boulevard and between the 215 Freeway and Elsworth Street, extending north towards Eucalyptus Avenue, in the City of Moreno Valley, Riverside County. The accompanying map, based on the USGS Riverside East, Calif., 7.5' quadrangle, depicts the location of the project area in Sections 3, 10, and 11, T3S R4W, SBBM.

Any information, concerns or recommendations regarding cultural resources in the vicinity of the project area may be forwarded to CRM TECH by telephone, e-mail, facsimile or standard mail. Requests for documentation or information we cannot provide will be forwarded to our client and/or the lead agency. We would also like to clarify that CRM TECH, acting on behalf of Albert Webb and Associates, is not the appropriate entity to initiate government-to-government consultations. Thank you for the time and effort in addressing this important matter.

Respectfully,

Laura Hensley Shaker
CRM TECH

Encl.: Project location map

From: Johntommy Rosas <tattnlaw@gmail.com>
Date: Tue, 11 Nov 2008 12:35:48 -0800
To: Laura Shaker <lshaker@crmtech.us>
Subject: Re: CRM TECH # 2291 letter

HI , LAURA SHAKER, I HOPE YOU AND YOURS ARE WELL;

I CONFIRM RECEIPT OF YOUR DOCUMENTS AND MAPS, JPGS DIDNT OPEN, SO I WILL WORK ON THAT.
MY FIRST COMMENTS FOR NOW ARE;
ALL DIGGING AND TRENCHING SHOULD HAVE ARCHAEOLOGIST MONITOR ALL EXCAVATIONS. ALSO WE ARE REQUESTING PHOTOS OF DIFFERENT SECTIONS, SO WE KNOW WHAT WAS DOWN THERE AND CAN DOCUMENT WHAT WAS ENCOUNTERED.
ALSO ALL EXCAVATORS AND STAFF ON SITE SHOULD BE TRAINED FOR VISUAL ID IF AN ARCH. ISNT ONSITE, WE NEED ALL LAWS FOLLOWED AND STATED AS SUCH IN THE MITIGATIONS FOR THIS PROJECT.
WE WANT ALL CONTAMINATED SOILS REMOVED.
WE ALSO WANT ALL OLD PIPES AND HARDWARE RECYCLED PROPERLY.
IF THIS A GROWTH INDUCING IMPACT, THEN ALL CEQA REQUIRED REVIEW SHOULD HAPPEN, AND A DETERMINATION TO US EITHER WAY.
WE ALSO WANT THE CRM TECH TO CONTINUE TO INFORM US OR HAVE THE LEAD AGENCY DO SO AND KEEP CRM TECH IN THE INFO LOOP, DURING PROJECT DURATION, SO WE GET ALL CHANGES OR DISCOVERY(S) DATA. IF LEAD AGENCY DIDNT CONTRACT THAT THEN CRM TECH SHOULD RECEIVE ADDITIONAL FUNDS FOR THAT SERVICE.
THATS IT FOR NOW.
/S/ JOHNTOMMY ROSAS

JOHN TOMMY ROSAS
TRIBAL ADMINISTRATOR
TRIBAL LITIGATOR
TONGVA ANCESTRAL TERRITORIAL TRIBAL NATION
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=====
From: Johntommy Rosas <tattnlaw@gmail.com>
Date: Tue, 25 Nov 2008 19:49:43 -0800
To: <lshaker@crmtech.us>
Subject: Re: 2291 Edgemont Water Master Plan

THANKS, THEY ARE LOOKING AT A NEW WATER WELL, SO THAT IS GROWTH INDUCING UNDER CEQA, ALSO THE EXCAVATIONS MAY HIT SITES SO SAME MITIGATION NEEDS TO BE IN PLACE, IS IT GOING TO BE MITIGATED NEGATIVE DEC?
THANKS JOHNTOMMY

JOHN TOMMY ROSAS
TRIBAL ADMINISTRATOR
TRIBAL LITIGATOR
TONGVA ANCESTRAL TERRITORIAL TRIBAL NATION
OFFICIAL TATTN E-MAIL CONFIDENTIAL
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PECHANGA CULTURAL RESOURCES
Temecula Band of Luiseño Mission Indians

Post Office, Box 2183 • Temecula, CA 92593
Telephone (951) 308-9295 • Fax (951) 506-9491

Chairperson:
Germaine Arenas

Vice Chairperson:
Mary Bear Magee

Committee Members:
Evie Gerber
Darlene Miranda
Bridgett Barcello Maxwell

Director:
Gary DuBois

Coordinator:
Paul Macarro

Cultural Analyst:
Anna Hoover

Minor Supervisor:
Aurelia Marruffo

November 25, 2008

VIA E-Mail and USPS

RE: Request for Information for the Edgemont Water Master Plan, CRM Tech Project No. 2291 (CRM Tech)

Dear Ms. Shaker;

The Pechanga Band of Luiseño Indians ("the Tribe") appreciates your request for information regarding the above referenced project. After reviewing the provided maps and internal documents, we have determined that the project area is not within reservation lands although it is within our ancestral territory. Based upon the provided maps, it is our understanding that this project will be impacting existing roadways or already disturbed areas for pipeline placement only. If the scope of work should change to include impacting native or previously undisturbed soils, the Tribe requests the opportunity to review the new scope and present comments. At this time, we have no additional information on this Project.

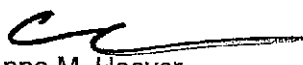
However, the Tribe requests the following:

- 1) Copies of all applicable archaeological reports and site records; and
- 2) In the event that subsurface cultural resources are identified, the Tribe requests consultation with the project proponent and Lead Agency regarding the treatment and disposition of all artifacts.

As a sovereign governmental entity, the Tribe is entitled to appropriate and adequate government-to-government consultation regarding the proposed project. We would like you and your client to know that the Tribe does not consider initial inquiry letters from project consultants to constitute appropriate government-to-government consultation, but rather tools to obtain further information about the project area. Therefore, the Tribe reserves its rights to participate in the formal environmental review process, including government-to-government consultation with the Lead Agency, and requests to be included in all correspondence regarding this project.

Please note that we are interested in participating in surveys within Luiseño ancestral territory. Prior to conducting any surveys, please contact the Cultural Department to schedule specifics. If you have any additional questions or comments, please contact me at ahoover@pechanga-nsn.gov or 951-308-9295.

Sincerely,


Anna M. Hoover
Cultural Analyst

RECEIVED NOV 29 2008

December 1, 2008

Attn: Laura Shaker
CRM-Tech
1016 E. Cooley Drive, Suites A/B
Colton, Ca 92324



Re: CRM Tech #2292 Edgmont Water Master Plan Project

The Soboba Band of Luiseño Indians appreciates your observance of Tribal Cultural Resources and their preservation in your project. The information provided to us on said project(s) has been assessed through our Cultural Resource Department, where it was concluded that although it is outside the existing reservation, the project area does fall within the bounds of our Tribal Traditional Use Areas and is with in close proximity to the reservation.

Therefore the Soboba Band of Luiseño Indians is requesting the following:

1. Further **government to government** consultation with the Soboba Band of Luiseño Indians.
2. Copies of any archeological and/or cultural resource documentation.
3. Working in and around traditional use areas intensifies the possibility of encountering cultural resources during the construction/excavation phase. For this reason the Soboba Band of Luiseño Indians requests notification of any ground disturbances and/or surveys so that a Native American Monitor from the Soboba Cultural Resource Department can be present during these proceedings.

[SPECIAL NOTE (for projects other than cell towers): *If this project is associated with a city or county specific plan or general plan action it is subject to the provisions of SB18-Traditional Tribal Cultural Places (law became effective January 1, 2005) and will require the city or county to participate in formal, government-to-government consultation with the Tribe. If the city or county are your client, you may wish to make them aware of this requirement. By law, they are required to contact the Tribe.*]

Sincerely,

A handwritten signature in black ink, appearing to read "J. Ontiveros", is written over the word "Sincerely,".

Joseph Ontiveros
Soboba Cultural Resource Department
P.O. Box 487
San Jacinto, CA 92581
Phone (951) 654-5544 ext. 4137
Cell (951) 663-5279
jontiveros@soboba-nsn.gov

RECEIVED DEC 03 2008

TELEPHONE LOG

Name	Tribe/Affiliation	Telephone Contacts	Comments
Mike Contreras, Jr., Cultural Historic Program Coordinator	Morongo Band of Mission Indians	12:30 pm, November 25, 2008	Mr. Contreras had no concerns regarding the project, but wished to be notified of any archaeological finding.
Joseph Hamilton, Chairman	Ramona Band of Mission Indians	None	John Gomez, Jr. is the designated spokesperson for the tribe (see below).
John Gomez, Jr., Cultural Resources Coordinator	Ramona Band of Mission Indians	4:43 pm, November 25, 2008 9:36 am, December 3, 2008	Left messages; no response to date.
James Ramos, Chairperson	San Manuel Band of Mission Indians	None	Ann Brierty is the designated spokesperson for the tribe (see below).
Ann Brierty, Cultural Resources Field Manager	San Manuel Band of Mission Indians	12:17 pm, November 25, 2008 2:16 pm, November 26, 2008 9:36 am, December 3, 2008	Left messages; no response to date.
John Marcus, Chairman	Santa Rosa Band of Mission Indians	3:46 pm, November 12, 2008	Marcie Russell responded on behalf of the tribe (see below).
Marcie Russell, Financial Director	Santa Rosa Band of Mission Indians	4:00 pm, November 25, 2008	Ms. Russell stated the tribe had no concerns regarding the project, but wished to be notified of any archaeological finding.
Goldie Walker	Serrano Band of Mission Indians	12:25pm, November 25, 2008	Ms. Walker wished to be notified of any archaeological finding in the project area.
Robert Salgado, Chairperson	Soboba Band of Luiseño Indians	None	Joesph Ontiveros is the designated spokesperson for the tribe (see below).
Erica Helms, Cultural Resources Manager	Soboba Band of Luiseño Indians	None	Joesph Ontiveros is the designated spokesperson for the tribe (see below).
Joesph Ontiveros, Monitoring Coordinator	Soboba Band of Luiseño Indians	2:30pm, November 25, 2008	Mr. Ontiveros requested Native American monitoring by the Soboba Band during ground-disturbing activities, further consultation with the Lead Agency, and copies of all cultural resource documentation. Mr. Ontiveros also replied in a letter dated December 1, 2008 (copy attached).
Paul Macarro, Cultural Resources Center	Temecula (Pechanga) Band of Luiseño Mission Indians	None	Anna Hoover is the designated spokesperson for the tribe (see below).
Anna Hoover, Cultural Analyst	Temecula (Pechanga) Band of Luiseño Mission Indians	None	Ms. Hoover replied in a letter dated November 25, 2008 (copy attached).
John Tommy Rosas, Tribal Administrator	Tongva Ancestral Territorial Tribal Nation	None	Mr. Rosas replied in e-mails dated November 11 and 25, 2008 (copies attached).

APPENDIX 3

**LOCATIONS OF KNOWN PREHISTORIC ARCHAEOLOGICAL
RESOURCES IN THE VICINITY OF THE PROJECT AREA**

(Confidential)

Appendix E

State Office of Historic Preservation Office Consultation



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX Southern California Field Office
600 Wilshire Blvd. Suite 1460
Los Angeles, CA 90017

April 23, 2009

Milford Wayne Donaldson
State Historic Preservation Officer
Office of Historic Preservation
PO Box 942896
Sacramento, CA 94296-0001

Subject: Request for Consultation under Section 106 of the National Historic Preservation Act (NHPA) for the City of Moreno Valley – Edgemont Master Plan

Dear Mr. Donaldson:

I am writing to initiate consultation with the State Historic Preservation Officer (SHPO) under 36 CFR Part 800, for the above referenced project.

Project Description

The City of Moreno Valley received an appropriation from the United States Environmental Protection Agency (EPA) to fund water quality improvements in the Edgemont area. The City is performing a study in preparation to update the master plan for the City of Moreno Valley. The plan will be used by the City in preparation for construction and replacement of water pipelines, water tank, booster, and wells. EPA awarded funding for the project as part of a congressional earmark grant. EPA is only providing funding for the preparation of the master plan. The construction and replacement will be funded by other sources.

Area of Potential Effect

Under Section 800.4 (a)(1), I am making a determination of the Area of Potential Effect (APE). The APE is located in the area known as Edgemont in the City of Moreno Valley. The APE is a primary residential neighborhood. The project is located south of Eucalyptus Avenue, east of the old 215 Frontage Road, North of Alessandro Boulevard, and west of Elsworth Street. The APE is depicted in the attached document that is enclosed with this letter.

Identification of Historic Properties

Under section 800.4 (b), an effort has been made to identify historic properties. The enclosed report summarizes that effort which included a historical background research, field survey, geomorphic analysis, and a consultation with tribal representatives. The identification and evaluation of historic properties was completed on December 18, 2008 by CRM Tech.

- According to records on file at the Eastern Information Center (EIC) located at the University of California, Riverside. Five historic-period buildings were previously

recorded along portions of the proposed pipeline route. These buildings were recorded as being good examples of early residences in the Edgemont area. These buildings were found to be well outside of the proposed right-of-way of the pipeline route during the field survey.

- A field survey was conducted by CRM Tech. The field survey determined that there are no potential cultural resources within or adjacent to the project area.
- A geomorphic analysis was conducted. The analysis states that the region appears to lack permanent water sources and thus it is unlikely for any large habitation sites to be found along the project route.
- A tribal consultation was conducted by CRM Tech on November 11, 2008 contacting fourteen tribal representatives and received comments from six representatives. The Morongo Band of Mission Indians wished to be notified of any archaeological findings. The Santa Rosa Band of Mission Indians had no concerns but wished to be notified of any archaeological findings. The Serrano Band of Mission Indians wished to be notified of any archaeological findings in the project area. The Soboba Band of Luiseno Indians requested further consultation with the lead agency, copies of all cultural resource documentation, and monitoring during ground disturbing activities. The Pechanga Band of Luiseno Indians requested copies of the archaeological reports and consultation with the Lead Agency if cultural resources are identified. The Tongva Ancestral Territorial Tribal Nation requested an archaeological monitor to be present on site during excavations and to be informed as the project progresses.

The enclosed report recommends a finding that no historic resources will be affected by the proposed undertaking.

Evaluation of Historic Significance

Under section 800.4 (c), I have applied the National Register criteria and, based on my assessment, the proposed project does not qualify.

Assessment of Adverse Effects

Under section 800.5 (a), I have applied the criteria of adverse effect and have made the determination that **no historical properties adversely affected.**

I am requesting your concurrence with the Area of Potential Effect and the determination of no historic properties affected. Please inform EPA within 30 days of the date of this letter regarding your concurrence with our proposed findings. If you do not reply within this 30 day period, EPA will consider the lack of response to indicate SHPO's agreement with these findings. If you require additional information or have questions regarding this request, please call me at (213) 244-1819.

Sincerely,

Howard Kahan
Environmental Scientist

Enclosures: Identification and Evaluation of Historic Properties Report

**OFFICE OF HISTORIC PRESERVATION
DEPARTMENT OF PARKS AND RECREATION**

P.O. BOX 942896
SACRAMENTO, CA 94296-0001
(916) 653-6624 Fax: (916) 653-9824
calshpo@ohp.parks.ca.gov
www.ohp.parks.ca.gov



June 22, 2009

In Reply Refer To: EPA090424A

Howard Kahan
Environmental Scientist
U. S. Environmental Protection Agency
Region IX Southern California Field Office
600 Wilshire Blvd. Suite 1460
Los Angeles, California 90046

Re: United States Environmental Protection Agency Grant to the City of Moreno Valley for the Edgemont Master Plan. Riverside County, California.

Dear Mr. Kahan:

Thank you for seeking consultation with me, regarding the above noted undertaking, pursuant to 36 CFR Part 800 (as amended 8-05-04) regulations implementing Section 106 of the National Historic Preservation Act (NHPA). The United States Environmental Protection Agency (EPA) is providing funds through a congressional earmark grant to the City of Moreno Valley (City) for the Preparation of the Edgemont Master Plan and has identified this action as an undertaking pursuant to review under NHPA Section 106 regulations. The Edgemont Master Plan is being prepared as a planning document for the construction and replacement of water pipelines, water tank, booster, and well site in the City of Moreno Valley. The EPA grant is funding only the preparation of the master plan. Construction will be funded from other sources. The master plan addresses the updating of the drinking water delivery system along approximately seven linear miles of roadways in the Edgemont community in Moreno Valley, California. The Area of Potential Effects (APE) consists of these pipeline corridors, all under existing city streets, and the proposed water tank, booster, and well site, which are in settings more open to surface reconnaissance. In addition to your letter of April 23, 2009, the following report was submitted as evidence of your efforts to identify and evaluate historic buildings in the APE:

- *Historical/Archaeological Resources Survey Report Edgemont Water Master Plan Update: City of Moreno Valley, Riverside County, California* (Bai "Tom" Tang and Michael Hogan, CRM TECH: December 18, 2008).

The historic property identification efforts documented in this report concluded that there are no previously documented historic properties in the APE, although five documented historic buildings were located within the records search radius. Additionally, the

disturbances (installation/replacement of buried water pipelines) will be transitory in nature and will not visually affect buildings or structures outside of the immediate project APE.

After reviewing your letter and supporting documentation, I have no objection to your finding of No Historic Properties Affected. Be advised that under certain circumstances, such as unanticipated discovery or a change in project description, the EPA may have additional future responsibilities for this undertaking under 36 CFR Part 800. Thank you for seeking my comments and for considering historic properties in planning your project. If you require further information, please contact William Soule, Associate State Archeologist, at phone 916-654-4614 or email wsoule@parks.ca.gov.

Sincerely,

Susan K. Shattox for

Milford Wayne Donaldson, FAIA
State Historic Preservation Officer

Appendix F

Mitigation Monitoring and Reporting Program

**EDGEMONT WATER MASTER PLAN UPDATE
MITIGATION MONITORING AND REPORTING PROGRAM**



City of Moreno Valley
14177 Frederick Street
PO Box 88005
Moreno Valley, CA 92552

December 2009

**Mitigation Monitoring and Reporting Program
City of Moreno Valley
Edgemont Master Water Plan Update**

Mitigation measures were incorporated into this project initial Study/Environmental Assessment to reduce environmental impacts identified in the project to below the level of significance. Pursuant to Section 15097 of the *State CEQA Guidelines*, a written monitoring and reporting program has been compiled to verify implementation of adopted mitigation measures. This Mitigation Monitoring and Reporting Program (MMRP) is designed to monitor implementation of the mitigation measures identified for the project. The table on the following pages provides a summary format for the written report, including identification of the various mitigation measures, applicable implementation stage, identification of the designated monitor, and verification of implementation of each mitigation measure.

The following clarifies the meaning of each column in the following table:

<u>Impact Category:</u>	Identifies potentially affected resource/environmental condition.
<u>Mitigation Measure:</u>	Those measures that will be implemented to minimize possible significant environmental impacts.
<u>Implementation Timing:</u>	The phase of the project in which implementation and compliance will be monitored. The phases used in this MMRP are: <ul style="list-style-type: none"> ◆ Pre-Construction, including the design phase and prior to any approval of proposed water reservoirs (tanks) ◆ Grading and/or Construction ◆ Post-Construction

<u>Responsible Party:</u>	Entity responsible for monitoring the implementation of the mitigation measure.
<u>Method of Verification:</u>	Identifies mechanism by which implementation will be verified.
<u>Compliance Verification:</u>	To be signed and dated upon receipt of written verification of each mitigation measure.

The following mitigation measures contain acronyms that are defined in the IS/EA, but may not be defined in the mitigation measures. As used in the mitigation measures, these acronyms are defined as follows:

CDFG	California Department of Fish and Game
CEQA	California Environmental Quality Act
City	City of Moreno Valley
MBTA	Migratory Bird Treaty Act

Mitigation Monitoring and Reporting Program

City of Moreno Valley
Edgemont Master Water Plan Update

Impact Category and Mitigation Measure	Project Alternative to which Mitigation Measure Applies	Implementation Timing	Designated Monitor	Method of Verification	Compliance Verification
AESTHETICS					
MM Aes 1: To assure the proposed tank(s) does/do not create glare or an unsightly situation, the construction specifications for the proposed tank(s) shall require that the proposed tanks be painted to complement the existing tanks and to blend into the environment. (Applicable to Alternative 1, only.)	Alternative 1	Pre-Construction	City or Designee	Review Construction Specifications	
BIOLOGICAL RESOURCES					
MM Bio 1: Construction activities involving heavy equipment should avoid the avian breeding season (February 1 – August 31). If construction occurs outside this timeframe, no further action is required. If construction-related activities involving heavy equipment are proposed during the avian breeding season, a pre-activity survey conducted in areas potentially affected (directly or indirectly) by project implementation is required prior to development to determine if active nests of protected species are present in the construction zone or within an appropriate buffer area as part of project approval. Preconstruction surveys within suitable habitat should be conducted within 30 days of construction activities to determine if active nests protected by the	Alternative 1 and Alternative 2	Pre-Construction and Construction, if taking place between February 1 – August 31	City or Designee Biologist retained by entity constructing facility for which survey is required	Project schedule and pre-construction nesting bird survey report (if necessary)	

Mitigation Monitoring and Reporting Program

City of Moreno Valley
Edgemont Master Water Plan Update

Impact Category and Mitigation Measure	Project Alternative to which Mitigation Measure Applies	Implementation Timing	Designated Monitor	Method of Verification	Compliance Verification
<p>MBTA or CDFG are present in the construction zone for CEQA compliance. If ground-disturbing activities are delayed or suspended for more than 30 days after the preconstruction survey, the site should be resurveyed if suitable habitat is present. Results of a pre-activity nesting survey would determine the appropriate measures (if necessary) to reduce potentially adverse impacts to those species that may be found to breed in the area. Unless otherwise specified in the preconstruction survey, if active nests are located, no grading or heavy equipment activity should take place within at least 300 feet of an active raptor nest and 100 feet of most common songbird nests.</p>					
CULTURAL RESOURCES					
<p>MM Cultural 1: To prevent potential impacts to archeological resources and in the unlikely event that archeological material is discovered during any earth-moving operations, the construction specifications for grading and construction activities shall include the requirement that should any archeological resources be inadvertently discovered during grading or construction, construction activities shall be moved to other parts of the project site and a qualified archeologist shall be contacted to determine</p>	<p>Alternative 1 and Alternative 2</p>	<p>Pre-Construction and Construction</p>	<p>City or Designee Construction Contractor Archaeologist retained by entity constructing facility</p>	<p>Cultural Resources Monitoring Report, if required</p>	

Mitigation Monitoring and Reporting Program

City of Moreno Valley
Edgemont Master Water Plan Update

Impact Category and Mitigation Measure	Project Alternative to which Mitigation Measure Applies	Implementation Timing	Designated Monitor	Method of Verification	Compliance Verification
the significance of these resources. If the find is determined to be a historical or unique archeological resource, as defined in Section 15064.5 of the CEQA Guidelines, avoidance or other appropriate measures shall be implemented.					
MM Cultural 2: To prevent potential impacts to paleontological resources and in the unlikely event that paleontological material is discovered during any earth-moving operations, the construction specifications for grading and construction activities shall include the requirement that should any paleontological resources be inadvertently discovered during grading or construction, construction activities shall be moved to other parts of the project site and a qualified paleontologist shall be contacted to determine the significance of these resources. If the find is determined to be of paleontological significance, monitoring and/or removal, or other appropriate measures, shall be implemented.	Alternative 1 and Alternative 2	Pre-Construction and Construction	City or Designee Construction Contractor Paleontologist retained by entity constructing facility	Cultural Resources Monitoring Report, if required	
GEOLOGY AND SOILS					
MM Geo 1: Geotechnical investigations shall be conducted prior to approval of any proposed water reservoir (tank) in the Water Infrastructure Analysis Study. The geotechnical investigation	Alternative 1	Pre-Construction	City or Designee	Geotechnical investigation report, if necessary	

Mitigation Monitoring and Reporting Program

City of Moreno Valley
Edgemont Master Water Plan Update

Impact Category and Mitigation Measure	Project Alternative to which Mitigation Measure Applies	Implementation Timing	Designated Monitor	Method of Verification	Compliance Verification
<p>recommendations, required to reduce potential impacts to less than significant levels, shall be incorporated into preliminary and final design of the proposed reservoir. (Applicable to Alternative 1, only.)</p>					
HAZARDS AND HAZARDOUS MATERIALS					
<p>MM Haz 1: In order to protect future workers and facilities from being located on or near a contaminated property, the construction specifications for grading and construction activities shall include the requirement that if during construction of any Water Master Plan facilities, soil and/or groundwater contamination is accidentally discovered or suspected, construction in the area shall cease, and appropriate Health and Safety measures shall be implemented. The contractors hired by the City (or entity constructing the facilities) shall contact the City of Moreno Valley Fire Department and/or State Department of Toxic Substance Control to obtain the necessary information on appropriate remediation measures, oversight responsibility, and their implementation.</p>	<p>Alternative 1 and Alternative 2</p>	<p>Pre-Construction and Construction n</p>	<p>City or Designee Construction Contractor</p>	<p>Review or condition of construction specifications</p>	

Appendix G

Responses to Comments

EDGEMONT WATER MASTER PLAN UPDATE
RESPONSES TO COMMENTS



**City of Moreno Valley
14177 Frederick Street
PO Box 88005
Moreno Valley, CA 92552**

December 2009

INTRODUCTION

In September 2009, an Initial Study/Environmental Assessment (IS/EA) was prepared to determine if there is a potential for any significant environmental effects associated with the Edgemont Water Master Plan Update (EWMPU). The EWMPU includes the Water Infrastructure Analysis Study (WIAS), which analyzes the existing Box Springs Mutual Water Company (BSMWC) water system to determine the adequacy of the existing system, determine any necessary system improvements, and the associated costs of the improvements to comply with the current City of Moreno Valley General Plan and Land Use designations (ultimate development).

The IS/EA for the EWMPU was prepared pursuant to the California Environmental Quality Act (CEQA, California Public Resources Code Sections 21000 et seq.) *State CEQA Guidelines* (California Code of Regulations Sections 15000 et seq.), and the *City of Moreno Valley Rules and Procedures for Implementation of CEQA*; in compliance with the National Environmental Policy Act (NEPA, 42 USC Sections 4321-4370f; Council of Environmental Quality Regulations, 40 CFR Sections 1500.1-1508.28), and the U.S. Environmental Protection Agency (EPA) NEPA regulations (40 CFR Part 6).

Two Alternatives for improvements, plus the no action (or no project) alternative, were analyzed in the IS/EA to meet the water supply and fire suppression needs of the ultimate development based on water storage facilities, pipeline facilities, pumping facilities and water supply. Alternative No. 1 consists of maintaining the current system operational scheme, with additional water supply from additional groundwater extraction, and upgrading all existing BSMWC facilities (pipelines, reservoir, and hydropneumatic booster station). Alternative No. 2 consists of connecting to the Western Municipal Water District (WMWD) water system for both water supply and fire suppression needs.

The proposed improvements are located within the BSMWC service area on the western most end of the City of Moreno Valley and encompass approximately 430 acres in the Edgemont area. Potable water for this portion of the City has been provided to residents through the BSMWC. BSMWC is a private shareholder company that was incorporated on June 9th 1920 by landowners to provide water to their lands. Water service for the remaining portion of the City is provided by Eastern Municipal Water District (EMWD). Primary water supply is provided via a groundwater well. BSMWC is located within the sphere of influence of WMWD and part of WMWD's Improvement District "B" as a result of the 1964 agreement to supplement water.

In compliance with the NEPA, the EPA has prepared an Initial Study (IS)/Environmental Assessment (EA), which examines the potential environmental impacts of the proposed action and alternatives along with the no action alternative. As a result of the IS/EA, the EPA has determined the proposed action will not have a significant impact on the quality of the human environment.

In compliance with the CEQA, the City, as CEQA Lead Agency, proposes to adopt a Mitigated Negative Declaration (MND) for the EWMPU. The IS/EA and MND makes the proposed CEQA findings that, with implementation of the mitigation measures provided, the project will not have a significant effect on the environment.

Pursuant to Section 15073 of the *State CEQA Guidelines*, the IS/EA was circulated on to Responsible Agencies and interested parties for review and comment. Pursuant to EPA NEPA regulations, the IS/EA was posted on the EPA website. The public comment period ended November 6, 2009. No comment letters were received by the EPA; three comment letters were received by the City during the public review period and one comment letter was received after the close of the public comment period. The following table identifies the comment letters received and page in this document on which the response to the comment is provided.

Date of Letter/ Comments	Commenters	Agencies	Comment Page No.
Oct 14, 2009	Mark H. Wills Chief of Regulatory Division	Riverside County Flood Control and Water Conservation District	RTC-3
Oct 26, 2009	Lance Salisbury CDPH Environmental Review Unit	State of California – Health and Human Services Agency, California Department of Public Health	RTC-6
Nov 4, 2009	Joseph J. Bernosky, P.E. Director of Engineering	Western Municipal Water District	RTC-9
Nov 12, 2009	Joseph Ontiveros	Soboba Band of Luiseño Indians	RTC-12

Section 15074 of the *State CEQA Guidelines* requires the Moreno Valley City Council (City Council), as the decision-making body, to consider the proposed MND together with any comments received during the public review process. There is no requirement for a formal response to each of the comments received (unlike the requirement for a Final Environmental Impact Report). However, in order to provide the City Council with additional information upon which to base their decision, the following Response to Comments has been prepared.

**Response to Comment Letter
Riverside County Flood Control and Water Conservation District (District)**

The Riverside County Flood Control and Water Conservation District (District) provided comments regarding the IS/EA prepared for the EWMPU in its letter dated October 14, 2009. The following discussion summarizes the District's comments and provides a response to those comments. A copy of the comment letter is included on pages RTC-4 to RTC-5.

Summary of District's Comments

The District identified certain drainage facilities in the project area and indicated that the IS/EA correctly identified circumstances in which an Encroachment Permit (EP) would be required. The District identified the documents that would be required prior to the District issuing an EP. The District also noted that the City may need to develop a Water Quality Management Plan (WQMP) that incorporates stormwater Best Management Practices (BMPs). Finally, the District noted that to the extent feasible, the proposed water facilities should avoid conflict with facilities identified in the West End Moreno Drainage Plan.

Response to District's Comments

The City acknowledges the requirements for issuance of an EP and will include the requested information with the EP application. The City notes that a WQMP incorporating BMPs may be required and will coordinate WQMP preparation with stormwater staff. No new environmental issues have been raised by this comment and no modification of the IS/EA or MND is required.

WARREN D. WILLIAMS
General Manager-Chief Engineer



RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT

1995 MARKET STREET
RIVERSIDE, CA 92501
951.955.1200
FAX 951.788.9965
www.rcflood.org

RECEIVED
OCT 19 2009

CITY OF MORENO VALLEY

October 14, 2009

Mr. Chris Ormsby
City of Moreno Valley
Community Development Department
Planning Division
14177 Frederick Street
Moreno Valley, CA 92552-0805

Dear Mr. Ormsby:

Re: Initial Study/Environmental Assessment
Edgemont Water Master Plan
Update Project

This letter is written in response to the City's letter dated October 1, 2009 concerning the Initial Study (IS)/Environmental Assessment (EA) for the Edgemont Water Master Plan Update Project (the "Project"). Pursuant to California Environmental Quality Act (CEQA), the City is the Lead Agency for the Project and has identified the Riverside County Flood Control and Water Conservation District (District) as a potential Responsible Agency.

According to the project description provided in the IS/EA, the Project entails the replacement of various water transmission facilities (pipelines) located principally within existing road rights of way in the Edgemont area of the City. Additionally, the Project may entail construction of additional water storage and pumping facilities located on the existing Box Springs Mutual Water Company site, depending on which of the two identified alternatives are selected. The IS/EA also identifies the District as a public agency whose approval may be required to carry out the Project.

Existing Facilities – The District owns, operates and maintains a number of major drainage facilities in the Edgemont area including the Edgemont Channel (Project No. 4-0-00190), the Canyon Springs Detention Basin (Project No. 4-0-00195) and the West End Moreno Master Drainage Plan – Towngate Basin (Project No. 4-0-00781). A number of the proposed pipeline alignments are shown crossing the Edgemont Channel while the Canyon Springs and Towngate Basins are shown just outside the area of probable effect.

Encroachment Permit – The IS/EA correctly identifies two circumstances which will require the District to issue an Encroachment Permit (EP) for the Project: 1) where the proposed waterlines cross existing District facilities or rights of way; and 2) the connection of new drainage facilities to the District's existing facilities. Follow-up questions concerning Encroachment Permits should be directed to the Encroachment Permit Engineer at 951.955.1266.

Compliance with CEQA, Western Riverside County Multi-Species Habitat Conservation Plan (MSHCP) and regulatory permits – According to the draft IS/EA, the Project is "not in conflict" with MSHCP requirements. Like the City, the District is both a public agency under CEQA and a Permittee under the MSHCP. Prior to issuance of an EP for the Project, the Project Proponent/EP Applicant must provide the District with: i) a copy of the final CEQA document, ii) written documentation specifically confirming compliance with Sections 3.2, 6.1.2, 6.1.3, 6.1.4, and 6.3.2 of the MSHCP and; iii) copies of any applicable regulatory permits (e.g., Section 404 permit, 401 Water Quality Certification, 1602 Streambed Alteration Agreement, etc.) for the portion of the Project that is located within District facilities or rights of way.

Mr. Chris Ormsby
Re: Initial Study/Environmental Assessment
Edgemont Water Master Plan
Update Project

- 2 -

October 14, 2009

Compliance with NPDES Municipal Stormwater Permit – Like the District, the City is a Permittee under the NPDES Municipal Stormwater Permit (MS4 Permit) issued by the Santa Ana Regional Water Quality Control Board (SARWQCB). The current MS4 Permit stipulates certain requirements for "significant" new development and redevelopment projects. Additionally, the current permit is expected to be re-issued soon and more stringent requirements for new development/redevelopment projects, including public works projects, are anticipated. As a result, the City may need to develop a Water Quality Management Plan (WQMP), and incorporate "Low Impact Development" or other stormwater BMPs into the Project. Consultation with City stormwater staff (e.g., Mr. Kent Wegelin) is recommended.

Additionally, the MS4 Permit generally prohibits non-stormwater discharges to the Permittees' MS4 system. Discharges to District facilities associated with water production or transmission line flushing should be avoided and may be required to obtain coverage under a separate NPDES permit (e.g., SARWQCB Order No. R8-2009-003; "De Minimus" Discharge Permit). The District may also require non-stormwater dischargers to characterize the frequency, duration, volume and typical pollutant loading associated with such discharges. Follow-up questions concerning non-stormwater discharges may be directed to District NPDES staff at 951.955.1273.

Proposed Facilities - The District has adopted the West End Moreno Master Drainage Plan which identifies proposed drainage facilities in the Edgemont area including Line LL and Line BB within the area of probable effect. To the extent possible, the proposed waterlines should avoid conflict with these proposed drainage facilities. Please contact the District's Project Planning Section at 951.955.1200 for additional information concerning these drainage facilities.

Thank you for the opportunity to comment on the IS/EA. If you have any further questions concerning these comments, please do not hesitate to contact me at 951.955.8411.

Very truly yours,



MARK H. WILLS
Chief of Regulatory Division

c: City of Moreno Valley
Mr. Kent Wegelin

cc: Ed Lotz
Jason Uhley
Dale Anderson
Edwin Quinonez

MHW:cw
P8/127476

Mr. Chris Ormsby
Re: Initial Study/Environmental Assessment
Edgemont Water Master Plan
Update Project

- 2 -

October 14, 2009

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Thank you for the opportunity to comment on the IS/EA. If you have any further questions concerning these comments, please do not hesitate to contact me at 951.955.8411.

Very truly yours,



MARK H. WILLIS
Chief of Regulatory Division

c: City of Moreno Valley
Mr. Kent Wegelin

ec: Ed Lotz
Jason Uhley
Dale Anderson
Edwin Quinonez

MHW:cw
P8/127476

**Response to Comment Letter
State of California – Health and Human Services Agency
California Department of Public Health (CDPH)**

The California Department of Public Health (CDPH) provided comments regarding the IS/EA for the EWMPU in its letter dated October 26, 2009. The following discussion summarizes the CDPH's comments and provides a response to those comments. A copy of the comment letter is included on pages RTC-7 to RTC-8.

Summary of CDPH's Comments

CDPH commented that a new or amended Water Supply Permit would be needed if the project proceeded under Alternative One or Alternative Two. CDPH indicated that BSMWC and WMWD are required to file an amended Water Supply Permit application with CDPH prior to any modifications of the water supply system. CDPH identified the documents relative to the CEQA process that are required to accompany the permit application.

Response to District's Comments

The City acknowledges the need for BSMWC and WMWD to file an amended Water Supply Permit application and will provide copies of the following items required by CDPH to accompany the permit application:

- Copy of the City Council Resolution or City Council Minutes adopting the Mitigated Negative Declaration and approving the project;
- Copy of the stamped Notice of Determination (NOD) filed with the Riverside County Clerk's Office and submitted to the State Clearinghouse;
- Copy of the California Department of Fish and Game (CDFG) receipt issued by the Riverside County Clerk's Office or the No Effect Determination issue by the California Department of Fish and Game; and
- Copies of any comment letters received locally or through the State Clearinghouse.

No new environmental issues have been raised by this comment and no modification of the IS/EA or MND is required.



MARK B HORTON, MD, MSPH
Director

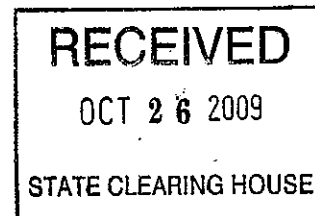
State of California—Health and Human Services Agency
California Department of Public Health



ARNOLD SCHWARZENEGGER
Governor

October 26, 2009

City of Moreno Valley
Attn: Chris Ormsby
14177 Frederick Street
Moreno Valley, CA 92552-0805



RE: City of Moreno Valley – Edgemont Water Master Plan Update; Mitigated
Negative Declaration, SCH #2009101024

Dear Mr. Ormsby:

Thank you for the opportunity to review the above document. The California Department of Public Health (CDPH), Division of Drinking Water and Environmental Management is responsible for issuing water supply permits administered under the Safe Drinking Water Program. CDPH will need to issue a new or amended Water Supply Permit for the above referenced project should the project proceed under the alternatives described. A project triggers a new permit if it includes modifications of the water supply, storage capacity, treatment, or consolidation with one or more water systems. CDPH will be a "responsible agency" pursuant to the California Environmental Quality Act (CEQA) and considers the above referenced document as adequate to meet the CDPH CEQA permit requirements.

The environmental document circulated by the City of Moreno Valley (City) is intended to study & determine what action is necessary to bring Box Springs Mutual Water Company (MWC) up to the City's water & fire flow requirements. The document looks at three alternatives, including the no action alternative.

- Alternative one includes the construction of an additional 2.3 million gallon water storage tank, booster station & pumps, new 8-inch meter between Western Municipal Water District (WMWD), and installing approximately 10 miles of pipeline within the Box Springs MWC service area. With this alternative, the environmental document mentions that an additional well will be needed, however the site has not been evaluated and an additional environmental document will be necessary (page 3).
- Alternative two does not include any additional storage but does include replacing and installing approximately 10 miles of pipeline within the Box Springs

Division of Drinking Water and Environmental Management
P.O. Box 997377, MS 7400, 1616 Capitol Avenue, 2nd Floor, Sacramento, CA 95899-7377
(916) 449-5577 (916) 449-5575 Fax
Internet Address: www.cdph.ca.gov

MWC service area. Additional components include upgrading the existing 4-inch metered connection with WMWD will be upsized to a 12-inch meter. No other components are included with this alternative.

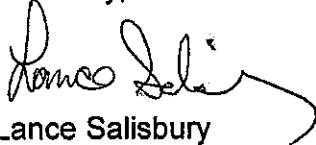
Under either alternative, the City is the CEQA lead agency. With alternative two, WMWD will be a responsible agency and will need to file the appropriate Notice as a responsible agency. Box Springs MWC and WMWD are required to file an amended water supply permit application to CDPH prior to modifying the system.

When the review process has ended and the project is ready to proceed, please forward the following items with your permit application to the CDPH Riverside District Office:

- Copy of the City Council Resolution or City Council Minutes adopting the Mitigated Negative Declaration and approving the project;
- Copy of the stamped Notice of Determination (NOD) filed at the Riverside County Clerk's Office (Note: The NOD must also be submitted to the State Clearinghouse);
- Copy of the California Department of Fish and Game receipt issued by the Riverside County Clerk's Office, or the No Effect Determination issued by the California Department of Fish and Game;
- Copies of any comment letters received locally or through the State Clearinghouse.

Please contact Steve Williams, District Engineer, CDPH Riverside District Office, at (619) 525-4159 if you have any questions regarding permit applications, permits, or permit amendments. If you have any questions about this letter, please call me at (916) 324-6894 or email to lance.salisbury@cdph.ca.gov.

Sincerely,



Lance Salisbury
CDPH Environmental Review Unit

Cc: CDPH Riverside District Office
State Clearinghouse
Western Municipal Water District

Response to Comment Letter Western Municipal Water District (WMWD)

WMWD provided comments in response to the IS/EA for the EWMPU in its letter dated November 4, 2009. The following discussion summarizes WMWD's comments and provides a response to those comments. A copy of the comment letter is included on pages RTC-10 to RTC-11.

Summary of WMWD's Comments

WMWD provided clarifying comments regarding water supplies discussed in "Section 16 – Utilities and Services Systems" of the IS/EA. WMWD indicated that their *2005 Urban Water Management Plan (UWMP)* relied on information from the Metropolitan Water District of Southern California's (MWD's) *2005 Regional Urban Water Management Plan (RUWMP)*, which concluded that, "the region can provide reliable water supplies under both the single driest year and the multiple year hydrologies." WMWD clarified that the conclusions of MWD's 2005 RUWMP and WMWD's 2005 UWMP must be considered in light of recent regulatory and court decisions with respect to the amount of State Water Project (SWP) deliveries from the Sacramento San Joaquin Delta and recent dry conditions in the state. WMWD further stated that under normal water year circumstances, WMWD relies almost entirely on SWP water; however, supplemental water supplies have been obtained from the cities of Corona and Riverside and other local water supply projects for use in an off-season, extraordinary, or emergency basis.

WMWD further stated that they will continue to work with MWD and neighboring water agencies to enhance and expand WMWD's water supply sources and identified a number of projects that combined with MWD efforts will ensure reliable, long-term water supplies for existing and future customers. WMWD looks forward to working with the City with respect to analyzing potential water supplies.

Response to District's Comments

The City recognizes WMWD's efforts to ensure reliable, long-term water supplies for existing and future customer and acknowledges the need to work closely with WMWD to analyze potential water supplies for future City projects within WMWD's service area. No new environmental issues have been raised by this comment and no modification of the IS/EA or MND is required.



John V. Rossi
General Manager

Charles D. Field
Division 1

Thomas P. Evans
Division 2

Brenda Dennstedt
Division 3

Donald D. Galleano
Division 4

S.R. Al Lopez
Division 5

November 4, 2009

Chris Ormsby
City of Moreno Valley
Community Development Department – Planning Division
14177 Frederick Street
Moreno Valley, CA 92552-0805

INITIAL STUDY (IS)/ENVIRONMENTAL ASSESSMENT (EA) – EDGEMONT WATER MASTER PLAN UPDATE

Western Municipal Water District (WMWD or Western) appreciates the opportunity to comment on the September 2009 Initial Study (IS)/Environmental Assessment (EA) – Edgemont Water Master Plan Update. Western would like to provide clarifying comments to Section 16 – Utilities and Service Systems, specifically Subsection d – “Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?” [sic].

Subsection d references a “Less than Significant Impact” and the substantiation states that under Alternative 2, the proposed project would require an additional 404 acre-ft/year to meet projected demand, however, that water would come from WMWD. Buttressing this assessment is a reference to Western’s 2005 *Urban Water Management Plan (UWMP)*, which contains the following projected demands for Box Springs Mutual Water Company:

<u>Year</u>	<u>Acre Feet/Year</u>
2000	121
2005	132
2010–2030	448

Western’s 2005 UWMP relied on information and data contained in the Metropolitan Water District of Southern California’s (MWD’s) 2005 *Regional Urban Water Management Plan (RUMP)*, which concluded that, “the region can provide reliable water supplies under both the single driest year and the multiple year hydrologies.” MWD’s conclusions and water supply capabilities, however, must be considered in light of several critical factors – many of recent origin. For example, recent regulatory and court decisions have imposed restrictions on the amount of State Water Project deliveries from the Sacramento-San Joaquin Delta.

Mail to: P.O. Box 5286, Riverside, California 92517-5286
450 E. Alessandro Blvd. Riverside, California 92508
(951) 789-5000 • FAX (951) 780-3837
www.wmwd.com

Chris Ormsby
November 4, 2009
Page 2 of 3

Those regulatory/judicial issues are coupled with 1) record dry conditions throughout MWD's service area from 2006 through 2008, and continuing into 2009, 2) dry conditions in the northern Sierra watershed for the State Water Project, including a record dry spring in 2008, and 3) a multi-year drought in the Colorado River Basin, which has recently improved. MWD notes that it continues to evaluate and develop resource alternatives to provide a reliable and high quality water supply, while exploring alternatives for reducing demands and allocating supplies among member agencies.


Thus, several factors currently affect the reliability of Western's water supply. Despite the fact that Western's 2005 UWMP and MWD's 2005 RUWMP are the most recent – and still technically operant underlying statements regarding long-term water supply – they must be considered in light of the above environmental and judicial factors.

Under normal water year circumstances, Western's retail service area relies almost entirely on imported water supplies from the State Water Project, which is treated and delivered from MWD's Henry J. Mills Water Treatment Plant located in Riverside, California. However, Western also has obtained supplemental water supplies from the City of Corona and City of Riverside and other local water supply projects for use on an off-season, extraordinary, or emergency basis.

Western continues to work with its wholesale supplier, MWD, and neighboring water agencies such as Riverside Public Utilities to enhance and expand its entire water supply portfolio. It has identified a number of projects that when combined with MWD efforts, will ensure reliable long-term water supplies for its existing and future customers.

The District looks forward to working with the City of Moreno Valley to provide information that may be useful in analyzing potential water supplies. Such information may include the preparation of a Water Supply Assessment should a proposed project meet the statutory thresholds defined in Water Code section 10912.

Again, Western appreciates the opportunity to comment on the proposed IS/EA and supports Planning Department efforts to confirm the availability of long-term water supply. Should you have any questions regarding these comments, please contact me at 951.789.5075.


JOSEPH J. BERNOSKY, P.E.
Director of Engineering

JJB:sc

Cc: John V. Rossi, WMWD
Jeffrey D. Sims, WMWD

Response to Comment Letter Soboba Band of Luiseño Indians (Soboba Band)

The Soboba Band of Luiseño Indians (Soboba Band) provided comments in response to the IS/EA for the EWMPU in its letter dated November 12, 2009. The following discussion summarizes the Soboba Band's comments and provides a response to those comments. A copy of the comment letter is included on pages RTC-14 to RTC-16.

Summary of the Soboba Band's Comments

The Soboba Band requested: (i) government to government consultation in accordance with SB 18, (ii) designation as lead consulting tribal entity for the project; (iii) presence of a Soboba Band Native American Monitor during any ground disturbing proceedings, including surveys and archaeological testing; and (iv) certain procedures and tribal requests be honored. The requested procedures and tribal requests include: (i) returning all Native American ceremonial items and items of cultural patrimony to the Soboba Band for treatment; (ii) treatment of disposition of human remains, including any remains from ceremonial burning, funerary remnants, and ashes; (iii) coordination with the Riverside County Coroner's office, and (iv) non-disclosure of the location of any reburials.

Response to District's Comments

The proposed project is a master water plan update and does not meet the requirements of Senate Bill (SB) 18 with respect to government to government consultation. SB 18 is applicable to general plan amendments, new general plans, and specific plans. The proposed project does not entail amendment of the City's General Plan; thus, the provisions of SB 18 are not applicable to the project.

A cultural resources study was prepared for the EWMPU in November 2008 by CRM TECH. On November 3, 2008, CRM TECH submitted a written request to the Native American Heritage Commission for a records search in the commission's sacred lands file. Following the commission's recommendations, CRM TECH further contacted a total of 13 Native American representatives in the region in writing on November 11 to solicit local Native American input regarding any possible cultural resource concerns over the proposed project. Telephone consultations were subsequently carried out between November 25 and December 3, 2008, when one more tribal representative was added to the contact list.

In response to CRM TECH's inquiry, the Native American Heritage Commission: (i) reported that the sacred lands record search identified no Native American cultural resources in the project area, (ii) recommended that local Native American groups be contacted for further information, and (iii) provided a list of potential contacts in the region. CRM TECH initiated correspondence with all nine individuals on the referral list and the organizations they represent. In addition, CRM TECH initiated correspondence with John Tommy Rosas, Tribal Administrator and Litigator for the Tongva Ancestral Territorial Tribal Nation, John Gomez, Jr., Cultural Resources Coordinator for the Ramona Band of Cahuilla Indians, Joseph Ontiveros, Monitoring Coordinator for the Soboba Band of Luiseño Indians, and Anna Hoover, Cultural Analysis for the Temecula Band of Luiseño Mission Indians, were also contacted in writing. Once telephone consultations began, Marcie Russell, Financial Director for the Santa Rosa Band of Mission Indians, was also added to the contact list. Four verbal responses and three written replies were received as documented in Appendix D to the IS/EA.

The IS/EA concluded that since the project consists of the construction and installation of replacement water pipelines and water facilities, which will be constructed within previously disturbed areas of existing roadways and BSMWC property, full time monitoring is not necessary to protect cultural resources. The IS/EA and MND incorporates the following mitigation measures to mitigate potential impacts to cultural resources to less than significant:

MM Cultural 1: To prevent potential impacts to archeological resources and in the unlikely event that archeological material is discovered during any earth-moving operations, the construction specifications for grading and construction activities shall include the requirement that should any archeological resources be inadvertently discovered during grading or construction, construction activities shall be moved to other parts of the project site and a qualified archeologist shall be

November 12, 2009

NOV 16 2009

Attn: Chis Ormsby, AICP Senior Planner
Community Development Planning Division
City of Moreno Valley
P.O. Box 88005
Moreno Valley, CA 92552-0805

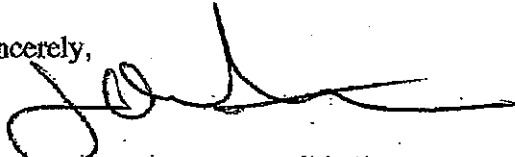
Re: Negative Mitigation Declaration for The Edgemont Water Master Plan Update

The Soboba Band of Luiseno Indians (Soboba) are possessors of Tribal Cultural Resources and have provided information regarding your project. The information provided to us on said project has been assessed through our Cultural Resource Department, where it was concluded that although the project does not affect any of the project area does fall within the boundaries of our Tribal Land Management Areas. The project location is in close proximity to a known archeological site and is a shared use area that was used in ongoing trade between the Luiseno and Cahuilla tribes. Therefore it is regarded as highly sensitive to the people of Soboba.

Soboba Band of Luiseno Indians is requesting the following:

1. Government to Government consultation in accordance with 25 USC, including the transfer of all land title to the Soboba Band of Luiseno Indians regarding the progress of this project and the time as such as new developments occur.
2. Soboba Band of Luiseno Indians continue to be a lead consulting tribal entity for this project.
3. Working in good faith and additional due diligence the possibility of encountering cultural resources during the construction phase. For this reason the Soboba Band of Luiseno Indians request that Native American Monitors from the Soboba Band of Luiseno Indians Cultural Resource Department be present during any ground disturbing proceedings. Including surveys and archaeological testing.
4. Request that proper procedures be taken and requests of the tribe be honored (Please see the attachment)

Sincerely,



Joseph Ontiveros
Soboba Cultural Resource Department
P.O. Box 487
San Jacinto, CA 92581
Phone (951) 654-5544 ext. 4137

Cell (951) 663-5279
jontiveros@soboba-nsn.gov

Cultural Items (Artifacts). Ceremonial items and items of cultural patrimony reflect traditional religious beliefs and practices of the Soboba Band. The Developer should agree to return all Native American ceremonial items and items of cultural patrimony that may be found on the project site to the Soboba Band for appropriate treatment. In addition, the Soboba Band requests the return of all other cultural items (artifacts) that are recovered during the course of archaeological investigations. Where appropriate and agreed upon in advance, Developer's archeologists may conduct analyses of certain artifact classes if required by CEQA. Section 106 of NHPA; the mitigation measures or conditions of approval for the Project. This may include but is not limited or restricted to include shell, bone, ceramic, stone or other artifacts.

The Developer should agree to return all claims to ownership of Native American ceremonial and cultural items found on the Project Site upon completion of authorized and mandatory archaeological analysis. The Developer should return said artifacts to the Soboba Band within a reasonable time period agreed to by the Parties and not to exceed 30 days from the final recovery of the items.

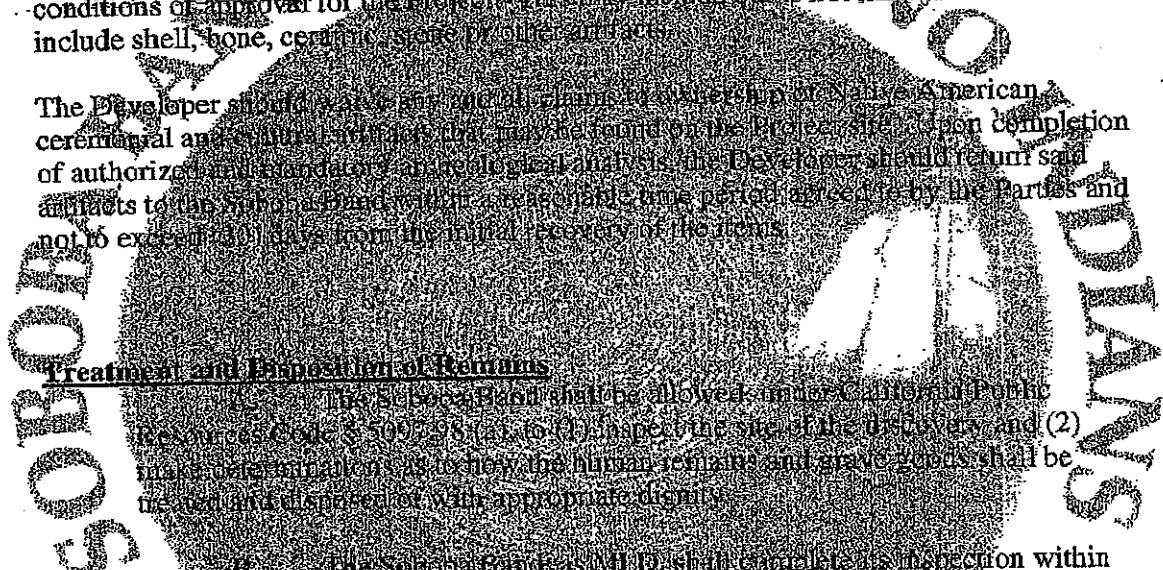
Treatment and Disposition of Remains

The Soboba Band shall be allowed to make a request to the Public Resources Code § 5097.98 (a) to (d) inspect the site of the discovery and (2) make determinations as to how the human remains and grave goods shall be treated and disposed of with appropriate dignity.

The Soboba Band as MLD shall complete its inspection within twenty-four (24) hours of notification from either the Developer or the NAHC, as required by California Public Resources Code § 5097.98 (a). The Parties agree to discuss in good faith what constitutes "appropriate dignity" as that term is used in the applicable statute.

C. Reburial of human remains shall be accomplished in compliance with the California Public Resources Code § 5097.98 (a) and (b). The Soboba Band, as the MLD in consultation with the Developer, shall make the final discretionary determination regarding the appropriate disposition and treatment of human remains.

D. All parties are aware that the Soboba Band may wish to rebury the human remains and associated ceremonial and cultural items (artifacts) on or near the site of their discovery, in an area that shall not be subject to future subsurface



disturbances. The Developer should accommodate on-site reburial in a location mutually agreed upon by the Parties.

E. The term "human remains" encompasses more than human bones because the Soboba Band's traditions periodically necessitated the ceremonial burning of human remains. Grave goods are those artifacts associated with any human remains. These items, and other funerary remnants and their ashes are to be treated in the same manner as human bone fragments or bones that remain intact

Coordination with County Coroner's Office. The Lead Agencies and the Developer should immediately contact both the Coroner and the Soboba Band in the event that any human remains are discovered during implementation of the Project. If the Coroner recognizes the human remains to be those of a Native American, or has reason to believe that they are those of a Native American, the Coroner shall ensure that notification is provided to the NAHC within twenty-four hours of the determination, as required by California Health and Safety Code 70901.

Non-Disclosure of Location Reburials. It is understood by all Parties that unless otherwise required by law, the site of any reburial of Native American human remains or cultural artifacts shall not be disclosed and shall not be governed by public disclosure requirements of the California Public Records Act. The Coroner, Parties, and Lead Agencies will be bound with no public disclosure information related to such reburial pursuant to the privacy exemption set forth in California Government Code § 6254 (a).

Ceremonial items and objects of cultural patrimony reflect traditional religious beliefs and practices of the Soboba Band. The Developer agrees to return all Native American ceremonial items and objects of cultural patrimony that may be found on the project site to the Soboba Band for appropriate treatment. In addition, the Soboba Band requests the return of all unaltered items (artifacts) that are recovered during the course of archaeological investigations, where appropriate and agreed upon in advance. Developer will be required to conduct analyses of certain artifacts as required by CEQA, Section 10 of NHPA, the National Antiquities Act, and/or other applicable laws, if approval for the Project. This material should be handled or stored and should include shell, bone, ceramic, stone or other artifacts.

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Report to City Council

TO: Mayor and City Council

FROM: Jane Halstead, City Clerk

AGENDA DATE: January 26, 2010

TITLE: CITY COUNCIL REPORTS ON REIMBURSABLE ACTIVITIES

RECOMMENDED ACTION

Staff recommends that the City Council receive and file the Reports on Reimbursable Activities for the period of January 6 – 19, 2010.

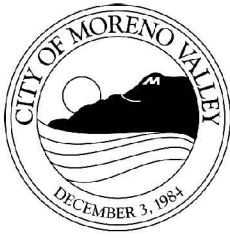
<i>Reports on Reimbursable Activities January 6-19, 2010</i>		
Council Member	Date	Meeting
William H. Batey II	1/16/10	Moreno Valley Chamber of Commerce Installation and Awards Dinner
Bonnie Flickinger	1/8/10	Moreno Valley Chamber of Commerce Legislative Action Committee
	1/11/10	League of California Cities Riverside County Division General Meeting
	1/16/10	Moreno Valley Chamber of Commerce Installation and Awards Dinner
Robin N. Hastings	1/11/10	League of California Cities Riverside County Division General Meeting
	1/16/10	Moreno Valley Chamber of Commerce Installation and Awards Dinner
Jesse L. Molina	1/5/10	Moreno Valley Hispanic Chamber of Commerce Adelante
	1/16/10	Moreno Valley Chamber of Commerce Installation and Awards Dinner
Richard A. Stewart	1/11/10	League of California Cities Riverside County Division General Meeting
	1/16/10	Moreno Valley Chamber of Commerce Installation and Awards Dinner

Prepared By:
Cindy Miller
Executive Assistant to the Mayor/City Council

Department Head Approval:
Jane Halstead
City Clerk

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

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APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>gmb</i>
CITY MANAGER	<i>wib</i>

Report to City Council

TO: Mayor and City Council

FROM: John Anderson, Chief of Police

AGENDA DATE: January 26, 2010

TITLE: California Office of Traffic Safety (OTS) Grant Funding Opportunity

RECOMMENDED ACTION

Staff recommends that the City Council take the following action:

- 1) Staff recommends that the City Council approve the grant application and authorize acceptance (if awarded) of the California Office of Traffic Safety grant in the amount of \$204,749.21, entitled "DUI Enforcement and Awareness Program."

ADVISORY COMMITTEE RECOMMENDATION

On January 25, 2010, the Public Safety Sub-Committee granted the Chief of Police permission to apply for the grant and recommended the acceptance of this OTS grant opportunity. The Public Safety Sub-Committee supports this proposal.

BACKGROUND

The Moreno Valley Police Department receives grants from the Office of Traffic Safety (OTS) on a routine basis. Currently, the Police Department has been awarded two mini-grants for FY 09/10. One mini-grant is used to fund DUI/Driver's License checkpoints and the other mini-grant funds programs directed at enforcement of seat belt and child restraint violations. Most grants offered through OTS are for a one year period and they run concurrently with the Federal fiscal year.

DISCUSSION

In November 2009, staff received notice of a competitive grant program offered by OTS called the "DUI Enforcement and Awareness Program." This grant can be used to fund

law enforcement operations involving DUI/Driver's License checkpoints, DUI saturation patrols, DUI warrant sweeps and stakeout operations for known DUI offenders.

The Police Department is proposing to apply for this grant and if awarded, conduct approximately 10 DUI/Driver License checkpoints, 22 DUI saturation patrols, 2 DUI warrant sweep operations and 4 known DUI offender stakeout operations. We are also asking for funds to buy an ultra-portable variable message sign to display at our DUI/Driver's License checkpoints so that we may notify the public of our operation. We also are asking for funds to purchase law books, which will educate our officers on the tools needed to prosecute a DUI offender in court.

Additionally, the Office of Traffic Safety is currently funding Multi Media Assemblies (MMA), an international leader in all-school "assembly" events. The media assembly features clips from today's most popular movies, music videos and sports footage. Multi Media Assemblies are generating the highest student responses to character-education and responsibility-improvement messages. Themes included in the media assembly are traffic safety, decision-making, conflict resolution, drug prevention and personal excellence. We would like to show this assembly to our local high school students.

The amount we are requesting is \$204,749.21 for FY 10/11, which we believe will assist the Police Department in enhancing traffic safety within the City of Moreno Valley.

ALTERNATIVES

The Council has the following alternatives:

- 1) Approve the application and acceptance (if awarded) of the OTS Grant titled "DUI Enforcement and Awareness Program" for \$204,749.21. **Staff recommends this alternative.**
- 2) Not approve the application for the OTS Grant titled "DUI Enforcement and Awareness Program." **Staff does not recommend this alternative.**

FISCAL IMPACT

There is no requirement to match funds associated with this grant. Therefore, there will be no impact to the General Fund.

CITY COUNCIL GOALS

The application of the OTS Grant entitled, "DUI Enforcement and Awareness Program," will meet the City Council Public Safety Goal of providing a safe and secure environment for people and property within the community, and provide a safer environment for the motoring public utilizing the roadways within the City of Moreno Valley.

STAFF RECOMMENDATION

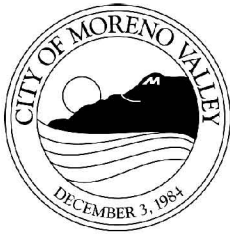
Staff recommends that the City Council approve the grant application and authorize acceptance (if awarded) of the California Office of Traffic Safety grant in the amount of \$204,749.21.

Prepared By
Launa Jimenez
Management Analyst

Department Head Approval
John Anderson
Chief of Police

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

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

Report to City Council

TO: Mayor and City Council

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

AGENDA DATE: January 26, 2010

TITLE: Expiration of the Red Light Photo Enforcement Pilot Program

RECOMMENDED ACTION

Staff recommends that the City Council officially confirm the Council’s consensus to terminate the existing red light photo enforcement service at the end of its 2-year pilot program.

ADVISORY BOARD/COMMISSION RECOMMENDATION

Traffic safety information collected from the Red Light Photo Enforcement Pilot Program was presented to the Traffic Safety Commission at their regular meeting on May 6, 2009. Positive comments were received from some Commissioners regarding the effectiveness of the red light photo enforcement system in reducing red light violations and traffic collisions. Some Commissioners also expressed their concerns about the overhead cost of administrating the program and the lack of public support for the program.

BACKGROUND

At the March 27, 2007 City Council meeting, Council authorized staff to enter into an agreement with Redflex Traffic System, Inc. to institute a red light photo enforcement pilot program. The automated red light cameras are typically installed at intersections where data has shown a frequency of right-angle (broadside) collisions likely caused by red light running and/or a high level of violations. Since March 2008, the first red light photo enforcement system has been installed and operated at the intersection of Frederick Street and Centerpoint Drive. A second system was installed at the intersection of Perris Boulevard and Alessandro Boulevard and has been operated since August 2008. Staff has monitored and collected information regarding the

performance of the pilot program and presented that information to City Council at the December 15, 2009 study session.

DISCUSSION

The goals of the City's Red Light Photo Enforcement Pilot Program are to reduce the number of fatalities, serious injuries and property damage that result from city-wide traffic collisions and to improve safety for motorists and pedestrians at locations where cameras are in place. Additionally, the intent is to improve compliance with traffic laws, and overall traffic safety awareness through a coordinated outreach and education effort.

The following objectives were set for the pilot program:

1. Demonstrate that the implementation of red light photo enforcement systems is feasible in the City of Moreno Valley;
2. Demonstrate that red light photo enforcement systems help to reduce the number of red light violations at selected intersections; and
3. Demonstrate that red light photo enforcement systems help achieve the reductions in:
 - a. The total number of traffic collisions at selected intersections; and
 - b. The number of right-angle (broadside) collisions at selected intersections.

The first red light photo enforcement system was installed and operated in March 2008. Staff has been collecting information regarding the number of red light violations and the traffic collisions at the subject intersections. The collected data has shown that both red light violations and traffic collisions have been reduced after the implementation of the red light photo enforcement systems, but these results were not as dramatic as expected. Staff has also coordinated with Riverside County Court staff to identify the amount of revenue that the City has received from paid fines generated by the two red light photo enforcement systems. The pilot program has generated sufficient revenue to support both the cost of the Redflex service fee and the City overhead cost of administrating the program. The above information was reviewed and discussed by City Council at the December 15, 2009 study session. Due to legal activities in the State Legislature in the past few years regarding red light photo enforcement and the lack of public support for the program, City Council's consensus is to discontinue the existing red light photo enforcement service at the end of its 2-year pilot program. Per the existing agreement, Redflex will be notified to turn off the existing two red light photo enforcement systems as of January 31, 2010 and remove the associated equipment.

ALTERNATIVES

1. Approve the termination of the existing red light photo enforcement service at the end of its 2-year pilot program. *This action will discontinue the existing red light photo enforcement service and remove the associated red light photo enforcement equipment.*
2. Approve the renewal of the existing contract for red light photo enforcement service. *If such approval is granted, an extension of the existing contract or development of a new contract will be required.*

FISCAL IMPACT

The revenue from paid fine generated by the Red Light Photo Enforcement Pilot Program will end with its termination; there is sufficient fund balance in the Red Light Photo Enforcement Services account (00010.53110.6259) to cover the remaining invoices and expenditures of the program until its termination on January 31, 2010.

CITY COUNCIL GOALS

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

NOTIFICATION

Publication of Agenda

ATTACHMENTS

None

Prepared By:
Vincent L. Tran, P.E.
Associate Engineer

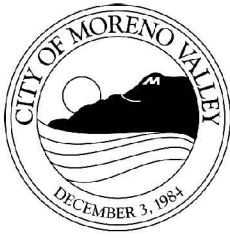
Department Head Approval:
Chris A. Vogt, P.E.
Public Works Director/City Engineer

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

Report to City Council

TO: Mayor and City Council

FROM: Steve Elam, Interim Financial & Administrative Services Director

AGENDA DATE: January 26, 2010

TITLE: ANNUAL REPORT ON DEVELOPMENT IMPACT FEES

RECOMMENDED ACTION

Staff recommends that the City Council:

1. Approve and accept the Annual Report on Development Impact Fees in compliance with California Government Code Section 66006; and
2. Approve the finding that staff has demonstrated a continuing need to hold unexpended Development Impact Fees.

BACKGROUND

Government Code Section 66006 requires municipalities imposing impact fees to undertake an annual accounting of such fees within 180 days of the fiscal year end. The Code also requires that the accounting be made available for public review. The accounting must provide the beginning and ending balances for the fiscal year; receipts; disbursements; interest earned and any other income; a description of how the fees were expended during the past year; and any refunds or allocations pursuant to Government Code Section 66001(f). If fees are unexpended, whether committed or uncommitted for a period of five or more years, the report must include a finding regarding the continuing need for the fees. If a continuing need cannot be shown, State law requires that the City refund the unused, uncommitted fees. The City's report contains no such instances of unexpended and uncommitted Development Impact Fees.

DISCUSSION

The attached Annual Report on Development Impact Fees is for the fiscal year ended June 30, 2009. This report is prepared in compliance with the California Government Code Section 66006 regarding the annual accounting of impact fees. The accounting was complete and the required information was available to the public within the required time frame, 180 days subsequent to fiscal year end.

This report does not include any findings for unexpended, uncommitted fees. All funds collected and held by the City as of June 30, 2009 within each of the 14 respective Development Impact Fee funds are designated for specific capital projects, consistent with the Development Impact Fee Study Final Report approved by the City Council on October 25, 2005, and the Capital Improvement Plan approved by the City Council on June 30, 2009.

This report, however, does make a finding for continuing to hold previously collected development impact fees. This finding is supported by fact that all fees collected and held by the City as of June 30, 2009 are designated for specific capital projects, consistent with the Development Impact Fee Study Final Report approved by the City Council on October 25, 2005, and the Capital Improvement Plan approved by the City Council on June 30, 2009.

ALTERNATIVES

The following alternatives are available to the City Council:

1. Approve and accept the Annual Report on Development Impact Fees in compliance with California Government Code Section 66006 and approve the finding that staff has demonstrated a continuing need to hold unexpended Development Impact Fees. ***Staff recommends this alternative.***
2. Approve and accept the Annual Report on Development Impact Fees in compliance with California Government Code Section 66006 but reject the finding that staff has demonstrated a continuing need to hold unexpended Development Impact Fees. ***Staff does not recommend this alternative in that this action could result in the need to refund unexpended fees such that projects and debt service intended to be funded through these fees would be left without a funding source.***

FISCAL IMPACT

There is no fiscal impact resulting from the recommended action; the information included in the staff report is provided to comply with State law.

CITY COUNCIL GOALS

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

Public Facilities and Capital Projects. Ensure that needed public facilities, roadway improvements, and other infrastructure improvements are constructed and maintained.

SUMMARY

Government Code Section 66006 requires municipalities that impose impact fees to render an annual accounting of such fees and to provide findings that support the retention of any fees that have been held in excess of five years and remain unexpended or have not been committed to projects. The City has no Development Impact Fees that are unexpended or uncommitted for a period of five years or more. The information included in this staff report is provided to comply with State law.

NOTIFICATION

Publication of the agenda

ATTACHMENTS/EXHIBITS

Attachment 1 - Annual Report on Development Impact Fees for the Fiscal Year Ended June 30, 2009

Prepared By:
Steve Hargis
Acting Treasury Operations Division Manager

Department Head Approval:
Steve Elam
Interim Financial & Administrative Services Director

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

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**City of Moreno Valley
Annual Report on Development Impact Fees
For the Fiscal Year Ended June 30, 2009**

Pursuant to Government Code Section 66006, the following report on the receipt, use and retention of development impact fees for fiscal year ended June 30, 2009 is hereby presented to the City Council for review and approval.

Fund Number Fund Name	Beginning Fund Balance July 1, 2008	Receipts	Disbursements	Ending Fund Balance June 30, 2009
00201 Arterial Streets Development Impact Fee	\$ 9,138,098	\$ 399,232	\$ (5,437,525)	\$ 4,099,805
00202 Traffic Signal Development Impact Fee	\$ 1,479,002	\$ 80,914	\$ (360,618)	\$ 1,199,298
00203 Fire Facility Development Impact Fee	\$ 1,281,159	\$ 84,758	\$ (256,015)	\$ 1,109,902
00204 Police Facility Development Impact Fee	\$ 169,788	\$ 68,024	\$ (237,812)	\$ -
00205 Parkland Facilities Development Impact Fee	\$ 1,973,140	\$ 90,937	\$ -	\$ 2,064,077
00206 Quimby In-Lieu Park Fee	\$ 1,838,610	\$ 61,010	\$ (31,000)	\$ 1,868,620
00207 Recreation Center Development Impact Fee	\$ -	\$ 21,292	\$ (21,292)	\$ -
00208 Libraries Development Impact Fee	\$ 3,729,611	\$ 175,188	\$ -	\$ 3,904,799
00209 City Hall Development Impact Fee	\$ 2,052,385	\$ 119,780	\$ -	\$ 2,172,165
00210 Corporate Yard Development Impact Fee	\$ 13,212	\$ 34,812	\$ -	\$ 48,024
00211 Interchange Improvements Development Impact Fee	\$ 1,581,119	\$ 159,153	\$ -	\$ 1,740,272
00212 Maintenance Equipment Development Impact Fee	\$ 60,946	\$ 9,914	\$ -	\$ 70,860
00213 Animal Shelter Development Impact Fee	\$ -	\$ 11,049	\$ (11,049)	\$ -
00413 Capital Improvement Fund	\$ 38,487	\$ -	\$ -	\$ 38,487

The reservation of Fund Balance and disbursement information for each of the above funds is as follows:

Fund 00201- Arterial Streets Development Impact Fee

Fund Balance Designations:

Future Arterial Streets Development	\$ 4,099,805
Unreserved Fund Balance	None
Funds unexpended or uncommitted for five years or more	None

Disbursements:

Cactus Ave Eastbound 3rd Lane	431,000
Reche Canyon Realign-Perris/Heacock-Northern City Limits	170,000
Frederick Street Median	382,596
Perris Blvd Widening Ironwood to Manzanita	203,760
Laselle-Bay Street Improvements	209,100
Ironwood Ave - Heacock to Perris	116,000
Pigeon Pass Rd. Widening-Climbing Rose to N. City Limits	1,044,372
Iris Avenue Street Improvements	650,000
Moreno Beach Widening-Cactus Ave to Auto Mall	400,000
Cottonwood/Elsworth Street Improvements	242,000
Laselle-Cottonwood Street Improvements	233,600
Kitching-Eucalyptus Street Improvements	133,800
Developer Refund-Western National Contractors	97,324
Debt Service – 2005 Lease Revenue Bonds Current Year	1,123,973
	\$ 5,437,525

Fund 00202 Traffic Signal Development Impact Fee

Fund Balance Designations:

Future Traffic Signal Development	\$ 1,199,298
Unreserved Fund Balance	None
Funds unexpended or uncommitted for five years or more	None

Disbursements:

Elsworth/Dracea Modern Roundabout	50,000
Heacock/Iris Traffic Signal	25,000
Cottonwood/Elsworth Traffic Signal	8,806
Fir Ave/Laselle Street Traffic Signal	38,571
Laselle/Cottonwood Traffic Signal	5,000
Laselle/Bay Traffic Signal	5,000
Perris Blvd TS Relocation from Ramona Exp to Cactus	20,000
Oliver/JFK Traffic Signal	41,550
Kitching/Eucalyptus Traffic Signal	5,000
Indian St/Eucalyptus Ave Traffic Signal	38,571
Development Impact Fee Study Update	123,120
	\$ 360,618

Fund 00203 Fire Facility Development Impact Fees

Fund Balance Designations:

Future Fire Facility	<u>\$ 1,109,902</u>
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Unreserved Fund Balance	None
Funds unexpended or uncommitted for five years or more	None

Disbursements:

Debt Service – 2005 Lease Revenue Bonds Current Year	256,015
	<u>\$ 256,015</u>

Fund 204 Police Facility Development Impact Fee

Fund Balance Designations:

Future Police Facility	<u>\$ -</u>
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Unreserved Fund Balance	None
Funds unexpended or uncommitted for five years or more	None

Disbursements:

Debt Service – 2005 Lease Revenue Bonds Current Year	237,812
	<u>\$ 237,812</u>

Fund 00205 Parkland Facilities Development Impact Fee

Fund Balance Designations:

Future Parkland Facility	<u>\$ 2,064,077</u>
--------------------------	---------------------

Unreserved Fund Balance	None
Funds unexpended or uncommitted for five years or more	None

Disbursements:

No Disbursements	-
	<u>\$ -</u>

Fund 00206 Quimby In-Lieu Park Fee

<u>Fund Balance Designations:</u>	
Future Parkland	<u>\$ 1,868,620</u>
Unreserved Fund Balance	None
Funds unexpended or uncommitted for five years or more	None
 <u>Disbursements:</u>	
Fencing of CRC	<u>31,000</u>
	<u>\$ 31,000</u>

Fund 00207 Recreation Center Development Impact Fee

<u>Fund Balance Designations:</u>	
Future Recreation Center	<u>\$ -</u>
Unreserved Fund Balance	None
Funds unexpended or uncommitted for five years or more	None
 <u>Disbursements:</u>	
Conference and Recreation Center	<u>21,292</u>
	<u>\$ 21,292</u>

Fund 00208 Libraries Development Impact Fee

<u>Fund Balance Designations:</u>	
Future Libraries	<u>\$ 3,904,799</u>
Unreserved Fund Balance	None
Funds unexpended or uncommitted for five years or more	None
 <u>Disbursements:</u>	
No Disbursements	<u>-</u>
	<u>\$ -</u>

Fund 00209 City Hall Development Impact Fee

<u>Fund Balance Designations:</u>	
Future City Hall	<u>\$ 2,172,165</u>
Unreserved Fund Balance	None
Funds unexpended or uncommitted for five years or more	None
 <u>Disbursements:</u>	
No Disbursements	<u>-</u>
	<u>\$ -</u>

Fund 00210 Corporate Yard Development Impact Fee

Fund Balance Designations:

Future City Hall	\$ 48,024
------------------	-----------

Unreserved Fund Balance	None
Funds unexpended or uncommitted for five years or more	None

Disbursements:

No Disbursements	-
	\$ -

Fund 00211 Interchange Improvements

Fund Balance Designations:

Future Interchange Improvements	\$ 1,740,272
---------------------------------	--------------

Unreserved Fund Balance	None
Funds unexpended or uncommitted for five years or more	None

Disbursements:

No Disbursements	-
	\$ -

Fund 00212 Maintenance Equipment Development Impact Fee

Fund Balance Designations:

Future Maintenance Equipment	\$ 70,860
------------------------------	-----------

Unreserved Fund Balance	None
Funds unexpended or uncommitted for five years or more	None

Disbursements:

No Disbursements	-
	\$ -

Fund 00213 Animal Shelter Development Impact Fee

Fund Balance Designations:

Future Animal Shelter	\$ -
-----------------------	------

Unreserved Fund Balance	None
Funds unexpended or uncommitted for five years or more	None

Disbursements:

Animal Shelter Land Acquisition	11,049
	\$ 11,049

Fund 00413 Capital Improvement Fund

Fund Balance Designations:

Future Animal Shelter	\$ 38,487
-----------------------	-----------

Unreserved Fund Balance	None
Funds unexpended or uncommitted for five years or more	None

Fund Balance Designations	
Long Term Receivable - Koll-Oleander	38,487
	\$ 38,487

Disbursements:

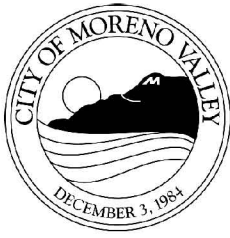
No Disbursements	-
	\$ -

**MINUTES - REGULAR MEETING OF JANUARY 12, 2010
(Report of: City Clerk's Department)**

Recommendation: Approve as submitted.

SEE AGENDA ITEM A.2

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

Report to City Council

TO: Mayor and City Council, acting in their respective capacities as the President and Members of the Board of Directors of the Moreno Valley Community Services District

FROM: Michael McCarty, Director of Parks and Community Services

AGENDA DATE: January 26, 2009

TITLE: Acceptance of Grant Monies from the California Department of Education, Child Development Services, for Child Care Services and Adoption of the Resolution to Certify the Approval of the Governing Board

RECOMMENDED ACTION

Staff recommends that the Mayor and City Council, acting in their capacity as President and Board of Directors of the Moreno Valley Community Services District:

1. Authorize the acceptance of grant money in the amount of \$755,308 for Fiscal Year 2009/2010 from the California Department of Education, Child Development Division, for the purpose of providing school age child care and development services.
2. Adopt Resolution No. CSD 2010-02 to certify the approval of the governing board to enter into this transaction with the California Department of Education for the purpose of providing child care and development services and to authorize the designated personnel, as shown on the resolution, to sign contract documents for Fiscal Year 2009/2010.

ADVISORY BOARD/COMMISSION RECOMMENDATION

Not applicable

BACKGROUND

The State of California appropriated a total of \$6.6 million to be utilized statewide as a continuous funding source for services to school age children, in the range of kindergarten to 14 years of age. However, the Budget Act of 2003 eliminated child care services to children 13 years and older. Of the \$6.6 million allocated statewide, Riverside County was appropriated \$950,000 based on service level needs. In an effort to provide an increased level of services for Moreno Valley youth through diverse funding, staff submitted a competitive grant application to the California Department of Education, Child Development Division, requesting funding for an after school child care program. The City of Moreno Valley Parks and Community Services Department was one of ten agencies in Riverside County who competed for this funding. The Parks and Community Services Department was awarded funding.

On November 26, 1996, the City Council authorized the acceptance of a grant in the amount of \$427,683 for the calendar years 1997 and 1998 for the purpose of providing an after school child care program for children ages 5 to 14. Since that time, the City has applied for and received grant funding every fiscal year for this program. Although the City must apply for the grant funding each year, when the funding was made available to agencies for youth programs in 1987, those agencies that have received this type of grant funding have continued to receive funding for their youth programs.

DISCUSSION

The focus of the grant submitted by the City of Moreno Valley Parks and Community Services Department was based on the high demands assessed by the department within its own programs. This included the need for after school care during the traditional school year and full day care on school vacation days. The program utilizes five elementary schools: Creekside, Sunnymead, Rainbow Ridge, Armada, and Red Maple. The program accommodates 170 children between the ages of kindergarten up to 12 years of age and has been in effect since January 1997.

This program is state licensed and operates under the following conditions. The healthy social and emotional development of every child is addressed by providing activities, schedules, materials and equipment to ensure that children are both challenged and successful. Programming for the students includes a nutritious snack served daily, arts and crafts, indoor and outdoor games, story time, homework time, and social time. The program also includes field trips with bus transportation, parent conferences, and special parenting classes and programs with topics including health issues, substance abuse, nutrition, personal safety, community awareness, literacy and more. The program works closely with parents and school site staff to incorporate applicable school rules into the program and provide emotional support for children.

The program operates at schools utilizing the "modified traditional" school schedule between the hours of 2:00 p.m. and 6:00 p.m. on school days and 7:00 a.m. to 6:00 p.m. on school vacation days, Monday through Friday. The program operates at

schools utilizing the “year round” school schedule between the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday.

As part of the City’s policy, the City Council must formally accept this funding from the California Department of Education, Child Development Services and adopt the corresponding resolution.

ALTERNATIVES

1. Approving staff’s recommendation would authorize the acceptance of grant monies in the amount of \$755,308 for FY 2009/2010 from the California Department of Education, Child Development Division, for the purpose of providing school age child care and development services.
2. Not approving staff’s recommendation would eliminate the Child Care Grant Program.

FISCAL IMPACT

The proposed grant funds all program expenditures on a cost reimbursement basis.

NOTIFICATION

Posting of the Agenda.

ATTACHMENTS/EXHIBITS

Exhibit ‘A’ - Resolution

Prepared By:
Patty Grube
Management Analyst

Department Head Approval:
Michael McCarty
Director of Parks and Community Services

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

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RESOLUTION NO. CSD 2010-02

A RESOLUTION OF THE MORENO VALLEY COMMUNITY SERVICES DISTRICT OF THE CITY OF MORENO VALLEY, CALIFORNIA, CERTIFYING THE APPROVAL OF THE GOVERNING BOARD TO ENTER INTO A TRANSACTION WITH THE CALIFORNIA DEPARTMENT OF EDUCATION FOR THE PURPOSE OF PROVIDING CHILD CARE AND DEVELOPMENT SERVICES AND TO AUTHORIZE DESIGNATED PERSONNEL TO SIGN CONTRACT DOCUMENTS FOR FY 2009/10

WHEREAS, the Moreno Valley Community Services District Board of Directors desires to provide school age child care services to the citizens of Moreno Valley during FY 2009/10;

WHEREAS, the Moreno Valley Community Services District Board of Directors further desires to enter into this transaction with the California Department of Education for the purpose of providing child care and development services;

WHEREAS, the Moreno Valley Community Services District Board of Directors authorize the persons listed to sign the transaction for the Governing Board;

Michael McCarty, Director of Parks and Community Services _____

William Bopf, Interim City Manager _____

Steve Elam, Director of Financial & Administrative Services _____

NOW, THEREFORE, THE MORENO VALLEY COMMUNITY SERVICES DISTRICT OF THE CITY OF MORENO VALLEY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

1. Accept the grant monies from the California Department of Education, Child Development Division, in the amount of \$755,308 per fiscal year to provide child care services for FY 2009/2010;
2. Adopt a resolution to certify the approval of the governing board to enter into local agreement number/s CCTR-9201, Project Number 33-2186-00-9 with the California Department of Education for the purpose of providing child care and development services;
3. Authorize designated personnel to sign contract documents on behalf of the Governing Board for FY 2009/10.

APPROVED AND ADOPTED this ____ day of ____, 2010.

Mayor of the City of Moreno Valley,
acting in the capacity of President
of the Moreno Valley Community
Services District

ATTEST:

Jane Halstead, acting in the capacity of
Secretary of the Moreno Valley
Community Services District

APPROVED AS TO FORM:

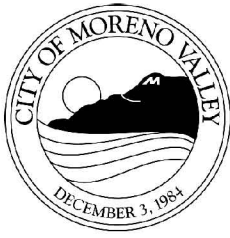
Robert Hansen, Interim City Attorney acting
in the capacity of General Legal
Counsel of the Moreno Valley
Community Services District

RESOLUTION JURAT

[Clerk's office will prepare]

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

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APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>RAF</i>
CITY MANAGER	<i>WAB</i>

Report to City Council

TO: Mayor and City Council, acting in their capacity as President and Members of the Board of Directors of the Moreno Valley Community Services District

FROM: Michael McCarty, Parks and Community Services Director

AGENDA DATE: January 26, 2010

TITLE: Acceptance of One Time Grant Monies from the California Department of Education, Child Development Services, for Instructional Materials and Adoption of the Resolution to Certify the Approval of the Governing Board

RECOMMENDED ACTION

Staff recommends that the Mayor and City Council, acting in their capacity as President and Board of Directors of the Moreno Valley Community Services District:

1. Authorize the acceptance of one time grant money in the amount of \$1,345 for Fiscal Year 2009/2010 from the California Department of Education, Child Development Division, for the purpose of purchasing instructional materials and supplies for the child development program.
2. Adopt Resolution No. CSD 2010-03 to certify the approval of the governing board to enter into this transaction with the California Department of Education for the purpose of purchasing instructional materials and supplies for the child development program and to authorize the designated personnel, as shown on the resolution, to sign contract documents for Fiscal Year 2009/2010.

ADVISORY BOARD/COMMISSION RECOMMENDATION

N/A

BACKGROUND

The State of California appropriated a total of \$6.6 million to be utilized statewide as a continuous funding source for services to school age children, in the range of kindergarten to fourteen (14) years of age. However, currently the Budget Act of 2003 eliminated child care services to 13-year old children. Of the \$6.6 million allocated statewide, Riverside County was appropriated \$950,000 based on service level needs. In an effort to provide an increased level of services for Moreno Valley youth through diverse funding, staff submitted a competitive grant application to the California Department of Education, Child Development Division, requesting funding for an after school child care program. The City of Moreno Valley Parks and Community Services Department was one of ten (10) agencies in Riverside County who competed for this funding. The Parks and Community Services Department was awarded funding.

On November 26, 1996, the City Council authorized the acceptance of a grant in the amount of \$427,683 for the calendar years 1997 and 1998 for the purpose of providing an after-school child care program for children ages 5 to 14. Since that time, the City has applied for and received grant funding for this program every fiscal year. The City Council authorized the acceptance of a grant in the amount of \$755,308 for fiscal year 2009/10. Although the City must apply for the grant funding each year, when the funding was made available to agencies for youth programs in 1987, those agencies that have received this type of grant funding have continued to receive funding for their youth programs.

DISCUSSION

The focus of the grant submitted by the City of Moreno Valley Parks and Community Services Department was based on the high demands assessed by the department within its own programs. This included the need for after school care during the school year as well as full day care on school vacation days. The program utilizes five elementary schools, Creekside, Sunnymead, Rainbow Ridge, Armada, and Red Maple. The program accommodates 130 children between the ages of kindergarten up to thirteen (13) years of age and has been in effect since January 1997.

This program is state licensed and operates under the following conditions: the healthy social and emotional development of every child is addressed by providing activities, schedules, materials and equipment to ensure that children are both challenged and successful. Programming for the students includes a nutritious snack served daily, arts and crafts, indoor and outdoor games, story time, homework time, and social time. The program also includes field trips with bus transportation and parent conferences. The program works closely with parents and school site staff to incorporate applicable school rules into the program and provide emotional support for children.

The program operates utilizing the same “modified traditional” schedule the school districts use. The hours are 2:00 p.m. to 6:00 p.m. on school days, 11:00 a.m. if morning kindergartners attend, and 7:00 a.m. to 6:00 p.m. on school vacation days.

Accepting the one time grant funding will enable the City to purchase additional instructional materials and supplies for the program. As part of the City’s policy, the City Council must formally accept this funding from the California Department of Education, Child Development Services and adopt the corresponding resolution.

ALTERNATIVES

1. Authorize the acceptance of grant monies in the amount of \$1,345 for FY 2009/2010 from the California Department of Education, Child Development Division, for the purpose of purchasing instructional materials and supplies for the child development program.
2. Adopt Resolution No. CSD 2010-03 to certify the approval of the governing board to enter into this transaction with the California Department of Education for the purpose of purchasing instructional materials and supplies for the child development program and to authorize the designated personnel, as shown on the resolution, to sign contract documents for FY 2009/2010.
3. Not accept the grant nor adopt the resolution and not purchase additional instructional materials and supplies for the program.

FISCAL IMPACT

The proposed instructional materials and supplies grant funds expenditures 100 percent on a cost reimbursement basis.

CITY COUNCIL GOALS

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

NOTIFICATION

Posting of the Agenda.

ATTACHMENTS/EXHIBITS

Exhibit ‘A’ - Resolution

Prepared By:
Patty Grube
Management Analyst

Department Head Approval:
Michael McCarty
Director of Parks and Community Services

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

RESOLUTION NO. CSD 2010-03

A RESOLUTION OF THE MORENO VALLEY COMMUNITY SERVICES DISTRICT OF THE CITY OF MORENO VALLEY, CALIFORNIA, CERTIFYING THE APPROVAL OF THE GOVERNING BOARD TO ENTER INTO A TRANSACTION WITH THE CALIFORNIA DEPARTMENT OF EDUCATION FOR THE PURPOSE OF PROVIDING CHILD CARE AND DEVELOPMENT SERVICES AND TO AUTHORIZE DESIGNATED PERSONNEL TO SIGN CONTRACT DOCUMENTS FOR FY 2009/10

WHEREAS, the Moreno Valley Community Services District Board of Directors desires to provide school age child care services to the citizens of Moreno Valley during FY 2009/10;

WHEREAS, the Moreno Valley Community Services District Board of Directors further desires to enter into this transaction with the California Department of Education for the purpose of providing child care and development services;

WHEREAS, the Moreno Valley Community Services District Board of Directors authorize the persons listed to sign the transaction for the Governing Board;

Michael McCarty, Director of Parks and Community Services _____

Steve Elam, Financial and Administrative Services Director _____

William Bopf, Interim City Manager _____

NOW, THEREFORE, THE MORENO VALLEY COMMUNITY SERVICES DISTRICT OF THE CITY OF MORENO VALLEY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

1. Accept the grant monies from the California Department of Education, Child Development Division, in the amount of \$1,345 to purchase instructional materials and supplies for the Child Development Program.
2. Adopt a resolution to certify the approval of the governing board to enter into local agreement number CIMS-9416, Project Number 33-2186-00-9 with the California Department of Education for the purpose of purchasing instructional materials and supplies for the Child Development Program.
3. Authorize designated personnel to sign contract documents on behalf of the Governing Board for FY 2009/10.

1 Resolution No. CSD 2010-_____
Exhibit A Date Adopted:

APPROVED AND ADOPTED this _____ day of _____, 2010.

Mayor of the City of Moreno Valley,
Acting in the capacity of President of the
Moreno Valley Community Services District

ATTEST:

City Clerk, acting in the capacity of
Secretary of the Moreno Valley
Community Services District

APPROVED AS TO FORM:

City Attorney, acting in the capacity
of General Counsel of the Moreno
Valley Community Services District

RESOLUTION JURAT

[Clerk's office will prepare]

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

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**MINUTES - REGULAR MEETING OF JANUARY 12, 2010
(Report of: City Clerk's Department)**

Recommendation: Approve as submitted.

SEE AGENDA ITEM A.2

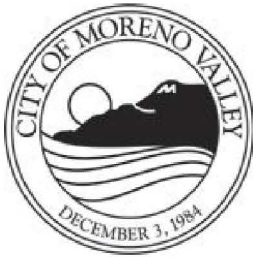
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**MINUTES - REGULAR MEETING OF JANUARY 12, 2010
(Report of: City Clerk's Department)**

Recommendation: Approve as submitted.

SEE AGENDA ITEM A.2

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

Report to City Council

TO: Mayor and City Council and the City Council Acting in their Capacity as the President and Members of the Board of Directors of the Moreno Valley Community Services District ("CSD")

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

AGENDA DATE: January 26, 2010

TITLE: PUBLIC HEARING REGARDING A MAIL BALLOT PROCEEDING FOR CALIFORNIA DRUG CONSULTANT, INC.—APN 486-280-041
BALLOTING FOR NPDES AND CSD ZONE M

RECOMMENDED ACTION

1. Staff recommends that the City Council, after conducting the Public Hearing and accepting public testimony:
 - a. Direct the City Clerk to tabulate the National Pollutant Discharge Elimination System (NPDES) ballot for California Drug Consultant, Inc.—Assessor Parcel Number (APN) 486-280-041;
 - b. Verify and accept the result of the mail ballot proceeding as identified on the Official Tally Sheet and attached APN listing;
 - c. Receive and file with the City Clerk's office the accepted Official Tally Sheet and APN listing; and
 - d. If approved, authorize and impose the NPDES maximum commercial/industrial regulatory rate to APN 486-280-041.

2. Staff recommends that the Mayor and City Council, acting in their capacity as President and Members of the Board of Directors of the CSD ("CSD Board"), after conducting the Public Hearing and accepting public testimony:
 - a. Direct the Secretary of the CSD Board (City Clerk) to tabulate the CSD Zone M ballot for California Drug Consultant, Inc.—APN 486-280-041;
 - b. Verify and accept the result of the mail ballot proceeding as identified on the Official Tally Sheet and attached APN listing;
 - c. Receive and file with the City Clerk's office the accepted Official Tally Sheet and APN listing; and

- d. If approved, authorize and impose the annual CSD Zone M (Commercial, Industrial, and Multifamily Improved Median Maintenance) charge to APN 486-280-041.

ADVISORY BOARD/COMMISSION RECOMMENDATION

N/A

BACKGROUND

To comply with the 1972 Federal Clean Water Act, Land Development, a division of the Public Works Department, requires that new development projects participate in the appropriate NPDES regulatory rate to fund federally mandated programs. The City Council adopted the residential regulatory rate on June 10, 2003 and the commercial/industrial regulatory rate on January 10, 2006.

The CSD was formed simultaneously with City incorporation in 1984. The designation of zones within the CSD was established to allocate the cost of special services to those parcels receiving the benefit. Each zone provides specific services to designated areas. Along with other zone services, the CSD provides street lighting maintenance, parkway landscape maintenance, and improved median landscape maintenance.

DISCUSSION

Conditions of Approval for California Drug Consultant, Inc.—APN 486-280-041 require that the property owner provide a funding source to help support the NPDES and CSD Zone M programs. The Conditions of Approval for this development indicate that the funding source is to be in effect prior to the issuance of a grading permit. Approving the NPDES maximum commercial/industrial regulatory rate and the CSD Zone M annual charge through a mail ballot proceeding shall fulfill these requirements.

In compliance with Proposition 218, which requires that any new or proposed increase in property-related assessments, fees, or charges be submitted to property owners for approval, Special Districts (SD), a division of the Public Works Department, is conducting a mail ballot proceeding to give the property owner of APN 486-280-041 the option to approve or oppose the NPDES maximum commercial/industrial regulatory rate and the annual charge for the CSD Zone M program. The property owner is given two opportunities to address the legislative body. These two opportunities are the Public Meeting on January 12, 2010 and the Public Hearing on January 26, 2010, when the result of the ballot proceeding will be announced.

New development projects are subject to the current NPDES Permit requirements for stormwater management as mandated by the Federal Clean Water Act. Public agencies are to obtain Permits to discharge urban stormwater runoff from municipally owned drainage facilities, including streets, highways, storm drains, and flood control channels. If approved by the property owner, the City will annually inspect site design, source and treatment control Best Management Practices, monitor maintenance records for those on-site facilities, and perform annual inspections of the affected areas to ensure compliance

with federally mandated NPDES Permit requirements, as administered by the State. Upon approval, the City will also be authorized to levy the NPDES maximum commercial/industrial regulatory rate, which is subject to an annual inflation adjustment, to APN 486-280-041 (and any division thereof). The rate shall be placed on the Riverside County property tax bill beginning in 2010/11 and then each following year or as a monthly charge on a utility bill.

Commercial, industrial, and multifamily developments along designated arterial streets are conditioned to participate in the median maintenance program in compliance with the citywide Arterial Median Maintenance Policy, approved by the CSD Board in February 2003 and modified January 2006. Special Districts' staff manages private landscape maintenance firms to ensure that landscape preservation activities are completed on a regular schedule. Landscape maintenance includes, but is not limited to, mowing, trimming, pruning, weeding, fertilizing, replacing plant material(s) as necessary, removing litter, maintaining the irrigation systems, paying water and electric utility charges, staff support, and other items necessary for the satisfactory maintenance of the landscaped medians. The CSD Zone M annual charge is levied on the Riverside County property tax bill.

The CSD Zone M annual charge for APN 486-280-041 was estimated based on the fully improved Nason Street median adjacent to the parcel. The annual charge shall not be levied until such time as the construction of the median begins. Upon future development, parcels adjacent to the median shall be conditioned to provide a funding source for the annual maintenance. At which point, the annual charge for APN 486-280-041 shall be proportionally adjusted.

ALTERNATIVES

1. **Conduct the Public Hearing**, tabulate the ballots, verify, and accept the result of the mail ballot proceeding as identified on the Official Tally Sheet and attached APN listing, receive and file with the City Clerk's office the accepted Official Tally Sheet and APN listing, and if approved, authorize and impose the NPDES maximum commercial/industrial regulatory rate and the annual charge for CSD Zone M to APN 486-280-041 (and any division thereof). *This alternative will fulfill the 45-day noticing period and Public Hearing requirements as mandated by Proposition 218.*
2. **Do not conduct the Public Hearing**, tabulate the ballots, verify, or accept the result of the mail ballot proceeding for APN 486-280-041. *This alternative would be contrary to Proposition 218 mandates.*

FISCAL IMPACT

For fiscal year 2009/10, the estimated NPDES annual regulatory rate and CSD Zone M charge for California Drug Consultant, Inc. are listed below.

Project	NPDES Maximum Commercial/Industrial Rate*	CSD Zone M Annual Charge*
APN 486-280-041 (and any division thereof)	\$205	\$9,600

*The NPDES maximum commercial/industrial regulatory rate and the CSD Zone M charge shall be subject to an annual inflation adjustment in subsequent years based on the percentage change calculated for the previous calendar year in the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics.

The NPDES rates collected from property owners support the current Permit programs and reduce the level of General Fund support necessary to remain in compliance with unfunded federal mandates, as administered by the State. Funds collected from the NPDES rates are restricted for use only within the Stormwater Management program.

The CSD Zone M annual charge, paid by the adjacent new developments, provides the necessary funding for the maintenance of newly constructed medians within the CSD. **There is no impact on the General Fund for newly constructed medians. The collection of the CSD Zone M annual charge is restricted for use for the maintenance and administration of the improved medians within the CSD Zone M program.**

CITY COUNCIL GOALS

Advocacy

Management of the stormwater will ensure that water pollutants are discharged in compliance with federal mandates and City policies.

Community Image, Neighborhood Pride, and Cleanliness

The Zone M program allows the CSD an opportunity to enhance the appearance of newly developed areas within the City.

Revenue Diversification and Preservation

The CSD Zone M annual charge and the NPDES maximum commercial/industrial regulatory rate provide funding for program costs, which include maintenance and administration.

SUMMARY

The action before the City Council is to accept public testimony, tabulate the returned ballots, verify, and accept the result of the mail ballot proceeding for APN 486-280-041.

NOTIFICATION

On November 5, 2009, SD mailed a ballot packet to the property owner of APN 486-280-041. The packet included a cover letter, map of the project area, the NPDES commercial/industrial rate schedule, notice to the property owner, instructions, ballots, and postage-paid envelopes for returning the ballots to the City Clerk. (See Attachment 1.)

Newspaper advertising for the January 12, 2010, Public Meeting and January 26, 2010, Public Hearing was published in The Press-Enterprise on December 23, 2009.

Additionally, the Public Hearing notification was published on January 7 and on January 14, 2010.

ATTACHMENTS

Attachment 1: California Drug Consultant, Inc. mail ballot packet

Prepared by:
Jennifer A. Terry,
Management Analyst

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

Concurred by:
Sue Anne Maxinoski,
Special Districts Division Manager

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

W:\SpecialDist\jennifert\Ballots for FY 09.10\M NPDES\P09-086 Skilled Nursing Facility\Strprt PH 01.26.10.doc

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November 5, 2009

California Drug Consultants, Inc.
c/o Integrated Care Communities, Inc.
11751 Davis St
Moreno Valley, CA 92557

Attention: Dr. Carl Rowe

Subject: Mail Ballot Proceeding for Assessor Parcel Number (APN) 486-280-041, located near the southwest corner of Nason St. and Brodiaea Ave., for approval of the National Pollutant Discharge Elimination System (NPDES) Maximum Commercial/Industrial Regulatory Rate and inclusion into and approval of the annual charge for Community Services District (CSD) Zone M (Commercial, Industrial, and Multifamily Improved Median Maintenance)

Dear Dr. Rowe,

The Special Districts Division is conducting a mail ballot proceeding to fulfill the City of Moreno Valley's Conditions of Approval for APN 486-280-041, which require this project to provide a funding source to help support the NPDES program and provide funding for the annual maintenance for the proposed Nason St. median adjacent to your project. Approving the NPDES maximum commercial/industrial regulatory rate and the CSD Zone M annual charge through a mail ballot proceeding shall fulfill these requirements.

Please have the owner of the parcel sign and return the completed ballots in the enclosed postage-paid envelopes. The City Clerk's office must receive the ballots prior to the close of the Public Hearing on January 26, 2010.

NPDES Maximum Commercial/Industrial Regulatory Rate

Newly developed and/or modified properties within the City of Moreno Valley are subject to the current NPDES Permit requirements for stormwater management as mandated by the Federal Clean Water Act. The City will annually inspect site design, source and treatment control Best Management Practices, verify monitoring and maintenance records for those on-site facilities, and perform annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements, as administered by the State.

For fiscal year (FY) 2009/10, the NPDES maximum commercial/industrial regulatory rate is \$205 per parcel. (Please refer to the enclosed rate schedule.) Beginning in FY 2010/11, the maximum regulatory rate shall be subject to an annual adjustment based on the percentage change calculated for the previous calendar year in the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics. Upon approval of the maximum regulatory rate, the annual levy amount will be assessed to APN 486-280-041 (and any division thereof) and will be placed on the 2010/11 Riverside County property tax bill or as a monthly charge on a utility bill.

CSD Zone M (Commercial, Industrial, and Multifamily Improved Median Maintenance)

In compliance with the Citywide Arterial Median Maintenance Policy, approved by the CSD Board in March 2003 and revised January 2006, commercial, industrial, and multifamily developments along designated arterial streets are to participate in the median maintenance program. Special Districts' staff manages private landscape maintenance firms to ensure that landscape preservation activities are completed on a regular schedule. The CSD Zone M annual charge was established to cover administration and service costs for the landscape maintenance. Services include, but are not limited to: mowing, trimming, pruning, weeding, fertilizing, replacing plant material(s) as necessary, removing litter, maintaining the irrigation systems, paying water and electric utility charges, staff support, and other items necessary for the satisfactory maintenance of the landscaped medians.

For FY 2009/10 the CSD Zone M charge for the proposed Nason St. median is \$9,600. The CSD Zone M charge shall be proportionally adjusted if APN 486-280-041 is subdivided or if development occurs adjacent to the proposed median. Beginning in FY 2010/11, the CSD Zone M charge shall be subject to an annual adjustment based on the percentage change calculated for the previous calendar year in the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics. The annual levy amount shall be assessed on the Riverside County property tax bill as construction of the median occurs.

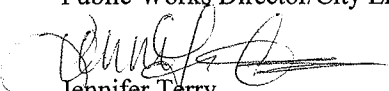
Ballot Process

In accordance with the legislative requirements of Proposition 218, "The Right to Vote on Taxes Act," Special Districts is submitting the enclosed Notice to Property Owner—Mail Ballot Proceeding. The formal notice provides Public Meeting and Public Hearing dates, times and location, instructions for marking the enclosed ballots, and information on the services and charges.

If you have any questions about the proposed programs, charges, or this process, please contact Jennifer Terry, Management Analyst, Monday through Thursday from 7:30 a.m. to 5:30 p.m. at 951.413.3505.

Sincerely,

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



Jennifer Terry
Management Analyst

Enclosures

c: Sue Maxinoski, Special Districts Division Manager
Marshall Eyerman, Special Districts Program Manager
Fred Jimenez, CFO, Germania Family of Companies

NOTICE TO PROPERTY OWNER—MAIL BALLOT PROCEEDING
National Pollutant Discharge Elimination System (NPDES)
Maximum Commercial/Industrial Regulatory Rate
Community Services District (CSD)
Zone M (Commercial, Industrial, and Multifamily Improved Median Maintenance)
California Drug Consultants, Inc.—Assessor Parcel Number (APN) 486-280-041

I. BACKGROUND

The City shall provide the services necessary to meet mandates of the Federal Clean Water Act. The current NPDES Permit, as administered by the State, regulates the volume and amount of pollutants in stormwater runoff from all development types.

NPDES Maximum Commercial/Industrial Maximum Regulatory Rate provides financial support for inspecting site design, source and treatment control Best Management Practices, monitoring maintenance records for those on-site facilities, and performing annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements, as administered by the State.

The CSD was formed simultaneously with City incorporation and established Zones to allocate the costs of special benefit services to those parcels designated to receive selective programs. The CSD Zone M program provides ongoing maintenance to improved medians adjacent to commercial, industrial, and multifamily developments in designated areas of the City.

In November of 1996, California voters passed Proposition 218 ("The Right to Vote on Taxes Act"). As a result, any new or proposed increase in a property-related charge requires approval of the charge by the property owner of record. In compliance with Proposition 218 legislation, Special Districts is conducting a mail ballot proceeding to provide the owner of APN 486-280-041 (and any division thereof) the opportunity to express support or opposition to the approval of the NPDES regulatory rate and services and inclusion into and approval of the annual charge for the CSD Zone M program.

II. NOTICE - PUBLIC MEETING AND PUBLIC HEARING

To provide for public comments on this mail ballot proceeding, the City Council has scheduled one (1) Public Meeting and one (1) Public Hearing at their regular meetings, which will be held at the Moreno Valley City Hall Council Chamber as follows:

PUBLIC MEETING

TUESDAY, January 12, 2010
6:30 P.M. (or as soon thereafter
as the matter may be called)

PUBLIC HEARING

TUESDAY, January 26, 2010
6:30 P.M. (or as soon thereafter
as the matter may be called)

LOCATION

**(FOR BOTH THE PUBLIC MEETING
& PUBLIC HEARING)**

**MORENO VALLEY CITY HALL
COUNCIL CHAMBER
14177 FREDERICK STREET
MORENO VALLEY, CA 92553**

III. CHARGE INFORMATION

1. **Name of the Charges for APN 486-280-041 (and any division thereof):**

NPDES Maximum Commercial/Industrial Regulatory Rate
CSD Zone M (Commercial, Industrial, and Multifamily Improved Median Maintenance)

2. **Maximum Annual Levy Amounts for APN 486-280-041 (and any division thereof):**

For fiscal year (FY) 2009/10, the NPDES maximum commercial/industrial regulatory rate is \$205 per parcel. The total amount of the NPDES rates levied for FY 2009/10 is \$386,455.

The CSD Zone M parcel charge for FY 2009/10 is \$9,600 for the proposed Nason St. median. The total amount of the CSD Zone M charges levied for FY 2009/10 is \$126,180.72.

Beginning in FY 2010/11, the NPDES Maximum Commercial/Industrial Regulatory Rate and the CSD Zone M charge shall be subject to an annual adjustment based on the percentage change calculated for the previous calendar year in the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics.

3. **Duration of the Proposed Charges:**

Upon approval of the NPDES Maximum Commercial/Industrial Regulatory Rate, the annual levy amount will be assessed to APN 486-280-041 (and any division thereof) and shall be placed on the 2010/11 Riverside County property tax bill or as a monthly charge on a utility bill. The CSD Zone M annual levy amount shall be assessed on the Riverside County property tax bill as construction of the median occurs. The NPDES Maximum Commercial/Industrial regulatory rate and the CSD Zone M charge will be levied each following year at the proposed rate, which may include an annual inflation adjustment.

4. **Reason for the Charges:**

NPDES Maximum Commercial/Industrial Regulatory Rate

In compliance with the Federal Clean Water Act, the City of Moreno Valley shall annually inspect site design, source and treatment control Best Management Practices, verify monitoring and maintenance records for those on-site facilities, and perform annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements, as administered by the State.

CSD Zone M Charge

Commercial, industrial, and multifamily developments along designated arterial streets are conditioned to participate in the improved median maintenance program in compliance with the Citywide Arterial Median Maintenance Policy approved by the CSD Board in March 2003 and revised in January 2006. Special Districts' staff manages private landscape maintenance firms to ensure that landscape preservation activities are completed on a regular schedule. The CSD Zone M annual charge was established to cover administration and service costs for the landscape maintenance. Services include, but are not limited to: mowing, trimming, pruning, weeding, fertilizing, replacing plant material(s) as necessary, removing litter, maintaining the irrigation systems, paying water and electric utility charges, staff support, and other items necessary for the satisfactory maintenance of the landscaped medians.

5. **Calculation of the Charges:**

Each FY, the City of Moreno Valley shall determine the type of services necessary to comply with NPDES Permit requirements and levy the rate applicable for that service. The annual CSD Zone M charge includes maintenance and administration costs. The CSD Zone M charge shall be proportionally adjusted if APN 486-280-041 is subdivided or if development occurs adjacent to the proposed median.

IV. QUESTIONS REGARDING THESE PROCEEDINGS

If you have questions about the proposed programs, charges, or this process, please contact Jennifer Terry, Management Analyst, Special Districts, a Division of the Public Works Department, Monday through Thursday from 7:30 a.m. to 5:30 p.m. at 951.413.3505.

V. SUMMARY OF BALLOT PROCEEDINGS

Please follow the instructions listed below and on the following page to complete and return your ballots. Procedures for the completion, return, and tabulation of the ballots are on file in the City Clerk's office of the City of Moreno Valley.

1. Mark the enclosed ballots in support or opposition to the proposed programs and annual charges **by placing an appropriate valid mark in the corresponding box. A list containing appropriate valid markings is attached for reference.**
2. **Sign your name** on the ballots. *Ballots received without a signature will be considered invalid and will not be counted.*
3. Mail or personally deliver your ballots in a sealed envelope to the City Clerk's office, 14177 Frederick Street, Moreno Valley, California 92553. For your convenience, two postage-paid envelopes have been included for return of the ballots.
4. Ballots must be **received** by the City Clerk prior to the close of the Public Hearing to be held on **Tuesday, January 26, 2010**, at the Moreno Valley City Hall Council Chamber. The Public Hearing will be held at 6:30 p.m. or as soon thereafter as the matter may be called. Ballots received after the close of the Public Hearing cannot be legally counted.
5. **Upon the close of the Public Hearing:**
Approval of the NPDES Maximum Commercial/Industrial maximum regulatory rate and the proposed inclusion into the CSD Zone M program and the maximum annual levy amounts will be confirmed if the ballots are marked in favor of the charge.

Not approving the NPDES commercial/industrial regulatory rate to meet federally mandated NPDES Permit requirements, as administered by the State, shall result in noncompliance with the Conditions of Approval.

If the ballot is not marked in favor of the CSD Zone M annual charge, then the charge will not be levied on the property tax bill and noncompliance of the Conditions of Approval shall result.

BALLOT MARKS

Appropriate ballot markings include any one of the following for either the YES/Approved or NO/Not Approved blank box:



A check mark substantially inside a box;



An X mark substantially inside a box;



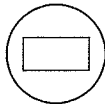
A dot or oval mark substantially inside a box;



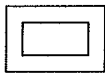
A completely shaded or filled mark substantially inside a box;



A line, single or dashed, or combination of lines, through the box area. Lines may be any **one of the following marks**: horizontal, vertical, or diagonal. The mark may either run from side to side or corner to corner. All valid lines must be substantially within the box area and not marking any part of another blank box on the ballot;



A circle around the box and/or associated clause; or









A square or rectangle around the box and/or associated clause.

Balloting marks shall not extend past one box area into any portion of another nor surround the perimeter or any portion of more than one box area. Markings that extend past one box area into any portion of another or surround the perimeter or any portion of more than one box area shall be considered invalid and not counted.

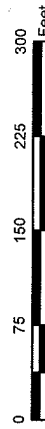
Ballot Mark Revisions (Changes)

An error or desire to revise (change) a selection made on the ballot may be completed and returned any time prior to the conclusion of public testimony at the Public Hearing. **The revision must be initialed by the record owner(s) of property. Initials must be clearly printed and placed at the right top corner of the revised selection.**

California Drug Consultants, Inc.

-  Future Median
-  Landscaped Areas
- APN**  486280041
-  Roads
-  Parcels
-  City Boundary

Map reflects all changes indicated on Riverside County Assessor Maps as of October 29, 2009.

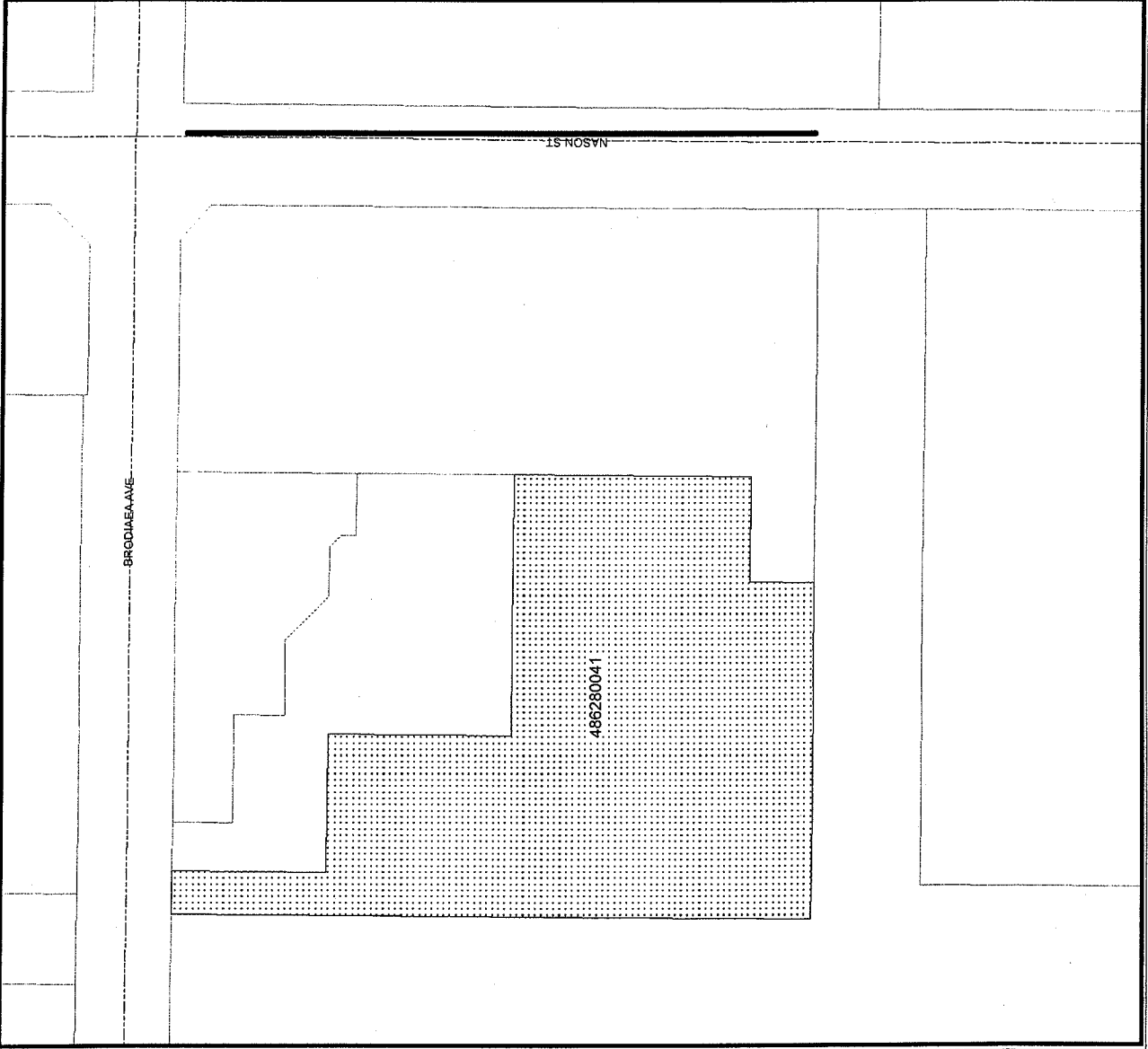


G:\WP\GISDA\California Drug Consultant P09-086.mxd

The information shown on this map was compiled from the Riverside County GIS and the City of Moreno Valley GIS. The land base and facility information on this map is for display purposes only and should not be relied upon without independent verification as to its accuracy. Data and information on this map is subject to update and modification. Riverside County and City of Moreno Valley will not be held responsible for any claims, losses or damages resulting from the use of this map. This map is not to be recopied or resold.



MORENO VALLEY
WHERE DREAMS SOAR



COMMON INTEREST, COMMERCIAL, INDUSTRIAL AND QUASI-PUBLIC USE NPDES RATE SCHEDULE
 Adopted by the City Council on January 10, 2006

LEVEL 1	LEVEL II
<p align="center">NPDES Administration (Not covered by CSA 152)</p> <p>Costs associated with personnel, administration and management of the storm water management program. Administrative tasks include development and filing of various stormwater reports and data collection and management.</p> <p>Level I is levied on all parcels conditioned for the NPDES Rate Schedule.</p>	<p align="center">Site Design, Source Control and Treatment Control BMPs Monitoring and Maintenance</p> <p>Costs associated with stormwater and non-stormwater runoff monitoring, inspection of the project's site design, source control and treatment control BMPs; evaluation of site stormwater compliance activities, review of site-specific technical reports and treatment control BMP maintenance records.</p>
<p>Fiscal Year (FY) 2005/2006 - Base Year Calculation, subject to an annual inflation factor based on the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics</p>	
<p>PROPOSED PARCEL RATE</p>	<p>PROPOSED PARCEL RATE</p>
<p>Per Month \$2.67</p> <p>Per Year \$32.00</p>	<p>Per Month \$12.58</p> <p>Per Year \$151.00</p>

Inflation Factor Adjustments

FY 2006/2007 - 4.5% = (\$33.00 & \$158.00)
 FY 2007/2008 - 3.1% = (\$34.00 & \$163.00)
 FY 2008/2009 - 4.2% = (\$35.00 & \$170.00)
 FY 2009/2010 - no change = (\$35.00 & \$170.00)

OFFICIAL MAIL BALLOT

**National Pollutant Discharge Elimination System (NPDES)
Maximum Commercial/Industrial Regulatory Rate
California Drug Consultants, Inc.
Assessor Parcel Number (APN) 486-280-041**

YES* – As property owner, **I approve** the NPDES maximum commercial/industrial regulatory rate and services. The City will annually inspect site design, source and treatment control Best Management Practices, verify monitoring and maintenance records for those on-site facilities, and perform annual inspections of the affected areas to ensure compliance with federally mandated NPDES Permit requirements, as administered by the State. For fiscal year (FY) 2009/10, the NPDES maximum commercial/industrial regulatory rate is \$205 per parcel. Beginning in FY 2010/11, the maximum regulatory rate shall be subject to an annual adjustment based on the percentage change calculated for the previous calendar year in the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics. Upon approval of the maximum regulatory rate, the annual levy amount will be assessed to APN 486-280-041 (and any division thereof) and shall be placed on the 2010/11 Riverside County property tax bill or as a monthly charge on a utility bill.

NO** – As property owner, **I do not approve** the NPDES maximum commercial/industrial regulatory rate and services for APN 486-280-041. I understand that not approving the NPDES maximum commercial/industrial regulatory rate to fund federally mandated NPDES Permit requirements, as administered by the State, shall result in noncompliance with the project's Conditions of Approval.

Assessor Parcel Number	YES*	NO**	NPDES Maximum Commercial/Industrial Regulatory Rate
486-280-041 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$205

This ballot must be received by the City Clerk of the City of Moreno Valley prior to the close of the Public Hearing to be held on January 26, 2010, at the Moreno Valley City Hall Council Chamber, 14177 Frederick Street, Moreno Valley, California. The Public Hearing will be held at 6:30 p.m. or as soon thereafter as the matter may be called.

PROPERTY OWNER SIGNATURE DATE

Please remember to mark the appropriate box, sign and date the ballot and return to the City Clerk's office in the enclosed envelope

Llame al 951.413.3480 para obtener información verbal en Español

OFFICIAL MAIL BALLOT

**Moreno Valley Community Services District (CSD) Zone M
(Commercial, Industrial, and Multifamily Improved Median Maintenance)
California Drug Consultants, Inc.
Assessor Parcel Number (APN) 486-280-041**

* **Yes**, as the property owner of APN 486-280-041 (and any division thereof), **I approve** the annual CSD Zone M charge of \$9,600 for fiscal year (FY) 2009/10. The CSD Zone M charge shall be proportionally adjusted if APN 486-280-041 is subdivided or if development occurs adjacent to the proposed median. Beginning in FY 2010/11, the annual CSD Zone M charge shall be subject to an annual adjustment based on the percentage change calculated for the previous calendar year in the Los Angeles-Riverside-Orange County Regional Consumer Price Index for All Urban Consumers, as published by the Department of Labor's Bureau of Labor Statistics. The annual levy amount shall be assessed on the Riverside County property tax bill once construction of the median occurs.

** **No**, as the property owner of APN 486-280-041, **I do not approve** the CSD Zone M annual parcel charge. I understand that not incorporating said APN into the CSD Zone M program is a violation of the Conditions of Approval. The CSD Zone M charge shall not be levied on the Riverside County property tax bill.

Assessor Parcel Number	YES	NO	CSD Zone M Annual Charge
486-280-041 (and any division thereof)	<input type="checkbox"/>	<input type="checkbox"/>	\$9,600

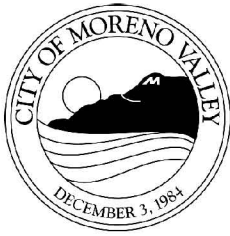
This ballot must be received by the Secretary of the Board of the CSD (City Clerk) prior to the close of the Public Hearing on January 26, 2010, at the Moreno Valley City Hall Council Chamber, 14177 Frederick Street, Moreno Valley, California. The Public Hearing will be held at 6:30 p.m. or as soon thereafter as the matter may be called.

PROPERTY OWNER SIGNATURE

DATE

Please remember to mark the appropriate box, sign and date the ballot and return to the City Clerk's office in the enclosed envelope

Llame al 951.413.3480 para obtener información verbal en Español



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

Report to City Council

TO: Mayor and City Council

FROM: Kyle Kollar, Community Development Director

AGENDA DATE: January 26, 2010

TITLE: A PUBLIC HEARING FOR AN APPEAL OF A PLANNING COMMISSION DENIAL OF A GENERAL PLAN AMENDMENT (PA08-0020) FROM OFFICE/RESIDENTIAL (R/O) TO COMMUNITY COMMERCIAL (CC) AND A CHANGE OF ZONE (PA08-0019) FROM OFFICE COMMERCIAL AND RESIDENTIAL 15 (R15/O) TO NEIGHBORHOOD COMMERCIAL (NC). THE PROJECT CONSISTS OF TWO LOTS WITH A TOTAL OF 1.34 ACRES LOCATED ON THE SOUTHWEST CORNER OF DRACAEA AVENUE AND DAY STREET. THE APPLICANT IS WINCHESTER ASSOCIATES, INC.

RECOMMENDED ACTION

Staff recommends that the City Council:

1. ADOPT a Negative Declaration for application PA08-0020 (General Plan Amendment) and PA08-0019 (Change of Zone). The project will not result in a significant effect on the environment; and
2. Adopt Resolution No 2010-06 denying a General Plan Amendment (PA08-0020) from Office/Residential (R/O) Use to Community Commercial (CC) and PA08-0019 Change of Zone from Office Commercial/Residential 15 (OC/R) to Neighborhood Commercial based on the findings in the Resolution.

ADVISORY COMMITTEE ACTION

The Planning Commission, at its September 24, 2009, meeting approved Planning Commission Resolution No. 2009-28, recommending by 7-0 vote that the City Council adopt a Negative Declaration for PA08-0020 (General Plan Amendment) and PA08-

0019 (Change of Zone); and deny PA08-0020 (General Plan Amendment) and PA08-0019 (Change of Zone). Per the City's Municipal Code, Planning Commission denials are not forwarded to the City Council unless an appeal is filed. On October 7, 2009, the applicant, Winchester Associates Inc. filed an appeal of the Commission's denial.

BACKGROUND

The project PA08-0020 and PA08-0019 is a request for a General Plan Amendment from Office/Residential (R/O) to Community Commercial (CC), and a request for a Change of Zone from Office Commercial and Residential 15 (R15/O) to Neighborhood Commercial (NC)

The current General Plan designation is Residential/Office (R/O) and the Zoning is Office Commercial (Parcel One)/Residential 15 (Parcel Two).

The proposed project does not meet the goals and objectives of the existing General Plan and Zoning for the City of Moreno Valley. The existing land use designations for this site were established with the 2006 General Plan Update and subsequent zoning consistency review. Establishment of these designations was based primarily upon existing uses and lotting patterns, reflecting a policy of encouraging maintenance and redevelopment of existing housing in the Edgemont area.

There is an adequate supply of commercial property within the City as well as in close proximity to the proposed project. The 2006 General Plan Update substantially reduced commercial zoning city-wide to be more in balance with the build out population anticipated for the City. Commercial centers to the north of the site including a grocery store, restaurants and various shops provide necessary conveniences for this area. Additionally, vacant land and existing storefronts are available for additional commercial uses.

The project proposes "spot zoning" and would establish precedence in the area. Spot zoning occurs when a small area of land or section in an existing neighborhood is singled out and placed in a different zone from that of neighboring property. It has been the City's long standing policy to discourage spot zoning.

Both of the lots are currently vacant land. Parcel Two, the larger of the two lots is currently zoned R15 which provides for multi-family residential and which has been included in the Housing Element calculation for required affordable housing stock in Moreno Valley. Although the zone change would result in the loss of only 15 units, the vision for this area included multiple lots combined to develop larger multi-family complexes to facilitate on site management.

Parcel One, the smaller of the two lots is currently zoned Office Commercial. The lots (including adjacent lots to the south) were zoned Office Commercial to allow for future development along a divided arterial with a less intense use adjacent to residential uses. The Office Commercial was retained at the request of property owners. Due to

the existing lot constraints including lot size, site access, and being located adjacent to Residential 5, a more intense use would be less compatible. The existing Office Commercial zoning designation allows for office and limited commercial uses.

Currently the site does not have adequate water services for development. Box Springs Mutual Water District serves the area. Due to the condition of the existing water lines and equipment, the water system is unable to provide the required pressure and fire flow for intense development.

The current General Plan land use for all parcels to the north, south and west are currently Residential/Office with Residential 20 to the northeast and Residential 10 to the east.

The current zoning designation for all properties to the north and west are Residential 15 with Office Commercial to the south and Residential 5 to the south west. Zoning for properties to the east is SP200 R 4500 which is currently developed with small lot single family homes. Existing high density apartments are located north east of the proposed project.

There is no development application associated with this project however; the applicant has provided a conceptual site plan with access from Day Street. The site plan does not meet current design standards relating to site design, setbacks and parking lot design.

At the Planning Commission Hearing, the Commission discussed the aspect of spot zoning and following the current General Plan. They felt the request for commercial zoning at this location would not be a positive change for the area.

ALTERNATIVES

1. The City Council could uphold the Planning Commissions decision and deny the project.
2. The City Council could approve the project. If approval of the project is chosen, it is recommended that the item be continued in order to complete the necessary resolution and findings for an approval.
3. The City Council could modify the project as presented.
4. The City Council could refer the project back to the Planning Commission with direction.

FISCAL IMPACT

Not applicable.

CITY COUNCIL GOALS

Not applicable.

SUMMARY

The proposed General Plan Amendment and Change of Zone would not be consistent with the General Plan and its goals and objectives. The proposed project would be “spot zoning.”

NOTIFICATION

Notice of the City Council public hearing of the public notice, appeared in the *Press Enterprise* newspaper on January 3, 2010, posted on the affected property, and mailed to all surrounding property owners of record within 300 feet of the affected property.

ATTACHMENTS/EXHIBITS

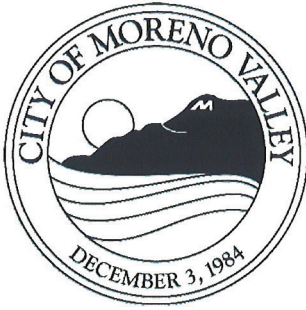
1. Public Hearing Notice
2. Proposed Resolution for denial of PA08-0020 and PA08-0019
3. Planning Commission Staff Report dated September 24, 2009(w/o attachments)
4. Planning Commission Minutes for September 24, 2009
5. Negative Declaration/Initial Study
6. General Plan
7. Existing Zoning
8. Aerial Photograph

Prepared By:
Julia Descoteaux
Associate Planner

Department Head Approval:
Kyle Kollar
Community Development Director

Concurred By:
John C. Terell, AICP
Planning Official

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



Notice of PUBLIC HEARING

This may affect your property. Please read. Notice is hereby given that a Public Hearing will be held by the City Council of the City of Moreno Valley on the following item(s):

CASE: PA08-0019 (Change of Zone)
PA08-0020 (General Plan Amendment)

APPLICANT: Winchester Associates, Inc

OWNER: Joginder Kahlon

REPRESENTATIVE: David Slawson

LOCATION: SWC of Day Street & Dracaea Avenue
(263-180-007 & 263-180-080)

PROPOSAL: A public hearing for an appeal of a Planning Commission denial of a General Plan Amendment (PA08-0020) from Office/Residential (R/O) to Community Commercial (CC) and a Change of Zone (PA08-0019) from Office Commercial and Residential 15 (R15/O) to Neighborhood Commercial (NC). The project consists of two lots with a total of 1.34 acres located on the southwest corner of Dracaea Avenue and Day Street.

ENVIRONMENTAL DETERMINATION: This item will not have a significant effect on the environment and approval of a Negative Declaration is recommended.

COUNCIL DISTRICT: 5

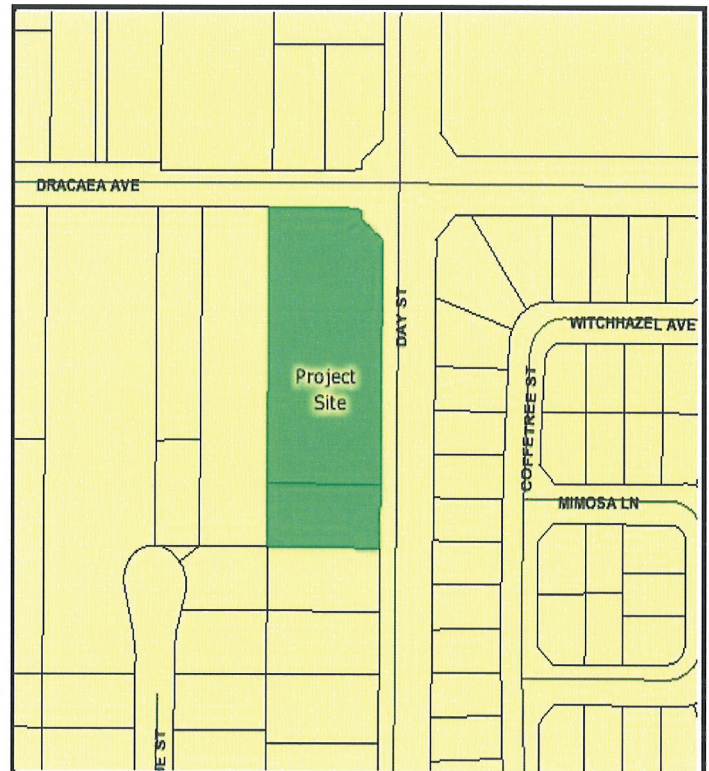
STAFF RECOMMENDATION: Denial

Any person interested in any listed proposal can contact the Community Development Department, Planning Division, at 14177 Frederick St., Moreno Valley, California, during normal business hours (7:30 a.m. to 5:30 p.m., Monday through Thursday) or may telephone (951) 413-3206 for further information. The associated documents will be available for public inspection at the above address.

In the case of Public Hearing items, any person may also appear and be heard in support of or opposition to the project or recommendation of adoption of the Environmental Determination at the time of the Hearing.

The City Council, at the Hearing or during deliberations, could approve changes or alternatives to the proposal.

If you challenge any of these items in court, you may be limited to raising only those items you or someone else raised at the Public Hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to, the Public Hearing.



LOCATION 

CITY COUNCIL HEARING

City Council Chamber, City Hall
14177 Frederick Street
Moreno Valley, Calif. 92553

DATE AND TIME: January 26, 2010 at 6:30 PM

CONTACT PLANNER: Julia Descoteaux

PHONE: (951) 413-3209

ATTACHMENT I

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RESOLUTION NO. 2010-06

A RESOLUTION FOR AN APPEAL OF A PLANNING COMMISSION DENIAL OF A GENERAL PLAN AMENDMENT (PA08-0020) FROM OFFICE/RESIDENTIAL (R/O) TO COMMUNITY COMMERCIAL (CC) AND A CHANGE OF ZONE (PA08-0019) FROM OFFICE COMMERCIAL AND RESIDENTIAL 15 (R15/O) TO NEIGHBORHOOD COMMERCIAL (NC). THE PROJECT CONSISTS OF TWO LOTS WITH A TOTAL OF 1.34 ACRES LOCATED ON THE SOUTHWEST CORNER OF DRACAEA AVENUE AND DAY STREET ASSESSORS PARCEL NUMBERS 263-180-007 AND 263-180-080.

WHEREAS, the applicant, Winchester Associates Inc., has filed an application for the appeal of a Planning Commission denial of PA08-0020 and PA08-0019, requesting amendments to the General Plan Land Use and Zoning as described in the title of this resolution.

WHEREAS, an environmental assessment, including an Environmental Initial Study, has been prepared to address the environmental impacts associated with application PA08-0019 and PA08-0020 as described above and a Negative Declaration has been adopted pursuant to the California Environmental Quality Act (CEQA), as there is no evidence that the proposed General Plan Amendment and Change of Zone, will have a significant effect on public health or be materially injurious to surrounding properties or the environment as a whole.

WHEREAS, on September 24, 2009, the Planning Commission of the City of Moreno Valley held a meeting to consider a General Plan Amendment (PA08-0020) and Change of Zone (PA08-0019). At said meeting, the Planning Commission recommended denial of General Plan Amendment (PA08-0020) and Change of Zone (PA08-0019) to the City Council, and;

WHEREAS, on October 7, 2009, an application was submitted to the City appealing the Planning Commission's action to deny the project to the City Council for their consideration.

WHEREAS, on January 26, 2010, the City Council of the City of Moreno Valley held a public hearing to consider the consider the subject General Plan Amendment and Change of Zone;

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred;

ATTACHMENT 2

WHEREAS, all of the facts set forth in this Resolution are true and correct.

Section 3

BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, HEREBY FINDS AS FOLLOWS WITH RESPECT TO PA08-0020 and PA08-0019:

Based upon substantial evidence presented during the above-referenced public hearing, including written and oral staff reports, and the record from the public hearing, the City Council hereby finds that:

1. Conformance with General Plan Policies – The proposed general plan amendment is consistent with the General Plan, and its goals, objectives, policies and programs.

FACT: The project includes two applications, a General Plan Amendment and Change of Zone to change the existing land use for Assessor's Parcel Numbers 263-180-007 and 263-180-080. The proposed project is not consistent with the current General Plan goals and objectives which was updated in 2006 to provide for Residential and Office uses within the project area.

The project proposes to change the existing Residential/Office (R/O) General Plan land use designation to Commercial. Establishment of the existing designation was based primarily upon existing uses and lotting patterns, reflecting a fundamental policy of encouraging maintenance and redevelopment of existing housing in the Edgemont area.

With respect to the addition of commercial acreage, the General Plan establishes a mix of designated land uses that is directed at providing a balance among various uses at build-out. The General Plan acknowledges designation of "more than enough" commercial land to accommodate the needs of the population at build out. Commercially designated property both developed and undeveloped is located within .28 of a mile to the proposed site.

The primary purpose of the Residential/Office (R/O) designation is to provide an area for the establishment of office-based working environments or residential developments of up to 15 units per acre. Prior to the General Plan Update of 2006, properties in this area had a land use designation of Residential/Office. At the time of the update, several property owners in the area requested the R/O designation to remain.

A traffic study for the project determined there would be a significant increase in trip traffic along Day Street however would

not meet unacceptable service levels or negative impacts to the City's circulation system.

The proposed General Plan land use designation of Commercial is not consistent with surrounding uses including office and residential. Changing the Land Use designation and zone for these parcels will create an incompatible use with the adjacent office commercial and residential lots to the south and west. Moreover, the proposed land use change would create "spot zoning" which has been discouraged by the City. In addition, the proposed use, Commercial will provide a more intense use adjacent to existing and future residential uses.

The proposed change would decrease the residential land use as the current Housing Element included this property to meet the future Regional Housing Needs within the City.

2. Health, Safety and Welfare – The proposed general plan amendment will not be detrimental to the public health, safety or welfare.

FACT: The proposed General Plan Amendment and Change of Zone may not be detrimental to the public health, safety or welfare however, will create an increase in traffic generation

3. Redevelopment Plan – The proposed general plan amendment conforms to applicable provisions of the City's redevelopment plan.

FACT: The proposed General Plan Amendment does not conform to the goals and objectives of the City's Redevelopment Plan.

1. BE IT FURTHER RESOLVED that the City Council of the City of Moreno Valley HEREBY APPROVES Resolution No. 2010-_____ denying PA08-0020 General Plan Amendment and PA08-0019 Change of Zone, based on the findings contained in this resolution with no action on the environmental required.

APPROVED AND ADOPTED this 26th day of January 2010.

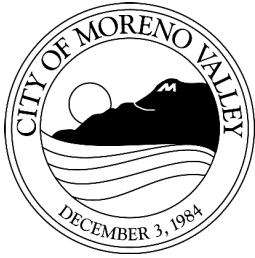
Bonnie Flickinger, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney



**PLANNING COMMISSION
STAFF REPORT**

Case: PA08-0020 (General Plan Amendment)
PA08-0019 (Change of Zone)

Date: September 24, 2009

Applicant: Winchester Associates Inc

Representative: David Slawson

Owner: Joginder Kahlon

Location: SWC Day Street and Dracaea Avenue
(APNs: 263-180-007 & 263-180-080)

Proposal: A General Plan Amendment proposing the existing General Plan designation be amended from Office & Residential to Community Commercial with a proposed Change of Zone from Office Commercial & Residential 15 to Neighborhood Commercial for two lots. The project consists of two lots with a total of 1.34 acres.

Redevelopment Area: Yes

Recommendation: Denial

SUMMARY

The applicant, Winchester Associates Inc, is proposing a General Plan Amendment to amend the existing General Plan from Residential/Office to Community Commercial with a proposed Change of Zone from Office Commercial/Residential 15 to Neighborhood Commercial. The .26 acre parcel is currently zoned Office Commercial with the 1.08 parcel being zoned Residential 15. The total square footage for both parcels is 1.34 acres.

ATTACHMENT 3

PROJECT DESCRIPTION

Project

The project includes a proposed General Plan Amendment and Change of Zone for parcels 263-180-007 and 263-180-080. Hereafter referred to as Parcel One (263-180-007) with a lot size of .26 acres and Parcel Two (263-180-080) with a lot size of 1.08 acres. The combined total is 1.34 acres.

The current General Plan designation is Residential/Office (R/O) and the Zoning is Office Commercial (Parcel One)/Residential 15 (Parcel Two).

The proposed project does not meet the goals and objectives of the existing General Plan and Zoning for the City of Moreno Valley. The existing land use designations for this site were established with the 2006 General Plan Update and subsequent zoning consistency review. Establishment of these designations was based primarily upon existing uses and lotting patterns, reflecting a fundamental policy of encouraging maintenance and redevelopment of existing housing in the Edgemont area.

There is an adequate supply of commercial property within the City as well as in close proximity to the proposed project. Commercial centers to the north within .28 of a mile of the site including a grocery store, restaurants and various shops provide necessary conveniences for this area. Additionally, vacant land and existing storefronts are available for additional commercial uses. The project proposes "spot zoning" which is discouraged and would establish precedence for the area.

Both of the lots are currently vacant land. Parcel Two, the larger of the two lots is currently zoned R15 which provides for multi-family residential which has been included in the calculation for required housing stock in Moreno Valley. Although the zone change would result in the loss of only 15 units, the vision for this area included multiple lots combined to develop larger multi-family complexes to facilitate on site management.

Parcel One, the smaller of the two lots is currently zoned Office Commercial. The lots (including adjacent lots to the south) were zoned Office Commercial to allow for future development along a divided arterial with a less intense use adjacent to residential uses. The Office Commercial was retained at the request of property owners. Due to the existing lot constraints including lot size, site access, and being located adjacent to Residential 5, a more intense use would be less compatible. The existing Office Commercial zoning designation allows for office and limited commercial uses.

Currently the site does not have adequate water services for development. Box Springs Mutual Water District serves the area. Due to the condition of the existing water lines and equipment, the water system is unable to provide the required pressure and fire flow for intense development.

Surrounding Area

The current General Plan land use for all parcels to the north, south and west are currently Residential/Office with Residential 20 and Residential 10 to the east and north east.

The current zoning designation for all properties to the north and west are Residential 15 with Office Commercial to the south and Residential 5 to the south west. Zoning for properties to the east is SP200 R 4500 which is currently developed with small lot single family homes. Existing high density apartments are located north east of the proposed project.

There is no development application associated with this project however; the applicant has provided a conceptual site plan with access from Day Street. The site plan does not meet current design standards relating to site design, setbacks and parking lot design.

REVIEW PROCESS

The project was submitted on March 3, 2008. In the review of this project, consideration was given to the potential impact to the surrounding land uses and the overall goals of the City's General Plan. Several studies including a Traffic Impact Analysis and a Cultural Survey were requested of the applicant and were provided.

ENVIRONMENTAL

Transportation staff required a traffic study. Findings from that study show that a change in the zoning will almost triple the daily trips for the site of 109 with the existing zoning and 298 with the proposed zoning. No unacceptable levels of service were identified.

A cultural survey requested by the Soboba Band of Luiseno Indians was completed finding there were no cultural resource properties recorded within the boundaries of the project area.

An Initial Study has been completed for the proposed General Plan Amendment and Change of Zone. Based on the Initial Study, a determination has been made that the proposed project as presented will not result in the potential for significant impacts to the environment.

NOTIFICATION

Public notice was sent to all property owners of record within 300' of the project. The public hearing notice for this project was also posted on the project site and published in the local newspaper.

REVIEW AGENCY COMMENTS

Staff received the following responses to the Project Review Staff Committee transmittal; which was sent to all potentially affected reviewing agencies.

<u>Agency</u>	<u>Response Date</u>	<u>Comments</u>
Soboba Band of Luiseno Indians Southern California Edison	March 26, 2008 March 28, 2009	Cultural Survey requested and received. Forwarded to agency. The project will not interfere with any Edison easements.
Riverside County Flood Control	April 15, 2008	No comment.
Pala Band of Mission Indians	May 16, 2008	No objections.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission take the following action:

Approve Resolution No. 2009-28, thereby:

1. **DENYING** PA08-0020 (General Plan Amendment) and PA08-0019 (Change of Zone) with no action on the environmental required.

Prepared by:

Approved by:

Julia Descoteaux
Associate Planner

John C. Terell, AICP
Planning Official

ATTACHMENTS:

1. Public Hearing Notice
2. Planning Commission Resolution No. 2009-28
3. Initial Study
4. Aerial Photograph of Project Site
5. General Plan Map
6. Zoning Map

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PA08-0019
PA08-0020

Change of Zone
General Plan Amendment

CHAIR MARZOEKI – May I have the Staff Report please

ASSOCIATE PLANNER DESCOTEAUX – I'm Julia Descoteaux, Associate Planner. The Applicant is proposing a General Plan Amendment to amend the existing General Plan from Residential Office to Community Commercial with a proposed Change of Zone from Office Commercial/Residential 15 to Neighborhood Commercial. The total square footage of both properties is 1.34 acres.

The proposed project does not meet the goals and objectives of the existing General Plan and zoning for the City of Moreno Valley. The existing land use designations for the site were established with the 2006 General Plan Update and subsequent zoning consistency review. Establishment of these designations was primarily based upon existing uses and lotting patterns reflecting a fundamental policy of encouraging maintenance and redevelopment of existing housing in the Edgemont area.

Currently there is an adequate supply of commercial property within the City of Moreno Valley as well as within close proximity to the project. Commercial centers to the north are within .28 of a mile of the site which include a grocery store, restaurants and various shops, which provide the necessary conveniences for this area. Additionally vacant land and existing storefronts are available with additional commercial uses. The project proposes spot zoning which is discouraged and would establish precedence in this area.

Both of the lots are currently vacant land. The larger of the two lots is currently zoned R15 which provides for multi-family residential, which has been included in the calculation for required housing stock in Moreno Valley. Although the Change of Zone would result in a loss of only 15 units, the vision for this area included multiple lots combined to develop larger multi-family complexes.

The smaller of the two lots is zoned Office Commercial and the lots to the south of it are also zoned Office Commercial to allow for future development along a divided arterial with a less intensive use next to the adjacent residential.

Currently this site is within the Box Springs Mutual Water District and currently does not have adequate water services for development. The surrounding area has is zoned Residential Office with Residential 20 and Residential 10 to the east

ATTACHMENT 4

1 and northeast. The current zoning for all the properties to the north and west are
2 Residential 15, with Office Commercial to the south and Residential 5 to the
3 southwest. Existing high density apartments are located northeast of the
4 proposed project.

5
6 There is currently no Development Application associated with this application
7 before you this evening. However, the Applicant has provided a conceptual site
8 plan with access from Day Street. The Site Plan does not meet the current
9 design standards relating to the site design, setbacks and parking lot design.

10
11 Transportation required a Traffic Study and findings from that Study showed that
12 the change in zoning will almost triple the daily trips of the site of 109 with the
13 existing zoning and 298 with the proposed zoning; however no unacceptable
14 levels of service were identified.

15
16 A Cultural Survey was requested by the Soboba Band of Luiseno Indians and
17 was completed finding there were no cultural resource properties recorded within
18 the boundaries of the project area.

19
20 An Initial Study has been completed for the proposed General Plan Amendment
21 and Change of Zone and based on the Initial Study a determination has been
22 made that the project as presented will not result in the potential for significant
23 impacts to the environment.

24
25 Public Notice was sent to all property owners within feet of the project and in
26 addition to the letter received today, which you all have a copy, I received two
27 phone calls asking for a description of the project with no opinion either way,
28 however they would like to see development in the area.

29
30 This concludes Staff's presentation and at this time myself and the Applicant are
31 here to answer questions for you. Thank you.

32
33 **CHAIR MARZOEKI** – Thank you. Do we have any questions of Staff?

34
35 **COMMISSIONER GELLER** – I didn't pull out my handy dandy chart. What could
36 they put here with the Change of Zone? What could they put in this place that
37 they can't now? I mean what types of uses could they put...

38
39 **ASSOCIATE PLANNER DESCOTEAUX** – Currently a portion of the project has
40 Office Commercial which would allow for low intense office use and some retail...
41 minimal retail commercial type uses. Changing the General Plan to Commercial
42 and the Change of Zone to Neighborhood/Commercial would allow a few
43 additional commercial uses to the site.

44
45 **COMMISSIONER GELLER** – Like what? That's what I'm trying to...
46

1 **PLANNING OFFICIAL TERELL** – Oh the full range of general retail; you know
2 stores and allows convenience markets. It certainly would allow... there are
3 certain things that are allowed with a Conditional Use Permit such as a fast food
4 restaurant or a liquor store or something. Those are conditionally permitted, so
5 they're not permitted, but the standard ones would be your general retail like
6 you'd see in a shopping center with a supermarket. Obviously this isn't big
7 enough for a supermarket but the other kind of uses that you'd see in that kind of
8 center would be permitted with a Change of Zone.

9
10 **COMMISSIONER GELLER** – Okay, thanks

11
12 **CHAIR MARZOEKI** – Are there any other questions?

13
14 **COMMISSIONER SALAS** – Now they are saying that the water services aren't
15 adequate. Is that for any kind of development or just for this particular
16 development?

17
18 **ASSOCIATE PLANNER DESCOTEAUX** – That's correct; for any type of
19 development at this time.

20
21 **COMMISSIONER SALAS** – At this time... so the water; there just isn't any.

22 **PLANNING OFFICIAL TERELL** – Yes the water pressure is very low. In some
23 places it's high enough to build single-family or duplex type of development, but
24 generally across this whole area, it's a pretty wide area. It goes from Day Street
25 over to the Old 215 and down to Alessandro. It's a private water company. The
26 lines are quite small in many parts of it and that's the limitation is the size of the
27 water lines is very limited and they are very, very old also, but there are other
28 areas closer to the west where there is a restaurant that was built on Eucalyptus
29 at the west end of that District and it barely I think met fire flow there.

30
31 **COMMISSIONER SALAS** – So in other words, the Fire Department would have
32 some big concerns about anything going in here right?

33
34 **PLANNING OFFICIAL TERELL** – Yes, they would have to increase it to a
35 minimum level, which is way above what it is now in order to build anything.

36
37 **COMMISSIONER SALAS** – Okay, thank you

38
39 **CHAIR MARZOEKI** – Any other questions of Staff?

40
41 **COMMISSIONER GELLER** – Does the City have plans to do anything to those
42 water lines? I'd heard bits and pieces... I just...

43
44 **PLANNING OFFICIAL TERELL** – There was some grant funding to do a Master
45 Plan for that water area and that was done and it identified kind of what the
46 system would need to be and then that would allow for a grant application. My

1 understanding to upgrade that area is pretty significant and it's in the range of
2 close to 10 million dollars or more to upgrade the entire area, so the idea is I
3 think to kind of maybe development over time could piecemeal it and the other
4 thing the City has done is the City did purchase property at the corner of Day and
5 Alessandro and that is the site that will come forward for consideration is the first
6 R30 site and part of the reason for doing that was if you have affordable housing
7 in an area, it raises it's eligibility for grant funds relative to water systems. They'd
8 obviously have to do something separately for that to connect into EMWD or
9 some other kind of facility, but that's the other move that's been done. But there
10 is a study and I believe they may have applied for a grant and not been
11 successful, but that's kind of the approach and we do have sort of Master Plan,
12 so theoretically it could be built incrementally also as development occurs.

13
14 **COMMISSIONER SALAS** – There's no plan for Eastern to absorb this?

15
16 **PLANNING OFFICIAL TEREEL** – Surprisingly or not surprisingly... the
17 underlying... there's some kind of divisions that are made at some level of what
18 water district would eventually take this over should it be ever taken over and it's
19 actually Western Municipal Water District that is heavily involved in this area.
20 The reason why neither Eastern or Western are likely to take it over anytime
21 soon is there is the liability of once you take it over you have to improve it and as
22 I said that's a very large priced ticket.

23
24 **CHAIR MARZOEKI** – Any other questions of Staff?

25
26 **COMMISSIONER DE JONG** – Yes, just one... Just kind of for my information
27 kind of question... Why is the Soboba Band of Luiseno Indians involved in this
28 site?

29
30 **ASSOCIATE PLANNER DESCOTEAUX** – When we do a Change of Zone or a
31 General Plan Amendment, we do have to send it to the surrounding Agencies
32 and they responded to that.

33
34 **COMMISSIONER DE JONG** – Is this true for anywhere in the City?

35
36 **ASSOCIATE PLANNER DESCOTEAUX** – Yes

37
38 **PLANNING OFFICIAL TEREEL** – Yes, any General Plan Amendment; any place
39 in the City, we have to send it to a list of Native American Tribes and so Soboba
40 has been pretty good about; consistent about providing input and you know it's
41 everything. Some of them I've never even heard of them before because they
42 are quite distant from here, but they happen to be in Riverside County, but we do
43 here often from Pechanga and Morongo as well as Soboba.

44
45 **COMMISSIONER DE JONG** – Interesting, thank you
46

1 **CHAIR MARZOEKI** – Okay, I see no more questions, so...

2
3 **ASSOCIATE PLANNER DESCOTEAUX** – If I could make one more comment,
4 please... I'm sorry. There is a change to the Resolution. There is an error in the
5 description. It should be and it's on the lower portion of the description. The
6 property is generally located on the southwest corner of... and it should be Day
7 Street and Dracaea Avenue. Currently it says Bay.

8
9 **CHAIR MARZOEKI** – Why didn't you catch that George?

10
11 **VICE CHAIR RIECHERS** – I'm slipping

12
13 **CHAIR MARZOEKI** – Okay, so we have no more questions of Staff right now, so
14 I will open up the Public Testimony Portion of this item and call the Applicant
15 forward. Please state your name and address for the record.

16
17 **APPLICANT SLAWSON** – Yes, good evening Madam Chair and Planning
18 Commission. My name is David Slawson. I'm with Winchester Engineering in
19 Moreno Valley. Our address is 23640 Tower Street, Suite 3. I'm not used to
20 having a recommendation for denial, but so I'm a little uncomfortable, but
21 nonetheless I'll proceed and I'm going to try to address point by point some of the
22 comments from Staff. The report states that the General Plan Update
23 designated these properties primarily based on the existing uses and lotting
24 patterns, reflecting a fundamental policy of encouraging maintenance and
25 redevelopment of existing housing in the Edgemont area, and the report goes on
26 to state the discussion about the spot zoning and that there were adequate
27 commercial centers and a grocery store was with 0.28 miles or just over a
28 quarter of a mile.

29
30 First, the General Plan Update's fundamental policy was to maintain and
31 redevelop housing in the Edgemont area. That isn't I don't think entirely
32 accurate. When you look at what the Planning Commission and the City Council
33 ultimately approved, it was mostly Business Park and the remaining was
34 Residential/Office, later to be determined based on the zoning consistency which
35 would be R15 or R10 or Office and I think the City did that, recognizing that
36 mixed uses are often more appropriate as long as they are compatible and the
37 uses support one another. As to the spot zoning, I agree that ordinarily you try to
38 avoid spot zoning. It should be discouraged and is within the City's General
39 Plan. However, when the land uses are compatible with the surrounding area
40 development and there is a need that is being fulfilled by the proposed use or
41 proposed zone change, I believe it should be allowed.

42
43 In fact, if you look at the City's Zoning Map and their General Plan, even the most
44 recent update, there is spot zoning all over the place, where the City felt it was
45 appropriate; where it felt just... well let's just go to this property here. All the
46 properties along Day Avenue; if you look at all the properties to the south of us,

1 they are zoned Office Commercial. The General Plan designation is
2 Residential/Office, so the south half of Day Avenue, most of the block would
3 have Office/Commercial which could include pharmacies, deli's, restaurants
4 under the Office/Commercial or a catering store and the north side which is the
5 part my client currently owns, would have an apartment complex. So it would
6 appear as you are driving if this were all built out, if you are driving south on Day
7 Street passing Dracaea, that the apartments were a spot zoning and the along
8 thing along that frontage is an apartment complex... I mean the only thing that
9 was sticking out was an apartment complex. Everything else is a Commercial
10 use; an Office Commercial use, which can include... it's not typically retail but
11 there are some retail and medical office buildings are allowed; some fairly
12 intense commercial uses that are allowed.

13
14 As to the distance to the grocery store, by my measurement, it's about a half a
15 mile to the actual store at Winco. I mean that's by the way the crow flies. Maybe
16 if you are measuring to the corner out on Day Street, it's only a quarter mile;
17 where the property line actually hits Day, but that's not where the building is;
18 that's not how far you would have to walk if you were living in any apartments or
19 homes that are going to exist on the south side of Dracaea Avenue and west of
20 Day. One of the comments in the report was the fact that not just the proximity;
21 the close proximity, but the fact that there was another grocery store nearby
22 should negate the possibility or feasibility of this project and that you should not
23 approve a zone change that would allow a small grocery store, but if you follow
24 that line of reasoning, you would never have allowed the Winco to get
25 constructed, because Costco already existed and substantially they are grocery
26 stores; albeit they cater to different markets slightly and that's exactly the
27 difference here... a small grocery store; small neighborhood grocery store has no
28 comparison and is not compatible and shouldn't be judged as saturating the
29 market because there is a Winco nearby, just as when you approved Winco you
30 weren't concerned they weren't going to run Costco out of business. They are
31 both doing well. They both cater to slightly different needs and Costco has some
32 things besides groceries. In addition, it's just not a grocery store that would be
33 allowed if this property were zoned Neighborhood Commercial. It could be dry
34 cleaners; it could be a beauty salon or a barber shop; other uses that you are not
35 likely to see over at the Winco Shopping Center. The uses that you would expect
36 to see in a Neighborhood Commercial of this size are really mom and pop type
37 businesses; businesses that would cater to not having a lot of foot traffic or a lot
38 of traffic that is.

39
40 The contention that Neighborhood Commercial in itself is incompatible with the
41 surrounding area because the uses are more intense; generally Neighborhood
42 Commercial allows for the retail and Office Commercial allows for the offices.
43 That's the general statement, but we know there is a lot of overlap or there is
44 some overlap. The property that we're talking about here as it relates to the R5
45 property; it only touches it at one corner; it doesn't abut it; it's not adjacent to it,
46 so it hits it at a corner of the property. I would not think first all that we would be

1 even judged as to whether or not this use would be incompatible with an R5 if it's
2 not adjacent to it. I'd be more concerned with all the properties that are on the
3 remaining part of Day going to the south because they are backing up to all the
4 existing R5 homes and you could have medical buildings, pharmacies, deli's or
5 restaurant or little food court or things like that as I mentioned before. I think my
6 primary; if I'm going to just sort of summarize, I would say that the spot zoning
7 concern really should not be there at all. It's really the opposite. If it's allowed to
8 stay the way it is, this will be on west side of Day Street, the only apartment
9 complex will be right here on this property. Everything else is going to be the
10 Office/Commercial; office buildings or maybe a little larger office building maybe
11 that they'll combine at some point, but then here they'll be apartments, so this will
12 look out of place. This was spot zoning that was allowed to remain that should
13 not have in my opinion and I guess the only other thing was the water pressure
14 discussion.

15
16 My client is aware that she is in Box Springs Mutual Water Company's service
17 area and that there is an inadequate fire flow there. She would have to extend
18 the line down Dracaea. It's further than the apartments that were constructed to
19 the east and it would be a rather extensive offsite improvement and she is aware
20 of that. I'm not sure how she is going to deal with that and what point she is
21 going to try to raise the money or do it jointly with anybody else. I really haven't
22 got that far and there would be no need to if this is denied away, so it would be
23 folly for her to front that additional study and research and look at financing, but
24 Box Springs Mutual Water Company and Western Municipal and Eastern
25 Municipal do have an agreement whereby they will allow whichever agency is
26 next door; Eastern or Western to provide service, so if she were to extend the
27 line over from the EMWD line or Eastern Municipal District Water line, Box
28 Springs at least the last year or so they have allowed and Western has allowed
29 Eastern to provide service within the Box Springs Mutual Water Company
30 boundary and that is something that we've done in a number of cases. Eastern
31 has done it in a number of cases. That sums up my comments. I'm happy to
32 answer any questions.

33
34 **CHAIR MARZOEKI** – Do we have questions of the Applicant?

35
36 **COMMISSIONER GELLER** – Yes, what's the need that's met by doing this?
37 Why should we do it?

38
39 **APPLICANT SLAWSON** – The need for... If you could just envision... well we
40 have a letter that was submitted and I don't know if you received it from
41 somebody that owns 19 units nearby.

42
43 **COMMISSIONER GELLER** – Yes, I didn't understand adding units. I didn't
44 understand what...

1 **APPLICANT SLAWSON** – Well he has some vacant properties too. He'd like to
2 continue to build, so he's concerned about water, but also having an amenity
3 nearby. When I talked to him on the phone, he mentioned a lot of the people that
4 he rents to don't have cars even. I mean it's to provide the local; what you'd
5 expect to see in a small neighborhood. I guess compare it to the Easter Market
6 out on the east end, although that has a service station and this site would be...

7
8 **COMMISSIONER GELLER** – Also, when the Easter Market was built, there was
9 nothing out there except for the Easter Market. It was the only place within miles
10 and miles.

11
12 **APPLICANT SLAWSON** – But a lot of people still go there all the time. I go
13 there. I run into people. I run into you folks, even though Stater Bros. is nearby
14 and Winco is nearby. Granted when we do the shopping; the major shopping,
15 we go to the other places.

16
17 **COMMISSIONER GELLER** – Obviously I don't think our concern is... it's not a
18 matter of competition. I mean that's irrelevant. I mean I don't think that's Staff's
19 issue and I don't think that's a reasonable way. Again we can't decide what or
20 we can't control necessarily you know... my joke about the four drug stores on
21 four corners. If they want to do it, I can't stop them, so that has nothing to do
22 with it. My question was the kinds of things that might be there and will it be
23 really compatible with the neighborhood such as it is or create more problems
24 than it solves. So, anyhow I got my questions answered. Thanks.

25
26 **CHAIR MARZOEKI** – Are there any other questions of the Applicant?
27 Comments by the City?

28
29 **PLANNING OFFICIAL TERELL** – Well I think the idea of spot zoning is really an
30 issue that has come up by the Planning Commission over the years and it is
31 something that just needs to be carefully thought out because if we approve this
32 spot, then really anything along Day Street is fair game to ask for the same
33 consideration, so that's Staff's concern. If there a request to go to Office
34 Commercial as an example, the General Plan would not need to be changed in
35 order to do that. That is just a zone change and it is adjacent to Office
36 Commercial, so that's something that would not raise as much of a concern. If
37 this was developed as Residential, there is Residential across the street and
38 there is residential to the north, so there is really a separation. This area is quite
39 distinct than say the area north of Eucalyptus, which is all Commercial or Office
40 and much more intense, so that's our concern, is really creating a precedence.
41 The other thing, which I think was kind of discussed in the Staff Report to some
42 extent is one of the major objectives of the General Plan Update was to create a
43 better balance between the amount of commercial land use in the community
44 and the amount of residential, because it was really out of whack before then and
45 it came more in... I think there was a 4 to 1 ratio; commercial to residential
46 demand for commercial and now it's about a 2 to 1, so there is still extra

1 commercial. A lot of it is not in the right place and I think over time we see it kind
2 of shifting to more viable locations, but this is probably not one of those that we
3 would pick to be a more viable location for commercial than say Alessandro
4 Boulevard where there is a lot of extra commercial land also that might be fodder
5 for change.

6
7 **COMMISSIONER DOZIER** – This is a question of Staff. As you go down Day
8 Street, the problem on the west side of Day Street is the water concern. Would
9 an upgraded water system come quicker under one zoning versus another kind
10 of zoning?

11
12 **PLANNING OFFICIAL TERELL** – I'm not sure. I think what Dave Slawson said
13 is that there is some opportunities for whatever development occurs there,
14 possibly to hook into the Eastern lines that are already in existence, so along the
15 fringes there is probably a fair amount of viability for any use to have better water
16 service and I think it's mainly for fire hydrant; you know it's really for fire flow.
17 The domestic water I'm guessing would probably be still provided by Box Springs
18 and that's never been an issue that they can provide domestic water, like you
19 know what comes out of the tap. It's really the fire pressure, the water pressure
20 for fire protection that has really been the issue and again I think that can be
21 provided incrementally as I mentioned earlier and maybe kind of eat away at the
22 problem. The big areas internal to Box Springs, I think that's going to take a
23 huge increase in the demand for development in that area to occur or a lot of
24 money from some kind of grant. That's really the only thing that's going to
25 change that, but along the edges, I don't know that the zoning really changes the
26 ability to get fire flow.

27
28 **COMMISSIONER DOZIER** – Thank you

29
30 **CHAIR MARZOEKI** – Okay, thank you. Do we have a Speaker Slip? Okay,
31 Herman you're up. Please state your name and address for the record.

32
33 **SPEAKER KENNISON** – Good evening. My name is Herman Kennison. I'm
34 trying to figure out... you're talking about this water district. On one side that
35 doesn't have any pressure and on the other side they have pressure. I've been
36 living there now nine years, when they first built those apartments and houses
37 there. They took the putting range from us on the corner of Eucalyptus and Day
38 Street. We had quite a few meetings on that, but they decided to take it away
39 and build all of these apartments. Okay, now on Day Street and Eucalyptus
40 those are two empty lots and they just put a street light there on the corner of
41 Day Street and Dracaea, so you know those lots are empty and they are dark
42 and you have all these apartments and our homes are there. Let's say if you
43 build a convenience store there, that would light up that area because it's dark
44 right in that area with no lights and everything and I think it would help the people
45 and people that live in the apartments and the people that live in the homes.
46 They have a shorter distance to walk. If you decide to open up that lot for

1 something or to build something there, I think it would be nice. I don't know how
2 you do it or what's what, but I think it would be nice and because that whole area
3 is dark. If you go down on Day Street from Eucalyptus all the way to Cardin
4 Street on the west side it is dark you know, so right in that area it would be nice
5 for a shorter distance for people that are walking to put something there. You
6 need something there to light that area up. That's my comment.

7
8 **CHAIR MARZOEKI** – Okay, thank you. Are there any more questions of the
9 Applicant? No... okay, I'm going to close the Public Testimony Portion of this
10 item and I'm going to open it up for Commissioner Comments. Who would like to
11 go first?

12
13 **COMMISSIONER GELLER** – Everyone is not jumping in. I've driven up and
14 down that street many, many, many times. I've got to say that I wouldn't be real
15 excited about seeing commercial at that corner. I just don't think it's appropriate.
16 You know, I understand the... without getting into whether it is or isn't spot
17 zoning, I just don't think it's a good area for commercial and you know I don't
18 know that we just... we try to work hard to try to get away from commercial at
19 every corner. It just doesn't work economically and it just doesn't work as a
20 planning thing. I think it just ends up really disrupting the planning process
21 instead of encouraging it. I don't know, I'd like to see what the other
22 Commissioner's think, but I just don't think it's a good spot just based on driving it
23 for all these years.

24
25 **VICE CHAIR RIECHERS** – I will certainly second that. I drive that street a lot
26 also and commercial there makes no sense at all to me and it certainly would be
27 spot zoning. It just makes no sense at all to put commercial in there. I will say
28 that it would be spot zoning and it would be a bad, bad, bad place to put in
29 commercial. There has been no good justification for it presented to us this
30 evening, so I will wholeheartedly support the motion to deny as presented to us
31 by Staff.

32
33 **COMMISSIONER DE JONG** – Well despite Mr. Slawson's valiant spot zoning
34 argument, I still feel this is spot zoning and I have to disagree. I also feel that it's
35 important to only change a zone on a property when there is a pending and valid
36 project in the works that we can actually review for its own merit; its own quality
37 and we're not seeing that. There was mention of a Site Plan that was submitted
38 even though it was at Staff level and not to us, but that particular drawing didn't
39 match the City's standards, so that's something that I can't get behind. The
40 water is a major issue. I mean I know the client has been informed, but it's still a
41 major issue and the tripling of the traffic; I mean that's something that we have to
42 deal with as well and I don't see enough to warrant changing and so therefore I'm
43 going to follow Staff's recommendation.

44
45 **CHAIR MARZOEKI** – Thank you
46

1 **COMMISSIONER BAKER** – I think we really ought to follow the General Plan
2 here and if it's zoned for Residential, that's what we ought to put in there. I mean
3 whatever fits the need... In the area I live in the south end of town, we had J R's
4 Market that would be similar to this, but became a drug haven and the City ended
5 up having to buy that property and we own that and it's going to Patriot Park and
6 I look at a similar situation here. It's not 100 percent, but I think we need to stay
7 with what that area is zoned to do and build something in there that's compatible
8 with the rest of the neighborhood.

9
10 **CHAIR MARZOEKI** – Thank you

11
12 **COMMISSIONER DOZIER** – I have never been a blind following advocate of
13 let's not change the General Plan. I've always felt that times change; things
14 change and the General Plan is kind of a guide for us and things change, so
15 having said that, it will put into a little bit of context that when I say that yes I think
16 this is spot zoning in this case. I agree with Staff's assessment and most of my
17 Commissioner's that it would be spot zoning, but I don't see spot zoning as a
18 dirty word. In this case I don't think that there is a strong enough case to do it,
19 but I reserve my right down the road if a circumstance occurs that I feel that it
20 would make sense to do it and I don't want to set a precedent by saying oh it's
21 spot zoning; whew bad, bad, bad and I don't want to do that because sometimes
22 it might be the only tool we have to correct a situation that needs to be corrected,
23 so I want to go on the record to say that, but I think in this case there is not a
24 strong enough argument to do it. I think we should use it judiciously and be
25 sensitive to the desires of the community to try to stay consistent with the
26 General Plan when we can to be consistent with development of areas when can
27 and so having said that, I would agree that this spot zoning that we should not
28 use in case.

29
30 **CHAIR MARZOEKI** – Very well said.

31
32 **COMMISSIONER SALAS** – Having a bunch of friends around this area, I'm
33 going to kind of disagree and say I can understand the idea of having some
34 commercial around there for the neighbors of having maybe a laundry or
35 something, but does it warrant a zone change? Again, I am kind of agree that we
36 should stick by the guidelines set by the General Plan, so I am going to have to
37 agree with everybody else.

38
39 **CHAIR MARZOEKI** – Thank you. So with that, does somebody want to make a
40 motion?

41
42 **COMMISSIONER DE JONG** – Did we hear from everybody?

43
44 **CHAIR MARZOEKI** – Yes we did.
45

1 **COMMISSIONER DOZIER** – I have one other comment before we vote. I forgot
2 to make this point. This area is a problem area for development because of the
3 water situation and a lot of other reasons and I sympathize with many of the
4 citizens who live in this area because a lot of that development really has been
5 delayed or stopped because there isn't adequate water pressure and from what I
6 understand the lines are very old under the Box Springs Water District and there
7 have been a lot of people who have looked at that situation over in that
8 community and from the large water companies to Box Springs themselves trying
9 to figure out what they need to do and it's a very expensive fix and that's why it
10 hasn't happened faster. So whenever I see a potential project for this region, I
11 have a tendency to want to see it go forward because it doesn't come up very
12 often and I think it was the burger place; we were happy to see that, because that
13 solved some of that problem and it started to develop and bring the light that the
14 gentleman is talking about bringing to that community.

15
16 We're still a ways off from finding the ultimate solution for this community. Water
17 is a big problem and because of that, development and the desire to do
18 development there is problem by a lot of the development community and that
19 will only delay bringing that light to this community, so I have a tendency to look
20 at any development that they want to bring very closely and I try to want to lean
21 toward it because I know that it will bring closer the day that the more permanent
22 fix can be made to help this community develop and upgrade it's environment
23 there, so I want to say that and in this case on the one hand, would some
24 commercial help? Yes, it would bring some light as the gentleman said to a
25 community that needs some light. I think it's coming, but I just don't think that
26 this the right project right now for it and we hope that we'll see other projects
27 come forward that are more compatible and that will bring that line across
28 wherever it needs to come across, because once that line comes across and
29 somebody pays for it, then it can go to a lot of other places and serve a lot of
30 other places and that will be just the beginning or small part of a fix for that part
31 of the Edgemont community.

32
33 **CHAIR MARZOEKI** – Thank you

34
35 **COMMISSIONER DE JONG** – I want to say one more thing. Also before we
36 vote, let me just say that every change of zone is looked at individually for it's
37 own particular merits and if a project were to be brought forward with a specific
38 project in mind, there is no guarantee of course, but that project would be looked
39 at I'm sure more carefully and scrutinized for it's own merits more carefully than a
40 project saying it could be this or it could be this or it could be this. Just, that's my
41 comment.

42
43 **CHAIR MARZOEKI** – Thank you. Why don't you make the motion?

44
45 **COMMISSIONER DE JONG** – I can do that.

46

1 **VICE CHAIR RIECHERS** – Before we do that... Just a technical item here. The
2 recommendation is that we Deny the Resolution and thereby Deny the project,
3 but in looking at the Resolution, I believe we should be Approving the Resolution
4 and thereby Denying the project.

5
6 **PLANNING OFFICIAL TERELL** – You are correct. Thank you.

7
8 **COMMISSIONER DE JONG** – Well said. Good catch. Okay, that being said, I'll
9 make a motion. Staff recommends that the Planning Commission take the
10 following action. **APPROVE** Resolution No. 2009-28, thereby **DENYING** PA08-
11 0020 General Plan Amendment and PA08-0019 Change of Zone, with no action
12 on the environmental required.

13
14 **CHAIR MARZOEKI** – We have a motion. Do we have a second?

15
16 **COMMISSIONER SALAS** – I second

17
18 **CHAIR MARZOEKI** – Any discussion? All those in favor?

19
20 Opposed – 0

21
22 **Motion carries 7 – 0**

23 **CHAIR MARZOEKI** – Staff wrap up please.

24
25 **PLANNING OFFICIAL TERELL** – Yes this action shall become final unless
26 appealed to the City Council within 15 days.

27
28 **CHAIR MARZOEKI** – Thank you. Moving on to Item 800, Other Business

29
30
31 **800 OTHER BUSINESS**

32
33
34 **810 Approval of Minutes**
35 **July 23rd, 2009**
36 **August 13th, 2009**

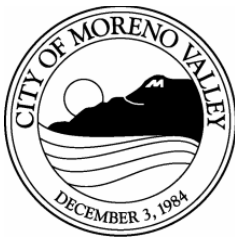
37
38
39 **CHAIR MARZOEKI** – Approval of the minutes from the July 23rd.

40
41 **COMMISSIONER GELLER** – Move approval

42
43 **COMMISSIONER DE JONG** – No, comment... Sorry, I'll make a comment about
44 that first. Commissioner Marzoecki was listed twice and my name was omitted.

45
46 **PLANNING OFFICIAL TERELL** – Are you talking about in the roll call?

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**INITIAL STUDY/
ENVIRONMENTAL CHECKLIST FORM
CITY OF MORENO VALLEY**

1. Project Title: PA08-0019 Change of Zone
PA08-0020 General Plan Amendment
2. Lead Agency Name and Address: City of Moreno Valley
14177 Frederick
Moreno Valley CA 92553
3. Contact Person and Phone Number: Julia Descoteaux, Associate Planner (951) 413-3209
4. Project Location: South west corner of Day Street and Dracaea Avenue
263-180-007 & 263-180-080
5. Project Sponsor's Name and Address: Joginder Kahlon
5480 Barnard Street
Semi Valley CA 93063
6. General Plan Designation:
 - Existing – Residential/Office (R/O)
 - Proposed – Commercial
7. Zoning:
 - Existing – Residential 15/Office Commercial
 - Proposed – Neighborhood Commercial

8. Description of the Project:

The project site is located on the south west corner of Day Street and Dracaea Avenue. The project consists of one parcel with a current zoning of Office Commercial at .26 acres and one parcel zoned Residential 15 being 1.08 acres. The total acreage is 1.34 acres. Both parcels are vacant and contiguous to each other.

The project is to change the General Plan from Residential/Office Commercial (R/O) to Commercial and change the zoning designation from Residential 15 and Office Commercial to Neighborhood Commercial.

9. Surrounding Land Uses and Setting:

Properties immediately to the south are zoned Office Commercial (OC) with existing single family homes. The properties to the west are zoned Residential 15 (R15) with existing single family homes. All properties to the north are zoned R15 with existing single family homes and existing multi-family units.

10. Other public agencies whose approval is required (e.g. permits, financing approval, or participation agreement).

None.

ATTACHMENT 5

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below(■) would be potentially affected by this project, involving at least one impact that is a “Potentially Significant Impact” as indicated by the checklist on the following pages.

	Aesthetics		Hazards & Hazardous Materials		Public Services
	Agricultural Resources		Hydrology/Water Quality		Recreation
	Air Quality		Land Use/Planning		Transportation/Traffic
	Biological Resources		Mineral Resources		Utilities/Service Systems
	Cultural Resources		Noise		Mandatory Findings of Significance
	Geology/Soils		Population/Housing		

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.	X
I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.	
I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.	
I find that the proposed project MAY have a “potential significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.	
I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.	

Signature

Date

Julia Descoteaux
Printed Name

EVALUATION OF ENVIRONMENTAL IMPACTS

- 1) A brief explanation is required for all answers except “No Impact” answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A “No Impact” answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g. the project falls outside a fault rupture zone). A “No Impact” answer should be explained where it is based on project-specific factors as well as general standards (e.g. the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. “Potentially Significant Impact” is appropriate if there is substantial evidence that an effect may be significant. If there are one or more “Potentially Significant Impact” entries when the determination is made, an EIR is required.
- 4) “Negative Declaration: Potentially Significant Unless Mitigation Incorporated” applies where the incorporation of mitigation measures has reduced an effect from “Potentially Significant Impact” to a “Less Significant Impact.” The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section 17, “Earlier Analysis,” may be cross-referenced).
- 5) Earlier analysis may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063 (c) (3) (d). In this case, a brief discussion should identify the following:
 - (a) Earlier Analysis Used. Identify and state where they are available for review.
 - (b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - (c) Mitigation Measures. For effects that are “Less than Significant with Mitigation Measures Incorporated,” describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g. general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project’s environmental effects in whatever format is selected.
- 9) The analysis of each issue should identify: (a) the significance criteria or threshold used to evaluate each question; and (b) the mitigation measure identified, if any, to reduce the impact to less than significance.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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1. AESTHETICS. Would the project:				
a) Have a substantial adverse effect on a scenic vista?				X
The site is generally flat. There will no affect on the scenic vista. There is no development associated with this General Plan Amendment and Change of Zone.				
b) Substantially damage scenic resources, including, but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?				X
There will be no damage to scenic resources as there are no historic buildings or rock outcroppings on the site.				
c) Substantially degrade the existing visual character or quality of the site and its surroundings?				X
There is no new development application associated with the proposed General Plan Amendment and Change of Zone, however, the proposed changes in land use will not substantially degrade the existing visual character or quality of the site or its surroundings.				
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?				X
There is no new development application associated with the proposed General Plan Amendment and Change of Zone, however, when developed, there would not be more light or glare than would be associated with the existing permitted uses.				
2. AGRICULTURE RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project?				
a) Convert Prime Farmland, Unique Farmland or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency to non-agricultural use?				X
The site is not designated as prime farmland on current maps.				
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
The site is not currently in agricultural use, or under Williamson Act control. There is no existing surrounding agricultural use, or sites under Williamson Act contract. There is no new development application associated with the proposed General Plan Amendment and Change of Zone. The Municipal Code allows for agricultural uses such as crops in all zoning districts, therefore, the proposed General Plan Amendment and Change of Zone does not conflict with existing zoning for agricultural use, or impact sites under Williamson Act contract.				
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?				X
There is no immediate surrounding agricultural use, or any proposed according to the General Plan. There is no new development application associated with the proposed General Plan Amendment and Change of Zone. The proposed General Plan Amendment and Change of Zone will not involve changes to the existing environment, which will result in the conversion of farmland to non-agricultural use.				
3. AIR QUALITY: Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?			X	
The Air Quality Management Plan (AQMP) sets forth a comprehensive program that will lead the air basin into compliance with all federal and state air quality standards. The AQMP control measures and related emission reduction estimates are based upon emissions projections for a future development scenario derived from land use, population, and employment characteristics defined in consultation with local governments. Accordingly, conformance with the AQMP for development projects is determined by demonstrating compliance with local land use plans and/or population projections.				
There is no new development application associated with the proposed General Plan Amendment and Change of Zone. Although the proposed General Plan Amendment and Change of Zone could result in a project that generates slightly more traffic than development under the existing designations, the impact on air quality associated with additional traffic would be less than significant. The project as proposed would not obstruct implementation of the South Coast Air Quality Management Plan.				
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation.				X
There is no development application associated with the proposed General Plan Amendment and Change of Zone. The project as proposed would not violate any air quality standard or contribute substantially to an existing or projected air quality violation.				
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state				X

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?				
<p>CEQA Section 21100 (e) addresses evaluation of cumulative effects allowing the use of approved land use documents in a cumulative impact analysis. CEQA Guidelines Section 15064 (i)(3) further stipulates that for an impact involving a resource that is addressed by an approved plan or mitigation program, the lead agency may determine that a project's incremental contribution is not cumulatively considerable if the project complies with the adopted plan or program. In addressing cumulative effects for air quality, the AQMP is the most appropriate document to use because the AQMP sets forth a comprehensive program that will lead the air basin, including the project area, into compliance with all federal and state air quality standards and utilizes control measures and related emission reduction estimates based upon emissions projections for a future development scenario derived from land use, population, and employment characteristics defined in consultation with local governments.</p> <p>There is no new development application associated with the proposed General Plan Amendment and Change of Zone. It is therefore appropriate to conclude that the project's incremental contribution to criteria pollutant emissions is not cumulatively considerable.</p>				
d) Expose sensitive receptors to substantial pollutant concentrations?				X
<p>There is no new development application associated with the proposed application. The project as proposed would not expose sensitive receptors to substantial pollutant concentrations.</p>				
e) Create objectionable odors affecting a substantial number of people?				X
<p>There is no new development application associated with the proposed application.</p>				
<p>4. BIOLOGICAL RESOURCES. Would the project:</p>				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U. S. Fish and Wildlife Service?				X
<p>There is no new development application associated with the proposed project; therefore, there is no direct impact on biological resources. The project as proposed would not have a substantial adverse effect on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U. S. Fish and Wildlife Service. Future projects will be required to meet local or regional plans, policies, or regulations regarding biological resources.</p>				
b) Have a substantially adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U. S. Wildlife Service?				X
<p>The project as proposed would not have a substantially adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U. S. Wildlife Service. There is no new development application associated with the proposed General Plan Amendment and Change of Zone.</p>				
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X
<p>The project as proposed would not have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act. There is no new development application associated with the proposed General Plan Amendment and Change of Zone.</p>				
d) Interfere substantially with the movement of any resident or migratory fish or wildlife species or with established native resident migratory wildlife corridors, or impede the use of native wildlife nursery sites?				X
<p>The project as proposed would not interfere substantially with the movement of any resident or migratory fish or wildlife species or with established native resident migratory wildlife corridors, or impede the use of native wildlife nursery sites. There is no new development application associated with the proposed General Plan Amendment and Change of Zone.</p>				
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X
<p>There is no new development application associated with the proposed General Plan Amendment and Change of Zone. The project as proposed would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.</p>				
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservation Community Plan, other approved local, regional, or state habitat conservation plan?				X

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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The City is participating in the Multiple Species Habitat Conservation Plan (MSHCP), a comprehensive habitat conservation-planning program addressing multiple species' needs, including preservation of habitat and native vegetation in Western Riverside County. The project is not within one of the Multiple Species Habitat Conservation Plan (MSHCP) criteria areas, which are potential habitat preservation areas. There is no new development application associated with the proposed General Plan Amendment and Change of Zone.

5. CULTURAL RESOURCES. Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?				X
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b) Cause a substantial adverse change in the significance of an archaeological resources pursuant to Section 15064.5?				X
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c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				X
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d) Disturb any human remains, including those interred outside of formal cemeteries?				X
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(a-d) There are no know historical, cultural or archaeological resources associated with the project site per the Cultural Resource survey completed on June 22, 2009. There is no new development application associated with the proposed project. The project as proposed will not cause substantial changes in the significance of historical, cultural, archaeological or paleontological resources or disturb any human remains.

6. GEOLOGY AND SOILS. Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving:

(i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				X
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Based on City's environmental resources, the project site is not on, or close to, any known earthquake fault. There is no new information that would indicate the existence of a fault or fault tract in proximity of the site. There is no risk of ground rupture due to faulting at the proposed project site.

(ii) Strong seismic ground shaking?			X	
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According to the City's environmental information, the project site is not on, or close to, any known earthquake fault. The nearest fault is the San Jacinto fault system, which is located about 8-miles to the east. The inferred Casa Loma fault system also lies approximately 9-miles to the northeast. It should be noted, that within the City of Moreno Valley, the Casa Loma fault is an inferred unsubstantiated fault trace. The San Andreas fault system is more than 25 miles from the site. The active Sierra Madre and San Gabriel fault zones lie roughly 35 and 40 miles respectively to the northwest of the site. The active Elsinore and Newport-Inglewood fault zones lie approximately 20 and 45 miles, respectively, to the southwest of the site. This faulting is not considered a significant constraint to development on the site with the use of current building codes. Ground-shaking intensity could possibly be moderately-high during a 100-year interval earthquake. There is no new information that would indicate the existence of a fault on the site.

(iii) Seismic-related ground failure, including liquefaction?				X
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According to the City's environmental resources, the project site is not on, or close to, any known earthquake fault. However, ground-shaking intensity could possibly be moderately-high during a 100-year interval earthquake. Water table and soil conditions are not conducive of seismic related failure.

(iv) Landslides?				X
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This site is not near or adjacent to the mountainside areas. There is no potentially significant impact from landslides.

(b) Result in substantial soil erosion or the loss of topsoil?				X
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There is no new development application associated with the proposed General Plan Amendment and Change of Zone. The project as proposed will not result in substantial soil erosion or the loss of topsoil.

(c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				X
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(d) Be located on expansive soil, as defined in Table 18-a-B of the Uniform Building Code (1994), creating substantial risks to life or property?				X
---	--	--	--	---

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
(c-d) The geologic unit or soil is not known to be unstable based on current resources. The site is currently an undeveloped site. There is no new development application associated with the proposed General Plan Amendment and Change of Zone, so no soils or geologic report has been prepared as typically required by the City Public Works Department. The project as proposed will not result in locating development on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.				
(e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				X
Eastern Municipal Water District provides sewer service for this area. There is no new development application associated with the proposed General Plan Amendment and Change of Zone. The project as proposed will not require the installation of infrastructure for waste water treatment.				
7. HAZARDS AND HAZARDOUS MATERIALS. Would the project?				
a) Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials?				X
There is no new development application associated with the proposed General Plan Amendment and Change of Zone therefore there would be no routine transport, use or disposal of hazardous materials.				
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the likely release of hazardous materials into the environment?				X
There is no new development application associated with the proposed General Plan Amendment and Change of Zone. The project as proposed will not create a significant hazard to the public or the environment through the routine transport, or use or disposal of hazardous materials. Since the project will not involve the routine transport, use or disposal of hazardous materials, there will be no potential for a significant hazard to the public or the environment.				
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
There is no new development application associated with the proposed General Plan Amendment and Change of Zone. The project as proposed will not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.				
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result would it create a significant hazard to the public or the environment?				X
There is no new development application associated with the proposed General Plan Amendment and Change of Zone. The site was checked against the list of hazardous material sites pursuant to Government Code Section 65962.5. The project is not located on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.				
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X
The nearest airport is the March Air Reserve Base located directly to the south approximately 1.3 miles. The distance to the runway is approximately 2-miles. The project site is not within the crash zones or the noise contours identified in the most recent Air Installation Compatible Use Zone (AICUZ) study (Municipal Code Section 9.07.060). The site is not within an airport land use plan.				
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
There are no private airstrips within the City of Moreno Valley. The project is not within proximity of a private airstrip. Therefore, the project would not result in a safety hazard pertaining to proximity of a private airstrip.				
g) Impair implementation of, or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
The proposed project would not have any direct effect on an adopted emergency response plan, or emergency evacuation plan. The City's emergency plans are also consistent with the General Plan.				
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				X
The proposed project site is not adjacent to wildlands, and as such would not expose people or structures to a significant risk of loss, injury or death involving wildland fires. In addition, the project is not located within a designated wildland area.				
8. HYDROLOGY AND WATER QUALITY. Would the project:				

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Violate any water quality standards or waste discharge requirements?				X
There is no new development application associated with the proposed General Plan Amendment and Change of Zone. The project as proposed will not violate any water quality standards or waste discharge requirements.				
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				X
Box Springs Mutual Water District provides water to this area of Moreno Valley. There is no new development application associated with the proposed General Plan Amendment and Change of Zone. The project as proposed will not substantially degrade groundwater supplies or interfere with groundwater recharge.				
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?				X
There is no blueline stream or other streambed or river on the project site. There is no new development application associated with the proposed General Plan Amendment and Change of Zone. The project as proposed will not cause a change in the existing drainage pattern that would result in substantial erosion or siltation on- or off-site.				
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or surface runoff in a manner which would result in flooding on- or off site?				X
There is no blueline stream or other streambed or river on the project site. There is no new development application associated with the proposed General Plan Amendment and Change of Zone. The project as proposed will not cause a change in the existing drainage pattern that would substantially increase the rate or surface runoff in a manner, which would result in flooding on- or off site.				
e) Create or contribute runoff which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?				X
There is no new development application associated with the proposed General Plan Amendment and Change of Zone. The project as proposed will not create or contribute runoff which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.				
f) Otherwise substantially degrade water quality?				X
The project as proposed will not otherwise substantially degrade water quality.				
g) Place housing within a 100-year floodplain, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				X
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				X
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				X
(g-i) The proposed project site is located outside of the 500-year flood zone within a Federal Emergency Management Agency Zone "X" area. The project site is outside of the delineated dam inundation area for Perris Dam at Lake Perris Reservoir and will not expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam. There is no new development application associated with the proposed General Plan Amendment and Change of Zone.				
j) Inundation by seiche, tsunami, or mudflow?				X
The site is not identified in the General Plan as a location subject to seiche, or mudflow. The project site is located outside of the delineated dam inundation area for Perris Dam at Lake Perris Reservoir. Additionally, due to the position of the proposed project, mudflows from local mountains would be unlikely due to surrounding development.				
9. LAND USE AND PLANNING. Would the project:				
a) Physically divide an established community?				X
The proposed General Plan Amendment and Change of Zone consists of two parcels which total 1.34 acres. There is no new development associated with this application. The project as proposed will not physically divide an established community.				

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Conflict with an applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?			X	
The proposed General Plan Amendment and Change of Zone is in conflict with the current General Plan and Zoning. The proposed changes with future development could provide for a use which is more intense than the existing designations. In addition, the proposed General Plan Amendment and Change of Zone would eliminate potential multi-family development on the site. There is no new development application associated with the proposed land use change.				
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				X
There is no new development application associated with the proposed General Plan Amendment and Change of Zone.				
10. MINERAL RESOURCES. Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X
(a-b) The project site is located in an urbanized area with additional development occurring in the vicinity. No active mines or mineral recovery programs are currently active within the project site. No mineral deposits have been identified in the General Plan. Consequently, the project as proposed would not result in the loss of availability of a known mineral resource or conflict with a mineral recovery plan as adopted by the General Plan. Therefore, no significant impacts would occur.				
11. NOISE. Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?				X
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?				X
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				X
d) A substantially temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?				X
(a-d) There is no new development application associated with the proposed General Plan Amendment and Change of Zone. The project as proposed will not result in substantial permanent increase in ambient noise levels within the proposed project site. Future development of the project site would include designs and conditions of approval that would ensure only minor increases in noise levels over existing conditions during construction.				
e) For a project located within an airport land use plan, or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				X
The project site is not located within the area of an adopted airport land use plan. There is no new development proposed with this project.				
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X
There is no private airstrip within the vicinity of the project site, or within the City of Moreno Valley.				
12. POPULATION AND HOUSING. Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				X
There is no new development associated with the proposed General Plan Amendment and Change of Zone. The proposed General Plan Amendment and Change of Zone would not induce growth.				
b) Displace substantial numbers of existing housing, necessitating the construction				X

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
of replacement housing elsewhere?				
The General Plan Amendment and Change of Zone would not displace any existing housing as the property is currently vacant land. However, it would eliminate the potential for R15 development on the property under the existing zoning.				
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X
The proposal would not displace people as the site is vacant.				
13. PUBLIC SERVICES. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered government facilities, need for new or physically altered government facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
a) Fire protection?				X
b) Police protection?				X
c) Schools?				X
d) Parks?				X
e) Other public facilities?				X
(a-e) There will not be an increase in the demand for new or altered public services including library, city hall and city yard facilities. These facilities would be needed with or without the proposed General Plan Amendment and Change of Zone. The site is currently vacant land. There is no new development application associated with the proposed General Plan Amendment and Change of Zone.				
14. RECREATION.				
a) Would the project increase the use of existing neighborhood or regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
The project as proposed will not increase the use of existing neighborhood or regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated. There is no development project associated with the proposed General Plan Amendment and Change of Zone.				
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				X
There is no development project associated with the proposed General Plan Amendment and Change of Zone.				
15. TRANSPORTATION/TRAFFIC. Would the project:				
a) Cause an increase in the traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?			X	
There is no development project associated with the proposed General Plan Amendment and Change of Zone. Potential increases in traffic for future projects will be consistent with the capacity of the street system. However, the proposed General Plan Amendment and Change of Zone will cause an increase in daily trip traffic per the Traffic Study submitted and reviewed.				
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?			X	
There is no development project associated with the proposed General Plan Amendment and Change of Zone. Although the trip traffic is projected to triple with the proposed project, it is not expected to exceed the proposed level of service. The project will not exceed a level of service established by an adopted regional congestion management plan.				
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X
There is no development project associated with the proposed General Plan Amendment and Change of Zone. The project site is not located in, around, or under any airport or airport fly-zone. Therefore, no impact would result in air traffic patterns.				
d) Substantially increase hazards to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?				X
There is no development project associated with the proposed General Plan Amendment and Change of Zone. The project as proposed would not cause any increase to hazards relating to design features or incompatible uses.				

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
e) Result in inadequate emergency access?				X
There is no development project associated with the proposed General Plan Amendment and Change of Zone. Adequate emergency service will be required with future projects.				
f) Result in inadequate parking capacity?				X
There is no development project associated with the proposed General Plan Amendment and Change of Zone. Adequate parking will be required for future development applications.				
g) Conflict with adopted policies or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?				X
There is no development project associated with the proposed General Plan Amendment and Change of Zone.				
16. UTILITIES AND SERVICE SYSTEMS. Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X
There is no development project associated with the proposed General Plan Amendment and Change of Zone. Adequate wastewater treatment requirements will be met with future development projects.				
b) Require or result in construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
There is no development project associated with the proposed General Plan Amendment and Change of Zone. The project site is in the Box Springs Mutual Water District with Eastern Municipal Water District providing waste services. Current conditions of the existing water facilities inhibit the ability to obtain the required fire flow needed for development. Future projects would be required to meet current standards.				
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
There is no development project associated with the proposed General Plan Amendment and Change of Zone.				
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				X
There is no development project associated with the proposed General Plan Amendment and Change of Zone.				
e) Result in a determination by the wastewater treatment provider which serves or may serve the project determined that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				X
There is no development project associated with the proposed General Plan Amendment and Change of Zone.				
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				X
There is no development project associated with the proposed General Plan Amendment and Change of Zone.				
g) Comply with federal, state, and local statues and regulations related to solid waste?				X
There is no development project associated with the proposed General Plan Amendment and Change of Zone.				
17. MANDATORY FINDINGS OF SIGNIFICANCE.				
a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of an endangered, rare or threatened plant or animal, or eliminate important examples of the major periods of California history or prehistory?				X
There is no development project associated with the proposed General Plan Amendment and Change of Zone. The proposed General Plan Amendment and Change of Zone will not substantially degrade the quality of the environment.				
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of the past projects, the effects of other current projects, and the effects of probable future projects)?				X
There is no development project associated with the proposed General Plan Amendment and Change of Zone.				
c) Does the project have environmental effects which will cause substantial				X

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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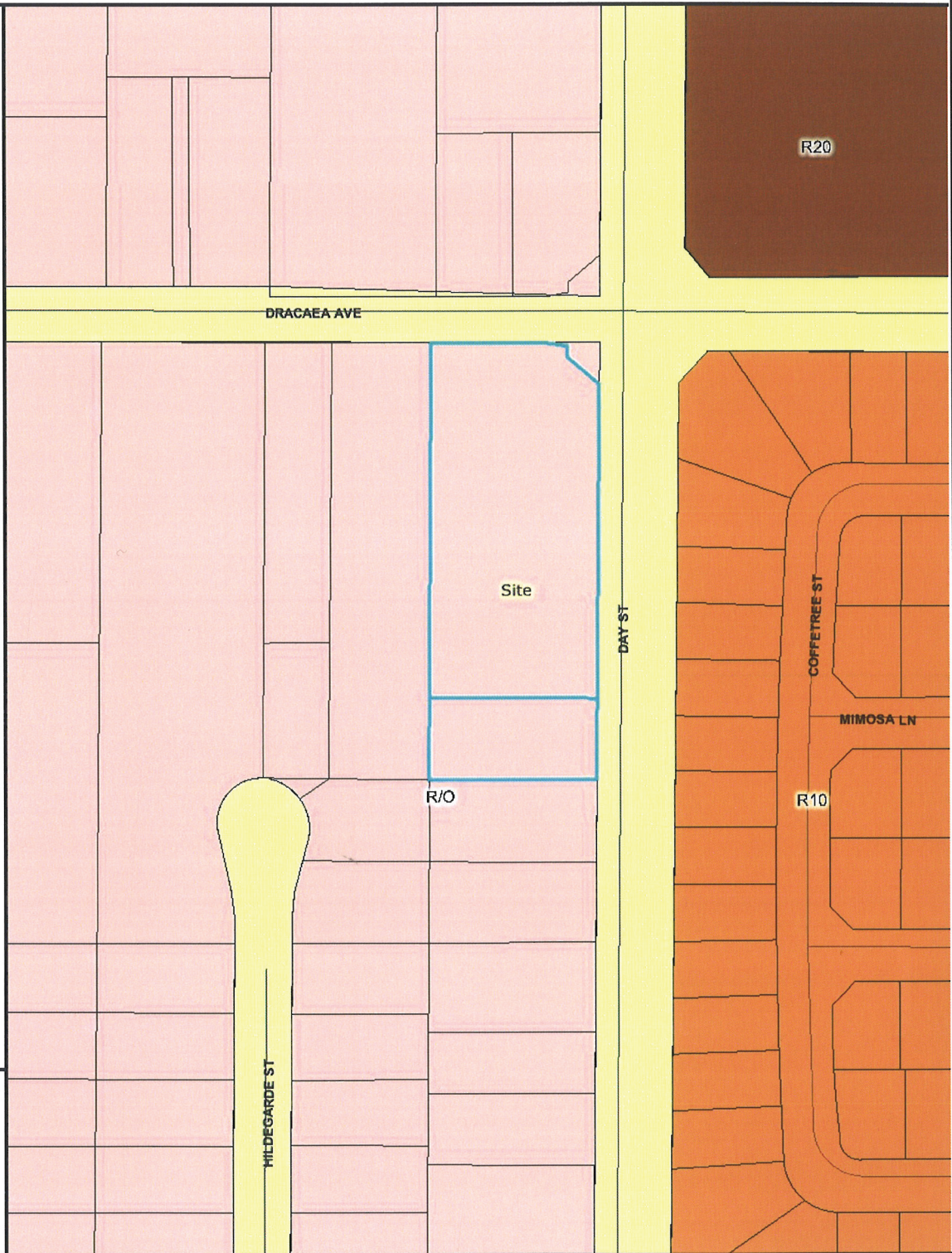
adverse effects on human beings, either directly or indirectly?				
The project does not have environmental effects which have the potential to cause substantial adverse effects on human beings, either directly or indirectly. There is no development project associated with the proposed General Plan Amendment and Change of Zone.				

PA08-0020 and PA08-0019

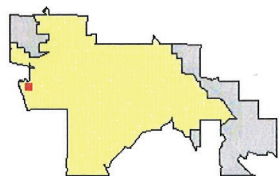
Current General Plan

Legend

-  Selected Features
-  Highways
-  Parcels
-  Roads
- Land Use
 -  Business Park
 -  Commercial
 -  Floodplain
 -  Hillside Residential
 -  Light Industrial
 -  Mixed Use
 -  Office
 -  Open Space
 -  Public Facilities
 -  Planned Residential
 -  Residential/Office
 -  Residential: Max 1 du/ac
 -  Residential: Max 10 du/ac
 -  Residential: Max 15 du/ac
 -  Residential: Max 2 du/ac
 -  Residential: Max. 20 du/ac
 -  Residential: Max 3 du/ac
 -  Residential: Max 5 du/ac
 -  Residential: Max. 5 or 15 du/ac
 -  Rural Residential: Max 2.5 du/ac
- Waterbodies
 - 
- City Boundaries
 -  Calimesa
 -  Moreno Valley
 -  Perris
 -  Riverside

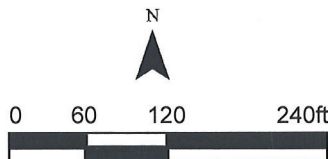


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City of Moreno Valley
 14177 Frederick St
 Moreno Valley, CA 92553

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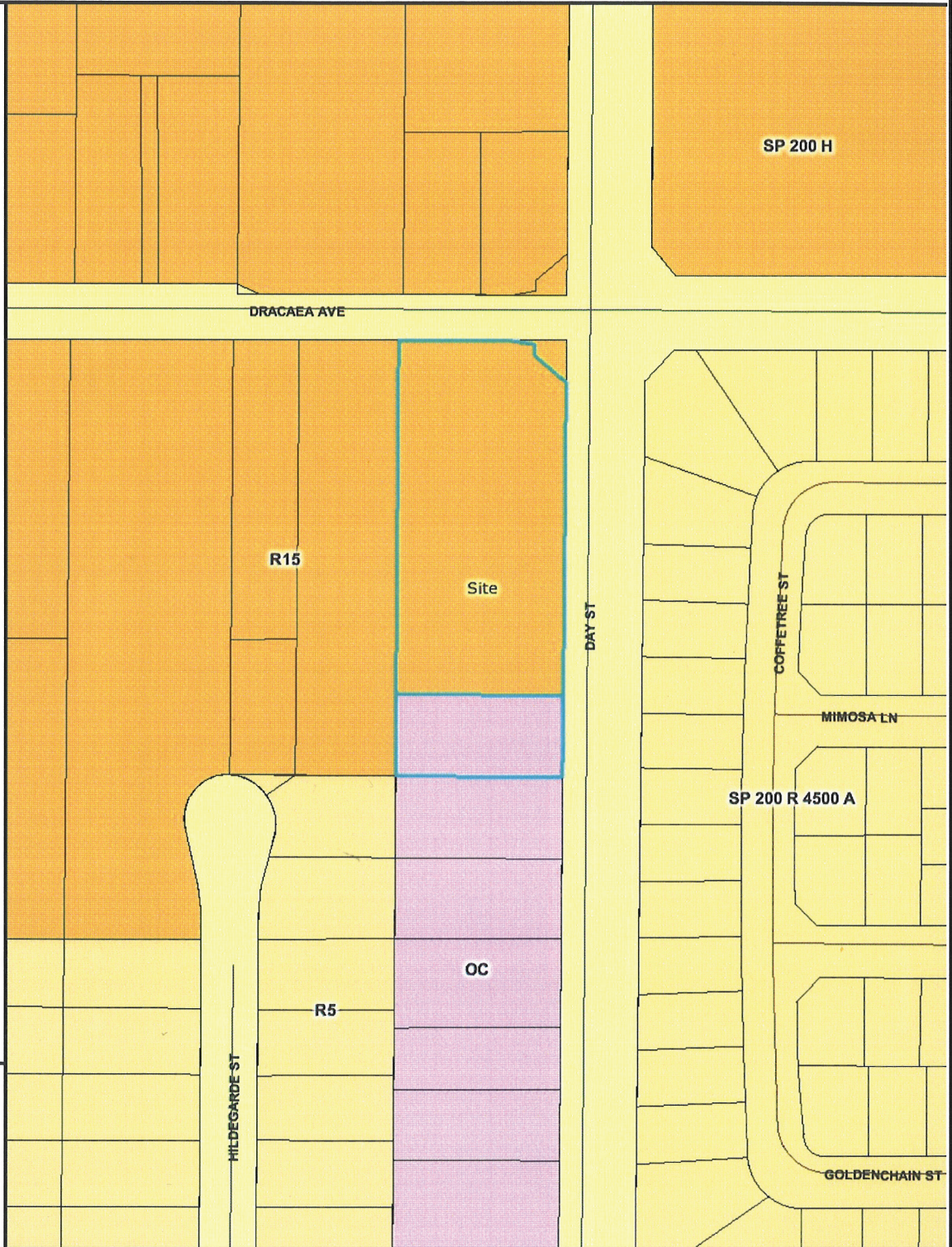
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PA08-0020 and PA08-0019

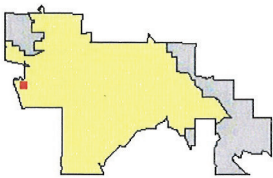
Current Zoning

Legend

-  Selected Features
-  Highways
-  Parcels
-  Roads
- Zoning**
-  Commercial
-  Industrial/Business Park
-  Large Lot Residential
-  Multi-family
-  Office
-  Open Space/Park
-  Planned Development
-  Public Facilities
-  Residential 2 Dwellings/Acre
-  Residential Agriculture 2 Dwellings/Acre
-  Suburban Residential
-  Waterbodies
- City Boundaries**
-  Calimesa
-  Moreno Valley
-  Perris
-  Riverside

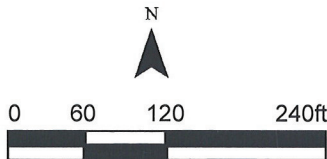


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ATTACHMENT 7
 -629-



Item No. E.2

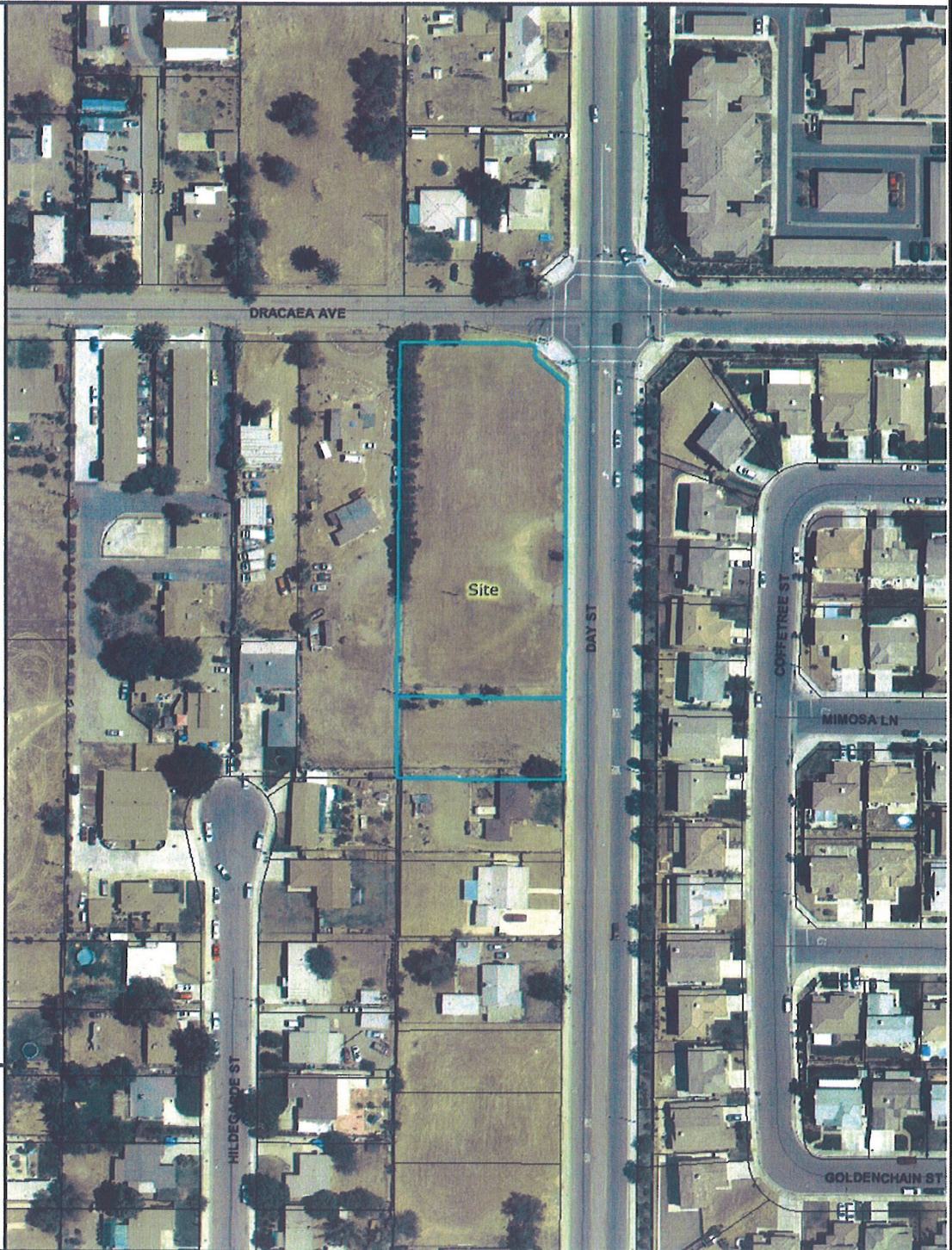
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PA08-0020 and PA08-0019

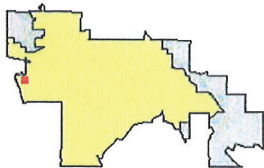
AERIAL

Legend

-  Selected Features
-  Highways
-  Parcels
-  Roads
-  Waterbodies
-  City Boundaries
-  Calimesa
-  Moreno Valley
-  Perris
-  Riverside

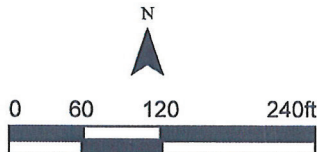


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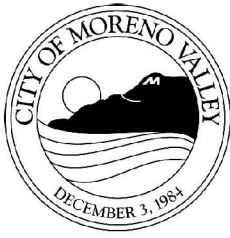
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APPROVALS	
BUDGET OFFICER	<i>cof</i>
CITY ATTORNEY	<i>RM</i>
CITY MANAGER	<i>WTS</i>

Report to City Council

TO: Mayor and City Council

FROM: Kyle Kollar, Community Development Director

AGENDA DATE: January 26, 2010

TITLE: A public hearing on the appeal of the Planning Commission's July 23, 2009 approval of Master Plot Plan PA07-0035 for six light industrial buildings, Plot Plan PA07-0039 to construct a 409,598 square foot warehouse distribution facility and Tentative Parcel Map No. 35822 (PA08-0021) to re-configure the existing 21 parcels located within the project site and create six parcels ranging in size from 1.33 to 2.76 acres for Master Plot Plan PA07-0035 and one 19.14 acre parcel for Plot Plan PA07-0039. The project site is located at the northeast corner of Heacock Street and Iris Avenue.

RECOMMENDED ACTION

Staff recommends that the City Council conduct a public hearing for the appeal of the action taken by the Planning Commission on July 23, 2009, to approve Master Plot Plan PA07-0035, Plot Plan PA07-0039 and Tentative Parcel Map No. 35822 (PA08-0021), and subsequent to the public hearing:

1. After conducting a public hearing, **ADOPT** Resolution No. 2010-07, adopting a Negative Declaration for the project, in that these applications will not result in significant environmental impacts; and
2. **ADOPT** City Council Resolution No. 2010-08 approving Master Plot Plan PA07-0035, Plot Plan PA07-0039 and Tentative Parcel Map No. 35822 (PA08-0021), based on the findings in City Council Resolution No. 2010-07, and the conditions of approval as attached to the resolution as Exhibits 1 and 2, thereby upholding the Planning Commission's approval of the project.

ADVISORY BOARD/COMMISSION DECISION

The Planning Commission at its July 23, 2009, meeting approved Planning Commission Resolution No. 2009-22 by a of 6-0 vote with one commissioner absent. The Planning Commission adopted a Negative Declaration for the project and approved Master Plot Plan PA07-0035 for six light industrial buildings, Plot Plan PA07-0039 to construct a 409,598 square foot warehouse distribution facility and Tentative Parcel Map No. 35822 (PA08-0021) as described above.

The Planner Commissioners had questions regarding screening walls, hours of operation, building height, future tenants and screening vegetation. The information provided by staff addressed their concerns and all commissioners present at the meeting spoke in favor of the project based on its location in an existing industrial zone and its design.

BACKGROUND

Original Project

A larger scale project was presented to the Planning Commission by the same applicant in July 2004. The first proposal was for an industrial park to be developed on approximately 73 acres of vacant land located on the east side of Heacock Street between Gentian and Iris Avenues in the Business Park and Industrial zoning districts. The industrial park, which was a permitted use, was to include three warehouse distribution buildings totaling 1,493,562 square feet.

The July 29, 2004, public hearing was well attended with a total of twenty seven (27) people speaking, most raising concerns over the potential air quality, noise and traffic impacts of the proposed development. Most of the speakers felt that these potential impacts could not be mitigated and therefore believed that the proposed project would be incompatible with their adjacent neighborhoods. Following the public comments, the Planning Commission approved the proposed development by a vote of 4-0 with three absent.

The project was subsequently assumed for jurisdiction by Councilmember Flickinger and the project was then scheduled for a City Council public hearing on September 28, 2004. The City Council public hearing was again well attended by neighboring property owners who spoke in opposition of the project. Concerns raised at the public hearing were similar to those presented to the Planning Commission. Following the public comments, the City Council denied the project by a vote of 5-0.

Subsequent to Council's action, the applicant sued the City for denying the project. A settlement agreement was entered into by the applicant and the City as result of that litigation. The terms of the agreement allowed the applicant to submit a revised version of the project for review at no cost.

Current Project

The current proposal covers only the southern half of the property owned by the applicant. A residential tract map and General Plan Amendment/Zone Change is under review for the north half of the property and is not included in this appeal.

The industrial project includes two applications for development of the Moreno Valley Industrial Park to be located on approximately 30 acres of undeveloped land located at the northeast corner of Heacock Street and Iris Avenue. The project site is zoned Industrial and Industrial Support Area and is located within the Moreno Valley Industrial Area Specific Plan (SP #208). The project also includes an application for a tentative parcel map.

Master Plot Plan (PA07-0035)

The Master Plot Plan application proposes six industrial buildings to be constructed on six separate parcels located along Revere Place and Concord Way. Building 1 to 6 range in size from 23,700-square feet to 47,160-square feet and are of concrete tilt-up construction. Sample architecture has been provided for Building 1, which is intended to be representative of the type of structure(s) that will be built on the six sites proposed by this application. However, final approval of building architecture for Buildings 1 to 6 would require separate future application(s).

Buildings 4, 5, and 6 are located within the 300 foot buffer area that separates this project from residential zoning. Future uses within buildings 4, 5, and 6 will be subject to review and restricted to the lower intensity uses permitted within the 300 foot residential buffer as identified within the Industrial Land Use Table of the Moreno Valley Industrial Area Plan (SP #208), to ensure compatibility with adjacent homes to the east. The six buildings rely on reciprocal access and shared drainage and water quality treatment facilities. The establishment of CC&R's is required to regulate maintenance responsibilities for the shared drainage and water quality treatment facilities.

Plot Plan (PA07-0039)

The Plot Plan is for a 409,598 square feet warehouse distribution facility, to be located on 19.14 acres located at the northeast corner of Heacock Street and Iris Avenue. The proposed warehouse facility is a permitted use within the Industrial and the Industrial Support Area zones of SP #208. Building 7 will include loading docks with roll-up doors, truck staging and parking areas, two office areas and parking for employees and visitors. The loading and truck parking areas have been placed on the northern and southern elevations and are screened by perimeter concrete tilt-up walls. The project is located outside of the 300 foot buffer area identified in the Moreno Valley Industrial Area Plan (SP #208), with the nearest truck bay 447 feet from the nearest residential property line.

Tentative Parcel Map No. 35822 (PA08-0021)

Tentative Parcel Map No. 35822 is proposed to reconfigure the existing 21 parcels located within the project site and create six parcels ranging in size from 1.33 to 2.76

acres for Master Plot Plan PA07-0035 and one 19.14 acre parcel for Plot Plan PA07-0039.

Appeal

An application appealing the Planning Commission's approval of the project was submitted to the City on August 5, 2009, by Residents for a Liveable Moreno Valley, c/o Johnson & Sedlack Attorneys at Law.

The letter was directed to the City Council and listed the following as the reasons for the appeal:

- Project is inconsistent with the City's General Plan;
- The environmental review is inadequate and the project will have significant impacts on air quality, noise, traffic, hazardous materials, land use, flooding, water quality, biological resources and global climate change.
- Conditions of approval relied upon to mitigate impacts are inadequate, uncertain and not legally enforceable.

The following information is provided in response to the concerns raised by the appellant:

General Plan Consistency

The project site dating back to City incorporation in 1984, had a County designation of IP or Industrial Park. The General Plan when it was adopted in 1988 identified that area as Business Park. The project site was incorporated into the Moreno Valley Industrial Area when it was updated in 1999 with the current land use designations. Additionally, the 2006 Update to the City's General Plan did not propose a land use change for the project site or surrounding area. The project site remains Business Park under the current General Plan Land Use Element.

The project as designed and conditioned is consistent with Objective 2.5 of the City's General Plan in that the project is located in a land use district that is appropriate for warehouse distribution and/or manufacturing uses; the buildings and truck courts are appropriately sited and screened to reduce glare, noise, dust, vibrations and unsightly views; and access to the project site is consistent with the City's General Plan Circulation Element with truck traffic being routed to and from the project site via arterial roadways recognized as designated truck routes and away from the adjacent residential neighborhoods.

Air Quality

The air quality analysis relied upon for the original negative declaration was based upon the most current practices available at the date of preparation (URBEMIS 2002 model). The project application was submitted in February 2007. Subsequent to submittal of the application, a new model for analyzing air quality impacts was adopted (URBEMIS 2007).

In response to the concerns raised in the appeal letter, the applicant worked with LSA Associates, Inc. to update the Air Quality Analysis for the project utilizing the URBEMIS 2007 model.

Based upon the Air Quality Analysis dated December 2009, it was determined that unmitigated maximum short-term daily emissions are all below applicable South Coast Air Quality Management District (SCAQMD) regional significance thresholds. The project's emissions and impacts on a localized scale were also analyzed. None of the project's emissions exceed the applicable SCAQMD localized significance thresholds.

Emissions of all criteria pollutants for the operational phase are also below the SCAQMD regional thresholds. Additionally, the project's emissions were found to not cause an exceedance of the localized significance thresholds.

A carbon monoxide (CO) hotspots analysis was also performed. As determined by this analysis, the project will not cause an exceedance of any state or federal CO standard and will not create a CO hotspot at any of the intersections in the project vicinity.

Like all construction projects, this project will be required to comply with regional rules that assist in reducing short-term air pollutant emissions. Implementation of dust suppression techniques consistent with SCAQMD Rule 403 can reduce dust generation (and thus the PM₁₀ component). During construction, compliance with the SCAQMD Rule 1113 on the use of architectural coatings will also be required. These requirements include the use of precoated/natural-colored building materials, using water-based or low volatile organic compound (VOC) coating, and using coating transfer or spray equipment with high transfer efficiency. The project has been conditioned for compliance with both Rule 403 and Rule 1113.

As a proposed warehouse facility, the project will result in diesel particulate matter (DPM) emissions from trucks serving the facility. Considering residential uses located to the east and proposed to the north, a Health Risk Assessment (HRA) was performed for the project to determine the potential cancer risks and non-cancer risks to the residents in the project vicinity. The HRA found that the long-term operational DPM emissions from the project would result in a maximum cancer risk of 6.3 in one million, which is less than the SCAQMD recommended significance threshold for cancer risk of 10 in one million; therefore, cancer risks from project DPM emissions are less than significant.

For non-cancer risks, SCAQMD recommends using a Hazard Index (HI) of 1.000 to determine the significance of non-cancer risk. The project-generated DPM emissions will result in a HI of 0.004. Non-cancer risks are less than 1% of the SCAQMD recommended threshold from project operation and therefore less than significant.

Noise

Based upon a Noise Impact Analysis dated April 2008 that was prepared for the project site, the operational phase analysis considered on-site noise associated with trucks maneuvering and idling within the dock areas, loading and unloading activities, as well as increased traffic volumes on adjacent streets. For on-site truck activities for Building 7, the 14 foot-tall decorative screening walls required under City standards for aesthetic

purposes also provide noise attenuation to reduce noise levels at the nearby residences below the City's exterior standard of 65 decibels (CNEL)

On-site operational activities associated with future light industrial land uses in Buildings 1 to 6 will be screened from view from existing residences to the east and proposed residential land uses located to the north by 8 foot tall walls. The walls, which are required under City standards for aesthetic purposes, provide noise attenuation to reduce noise levels at the nearby residences below the City's exterior standard of 65 decibels (CNEL).

The installation of the screen walls noted above are conditions of approval for the project. The project has also been conditioned to comply with Municipal Code requirements that loudspeakers or other noise attention devices installed on the project site are designed so that the noise level at all property lines will be at or below 55 dBA.

The analysis concluded that project traffic would increase noise levels within 50 feet of the analyzed roadways by 0.0 to 2.3 decibels. The projected increases are well below the accepted significance threshold of 5 decibels, so the project would not contribute to any new exceedances of the 65 CNEL exterior standard for road segments adjoining residential uses, project impacts in this regard are considered less than significant.

The project's short-term noise impacts during construction are considered less than significant through compliance with City Municipal Code limits on construction hours (grading activities are allowed between 7:00 A.M. and 8:00 P.M.; general construction is allowed between 6:00 A.M. and 8:00 P.M. weekdays or 7:00 A.M. and 8:00 P.M. for weekends). Additionally, the project has been conditioned to locate equipment staging at the furthest location possible from adjacent residences and to position stationary construction equipment so that the emitted noise is directed away from adjacent residences. All construction equipment is required to be equipped with properly operating and maintained mufflers. Established City procedures for plan check, permit issuance, and construction inspection ensure project implementation of the conditions of approval.

Traffic

The project traffic study estimates the proposed project will generate up to 2,853 trips per day, with 572 trips attributed to trucks. The traffic study evaluated project traffic impacts for both project-level and cumulative impacts for the project opening year of 2011. The analysis evaluated 26 intersections in an area generally defined by Interstate 215 on the west, Harley Knox Boulevard/Oleander Avenue on the south, Cactus Avenue on the north, and Perris Boulevard on the east.

Fourteen intersections are identified as operating at an unacceptable level for the cumulative, "with project" scenario, including Heacock Street at Revere Place, Concord Way at Iris Avenue, and Perris Boulevard at Nandina Avenue. The project has been conditioned to complete street improvements at Heacock and Revere and Concord and Iris to provide an acceptable Level of Service (LOS) at these intersections.

The intersection of Perris/Nandina will be reconstructed as part of a City Capital Project that will provide satisfactory LOS. The intersection of Heacock/Cactus will be addressed in a future City Capital Project.

The project has been conditioned to pay standard development impact fees (DIF) and Transportation Uniform Mitigation Fees (TUMF), and such payments are considered adequate to reduce project impacts on the remaining intersections that may operate at an unacceptable level without the project and are not substantially worsened by the project.

Project conditions of approval require improvements to the perimeter project streets (Heacock Street and Iris Avenue), the installation of a median in Iris Avenue along the project site's frontage as well as a fair share contribution towards the installation of a signal at Perris and Suburban, which is not in any existing fee program.

The above-noted improvements are project conditions of approval and would provide reduce project-level impacts to below a level of significance. The project as designed and conditioned will reduce the project's contribution to cumulative traffic impacts to below a level of significance.

Hazardous Materials

The project site is not located on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. There will be no known hazardous materials associated with the development of the site. The project as designed and conditioned will not emit hazardous emissions..

Land Use

The project site dating back to City incorporation in 1984, had a County designation of IP or Industrial Park. The General Plan when it was adopted in 1988 identified the area as Business Park. The project site was incorporated into the Moreno Valley Industrial Area when it was updated in 1999 with the current land use designations. The 2006 Update to the City's General Plan did not propose a land use change for the project site or surrounding area. The project site remains Business Park under the current General Plan Land Use Element.

County zoning remained in place as an interim zone until City zoning was adopted in 1992 and at that time it was a Business Park Zone Overlay.

The Moreno Valley Industrial Area Plan (SP #208) was adopted in 1989. This Specific Plan was amended in 1999 and the boundary was extended to the north to include the project site and at that time the project site was assigned an Industrial zone designation.

The proposed project is a permitted use under the Industrial zone of SP #208 and is consistent with the underlying General Plan land use designation.

Flooding

Based upon review of Federal Emergency Management Agency (FEMA) map number 06065C0765G with an effective date of August 28, 2008, a portion of the project site is located within the 100-year flood plain. The project has been conditioned by the Public Works Department to delineate areas prone to flooding on the final grading plan. The flood zone limits must be clearly labeled and the plans must clearly demonstrate that any building finished floor elevation shall be 1-foot minimum above the 100-year base flood elevation. The project is also conditioned to coordinate with FEMA on required processes to update the applicable FEMA map for this area. As designed and conditioned the project would not result in significant impacts related to flooding.

Water Quality

Consistent with requirements of the City and the Santa Ana Regional Water Quality Control Board, the project prepared a Preliminary Water Quality Management Plan (PWQMP). The project PWQMP addresses pollutants of concern which include nutrients, oxygen demanding substances, and pathogens (bacteria and viruses). Site Design and Source Control best management practices (BMP) are proposed throughout the project. The applicant has proposed to incorporate the use of multiple filtration systems as the treatment BMP. The treatment control BMP is acceptable as the conceptual treatment subject to certain conditions including in-situ percolation/infiltration test results.

Although this approach is acceptable in concept with the PWQMP, final sizing and specifications based on support calculations and design details will be provided in the Final WQMP required prior to project grading. The proposed project would also comply with all permits and development guidelines associated with urban water runoff and discharge set forth by the City of Moreno Valley and the Regional Water Quality Control Board. With the approval of the storm drainage facilities by the City Engineer and Riverside County Flood Control District, as well as complying with all applicable storm water discharge permits, impacts would be less than significant.

Biological Resources

The project site is located in an area that the Riverside County Integrated Plan (RCIP) has identified as having the potential for burrowing owl habitat. A habitat assessment for burrowing owl was prepared on September 25, 2006. No burrowing owls were observed on the site during the assessment. Several potentially suitable ground squirrel burrows were noted on the site, but monitoring of the site during peak activity times did not reveal the presence of burrowing owl on or directly adjacent to the project site. The project has been conditioned to complete a pre-construction survey for burrowing owl prior to any clearing, grading or similar site disturbance.

The project site has been disturbed in the past through disking for weed abatement and illegal dumping. There are no drainage features noted within project boundaries. There is no riparian habitat or vernal pools on the site. The project will have no impact to wetlands, including marshes and vernal pools.

Global Climate Change

At the time that the project was submitted, this was not a topic that was addressed through the CEQA review for projects. Therefore, global climate change was not evaluated in the original air quality study. In response to the concerns raised in the appeal letter, the applicant worked with LSA Associates, Inc. to update the Air Quality Analysis for the project to evaluate potential impacts to global climate change.

The Air Quality Analysis dated December 2009, included an evaluation of potential significant impacts to global climate change that could result from the implementation of the project. As concluded in the evaluation, project related Greenhouse Gas (GHG) emissions and their contribution to global climate change in the State of California are less than significant and less than cumulatively considerable because the project's impacts alone would not cause or significantly contribute to global climate change. The project would not result in GHG emission levels that would substantially conflict with implementation of the GHG reduction goals of AB 32 or other State regulations. Project impacts under the category of global climate change have been determined to be less than significant.

Conditions of Approval

While the air quality impacts are less than significant by project compliance with existing air quality regulations, additional conditions of approval have been placed on the project to further reduce the potential cumulative impact to air quality by the project. These conditions of approval include several best management practices (BMP's) recommended by the AQMD, such as encouraging the use of alternative clean fuel, installation of light-colored roof materials to deflect heat and the installation of energy-efficient appliances to reduce energy consumption.

DISCUSSION

Planning Commission Public Hearing

The applicant held a community meeting on February 27, 2008, to present the project to neighboring property owners. There were approximately 20 people in attendance. Concerns raised at the meeting were related to hours of operation, increased traffic, truck routes, building height, noise, air quality, light and glare, aesthetics, quality of life, and impacts to property values. Seven households that requested to receive notice of the project were included in the distribution list when notices for the July 2009 Planning Commission public hearing were sent by mail.

Prior to the Planning Commission public hearing on July 23, 2009, staff received one inquiry regarding the project. A neighboring property owner called and later came into City Hall with three questions. She wanted to know how long the site had been zoned Industrial, what our process would be to notify truck drivers if Revere Place and Concord Way were no longer available for truck parking, and what was the City's requirement for a tree row along the northern property line or the eastern property lines.

A public hearing for the project was conducted on July 23, 2009. There was one speaker at this meeting. He stated he was a resident of Pomona and he was concerned about lighting from the truck court or rear of the buildings that might impact adjacent residences.

Following public testimony, the Planning Commissioners discussed the project, and then voted unanimously to adopt a negative declaration for the project and approve the three project applications.

ALTERNATIVES

1. The City Council could deny the project. If denial of the project is chosen, it is recommended that the item be continued in order to complete the necessary resolution and findings for a denial.
2. The City Council could approve the project.
3. The City Council could modify the project as presented.
4. The City Council could refer the project back to the Planning Commission with direction.

FISCAL IMPACT

Not applicable.

CITY COUNCIL GOALS

Not applicable.

SUMMARY

A public hearing on the appeal of the Planning Commission's July 23, 2009 approval of a Master Plot Plan application for six warehouse buildings ranging from 23,700 to 47,160 square feet on six separate parcels and a Plot Plan application for a 409,498 square foot warehouse distribution building on a 19.14 acre parcel. The project is located at the northeast corner of Heacock Street and Iris Avenue. The project is located in the Industrial (I) zone of the Moreno Valley Industrial Area Specific Plan (SP #208). The project also includes an application for a tentative parcel map.

The appeal application and attached letter identified several areas of concern which have been addressed in the body of the report. Based upon the results of the Initial Study checklist and the findings contained in the resolutions attached to the staff report, Planning is recommending adoption of a Negative Declaration for the project and approval of the three project applications.

NOTIFICATION

Notice of the appeal of the proposed Master Plot Plan, Plot Plan and Tentative Parcel Map applications was provided to all property owners of record within 300' of the properties covered under these applications. The public hearing notice for this project was also posted on the property site and published in the local newspaper.

ATTACHMENTS/EXHIBITS

1. Public Hearing Notice
2. Resolution for Environmental Action
3. Resolution for Master Plot Plan, Plot Plan, and Tentative Parcel Map
4. Planning Commission Staff Report dated July 23, 2009 (excluding exhibits)
5. Planning Commission Minutes for Item #710 from July 23, 2009 Meeting
6. Negative Declaration
7. Initial Study Checklist
8. Reduced Copy of Project Site Plan and Tentative Parcel Map
9. Aerial Photograph
10. Project Area Zoning Map
11. Appeal request letter to City Council
12. Community Meeting Handout – 02/27/08

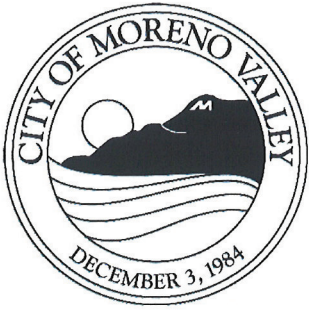
Prepared By:
 Jeff Bradshaw
 Associated Planner

Department Head Approval:
 Kyle Kollar
 Community Development Director

Concurred By:
 John C. Terell, AICP
 Planning Official

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

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Notice of PUBLIC HEARING

This may affect your property. Please read.

Notice is hereby given that a Public Hearing will be held by the City Council of the City of Moreno Valley on the following item(s):

**CASE: PA07-0035 (Master Plot Plan)
PA07-0039 (Plot Plan)
PA08-0021 (Tentative Parcel Map No. 35822)**

APPELLANT: Residents for a Liveable Moreno Valley, c/o Johnson & Sedlack Attorneys at Law

APPLICANT: Rados Tenants in Common

REPRESENTATIVE: Albert A. Webb Associates

LOCATION: Near the northeast corner of Heacock Street and Iris Avenue

PROPOSAL: Appeal to City Council of Planning Commission approval on July 23, 2009 of Master Plot Plan PA07-0035, Plot Plan PA06-0039 and a related tentative parcel map (PA08-0012). Master Plot Plan PA07-0035 is for six industrial buildings to be constructed on six separate parcels located along Revere Place and Concord Way. The buildings range in size from 23,700-square feet to 47,160-square feet. Plot Plan PA07-0039 is for a 409,598 square foot warehouse distribution facility to be located on 19.27-acres located at the northeast corner of Heacock Street and Iris Avenue. Tentative Parcel Map No. 35822 (PA08-0021) is proposed to re-configure property lines for the six buildings under Master Plot Plan PA07-0035 to ensure that buildings are not placed over property lines. The map is also intended to combine eleven parcels into a single parcel to develop the 409,598 square foot distribution facility. The project is located in the Industrial (I) zone of the Industrial Area Specific Plan (SP #208).

ENVIRONMENTAL DETERMINATION: The City of Moreno Valley has prepared an initial study for this project in accordance with the California Environmental Quality Act. On the basis of the initial study, approval of a Negative Declaration is recommended.

COUNCIL DISTRICT: 4

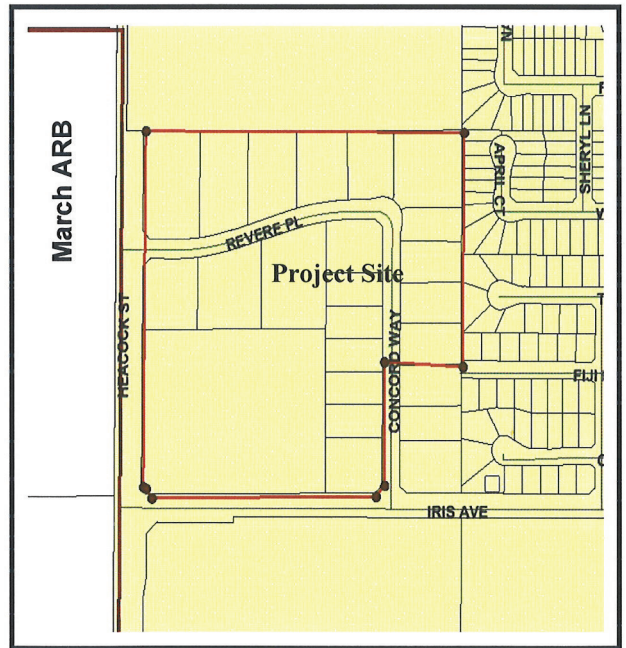
STAFF RECOMMENDATION: Approval

Any person interested in any listed proposal may contact the Community Development Department, Planning Division, at 14177 Frederick St., Moreno Valley, California, during normal business hours (7:30 a.m. to 5:30 p.m., Monday through Thursday) or may telephone (951) 413-3206 for further information. The associated documents will be available for public inspection at the above address.

In the case of public hearing items, any person may also appear and be heard in support of or in opposition to the project or recommendation of adoption of the environmental determination at the time of the hearing.

The City Council, at the hearing or during deliberations, could approve changes or alternatives to the proposal.

If you challenge any of these items in court, you may be limited to raising only those items you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing.



LOCATION MAP North ↑

CITY COUNCIL HEARING

City Council Chambers, City Hall
14177 Frederick Street
Moreno Valley, CA 92553

DATE/TIME: January 26, 2010 at 6:30 PM

CONTACT PLANNER: Jeff Bradshaw

PHONE: (951) 413-3224

ATTACHMENT I

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RESOLUTION NO. 2010-07

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, ADOPTING A NEGATIVE DECLARATION FOR APPLICATION NO'S. PA07-0035 (MASTER PLOT PLAN), PA07-0039 (PLOT PLAN), AND PA08-0021 (TENTATIVE PARCEL MAP NO. 35822) TO RE-CONFIGURE THE PROPERTY LINES AND COMBINE PARCELS FOR ASSESSOR'S PARCEL NUMBERS 485-230-001 TO 010 AND 014 TO 024 IN ORDER TO DEVELOP SIX LIGHT INDUSTRIAL BUILDINGS RANGING IN SIZE FROM 23,700 TO 47,160 SQUARE FEET AND ONE 409,598 SQUARE FOOT WAREHOUSE DISTRIBUTION BUILDING

WHEREAS, an Initial Study and Negative Declaration have been prepared pursuant to the requirements of the California Environmental Quality Act (CEQA, Public Resources Code sections 21000-21177), CEQA Guidelines (14 California Code of Regulations sections 15000-15387), and any other applicable requirements, for the project, as described in the title of this Resolution; and

WHEREAS, the Negative Declaration was duly noticed and circulated for public review for a period of 20 days from July 1, 2009 through July 23, 2009; and

WHEREAS, on July 23, 2009, the Planning Commission of the City of Moreno Valley held a meeting to consider the application. At said meeting, the Planning Commission adopted a Negative Declaration for the Master Plot Plan, Plot Plan and Tentative Parcel Map No. 35822; and

WHEREAS, on August 6, 2009, an application was submitted to the City appealing the Planning Commission's action to approve the project to the City Council for their consideration; and

WHEREAS, the Negative Declaration was duly noticed and circulated for public review for a period of 20 days from January 6, 2010 through January 26, 2010; and

WHEREAS, on January 26, 2010, the City Council of the City of Moreno Valley held a public hearing to consider the environmental documentation mentioned above; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred; and

ATTACHMENT 2

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

A. This City Council hereby specifically finds that all of the facts set forth above in this Resolution are true and correct.

B. Based upon substantial evidence presented to this City Council during the above-referenced meeting on January 26, 2010, including written and oral staff reports, and the record from the public hearing, this City Council hereby specifically finds as follows:

1. Independent Judgment and Analysis – The Initial Study and Negative Declaration represent the City’s independent judgment and analysis.

FACT: A public hearing was conducted by the City Council on January 26, 2010, during which opportunity was given to address the adequacy of the Negative Declaration. All comments on the Initial Study and Negative Declaration raised during the public and agency comment period and at the Public Hearing(s) on the project were considered by the City Council.

2. Less than Significant Impacts to the Environment – The proposed Negative Declaration determines that there is not substantial evidence that the project will have a significant effect on the environment.

FACT: An Initial Study of the potential environmental impacts associated with the project has been completed in accordance with the provisions of the California Environmental Quality Act (CEQA). A Negative Declaration has been prepared, concluding that as designed and conditioned, the project will not result in significant impacts to the environment.

BE IT FURTHER RESOLVED that the City Council of the City of Moreno Valley, California, DOES HEREBY APPROVE Resolution No. 2010-____, adopting a Negative Declaration for PA07-0035 (Master Plot Plan), PA07-0039 (Plot Plan) and PA08-0021 (Tentative Parcel Map No. 35822).

APPROVED AND ADOPTED this 26th day of January, 2010.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

RESOLUTION JURAT

[Clerk's office will prepare]

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

RESOLUTION NO. 2010-08

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, APPROVING APPLICATION NO'S. PA07-0035 (MASTER PLOT PLAN), PA07-0039 (PLOT PLAN), AND PA08-0021 (TENTATIVE PARCEL MAP NO. 35822) TO RE-CONFIGURE THE PROPERTY LINES AND COMBINE PARCELS FOR ASSESSOR'S PARCEL NUMBERS 485-230-001 TO 010 AND 014 TO 024 IN ORDER TO DEVELOP SIX LIGHT INDUSTRIAL BUILDINGS RANGING IN SIZE FROM 23,700 TO 47,160 SQUARE FEET AND ONE 409,598 SQUARE FOOT WAREHOUSE DISTRIBUTION BUILDING

Section 1:

WHEREAS, the applicant, Rados Tenants in Common, has filed an application for the approval of PA07-0035, a Master Plot Plan for development of for six industrial buildings to be constructed on six separate parcels located along Revere Place and Concord Way, as described in the title of this resolution. This application is being processed concurrently with applications PA07-0039 (Plot Plan), and PA08-0021 (Tentative Parcel Map No. 35822).

WHEREAS, on July 23, 2009, the Planning Commission of the City of Moreno Valley held a public hearing to consider the subject application. At said meeting, the Planning Commission approved the environmental documentation prepared for the project and approved PA07-0035.

WHEREAS, on August 6, 2009, an application was submitted to the City appealing the Planning Commission's action to approve the project to the City Council for their consideration.

WHEREAS, on January 26, 2010, the City Council of the City of Moreno Valley held a public hearing to consider the subject applications and the environmental documentation prepared for the project.

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

WHEREAS, there is hereby imposed on the proposed project certain fees, dedications, reservations and other exactions pursuant to state law and City ordinances.

WHEREAS, pursuant to Government Code Section 66020(d)(1), NOTICE IS HEREBY GIVEN that this project is subject to certain fees, dedications, reservations and other exactions as provided herein.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS WITH RESPECT TO PA07-0035:

- A. This City Council hereby specifically finds that all of the facts set forth above in this Resolution are true and correct.
- B. Based upon substantial evidence presented during the above-referenced public hearing, including written and oral staff reports, and the record from the public hearing, the City Council finds that:

- 1. Conformance with General Plan Policies – The proposed use is consistent with the General Plan, and its goals, objectives, policies and programs.

FACT: The Master Plot Plan application for six light industrial buildings is consistent with the project site's existing Business Park General Plan land use designation. As designed and conditioned, the proposal is consistent with existing goals, objectives, policies and programs of the general plan.

- 2. Conformance with Zoning Regulations – The proposed use complies with all applicable zoning and other regulations.

FACT: The project site is located in the Industrial (I) zone of the Moreno Valley's Industrial Area Plan (SP #208) and the proposed light industrial buildings are a permitted use in the Industrial zone. The project is designed in accordance with the provisions of SP #208 and the City's Municipal Code.

- 3. Health, Safety and Welfare – The proposed use will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity.

FACT: An Air Quality Analysis, Noise Impact Analysis, Health Risk Assessment, Traffic analysis and Preliminary Water Quality Management Plan were prepared for the project and the results were accepted by the City. As designed and conditioned, the project will not be detrimental to public health, safety or welfare and will not result in significant environmental impacts.

- 4. Conformance with City Redevelopment Plans – The proposed use conforms with any applicable provisions of any city redevelopment plan.

FACT: This project is not located within the boundaries of the City of Moreno Valley Redevelopment Project Area, so conformance with applicable provisions of the redevelopment plan is not a requirement.

5. Location, Design and Operation – The location, design and operation of the proposed project will be compatible with existing and planned land uses in the vicinity.

FACT: The project is located at the northern limits of the Moreno Valley Industrial Area Plan (SP #208). Land uses to the north include the vacant Business Park (BP) zoned land that is currently proposed for development of single-family residences subject to a change in land use to the R5 zone. Further to the north are existing single-family tract homes. March Air Reserve Base is located to the west with existing tract homes in the RS-10 and R5 zones to the east. Land uses to the south include vacant Industrial zoned land located within SP #208. The proposed light industrial buildings are a permitted use and are in conformance with the Industrial (I) zone of SP #208. The City's General Plan has determined that light industrial buildings of less than 50,000 square feet are a compatible use when located adjacent to residential land uses. The project has been conditioned to provide an 8 foot screen along the northern and eastern property lines where the project backs to existing or proposed residential land uses. The project as designed and conditioned is compatible with existing and planned uses in the vicinity.

C. FEES, DEDICATIONS, RESERVATIONS, AND OTHER EXACTIONS

1. Impact, mitigation and other fees are due and payable under currently applicable ordinances and resolutions. These fees may include but are not limited to: Development Impact Fee, Transportation Uniform Mitigation Fee (TUMF), Multi-species Habitat Conservation Plan (MSHCP) Mitigation Fee, Stephens Kangaroo Habitat Conservation fee, Underground Utilities in lieu Fee, Area Drainage Plan fee, Bridge and Thoroughfare Mitigation fee (Future) and Traffic Signal Mitigation fee. The final amount of fees payable is dependent upon information provided by the applicant and will be determined at the time the fees become due and payable.

Unless otherwise provided for by this resolution, all impact fees shall be calculated and collected at the time and in the manner provided in Chapter 3.32 of the City of Moreno Valley Municipal Code or as so provided in the applicable ordinances and

resolutions. The City expressly reserves the right to amend the fees and the fee calculations consistent with applicable law.

2. DEDICATIONS, RESERVATIONS, AND OTHER EXACTIONS

The adopted Conditions of Approval for PA07-0035, incorporated herein by reference, may include dedications, reservations, and exactions pursuant to Government Code Section 66020 (d) (1).

3. The City expressly reserves the right to establish, modify or adjust any fee, dedication, reservation or other exaction to the extent permitted and as authorized by law.

Pursuant to Government Code Section 66020(d)(1), NOTICE IS FURTHER GIVEN that the 90 day period to protest the imposition of any impact fee, dedication, reservation, or other exaction described in this resolution begins on the effective date of this resolution and any such protest must be in a manner that complies with Section 66020(a) and failure to timely follow this procedure will bar any subsequent legal action to attack, review, set aside, void or annul imposition.

Your right to protest the fees, dedications, reservations, or other exactions does not apply to planning, zoning, grading, or other similar application processing fees or service fees in connection with this project and it does not apply to any fees, dedication, reservations, or other exactions of which you have been given a notice similar to this nor does it revive challenges to any fees for which the Statute of Limitations has previously expired.

Section 2:

WHEREAS, the applicant, Rados Tenants in Common, has filed an application for the approval of PA07-0039, a Plot Plan for development of a 409,598 square foot warehouse distribution facility to be constructed at the northeast corner of Heacock Street and Iris Avenue, as described in the title of this resolution. This application is being processed concurrently with applications PA07-0035 (Mater Plot Plan), and PA08-0021 (Tentative Parcel Map No. 35822).

WHEREAS, on July 23, 2009, the Planning Commission of the City of Moreno Valley held a public hearing to consider the subject application. At said meeting, the Planning Commission approved the environmental documentation prepared for the project and approved PA07-0039.

WHEREAS, on August 6, 2009, an application was submitted to the City appealing the Planning Commission's action to approve the project to the City Council for their consideration.

WHEREAS, on January 26, 2010, the City Council of the City of Moreno Valley held a public hearing to consider the subject applications and the environmental documentation prepared for the project.

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

WHEREAS, there is hereby imposed on the proposed project certain fees, dedications, reservations and other exactions pursuant to state law and City ordinances.

WHEREAS, pursuant to Government Code Section 66020(d)(1), NOTICE IS HEREBY GIVEN that this project is subject to certain fees, dedications, reservations and other exactions as provided herein.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS WITH RESPECT TO PA07-0039:

- A. This City Council hereby specifically finds that all of the facts set forth above in this Resolution are true and correct.
- B. Based upon substantial evidence presented during the above-referenced public hearing, including written and oral staff reports, and the record from the public hearing, the City Council finds that:

- 1. Conformance with General Plan Policies – The proposed use is consistent with the General Plan, and its goals, objectives, policies and programs.

FACT: The Plot Plan application for a warehouse distribution facility is consistent with the project site's existing Business Park General Plan land use designation. As designed and conditioned, the proposal is consistent with existing goals, objectives, policies and programs of the general plan.

- 2. Conformance with Zoning Regulations – The proposed use complies with all applicable zoning and other regulations.

FACT: The project site is located in the Industrial (I) and Industrial Support Area zones of the Moreno Valley's Industrial Area Plan (SP #208) and the proposed warehouse distribution facility is a permitted use in both of these zones. The project is designed in

accordance with the provisions of SP #208 and the City's Municipal Code.

3. Health, Safety and Welfare – The proposed use will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity.

FACT: An Air Quality Analysis, Noise Impact Analysis, Health Risk Assessment, Traffic analysis and Preliminary Water Quality Management Plan were prepared for the project and the results were accepted by the City. As designed and conditioned, the project will not be detrimental to public health, safety or welfare and will not result in significant environmental impacts.

4. Conformance with City Redevelopment Plans – The proposed use conforms with any applicable provisions of any city redevelopment plan.

FACT: This project is not located within the boundaries of the City of Moreno Valley Redevelopment Project Area, so conformance with applicable provisions of the redevelopment plan is not a requirement.

5. Location, Design and Operation – The location, design and operation of the proposed project will be compatible with existing and planned land uses in the vicinity.

FACT: The project is located at the northern limits of the Moreno Valley Industrial Area Plan (SP #208). Land uses to the north include four sites for the buildings proposed by Master Plot Plan PA07-0035 which are zoned Industrial as noted previously. Further north is a vacant 40 acre site that is zoned Business Park (BP). This vacant site is currently proposed for development of single-family residences subject to a change in land use to the R5 zone. Further to the north are existing single-family tract homes. March Air Reserve Base is located to the west with a row of vacant Industrial zoned lots along with two building sites proposed by Master Plot Plan PA07-0035 located to the east. Further east are existing tract homes in the RS-10 and R5 zones to the east. Land uses to the south include vacant Industrial zoned land located within SP #208. The proposed warehouse distribution facility is a permitted use and is in conformance with the Industrial (I) and Industrial Support Area (ISA) zones of SP #208. The project as designed and conditioned is compatible with existing and proposed land uses in the vicinity.

C. FEES, DEDICATIONS, RESERVATIONS, AND OTHER EXACTIONS

1. Impact, mitigation and other fees are due and payable under currently applicable ordinances and resolutions. These fees may include but are not limited to: Development Impact Fee, Transportation Uniform Mitigation Fee (TUMF), Multi-species Habitat Conservation Plan (MSHCP) Mitigation Fee, Stephens Kangaroo Habitat Conservation fee, Underground Utilities in lieu Fee, Area Drainage Plan fee, Bridge and Thoroughfare Mitigation fee (Future) and Traffic Signal Mitigation fee. The final amount of fees payable is dependent upon information provided by the applicant and will be determined at the time the fees become due and payable.

Unless otherwise provided for by this resolution, all impact fees shall be calculated and collected at the time and in the manner provided in Chapter 3.32 of the City of Moreno Valley Municipal Code or as so provided in the applicable ordinances and resolutions. The City expressly reserves the right to amend the fees and the fee calculations consistent with applicable law.

2. DEDICATIONS, RESERVATIONS, AND OTHER EXACTIONS

The adopted Conditions of Approval for PA07-0039, incorporated herein by reference, may include dedications, reservations, and exactions pursuant to Government Code Section 66020 (d) (1).

3. The City expressly reserves the right to establish, modify or adjust any fee, dedication, reservation or other exaction to the extent permitted and as authorized by law.

Pursuant to Government Code Section 66020(d)(1), NOTICE IS FURTHER GIVEN that the 90 day period to protest the imposition of any impact fee, dedication, reservation, or other exaction described in this resolution begins on the effective date of this resolution and any such protest must be in a manner that complies with Section 66020(a) and failure to timely follow this procedure will bar any subsequent legal action to attack, review, set aside, void or annul imposition.

Your right to protest the fees, dedications, reservations, or other exactions does not apply to planning, zoning, grading, or other similar application processing fees or service fees in connection with this project and it does not apply to any fees, dedication, reservations, or other exactions of which you have been given a

notice similar to this nor does it revive challenges to any fees for which the Statute of Limitations has previously expired.

Section 3:

WHEREAS, the applicant, Rados Tenants in Common, has filed an application for the approval of PA08-0021 or Tentative Parcel Map No. to re-configure the existing 21 parcels located within the project site and create six parcels ranging in size from 1.33 to 2.76 acres for Master Plot Plan PA07-0035 and one 19.13 acre parcel for Plot Plan PA07-0039. This application is being processed concurrently with applications PA07-0035 (Mater Plot Plan), and PA07-0039 (Plot Plan).

WHEREAS, on July 23, 2009, the Planning Commission of the City of Moreno Valley held a public hearing to consider the subject application. At said meeting, the Planning Commission approved the environmental documentation prepared for the project and approved PA08-0021.

WHEREAS, on August 6, 2009, an application was submitted to the City appealing the Planning Commission's action to approve the project to the City Council for their consideration.

WHEREAS, on January 26, 2010, the City Council of the City of Moreno Valley held a public hearing to consider the subject applications and the environmental documentation prepared for the project.

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

WHEREAS, there is hereby imposed on the proposed project certain fees, dedications, reservations and other exactions pursuant to state law and City ordinances.

WHEREAS, pursuant to Government Code Section 66020(d)(1), NOTICE IS HEREBY GIVEN that this project is subject to certain fees, dedications, reservations and other exactions as provided herein.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS WITH RESPECT TO PA08-0021:

- A. This City Council hereby specifically finds that all of the facts set forth above in this Resolution are true and correct.
- B. Based upon substantial evidence presented during the above-referenced public hearing, including written and oral staff reports, and the record from the public hearing, the City Council finds that:

1. Conformance with General and Specific Plans – That the proposed land division is consistent with applicable general and specific plans.

FACT: The proposed tentative parcel map is consistent with the General Plan designation of Business Park for the project site as well as the Moreno Valley Industrial Area Plan (SP #208). The proposed parcel map will re-configure the existing 21 parcels located within the project site and create six parcels ranging in size from 1.33 to 2.76 acres for Master Plot Plan PA07-0035 and one 19.13 acre parcel for Plot Plan PA07-0039. The proposed land division is consistent with existing goals, objectives, policies and programs of the general plan and SP #208.

2. Design Conformance with General and Specific Plans – That the design or improvement of the proposed land division is consistent with applicable general and specific plans.

FACT: The tentative parcel map as designed and conditioned will provide improvements that are consistent with the requirements of the project site's General Plan land use designation of Business Park and the requirements of the Moreno Valley Industrial Area Plan.

3. Physically Suitable for Proposed Development – That the site of the proposed land division is physically suitable for the type of development.

FACT: The project site is comprised of multiple vacant rectangular shaped parcels that are mostly flat. The project is located in the northernmost portion of the Moreno Valley Industrial Area Plan (SP #208 Land uses to the north include the vacant Business Park (BP) zoned land that is currently proposed for development of single-family residences subject to a change in land use to the R5 zone. Further to the north are existing single-family tract homes. March Air Reserve Base is located to the west with existing tract homes in the RS-10 and R5 zones to the east. Land uses to the south include vacant Industrial zoned land located within SP #208. Overall, the project site is well suited for future development of industrial land uses.

4. Physically Suitable for Proposed Density – That the site of the proposed land division is physically suitable for the proposed density of the development.

FACT: The project site is mostly flat and at grade along Heacock Street, Iris Avenue, Revere Place and Concord Way. The project site is located in the Industrial (I) and Industrial Support Area (ISA) zones of the Moreno Valley's Industrial Area Plan (SP #208). The parcel map is designed in accordance with the provisions of SP #208 and the City's Municipal Code. The project site is physically suitable for the subdivision.

5. Protection of Fish or Wildlife Habitat – That the design of the proposed land division or the proposed improvements are not likely to cause substantial environmental damage or substantially and unavoidably injure fish or wildlife or their habitat.

FACT: An initial study of the potential environmental impacts associated with the project has been conducted in accordance with the provisions of the California Environmental Quality Act (CEQA), concluding that as conditioned and designed, the proposed subdivision would result in less than significant impacts to Fish and Wildlife resources. The project has also been determined to be consistent with the Multiple Species Habitat Conservation Plan (MSHCP).

6. Health, Safety and Welfare – That the design of the proposed land division or the type of improvements are unlikely to cause serious public health problems.

FACT: As conditioned, the proposed land division would not cause serious public health problems. The Eastern Municipal Water District will provide water and sewer services to the subdivision. There are no known hazardous conditions associated with the property, the design of the land division or the type of improvements.

7. Easements – That the design of the land division or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.

FACT: The tentative parcel map has been designed to accommodate and not conflict with existing easements on the subject site including storm drain easements.

8. Consistent with Applicable City Ordinances – That the proposed land division and the associated design and improvements are consistent with applicable ordinances of the city.

FACT: The tentative parcel map is located in the Industrial (I) and Industrial Support Area zones of the Moreno Valley's Industrial Area Plan (SP #208). The parcel map is designed in accordance with the provisions of SP #208 and the City's Municipal Code.

9. Passive or Natural Heating and Cooling – That the design of the land division provides, to the extent feasible, for future passive or natural heating and cooling opportunities in the subdivision.

FACT: The design of this subdivision, to the extent feasible, allows solar access for passive heating and opportunities for placement of shade trees and other vegetation for cooling.

10. Regional Housing – That the effect of the proposed land division on the housing needs of the region were considered and balanced against the public service needs of the residents of Moreno Valley and available fiscal and environmental resources.

FACT: The project does not exceed the planned density, the associated public service demand, or the demand for environmental resources envisioned by the Moreno Valley General Plan. The project will supplement the City's fiscal resources by paying impact fees for public facilities. Additionally, future residents will pay Community Services District fees, property tax, sales tax and other taxes and fees that will be used to provide landscape maintenance as well as police, fire and other public services.

C. FEES, DEDICATIONS, RESERVATIONS, AND OTHER EXACTIONS

1. Impact, mitigation and other fees are due and payable under currently applicable ordinances and resolutions. These fees may include but are not limited to: Development Impact Fee, Transportation Uniform Mitigation Fee (TUMF), Multi-species Habitat Conservation Plan (MSHCP) Mitigation Fee, Stephens Kangaroo Habitat Conservation fee, Underground Utilities in lieu Fee, Area Drainage Plan fee, Bridge and Thoroughfare Mitigation fee (Future) and Traffic Signal Mitigation fee. The final amount of fees payable is dependent upon information provided by the applicant and will be determined at the time the fees become due and payable.

Unless otherwise provided for by this resolution, all impact fees shall be calculated and collected at the time and in the manner provided in Chapter 3.32 of the City of Moreno Valley Municipal Code or as so provided in the applicable ordinances and

resolutions. The City expressly reserves the right to amend the fees and the fee calculations consistent with applicable law.

2. DEDICATIONS, RESERVATIONS, AND OTHER EXACTIONS

The adopted Conditions of Approval for PA08-0021, incorporated herein by reference, may include dedications, reservations, and exactions pursuant to Government Code Section 66020 (d) (1).

3. The City expressly reserves the right to establish, modify or adjust any fee, dedication, reservation or other exaction to the extent permitted and as authorized by law.

Pursuant to Government Code Section 66020(d)(1), NOTICE IS FURTHER GIVEN that the 90 day period to protest the imposition of any impact fee, dedication, reservation, or other exaction described in this resolution begins on the effective date of this resolution and any such protest must be in a manner that complies with Section 66020(a) and failure to timely follow this procedure will bar any subsequent legal action to attack, review, set aside, void or annul imposition.

Your right to protest the fees, dedications, reservations, or other exactions does not apply to planning, zoning, grading, or other similar application processing fees or service fees in connection with this project and it does not apply to any fees, dedication, reservations, or other exactions of which you have been given a notice similar to this nor does it revive challenges to any fees for which the Statute of Limitations has previously expired.

BE IT FURTHER RESOLVED that the City Council of the City of Moreno Valley, California, DOES HEREBY APPROVE Resolution No. 2010-_____, adopting a Negative Declaration for PA07-0035 (Master Plot Plan), PA07-0039 (Plot Plan) and PA08-0021 (Tentative Parcel Map No. 35822), in that this application will not result in significant impacts; and approving PA07-0035, PA07-0039 and PA08-0021, subject to the attached conditions of approval included as Exhibits A and B.

APPROVED AND ADOPTED this 26th day of January, 2010.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

RESOLUTION JURAT

[Clerk's office will prepare]

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

**CITY OF MORENO VALLEY
 CONDITIONS OF APPROVAL FOR
 MASTER PLOT PLAN PA07-0035 AND PLOT PLAN PA07-0039
 APN's: 485-230-001 TO 010 AND 014 TO 024**

**APPROVAL DATE:
 EXPIRATION DATE:**

- Planning (P), including Building (B), School District (S), Post Office (PO)**
- Fire Prevention Bureau (F)**
- Public Works – Land Development (LD)**
- Public Works – Special Districts (SD)**
- Public Works – Transportation Engineering (TE)**
- Public Works – Moreno Valley Utilities (MVU)**
- Parks & Community Services (PCS)**
- Police (PD)**

Note: All Special conditions are in bold lettering. All other conditions are standard to all or most development projects. Unless otherwise identified, all conditions apply to both PA07-0035 and PA07-0039.

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division

- P1. Master Plot Plan PA07-0035 has been approved for development of Buildings 1 to 6 on six separate parcels within Assessor's Parcel Numbers 485-230-001 to -010. The layout of these buildings relies on shared access and shared drainage and water quality treatment facilities. Required parking is based on proposed building square footage as identified on the approved site plan for PA07-0035.**
- P2. A plot plan with no hearing and notice is required for future review and approval of the buildings within Master Plot Plan PA07-0035 (Buildings 1 to 6).**
- P3. Plot Plan PA07-0039 has been approved for development of Building 7, a 409,598 square foot warehouse distribution facility, to be built on a 19.14 acre site within Assessor's Parcel Numbers 485-230-014 to -024. The facility includes 80 dock doors and 10,000 square feet of office. Required parking for this use equates to a total of 160 employee/visitor parking spaces and 80 truck/trailer parking spaces.**

EXHIBIT A

Timing Mechanisms for Conditions (see abbreviation at beginning of affected condition):

R - Map Recordation	GP - Grading Permits	CO - Certificate of Occupancy or building final
WP - Water Improvement Plans	BP - Building Permits	P - Any permit

Governing Document (see abbreviation at the end of the affected condition):

GP - General Plan	MC - Municipal Code	CEQA - California Environmental Quality Act
Ord - Ordinance	DG - Design Guidelines	Ldscp - Landscape Development Guidelines and Specs
Res - Resolution	UFC - Uniform Fire Code	UBC - Uniform Building Code
	SBM - Subdivision Map Act	

**FINAL CONDITIONS OF APPROVAL
MASTER PLOT PLAN PA07-0035 & PLOT PLAN PA07-0039
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- P4. Development of Buildings 1 to 6 proposed by PA07-0035 and Building 7 proposed by PA07-0039 are subject to approval of Tentative Parcel Map No. 35822 and the subsequent recordation of this map.**
- P5. Bicycle racks shall be provided at a minimum of five (5) percent of the required vehicular parking and shall be located near the designated office area(s) for Buildings 1 to 6 of PA07-0035 and Building 7 of PA07-0039.**
- P6. The gates into truck loading and parking areas shall be of solid metal construction or wrought iron with mesh to screen the interior of the loading area.**
- P7. This project shall comply with South Coast Air Quality Management District (SCAQMD) rules related to dust generation (Rule 403) and the use of architectural coatings (Rule 1113).**
- P8. The perimeter walls along the northern and eastern property lines for the sites for Buildings 1 to 6 of PA07-0035 shall be 8 feet in height and shall be of decorative block or concrete tilt-up construction.**
- P9. The design of all swales and basins that are visible from the public right-of-way shall be integrated with the surrounding landscape areas.**
- P10. Screening walls of decorative block or concrete tilt-up construction shall be provided to screen the truck loading and parking area for Building 7 of PA07-0039 from view from Heacock Street, Iris Avenue, Revere Place and Concord Way.**
- P11. Enhanced landscape shall be provided in the planter areas near each driveway and near the office portions of the facilities.**
- P12. All loudspeakers, bells, gongs, buzzers or other noise attention devices installed on the project site shall be designed to ensure that the noise level at all property lines will be at or below 55 dBA for consistency with the Municipal Code.**
- P13. The following conditions shall be required for PA07-0035 and PA07-0039 in order to address short-term noise impacts during construction:**
- Construction hours shall only be as follows: Monday through Friday (except for holidays which occur on weekdays), six a.m. to eight p.m.; weekends and holidays (as observed by the city and described in Chapter 2.55 of the Municipal Code), seven a.m. to eight p.m., unless**

**FINAL CONDITIONS OF APPROVAL
MASTER PLOT PLAN PA07-0035 & PLOT PLAN PA07-0039
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written approval is obtained from the city building official or city engineer;

- Equipment staging areas shall be at the furthest location possible from adjacent residences;
- Stationary construction equipment will be positioned so that the emitted noise is directed away from adjacent residences; and
- All construction equipment will be equipped with properly operating and maintained mufflers.

P14. The following conditions shall be required for PA07-0039 in order to address the potential impact to air quality associated with warehouse distribution facilities at construction:

- Maintain equipment and vehicle engines in good condition and in proper tune as per manufacturers' specifications;
- Encourage the use of alternative clean fuel such as compressed natural gas-powered equipment with oxidation catalysis instead of diesel powered engines, or if diesel equipment has to be used, encourage use of particulate filters, oxidation catalysts and low sulfur diesel as defined in AQMD Rule 431.2, i.e., with less than 15 ppm sulfur content;
- Trucks hauling dirt, sand, gravel or soil shall be covered or should maintain at least two feet of freeboard in accordance with Section 23114 of the California Vehicle Code;
- Pave, water or chemically stabilize all on-site roads as soon as feasible;
- Suspend grading operations when wind speeds exceed 25 mph;
- Sweep all streets leading into the project site once per day if visible soil materials are carried to adjacent streets;
- Install wheel washers or vibrating plates where vehicles enter and exit unpaved roads onto paved roads;
- Restrict idling for vehicles and equipment to no more than 5 minutes;
- Schedule off-site trucking to minimize the impact on peak-hour traffic;
- Use locally produced and/or manufactured buildings materials for at least 10% of the construction materials for the project; and
- To the extent economically feasible, use "Green Building Materials", e.g. those materials that are resource efficient, recycled, and/or manufactured in an environmentally friendly way for 5% of the materials used on the project.

P15. The following conditions shall be required for PA07-0039 in order to address the potential impact to air quality associated with the operation of warehouse distribution facilities:

**FINAL CONDITIONS OF APPROVAL
MASTER PLOT PLAN PA07-0035 & PLOT PLAN PA07-0039
PAGE 4 OF 40**

- **Encourage the use of alternative-fueled yard tractors;**
- **Restrict idling emissions by using auxiliary power units and electrification;**
- **Provide electrical sources for service equipment and docking of trucks;**
- **Provide light-colored roof materials on the building to deflect heat over areas that are air conditioned;**
- **Encourage the installation of solar panels on building roof to supply electricity for air conditioning;**
- **Install central water heating systems to reduce energy consumption;**
- **Encourage the use of double paned windows to reduce thermal loss, and/or provide high performance glass and window coverings at office areas to reduce HVAC loads;**
- **Install energy-efficient appliances to reduce energy consumption;**
- **Trucks are restricted to idling no more than five minutes at all times;**
- **Install efficient lighting and lighting control systems;**
- **Install energy efficient heating and cooling systems; and**
- **Install water efficient fixtures and appliances.**

P16. This project is located within the Moreno Valley Industrial Area Plan (SP #208). The provisions of the specific plan, the design manual, their subsequent amendments, and the Conditions of Approval shall prevail unless modified herein. (MC 9.13)

P17. This approval shall expire three years after the approval date of this project unless used or extended as provided for by the City of Moreno Valley Municipal Code; otherwise it shall become null and void and of no effect whatsoever. Use means the beginning of substantial construction contemplated by this approval within the three-year period, which is thereafter pursued to completion, or the beginning of substantial utilization contemplated by this approval. (MC 9.02.230)

P18. PA07-0035 and PA07-0039 shall be developed in accordance with the approved plans on file in the Community Development Department - Planning Division, the Municipal Code regulations, General Plan, the Moreno Valley Industrial Area Plan and the conditions contained herein. Prior to any use of the project site or business activity being commenced thereon, all Conditions of Approval shall be completed to the satisfaction of the City Planning Official. (MC 9.14.020)

P19. The developer, or the developer's successor-in-interest, shall be responsible for maintaining any undeveloped portion of the project site in a manner that provides for the control of weeds, erosion and dust. (MC 9.02.030)

P20. A drought tolerant, low water using landscape palette shall be utilized throughout the project to the extent feasible.

**FINAL CONDITIONS OF APPROVAL
MASTER PLOT PLAN PA07-0035 & PLOT PLAN PA07-0039
PAGE 5 OF 40**

- P21. All landscaped areas shall be maintained in a healthy and thriving condition, free from weeds, trash and debris. (MC 9.02.030)
- P22. Any signs indicated on the submitted plans are not included with this approval. Any signs proposed for this development shall be designed in conformance with the sign provisions of the Municipal Code or approved sign program, if applicable, and shall require separate application and approval by the Community Development Department - Planning Division. (MC 9.12.020)

Prior to Issuance of Grading Permits

- P23. (GP) All site plans, grading plans, landscape and irrigation plans, fence/wall plans, lighting plans and street improvement plans shall be coordinated for consistency with this approval.
- P24. (GP) If potential historic, archaeological, or paleontological resources are uncovered during excavation or construction activities at the project site, work in the affected area will cease immediately and a qualified person (meeting the Secretary of the Interior's standards (36CFR61)) shall be consulted by the applicant to evaluate the find, and as appropriate recommend alternative measures to avoid, minimize or mitigate negative effects on the historic, prehistoric, or paleontological resource. Determinations and recommendations by the consultant shall be implemented as deemed appropriate by the Community Development Director, in consultation with the State Historic Preservation Officer (SHPO) and any and all affected Native American Tribes before any further work commences in the affected area.

If human remains are discovered, work in the affected area shall cease immediately and the County Coroner shall be notified. If it is determined that the remains are potentially Native American, the California Native American Heritage Commission and any and all affected Native American Indians tribes such as the Morongo Band of Mission Indians or the Pechanga Band of Luiseno Indians shall be notified and appropriate measures provided by State law shall be implemented. (GP Objective 23.3, DG, CEQA)

- P25. (GP) Prior to issuance of grading permits, the developer shall pay the applicable Stephens' Kangaroo Rat (SKR) Habitat Conservation Plan mitigation fee. (Ord)
- P26. (GP) Prior to approval of any grading permits, final median enhancement/landscape/irrigation plans shall be submitted to the Community Development Department - Planning Division and Public Works Department – Special Districts for review and approval by each division. Timing of installation shall be determined by PW- Special Districts. (GP - Circulation Master Plan)**

**FINAL CONDITIONS OF APPROVAL
MASTER PLOT PLAN PA07-0035 & PLOT PLAN PA07-0039
PAGE 6 OF 40**

- P27. (GP) Prior to approval of any grading permits, plans for any security gate system shall be submitted to the Community Development Department - Planning Division for review and approval.**
- P28. (GP) Prior to the issuance of grading permits, the grading plan shall show decorative concrete pavers for all driveway ingress/egress locations of the project. Accessible pedestrian pathways interior to the site cannot be painted. If delineation is necessary, then an alternative material is required.**
- P29. (GP) Prior to the issuance of a grading permit, all required planter areas, curbs, including twelve-inch concrete step outs, and required parking space striping shall be shown on the precise grading plan.**
- P30. (GP) Prior to the issuance of grading permits, the following burrowing owl survey requirements shall be incorporated into the grading plans in accordance with the Riverside County Multi-species Habitat Conservation Plan: Within 30 days of and prior to disturbance, a burrowing owl focused survey shall be conducted by a qualified biologist using accepted protocols. The survey shall be submitted to the Planning Division for review and approval.**
- P31. (GP) Prior to issuance of grading permits, a landscape and irrigation plan must be submitted to the Planning Division for review of all required landscape and irrigation, including street trees and all swales and basins, with approval required prior to issuance of any building permits. See condition P34 for special landscape requirements. (MC 9.03.040)**
- P32. (GP) Prior to issuance of grading permits, the developer shall work with Planning on a design for swales and basins that is integrated with the landscape planter areas.**
- P33. (GP) Prior to issuance of grading permits, the developer shall submit wall/fence plans to the Planning Division for review and approval as follows:**
- A. An 8 foot high solid of decorative block with pilasters and a cap or concrete tilt-up construction shall be provided along the northern and eastern property lines for the sites for Buildings 1 to 6 of PA07-0035.**
 - B. A maximum 3 foot high decorative wall in lieu of a hedge or berm may be placed in setback areas adjacent to a parking lot.**
 - C. Any proposed retaining walls shall also be decorative in nature, while the combination of retaining and other walls on top shall not exceed the height requirement for the specific plan and/or Municipal Code.**
 - D. A 14 foot solid wall of decorative block with pilasters and a cap or**

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concrete tilt-up construction shall be provided to screen the trucks, parked trailers and the loading areas and loading docks for Building 7 of PA07-0039.

- E. Additional wing walls shall be required to screen the roll-up doors for Buildings 1 to 6 as noted on the approved site plan for PA07-0035.**

Prior to Issuance of Building Permits

- P34. (BP) Prior to issuance of building permits, the Community Development Department - Planning Division shall review and approve the location and method of enclosure or screening of transformer cabinets, commercial gas meters and back flow preventers as shown on the final working drawings. Location and screening shall comply with the following criteria: transformer cabinets and commercial gas meters shall not be located within required setbacks and shall be screened from public view either by architectural treatment or with landscaping; multiple electrical meters shall be fully enclosed and incorporated into the overall architectural design of the building(s); back-flow preventers shall be screened by landscaping that will provide complete screening upon maturity. (GP Objective 43.30, DG)
- P35. (BP) Prior to issuance of building permits, screening details shall be addressed on plans for roof top equipment and trash enclosures submitted for Community Development Department - Planning Division review and approval. All equipment shall be completely screened so as not to be visible from public view, and the screening shall be an integral part of the building. For trash enclosures, landscaping shall be included on at least three sides. The trash enclosure, including any roofing, shall be compatible with the architecture for the building(s). (GP Objective 43.6, DG)
- P36. (BP) Prior to issuance of building permits, two copies of a detailed, on-site, computer generated, point-by-point comparison lighting plan, including exterior building, parking lot, and landscaping lighting, shall be submitted to the Community Development Department - Planning Division for review and approval. The lighting plan shall be generated on the plot plan and shall be integrated with the final landscape plan. The plan shall indicate the manufacturer's specifications for light fixtures used and shall include style, illumination, location, height and method of shielding. The lighting shall be designed in such a manner so that it does not exceed 0.5 foot candles illumination beyond at the property line. The lighting level for all parking lots or structures shall be a minimum coverage of one foot-candle of light with a maximum of eight foot-candles. After the third plan check review for lighting plans, an additional plan check fee will apply. (MC 9.08.100, DG)
- P37. (BP) Prior to issuance of building permits, the developer or developer's successor-in-interest shall pay all applicable impact fees, including but not limited to Transportation Uniform Mitigation fees (TUMF), Multi-species Habitat Conservation Plan (MSHCP) mitigation fees, and the City's adopted Development Impact Fees.

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- P38. (BP) Prior to issuance of building permits, final landscaping and irrigation plans shall be submitted to the Community Development Department - Planning Division for review. All landscape plans shall be approved prior to the release of any building permits for the site. After the third plan check review for landscape plans, an additional plan check fee shall apply. The plans shall be prepared in accordance with the City's Landscape Standards and Specifications and shall include:**
- A. A landscape berm, hedge or a maximum 3 foot decorative wall is required adjacent to parking areas along public rights-of-way.**
 - B. All finger and end planters shall be included at an interval of one per 12 parking stalls, be a minimum 5' x 16', and include additional 12" concrete step-outs and 6" curbing. (MC9.08.230, City's Landscape Standards)**
 - C. All diamond planters shall be included at an interval of one per 3 parking stalls.**
 - D. Drought tolerant landscape shall be provided. Sod shall be limited to public gathering areas only and not be included along the perimeter of the project site.**
 - E. On site trees shall be planted at an equivalent of one (1) tree per thirty (30) linear feet of building dimension. Trees may be massed for pleasing aesthetic effects.**
 - F. Enhanced landscaping shall be included at all driveway and corner locations.**
 - G. All site perimeter and parking lot landscape and irrigation shall be installed prior to the release of certificate of any occupancy permits for the site or pad in question.**
 - H. The review of all utility boxes, transformers etc. shall be coordinated to provide adequate screening from public view. (Landscape Guidelines)**
 - I. Landscaping on three sides of trash enclosures shall be provided.**
 - J. Street trees shall be provided at spacing of forty feet on center within the public right of way.**
 - K. The design of all swales and basins that are visible from the public right-of-way shall be integrated with the surrounding landscape areas.**
- P39. (BP) Prior to issuance of building permits for PA07-0035 (Buildings 1 to 6) a phasing plan application shall be submitted to the Planning Division for review and approval, if occupancy is proposed to be phased.**
- P40. (BP) Prior to the issuance of building permits the building site plan shall include decorative concrete pavers for all driveway ingress/egress locations**

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for the project.

- P41. (BP) Prior to the issuance of a building permit(s), show that all downspouts are integrated into the architecture of the building(s) or provide interior downspouts.**
- P42. (BP) Prior to issuance of building permits for PA07-0035 (Buildings 1 to 6) and PA07-0039 (Building 7) a final map for Tentative Parcel Map No. 35822 (PA08-0021) must be approved and recorded and all conditions of approval related to the parcel map must be satisfied.**
- P43. (BP) Prior to issuance of a building permit(s) for PA07-0035 (Buildings 1 to 6) a recorded copy of a reciprocal access agreement between parcels 1 to 6 of Parcel Map No. 35822 shall be submitted to the City's Planning Division and Land Development Division.**
- P44. (BP) Prior to issuance of a building permit(s) for PA07-0035 (Buildings 1 to 6) Covenants, Conditions, and Restrictions (CC&Rs) shall be submitted to the Planning Division and the Land Development Division for review and approval to ensure that the CC&Rs cover shared maintenance responsibilities pertaining to drainage and water quality treatment facilities.**

Prior to Issuance of Certificate of Occupancy or Building Final

- P45. (CO) Prior to issuance of Certificates of Occupancy or building final, the required landscaping and irrigation shall be installed. (MC 9.03.040)**
- P46. (CO) Prior to the issuance of a Certificate of Occupancy, the applicant shall execute an avigation easement with the March Joint Powers Authority.**
- P47. (CO) Prior to the issuance of Certificates of Occupancy or building final, all required and proposed fences and walls shall be constructed according to the approved plans on file in the Community Development Department – Planning Division. (MC 9.080.070).**
- P48. (CO) Prior to issuance of Certificate of Occupancy or building final, installed landscaping and irrigation shall be reviewed by the Community Development Department - Planning Division. The landscaping shall be installed in accordance with the City's Landscape Standards and the approved landscape plans, and shall include:
 - A. A landscape berm, hedge or a maximum 3 foot decorative wall is required adjacent to parking areas along public rights-of-way.****

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- B. All finger and end planters shall be included at an interval of one per 12 parking stalls, be a minimum 5' x 16', and include additional 12" concrete step-outs and 6" curbing. (MC9.08.230, City's Landscape Standards)**
- C. All diamond planters shall be included at an interval of one per 3 parking stalls.**
- D. Drought tolerant landscape shall be provided. Sod shall be limited to public gathering areas only and not be included along the perimeter of the project site.**
- E. On site trees shall be planted at an equivalent of one (1) tree per thirty (30) linear feet of building dimension. Trees may be massed for pleasing aesthetic effects.**
- F. Enhanced landscaping shall be included at all driveway and corner locations.**
- G. All site perimeter and parking lot landscape and irrigation shall be installed prior to the release of certificate of any occupancy permits for the site or pad in question.**
- H. The review of all utility boxes, transformers etc. shall be coordinated to provide adequate screening from public view. (Landscape Guidelines)**
- I. Landscaping on three sides of trash enclosures shall be provided.**
- J. Street trees shall be provided at spacing of forty feet on center within the public right of way.**
- K. The design of all swales and basins that are visible from the public right-of-way shall be integrated with the surrounding landscape areas.**

Building and Safety Division

- B1. The above project shall comply with the current California Codes (CBC, CEC, CMC and the CPC) as well as all other city ordinances. All new projects shall provide a soils report. Plans shall be submitted to the Building Department as a separate submittal.**

COMMERCIAL, INDUSTRIAL, MULTI-FAMILY PROJECTS INCLUDING CONDOMINIUMS, TOWNHOMES, DUPLEXES AND TRIPLEX BUILDINGS REQUIRE THE FOLLOWING:

Prior to final inspection, all plans will be placed on a CD Rom for reference and verification. Plans will include "as built" plans, revisions and changes. The CD will also include Title 24 energy calculations, structural calculations and all other pertinent information. It will be the responsibility of the developer and or the building or property owner(s) to bear all costs required for this process. The CD will be presented to the Building Department for review prior to final inspection and building occupancy. The CD will become the property of the Moreno Valley Building

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Department at that time. In addition, a site plan showing the path of travel from public right of way and building to building access with elevations will be required.

- B3. (BP) Prior to the issuance of a building permit, the applicant shall submit a properly completed "Waste Management Plan" (WMP), as required, to the Compliance Official (Building Official) as a portion of the building or demolition permit process.

SCHOOL DISTRICT

- S1. (BP) Prior to issuance of building permits, the developer shall provide to the Community Development Director a written certification by the affected school district that either: (1) the project has complied with the fee or other exaction levied on the project by the governing board of the district, pursuant to Government Code Section 65996; or (2) the fee or other requirement does not apply to the project.

UNITED STATES POSTAL SERVICE

- PO1. (BP) Prior to the issuance of building permits, the developer shall contact the U.S. Postal Service to determine the appropriate type and location of mailboxes.

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FIRE PREVENTION BUREAU

With respect to the conditions of approval, the following fire protection measures shall be provided in accordance with Moreno Valley City Ordinances and/or recognized fire protection standards:

- F1. Final fire and life safety conditions will be addressed when the Fire Prevention Bureau reviews building plans. These conditions will be based on occupancy, use, California Building Code (CBC), California Fire Code (CFC), and related codes, which are in force at the time of building plan submittal.
- F2. The Fire Prevention Bureau is required to set a minimum fire flow for the remodel or construction of all commercial buildings per CFC Appendix B and Table B105.1. The applicant/developer shall provide documentation to show there exists a water system capable of delivering 4000 GPM for 4 hour(s) duration at 20-PSI residual operating pressure. The required fire flow may be adjusted during the approval process to reflect changes in design, construction type, or automatic fire protection measures as approved by the Fire Prevention Bureau. Specific requirements for the project will be determined at time of submittal. (CFC 508.3, Appendix B and MVMC 8.36.100 Section D).
- F3. Industrial, Commercial, Multi-family, Apartment, Condominium, Townhouse or Mobile Home Parks. A combination of on-site and off-site super enhanced fire hydrants (6" x 4" x 4" x 2 ½") shall not be closer than 40 feet and more than 150 feet from any portion of the building as measured along approved emergency vehicular travel ways. The required fire flow shall be available from any adjacent fire hydrant(s) in the system. Where new water mains are extended along streets where hydrants are not needed for protection of structures or similar fire problems, super or enhanced fire hydrants as determined by the fire code official shall be provided at spacing not to exceed 500 feet of frontage for transportation hazards. (CFC 508.5.7 & MVMC 8.36.050 Section O and 8.36.100 Section E)
- F4. During phased construction, dead end roadways and streets which have not been completed shall have a turn-around capable of accommodating fire apparatus. (CFC 503.1 and 503.2.5)
- F5. (BP) Prior to issuance of Building Permits, the applicant/developer shall provide the Fire Prevention Bureau with an approved site plan for Fire Lanes and signage. (MVMC 8.36.050 and CFC 501.3)
- F6. (BP) Prior to construction and issuance of building permits, all locations where structures are to be built shall have an approved Fire Department emergency vehicular access road (all weather surface) capable of sustaining an imposed load of 80,000 lbs. GVW, based on street standards approved by the Public Works

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Director and the Fire Prevention Bureau. (CFC 501.4 and MVMC 8.36.050 Section A)

- F7. (BP) Prior to construction and issuance of Building Permits, fire lanes and fire apparatus access roads shall have an unobstructed width of not less the twenty-four (24) or thirty (30) feet as approved by the Fire Prevention Bureau and an unobstructed vertical clearance of not less the thirteen (13) feet six (6) inches. (CFC 503.2.1.1 and MVMC 8.36.050)
- F8. Prior to construction, all roads, driveways and private roads shall not exceed 12 percent grade. (CFC 503.2.7 and MVMC 8.36.050)
- F9. If construction is phased, each phase shall provide an approved emergency vehicular access way for fire protection prior to any building construction. (CFC 501.4 and MVMC 8.36.050 Section A)
- F10. Prior to construction, all locations where structures are to be built shall have an approved Fire Department access based on street standards approved by the Public Works Director and the Fire Prevention Bureau. (CFC 501.3 and MVMC 8.36.050)
- F11. Prior to building construction, dead end roadways and streets which have not been completed shall have a turnaround capable of accommodating fire apparatus. (CFC 503.2.5 and MVMC 8.36.050)
- F12. (BP) Prior to issuance of Building Permits, the applicant/developer shall participate in the Fire Impact Mitigation Program. (Fee Resolution as adopted by City Council)
- F13. (BP) Prior to issuance of Building Permits, the applicant/developer shall furnish one copy of the water system plans to the Fire Prevention Bureau for review. Plans shall:
 - a) Be signed by a registered civil engineer or a certified fire protection engineer;
 - b) Contain a Fire Prevention Bureau approval signature block; and
 - c) Conform to hydrant type, location, spacing of new and existing hydrants and minimum fire flow required as determined by the Fire Prevention Bureau.

After the local water company signs the plans, the originals shall be presented to the Fire Prevention Bureau for signatures. The required water system, including fire hydrants, shall be installed, made serviceable, and be accepted by the Moreno Valley Fire Department prior to beginning construction. They shall be maintained accessible.

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Existing fire hydrants on public streets are allowed to be considered available. Existing fire hydrants on adjacent properties shall not be considered available unless fire apparatus access roads extend between properties and easements are established to prevent obstruction of such roads. (CFC 508.1 and MVMC 8.36.100)

- F14. (CO) Prior to issuance of Certificate of Occupancy or Building Final, “Blue Reflective Markers” shall be installed to identify fire hydrant locations in accordance with City specifications. (CFC 510.1)
- F15. (CO) Prior to issuance of Certificate of Occupancy or Building Final, all commercial buildings shall display street numbers in a prominent location on the street side and rear access locations. The numerals shall be a minimum of twelve (12) inches in height for buildings and six (6) inches in height for suite identification on a contrasting background. Unobstructed lighting of the address(s) shall be by means approved by the Fire Prevention Bureau and Police Department. In multiple suite centers (strip malls), businesses shall post the name of the business on the rear door(s). (CFC 505.1)
- F16. (CO) Prior to issuance of Certificate of Occupancy or Building Final, the applicant/developer shall install a fire sprinkler system based on square footage and type of construction, occupancy or use. Fire sprinkler plans shall be submitted to the Fire Prevention Bureau for approval prior to installation. (CFC Chapter 9)
- F17. (CO) Prior to issuance of Certificate of Occupancy or Building Final, the applicant/developer shall install a fire alarm system monitored by an approved Underwriters Laboratory listed central station based on a requirement for monitoring the sprinkler system, occupancy or use. Fire alarm panel shall be accessible from exterior of building in an approved location. Plans shall be submitted to the Fire Prevention Bureau for approval prior to installation. (CFC Chapter 9 and MVMC 8.36.070)
- F18. (CO) Prior to issuance of a Certificate of Occupancy or Building Final, a “Knox Box Rapid Entry System” shall be provided. The Knox-Box shall be installed in an accessible location approved by the Fire Chief. The Knox-Box shall be supervised by the alarm system and all exterior security emergency access gates shall be electronically operated and be provided with Knox key switches for access by emergency personnel. (CFC 506.1)
- F19. (CO) Prior to issuance of Certificate of Occupancy or Building Final, the applicant/developer shall be responsible for obtaining underground and/or above ground tank permits for the storage of combustible liquids, flammable liquids, or any other hazardous materials from both the County of Riverside Community Health

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Agency Department of Environmental Health and the Fire Prevention Bureau. (CFC 3401.4 and 2701.5)

- F20. (CO) Prior to issuance of Certificate of Occupancy, approval shall be required from the County of Riverside Community Health Agency (Department of Environmental Health) and Moreno Valley Fire Prevention Bureau to maintain, store, use, handle materials, or conduct processes which produce conditions hazardous to life or property, and to install equipment used in connection with such activities. (CFC 2701.5)
- F21. (CO) Prior to issuance of Certificate of Occupancy or Building Final, the applicant/developer must submit a simple plot plan, a simple floor plan, and other plans as requested, each as an electronic file in .dwg format, to the Fire Prevention Bureau. Alternate file formats may be acceptable with approval by the Fire Chief.
- F22. The angle of approach and departure for any means of Fire Department access shall not exceed 1 ft drop in 20 ft (0.3 m drop in 6 m), and the design limitations of the fire apparatus of the Fire Department shall be subject to approval by the AHJ. (CFC 503.2.7 and MVMC 8.36.050 Section I)
- F23. (BP) Prior to issuance of the building permit for development, independent paved access to the nearest paved road, maintained by the City shall be designed and constructed by the developer within the public right of way in accordance with City Standards. (MVMC 8.36.050)
- F24. Complete plans and specifications for fire alarm systems, fire-extinguishing systems (including automatic sprinklers or standpipe systems), clean agent systems (or other special types of automatic fire-extinguishing systems), as well as other fire-protection systems and appurtenances thereto shall be submitted to the Moreno Valley Fire Prevention Bureau for review and approval prior to system installation. Submittals shall be in accordance with CFC Chapter 9 and associated accepted national standards.
- F25. A permit is required to maintain, store, use or handle materials, or to conduct processes which produce conditions hazardous to life or property, or to install equipment used in connection with such activities. Such permits shall not be construed as authority to violate, cancel or set aside any of the provisions of this code. Such permit shall not take the place of any license required by law. Applications for permits shall be made to the Fire Prevention Bureau in such form and detail as prescribed by the Bureau. Applications for permits shall be accompanied by such plans as required by the Bureau. Permits shall be kept on the premises designated therein at all times and shall be posted in a conspicuous location on the premises or shall be kept on the premises in a location designated by the Fire Chief. Permits shall be subject to inspection at all times by an officer of

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the fire department or other persons authorized by the Fire Chief in accordance with Appendix Chapter 1 and MVMC 8.36.100.

- F26. Approval of the safety precautions required for buildings being constructed, altered or demolished shall be required by the Fire Chief in addition to other approvals required for specific operations or processes associated with such construction, alteration or demolition. (CFC Chapter 14)
- F27. (CO) Prior to issuance of Certificate of Occupancy, permits are required to store, dispense, use or handle hazardous material. Each application for a permit shall include a hazardous materials management plan (HMMP). The location of the HMMP shall be posted adjacent to (other) permits when an HMMP is provided. The HMMP shall include a facility site plan designating the following:
- a) Storage and use areas;
 - b) Maximum amount of each material stored or used in each area;
 - c) Range of container sizes;
 - d) Locations of emergency isolation and mitigation valves and devices;
 - e) Product conveying piping containing liquids or gases, other than utility-owned fuel gas lines and low-pressure fuel gas lines;
 - f) On and off positions of valves for valves which are of the self-indicating type;
 - g) Storage plan showing the intended storage arrangement, including the location and dimensions of aisles. The plans shall be legible and approximately to scale. Separate distribution systems are allowed to be shown on separate pages; and
 - h) Site plan showing all adjacent/neighboring structures and use.

NOTE: Each application for a permit shall include a hazardous materials inventory statement (HMIS).

- F28. Before a Hazardous Materials permit is issued, the Fire Chief shall inspect and approve the receptacles, vehicles, buildings, devices, premises, storage spaces or areas to be used. In instances where laws or regulations are enforceable by departments other than the Fire Prevention Bureau, joint approval shall be obtained from all departments concerned. (CFC Appendix H)
- F29. Construction or work for which the Fire Prevention Bureau's approval is required shall be subject to inspection by the Fire Chief and such construction or work shall remain accessible and exposed for inspection purposes until approved. (CFC Section 106)
- F30. The Fire Prevention Bureau shall maintain the authority to inspect, as often as necessary, buildings and premises, including such other hazards or appliances

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designated by the Fire Chief for the purpose of ascertaining and causing to be corrected any conditions which would reasonably tend to cause fire or contribute to its spread, or any violation of the purpose or provisions of this code and of any other law or standard affecting fire safety. (CFC Section 106)

- F31. Permit requirements issued, which designate specific occupancy requirements for a particular dwelling, occupancy, or use, shall remain in effect until such time as amended by the Fire Chief. (CFC Section 104)
- F32. In accordance with the California Fire Code Appendix Chapter 1, where no applicable standards or requirements are set forth in this code, or contained within other laws, codes, regulations, ordinances or bylaws adopted by the jurisdiction, compliance with applicable standards of the National Fire Protection Association or other nationally recognized fire safety standards as are approved shall be deemed as prima facie evidence of compliance with the intent of this code as approved by the Fire Chief. (CFC Section 102.7)
- F33. Any alterations, demolitions, or change in design, occupancy and use of buildings or site will require plan submittal to the Fire Prevention Bureau with review and approval prior to installation. (CFC Appendix Chapter 1)
- F34. Emergency and Fire Protection Plans shall be provided when required by the Fire Prevention Bureau. (CFC Section 105)
- F35. Prior to construction, all traffic calming designs/devices must be approved by the Fire Marshal and City Engineer.

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PUBLIC WORKS DEPARTMENT – LAND DEVELOPMENT DIVISION

The following are the Public Works Department – Land Development Division Conditions of Approval for this project and shall be completed at no cost to any government agency. All questions regarding the intent of the following conditions shall be referred to the Public Works Department – Land Development Division.

General Conditions

- LD1. (G) The developer shall comply with all applicable City ordinances and resolutions including the City’s Municipal Code (MC) and if subdividing land, the Government Code (GC) of the State of California, specifically Sections 66410 through 66499.58, said sections also referred to as the Subdivision Map Act (SMA). (MC 9.14.010)
- LD2. (G) If the project involves the subdivision of land, maps may be developed in phases with the approval of the City Engineer. Financial security shall be provided for all improvements associated with each phase of the map. The boundaries of any multiple map increment shall be subject to the approval of the City Engineer. The City Engineer may require the dedication and construction of necessary utilities, streets or other improvements outside the area of any particular map, if the improvements are needed for circulation, parking, access, or for the welfare or safety of the public. (MC 9.14.080, GC 66412 and 66462.5) If the project does not involve the subdivision of land and it is necessary to dedicate right-of-way/easements, the developer shall make the appropriate offer of dedication by separate instrument. The City Engineer may require the construction of necessary utilities, streets or other improvements beyond the project boundary, if the improvements are needed for circulation, parking, access, or for the welfare or safety of the public.
- LD3. (G) It is understood that the plot plans correctly shows all existing easements, traveled ways, and drainage courses, and that their omission may require the map or plans associated with this application to be resubmitted for further consideration. (MC 9.14.040)
- LD4. (G) In the event right-of-way or offsite easements are required to construct offsite improvements necessary for the orderly development of the surrounding area to meet the public health and safety needs, the developer shall make a good faith effort to acquire the needed right-of-way in accordance with the Land Development Division’s administrative policy. In the event that the developer is unsuccessful, he shall enter into an agreement with the City to acquire the necessary right-of-way or offsite easements and complete the improvements at such time the City acquires the right-of-way or offsite easements which will permit the improvements to be made. The**

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developer shall be responsible for all costs associated with the right-of-way or easement acquisition. (GC 66462.5)

- LD5. (G) If improvements associated with this project are not initiated within two years of the date of approval of the Public Improvement Agreement, the City Engineer may require that the improvement cost estimate associated with the project be modified to reflect current City construction costs in effect at the time of request for an extension of time for the Public Improvement Agreement or issuance of a permit.
- LD6. (G) The developer shall monitor, supervise and control all construction and construction supportive activities, so as to prevent these activities from causing a public nuisance, including but not limited to, insuring strict adherence to the following:
- (a) Removal of dirt, debris, or other construction material deposited on any public street no later than the end of each working day.
 - (b) Observance of working hours as stipulated on permits issued by the Public Works Department.
 - (c) The construction site shall accommodate the parking of all motor vehicles used by persons working at or providing deliveries to the site.
 - (d) All dust control measures per South Coast Air Quality Management District (SCAQMD) requirements shall be adhered to during the grading operations.

Violation of any condition or restriction or prohibition set forth in these conditions shall subject the owner, applicant, developer or contractor(s) to remedies as noted in the City Municipal Code 8.14.090. In addition, the City Engineer or Building Official may suspend all construction related activities for violation of any condition, restriction or prohibition set forth in these conditions until such time as it has been determined that all operations and activities are in conformance with these conditions.

- LD7. (G) The developer shall protect downstream properties from damage caused by alteration of drainage patterns, i.e., concentration or diversion of flow. Protection shall be provided by constructing adequate drainage facilities, including, but not limited to, modifying existing facilities or by securing a drainage easement. (MC 9.14.110)
- LD8. (G) A detailed drainage study shall be submitted to the City Engineer for review and approval at the time of any improvement or grading plan submittal. The study shall be prepared by a registered civil engineer and shall include existing and proposed

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hydrologic conditions. Hydraulic calculations are required for all drainage control devices and storm drain lines. (MC 9.14.110)

- LD9. (G) Prior to final map approval, commencing applicable street improvements, or obtaining the first building permit, the developer shall enter into a Development Impact Fee (DIF) Improvement Credit Agreement to secure credit and reimbursement for the construction of applicable arterial street, traffic signal, and/or interchange improvements. If the developer fails to complete this agreement prior to the timing as specified above, no credits or reimbursements will be given. The applicant shall pay Arterial Streets, Traffic Signals, and Interchange Improvements development impact fees adopted by the City Council by resolution. (Ord. 695 § 1.1 (part), 2005) (MC 3.38.030, .040, .050)
- LD10. (G) Prior to final map approval, commencing applicable street improvements, or obtaining the first building permit, the developer shall enter into a Transportation Uniform Mitigation Fee (TUMF) Improvement Credit Agreement to secure credit and reimbursement for the construction of applicable improvements. If the developer fails to complete this agreement by the timing as specified above, no credits or reimbursements will be given for any work. Prior to approval of the TUMF Improvement Credit Agreement, an approved engineer's cost estimate and street improvement plan are required.
- LD11. (G) The final conditions of approval issued by the Planning Division subsequent to Planning Commission approval shall be photographically or electronically placed on mylar sheets and included in the Grading and Street Improvement plan sets on twenty-four (24) inch by thirty-six (36) inch mylar and submitted with the plans for plan check. These conditions of approval shall become part of these plan sets and the approved plans shall be available in the field during grading and construction.
- LD12. (G) Upon approval of the tentative tract map or plot plan by the Planning Commission, the Developer shall submit the approved tentative tract map or plot plan on compact disk in (.dxf) digital format to the Land Development Division of the Public Works Department.

Prior to Grading Plan Approval or Grading Permit

- LD13. (GPA) Prior to approval of the grading plans, plans shall be drawn on twenty-four (24) inch by thirty-six (36) inch mylar and signed by a registered civil engineer and other registered/licensed professional as required.
- LD14. (GPA) Prior to approval of grading plans, the developer shall ensure compliance with the City Grading ordinance, these Conditions of Approval and the following criteria:

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- a. The project street and lot grading shall be designed in a manner that perpetuates the existing natural drainage patterns with respect to tributary drainage area and outlet points. Unless otherwise approved by the City Engineer, lot lines shall be located at the top of slopes.
- b. Any grading that creates cut or fill slopes adjacent to the street shall provide erosion control, sight distance control, and slope easements as approved by the City Engineer.
- c. A grading permit shall be obtained from the Public Works Department Land Development Division prior to commencement of any grading outside of the City maintained road right-of-way.
- d. All improvement plans are substantially complete and appropriate clearance and at-risk letters are provided to the City. (MC 9.14.030)
- e. The developer shall submit a soils and geologic report to the Public Works Department – Land Development Division. The report shall address the soil’s stability and geological conditions of the site.

LD15. (GPA) Prior to grading plan approval, the developer shall select and implement treatment control best management practices (BMPs) that are medium to highly effective for treating Pollutants of Concern (POC) for the project. Projects where National Pollution Discharge Elimination System (NPDES) mandates water quality treatment control best management practices (BMPs) shall be designed per the City of Moreno Valley guidelines or as approved by the City Engineer.

LD16. (GPA) Prior to approval of the grading plans, for project sites which are one acre or larger, the developer shall obtain the WQMP number from the City’s Land Development Division, if a WQMP is required, and as a condition of the State Water Quality Control Board, a Notice of Intent (NOI) for an NPDES permit must be filed and a Waste Discharge Identification (W.D.I.D.) permit number obtained from the State Water Quality Control Board. (Clean Water Act)

LD17. (GPA) Prior to the grading plan approval, or issuance of a building permit, if a grading permit is not required, the Developer shall submit two (2) copies of the final project-specific Water Quality Management Plan (WQMP) for review by the City Engineer that :

- a. Addresses Site Design Best Management Practices (BMPs) such as minimizing impervious areas, maximizing permeability, minimizes directly connected impervious areas to the City’s street and storm drain systems, and conserves natural areas;

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- b. Incorporates Source Control BMPs and provides a detailed description of their implementation;
- c. Incorporates Treatment Control BMPs and provides information regarding design considerations;
- d. Describes the long-term operation and maintenance requirements for BMPs requiring maintenance; and
- e. Describes the mechanism for funding the long-term operation and maintenance of the BMPs.

A copy of the final WQMP template can be obtained on the City's Website or by contacting the Land Development Division of the Public Works Department.

- LD18. (GPA) Prior to the grading plan approval, or issuance of a building permit, if a grading permit is not required, the Developer shall record a "Stormwater Treatment Device and Control Measure Access and Maintenance Covenant," to provide public notice of the requirement to implement the approved final project-specific WQMP and the maintenance requirements associated with the WQMP.

A boilerplate copy of the "Stormwater Treatment Device and Control Measure Access and Maintenance Covenant," can be obtained by contacting the Land Development Division of the Public Works Department

- LD19. (GPA) Prior to the grading plan approval, or issuance of a building permit, if a grading permit is not required, the Developer shall secure approval of the final project-specific WQMP from the City Engineer. The final project-specific WQMP shall be submitted at the same time of grading plan submittal.

- LD20. (GPA) Prior to the grading plan approval, or issuance of a building permit as determined by the City Engineer, the approved final project-specific WQMP shall be incorporated by reference or attached to the project's Storm Water Pollution Prevention Plan as the Post-Construction Management Plan.

- LD21. (GPA) Prior to grading plan approval, the developer shall prepare a Storm Water Pollution Prevention Plan (SWPPP) in conformance with the state's Construction Activities Storm Water General Permit. A copy of the current SWPPP shall be kept at the project site and be available for review upon request. The SWPPP shall be submitted to the Storm Water Program Manager on compact disk(s) in Microsoft Word format.

- LD22. (GPA) Prior to the approval of the grading plans, the developer shall pay applicable remaining grading plan check fee.

- LD23. (GPA/MA) Prior to the later of either grading plan or final map approval, resolution of all drainage issues shall be as approved by the City Engineer.

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- LD24. (GP) Prior to issuance of a grading permit, if the developer chooses to construct the project in construction phases, a Construction Phasing Plan for the construction of on-site public and private improvements shall be reviewed and approved by the City Engineer.
- LD25. (GP) Prior to issuance of a grading permit, if the fee has not already been paid prior to map approval or prior to issuance of a building permit if a grading permit is not required, the developer shall pay Area Drainage Plan (ADP) fees. The developer shall provide a receipt to the City showing that ADP fees have been paid to Riverside County Flood Control and Water Conservation District. (MC 9.14.100)
- LD26. (GP) Prior to issuance of a grading permit, security, in the form of a cash deposit (preferable), letter of credit, or performance bond shall be required to be submitted as a guarantee of the completion of the grading required as a condition of approval of the project.
- LD27. (GP) Prior to issuance of a grading permit, the developer shall pay the applicable grading inspection fees.

Prior to Improvement Plan Approval or Construction Permit

- LD28. (IPA) Prior to approval of the improvement plans, the improvement plans shall be drawn on twenty-four (24) inch by thirty-six (36) inch mylar and signed by a registered civil engineer and other registered/licensed professional as required.
- LD29. (IPA) Prior to approval of the improvement plans, the developer shall submit clearances from all applicable agencies, and pay all outstanding plan check fees. (MC 9.14.210)
- LD30. (IPA) All public improvement plans prepared and signed by a registered civil engineer in accordance with City standards, policies and requirements shall be approved by the City Engineer in order for the Public Improvement Agreement and accompanying security to be executed.
- LD31. (IPA) Prior to approval of the improvement plans, securities and a public improvement agreement shall be required to be submitted and executed as a guarantee of the completion of the improvements required as a condition of approval of the project.
- LD32. (IPA) The street improvement plans shall comply with all applicable City standards and the following design standards throughout this project:

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- a. Corner cutbacks in conformance with City Standard 208 shall be shown on the final map or, if no map is to be recorded, offered for dedication by separate instrument.
 - b. Lot access to major thoroughfares shall be restricted except at intersections and approved entrances and shall be so noted on the final map. (MC 9.14.100)
- LD33. (IPA) Prior to approval of the improvement plans, the plans shall be based upon a centerline profile, extending beyond the project boundaries a minimum distance of 300 feet at a grade and alignment approved by the City Engineer. Design plan and profile information shall include the minimum 300 feet beyond the project boundaries.
- LD34. (IPA) Prior to approval of the improvement plans, the plans shall indicate any restrictions on trench repair pavement cuts to reflect the City's moratorium on disturbing newly-constructed pavement less than three years old and recently slurry sealed streets less than one year old. Pavement cuts for trench repairs may be allowed for emergency repairs or as specifically approved in writing by the City Engineer.
- LD35. (IPA) Prior to approval of the improvement plans, the developer is required to bring any existing access ramps adjacent to and fronting the project to current ADA (Americans with Disabilities Act) requirements. However, when work is required in an intersection that involves or impacts existing access ramps, those access ramps in that intersection shall be retrofitted to comply with current ADA requirements, unless approved otherwise by the City Engineer.
- LD36. (IPA) Prior to approval of the improvement plans, drainage facilities with sump conditions shall be designed to convey the tributary 100-year storm flows. Secondary emergency escape shall also be provided. (MC 9.14.110)
- LD37. (IPA) Prior to the approval of the improvement plans, the hydrology study shall show that the 10-year storm flow will be contained within the curb and the 100-year storm flow shall be contained within the street right-of-way. In addition, one lane in each direction shall not be used to carry surface flows during any storm event for street sections equal to or larger than a minor arterial. When any of these criteria is exceeded, additional drainage facilities shall be installed. (MC 9.14.110 A.2)
- LD38. (IPA) The project shall be designed to accept and properly convey all off-site drainage flowing onto or through the site. All storm drain design and improvements shall be subject to review and approval of the City Engineer. In the event that the City Engineer permits the use of streets for drainage purposes, the provisions of the Development Code will apply. Should the quantities exceed the street capacity or

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the use of streets be prohibited for drainage purposes, as in the case where one travel lane in each direction shall not be used for drainage conveyance for emergency vehicle access on streets classified as minor arterials and greater, the developer shall provide adequate facilities as approved by the Public Works Department – Land Development Division. (MC 9.14.110)

- LD39. (CP) All work performed within the City right-of-way requires a construction permit. As determined by the City Engineer, security may be required for work within the right-of-way. Security shall be in the form of a cash deposit or other approved means. The City Engineer may require the execution of a public improvement agreement as a condition of the issuance of the construction permit. All inspection fees shall be paid prior to issuance of construction permit. (MC 9.14.100)
- LD40. (CP) Prior to issuance of a construction permit, all public improvement plans prepared and signed by a registered civil engineer in accordance with City standards, policies and requirements shall be approved by the City Engineer.
- LD41. (CP) Prior to issuance of construction permits, the developer shall submit all improvement plans on compact disks, in (.dxf) digital format to the Land Development Division of the Public Works Department.
- LD42. (CP) Prior to issuance of construction permits, the developer shall pay all applicable inspection fees.

Prior to Building Permit

- LD43. (BP) Prior to issuance of a building permit, all pads shall meet pad elevations per approved plans as noted by the setting of “Blue-top” markers installed by a registered land surveyor or licensed engineer.
- LD44. (BP) Prior to issuance of a building permit, the developer shall submit for review and approval, a Waste Management Plan (WMP) that shows data of waste tonnage, supported by original or certified photocopies of receipts and weight tags or other records of measurement from recycling companies and/or landfill and disposal companies. The Waste Management Plan shall contain the following:
- a. The estimated volume or weight of project waste to be generated by material type. Project waste or debris may consist of vegetative materials including trees, tree parts, shrubs, stumps, logs, brush, or any other type of plants that are cleared from a site. Project waste may also include roadwork removal, rocks, soils, concrete and other material that normally results from land clearing.
 - b. The maximum volume or weight of such materials that can be feasibly diverted via reuse and recycling.

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- c. The vendor(s) that the applicant proposes to use to haul the materials.
- d. Facility(s) the materials will be hauled to, and their expected diversion rates.
- e. Estimated volume or weight of clearing, grubbing, and grading debris that will be landfilled .

Approval of the WMP requires that at least fifty (50) percent of all clearing, grubbing, and grading debris generated by the project shall be diverted, unless the developer is granted an exemption. Exemptions for diversions of less than fifty (50) percent will be reviewed on a case by case basis. (AB939, MC 8.80)

Prior to Certificate of Occupancy

LD45. (CO) Prior to issuance of the last certificate of occupancy or building final, the developer shall pay all outstanding fees.

LD46. (CO) The City of Moreno Valley has an adopted Development Impact Fee (DIF) nexus study. All projects unless otherwise exempted shall be subject to the payment of the DIF prior to issuance of occupancy. The fees are subject to the provisions of the enabling ordinance and the fee schedule in effect at the time of occupancy.

LD47. (CO) The City of Moreno Valley has an adopted area wide Transportation Uniform Mitigation Fee (TUMF). All projects unless otherwise exempted shall be subject to the payment of the TUMF prior to issuance of occupancy. The fees are subject to the provisions of the enabling ordinance and the fee schedule in effect at the time of occupancy.

LD48. (CO) Prior to issuance of a certificate of occupancy or building final, the developer shall construct all public improvements in conformance with applicable City standards, except as noted in the Special Conditions, including but not limited to the following applicable improvements:

- a. Street improvements including, but not limited to: pavement, base, curb and/or gutter, cross gutters, spandrel, sidewalks, drive approaches, pedestrian ramps, street lights, signing, striping, under sidewalk drains, landscaping and irrigation, medians, redwood header boards, pavement tapers/transitions and traffic control devices as appropriate.
- b. Storm drain facilities including, but not limited to: storm drain pipe, storm drain laterals, open channels, catch basins and local depressions.
- c. City-owned utilities.

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- d. Sewer and water systems including, but not limited to: sanitary sewer, potable water and recycled water.

LD49. (CO) Prior to issuance of a certificate of occupancy or building final, all existing and new utilities adjacent to and on-site shall be placed underground in accordance with City of Moreno Valley ordinances. (MC 9.14.130)

LD50. (CO) Prior to issuance of a certificate of occupancy or building final for any Commercial/Industrial facility, whichever occurs first, the owner may have to secure coverage under the State's General Industrial Activities Storm Water Permit as issued by the State Water Resources Control Board.

Prior to Acceptance of Streets into the City Maintained Road System

LD51. (AOS) Aggregate slurry, as defined in Section 203-5 of Standard Specifications for Public Works Construction, may be required just prior to acceptance of the entire tract street(s) into the City maintained road system at the discretion of the City Engineer. If slurry is required, the developer/contractor must provide a slurry mix design submittal for City Engineer approval. The latex additive shall be Ultra Pave 70 (for anionic – per project geotechnical report) or Ultra Pave 65 K (for cationic – per project geotechnical report) or an approved equal. The latex shall be added at the emulsion plant after weighing the asphalt and before the addition of mixing water. The latex shall be added at a rate of two to two-and-one-half (2 to 2½) parts to one-hundred (100) parts of emulsion by volume. Any existing striping shall be removed prior to slurry application and replaced per City standards.

Special Conditions

LD52. Prior to grading plan approval, the plan shall clearly show the extent of all existing easements on the property. All building structures shall be constructed outside of existing easements.

LD53. Prior to grading plan approval, the plan shall delineate areas prone to flooding. The flood zone limits shall be clearly labeled. The plans shall clearly demonstrate that any building finished floor elevation shall be 1-foot minimum above the 100-year base flood elevation. Furthermore, prior to grading plan approval, the developer shall obtain a Conditional Letter of Map Revision based on Fill (CLOMR-F) from the Federal Emergency Management Agency (FEMA). Prior to issuance of the first building permit, the developer shall obtain a Letter of Map Revision based on Fill (LOMR-F) from FEMA. The following website link contains a brief description of the CLOMR-F process: http://www.fema.gov/plan/prevent/fhm/dl_mt-1.shtm. The developer shall complete Form MT-1 as identified in the FEMA website.

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- LD54.** Prior to grading plan approval, the grading plans shall clearly demonstrate that drainage is properly collected and conveyed. The plans shall show all necessary on-site and off-site drainage improvements to properly collect and convey drainage entering, within and leaving the project. This may include, but not be limited to on-site and perimeter drainage improvements to properly convey drainage within and along the project site, and downstream off-site improvements.
- LD55.** Prior to precise grading plan approval, the grading plans shall show any proposed trash enclosure as dual bin; one bin for trash and one bin for recyclables. The trash enclosure shall be per City Standard Plan 627, modified to include a fully covered, solid roof.
- LD56.** Prior to precise grading plan approval, the grading plans shall clearly show that the parking lot conforms to City standards. The parking lot shall be 5% maximum, 1% minimum, 2% maximum at or near any disabled parking stall. Ramps, curb openings and travel paths shall all conform to current ADA standards as outlined in Department of Justice’s “ADA Standards for Accessible Design”, Excerpt from 28 CFR Part 36. (www.usdoj.gov).
- LD57.** Prior to issuance of the first building permit, the developer shall obtain the required off-site right-of-way for the construction of a traffic signal at the intersection of Heacock Street and Iris Avenue. The developer shall submit for review and approval to the Land Development Division the legal description and plats of the offsite right-of-way required for the traffic signal installation.
- LD58.** Prior to any occupancy, lease, or sale, Parcel Map 35822 (PA08-0021) shall record and all conditions of approval pertaining to parcel map approval, including those pertaining to right-of-way dedication and public improvements, shall be satisfied. If the developer chooses to develop in phases, a Construction Phasing Plan shall be submitted for review and approval. Phased improvements for the proposed development of PA07-0035 (Buildings 1-6) and PA07-0039 (Building 7) will be reviewed and approved by the City Engineer or his designated staff. Phased improvements for PA07-0035 (Buildings 1-6) shall be considered collectively, not per individual building as approval of PA07-0035 was collective – separate approvals for each building was not applied for, nor given. The total of phased improvements shall be equal to the overall improvements of the parcel map.
- LD59.** Prior to grading plan approval, the applicant shall prepare and submit for approval a final, project-specific water quality management plan (F-WQMP) for

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PA07-0035 & PA07-0039 Plot Plans. The F-WQMP shall be consistent with the approved P-WQMP and in full conformance with the document; “Riverside County Water Quality Management Plan for Urban Runoff” dated July 24, 2006. The F-WQMP shall be submitted and approved prior to application for and issuance of grading permits or building permits. At a minimum, the F-WQMP shall include the following: Site design BMPs; Source control BMPs; Treatment control BMPs; Operation and Maintenance requirements for BMPs; and sources of funding for BMP implementation.

LD60. The Applicant shall select and implement treatment control BMPs that are medium to highly effective for treating Pollutants of Concern (POC) for the project. POC include project pollutants associated with a 303(d) listing or a TMDL for receiving waters. Project POC include: nutrients, oxygen demanding substances, and pathogens (bacteria and viruses). Exhibit C of the document, “Riverside County Water Quality Management Plan for Urban Runoff” dated July 24, 2006 shall be consulted for determining the effectiveness of proposed treatment BMPs.

LD61. Overall, the proposed treatment control concept is accepted as the conceptual treatment control BMP for the proposed site. The Applicant has proposed to incorporate the use of multiple filtration systems. Final design details of the filtration Systems must be provided in the first submittal of the F-WQMP. The size of the treatment control BMPs are to be determined using the procedures set forth in Exhibit C of the Riverside County Guidance Document. The Applicant acknowledges that more area than currently shown on the plans may be required to treat site runoff as required by the WQMP guidance.

LD62. The Applicant shall substantiate the applicable Hydrologic Condition of Concern (HCOC) (WQMP Section IV) in the F-WQMP. The HCOC designates that the project will comply with Condition A; therefore, the condition must be addressed in the F-WQMP.

LD63. The Applicant shall, prior to building or grading permit closeout or the issuance of a certificate of occupancy, demonstrate:

- a. That all structural BMPs have been constructed and installed in conformance with the approved plans and specifications;**
- b. That all structural BMPs described in the F-WQMP have been implemented in accordance with approved plans and specifications;**
- c. That the applicant is prepared to implement all non-structural BMPs included in the FWQMP, conditions of approval, and building/grading permit conditions; and**

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- d. That an adequate number of copies of the approved F-WQMP are available for the future owners/occupants of the project.**

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PUBLIC WORKS DEPARTMENT – SPECIAL DISTRICTS DIVISION

Note: All Special Conditions, Modified Conditions, or Clarification of Conditions are in bold lettering. All other conditions are standard to all or most development projects.

Acknowledgement of Conditions

The following items are Special Districts' Conditions of Approval for project PA07-0035 and PA07-0039; this project shall be completed at no cost to any Government Agency. All questions regarding Special Districts' Conditions including but not limited to, intent, requests for change/modification, variance and/or request for extension of time shall be sought from the Special Districts Division of the Public Works Department 951.413.3480. The applicant is fully responsible for communicating with each designated Special Districts staff member regarding their conditions.

General Conditions

- SD1. The parcel(s) associated with this project have been incorporated into the Moreno Valley Community Services Districts Zones A (Parks & Community Services) and C (Arterial Street Lighting). All assessable parcels therein shall be subject to annual Zone A and Zone C charges for operations and capital improvements.
- SD2. Any damage to existing landscape easement areas due to project construction shall be repaired/replaced by the developer, or developer's successors in interest, at no cost to the Moreno Valley Community Services District.
- SD3. (BP) This project has been identified to be included in the formation of a Community Facilities District (Mello-Roos) for **Public Safety** services, including but not limited to Police, Fire Protection, Paramedic Services, Park Rangers, and Animal Control services. The property owner(s) shall not protest the formation; however, they retain the right to object to the rate and method of maximum special tax. In compliance with Proposition 218, the developer shall agree to approve the mail ballot proceeding (special election) for either formation of the CFD or annexation into an existing district that may already be established. The Developer must notify Special Districts of intent to request building permits 70 days prior to their issuance. (California Government Code)
- SD4. (BP) This project is conditioned to provide a funding source for the capital improvements and/or maintenance for the **future Iris Ave.** median landscape. In order for the Developer to meet the financial responsibility to maintain the defined service, one of the following options shall be selected:
 - a. Participate in the mail ballot proceeding in compliance with Proposition 218, for Moreno Valley Community Services District **Zone**

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- M** (Commercial, Industrial and Multifamily Improved Median Maintenance), and pay all associated costs with the ballot process; or
- b. Establish an endowment to cover the future maintenance costs of the landscaped area.

The developer must notify Special Districts of intent to request building permits 70 days prior to their issuance and the financial option selected to fund the continued maintenance.

- SD5. *Commercial* (BP) If Land Development, a Division of the Public Works Department, requires this project to supply a funding source necessary to provide, but not limited to, stormwater utilities services for the monitoring of on site facilities and performing annual inspections of the affected areas to ensure compliance with state mandated stormwater regulations, the developer must notify Special Districts 70 days prior to the City's issuance of a building permit and the financial option selected to fund the continued maintenance. (California Government Code)
- SD6. (BP) Prior to release of building permit, the developer, or the developer's successors or assignees, shall record with the County Recorder's Office a **Declaration of Covenant and Acknowledgement of Assessments** for each assessable parcel therein, whereby the developer covenants and acknowledges the existence of the Moreno Valley Community Services District, its established benefit zones, and that said parcel(s) is(are) liable for payment of annual benefit zone charges and the appropriate National Pollutant Discharge Elimination System (NPDES) maximum regulatory rate schedule when due. A copy of the recorded Declaration of Covenant and Acknowledgement of Assessments shall be submitted to the Special Districts Division.

**For a copy of the Declaration of Covenant and Acknowledgement of the Assessments form, please contact Special Districts, phone 951.413.3480.

Prior to Certificate of Occupancy

- SD7. (CO) Prior to issuance of a Certificate of Occupancy or building final, the developer shall submit a letter to Special Districts from the Utility service responsible for providing final electrical energy connections and energization of the streetlights for the development project. The letter must identify, by pole number, each streetlight in the development and state the corresponding date of its electrical energization.
- SD8. (CO) Prior to the issuance of the first Certificate of Occupancy or building final for this project, the developer shall pay Advanced Energy fees for all applicable Zone B (Residential Street Lighting) and/or Zone C (Arterial Street Lighting and Intersection Lighting) streetlights required for this development. The developer shall provide a receipt to the Special Districts Division showing that the Advanced Energy fees have

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been paid in full for the number of streetlights to be accepted into the CSD Zone B and/or Zone C program. Payment shall be made to the City of Moreno Valley, as collected by the Land Development Division, based upon the Advanced Energy fee rate at the time of payment and as set forth in the current Listing of City Fees, Charges and Rates, as adopted by City Council. Any change in the project which may increase the number of streetlights to be installed will require payment of additional Advanced Energy fees at the then current fee.

PUBLIC WORKS DEPARTMENT – TRANSPORTATION ENGINEERING DIVISION

Note: All Special conditions are in bold lettering. All other conditions are standard to all or most development projects.

Based on the information contained in our standard review process we recommend the following conditions of approval be placed on this project:

General Conditions

- TE1. Conditions of approval may be modified if project is phased or altered from any approved plans.
- TE2. During construction activity, developer is responsible for regularly scheduled street sweeping per approved street sweeping schedule. Failure to provide regularly scheduled street sweeping during construction activity at the approved times shall result in re-inspection fees (amounts to be determined by City Engineer) and/or project suspension until street sweeping is provided.
- TE3. Iris Avenue is classified as an Arterial (100'RW/76'CC) per City Standard Plan No. 104A. A Class III Bikeway shall be provided along Iris Avenue. Any modifications or improvements undertaken by this project shall be consistent with the City's standards for this facility.**
- TE4. Heacock Street is classified as a modified Arterial (89.5' RW/76' CC). A Class III Bikeway shall be provided along Heacock Street. Traffic Signal Interconnect shall be installed along Heacock Street per City Standard Plan No. 421. Any modifications or improvements undertaken by this project shall be consistent with the City's standards for this facility.**
- TE5. Revere Place and Concord Way are designated as modified Industrial Collectors (68'RW/52'CC). Any modifications or improvements undertaken by this project shall be consistent with the City's standards for this facility.**

Prior to Issuance of Grading Permit

- TE6. (GP) Prior to issuance of a grading permit, the project applicant shall submit an engineer's cost estimate for a raised landscape median along Iris Avenue (from the driveway to Concord Way) for the City Engineer's approval.**
- TE7. (GP) Prior to issuance of a grading permit, the project applicant shall submit conceptual striping plans for improvements identified in conditions TE13, TE14, and TE15 for the City Traffic Engineer's approval.**

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Prior to Improvement Plan Approval or Construction Permit

- TE8. The driveways less than 40 feet in width shall conform to Section 9.16.250, and Table 9.16.250A of the City's Development Code - Design Guidelines, and City Standard Plan No. 118C. Driveways wider than 40' shall be designed as intersections with pedestrian access ramps per City standards.
- TE9. Prior to the final approval of the street improvement plans, a signing and striping plan shall be prepared per City of Moreno Valley Standard Plans - Section 4 for all streets with a cross section of 66'/44' and wider.
- TE10. Prior to final approval of the street improvement plans, the developer shall submit to the City a contract between the developer and a street sweeping company for sweeping the streets during the warranty period, for the day shown on the posted street sweeping signage. The contract shall include a contact person and phone number for said contact person.
- TE11. Prior to issuance of a construction permit, construction traffic control plans prepared by a qualified, Registered Civil or Traffic engineer may be required.
- TE12. Sight distance at driveways and on streets shall conform to City of Moreno Valley Standard No. 125A, B, and C at the time of preparation of final grading, landscape, and street improvements. Sight distance exhibits for all driveways along Revere Place and Concord Way shall be prepared and submitted to the City for review and approval. Locations of restricted sight distance may result in the need for a submittal of a signing and striping plan showing parking restrictions along Revere Place and Concord Way.**
- TE13. Prior to the final approval of the street improvement plans, the project applicant shall design the intersection of Heacock Street and Iris Avenue to provide the following geometrics:**
- **Northbound: One shared through/right turn lane**
 - **Southbound: One left turn lane, one through lane**
 - **Eastbound: NA**
 - **Westbound: One left turn lane, one right turn lane**

NOTE: All curb return radii shall be 50 feet. Northbound and Southbound lanes through the intersection shall align which shall require pavement transitions on the south leg of the intersection. It is recommended that this project coordinate with project PA07-0151 through 0156 regarding intersection improvements.

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TE14. Prior to the final approval of the street improvement plans, the project applicant shall design the intersection of Heacock Street and Revere Place to provide the following geometrics:

- **Northbound: One through lane, one shared through/right turn lane**
- **Southbound: One left turn lane, two through lanes**
- **Eastbound: N/A**
- **Westbound: One left turn lane, one right turn lane**

TE15. Prior to final approval of the street improvement plans, the project applicant shall design the intersection of Concord Way and Iris Avenue to provide the following geometrics:

- **Northbound: N/A**
- **Southbound: One left turn lane, one right turn lane**
- **Eastbound: One left turn lane, one through lane**
- **Westbound: One through lane, one shared through/right turn lane**

TE16. Prior to final approval of the street improvement plans, a bus bay per City Standard Plan No. 121 shall be designed for the following location:

- **East side of Heacock Street, north of Iris Avenue**

Prior to Issuance of Building Permit

TE17. (BP) Prior to issuance of a building permit, the project applicant shall pay all applicable DIF and TUMF. Payment of this fee covers the project's fair share payment towards any future signalization of Concord Way at Iris Avenue.

TE18. (BP) Prior to issuance of a building permit, traffic signal plans shall be prepared by a registered civil or electrical engineer and shall be submitted to the City Traffic Engineer for the following intersection:

- **Heacock Street at Iris Avenue.**

TE19. (BP) Prior to issuance of a building permit, the project applicant shall make a fair-share contribution in the amount of \$30,514 to the City of Moreno Valley for the construction of a traffic signal at Perris Boulevard and Suburban Lane. As this traffic signal is not in any existing fee program, payment of DIF and/or TUMF are not considered satisfaction of this obligation.

TE20. (BP) Prior to issuance of a building permit, the project applicant shall pay to the City of Moreno Valley 50 percent of the estimated cost for a raised median

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MASTER PLOT PLAN PA07-0035 & PLOT PLAN PA07-0039
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along Iris Avenue as established by condition TE6. As this raised median is not in any existing fee program, payment of DIF and/or TUMF are not considered satisfaction of this obligation. The raised median will be constructed at a future date when warranted.

Prior to Issuance of Certificate of Occupancy or Building Final

TE21. (CO) Prior to issuance of a certificate of occupancy, all approved signing and striping shall be installed per current City Standards and the approved plans.

TE22. (CO) Each gated entrance shall be provided with the following, or as approved by the City Traffic Engineer:

- a) A storage lane with a minimum of 75 feet queuing length for entering traffic.**
- b) Appropriate signing and striping.**

All of these features must be kept in working order.

TE23. (CO) Prior to the issuance of a certificate of occupancy, the project applicant shall construct the traffic signal identified in TE18. Construction shall be completed per the approved plans and coordinated with the street improvements.

TE24. (CO) Prior to issuance of a certificate of occupancy, the project applicant shall construct the intersection/roadway improvements identified in TE13, TE14, TE15, and TE16 per the approved plans.

TE25. (CO) Prior to the issuance of a certificate of occupancy for the project, driveway access at the following locations will be installed as follows:

- Iris Avenue Driveway (one driveway to be allowed located approximately 440' from Heacock Street): Right-in, left-in, right-out access. To be restricted in the future to right-in, right-out at such time a raised median is warranted or the discretion of the City Traffic Engineer.**
- Heacock Street Driveways: Full Access.**
- Revere Place Driveways: Full Access.**
- Concord Way Driveways: Full Access.**

NOTE: All truck driveways shall have curb return radii of 50 feet.

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Prior to Acceptance of Streets into the City-maintained Road System

TE26. Prior to the acceptance of streets into the City-maintained road system, all approved traffic control and signing and striping shall be installed per current City Standards and the approved plans.

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MASTER PLOT PLAN PA07-0035 & PLOT PLAN PA07-0039
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PUBLIC WORKS DEPARTMENT – MORENO VALLEY UTILITIES

Note: All Special Conditions, Modified Conditions, or Clarification of Conditions are in bold lettering. All other conditions are standard to all or most development projects.

Acknowledgement of Conditions

The following items are Moreno Valley Utilities' Conditions of Approval for project PA07-0035 and PA07-0039; this project shall be completed at no cost to any Government Agency. All questions regarding Moreno Valley Utilities' Conditions including but not limited to, intent, requests for change/modification, variance and/or request for extension of time shall be sought from Moreno Valley Utilities (the Electric Utility Division) of the Public Works Department 951.413.3487. The applicant is fully responsible for communicating with Moreno Valley Utilities staff regarding their conditions. Listed after each individual condition is a contact name of who can be reached for specific questions.

Prior to Recordation of Final Map

MVU1. (R) For single family subdivisions, a three foot easement along each side yard property line shall be shown on the final map and offered for dedication to the City of Moreno Valley for public utility purposes, unless otherwise approved by the City Engineer. If the project is a multi-family development, townhome, condominium, apartment, commercial or industrial project, and it requires the installation of electric distribution facilities within common areas, a non-exclusive easement shall be provided to Moreno Valley Utilities to include all such common areas. All easements shall include the rights of ingress and egress for the purpose of operation, maintenance, facility repair, and meter reading.

Prior to Issuance of Building Permit

MVU2. (BP) **City of Moreno Valley Municipal Utility Service – Electrical Distribution:** Prior to issuance of building permit, the developer shall submit a detailed engineering plan showing design, location and schematics for the utility system to be approved by the City Engineer. In accordance with Government Code Section 66462, the Developer **shall** execute an agreement with the City providing for the installation, construction, improvement and dedication of the utility system following recordation of final map and concurrent with trenching operations and other subdivision improvements so long as said agreement incorporates the approved engineering plan and provides financial security to guarantee completion and dedication of the utility system.

The Developer **shall** coordinate and receive approval from the City Engineer to install, construct, improve, and dedicate to the City, or the City's designee, all utility infrastructure (including but not limited to conduit, equipment, vaults, ducts,

**FINAL CONDITIONS OF APPROVAL
MASTER PLOT PLAN PA07-0035 & PLOT PLAN PA07-0039
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wires, switches, conductors, transformers, resistors, amplifiers, and “bring-up” facilities including electrical capacity to serve the identified development and other adjoining/abutting/ or benefiting projects as determined by Moreno Valley Utilities) – collectively referred to as “utility system” (to and through the development), along with any appurtenant real property easements, as determined by the City Engineer to be necessary for the distribution and /or delivery of any and all “utility services” to each lot and unit within the Tentative Map. For purposes of this condition, “utility services” shall mean electric, cable television, telecommunication (including video, voice, and data) and other similar services designated by the City Engineer. “Utility services” shall not include sewer, water, and natural gas services, which are addressed by other conditions of approval. Properties within development will be subject to an electrical system capacity charge and that contribution will be collected prior to issuance of building permits.

The City, or the City’s designee, shall utilize dedicated utility facilities to ensure safe, reliable, sustainable and cost effective delivery of utility services and maintain the integrity of streets and other public infrastructure. Developer shall, at developer’s sole expense, install or cause the installation of such interconnection facilities as may be necessary to connect the electrical distribution infrastructure within the project to the Moreno Valley Utilities owned and controlled electric distribution system. Alternatively, developer may cause the project to be included in or annexed to a community facilities district established or to be established by the City for the purpose of financing the installation of such interconnection and distribution facilities. The project shall be deemed to have been included in or annexed to such a community facilities district upon the expiration of the statute of limitations to any legal challenges to the levy of special taxes by such community facilities district within the property. The statute of limitations referred to above will expire 30 days after the date of the election by the qualified electors within the project to authorize the levy of special taxes and the issuance of bonds.

- MV3. This project may be subject to a Reimbursement Agreement. The project may be responsible for a proportionate share of costs associated with electrical distribution infrastructure previously installed that directly benefits the project. The project may be subject to a system wide capacity charge in addition to the referenced reimbursement agreement. Payment(s) shall be required prior to issuance of building permit(s).

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POLICE DEPARTMENT

Note: All Special conditions are in bold lettering. All other conditions are standard to all or most development projects

Standard Conditions

- PD1. Prior to the start of any construction, temporary security fencing shall be erected. The fencing shall be a minimum of six (6) feet high with locking, gated access and shall remain through the duration of construction. Security fencing is required if there is: construction, unsecured structures, unenclosed storage of materials and/or equipment, and/or the condition of the site constitutes a public hazard as determined by the Public Works Department. If security fencing is required, it shall remain in place until the project is completed or the above conditions no longer exist. (MC 9.08.080)
- PD2. (GP) Prior to the issuance of grading permits, a temporary project identification sign shall be erected on the site in a secure and visible manner. The sign shall be conspicuously posted at the site and remain in place until occupancy of the project. The sign shall include the following:
- a. The name (if applicable) and address of the development.
 - b. The developer's name, address, and a 24-hour emergency telephone number. (MC 9.08.080)
- PD3. (CO) Prior to the issuance of a Certificate of Occupancy, an Emergency Contact Information Form for the project shall be completed at the permit counter of the Community Development Department - Building Division for routing to the Police Department. (MC 9.08.080)

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**CITY OF MORENO VALLEY
CONDITIONS OF APPROVAL FOR PA08-0021
TENTATIVE PARCEL MAP NO. 35822
APN's: 485-230-001 TO 010 AND 014 TO 024**

**APPROVAL DATE:
EXPIRATION DATE:**

- Planning (P), including Building (B), School District (S), Post Office (PO)**
- Fire Prevention Bureau (F)**
- Public Works – Land Development (LD)**
- Public Works – Special Districts (SD)**
- Public Works – Transportation Engineering (TE)**
- Public Works – Moreno Valley Utilities (MVU)**
- Parks & Community Services (PCS)**
- Police (PD)**

Note: All Special conditions are in bold lettering. All other conditions are standard to all or most development projects.

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division

- P1. Tentative Parcel Map No. 35822 is approved for the purposes of re-configuring the existing 21 parcels located within the project site and creating six parcels ranging in size from 1.33 to 2.76 acres and one 19.14 acre parcel.**
- P2. Development within Tentative Parcel Map No. 35822 shall be under separate review and approval of a plot plan or a conditional use permit application(s) and shall be subject to the requirements of the City's Municipal Code the Moreno Valley Industrial Area Plan (SP #208).**
- P3. This approval shall comply with all applicable requirements of the City of Moreno Valley Municipal Code and the Moreno Valley Industrial Area Plan (SP #208).
- P4. This tentative map shall expire three years after the approval date of this tentative map unless extended as provided by the City of Moreno Valley Municipal Code; otherwise it shall become null and void and of no effect whatsoever in the event the applicant or any successor in interest fails to properly file a final map before the date of expiration. (MC 9.02.230, 9.14.050, 080)

EXHIBIT B

Timing Mechanisms for Conditions (see abbreviation at beginning of affected condition):

R - Map Recordation	GP - Grading Permits	CO - Certificate of Occupancy or building final
WP - Water Improvement Plans	BP - Building Permits	P - Any permit

Governing Document (see abbreviation at the end of the affected condition):

GP - General Plan	MC - Municipal Code	CEQA - California Environmental Quality Act
Ord - Ordinance	DG - Design Guidelines	Ldscp - Landscape Development Guidelines and Specs
Res - Resolution	UFC - Uniform Fire Code	UBC - Uniform Building Code
	SBM - Subdivision M	

**FINAL CONDITIONS OF APPROVAL FOR PA08-0021
TENTATIVE PARCEL MAP NO. 35822
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- P5. The site shall be developed in accordance with the approved tentative map on file in the Community Development Department -Planning Division, the Municipal Code regulations, General Plan, the Moreno Valley Industrial Area Plan and the conditions contained herein. (MC 9.14.020)
- P6. A drought tolerant, low water using landscape palette shall be utilized throughout the subdivision to the extent feasible.
- P7. All undeveloped portions of the site shall be maintained in a manner that provides for the control of weeds, erosion and dust. (MC 9.02.030)
- P8. All landscaped areas shall be maintained in a healthy and thriving condition, free from weeds, trash and debris. (MC 9.02.030)

Prior to Issuance of Grading Permits

- P9. (GP) Prior to issuance of grading permits, the developer shall pay the applicable Stephen's' Kangaroo Rat (SKR) Habitat Conservation Plan mitigation fee. (Ord)
- P10. (GP) All site plans, grading plans, landscape and irrigation plans, fence/wall plans, lighting plans and street improvement plans shall be coordinated for consistency with this approval.
- P11. (GP) If potential historic, archaeological, or paleontological resources are uncovered during excavation or construction activities at the project site, work in the affected area will cease immediately and a qualified person (meeting the Secretary of the Interior's standards (36CFR61)) shall be consulted by the applicant to evaluate the find, and as appropriate recommend alternative measures to avoid, minimize or mitigate negative effects on the historic, prehistoric, or paleontological resource. Determinations and recommendations by the consultant shall be implemented as deemed appropriate by the Community Development Director, in consultation with the State Historic Preservation Officer (SHPO) and any and all affected Native American Tribes before any further work commences in the affected area.

If human remains are discovered, work in the affected area shall cease immediately and the County Coroner shall be notified. If it is determined that the remains are potentially Native American, the California Native American Heritage Commission and any and all affected Native American Indians tribes such as the Morongo Band of Mission Indians or the Pechanga Band of Luiseno Indians shall be notified and appropriate measures provided by State law shall be implemented. (GP Objective 23.3, DG, CEQA).

**FINAL CONDITIONS OF APPROVAL FOR PA08-0021
TENTATIVE PARCEL MAP NO. 35822
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- P12. (GP) Prior to the issuance of grading permits, final erosion control landscape and irrigation plans for all cut or fill slopes over 3 feet in height shall be submitted to the Planning Division for review and approval for the phase in process. This shall include slopes associated with swales and basins. The plans shall be designed in accordance with the slope erosion plan as required by the City Engineer for that phase. Man-made slopes greater than 10 feet in height shall be "land formed" to conform to the natural terrain and shall be landscaped and stabilized to minimize visual scarring. Graded slopes shall have variations that do not exceed 2:1 (GP Objective 1.5, MC 9.08.080, DG)
- P13. (GP) Prior to approval of any grading permits, final median enhancement/landscape/irrigation plans shall be submitted to the Community Development Department - Planning Division and Public Works Department – Special Districts for review and approval by each division. Timing of installation shall be determined by PW- Special Districts. (GP - Circulation Master Plan)**
- P14. (GP) Prior to the issuance of grading permits, the precise grading plan shall show decorative concrete pavers for all driveway ingress/egress locations of the project. Accessible pedestrian pathways interior to the site cannot be painted. If delineation is necessary, then an alternative material is required.
- P15. (GP) Prior to the issuance of a grading permit, all required planter areas, curbs, including twelve-inch concrete step outs, and required parking space striping shall be shown on the precise grading plan.
- P16. (GP) Prior to the issuance of grading permits, the following burrowing owl survey requirements shall be incorporated into the grading plans in accordance with the Riverside County Multi-species Habitat Conservation Plan: Within 30 days of and prior to disturbance, a burrowing owl focused survey shall be conducted by a qualified biologist using accepted protocols. The survey shall be submitted to the Planning Division for review and approval.

Prior to Recordation of Final Map

- P17. (R) Prior to final map recordation, subdivision phasing (including any proposed common open space or improvement phasing, if applicable), shall be subject to the Planning Division approval. Any proposed phasing shall provide for adequate vehicular access to all lots in each phase as determined by the City Transportation Engineer or designee and shall substantially conform to all intent and purpose of the subdivision approval. (MC 9.14.080)

**FINAL CONDITIONS OF APPROVAL FOR PA08-0021
TENTATIVE PARCEL MAP NO. 35822
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Building and Safety Division

- B1. The above project shall comply with the current California Codes (CBC, CEC, CMC and the CPC) as well as all other city ordinances. All new projects shall provide a soils report. Plans shall be submitted to the Building Department as a separate submittal.

COMMERCIAL, INDUSTRIAL, MULTI-FAMILY PROJECTS INCLUDING CONDOMINIUMS, TOWNHOMES, DUPLEXES AND TRIPLEX BUILDINGS REQUIRE THE FOLLOWING:

Prior to final inspection, all plans will be placed on a CD Rom for reference and verification. Plans will include "as built" plans, revisions and changes. The CD will also include Title 24 energy calculations, structural calculations and all other pertinent information. It will be the responsibility of the developer and or the building or property owner(s) to bear all costs required for this process. The CD will be presented to the Building Department for review prior to final inspection and building occupancy. The CD will become the property of the Moreno Valley Building Department at that time. In addition, a site plan showing the path of travel from public right of way and building to building access with elevations will be required.

- B3. (BP) Prior to the issuance of a building permit, the applicant shall submit a properly completed "Waste Management Plan" (WMP), as required, to the Compliance Official (Building Official) as a portion of the building or demolition permit process.

SCHOOL DISTRICT

- S1. (BP) Prior to issuance of building permits, the developer shall provide to the Community Development Director a written certification by the affected school district that either: (1) the project has complied with the fee or other exaction levied on the project by the governing board of the district, pursuant to Government Code Section 65996; or (2) the fee or other requirement does not apply to the project.

UNITED STATES POSTAL SERVICE

- PO1. (BP) Prior to the issuance of building permits, the developer shall contact the U.S. Postal Service to determine the appropriate type and location of mailboxes.

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FIRE PREVENTION BUREAU

With respect to the conditions of approval, the following fire protection measures shall be provided in accordance with Moreno Valley City Ordinances and/or recognized fire protection standards:

- F1. Final fire and life safety conditions will be addressed when the Fire Prevention Bureau reviews building plans. These conditions will be based on occupancy, use, California Building Code (CBC), California Fire Code (CFC), and related codes, which are in force at the time of building plan submittal.
- F2. The Fire Prevention Bureau is required to set a minimum fire flow for the remodel or construction of all commercial buildings per CFC Appendix B and Table B105.1. The applicant/developer shall provide documentation to show there exists a water system capable of delivering 4000 GPM for 4 hour(s) duration at 20-PSI residual operating pressure. The required fire flow may be adjusted during the approval process to reflect changes in design, construction type, or automatic fire protection measures as approved by the Fire Prevention Bureau. Specific requirements for the project will be determined at time of submittal. (CFC 508.3, Appendix B and MVMC 8.36.100 Section D).
- F3. Industrial, Commercial, Multi-family, Apartment, Condominium, Townhouse or Mobile Home Parks. A combination of on-site and off-site super enhanced fire hydrants (6" x 4" x 4" x 2 1/2") shall not be closer than 40 feet and more than 150 feet from any portion of the building as measured along approved emergency vehicular travel ways. The required fire flow shall be available from any adjacent fire hydrant(s) in the system. Where new water mains are extended along streets where hydrants are not needed for protection of structures or similar fire problems, super or enhanced fire hydrants as determined by the fire code official shall be provided at spacing not to exceed 500 feet of frontage for transportation hazards. (CFC 508.5.7 & MVMC 8.36.050 Section O and 8.36.100 Section E)
- F4. During phased construction, dead end roadways and streets which have not been completed shall have a turn-around capable of accommodating fire apparatus. (CFC 503.1 and 503.2.5)
- F5. (BP) Prior to issuance of Building Permits, the applicant/developer shall provide the Fire Prevention Bureau with an approved site plan for Fire Lanes and signage. (MVMC 8.36.050 and CFC 501.3)
- F6. (BP) Prior to construction and issuance of building permits, all locations where structures are to be built shall have an approved Fire Department emergency vehicular access road (all weather surface) capable of sustaining an imposed load of 80,000 lbs. GVW, based on street standards approved by the Public Works

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Director and the Fire Prevention Bureau. (CFC 501.4 and MVMC 8.36.050 Section A)

- F7. (BP) Prior to construction and issuance of Building Permits, fire lanes and fire apparatus access roads shall have an unobstructed width of not less the twenty-four (24) or thirty (30) feet as approved by the Fire Prevention Bureau and an unobstructed vertical clearance of not less the thirteen (13) feet six (6) inches. (CFC 503.2.1.1 and MVMC 8.36.050)
- F8. Prior to construction, all roads, driveways and private roads shall not exceed 12 percent grade. (CFC 503.2.7 and MVMC 8.36.050)
- F9. If construction is phased, each phase shall provide an approved emergency vehicular access way for fire protection prior to any building construction. (CFC 501.4 and MVMC 8.36.050 Section A)
- F10. Prior to construction, all locations where structures are to be built shall have an approved Fire Department access based on street standards approved by the Public Works Director and the Fire Prevention Bureau. (CFC 501.3 and MVMC 8.36.050)
- F11. Prior to building construction, dead end roadways and streets which have not been completed shall have a turnaround capable of accommodating fire apparatus. (CFC 503.2.5 and MVMC 8.36.050)
- F12. (BP) Prior to issuance of Building Permits, the applicant/developer shall participate in the Fire Impact Mitigation Program. (Fee Resolution as adopted by City Council)
- F13. (BP) Prior to issuance of Building Permits, the applicant/developer shall furnish one copy of the water system plans to the Fire Prevention Bureau for review. Plans shall:
 - a) Be signed by a registered civil engineer or a certified fire protection engineer;
 - b) Contain a Fire Prevention Bureau approval signature block; and
 - c) Conform to hydrant type, location, spacing of new and existing hydrants and minimum fire flow required as determined by the Fire Prevention Bureau.

After the local water company signs the plans, the originals shall be presented to the Fire Prevention Bureau for signatures. The required water system, including fire hydrants, shall be installed, made serviceable, and be accepted by the Moreno Valley Fire Department prior to beginning construction. They shall be maintained accessible.

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TENTATIVE PARCEL MAP NO. 35822
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Existing fire hydrants on public streets are allowed to be considered available. Existing fire hydrants on adjacent properties shall not be considered available unless fire apparatus access roads extend between properties and easements are established to prevent obstruction of such roads. (CFC 508.1 and MVMC 8.36.100)

- F14. (CO) Prior to issuance of Certificate of Occupancy or Building Final, “Blue Reflective Markers” shall be installed to identify fire hydrant locations in accordance with City specifications. (CFC 510.1)
- F15. (CO) Prior to issuance of Certificate of Occupancy or Building Final, all commercial buildings shall display street numbers in a prominent location on the street side and rear access locations. The numerals shall be a minimum of twelve (12) inches in height for buildings and six (6) inches in height for suite identification on a contrasting background. Unobstructed lighting of the address(s) shall be by means approved by the Fire Prevention Bureau and Police Department. In multiple suite centers (strip malls), businesses shall post the name of the business on the rear door(s). (CFC 505.1)
- F16. (CO) Prior to issuance of Certificate of Occupancy or Building Final, the applicant/developer shall install a fire sprinkler system based on square footage and type of construction, occupancy or use. Fire sprinkler plans shall be submitted to the Fire Prevention Bureau for approval prior to installation. (CFC Chapter 9)
- F17. (CO) Prior to issuance of Certificate of Occupancy or Building Final, the applicant/developer shall install a fire alarm system monitored by an approved Underwriters Laboratory listed central station based on a requirement for monitoring the sprinkler system, occupancy or use. Fire alarm panel shall be accessible from exterior of building in an approved location. Plans shall be submitted to the Fire Prevention Bureau for approval prior to installation. (CFC Chapter 9 and MVMC 8.36.070)
- F18. (CO) Prior to issuance of a Certificate of Occupancy or Building Final, a “Knox Box Rapid Entry System” shall be provided. The Knox-Box shall be installed in an accessible location approved by the Fire Chief. The Knox-Box shall be supervised by the alarm system and all exterior security emergency access gates shall be electronically operated and be provided with Knox key switches for access by emergency personnel. (CFC 506.1)
- F19. (CO) Prior to issuance of Certificate of Occupancy or Building Final, the applicant/developer shall be responsible for obtaining underground and/or above ground tank permits for the storage of combustible liquids, flammable liquids, or any other hazardous materials from both the County of Riverside Community Health

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TENTATIVE PARCEL MAP NO. 35822
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Agency Department of Environmental Health and the Fire Prevention Bureau. (CFC 3401.4 and 2701.5)

- F20. (CO) Prior to issuance of Certificate of Occupancy, approval shall be required from the County of Riverside Community Health Agency (Department of Environmental Health) and Moreno Valley Fire Prevention Bureau to maintain, store, use, handle materials, or conduct processes which produce conditions hazardous to life or property, and to install equipment used in connection with such activities. (CFC 2701.5)
- F21. (CO) Prior to issuance of Certificate of Occupancy or Building Final, the applicant/developer must submit a simple plot plan, a simple floor plan, and other plans as requested, each as an electronic file in .dwg format, to the Fire Prevention Bureau. Alternate file formats may be acceptable with approval by the Fire Chief.
- F22. (BP) Prior to issuance of Building Permits, fuel modification plans shall be submitted to the Fire Prevention Bureau for review and approval for all open space areas adjacent to the wildland vegetation interface. (CFC Chapter 47)
- F23. (BP) Prior to issuance of Building Permits, plans for structural protection from vegetation fires shall be submitted to the Fire Prevention Bureau for review and approval. Measures shall include, but are not limited to: noncombustible barriers (cement or block walls), fuel modification zones, etc. (CFC Chapter 47)
- F24. The angle of approach and departure for any means of Fire Department access shall not exceed 1 ft drop in 20 ft (0.3 m drop in 6 m), and the design limitations of the fire apparatus of the Fire Department shall be subject to approval by the AHJ. (CFC 503.2.7 and MVMC 8.36.050 Section I)
- F25. (BP) Prior to issuance of the building permit for development, independent paved access to the nearest paved road, maintained by the City shall be designed and constructed by the developer within the public right of way in accordance with City Standards. (MVMC 8.36.050)
- F26. Complete plans and specifications for fire alarm systems, fire-extinguishing systems (including automatic sprinklers or standpipe systems), clean agent systems (or other special types of automatic fire-extinguishing systems), as well as other fire-protection systems and appurtenances thereto shall be submitted to the Moreno Valley Fire Prevention Bureau for review and approval prior to system installation. Submittals shall be in accordance with CFC Chapter 9 and associated accepted national standards.
- F27. A permit is required to maintain, store, use or handle materials, or to conduct processes which produce conditions hazardous to life or property, or to install

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equipment used in connection with such activities. Such permits shall not be construed as authority to violate, cancel or set aside any of the provisions of this code. Such permit shall not take the place of any license required by law. Applications for permits shall be made to the Fire Prevention Bureau in such form and detail as prescribed by the Bureau. Applications for permits shall be accompanied by such plans as required by the Bureau. Permits shall be kept on the premises designated therein at all times and shall be posted in a conspicuous location on the premises or shall be kept on the premises in a location designated by the Fire Chief. Permits shall be subject to inspection at all times by an officer of the fire department or other persons authorized by the Fire Chief in accordance with Appendix Chapter 1 and MVMC 8.36.100.

- F28. Approval of the safety precautions required for buildings being constructed, altered or demolished shall be required by the Fire Chief in addition to other approvals required for specific operations or processes associated with such construction, alteration or demolition. (CFC Chapter 14)
- F29. (CO) Prior to issuance of Certificate of Occupancy, permits are required to store, dispense, use or handle hazardous material. Each application for a permit shall include a hazardous materials management plan (HMMP). The location of the HMMP shall be posted adjacent to (other) permits when an HMMP is provided. The HMMP shall include a facility site plan designating the following:
- a) Storage and use areas;
 - b) Maximum amount of each material stored or used in each area;
 - c) Range of container sizes;
 - d) Locations of emergency isolation and mitigation valves and devices;
 - e) Product conveying piping containing liquids or gases, other than utility-owned fuel gas lines and low-pressure fuel gas lines;
 - f) On and off positions of valves for valves which are of the self-indicating type;
 - g) Storage plan showing the intended storage arrangement, including the location and dimensions of aisles. The plans shall be legible and approximately to scale. Separate distribution systems are allowed to be shown on separate pages; and
 - h) Site plan showing all adjacent/neighboring structures and use.

NOTE: Each application for a permit shall include a hazardous materials inventory statement (HMIS).

- F30. Before a Hazardous Materials permit is issued, the Fire Chief shall inspect and approve the receptacles, vehicles, buildings, devices, premises, storage spaces or areas to be used. In instances where laws or regulations are enforceable by

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departments other than the Fire Prevention Bureau, joint approval shall be obtained from all departments concerned. (CFC Appendix H)

- F31. Construction or work for which the Fire Prevention Bureau's approval is required shall be subject to inspection by the Fire Chief and such construction or work shall remain accessible and exposed for inspection purposes until approved. (CFC Section 106)
- F32. The Fire Prevention Bureau shall maintain the authority to inspect, as often as necessary, buildings and premises, including such other hazards or appliances designated by the Fire Chief for the purpose of ascertaining and causing to be corrected any conditions which would reasonably tend to cause fire or contribute to its spread, or any violation of the purpose or provisions of this code and of any other law or standard affecting fire safety. (CFC Section 106)
- F33. Permit requirements issued, which designate specific occupancy requirements for a particular dwelling, occupancy, or use, shall remain in effect until such time as amended by the Fire Chief. (CFC Section 104)
- F34. In accordance with the California Fire Code Appendix Chapter 1, where no applicable standards or requirements are set forth in this code, or contained within other laws, codes, regulations, ordinances or bylaws adopted by the jurisdiction, compliance with applicable standards of the National Fire Protection Association or other nationally recognized fire safety standards as are approved shall be deemed as prima facie evidence of compliance with the intent of this code as approved by the Fire Chief. (CFC Section 102.7)
- F35. Any alterations, demolitions, or change in design, occupancy and use of buildings or site will require plan submittal to the Fire Prevention Bureau with review and approval prior to installation. (CFC Appendix Chapter 1)
- F36. Emergency and Fire Protection Plans shall be provided when required by the Fire Prevention Bureau. (CFC Section 105)
- F37. Prior to construction, all traffic calming designs/devices must be approved by the Fire Marshal and City Engineer.

PUBLIC WORKS DEPARTMENT – LAND DEVELOPMENT DIVISION

The following are the Public Works Department – Land Development Division Conditions of Approval for this project and shall be completed at no cost to any government agency. All questions regarding the intent of the following conditions shall be referred to the Public Works Department – Land Development Division.

General Conditions

- LD1. (G) The developer shall comply with all applicable City ordinances and resolutions including the City's Municipal Code (MC) and if subdividing land, the Government Code (GC) of the State of California, specifically Sections 66410 through 66499.58, said sections also referred to as the Subdivision Map Act (SMA). (MC 9.14.010)
- LD2. (G) If the project involves the subdivision of land, maps may be developed in phases with the approval of the City Engineer. Financial security shall be provided for all improvements associated with each phase of the map. The boundaries of any multiple map increment shall be subject to the approval of the City Engineer. The City Engineer may require the dedication and construction of necessary utilities, streets or other improvements outside the area of any particular map, if the improvements are needed for circulation, parking, access, or for the welfare or safety of the public. (MC 9.14.080, GC 66412 and 66462.5) If the project does not involve the subdivision of land and it is necessary to dedicate right-of-way/easements, the developer shall make the appropriate offer of dedication by separate instrument. The City Engineer may require the construction of necessary utilities, streets or other improvements beyond the project boundary, if the improvements are needed for circulation, parking, access, or for the welfare or safety of the public.
- LD3. (G) It is understood that the tentative map correctly shows all existing easements, traveled ways, and drainage courses, and that their omission may require the map or plans associated with this application to be resubmitted for further consideration. (MC 9.14.040)
- LD4. (G) In the event right-of-way or offsite easements are required to construct offsite improvements necessary for the orderly development of the surrounding area to meet the public health and safety needs, the developer shall make a good faith effort to acquire the needed right-of-way in accordance with the Land Development Division's administrative policy. In the event that the developer is unsuccessful, he shall enter into an agreement with the City to acquire the necessary right-of-way or offsite easements and complete the improvements at such time the City acquires the right-of-way or offsite easements which will permit the improvements to be made. The**

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developer shall be responsible for all costs associated with the right-of-way or easement acquisition. (GC 66462.5)

- LD5. (G) If improvements associated with this project are not initiated within two years of the date of approval of the Public Improvement Agreement, the City Engineer may require that the improvement cost estimate associated with the project be modified to reflect current City construction costs in effect at the time of request for an extension of time for the Public Improvement Agreement or issuance of a permit.
- LD6. (G) The developer shall monitor, supervise and control all construction and construction supportive activities, so as to prevent these activities from causing a public nuisance, including but not limited to, insuring strict adherence to the following:
- (a) Removal of dirt, debris, or other construction material deposited on any public street no later than the end of each working day.
 - (b) Observance of working hours as stipulated on permits issued by the Public Works Department.
 - (c) The construction site shall accommodate the parking of all motor vehicles used by persons working at or providing deliveries to the site.
 - (d) All dust control measures per South Coast Air Quality Management District (SCAQMD) requirements shall be adhered to during the grading operations.

Violation of any condition or restriction or prohibition set forth in these conditions shall subject the owner, applicant, developer or contractor(s) to remedies as noted in the City Municipal Code 8.14.090. In addition, the City Engineer or Building Official may suspend all construction related activities for violation of any condition, restriction or prohibition set forth in these conditions until such time as it has been determined that all operations and activities are in conformance with these conditions.

- LD7. (G) The developer shall protect downstream properties from damage caused by alteration of drainage patterns, i.e., concentration or diversion of flow. Protection shall be provided by constructing adequate drainage facilities, including, but not limited to, modifying existing facilities or by securing a drainage easement. (MC 9.14.110)
- LD8. (G) A detailed drainage study shall be submitted to the City Engineer for review and approval at the time of any improvement or grading plan submittal. The study shall be prepared by a registered civil engineer and shall include existing and proposed

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hydrologic conditions. Hydraulic calculations are required for all drainage control devices and storm drain lines. (MC 9.14.110)

- LD9. (G) Prior to final map approval, commencing applicable street improvements, or obtaining the first building permit, the developer shall enter into a Development Impact Fee (DIF) Improvement Credit Agreement to secure credit and reimbursement for the construction of applicable arterial street, traffic signal, and/or interchange improvements. If the developer fails to complete this agreement prior to the timing as specified above, no credits or reimbursements will be given. The applicant shall pay Arterial Streets, Traffic Signals, and Interchange Improvements development impact fees adopted by the City Council by resolution. (Ord. 695 § 1.1 (part), 2005) (MC 3.38.030, .040, .050)
- LD10. (G) Prior to final map approval, commencing applicable street improvements, or obtaining the first building permit, the developer shall enter into a Transportation Uniform Mitigation Fee (TUMF) Improvement Credit Agreement to secure credit and reimbursement for the construction of applicable improvements. If the developer fails to complete this agreement by the timing as specified above, no credits or reimbursements will be given for any work. Prior to approval of the TUMF Improvement Credit Agreement, an approved engineer's cost estimate and street improvement plan are required.
- LD11. (G) The final conditions of approval issued by the Planning Division subsequent to Planning Commission approval shall be photographically or electronically placed on mylar sheets and included in the Grading and Street Improvement plan sets on twenty-four (24) inch by thirty-six (36) inch mylar and submitted with the plans for plan check. These conditions of approval shall become part of these plan sets and the approved plans shall be available in the field during grading and construction.
- LD12. (G) Upon approval of the tentative tract map or plot plan by the Planning Commission, the Developer shall submit the approved tentative tract map or plot plan on compact disk in (.dxf) digital format to the Land Development Division of the Public Works Department.

Prior to Grading Plan Approval or Grading Permit

- LD13. (GPA) Prior to approval of the grading plans, plans shall be drawn on twenty-four (24) inch by thirty-six (36) inch mylar and signed by a registered civil engineer and other registered/licensed professional as required.
- LD14. (GPA) Prior to approval of grading plans, the developer shall ensure compliance with the City Grading ordinance, these Conditions of Approval and the following criteria:

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- a. The project street and lot grading shall be designed in a manner that perpetuates the existing natural drainage patterns with respect to tributary drainage area and outlet points. Unless otherwise approved by the City Engineer, lot lines shall be located at the top of slopes.
- b. Any grading that creates cut or fill slopes adjacent to the street shall provide erosion control, sight distance control, and slope easements as approved by the City Engineer.
- c. A grading permit shall be obtained from the Public Works Department Land Development Division prior to commencement of any grading outside of the City maintained road right-of-way.
- d. All improvement plans are substantially complete and appropriate clearance and at-risk letters are provided to the City. (MC 9.14.030)
- e. The developer shall submit a soils and geologic report to the Public Works Department – Land Development Division. The report shall address the soil's stability and geological conditions of the site.

LD15. (GPA) Prior to grading plan approval, the developer shall select and implement treatment control best management practices (BMPs) that are medium to highly effective for treating Pollutants of Concern (POC) for the project. Projects where National Pollution Discharge Elimination System (NPDES) mandates water quality treatment control best management practices (BMPs) shall be designed per the City of Moreno Valley guidelines or as approved by the City Engineer.

LD16. (GPA) Prior to approval of the grading plans, for project sites which are one acre or larger, the developer shall obtain the WQMP number from the City's Land Development Division, if a WQMP is required, and as a condition of the State Water Quality Control Board, a Notice of Intent (NOI) for an NPDES permit must be filed and a Waste Discharge Identification (W.D.I.D.) permit number obtained from the State Water Quality Control Board. (Clean Water Act)

LD17. (GPA) Prior to the grading plan approval, or issuance of a building permit, if a grading permit is not required, the Developer shall submit two (2) copies of the final project-specific Water Quality Management Plan (WQMP) for review by the City Engineer that :

- a. Addresses Site Design Best Management Practices (BMPs) such as minimizing impervious areas, maximizing permeability, minimizes directly connected impervious areas to the City's street and storm drain systems, and conserves natural areas;

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- b. Incorporates Source Control BMPs and provides a detailed description of their implementation;
- c. Incorporates Treatment Control BMPs and provides information regarding design considerations;
- d. Describes the long-term operation and maintenance requirements for BMPs requiring maintenance; and
- e. Describes the mechanism for funding the long-term operation and maintenance of the BMPs.

A copy of the final WQMP template can be obtained on the City's Website or by contacting the Land Development Division of the Public Works Department.

- LD18. (GPA) Prior to the grading plan approval, or issuance of a building permit, if a grading permit is not required, the Developer shall record a "Stormwater Treatment Device and Control Measure Access and Maintenance Covenant," to provide public notice of the requirement to implement the approved final project-specific WQMP and the maintenance requirements associated with the WQMP.

A boilerplate copy of the "Stormwater Treatment Device and Control Measure Access and Maintenance Covenant," can be obtained by contacting the Land Development Division of the Public Works Department

- LD19. (GPA) Prior to the grading plan approval, or issuance of a building permit, if a grading permit is not required, the Developer shall secure approval of the final project-specific WQMP from the City Engineer. The final project-specific WQMP shall be submitted at the same time of grading plan submittal.

- LD20. (GPA) Prior to the grading plan approval, or issuance of a building permit as determined by the City Engineer, the approved final project-specific WQMP shall be incorporated by reference or attached to the project's Storm Water Pollution Prevention Plan as the Post-Construction Management Plan.

- LD21. (GPA) Prior to grading plan approval, the developer shall prepare a Storm Water Pollution Prevention Plan (SWPPP) in conformance with the state's Construction Activities Storm Water General Permit. A copy of the current SWPPP shall be kept at the project site and be available for review upon request. The SWPPP shall be submitted to the Storm Water Program Manager on compact disk(s) in Microsoft Word format.

- LD22. (GPA) Prior to the approval of the grading plans, the developer shall pay applicable remaining grading plan check fee.

- LD23. (GPA/MA) Prior to the later of either grading plan or final map approval, resolution of all drainage issues shall be as approved by the City Engineer.

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- LD24. (GP) Prior to issuance of a grading permit, if the developer chooses to construct the project in construction phases, a Construction Phasing Plan for the construction of on-site public and private improvements shall be reviewed and approved by the City Engineer.
- LD25. (GP) Prior to issuance of a grading permit, if the fee has not already been paid prior to map approval or prior to issuance of a building permit if a grading permit is not required, the developer shall pay Area Drainage Plan (ADP) fees. The developer shall provide a receipt to the City showing that ADP fees have been paid to Riverside County Flood Control and Water Conservation District. (MC 9.14.100)
- LD26. (GP) Prior to issuance of a grading permit, security, in the form of a cash deposit (preferable), letter of credit, or performance bond shall be required to be submitted as a guarantee of the completion of the grading required as a condition of approval of the project.
- LD27. (GP) Prior to issuance of a grading permit, the developer shall pay the applicable grading inspection fees.

Prior to Map Approval or Recordation

- LD28. (MA) Prior to approval of the map, all street dedications shall be irrevocably offered to the public and shall continue in force until the City accepts or abandons such offers, unless otherwise approved by the City Engineer. All dedications shall be free of all encumbrances as approved by the City Engineer.
- LD29. (MA) Prior to approval of the map, security shall be required to be submitted as a guarantee of the completion of the improvements required as a condition of approval of the project. A public improvement agreement will be required to be executed.
- LD30. (MR) Prior to recordation of the final map, this project is subject to requirements under the current permit for storm water activities required as part of the National Pollutant Discharge Elimination System (**NPDES**) as mandated by the Federal Clean Water Act. In compliance with Proposition 218, the developer shall agree to approve the City of Moreno Valley NPDES Regulatory Rate Schedule that is in place at the time of recordation. Following are the requirements:
- a. Select one of the following options to meet the financial responsibility to provide storm water utilities services for the required operation and maintenance monitoring and system evaluations in accordance with Resolution No. 2002-46.
 - i. Participate in the mail ballot proceeding in compliance with Proposition 218, for the Common Interest, Commercial, Industrial and

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- Quasi-Public Use NPDES Regulatory Rate Schedule and pay all associated costs with the ballot process; or
- ii. Establish an endowment to cover future City costs as specified in the Common Interest, Commercial, Industrial and Quasi-Public Use NPDES Regulatory Rate Schedule.
- b. Notify the Special Districts Division of the intent to record the final map 70 days prior to City Council action authorizing recordation of the final map and the financial option selected. (California Government Code & Municipal Code)

LD31. (MR) Prior to recordation of the map, the developer shall submit the map, on compact disks, in (.dxf) digital format to the Land Development Division of the Public Works Department.

Prior to Improvement Plan Approval or Construction Permit

LD32. (IPA) Prior to approval of the improvement plans, the improvement plans shall be drawn on twenty-four (24) inch by thirty-six (36) inch mylar and signed by a registered civil engineer and other registered/licensed professional as required.

LD33. (IPA) Prior to approval of the improvement plans, the developer shall submit clearances from all applicable agencies, and pay all outstanding plan check fees. (MC 9.14.210)

LD34. (IPA) All public improvement plans prepared and signed by a registered civil engineer in accordance with City standards, policies and requirements shall be approved by the City Engineer in order for the Public Improvement Agreement and accompanying security to be executed.

LD35. (IPA) Prior to approval of the improvement plans, securities and a public improvement agreement shall be required to be submitted and executed as a guarantee of the completion of the improvements required as a condition of approval of the project.

LD36. (IPA) The street improvement plans shall comply with all applicable City standards and the following design standards throughout this project:

- a. Corner cutbacks in conformance with City Standard 208 shall be shown on the final map or, if no map is to be recorded, offered for dedication by separate instrument.
- b. Lot access to major thoroughfares shall be restricted except at intersections and approved entrances and shall be so noted on the final map. (MC 9.14.100)

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- LD37. (IPA) Prior to approval of the improvement plans, the plans shall be based upon a centerline profile, extending beyond the project boundaries a minimum distance of 300 feet at a grade and alignment approved by the City Engineer. Design plan and profile information shall include the minimum 300 feet beyond the project boundaries.
- LD38. (IPA) Prior to approval of the improvement plans, the plans shall indicate any restrictions on trench repair pavement cuts to reflect the City's moratorium on disturbing newly-constructed pavement less than three years old and recently slurry sealed streets less than one year old. Pavement cuts for trench repairs may be allowed for emergency repairs or as specifically approved in writing by the City Engineer.
- LD39. (IPA) Prior to approval of the improvement plans, the developer is required to bring any existing access ramps adjacent to and fronting the project to current ADA (Americans with Disabilities Act) requirements. However, when work is required in an intersection that involves or impacts existing access ramps, those access ramps in that intersection shall be retrofitted to comply with current ADA requirements, unless approved otherwise by the City Engineer.
- LD40. (IPA) Prior to approval of the improvement plans, drainage facilities with sump conditions shall be designed to convey the tributary 100-year storm flows. Secondary emergency escape shall also be provided. (MC 9.14.110)
- LD41. (IPA) Prior to the approval of the improvement plans, the hydrology study shall show that the 10-year storm flow will be contained within the curb and the 100-year storm flow shall be contained within the street right-of-way. In addition, one lane in each direction shall not be used to carry surface flows during any storm event for street sections equal to or larger than a minor arterial. When any of these criteria is exceeded, additional drainage facilities shall be installed. (MC 9.14.110 A.2)
- LD42. (IPA) The project shall be designed to accept and properly convey all off-site drainage flowing onto or through the site. All storm drain design and improvements shall be subject to review and approval of the City Engineer. In the event that the City Engineer permits the use of streets for drainage purposes, the provisions of the Development Code will apply. Should the quantities exceed the street capacity or the use of streets be prohibited for drainage purposes, as in the case where one travel lane in each direction shall not be used for drainage conveyance for emergency vehicle access on streets classified as minor arterials and greater, the developer shall provide adequate facilities as approved by the Public Works Department – Land Development Division. (MC 9.14.110)
- LD43. (CP) All work performed within the City right-of-way requires a construction permit. As determined by the City Engineer, security may be required for work within the

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right-of-way. Security shall be in the form of a cash deposit or other approved means. The City Engineer may require the execution of a public improvement agreement as a condition of the issuance of the construction permit. All inspection fees shall be paid prior to issuance of construction permit. (MC 9.14.100)

LD44. (CP) Prior to issuance of a construction permit, all public improvement plans prepared and signed by a registered civil engineer in accordance with City standards, policies and requirements shall be approved by the City Engineer.

LD45. (CP) Prior to issuance of construction permits, the developer shall submit all improvement plans on compact disks, in (.dxf) digital format to the Land Development Division of the Public Works Department.

LD46. (CP) Prior to issuance of construction permits, the developer shall pay all applicable inspection fees.

Special Conditions

LD47. Prior to parcel map approval, a recorded copy of a reciprocal access agreement between parcels shall be submitted to the City's Land Development Division.

LD48. Prior to parcel map approval, Covenants, Conditions, and Restrictions (CC&Rs) shall be submitted to the Land Development Division for review and approval to ensure that the CC&Rs cover shared maintenance responsibilities pertaining to drainage and water quality treatment facilities.

LD49. Prior to parcel map approval, the map shall show the following right-of-way dedications:

- a. An additional 6-foot street right-of-way dedication on the east side of Heacock Street along this project's west frontage to ensure completion of Heacock Street as a modified Arterial, City Standard 104A. The actual amount of right-of-way may be adjusted during the design phase but at a minimum must facilitate the construction of a curb-to-curb travel way of 76 feet and a 6-foot wide sidewalk on the east side of the street.
- b. A 4-foot pedestrian right-of-way dedication behind any driveway approach per City Standard 118C, on both Revere Place and Concord Way.
- c. Corner cutbacks per City Standard 208.

- d. The necessary right-of-way for construction of a bus turnout per City Standard 121.**

LD50. Prior to parcel map approval, the developer shall guarantee the construction of the following improvements by entering into a public improvement agreement and posting security. The improvements shall be completed prior to occupancy of the first building or as otherwise determined by the City Engineer.

- a. Heacock Street, Modified Arterial, City Standard 104A (89.5' RW / 76' CC) shall be constructed to full-width along the entire project's west frontage. An additional 6-foot right-of-way dedication on the east side of the street, along the project's west property line, shall be shown on the parcel map. Improvements shall consist of, but not be limited to, pavement, base, driveway approaches, drainage structures, any necessary offsite improvement transition/joins to existing, reconstruction of the curb return at the intersection of Heacock Street and Iris Avenue to provide a 50-foot curb return radius, reconstruction of existing handicap access ramps to current City standards, and dry and wet utilities.**
- b. Iris Avenue, Arterial, City Standard 104A (100' RW / 76' CC) shall be constructed to half-width plus an additional 18 feet south of the centerline, along the entire project's south frontage. Improvements shall consist of, but not be limited to, installation, replacement and/or reparation of any missing, damaged or substandard improvements including pavement and handicap access ramps that do not meet current City standards, reconstruction of the curb return at the intersection of Heacock Street and Iris Avenue to provide a 50-foot curb return radius, and the reinstallation of a leaning street light.**
- c. Revere Place and Concord Way, Modified Industrial Collector, City Standard 106 (68' RW / 52' CC) shall be constructed to full-width. Improvements shall consist of, but not be limited to, replacement and/or reparation of any missing, damaged or substandard improvements including pavement and handicap access ramps that do not meet current City standards. New improvements shall consist of, but not be limited to, sidewalk, driveway approaches, drainage structures, and dry and wet utilities.**
- d. Driveway approaches shall be constructed per City Standard No. 118C. The parcel map shall show an additional 4-foot right-of-way dedication behind driveway approaches. No decorative pavers shall be placed within the public right-of-way.**

- e. Pavement core samples of existing pavement may be taken and findings submitted to the City for review and consideration of pavement improvements. The City will determine the adequacy of the existing pavement structural section. If the existing pavement structural section is found to be adequate, the developer may still be required to perform a one-tenth inch grind and overlay or slurry seal depending on the severity of existing pavement cracking, as required by the City Engineer. If the existing pavement section is found to be inadequate, the developer shall replace the pavement to meet or exceed the City's pavement structural section standard.**

PUBLIC WORKS DEPARTMENT – SPECIAL DISTRICTS DIVISION

Note: All Special Conditions, Modified Conditions, or Clarification of Conditions are in bold lettering. All other conditions are standard to all or most development projects.

Acknowledgement of Conditions

The following items are Special Districts' Conditions of Approval for project PA08-0021; this project shall be completed at no cost to any Government Agency. All questions regarding Special Districts' Conditions including but not limited to, intent, requests for change/modification, variance and/or request for extension of time shall be sought from the Special Districts Division of the Public Works Department 951.413.3480. The applicant is fully responsible for communicating with each designated Special Districts staff member regarding their conditions.

General Conditions

- SD1. The parcel(s) associated with this project have been incorporated into the Moreno Valley Community Services Districts Zones A (Parks & Community Services) and C (Arterial Street Lighting). All assessable parcels therein shall be subject to annual Zone A and Zone C charges for operations and capital improvements.
- SD2. Any damage to existing landscape easement areas due to project construction shall be repaired/replaced by the developer, or developer's successors in interest, at no cost to the Moreno Valley Community Services District.

Prior to Recordation of Final Map

- SD3. (R) This project has been identified to be included in the formation of a Community Facilities District (Mello-Roos) for **Public Safety** services, including but not limited to Police, Fire Protection, Paramedic Services, Park Rangers, and Animal Control services. The property owner(s) shall not protest the formation; however, they retain the right to object to the rate and method of maximum special tax. In compliance with Proposition 218, the developer shall agree to approve the mail ballot proceeding (special election) for either formation of the CFD or annexation into an existing district that may already be established. The Developer must notify Special Districts of intent to record final map 70 days prior to City Council action authorizing recordation of the map. (California Government Code)
- SD4. (R) This project is conditioned to provide a funding source for the capital improvements and/or maintenance for the **future Iris Ave.** median landscape. In order for the Developer to meet the financial responsibility to maintain the defined service, one of the following options shall be selected:

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- a. Participate in the mail ballot proceeding in compliance with Proposition 218, for Moreno Valley Community Services District **Zone M** (Commercial, Industrial and Multifamily Improved Median Maintenance), and pay all associated costs with the ballot process; or
- b. Establish an endowment to cover the future maintenance costs of the landscaped area.

The Developer must notify Special Districts of intent to record final map 70 days prior to City Council action authorizing recordation of the map and the financial option selected to fund the continued maintenance.

- SD5. *Commercial* (R) If Land Development, a Division of the Public Works Department, requires this project to supply a funding source necessary to provide, but not limited to, stormwater utilities services for the monitoring of on site facilities and performing annual inspections of the affected areas to ensure compliance with state mandated stormwater regulations, the developer must notify Special Districts of intent to record final map 70 days prior to City Council action authorizing recordation of the map and the financial option selected to fund the continued maintenance. (California Government Code)
- SD6. (R) Prior to recordation of the final map, the developer, or the developer's successors or assignees, shall record with the County Recorder's Office a **Declaration of Covenant and Acknowledgement of Assessments** for each assessable parcel therein, whereby the developer covenants and acknowledges the existence of the Moreno Valley Community Services District, its established benefit zones, and that said parcel(s) is(are) liable for payment of annual benefit zone charges and the appropriate National Pollutant Discharge Elimination System (NPDES) maximum regulatory rate schedule when due. A copy of the recorded Declaration of Covenant and Acknowledgement of Assessments shall be submitted to the Special Districts Division.

**For a copy of the Declaration of Covenant and Acknowledgement of the Assessments form, please contact Special Districts, phone 951.413.3480.

Prior to Certificate of Occupancy

- SD7. (CO) Prior to issuance of a Certificate of Occupancy or building final, the developer shall submit a letter to Special Districts from the Utility service responsible for providing final electrical energy connections and energization of the streetlights for the development project. The letter must identify, by pole number, each streetlight in the development and state the corresponding date of its electrical energization.

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SD8. (CO) Prior to issuance of a Certificate of Occupancy or building final, the developer shall submit, in a form acceptable to Special Districts, the current list of all Assessor's Parcel Numbers assigned to the recorded map. Please forward to:

City of Moreno Valley
Special Districts
14325 Frederick Street – Suite 9
P.O. Box 88005
Moreno Valley, CA 92552-0805

SD9. (CO) Prior to the issuance of the first Certificate of Occupancy or building final for this project, the developer shall pay Advanced Energy fees for all applicable Zone B (Residential Street Lighting) and/or Zone C (Arterial Street Lighting and Intersection Lighting) streetlights required for this development. The developer shall provide a receipt to the Special Districts Division showing that the Advanced Energy fees have been paid in full for the number of streetlights to be accepted into the CSD Zone B and/or Zone C program. Payment shall be made to the City of Moreno Valley, as collected by the Land Development Division, based upon the Advanced Energy fee rate at the time of payment and as set forth in the current Listing of City Fees, Charges and Rates, as adopted by City Council. Any change in the project which may increase the number of streetlights to be installed will require payment of additional Advanced Energy fees at the then current fee.

PUBLIC WORKS DEPARTMENT – TRANSPORTATION ENGINEERING DIVISION

Note: All Special conditions are in bold lettering. All other conditions are standard to all or most development projects.

Based on the information contained in our standard review process we recommend the following conditions of approval be placed on this project:

General Conditions

- TE1. Conditions of approval may be modified if project is phased or altered from any approved plans.
- TE2. During construction activity, developer is responsible for regularly scheduled street sweeping per approved street sweeping schedule. Failure to provide regularly scheduled street sweeping during construction activity at the approved times shall result in re-inspection fees (amounts to be determined by City Engineer) and/or project suspension until street sweeping is provided.
- TE3. Iris Avenue is classified as an Arterial (100'RW/76'CC) per City Standard Plan No. 104A. A Class III Bikeway shall be provided along Iris Avenue. Any modifications or improvements undertaken by this project shall be consistent with the City's standards for this facility.**
- TE4. Heacock Street is classified as a modified Arterial (89.5' RW/76' CC). A Class III Bikeway shall be provided along Heacock Street. Traffic Signal Interconnect shall be installed along Heacock Street per City Standard Plan No. 421. Any modifications or improvements undertaken by this project shall be consistent with the City's standards for this facility.**
- TE5. Revere Place and Concord Way are designated as modified Industrial Collectors (68'RW/52'CC). Any modifications or improvements undertaken by this project shall be consistent with the City's standards for this facility.**

Prior to Issuance of Grading Permit

- TE6. (GP) Prior to issuance of a grading permit, the project applicant shall submit an engineer's cost estimate for a raised landscape median along Iris Avenue (from the driveway to Concord Way) for the City Engineer's approval.**
- TE7. (GP) Prior to issuance of a grading permit, the project applicant shall submit conceptual striping plans for improvements identified in conditions TE13, TE14, and TE15 for the City Traffic Engineer's approval.**

Prior to Improvement Plan Approval or Construction Permit

- TE8. The driveways less than 40 feet in width shall conform to Section 9.16.250, and Table 9.16.250A of the City's Development Code - Design Guidelines, and City Standard Plan No. 118C. Driveways wider than 40' shall be designed as intersections with pedestrian access ramps per City standards.
- TE9. Prior to the final approval of the street improvement plans, a signing and striping plan shall be prepared per City of Moreno Valley Standard Plans - Section 4 for all streets with a cross section of 66'/44' and wider.
- TE10. Prior to final approval of the street improvement plans, the developer shall submit to the City a contract between the developer and a street sweeping company for sweeping the streets during the warranty period, for the day shown on the posted street sweeping signage. The contract shall include a contact person and phone number for said contact person.
- TE11. Prior to issuance of a construction permit, construction traffic control plans prepared by a qualified, Registered Civil or Traffic engineer may be required.
- TE12. Sight distance at driveways and on streets shall conform to City of Moreno Valley Standard No. 125A, B, and C at the time of preparation of final grading, landscape, and street improvements. Sight distance exhibits for all driveways along Revere Place and Concord Way shall be prepared and submitted to the City for review and approval. Locations of restricted sight distance may result in the need for a submittal of a signing and striping plan showing parking restrictions along Revere Place and Concord Way.**
- TE13. Prior to the final approval of the street improvement plans, the project applicant shall design the intersection of Heacock Street and Iris Avenue to provide the following geometrics:**
- **Northbound: One shared through/right turn lane**
 - **Southbound: One left turn lane, one through lane**
 - **Eastbound: NA**
 - **Westbound: One left turn lane, one right turn lane**

NOTE: All curb return radii shall be 50 feet. Northbound and Southbound lanes through the intersection shall align which shall require pavement transitions on the south leg of the intersection. It is recommended that this project coordinate with project PA07-0151 through 0156 regarding intersection improvements.

TE14. Prior to the final approval of the street improvement plans, the project applicant shall design the intersection of Heacock Street and Revere Place to provide the following geometrics:

- **Northbound: One through lane, one shared through/right turn lane**
- **Southbound: One left turn lane, two through lanes**
- **Eastbound: N/A**
- **Westbound: One left turn lane, one right turn lane**

TE15. Prior to final approval of the street improvement plans, the project applicant shall design the intersection of Concord Way and Iris Avenue to provide the following geometrics:

- **Northbound: N/A**
- **Southbound: One left turn lane, one right turn lane**
- **Eastbound: One left turn lane, one through lane**
- **Westbound: One through lane, one shared through/right turn lane**

TE16. Prior to final approval of the street improvement plans, a bus bay per City Standard Plan No. 121 shall be designed for the following location:

- **East side of Heacock Street, north of Iris Avenue**

Prior to Issuance of Building Permit

TE17. (BP) Prior to issuance of a building permit, the project applicant shall pay all applicable DIF and TUMF. Payment of this fee covers the project's fair share payment towards any future signalization of Concord Way at Iris Avenue.

TE18. (BP) Prior to issuance of a building permit, traffic signal plans shall be prepared by a registered civil or electrical engineer and shall be submitted to the City Traffic Engineer for the following intersection:

- **Heacock Street at Iris Avenue.**

TE19. (BP) Prior to issuance of a building permit, the project applicant shall make a fair-share contribution in the amount of \$30,514 to the City of Moreno Valley for the construction of a traffic signal at Perris Boulevard and Suburban Lane. As this traffic signal is not in any existing fee program, payment of DIF and/or TUMF are not considered satisfaction of this obligation.

TE20. (BP) Prior to issuance of a building permit, the project applicant shall pay to the City of Moreno Valley 50 percent of the estimated cost for a raised median

along Iris Avenue as established by condition TE6. As this raised median is not in any existing fee program, payment of DIF and/or TUMF are not considered satisfaction of this obligation. The raised median will be constructed at a future date when warranted.

Prior to Issuance of Certificate of Occupancy or Building Final

TE21. (CO) Prior to issuance of a certificate of occupancy, all approved signing and striping shall be installed per current City Standards and the approved plans.

TE22. (CO) Each gated entrance shall be provided with the following, or as approved by the City Traffic Engineer:

- a) A storage lane with a minimum of 75 feet queuing length for entering traffic.**
- b) Appropriate signing and striping.**

All of these features must be kept in working order.

TE23. (CO) Prior to the issuance of a certificate of occupancy, the project applicant shall construct the traffic signal identified in TE18. Construction shall be completed per the approved plans and coordinated with the street improvements.

TE24. (CO) Prior to issuance of a certificate of occupancy, the project applicant shall construct the intersection/roadway improvements identified in TE13, TE14, TE15, and TE16 per the approved plans.

TE25. (CO) Prior to the issuance of a certificate of occupancy for the project, driveway access at the following locations will be installed as follows:

- Iris Avenue Driveway (one driveway to be allowed located approximately 440' from Heacock Street): Right-in, left-in, right-out access. To be restricted in the future to right-in, right-out at such time a raised median is warranted or the discretion of the City Traffic Engineer.**
- Heacock Street Driveways: Full Access.**
- Revere Place Driveways: Full Access.**
- Concord Way Driveways: Full Access.**

NOTE: All truck driveways shall have curb return radii of 50 feet.

Prior to Acceptance of Streets into the City-maintained Road System

TE26. Prior to the acceptance of streets into the City-maintained road system, all approved traffic control and signing and striping shall be installed per current City Standards and the approved plans.

PUBLIC WORKS DEPARTMENT – MORENO VALLEY UTILITIES

Note: All Special Conditions, Modified Conditions, or Clarification of Conditions are in bold lettering. All other conditions are standard to all or most development projects.

Acknowledgement of Conditions

The following items are Moreno Valley Utility’s Conditions of Approval for project(s) PA08-0021; this project shall be completed at no cost to any Government Agency. All questions regarding Moreno Valley Utility’s Conditions including but not limited to, intent, requests for change/modification, variance and/or request for extension of time shall be sought from Moreno Valley Utility (the Electric Utility Division) of the Public Works Department 951.413.3512. The applicant is fully responsible for communicating with Moreno Valley Utility staff regarding their conditions.

PRIOR TO RECORDATION OF FINAL MAP

MVU1. (R) For single family subdivisions, a three foot easement along each side yard property line shall be shown on the final map and offered for dedication to the City of Moreno Valley for public utility purposes, unless otherwise approved by the City Engineer. If the project is a multi-family development, townhome, condominium, apartment, commercial or industrial project, and it requires the installation of electric distribution facilities within common areas, a non-exclusive easement shall be provided to Moreno Valley Utility to include all such common areas. All easements shall include the rights of ingress and egress for the purpose of operation, maintenance, facility repair, and meter reading.

Prior to Issuance of Building Permit

MVU2. (BP) **City of Moreno Valley Municipal Utility Service – Electrical Distribution:** Prior to issuance of building permit, the developer shall submit a detailed engineering plan showing design, location and schematics for the utility system to be approved by the City Engineer. In accordance with Government Code Section 66462, the Developer **shall** execute an agreement with the City providing for the installation, construction, improvement and dedication of the utility system following recordation of final map and concurrent with trenching operations and other subdivision improvements so long as said agreement incorporates the approved engineering plan and provides financial security to guarantee completion and dedication of the utility system.

The Developer **shall** coordinate and receive approval from the City Engineer to install, construct, improve, and dedicate to the City, or the City’s designee, all utility infrastructure (including but not limited to conduit, equipment, vaults, ducts, wires, switches, conductors, transformers, resistors, amplifiers, and “bring-up”

**FINAL CONDITIONS OF APPROVAL FOR PA08-0021
TENTATIVE PARCEL MAP NO. 35822
PAGE 31 OF 32**

facilities including electrical capacity to serve the identified development and other adjoining/abutting/ or benefiting projects as determined by Moreno Valley Utility) – collectively referred to as “utility system” (to and through the development), along with any appurtenant real property easements, as determined by the City Engineer to be necessary for the distribution and /or delivery of any and all “utility services” to each lot and unit within the Tentative Map. For purposes of this condition, “utility services” shall mean electric, cable television, telecommunication (including video, voice, and data) and other similar services designated by the City Engineer. “Utility services” shall not include sewer, water, and natural gas services, which are addressed by other conditions of approval. Properties within development will be subject to an electrical system capacity charge and that contribution will be collected prior to issuance of building permits.

The City, or the City’s designee, shall utilize dedicated utility facilities to ensure safe, reliable, sustainable and cost effective delivery of utility services and maintain the integrity of streets and other public infrastructure. Developer shall, at developer’s sole expense, install or cause the installation of such interconnection facilities as may be necessary to connect the electrical distribution infrastructure within the project to the Moreno Valley Utility owned and controlled electric distribution system. Alternatively, developer may cause the project to be included in or annexed to a community facilities district established or to be established by the City for the purpose of financing the installation of such interconnection and distribution facilities. The project shall be deemed to have been included in or annexed to such a community facilities district upon the expiration of the statute of limitations to any legal challenges to the levy of special taxes by such community facilities district within the property. The statute of limitations referred to above will expire 30 days after the date of the election by the qualified electors within the project to authorize the levy of special taxes and the issuance of bonds.

MVU3. This project may be subject to a Reimbursement Agreement. The project may be responsible for a proportionate share of costs associated with electrical distribution infrastructure previously installed that directly benefits the project. The project may be subject to a system wide capacity charge in addition to the referenced reimbursement agreement. Payment(s) shall be required prior to issuance of building permit(s).

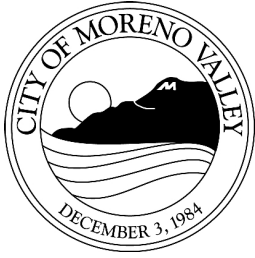
**FINAL CONDITIONS OF APPROVAL FOR PA08-0021
TENTATIVE PARCEL MAP NO. 35822
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POLICE DEPARTMENT

Note: All Special conditions are in bold lettering. All other conditions are standard to all or most development projects

Standard Conditions

- PD1. Prior to the start of any construction, temporary security fencing shall be erected. The fencing shall be a minimum of six (6) feet high with locking, gated access and shall remain through the duration of construction. Security fencing is required if there is: construction, unsecured structures, unenclosed storage of materials and/or equipment, and/or the condition of the site constitutes a public hazard as determined by the Public Works Department. If security fencing is required, it shall remain in place until the project is completed or the above conditions no longer exist. (MC 9.08.080)
- PD2. (GP) Prior to the issuance of grading permits, a temporary project identification sign shall be erected on the site in a secure and visible manner. The sign shall be conspicuously posted at the site and remain in place until occupancy of the project. The sign shall include the following:
- a. The name (if applicable) and address of the development.
 - b. The developer's name, address, and a 24-hour emergency telephone number. (MC 9.08.080)
- PD3. (CO) Prior to the issuance of a Certificate of Occupancy, an Emergency Contact Information Form for the project shall be completed at the permit counter of the Community Development Department - Building Division for routing to the Police Department. (MC 9.08.080)



PLANNING COMMISSION STAFF REPORT

Case: PA07-0035 (Master Plot Plan)
PA07-0039 (Plot Plan)
PA08-0021 (Tentative Parcel Map No. 35822)

Date: July 23, 2009

Applicant: Rados Tenants in Common

Representative: Albert A. Webb Associates

Location: Northeast corner of Heacock Street and Iris Avenue

Proposal: Master Plot Plan PA07-0035 for six industrial buildings to be developed along Revere Place and Concord Way. The buildings range in size from 23,700-square feet to 47,160-square feet. Plot Plan PA07-0039 for a 409,598 square feet warehouse distribution facility to be located on 19.14 acres located at the northeast corner of Heacock Street and Iris Avenue. Tentative Parcel Map No. 35822 (PA08-0021) is also proposed to re-configure the existing 21 parcels located within the project site and create six parcels ranging in size from 1.33 to 2.76 acres for Master Plot Plan PA07-0035 and one 19.14 acre parcel for Plot Plan PA07-0039.

Redevelopment Area: No

Recommendation: Approval

SUMMARY

Master Plot Plan application for six warehouse buildings ranging from 23,700 to 47,160 square feet on six separate parcels and a Plot Plan application for a 409,498 square foot warehouse distribution building on a 19.14 acre parcel. The project is located at the northeast corner of Heacock Street and Iris Avenue. The project is located in the Industrial (I) zone of the Industrial Area Specific Plan (SP #208).

ATTACHMENT 4

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PROJECT DESCRIPTION

The project includes two applications for development of the Moreno Valley Industrial Park to be located on approximately 30 acres of undeveloped land located at the northeast corner of Heacock Street and Iris Avenue. The project site is zoned Industrial and Industrial Support Area and is located within the Industrial Area Specific Plan (SP #208). The project also includes an application for a tentative parcel map.

Master Plot Plan (PA07-0035)

The Master Plot Plan application proposes six industrial buildings to be constructed on six separate parcels located along Revere Place and Concord Way. Building 1 to 6 range in size from 23,700-square feet to 47,160-square feet and are of concrete tilt-up construction. Sample architecture has been provided for Building 1, which is intended to be representative of the type of structure(s) that will be built on the six sites proposed by this application. However, final approval of building architecture for Buildings 1 to 6 will occur under separate application(s).

Buildings 4, 5, and 6 are located within the 300 foot buffer area that separates this project from residential zoning. Future uses within buildings 4, 5, and 6 will be subject to review and restricted to the lower intensity uses permitted within the 300 foot residential buffer as identified within the Industrial Land Use Table of the Moreno Valley Industrial Area Plan (SP #208), to ensure compatibility with adjacent homes to the east. The six buildings rely on reciprocal access and shared drainage and water quality treatment facilities. The establishment of CC&R's is required to regulate maintenance responsibilities for the shared drainage and water quality treatment facilities. The existing Assessor's Parcel Numbers for these properties are 485-230-001 to 010.

Plot Plan (PA07-0039)

The Plot Plan is for a 409,598 square feet warehouse distribution facility, to be located on 19.14 acres located at the northeast corner of Heacock Street and Iris Avenue. The proposed warehouse facility is a permitted use within the Industrial and the Industrial Support Area zones of SP #208. Building 7 will include loading docks with roll-up doors, truck staging and parking areas, two office areas and parking for employees and visitors. The loading and truck parking areas have been placed on the northern and southern elevations and are screened by perimeter concrete tilt-up walls. The project is located outside of the 300 foot buffer area identified in the Moreno Valley Industrial Area Plan (SP #208), with the nearest truck bay 447 feet from the nearest residential property line. The existing Assessor's Parcel Numbers for these properties are 485-230-014 to 024.

Tentative Parcel Map No. 35822 (PA08-0021)

Tentative Parcel Map No. 35822 is proposed to re-configure the existing 21 parcels located within the project site and create six parcels ranging in size from 1.33 to 2.76 acres for Master Plot Plan PA07-0035 and one 19.14 acre parcel for Plot Plan PA07-0039.

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Site

The project site is vacant land that is mostly level and at grade with adjacent roadways and existing residential lots to the east. There are no trees, rock outcroppings or existing structures located within the limits of the project site. The site has been used occasionally for illegal dumping.

The project site has been previously subdivided (Parcel Map No. 24314) and developed with curb, gutter and sidewalk along Heacock Street and Iris Avenue, along with the installation of roadways (Revere Place and Concord Way) which loop through the site. No changes are proposed to the existing roadways that currently provide access to the site.

The applicant proposes to re-configure existing property lines to accommodate the seven buildings proposed by this project. The City has required that a tentative parcel map be approved and recorded prior to construction of any buildings to combine parcels and/or establish new property lines.

Surrounding Area

The project is located in an area that includes a mix of industrial land uses within the Moreno Valley Industrial Area Plan (SP #208) and existing tract homes in the RS-10 and R5 zones. Land uses to the north include vacant Business Park zoned land with the March Air Reserve Base to the west. Also to the west on the west side of Heacock Street is the Line 'B' storm channel. Existing tract homes in the RS-10 zone are located to the east. Further east are more existing tract homes with an elementary school and a middle school located approximately $\frac{3}{4}$ of a mile to the east at Indian and Iris. Land uses to the south include vacant Industrial zoned land located within SP #208.

The vacant 40 acre site to the north is currently proposed by the same applicant for development of a 139 single-family residential lot subdivision. The site for this subdivision (Tentative Tract Map No. 34748) is currently zoned Business Park (BP) with a Business Park General Plan designation. The applicant is proposing a General Plan Amendment and Zone Change from BP to R5.

The vacant 67 acre site immediately to the south is currently proposed for development of a 1,484,407 square foot distribution facility. This project is scheduled for City Council review in August 2009. Also within proximity to the project site is a 1,560,064 square foot distribution building located at the southwest corner of Indian Street and Iris Avenue, which was approved by the City Council in July 2008.

Access

The project proposes access to the local roadway network via connections to Heacock Street, Iris Avenue, Concord Way, and Revere Place. As noted previously, Concord Way and Revere Place are existing secondary roads which loop through the project site. Truck traffic would be directed to Heacock Street, the only designated truck route in proximity to the project site.

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Buildings 1 to 6, which are proposed by Master Plot Plan application PA07-0035, will rely on shared drive aisles and shared driveways which will require the recordation of easements for reciprocal access.

Building 7, the proposed warehouse distribution facility, includes one driveway on Heacock Street for employees and visitors, one driveway on Iris Avenue for the truck court on the south elevation and two driveways on both Revere Place and Concord Way for access to public parking and the truck court on the north elevation.

The driveways and interior drive aisles associated with all seven buildings have been approved by the Fire Prevention Bureau for fire truck access and turnaround. The site has also been designed for adequate truck maneuvering and turnaround within the designated loading zones located on the north and south elevations of the building.

The project has been conditioned to complete full-width improvements along its Heacock Street and Iris Avenue frontages. The project is also conditioned to complete full-width improvements along Revere Place and Concord Way. The Heacock Street improvements will include the installation of a bus bay on the east side of Heacock Street, north of Iris Avenue.

A traffic signal has been conditioned at Heacock Street and Iris Avenue. The project has also been conditioned for a fair share contribution toward the construction of a traffic signal at Perris Boulevard and Suburban Lane. The project has also been conditioned to install a raised landscape median along Iris Avenue (from the Iris driveway to Concord Way).

Parking

The Municipal Code requires one (1) parking space for every 1,000 square feet of gross floor area for the first 20,000 square feet of building area; one (1) parking stall per 2,000 square feet of floor area for the second 20,000 square feet of building area and one (1) parking stall per 4,000 square feet of building area for areas in excess of 40,000 square feet of floor area. The Moreno Valley Industrial Area Plan requires one trailer parking space for each loading dock for large warehouse facilities.

Buildings 1 to 6 have all provided parking beyond the minimum required amount for employees and visitors. However, since these buildings are each less than 50,000 square feet, trailer parking was not required as part the site design.

Building 7 requires a total of 160-vehicle parking stalls, including parking for the office portion of the building. The applicant is proposing 163 parking stalls for employees and visitors. This building includes a total of 80 dock high doors and the applicant has proposed 80 truck/trailer parking spaces (12'x50'). The trailer parking stalls will be located within the truck courts at the northern and southern elevations of eastern property line in proximity to the loading docks.

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The project has also conditioned to provide handicap accessible parking stalls near the entrances to the office portions of the buildings and bicycle racks for each of the seven buildings as required by the City's Municipal Code.

Design/Landscaping

Site design of the proposed industrial distribution facility is consistent with requirements of the Moreno Valley Industrial Area Plan (SP #208) and the City's Municipal Code. Staff worked with the applicant to minimize visual impacts, by screening storage areas and providing appropriate circulation and parking.

Buildings 1 to 6 have been conditioned to provide a solid eight (8) foot screen wall along the project's northern and eastern property lines. The walls will provide screening for aesthetic purposes as well noise attenuation. The materials for the walls must be of decorative block or concrete tilt-up to match the buildings at this location.

The architectural design of the Building 7 buildings is a concrete tilt-up design. Building and wall colors include earthtones, with varying amounts of accent colors and vertical features to break up the architecture of building. Roof top equipment will be screened from public view by parapet walls. As noted previously the information provided for Building 1 is conceptual and representative of what Buildings 1 to 6 would look like, with architectural review occurring later under separate application(s).

Staff worked with the applicant to ensure that all sides of Building 7 include architectural treatment. The loading bays and storage areas along the northern and southern elevations have been screened from view from Revere Place and Iris Avenue. The walls will also provide screening of the loading activities from Heacock Street and Concord Way Road. The screen wall is a fourteen (14) foot wall of concrete tilt-up construction which will match the building design and colors.

Landscaping for the sites for Buildings 1 to 6 will be provided at around 15% to 19%, while around 10% of the site for Building 7 would be landscaped. Neither the City's Municipal Code nor SP #208 require a minimum amount of landscape on a site. Instead, there are requirements for landscape setback areas along perimeter streets, parking lot landscape, street trees and landscape treatments around the perimeter of the buildings where visible from the public right-of-way. The project as designed meets the City's current landscape criteria for each of the seven building sites.

Signs are not a part of this approval and shall be reviewed and approved under separate administrative permit.

BACKGROUND

A larger scale project was presented to the Planning Commission by the same applicant in July 2004. The first proposal was for an industrial park to be developed on approximately 73 acres of vacant land located on the east side of Heacock Street between Gentian and Iris Avenues in the Business Park and Industrial zoning districts.

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The industrial park, which was a permitted use, was to include three warehouse distribution buildings totaling 1,493,562 square feet.

The July 29, 2004, public hearing was well attended with a total of twenty seven (27) people speaking, most raising concerns over the potential air quality, noise and traffic impacts of the proposed development. Most of the speakers felt that these potential impacts could not be mitigated and therefore believed that the proposed project would be incompatible with their adjacent neighborhoods. Following the public comments, the Planning Commission approved the proposed development by a vote of 4-0 with three absent.

The project was subsequently assumed for jurisdiction by Councilmember Bonnie Flickinger and the project was then scheduled for a City Council public hearing on September 28, 2004. The City Council public hearing was again well attended by neighboring property owners who spoke in opposition of the project. Concerns raised at the public hearing were similar to those presented to the Planning Commission in July 2004. Following the public comments, the City Council denied the project by a vote of 5-0.

Subsequent to Council's action, the applicant sued the City for denying the project. A settlement agreement was entered into by the applicant and the City as result of that litigation. The terms of the agreement allowed the applicant to submit a revised version of the project for review at no cost.

REVIEW PROCESS

Based upon the comments made during the original public hearings for this project, the applicant revised the project proposal to scale back the number of large warehouse buildings to one, provide smaller industrial buildings to buffer the remaining large warehouse from adjacent residential, and reduce the area proposed for industrial development by half. New applications were submitted to the City in February 2007.

The major changes to the project included a proposal to change the zoning for the 40 acres south of Gentian Avenue from Business Park to R5 and develop a residential subdivision. These applications are currently in review and will be presented to the Planning Commission at a later date. The applicant also reduced the amount of warehouse space from 1,493,562 square feet to a single large distribution building of 409,598 square feet and 6 light industrial buildings ranging in size from 23,700 square feet to 47,160 square feet (total of 207,086 square feet).

Upon review at PRSC on April 25, 2007, modifications were required to the master plot plan and plot to address deficiencies in parking and circulation. Comments from staff included revisions to the layout of the parking lot, pathway connections, the use of alternative materials, the addition of a bus bay, landscape, the preparation of a burrowing owl study, and corrections to the air quality and noise studies, preliminary water quality management plan and the traffic study.

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Subsequent PRSC reviews occurred in August and November 2007 and April, July, September and November 2008, with final reviews in May and June 2009. Upon review of the revised studies and the revised exhibits, a determination was made in June 2009 that the project was ready to be scheduled for a Planning Commission public hearing.

The applicant held a community meeting on February 27, 2008 to present the project to neighboring property owners. There were approximately 20 people in attendance. Concerns raised at the meeting were related to hours of operation, increased traffic, truck routes, building height, noise, air quality, light and glare, aesthetics, quality of life, and impacts to property values. Seven households requested to receive notice of the project when it went to public hearing. Those residents were included in the distribution list when the 10-day notices were sent by mail.

ENVIRONMENTAL

Based on the nature of the project, a number of environmental studies were required and reviewed by staff within respective departments. This included a Noise Study, Traffic Study, Air Quality Study, Preliminary Water Quality Management Plan and a Biological Assessment/Burrowing Owl Survey.

Noise

Based upon a Noise Impact Analysis dated April 2008 that was prepared for the project site, the operational phase analysis considered on-site noise associated with trucks maneuvering and idling within the dock areas, loading and unloading activities, as well as increased traffic volumes on adjacent streets. For on-site truck activities for Building 7, the 14 foot-tall decorative screening walls required under City standards for aesthetic purposes also provide noise attenuation to reduce noise levels at the nearby residences below the City's exterior standard of 65 decibels (CNEL)

On-site operational activities associated with future light industrial land uses in Buildings 1 to 6 will be screened from view from existing residences to the east and proposed residential land uses located to the north by 8 foot tall walls. The walls, which are required under City standards for aesthetic purposes, provide noise attenuation to reduce noise levels at the nearby residences below the City's exterior standard of 65 decibels (CNEL).

The installation of the screen walls noted above are conditions of approval for the project. The project has also been conditioned for consistency with the Municipal Code to ensure that loudspeakers or other noise attention devices installed on the project site are designed so that the noise level at all property lines will be at or below 55 dBA.

The analysis concluded that project traffic would increase noise levels within 50 feet of the analyzed roadways by 0.0 to 2.3 decibels. The projected increases are well below the accepted significance threshold of 5 decibels, so the project would not contribute to any new exceedances of the 65 CNEL exterior standard for road segments adjoining residential uses, project impacts in this regard are considered less than significant.

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The project's short-term noise impacts during construction are considered less than significant through compliance with City Municipal Code limits on construction hours (grading activities are allowed between 7:00 A.M. and 8:00 P.M.; general construction is allowed between 6:00 A.M. and 8:00 P.M. weekdays or 7:00 A.M. and 8:00 P.M. for weekends). Additionally, the project has been conditioned to locate equipment staging at the furthest location possible from adjacent residences and to position stationary construction equipment so that the emitted noise is directed away from adjacent residences. All construction equipment will be equipped with properly operating and maintained mufflers. Established City procedures for plan check, permit issuance, and construction inspection, ensure project implementation of the conditions of approval.

Air Quality

Based upon an Air Quality Analysis dated April 2008, it was determined that unmitigated maximum short-term daily emissions are all below applicable South Coast Air Quality Management District (SCAQMD) regional significance thresholds. The project's emissions and impacts on a localized scale were also analyzed. None of the project's emissions exceed the applicable SCAQMD localized significance thresholds.

Emissions of all criteria pollutants for the operational phase are also below the SCAQMD regional thresholds. Additionally, the project's emissions were found to not cause an exceedance of the localized significance thresholds.

A carbon monoxide (CO) hotspots analysis was also performed. As determined by this analysis, the project will not cause an exceedance of any state or federal CO standard and will not create a CO hotspot at any of the intersections in the project vicinity.

This project will be required to comply with regional rules that assist in reducing short-term air pollutant emissions. Implementation of dust suppression techniques consistent with SCAQMD Rule 403 can reduce dust generation (and thus the PM₁₀ component). Rule 403 dust control measures include but are not limited to such things as:

- Watering twice daily during grading activities;
- Reduced traffic speeds of 15 mph or less on unpaved construction access roads;
- Suspension of grading activities when wind speeds exceed 25 mph; and
- Street sweeping once per day if visible soil materials are carried into adjacent streets.

During construction, compliance with the SCAQMD Rule 1113 on the use of architectural coatings will also be required. These requirements include the use of precoated/natural-colored building materials, using water-based or low volatile organic compound (VOC) coating, and using coating transfer or spray equipment with high transfer efficiency. The project has been conditioned for compliance with both Rule 403 and Rule 1113.

As a proposed warehouse facility, the project will result in diesel particulate matter (DPM) emissions from trucks serving the facility. Considering residential uses located immediately to the east and proposed to the north, a Health Risk Assessment (HRA)

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was performed for the project to determine the potential cancer risks and non-cancer risks to the residents in the project vicinity. SCAQMD recommends a threshold of 10 in one million be used to determine the significance of cancer risks. The HRA found that the long-term operational DPM emissions from the project would result in a maximum cancer risk of 6.3 in one million, which is less than the SCAQMD threshold of 10 in one million; therefore, cancer risks from project DPM emissions are less than significant.

For non-cancer risks, SCAQMD recommends using a Hazard Index (HI) of 1.000 to determine the significance of non-cancer risk. The project-generated DPM emissions will result in a HI of 0.004. Non-cancer risks are less than 1% of the SCAQMD recommended threshold from project operation and therefore less than significant.

The issue of the project's contribution of greenhouse gases and the connection to global warming has been reviewed as part of the CEQA documentation process. Recognizing that the proposed project's emission of criteria air pollutants are below recommended SCAQMD thresholds, the proposed project would not represent a cumulatively considerable contribution to pollutant emissions contributing to this phenomenon. No other standard for assessing the potential impact of greenhouse gas emissions has been established for review of the project.

While the air quality impacts are less than significant by project compliance with existing air quality regulations, additional conditions of approval have been placed on the project to further reduce the potential cumulative impact to air quality by this facility. These conditions of approval include several best management practices (BMP's) recommended by the AQMD, such as maintenance of equipment and vehicle engines in proper tune as per manufacturers' specifications, encouraging the use of alternative clean fuel, installation of light-colored roof materials to deflect heat and the installation of energy-efficient appliances to reduce energy consumption.

Traffic

The traffic study estimates the proposed project will generate up to 2,853 trips per day, with 572 trips attributed to trucks. The traffic study evaluated project traffic impacts for both project-level and cumulative impacts for the project opening year of 2011. The analysis evaluated 26 intersections in an area generally defined by Interstate 215 on the west, Harley Knox Boulevard/Oleander Avenue on the south, Cactus Avenue on the north, and Perris Boulevard on the east.

Fourteen intersections are identified as operating at an unacceptable level for the cumulative, "with project" scenario, including Heacock Street at Revere Place, Concord Way at Iris Avenue, and Perris Boulevard at Nandina Avenue. The project has been conditioned to complete street improvements at Heacock and Revere and Concord and Iris to address the unacceptable Level of Service (LOS) at these intersections.

The intersection of Perris/Nandina will be reconstructed as part of a City Capital Project that will provide satisfactory LOS. The intersection of Heacock/Cactus will be addressed in a future City Capital Project.

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The project has been conditioned to pay standard development impact fees (DIF) and Transportation Uniform Mitigation Fees (TUMF), and such payments are considered adequate to mitigate project impacts on the remaining intersections that may operate at an unacceptable level without the project and are not substantially worsened by the project.

Project conditions of approval require improvements to the perimeter project streets (Heacock Street and Iris Avenue), the installation of a median in Iris Avenue along the project site's frontage as well as a fair share contribution towards the installation of a signal at Perris and Suburban, which is not in any existing fee program.

The above-noted improvements are project conditions of approval and would provide mitigation of project-level impacts to below a level of significance. The project as designed and conditioned will reduce the project's contribution to cumulative traffic impacts to below a level of significance.

Burrowing Owl

The project site is located in an area that the Riverside County Integrated Plan (RCIP) has identified as having the potential for burrowing owl habitat. A habitat assessment for burrowing owl was prepared on September 25, 2006.. No burrowing owls were observed on the site during the assessment. Several potentially suitable ground squirrel burrows were noted on the site, but monitoring of the site during peak activity times did not reveal the presence of burrowing owl on or directly adjacent to the project site. The project has been conditioned to complete a pre-construction survey for burrowing owl prior to any clearing, grading or similar site disturbance. The project site has been disturbed in the past through disking for weed abatement and illegal dumping.

There are no drainage features noted within project boundaries. There is no riparian habitat or vernal pools on the site. The project will have no impact to wetlands, including marshes and vernal pools.

Based upon review of CEQA Guidelines Section 15206, this project is not considered a project of statewide, regional or areawide significance, and as determined within the Initial Study, there will be no significant impacts to the environment from this use. A Negative Declaration is therefore recommended. The project as designed and conditioned will not individually or cumulatively have an adverse effect on wildlife resources as defined in Section 711.2 of the Fish and Game Code.

NOTIFICATION

Public notice was sent to all property owners of record within 300' of the project. The public hearing notice for this project was also posted on the project site and published in the local newspaper. Notices were also provided to residents that requested notification of the public hearing following the community meeting held in March 2008. As of the date of report preparation, staff had received one inquiry regarding the project.

REVIEW AGENCY COMMENTS

Staff received the following responses to the Project Review Staff Committee transmittal; which was sent to all potentially affected reviewing agencies.

<u>Agency</u>	<u>Response Date</u>	<u>Comments</u>
March Joint Powers Authority	April 3, 2007	No Issues
Southern California Edison	April 2, 2007	No Issues
Riverside County Flood Control	April 11, 2007	District Master Plan Facilities
Department of the Air Force	June 20, 2007	No Issues

Staff has reviewed the comments from the participating review agencies and where applicable, conditions of approval have been included to address their concerns.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission take the following action:

APPROVE Resolution No. 2009-22, thereby:

1. **ADOPTING** a Negative Declaration for PA07-0035 (Master Plot Plan), PA07-0039 (Plot Plan), and PA08-0021 (TPM 35822), in that this project will not result in significant environmental impacts; and
2. **APPROVING** PA07-0035 (Master Plot Plan), PA07-0039 (Plot Plan), and PA08-0021 (TPM 35822), subject to the attached conditions of approval included as Exhibits A and B.

Prepared by:

Approved by:

Jeff Bradshaw
Associate Planner

John C. Terell, AICP
Planning Official

ATTACHMENTS:

1. Public Hearing Notice
2. Planning Commission Resolution No. 2009-22
With attached Conditions of Approval
3. Negative Declaration
4. Initial Study
5. Reduced Copies of Site Plans
6. Reduced Copy of Tentative Parcel Map
7. Aerial Photograph
8. Community Meeting Handout – 02/27/08
9. Project Area Zoning Map

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1 CITY OF MORENO VALLEY
2 PLANNING COMMISSION
3 REGULAR MEETING
4 JULY 23RD, 2009
5
6

7 **100 CALL TO ORDER**
8

9 Chair Marzoeki convened the Regular Meeting of the City of Moreno Valley
10 Planning Commission on the above date in the City Council Chambers located at
11 14177 Frederick Street.
12

13
14 **200 ROLL CALL**
15

16 Commissioners Present:

17 Chair Marzoeki
18 Commissioner Baker
19 Commissioner Dozier
20 Commissioner Geller
21 Commissioner De Jong
22 Commissioner Salas, Jr.
23

24 Excused Absence:

25 Vice Chair Riechers
26

27 Staff Present:

28 John Terell, Planning Official
29 Jeff Bradshaw, Associate Planner
30 Julia Descoteaux, Associate Planner
31 Michael Lloyd, Senior Transportation Engineer
32 Clement Jimenez, Senior Land Development Engineer
33 Suzanne Bryant, Deputy City Attorney
34 Randy Metz, Fire Marshall
35

36 **300 PLEDGE OF ALLEGIANCE**
37

38 **400 APPROVAL OF AGENDA**
39

40 **CHAIR MARZOEKI** – Item 400 is the approval of the Agenda.
41

42 **COMMISSIONER GELLER** – Move approval
43

44 **CHAIR MARZOEKI** – Do we have a second?
45
46

ATTACHMENT 5

1
2 **COMMISSIONER DE JONG** – I'll second that

3
4 **CHAIR MARZOEKI** – All those in favor?

5
6 Opposed – 0

7
8 **Motion carries 6 – 0, with one absent (Vice Chair Riechers)**

9
10
11 **500 PUBLIC HEARING ITEMS**

12
13 **CHAIR MARZOEKI** – Item 500 is to advise the public of the procedures to be
14 followed in this meeting and those are on display at the side of the room.

15
16
17 **600 PUBLIC COMMENTS**

18
19 **CHAIR MARZOEKI** – Item 600 is for comments by any member of the public to
20 comment on any matter which is not listed on the Agenda but which is within the
21 subject matter jurisdiction of the Commission and I have no Speaker Slips and I
22 see nobody coming forward to speak so we will move to the Public Hearing
23 Items.

24
25
26 **700 PUBLIC HEARING ITEMS**

27
28 **710**

29
30 **PA07-0035 Master Plot Plan**
31 **PA07-0039 Plot Plan**
32 **PA08-0021 Tentative Parcel Map No. 35822**

33
34 **CHAIR MARZOEKI** – May I have the Staff Report please.

35
36 **ASSOCIATE PLANNER BRADSHAW** – Thank you. Good evening Chair and
37 members of the Planning Commission. My name is Jeff Bradshaw. I'm an
38 Associate Planner with the Planning Division. The project being presented to
39 you this evening includes three applications as described in the agenda; the first
40 being a Master Plot Plan Application for the development of 6 light industrial
41 buildings to be located on Revere Place and Concord Way. The buildings would
42 conceptually be of concrete tilt-up construction and would range in size from
43 23,700 square feet to 47,160 square feet. The buildings are designed so that
44 they would include shared or common access and drive aisles. Each building
45 has been designed so that it can accommodate or provide it's own parking as
46 required and there would also be the need for shared drainage and water quality

1 treatment facilities. So, buildings 1 through 6 would be located within that
2 application for the Master Plot Plan. Building No. 7 which is Application PA07-
3 0039 is a larger warehouse distribution building and it would be located on the
4 single parcel shown on the exhibit at the northeast corner of Heacock and Iris.

5
6 That building as proposed is 409,598 square feet and as I described it would be
7 a warehouse distribution building and it would have loading docks located on
8 both the north and south elevations. This project is located within the Industrial
9 Area Specific Plan which has specific criteria for parking for the delivery trucks or
10 with the trailers and the site design includes enough parking to accommodate
11 that requirement as well as all the required parking for visitors and employees.
12 This building would also be of concrete tilt-up construction. There are some
13 exhibits on the wall that show what the proposed facility would look like, both
14 along the long elevations as well as the office areas.

15
16 The project also includes an Application for a Parcel Map, which would take the
17 area within the project boundary; reconfigure some existing parcels and re-
18 distribute those areas to create; in the case of the Master Plot Plan 10 parcels
19 would be reconfigured to create 6 parcels of appropriate size for those six
20 buildings. The parcels located at the site for Building No. 7; there are ten or
21 eleven parcels there. Those are all being combined to create a single 19 acre
22 parcel; just over 19 acres to accommodate the larger warehouse building and
23 that would be the purpose of the Parcel Map that accompanies the project this
24 evening.

25
26 This project does have a little bit of history so I was going to provide some
27 background information for you and I'll try to keep it as brief as I can. In 2004, a
28 project was presented to the Planning Commission; a larger scale project by the
29 same Applicant. It was for a proposed development of just under an 80 acre site,
30 which extended along the east side of Heacock Street between Iris Avenue and
31 Gentian Avenue to the north. It was like I said; the concept was for a larger
32 building. It would have included three large distribution warehouses totaling
33 1,493,000 square feet and that project was presented as a permitted use to the
34 Planning Commission in July of 2004 and following the Public Hearing that
35 evening, the Planning Commission approved the project by a vote of 4-0 with
36 three Commissioners being absent that evening.

37
38 Subsequent to that approval, the project was assumed for jurisdiction by City
39 Council and it was scheduled for a City Council Public Hearing in September of
40 the year 2004. The Public Hearing was well attended as it was attended at the
41 Planning Commission Hearing, with many of the same concerns being raised
42 there at City Council that were raised at Planning Commission. They focused on
43 impacts; perceived or potential impacts to air quality, noise and traffic and
44 following those Public Hearings, Council did vote to deny the project.
45 Subsequently the Applicant did sue the City for denying the project and following
46 that litigation a settlement agreement was entered into whereby the Applicant

1 could submit a revised version of that project to the City, so that's where we find
2 ourselves this evening. The project is back and I think knowing the history of
3 what was presented to Planning Commission for approval the first time and then
4 seeing this version, I think the Applicant in working with Staff has demonstrated
5 an attempt to listen to the concerns that were raised at those Hearings several
6 years ago. The project is significantly scaled back. There is one large
7 warehouse building, but it is located on the parcel furthest away from the
8 residences.

9
10 The Master Plot Plan for the six smaller size buildings all propose development
11 of buildings that would be less than 50,000 square feet, making the project
12 consistent both with the Specific Plan for how close those parcels are to the
13 adjacent residences to the east, as well as with our own criteria for Business
14 Park Zone if this were to be developed in the area with City zoning. Because of
15 the size and scale of the project, a number of specialized studies were required
16 for the project and provided to us for review. We looked at studies for air quality.
17 There was an air quality analysis provided; a health risk assessment; traffic study
18 and a noise study. The relationship between this site and the existing homes to
19 the east was examined, as well as the potential for the site to the north to be
20 developed with residential uses there with R5 Zoning.

21
22 There is an Application in currently by the same Applicant for a General Plan
23 Amendment and Zone Change from the BP Zone that exists there now to R5 and
24 knowing that was at least a concept, the studies also anticipated that relationship
25 of Buildings 1 through 4 that you see on that exhibit potentially backing to
26 people's backyards in the future. The results of all those studies demonstrated
27 that the way that the project is designed and conditioned and through their
28 operating consistently with requirements from other agencies like AQMD, that the
29 project as being presented to you this evening could operate both during
30 construction and in the future below thresholds that are established for this type
31 of a land use; both for the small buildings and the larger warehouse, so through
32 the preparation of the Initial Study checklist and those studies, Staff is
33 recommending Adoption of a Negative Declaration in this case, in that the project
34 would be less than significant in terms of CEQA issues.

35
36 Following the noticing for this project, I received only one phone call and had an
37 opportunity to meet with that property owner at the counter on Monday to go
38 through the project plans with her and let her review those and answer some
39 questions and following that she only had two items that she mentioned. She
40 was wondering what our process would be to notify truck drivers that might be
41 parking currently on either Heacock, Revere or Concord, which are identified in
42 our... there are a number of places identified here in town that are identified as
43 being appropriate for truck parking and large vehicle parking and she wondered
44 what our process would be to notify those parties if that status was changed and
45 the other had to do with the requirement for a tree row along either the northern
46 property line or the eastern property line. The way the project is conditioned

1 currently and designed, it would provide the landscape that would be standard for
2 any project and that would be a tree row along those property lines based on 40
3 feet at center. There is not a special condition currently that would require trees
4 to be planted any more closely than that. And again, that was the only contact
5 that I had for the project leading up to this evening.

6
7 With that, Staff would recommend that the Planning Commission adopt a
8 Negative Declaration for this project and that we've determined that any impacts
9 by this project would be less than significant and would also recommend
10 approval of the project. That concludes my presentation and I'd be glad to
11 answer any questions that you might have.

12
13 **CHAIR MARZOEKI** - Thank you. Do we have any questions of Staff?

14
15 **COMMISSIONER DE JONG** – Jeff, how long has the site been zoned Industrial?
16

17 **ASSOCIATE PLANNER BRADSHAW** – That was actually a question that had
18 come up. Actually Caroline; the person that I met with had that same question
19 and from what I could tell in the exhibits that we have here, the project going
20 back to City incorporation, had a County designation of IP or Industrial Park and
21 that would go back to 1984. The General Plan when it was adopted identified
22 that area as Business Park and we continued to rely on the County zoning at that
23 time, so the County designation carried forward until 1992 and we adopted
24 zoning and then at that time it was a Business Park Zone Overlay; the General
25 Plan designation. I believe in 1989, the Specific Plan that is located to the south
26 and where this property is also located, that Specific Plan was adopted in 1989
27 and I believe a year or two later was amended and the boundary was extended
28 to the north to include this site, so historically it has always been an Industrial
29 Park or Industrial type of a land use and for much of the life of the Industrial Area
30 Plan has been an Industrial Zone.

31
32 **COMMISSIONER DE JONG** – Thank you. Has any specific tenant been
33 identified yet?
34

35 **ASSOCIATE PLANNER BRADSHAW** – Not to my knowledge, but we can check
36 with the Applicant.
37

38 **COMMISSIONER DE JONG** – Will do... thank you.
39

40 **CHAIR MARZOEKI** – Any other questions of Staff?
41

42 **ASSOCIATE PLANNER BRADSHAW** – One thing and I apologize; one thing I
43 forgot to point out is there were some minor corrections to the Land Development
44 Conditions; to LD 58 in the Plot Plan conditions and LD 49 in the Parcel Map
45 conditions and that is the green memo that you have before this evening. When

1 we get to the end of the process; if the project is approved, it would be the
2 Conditions as amended.

3
4 **COMMISSIONER DOZIER** – I believe the screen wall on the east side is 14
5 feet...

6
7 **ASSOCIATE PLANNER BRADSHAW** – Yes and the Staff Report as I went back
8 and read it, I don't think I did a very job describing the locations of the various
9 screen walls because the Applicant had the same question of where we requiring
10 a 14 foot wall on the eastern property line. The property line... the extreme
11 boundaries of the project site; the property line to the east behind buildings 4
12 through 6 would be an 8 foot solid wall and then the property line to the north
13 along the northern edge of buildings 1 through 4 would also be an 8 foot wall.
14 The 14 foot wall that is referenced is around the truck courts for Building 7; for
15 the larger warehouse distribution building and that wall would enclose the truck
16 courts and screen it from view basically from all sides, so either the building itself
17 will act to screen the activities within the truck court or the screen wall will and
18 that will be located along those perimeter streets as you see in the exhibit.

19
20 **COMMISSIONER DOZIER** – And does the Applicant own the rest of that piece...

21
22 **ASSOCIATE PLANNER BRADSHAW** – The three parcels that are out... No,
23 those are owned by someone else. They are not part of the project.

24
25 **COMMISSIONER DOZIER** – And are those also zoned the same way?

26
27 **ASSOCIATE PLANNER BRADSHAW** – Yes they are also within that same
28 Industrial Zone.

29
30 **CHAIR MARZOEKI** – Is there anyone else? I have a couple of questions. How
31 tall are the buildings 1 through 6?

32
33 **ASSOCIATE PLANNER BRADSHAW** – Those buildings I don't recall. Let me
34 check the renderings for those buildings for you. We have to find the right exhibit
35 here. Actually John points this out, which is correct. The Applications and I
36 didn't do a very good job in describing this; what we're presenting this evening for
37 the Master Plot Plan is the Site Plan and the relationship of the various parcels
38 and the building footprints to each other. We're not actually presenting
39 architecture this evening for your review, although we did provide some exhibits
40 here I believe just for reference purposes, the concept is that they would be
41 similar to the larger building and would be of concrete tilt-up construction and of
42 similar color and design. The Specific Plan does not have criteria for limiting
43 height, but those buildings certainly would not be any taller than the larger
44 building across the street.

1 **CHAIR MARZOEKI** – The reason for my question is I remember this project five
2 years ago; I guess it was five years ago and I thought that some of the
3 homeowners were concerned about noise and we had said maybe we could
4 actually make those walls taller instead of the six foot wall, we were looking at
5 making those things taller so you'd have a noise attenuation wall instead of you
6 know, but then we were thinking that it would bounce; the noise would bounce off
7 of those walls too, so...

8
9 **ASSOCIATE PLANNER BRADSHAW** – In this case they did examine noise
10 from the activity that would be generated by future uses at those six building sites
11 and rather than a standard six foot wall for separation, the eight foot wall is
12 actually what came out of the study and the study included the design concepts
13 that we have here this evening. I need to go over to the exhibit and then I can
14 identify to you what at least is the proposed height is on that exhibit and then
15 what would have been included in the noise study, but they did take into account
16 the relationship of the buildings to the property line and either the existing rear
17 yards or the future rear yards, an eight foot solid wall was identified as being
18 sufficient to provide noise attenuation for light industrial use.

19
20 **CHAIR MARZOEKI** – Okay

21
22 **PLANNING OFFICIAL TERELL** – The eight foot wall; that's the maximum height
23 of a wall adjacent to residential, so we have done that. The screen wall which
24 was in discussion the last time the project was up was for the truck courts and as
25 Jeff said, the truck courts are at fourteen feet high which is what we have seen
26 on pretty much all the other industrial projects approved in town and the original
27 truck court was around 150 feet from the nearest residence. This truck court is
28 approximately 400 feet, so it's much further; the distance as much as the height
29 of the wall is also helping to deafen the noise or reduce the noise.

30
31 **CHAIR MARZOEKI** – Okay and we've always done concrete tilt-up walls...?

32
33 **PLANNING OFFICIAL TERELL** – On truck courts?

34
35 **CHAIR MARZOEKI** – Really, we have?

36
37 **PLANNING OFFICIAL TERELL** – Yes

38
39 **CHAIR MARZOEKI** – Okay, I don't ever remember seeing that before, so that
40 was...

41
42 **PLANNING OFFICIAL TERELL** – Right, that would be similar to the ones nearby

43
44 **CHAIR MARZOEKI** – The ones over there

45
46 **PLANNING OFFICIAL TERELL** – Yes, correct

1 **CHAIR MARZOEKI** – Okay

2
3 **ASSOCIATE PLANNER BRADSHAW** – Based on the way the renderings are
4 prepared, the larger building; Building No. 7; the warehouse building is 39 feet in
5 height; the concept for the smaller buildings, those are all shown at 30 feet and I
6 think in most cases if you look at the Site Plan exhibit it shows the... I know for
7 sure along the east; buildings 4 through 6 on the eastern property line, those are
8 from building face to property line is 60 feet along that property line.

9
10 **CHAIR MARZOEKI** – And it's four-sided architecture, correct?

11
12 **ASSOCIATE PLANNER BRADSHAW** – Yes... But again the concept of the
13 Master Plot Plan, what is being presented this evening is the driveway locations;
14 the building footprints; the parking; the shared access in parking; those concepts
15 and the architecture review would take place in the future under separate
16 application.

17
18 **CHAIR MARZOEKI** – But we're approving the walls tonight, right?

19
20 **ASSOCIATE PLANNER BRADSHAW** – Yes as part of the conditions of the
21 Master Plot Plan

22
23 **CHAIR MARZOEKI** – Yes as part of that, okay. Okay I just wanted to make sure
24 that that was that. Okay, you talked about the truck parking that's there now; the
25 commercial truck parking. How do you notify the truckers or is it going to remain
26 that way?

27
28 **SENIOR TRANSPORTATION ENGINEER LLOYD** – Michael Lloyd with
29 Transportation Engineering. As it currently stands, there is no intent to quote
30 "remove the parking that's currently allowed" along Revere and Concord,
31 however given the fact that driveways are being approved with this project we
32 obviously can't park and block those driveways, so there will be a need for
33 removing some of the parking however there is no intent to remove all of the
34 parking, so that's the current status with this project. Overall if we were to
35 remove the parking, I believe if I'm correct that it would have to go to Council and
36 therefore there would be notification that route.

37
38 **CHAIR MARZOEKI** – Okay I guess that's all I have.

39
40 **COMMISSIONER DOZIER** – The wall that separates the homes from the east
41 side, did you say that that was going to be a concrete tilt-up wall?

42
43 **ASSOCIATE PLANNER BRADSHAW** – It needs to be a solid wall of decorative
44 material of some type of wall and we have accepted concrete tilt-up as satisfying
45 that requirement. Typically we've accepted that because the design is similar
46 usually to the elevations to the building itself with similar designs and similar

1 color combinations, so that is an option. I think if they chose to do concrete tilt-
2 up... I've not worked on a project where a property line wall was of that material
3 but we have seen truck enclosures that are designed that way.

4
5 **COMMISSIONER DOZIER** – And my question is on the drawing and I know that
6 this is not probably an accurate drawing of the landscaping, but the trees are on
7 the inside of the wall. There are no trees on the outside of that east wall?

8
9 **ASSOCIATE PLANNER BRADSHAW** – Which exhibit, I apologize.

10
11 **PLANNING OFFICIAL TEREILL** – Are you talking about the wall adjacent to the
12 residents?

13
14 **COMMISSIONER DOZIER** – Yes

15
16 **PLANNING OFFICIAL TEREILL** – Yes the wall would be on the property line so
17 the trees would be on the inside facing the backs of the future buildings. There
18 wouldn't be any kind of alleyway or no man's land between...

19
20 **COMMISSIONER DOZIER** – So it's right on the property line

21
22 **PLANNING OFFICIAL TEREILL** – It's right on the property line and we try to do
23 that to try to avoid any kind of hidden areas, but the trees would be on the inside
24 and well I think they are probably 24 inch box usually. They'd probably be pretty
25 close to high or close to as high as the wall initially and then they would grow
26 taller, so the trees would be visible within a few years after planting to the
27 residents to provide additional screening.

28
29 **COMMISSIONER DOZIER** – Do we ever condition more mature trees or...

30
31 **PLANNING OFFICIAL TEREILL** – Well we used to have 15 gallon trees but now
32 most trees are 24 inch box. My understanding in dealing with our landscape
33 folks is that you could plant a larger tree sooner but within a few years, the
34 smaller tree will actually grow better and be healthier, so they've not tended to
35 recommend anything larger than 24 inch box and if they are cared for and I'm
36 thinking of the trees that I've put in that grew like a weed that were 24 inch box,
37 they were very tall when I planted them and then they've only gotten bigger since
38 then. We have on occasion required 36 inch box trees but that was when there
39 were existing trees that could not be replaced at the required three to one ratio;
40 they could only be replaced at one to one and in that case we have I guess it's
41 the pound of flesh or the pound of bark or whatever you get in exchange for not
42 being able to get the three to one ratio for replacement trees.

43
44 **COMMISSIONER DOZIER** – Thank you

45

1 **COMMISSIONER DE JONG** – Are these trees generally deciduous or evergreen
2 or?

3
4 **ASSOCIATE PLANNER BRADSHAW** – The landscape standards require a
5 combination of both, so we can ensure shade throughout the year.

6
7 **COMMISSIONER DE JONG** – Right, good, thank you and screening too

8
9 **PLANNING OFFICIAL TEREEL** – Yes but for screen trees; typically the screen
10 trees are non-deciduous so that they screen year round.

11
12 **COMMISSIONER DE JONG** – Year round evergreen... good

13
14 **CHAIR MARZOEKI** – Are there any more questions of Staff? Okay seeing none,
15 I'm going to open up the Public Testimony portion of this item and call the
16 Applicant forward. Please state your name and address for the record.

17
18 **APPLICANT BROWN** – My name is Les Brown. My address is 2002 East
19 McFadden, Suite 200, Santa Ana, California.

20
21 **CHAIR MARZOEKI** – Do you have anything that you want to say?

22
23 **APPLICANT BROWN** – I think the presentation by Staff has been relatively full
24 and complete. I think the one question I would have for Jeff is it was our
25 understanding that we were submitting the architecture for the large building but
26 not for the small buildings.

27
28 **ASSOCIATE PLANNER BRADSHAW** – That's correct

29
30 **APPLICANT BROWN** – And at least listening to your comments, I was a little
31 confused by that and I think possibly the Planning Commission would have of
32 been as well.

33
34 **ASSOCIATE PLANNER BRADSHAW** – I can explain that more completely. I
35 apologize. Building No. 7; that Plot Plan is being presented to you like many
36 others that we've brought before you in that we're asking for your approval of not
37 only the site design but of the architecture as well. The Master Plot Plan is
38 unique in that we are asking for that same approval I guess for the site design,
39 but we are deferring approval of the architecture until a future date and under
40 separate application, so those would be the actions that we're recommending of
41 you this evening.

42
43 **CHAIR MARZOEKI** – Okay, thank you and thank you for that clarification. I
44 appreciate that.

45

1 **APPLICANT BROWN** – Other than that comment I have nothing else that I feel
2 needs to be said, but I'd be happy to respond to any questions that you may
3 have.
4
5 **CHAIR MARZOEKI** – Yes Commissioner De Jong has a question for you.
6
7 **COMMISSIONER DE JONG** - First of all do you identify any major changes in
8 the architecture between Building No. 7 and the other buildings?
9
10 **APPLICANT BROWN** – Our expectation is that Building No. 7 would set
11 basically design parameters for the entire project.
12
13 **COMMISSIONER DE JONG** – Okay, so everything else would be compatible in
14 both design and color as was mentioned?
15
16 **APPLICANT BROWN** – Yes that's correct
17
18 **COMMISSIONER DE JONG** – Have you identified a tenant or tenants yet?
19
20 **APPLICANT BROWN** – No we have not. In fact given the current state of the
21 market, it's difficult to know with any certainty when we will be able to bring this
22 project out of the ground, but we want to be ready when the market does turn.
23
24 **COMMISSIONER DE JONG** – Understood... Do you have; are you leaning
25 towards a manufacturing or distributorship or do you not even know that yet?
26
27 **APPLICANT BROWN** – Truthfully we don't know that yet. I think given the
28 design of the building it is more apt to be distribution rather than manufacturing,
29 but truthfully we'd be happy with either.
30
31 **COMMISSIONER DE JONG** – Okay, thank you
32
33 **COMMISSIONER DOZIER** – Is the building designed so that it could be split for
34 multiple tenants?
35
36 **APPLICANT BROWN** – It is and under one possible alternative you could easily
37 split the building into two and possibly four parts.
38
39 **COMMISSIONER DOZIER** - Okay
40
41 **CHAIR MARZOEKI** – Are there any other questions of the Applicant? Okay,
42 thank you.
43
44 **APPLICANT BROWN** – Thank you
45

1 **CHAIR MARZOEKI** – I have no Speaker Slips unless someone wants to come
2 and speak on this item. State your name and address for the record and then fill
3 out a Speaker Slip after.

4
5 **SPEAKER REAGER** – My name is Larry Reager. I'm at 2492 Mariposa in
6 Pomona, California and I have a question as far as the light pollution at night. I
7 happen to be where they converted an orange grove into a industrial park and
8 went to the meetings and everything and by the time they completed the thing, all
9 of a sudden over half of the residences had a big old light stand sitting over them
10 and like in my position it shined right into my backyard and right into my bedroom
11 window and I just wondered if anything has been discussed on blocking that from
12 happening to the residents at this part.

13
14 **PLANNING OFFICIAL TERELL** – Yes, by Moreno Valley City Code, the light at
15 the property line with a residential project has to be less than half a foot candle
16 which is quite dark, so there is a requirement to focus the lighting down and away
17 from adjacent residential. The trees will also help with that, but typically the
18 screening on the light is what we use to make sure that at the property line it's
19 relatively dark so that doesn't happen, so that's a concern that's been placed in
20 the City Code several years ago to address that issue.

21
22 **SPEAKER REAGER** – In my particular instance the light was placed like about
23 20 foot high post over a 9 foot high block wall and naturally that didn't stop any of
24 the light and I was curious about it. Thank you

25
26 **CHAIR MARZOEKI** – Okay, thank you sir.

27
28 **COMMISSIONER DE JONG** – John tagged onto that question, are the lights on
29 the poles going to be standard box type down lights or are they going to be up
30 and down lights or...

31
32 **PLANNING OFFICIAL TERELL** – Well the lights behind the buildings closest to
33 the residents would be definitely down lighting. We haven't... there is no current
34 requirement for there to be decorative lighting on these buildings.

35
36 **COMMISSIONER DE JONG** – Okay

37
38 **COMMISSIONER DOZIER** – I know we're still in Public Testimony but my
39 question is for Staff. Is there a timeframe for the buildings to open and close?
40 Can they have two shifts or is there any or could potentially the buildings closest
41 to the homes be open 24 hours?

42
43 **PLANNING OFFICIAL TERELL** – We haven't conditioned this project to have
44 any limitation on hours. There are limitations on deliveries which typically refer to
45 grocery stores and things like that where they are supposed to occur during
46 daylight hours and that would certainly apply to those buildings. It wouldn't apply

1 to the larger manufacturing building. Beyond that, we don't have any limitations.
2 There is a noise standard so if there were any excessive noise, which deliveries
3 would create, we could have the opportunity to enforce that without a condition of
4 approval.

5
6 **COMMISSIONER DOZIER** – Good thank you

7
8 **CHAIR MARZOEKI** – Okay. Is there anyone else that wants to speak; the
9 Applicant; are there any other comments? Okay so with that, I will close the
10 Public Testimony Portion of this item and open it up to Commissioner Comments.
11 Who would like to go first?

12
13 **COMMISSIONER GELLER** – Yes I was on the Planning Commission when this
14 first came to us so I do remember it well and I voted to approve it back then and
15 I'm certainly not going to change my vote now. The area back then and today is
16 zoned appropriately. You know I think in terms of the large building that we are
17 approving I think the architecture is at or above anything else of similar type
18 that's been built in the City. You know it's certainly a much smaller scope project
19 than was originally brought to us, but clearly this Applicant has been through
20 enough and we should vote to approve it and send it on it's way once again.

21
22 **COMMISSIONER DE JONG** – I think this is a project in the right zone that is
23 definitely the right time and the right place. I also voted for it the first time and I
24 think that it's a better design even now. I like the colors. I like the way the large
25 building is treated. We didn't talk much about the use of the glass on the
26 building, but I certainly think that it's appropriate. I'm not sure if that's spandrel
27 glass or row glass, but either way it works; it breaks up the façade nicely. It's a
28 huge building and I think it's got a look of a smaller or at least that's the idea of it.
29 The different colors break it up and I like it. I think it's a building that whose area
30 has come and I will definitely vote for it.

31
32 **CHAIR MARZOEKI** – Thank you

33
34 **COMMISSIONER SALAS** – I like it because it's consistent to what's going on out
35 there. It looks nice. I just hope that the remaining six buildings follow this kind of
36 architecture that they have here because it looks like. I'm definitely in favor of
37 the project.

38
39 **COMMISSIONER BAKER** – Yes I like the looks of this project and I think we're
40 in; like the other Commissioners said, the right zone for this project and that the
41 building that is proposed looks good, so I say we vote and move forward with this
42 project.

43
44 **COMMISSIONER DOZIER** – I don't have any problem with the project and I think
45 we've done everything we can to try to ease or mitigate any conflicts being so

1 close to the homes, but it's zoned property and there is no reason why we
2 shouldn't approve it and send it on.

3
4 **CHAIR MARZOEKI** – And I agree with all of those comments as well, so I'm
5 looking for a motion.

6
7 **COMMISSIONER DE JONG** – I move that the Planning Commission **APPROVE**
8 Resolution No. 2009-22 thereby;

- 9 1. **ADOPT** a Negative Declaration for PA07-0035 Master Plot Plan,
10 PA07-0039 Plot Plan and PA08-0021 Tentative Parcel Map No. 35822 in that
11 this project will result in significant environmental impacts; and,
12 2. **APPROVE** PA07-0035 Master Plot Plan, PA07-0039 Plot Plan and
13 PA08-0021 Tentative Parcel Map No. 35822 subject to the attached
14 Conditions of Approval as amended included as exhibits A and B.

15
16 **COMMISSIONER GELLER** – Second

17
18 **CHAIR MARZOEKI** – We have a motion and a second. Is there any discussion?
19 All those in favor?

20
21 Opposed – 0

22
23 **Motion carries 6 – 0, with one absent (Vice Chair Riechers)**

24
25 **CHAIR MARZOEKI** – Staff wrap up please.

26
27 **PLANNING OFFICIAL TERELL** – Yes this action shall become final unless
28 appealed to the City Council within 15 days.

29
30 **CHAIR MARZOEKI** – Thank you. Good luck.

31
32 **COMMISSIONER DE JONG** – Excellent, good luck.

33
34 **CHAIR MARZOEKI** – Moving on to Item 720.

35
36

NEGATIVE DECLARATION

PROJECT TITLE AND FILE NUMBER:

Master Plot Plan PA07-0035
Plot Plan PA07-0039
Tentative Parcel Map No. 35822 (PA08-0021)

PROJECT APPLICANT: Rados Tenants in Common
TELEPHONE NUMBER: (714) 835-4612

PROJECT LOCATION: Moreno Valley Industrial Area Plan (SP #208), northeast corner of Heacock Street and Iris Avenue, Moreno Valley, Riverside County, California

PROJECT DESCRIPTION: Master Plot Plan PA07-0035 for six industrial buildings to be developed along Revere Place and Concord Way. The buildings range in size from 23,700-square feet to 47,160-square feet. Plot Plan PA07-0039 for a 409,598 square feet warehouse distribution facility to be located on 19.14 acres located at the northeast corner of Heacock Street and Iris Avenue. Tentative Parcel Map No. 35822 (PA08-0021) is also proposed to re-configure the existing 21 parcels located within the project site and create six parcels ranging in size from 1.33 to 2.76 acres for Master Plot Plan PA07-0035 and one 19.14 acre parcel for Plot Plan PA07-0039.

FINDING

The City of Moreno Valley has reviewed the above project in accordance with the City of Moreno Valley's Guidelines for the Implementation of the California Environmental Quality Act, and has determined that an Environmental Impact Report need not be prepared because:

- The proposed project will not have a significant effect on the environment.
- Although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because mitigation measures described in the attached Initial Study and hereby made a part of this Negative Declaration have been added to the project. The Final Conditions of Approval contain the final form and content of all mitigation measures.

This determination is based upon an Initial Study. The project file, including the Initial Study and related documents is available for review during normal business hours (7:30 a.m. to 5:30 p.m. Monday through Thursday) at the City of Moreno Valley, Community Development Department, Planning Division, 14177 Frederick Street, Moreno Valley, California 92553, Telephone (951) 413-3206.

PREPARED BY: Jeff Bradshaw, Associate Planner DATE: January 29, 2009

NOTICE

The public is invited to comment on the Negative Declaration. The appropriateness and adoption of the Negative Declaration is considered at the time of project approval in light of comments received.

ADOPTED BY:

DATE ADOPTED:

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**INITIAL STUDY/
ENVIRONMENTAL CHECKLIST FORM
CITY OF MORENO VALLEY**

1. Project Title: PA07-0035 (Master Plot Plan)
PA07-0039 (Plot Plan)
PA08-0021 (Tentative Parcel Map No. 35822)
2. Lead Agency Name and Address: City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92553
3. Contact Person and Phone Number: Jeff Bradshaw, Associate Planner
(951) 413-3224
4. Project Location: Moreno Valley Industrial Area Plan (SP #208), Near the northeast corner of Heacock Street and Iris Avenue
5. Project Sponsor's Name and Address: Rados Tenants in Common
2002 McFadden Avenue, Ste. #200
Santa Ana, CA 92705
6. General Plan Designation: Business Park and Commercial
7. Zoning: Moreno Valley Industrial Area Plan (SP #208)
 - Industrial (I) zone; and
 - Industrial Support Area (ISA) zone
8. Description of the Project:

Master Plot Plan PA07-0035 for six industrial buildings to be constructed on six separate parcels located along Revere Place and Concord Way. The buildings range in size from 23,700-square feet to 47,160-square feet and are of concrete tilt-up construction. Review and approval of building architecture will occur under separate application(s). Buildings 4, 5, and 6 are located within the 300 foot buffer area that separates this project from residential zoning. Future uses within buildings 4, 5, and 6 will be subject to review and restricted to those uses permitted within the 300 foot buffer as identified within Industrial Land Use Table of the Moreno Valley Industrial Area Plan (SP #208). The six buildings rely on reciprocal access and shared drainage and water quality treatment facilities. The creation of a property owners association is required along with CC&R's to regulate maintenance responsibilities for the shared drainage and water quality treatment facilities. The existing Assessor's Parcel Numbers for these properties are 485-230-001 to 010.

ATTACHMENT 7

Plot Plan PA07-0039 for Building #7, a 409,598 square feet warehouse distribution facility, to be located on 19.14-acres located at the northeast corner of Heacock Street and Iris Avenue. The proposed warehouse facility is a permitted use within the Industrial and the Industrial Support Area zones of SP #208. The building will include loading docks with roll-up doors, truck staging and parking areas, two office areas and parking for employees and visitors. The loading and truck parking areas have been placed on the northern and southern elevations and are screened by perimeter concrete tilt-up walls. The project is located outside of the 300 foot buffer area identified in the Moreno Valley Industrial Area Plan (SP #208). The existing Assessor's Parcel Numbers for these properties are 485-230-014 to 024.

Tentative Parcel Map No. 35822 (PA08-0021) is proposed to re-configure the existing 21 parcels located within the project site and create six parcels ranging in size from 1.33 to 2.76 acres for Master Plot Plan PA07-0035 and one 19.14 acre parcel for Plot Plan PA07-0039. The project site for the parcel map is located in the Industrial (I) zone of the Industrial Area Specific Plan (SP #208).

9. Surrounding Land Uses and Setting:

The project is located in an area that includes a mix of industrial land uses within the Moreno Valley Industrial Area Plan (SP #208) and existing tract homes in the RS-10 and R5 zones. Land uses to the north include vacant Business Park zoned land with the March Air Reserve Base to the west and existing tract homes in the RS-10 zone to the east. Land uses to the south include vacant Industrial zoned land located within SP #208.

The vacant 40 acre site to the north is currently proposed by the same applicant for development of a 139 single-family residential lot subdivision. The site for this subdivision (Tentative Tract Map No. 34748) is currently zoned Business Park (BP) with a Business Park General Plan designation. The applicant is proposing a General Plan Amendment and Zone Change from BP to R5.

The vacant 67 acre site immediately to the south is currently proposed for development of a 1,484,407 square foot distribution facility. This project is scheduled for City Council review in August 2009. Also within proximity to the project site is a 1,560,064 square foot distribution building located at the southwest corner of Indian Street and Iris Avenue, which was approved by the City Council in July 2008.

10. Other public agencies whose approval is required.

An encroachment permit from the Riverside County Flood Control and Water Conservation District will be required.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below(■) would be potentially affected by this project, involving at least one impact that is a “Potentially Significant Impact” as indicated by the checklist on the following pages.

	Aesthetics		Hazards & Hazardous Materials		Public Services
	Agricultural Resources		Hydrology/Water Quality		Recreation
	Air Quality		Land Use/Planning		Transportation/Traffic
	Biological Resources		Mineral Resources		Utilities/Service Systems
	Cultural Resources		Noise		Mandatory Findings of Significance
	Geology/Soils		Population/Housing		

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.	X
I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.	
I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.	
I find that the proposed project MAY have a “potential significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.	
I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.	

Signature _____ Date January 29, 2009

Printed Name _____ For _____

EVALUATION OF ENVIRONMENTAL IMPACTS

- 1) A brief explanation is required for all answers except “No Impact” answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A “No Impact” answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g. the project falls outside a fault rupture zone). A “No Impact” answer should be explained where it is based on project-specific factors as well as general standards (e.g. the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. “Potentially Significant Impact” is appropriate if there is substantial evidence that an effect may be significant. If there are one or more “Potentially Significant Impact” entries when the determination is made, an EIR is required.
- 4) “Negative Declaration: Potentially Significant Unless Mitigation Incorporated” applies where the incorporation of mitigation measures has reduced an effect from “Potentially Significant Impact” to a “Less Significant Impact.” The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section 17, “Earlier Analysis,” may be cross-referenced).
- 5) Earlier analysis may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063 (c) (3) (d). In this case, a brief discussion should identify the following:
 - (a) Earlier Analysis Used. Identify and state where they are available for review.
 - (b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - (c) Mitigation Measures. For effects that are “Less than Significant with Mitigation Measures Incorporated,” describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g. general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project’s environmental effects in whatever format is selected.
- 9) The analysis of each issue should identify: (a) the significance criteria or threshold used to evaluate each question; and (b) the mitigation measure identified, if any, to reduce the impact to less than significance.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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1. AESTHETICS. Would the project:				
a) Have a substantial adverse effect on a scenic vista?			X	
The project site is not located in an area identified in the General Plan as an aesthetic resource or a significant visual resource. The project site is located at the northern limits of the Moreno Valley Industrial Area Plan (SP #208) in an area that is comprised of industrial land uses adjacent to residential land uses. The proposed warehouse buildings have been designed and conditioned in a manner consistent with SP #208 and the City's Municipal Code. The project as designed and conditioned will assure a design standard that will not have a substantial adverse effect on the scenic vista of the area.				
b) Substantially damage scenic resources, including, but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?			X	
There are no trees, rock outcroppings or historic buildings on the site. There are no state scenic highways in the vicinity of the site. The site has been disked over the years for weed abatement. As designed and conditioned, the project will not substantially damage scenic resources.				
c) Substantially degrade the existing visual character or quality of the site and its surroundings?			X	
The project is located in an area that includes a mix of industrial land uses within the Moreno Valley Industrial Area Plan (SP #208) and existing tract homes in the RS-10 and R5 zones. Land uses to the north include vacant Business Park zoned land with the March Air Reserve Base to the west and existing tract homes in the RS-10 zone to the east. Land uses to the south include vacant Industrial zoned land located within SP #208. The vacant 67 acre site immediately to the south is currently proposed for development of a 1,484,407 square foot distribution facility. This project is scheduled for City Council review in August 2009. Also within proximity to the project site is a 1,560,064 square foot distribution building located at the southwest corner of Indian Street and Iris Avenue, which was approved by the City Council in July 2008. This project is consistent with existing land uses and as designed and conditioned will not substantially degrade the existing visual character or quality of the site and its surroundings.				
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?			X	
As the site is currently vacant, the proposed industrial project will create additional light and glare. Municipal Code requirements, including the shielding of lighting and restrictions on the intensity of exterior lighting will mitigate light and glare impacts on surrounding properties. The project appears to be located outside of the Palomar Lighting District.				
2. AGRICULTURE RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project?				
a) Convert Prime Farmland, Unique Farmland or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency to non-agricultural use?				X
The site is not designated as prime farmland on the State Important Farmland Map.				
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
The site is not currently in agricultural use, or under Williamson Act control. There is no existing surrounding agricultural use, or sites under Williamson Act contract. The Municipal Code allows for agricultural uses such as crops in all zoning districts, therefore, the proposed warehouse facility does not conflict with existing zoning for agricultural use, or impact sites under Williamson Act contract.				
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?				X
There is no immediate surrounding agricultural land use designation, or any proposed according to the General Plan. The proposed warehouse facility will not involve changes to the existing environment, which will result in the conversion of farmland to non-agricultural use.				
3. AIR QUALITY: Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?			X	

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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The Air Quality Management Plan (AQMP) for the South Coast Air Basin (SCAB) sets forth a comprehensive program that will lead the SCAB into compliance with all federal and state air quality standards. The AQMP control measures and related emission reduction estimates are based upon emissions projections for a future development scenario derived from land use, population, and employment characteristics defined in consultation with local governments. Accordingly, conformance with the AQMP for development projects is determined by demonstrating compliance with local land use plans and/or population projections, or evaluation of assumed emissions.

The existing 2007 AQMP was developed based on SCAG (Southern California Association of Governments) population projections for the region. The population projections made by SCAG are based on existing and planned land uses as set forth in the various general plans of local governmental jurisdictions within the region. The proposed project is consistent with the land use designation that has been in place for the last several iterations of the regional population projections and the AQMP. Since the project will be developed in accordance with the underlying assumptions of the AQMP, the project would not conflict with or obstruct implementation of the SCAQMD AQMP.

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation.			X	
--	--	--	---	--

The project is within the jurisdiction of the South Coast Air Quality Management District (SCAQMD). The SCAQMD has developed thresholds of significance for both regional and localized air quality impacts, which the project must comply with. An Air Quality Analysis was prepared for the project in April 2008 by LSA Associates, Inc. This study was updated by the consultant in December 2009 to reflect the most current modeling practices. The short-term and long-term construction emissions from the project were modeled by LSA Associates, Inc., using the URBEMIS2007 model and the EMFAC2007 model. Construction of the project was assumed to occur in three phases, beginning with Building #7, the large warehouse building on Parcel 7. Unmitigated maximum short-term daily emissions are all below applicable SCAQMD regional significance thresholds. In addition to the regional analysis, the project's emissions and impacts on a localized scale were analyzed. None of the project's emissions exceed the applicable SCAQMD localized significance thresholds.

Emissions of all criteria pollutants for the operation phase are below the SCAQMD regional thresholds. Additionally, the project's emissions were found to not cause an exceedance of the localized significance thresholds. According to the project traffic study, when project-generated traffic is added to intersections in the project vicinity, eight intersections will fall below acceptable Levels of Service. Therefore, a CO hotspots analysis was performed. As determined by the project air study, the project will not cause an exceedance of any state or federal CO standard and will not create a CO hotspot at any of the intersections in the project vicinity.

As with all construction, this project will be required to comply with regional rules that assist in reducing short-term air pollutant emissions. Implementation of dust suppression techniques consistent with SCAQMD Rule 403 can reduce dust generation (and thus the PM₁₀ component).

In addition, during construction, compliance with the SCAQMD Rule 1113 on the use of architectural coatings would be considered sufficient. Emissions associated with architectural coatings should be further reduced by using pre-coated/natural-colored building materials, using water-based or low VOC coating, and using coating transfer or spray equipment with high transfer efficiency. The project has been conditioned for compliance with both Rule 403 and Rule 1113.

As a proposed warehouse facility, the project will result in an increase in diesel particulate matter (DPM) emissions from the diesel trucks serving the facility. Considering existing residential uses located immediately to the east and proposed residential uses to the north, a Health Risk Assessment (HRA) was performed for the project to determine the potential cancer risks and non-cancer risks to the residents in the project vicinity. SCAQMD recommends that a threshold of 10 in one million be used to determine the significance of cancer risks. The HRA found that the long-term operational DPM emissions from the project would result in a maximum cancer risk of 6.3 in one million for an off-site residential receptor, which is less than the SCAQMD threshold of 10 in one million; therefore, cancer risks from project-generated DPM emissions are less than significant.

For non-cancer risks, SCAQMD recommends using a Hazard Index (HI) of 1.0 to determine the significance of non-cancer risk. The project-generated DPM emissions will result in a HI of 0.004. Therefore, non-cancer risks are less than 1% of the SCAQMD recommended threshold from project operation and are less than significant.

c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?			X	
---	--	--	---	--

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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The South Coast Air Basin is in non-attainment status for ozone, carbon monoxide (CO), and particulate matter (PM_{2.5} and PM₁₀). CEQA Section 21100 (e) addresses evaluation of cumulative effects, allowing the use of approved land use documents in a cumulative impact analysis. CEQA Guidelines Section 15064 (h)(3) further stipulates that for an impact involving a resource that is addressed by an approved plan or mitigation program, the lead agency may determine that a project's incremental contribution is not cumulatively considerable if the project complies with the adopted plan or program. In addressing cumulative effects for air quality, the AQMP is the most appropriate document to use because the AQMP sets forth a comprehensive program that will lead the air basin, including the project area, into compliance with all federal and state air quality standards. The AQMP compliance program includes control measures and related emission reduction estimates based upon emissions projections for a future development scenario derived from land use, population, and employment characteristics defined in consultation with local governments.

Since the proposed project is consistent with the land use designation considered in the underlying assumptions of the most recent AQMP and the project, as conditioned, would not generate significant pollutant levels on an individual basis, it is appropriate to conclude that the proposed project would not result in a cumulatively considerable increase in criteria pollutant emissions for which the basin is in non-attainment status.

The Air Quality Analysis included an evaluation of potential significant impacts to global climate change that could result from the implementation of the project. As concluded in the evaluation, project related Greenhouse Gas (GHG) emissions and their contribution to global climate change in the State of California are less than significant and less than cumulatively considerable because the project's impacts alone would not cause or significantly contribute to global climate change and the project's contribution from construction emissions is short term and would cease after project construction is completed. The project would not result in GHG emission levels that would substantially conflict with implementation of the GHG reduction goals of AB 32 or other State regulations.

d) Expose sensitive receptors to substantial pollutant concentrations?				
--	--	--	--	--

There are sensitive receptors located directly adjacent to the project site to the east. However, according to the project-specific air quality impact analysis, with conditions of approval, construction and operational emissions from the project have been shown to be less than the applicable SCAQMD thresholds of significance on both the regional and localized level (see item 4b, above). Additionally, diesel particulate emissions generated by the project will not expose sensitive receptors to significant cancer risks (see item 4b, above).

e) Create objectionable odors affecting a substantial number of people?			X	
---	--	--	---	--

The proposed project has the potential to create objectionable odors in the form of diesel exhaust from the trucks associated with the warehouse facility use. The closest areas with substantial numbers of people are the existing single-family residences located immediately to the east and to the northeast. However, these emissions would rapidly dissipate and be diluted by the atmosphere downwind of the emission sources. Recognizing the direction of the prevailing winds (northwest to southeast), dispersion and quantity of the pollutants, the project will not subject a substantial number of people to objectionable odors.

4. BIOLOGICAL RESOURCES. Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U. S. Fish and Wildlife Service?			X	
---	--	--	---	--

The project site is comprised of six individual parcels ranging in size from 1.33 to 2.76 acres and totaling 11.54 acres along with a single 19.14 acre parcel located at and near the northeast corner of Heacock Street and Iris Avenue. The site is currently vacant and is an area that the Riverside County Integrated Plan (RCIP) has identified as having the potential for burrowing owl habitat. A habitat assessment for burrowing owl was prepared on September 25, 2006 by Ecological Sciences, Inc. No burrowing owls were observed on the site during the habitat assessment. Several potentially suitable ground squirrel burrows were noted on the site. However, monitoring of the site during peak activity times did not reveal the presence of burrowing owl on or directly adjacent to the project site. The project has been conditioned to complete a pre-construction survey for burrowing owl prior to any disturbance of the site. The project site has been disturbed in the past through disking for weed abatement and illegal dumping. Therefore, the proposed project will result in less than significant impacts to Fish and Wildlife resources.

b) Have a substantially adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U. S. Wildlife Service?			X	
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There is no stream on the site and no riparian habitat or other sensitive natural community on the site. The project site is located across the street from Line B, which is an open channel located on the west side of Heacock Street. The project also fronts along Line B-19, which is located within Iris Avenue. Improvements related to the project that would impact Line B-19, are limited to a point of connection into the existing underground storm line. Prior to completing such work, the developer is conditioned to work with the Riverside County Flood Control District to acquire any required permits. Therefore, this project will have a less than significant impact on riparian habitat or other sensitive natural communities.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?			X	
The site is vacant and has been disturbed through routine disking for weed abatement. There are no federally protected wetland areas such as a marsh or vernal pool evident at the site. In addition, a riparian area and condensed vegetation to support threatened or endangered species was not evident at the site. Therefore, the development of this project will not have a substantial adverse effect on federally protected wetlands.				
d) Interfere substantially with the movement of any resident or migratory fish or wildlife species or with established native resident migratory wildlife corridors, or impede the use of native wildlife nursery sites?			X	
This site is an urbanized area with existing development to the north, south, east and west. Burrowing owl, which was initially identified by Riverside County as having the potential of occurring on the site was not observed during site surveys, so it is unlikely that the proposed project will directly impact sensitive species. There are no known migratory fish or wildlife species or migratory wildlife corridors, on or near the project site.				
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?			X	
The proposed project will not conflict with any General Plan or local policies pertaining to the protection of biological resources. The project is consistent with the goals and objectives of the General Plan, previously approved Specific Plan and subsequent EIR under the current Industrial land use designation.				
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Conservation Community Plan, other approved local, regional, or state habitat conservation plan?			X	
The proposed project is located within the boundaries of the Stephen's Kangaroo Rat Habitat Conservation Plan (SKR HCP). Also, the City is participating in the Multiple Species Habitat Conservation Plan (MSHCP), a comprehensive habitat conservation-planning program addressing multiple species' needs, including preservation of habitat and native vegetation in Western Riverside County. The project is not within any of the (MSHCP) criteria areas, PQP land, or any special survey areas. A burrowing owl survey assessment was completed for this site with no owls observed on the site. There is no riparian, riverine, or vernal pool (fairy shrimp) habitat on the project site. The project as designed and conditioned is consistent with the MSHCP and will have not conflict with the MSHCP or SKR HCP. The SKR Habitat plan will require a fee of \$500.00 per acre to be paid by the developer to assist in setting aside established protection areas for said habitat. This project will also be subject to fees to support the implementation of the Multiple Species Habitat Conservation Plan. The fee is currently \$6,597 per acre.				
5. CULTURAL RESOURCES. Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?				X
b) Cause a substantial adverse change in the significance of an archaeological resources pursuant to Section 15064.5?				X
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				X
(a. through c.) Based upon inspection of the project site and review of the Cultural Resources Inventory for the City of Moreno Valley, (Archeological Research Unit, University of California, Riverside, October 1987), there are no known archaeological resources on the site. There are no historical structures existing on the site. There are no known paleontological or unique geological features on the site.				
d) Disturb any human remains, including those interred outside of formal cemeteries?				X
No known human remains have been identified at the project site. Conditions of approval address the issue of inadvertent discoveries. A standard condition of approval will be placed on the project to cease excavation or construction activities if archaeological, paleontological, or historical resources uncovered on the project site.				
6. GEOLOGY AND SOILS. Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving:				
(i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.			X	

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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The proposed industrial warehouse project would not have a direct impact on creating geologic concerns. The area is currently designated for Industrial uses. The proposed plan does not increase the exposure of residences that might be exposed to groundshaking, since residences are not proposed as part of the plan. In addition, the site is not within an Alquist-Priolo zone, or other designated fault hazard zone. According to the City's environmental information, the project site is not on, or close to, any known earthquake fault. There is no risk of ground rupture due to faulting at the proposed project site.

(ii) Strong seismic ground shaking?			X	
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The nearest fault is the San Jacinto fault system, which is located about 16 miles to the northeast. The San Andreas fault system is more than 25 miles from the site. The active Sierra Madre and San Gabriel fault zones lie roughly 35 and 40 miles respectively to the northwest of the site. The active Elsinore and Newport-Inglewood fault zones lie approximately 20 and 45 miles, respectively, to the southwest of the site. This faulting is not considered a significant constraint to development on the site with the use of current development codes.

(iii) Seismic-related ground failure, including liquefaction?			X	
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According to the City's environmental resources, the project site is not on, or close to, any known earthquake fault. However, ground-shaking intensity could possibly be moderately-high during a 100-year interval earthquake. Water table and soil conditions are not conducive of seismic related failure.

(iv) Landslides?			X	
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This site is not near or adjacent to the mountainside areas. The site is flat, and landslides will not be an issue. There is no potentially significant impact from landslides.

(b) Result in substantial soil erosion or the loss of topsoil?			X	
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The development of the site will likely result in the reduction of erosion with the placement of buildings and landscaping on the site. During construction, there is the potential for less than significant impacts for short-term soil erosion from minimal excavation and grading. This will be addressed as part of standard construction, such as watering to reduce dust and sandbagging, if required, during raining periods.

(c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?			X	
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The geologic unit or soil is not known to be unstable based on current resources. As provided for in the conditions of approval, the applicant must provide a soils and geologic report to City Public Works Department. The site will not be located on expansive soil as defined in Table 18-1-B of the Uniform Building Code.

(d) Be located on expansive soil, as defined in Table 18-a-B of the Uniform Building Code (1994), creating substantial risks to life or property?			X	
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According to the City's environmental information, the geologic unit or soil is not known to be unstable. As provided for in the conditions of approval, the applicant must provide a soils and geologic report to City Public Works Department. The site will not be located on expansive soil as defined in Table 18-1-B of the Uniform Building Code.

(e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?			X	
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The project will operate on a sewer system that will be reviewed, approved and installed according to Eastern Municipal Water District requirements. The proposed project will not be introducing septic tanks or alternative water disposal systems.

7. HAZARDS AND HAZARDOUS MATERIALS. Would the project?

a) Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials?			X	
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b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the likely release of hazardous materials into the environment?			X	
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c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?			X	
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(a. through c) The proposed project, a warehouse distribution facility consisting of seven buildings on seven separate parcels, will not create a significant hazard to the public or the environment. There will be no known hazardous materials associated with the development of the site. The project as designed and conditioned will not emit hazardous emissions or handle hazardous materials.

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result would it create a significant hazard to the public or the environment?				X
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The project is not located on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

e) For a project located within an airport land use plan or, where such a plan has			X	
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Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				
The project site is located across the street from March Air Reserve Base but outside of the boundaries of the Air Installation Compatibility Use Overlay District (AICUZ). This is an overlay district that restricts land use on properties located to the north and south of the runway of March Air Reserve Base. The AICUZ includes elements that address noise zones and accident potential zones. The project site is not within an airport land use plan. The project as designed and conditioned will not result in a safety hazard for people working in the project area.				
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
There are no private airstrips within the City of Moreno Valley. The project is not within proximity of a private airstrip. Therefore, the project would not result in a safety hazard pertaining to proximity of a private airstrip.				
g) Impair implementation of, or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
The proposed project would not have any direct effect on an adopted emergency response plan, or emergency evacuation plan. The City's emergency plans are also consistent with the General Plan. The proposed warehouse distribution facility has been designed and conditioned to provide required circulation and required fire access to allow for ingress of emergency vehicles and egress of residents. Therefore, the proposed project would not be in conflict in any way with the emergency response or emergency evacuation plans.				
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				X
The proposed project site is not adjacent to wildlands, and as such would not expose people or structures to a significant risk of loss, injury or death involving wildland fires. In addition, the project is not located within a designated wildland area.				
8. HYDROLOGY AND WATER QUALITY. Would the project:				
a) Violate any water quality standards or waste discharge requirements?			X	
Pursuant to the requirements of the Santa Ana Regional Water Quality Control Board, a project specific Water Quality Management Plan (WQMP) is required of certain projects involving discretionary approval. This project requires a WQMP to address pollutants of concern which include nutrients, oxygen demanding substances, and pathogens (bacteria and viruses). Site Design and Source Control best management practices (BMP) are used throughout the project. Treatment BMPs must be selected and implemented which are medium to highly effective in treating pollutants of concern. The applicant has proposed to incorporate the use of multiple filtration systems as the treatment BMP. The treatment control BMP is acceptable as the conceptual treatment subject to certain conditions including in-situ percolation/infiltration test results. Although this approach is acceptable in concept with the Preliminary WQMP, final sizing and specifications based on support calculations and design details will be provided in the Final WQMP at the post entitlement stage. Additionally, grading activities would temporarily expose soils to wind and water erosion that would contribute to downstream sedimentation. The proposed project would comply with all permits and development guidelines associated with urban water runoff and discharge set forth by the City of Moreno Valley and the Regional Water Quality Control Board. With the approval of the storm drainage facilities by the City Engineer and Riverside County Flood Control District, as well as complying with all applicable storm water discharge permits, impacts would be less than significant.				
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?			X	
The Eastern Municipal Water District (EMWD) would provide the proposed project with water supplies as opposed to utilizing individual water wells. Water supplies are adequate to serve the proposed project. Although the project would cover a majority of the site with impervious surfaces, the landscaped areas would still provide a means for groundwater recharge. Impacts would be less than significant.				
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?			X	

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
During construction of the project, there is the potential for some sediments to be discharged within the storm water system. Erosion plans are required for projects prior to issuance of grading permits for prevention substantial erosion. The site is within the 100-year flood plain. However, there is no streambed or river on the project site, so the project will not cause a change in the existing drainage pattern that would result in substantial erosion or siltation on- or off-site. Therefore, project implementation would not result in modifications that could ultimately result in substantial erosion or siltation on- or off-site. Impacts would be less than significant.				
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or surface runoff in a manner which would result in flooding on- or off site?				X
A river or streambed were not evident on the site. Runoff patterns will not be altered to the result of flooding on or off-site.				
e) Create or contribute runoff which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?			X	
f) Otherwise substantially degrade water quality?			X	
(e and f) All storm drainage improvements would be developed to the standards of the City Engineer and the Riverside County Flood Control Agency. As with any urban project, runoff entering the storm drainage system would contain minor amounts of pollutants (including pesticides, fertilizers and motor oil). This would incrementally contribute to the degradation of surface and sub-surface water quality. Additionally, grading activities would temporarily expose soils to water erosion that would contribute to downstream sedimentation. However, the project is subject to the permit requirements of the Santa Ana Regional Water Quality Control Board. As the site is currently unpaved and exposed, development of the proposed project would lessen the existing site contribution to sediment runoff at project completion.				
g) Place housing within a 100-year floodplain, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				X
An inspection of the site shows no evidence of concentrated drainage. The current Federal Emergency Management maps (FEMA) maps indicate that the site is in a flood zone, however, the project will not place housing within a 100-year floodplain.				
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				X
An inspection of the site shows no evidence of concentrated drainage. The current Federal Emergency Management maps (FEMA) maps indicate that the site is in a flood zone. The project has been conditioned by Public Works delineate the flood zone limits on the grading plans and to demonstrate on the plans that any building finished floor elevation shall be a 1-foot minimum above the 100-year base flood elevation. Additionally, prior to grading plan approval, the developer shall obtain a Conditional Letter of Map Revision based on Fill (CLOMR-F) from the Federal Emergency Management Agency (FEMA). Prior to issuance of the first building permit, the developer shall obtain a Letter of Map Revision based on Fill (LOMR-F) from FEMA.				
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?			X	
The site is within a 100-year flood plain as shown on the FEMA maps, but it is outside of the delineated dam inundation area for Perris Dam at Lake Perris Reservoir. The project has been conditioned by Public Works delineate the flood zone limits on the grading plans and to demonstrate on the plans that any building finished floor elevation shall be a 1-foot minimum above the 100-year base flood elevation. Additionally, prior to grading plan approval, the developer shall obtain a Conditional Letter of Map Revision based on Fill (CLOMR-F) from the Federal Emergency Management Agency (FEMA). Prior to issuance of the first building permit, the developer shall obtain a Letter of Map Revision based on Fill (LOMR-F) from FEMA. As designed and conditioned, this project will not expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam.				
j) Inundation by seiche, tsunami, or mudflow?				X
The site is not identified in the General Plan as a location subject to seiche, or mudflow. The project is outside of the delineated dam inundation area for Perris Dam at Lake Perris Reservoir.				
9. LAND USE AND PLANNING. Would the project:				
a) Physically divide an established community?				X

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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The project is located in an area that includes a mix of industrial land uses within the Moreno Valley Industrial Area Plan (SP #208) and existing tract homes in the RS-10 and R5 zones. Land uses to the north include vacant Business Park zoned land with the March Air Reserve Base to the west and existing tract homes in the RS-10 zone to the east. Land uses to the south include vacant Industrial zoned land located within SP #208. The vacant 67 acre site immediately to the south is currently proposed for development of a 1,484,407 square foot distribution facility. This project is scheduled for City Council review in August 2009. Also within proximity to the project site is a 1,560,064 square foot distribution building located at the southwest corner of Indian Street and Iris Avenue, which was approved by the City Council in July 2008. The proposed warehouse facility as conditioned and designed is in conformance with the General Plan, the standards of the Industrial zone per the Moreno Valley Industrial Area Plan (SP #208) and the City's Municipal Code. The addition of the proposed use will not physically divide an established community.

b) Conflict with an applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				X
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There are no conflicts associated with any land use plans. The proposed project is consistent with the site's existing Industrial zone within the Moreno Valley Industrial Area Plan and the City's General Plan.

c) Conflict with any applicable habitat conservation plan or natural community conservation plan?			X	
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The proposed project is located within the boundaries of the Stephen's Kangaroo Rat Habitat Conservation Plan (SKR HCP). Also, the City is participating in the Multiple Species Habitat Conservation Plan (MSHCP), a comprehensive habitat conservation-planning program addressing multiple species' needs, including preservation of habitat and native vegetation in Western Riverside County. The project is not within any of the (MSHCP) criteria areas, PQP land, or any special survey areas. A burrowing owl survey assessment was completed for this site with no owls observed on the site. There is no riparian, riverine, or vernal pool (fairy shrimp) habitat on the project site. The project as designed and conditioned is consistent with the MSHCP and will have not conflict with the MSHCP or SKR HCP. The SKR Habitat plan will require a fee of \$500.00 per acre to be paid by the developer to assist in setting aside established protection areas for said habitat. This project will also be subject to fees to support the implementation of the Multiple Species Habitat Conservation Plan. The fee is currently \$6,597 per acre.

10. MINERAL RESOURCES. Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?			X	
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The project site is located in an urbanized area with additional development occurring in the vicinity. No active mines or mineral recovery programs are currently active within the project site. No mineral deposits have been identified in the General Plan, consequently, the development of the project site would not conflict with a mineral recovery plan as adopted by the General Plan. Therefore, no significant impacts would occur.

b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?			X	
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The project site is located in an urbanized area with additional development occurring in the vicinity. No active mines or mineral recovery programs are currently active within the project site. No mineral deposits have been identified in the General Plan, consequently, the development of the project site would not conflict with a mineral recovery plan as adopted by the General Plan. Therefore, no significant impacts would occur.

11. NOISE. Would the project result in:

a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?			X	
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While the project site is in a developing industrial district, there are existing residential uses to the east and proposed residential uses to the north. In recognition of these existing and proposed sensitive receptors, a project-specific noise analysis was conducted.

The operation phase analysis considered on-site noise associated with trucks maneuvering and idling within the dock areas, loading and unloading activities, as well as increased traffic volumes on local streets. For on-site truck activities for Building 7, the 14 foot-tall decorative screening walls required under City standards for aesthetic purposes also provide noise attenuation to reduce noise levels at the nearby residences below the City's exterior standard of 65 decibels (CNEL).

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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The on-site operational activities associated with future light industrial land uses in Buildings 1 to 6 will be screened from view from existing and proposed residential land uses located to the north and east by 8 foot tall walls. The walls, which are required under City standards for aesthetic purposes, also provide noise attenuation to reduce noise levels at the nearby residences below the City's exterior standard of 65 decibels (CNEL). The installation of the screening walls noted above for Buildings 1 to 7 are conditions of approval for the project. The project has also been conditioned for consistency with the Municipal Code to ensure that loudspeakers, bells, gongs, buzzers or other noise attention devices installed on the project site are designed so that the noise level at all property lines will be at or below 55 dBA.

The analysis of the project's contribution to increased noise levels along area roadways considered major streets within an extended influence area generally defined by Heacock Street on the west, Cactus Avenue on the north, Oleander Avenue (Harley Knox Boulevard) on the south, and Perris Boulevard on the east. The analysis concluded that project traffic would increase noise levels within 50 feet of the analyzed roadways by 0.0 to 2.3 decibels. Inasmuch as the projected increases are well below the accepted significance threshold of 5 decibels, and the project would not contribute to any new exceedances of the 65 CNEL exterior standard for road segments with adjoining residential uses, project impacts in this regard are less than significant.

The project's short-term noise impacts during construction are considered less than significant through compliance with City Municipal Code limits on construction hours (grading activities are allowed between the hours of 7:00 A.M. and 8:00 P.M.; general construction is allowed between the hours of 6:00 A.M. and 8:00 P.M. weekdays or 7:00 A.M. and 8:00 P.M. for weekends or national holidays). Additionally, the project has been conditioned to locate equipment staging at the furthest location possible from adjacent residences as well as position stationary construction equipment so that the emitted noise is directed away from adjacent residences. All construction equipment will be equipped with properly operating and maintained mufflers. Established City procedures for plan check, permit issuance, and construction inspection, ensure project implementation consistent with the conditions of approval.

b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?			X	
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Development of the project may result in groundborne vibrations or noise generated infrequently through the construction phase. However, this type of effect would be temporary and infrequent and is not expected to occur during project operation.

c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
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See response to item 11.a, above.

d) A substantially temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
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See response to item 11.a, above.

e) For a project located within an airport land use plan, or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?			X	
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The project is located across the street from the March Air Reserve Base but outside the boundaries of the Air Installation Compatibility Use Overlay District (AICUZ). This is an overlay district that restricts land use on properties located to the north and south of the runway of March Air Reserve Base. The AICUZ includes elements that address noise zones and accident potential zones. The project site is located outside the mapped noise contours associated with aircraft operations at the MARB airfield, indicating noise exposure due to aircraft operations in less than 60 decibels (CNEL). This is well below the accepted noise exposure level for industrial uses. March JPA identified that the project is restricted by FAA Part 77, which limits building heights in this area to 85-feet. The project as proposed has a maximum height of 36-feet and will not be in conflict with height restrictions from adjacent March Air Reserve Base.

f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X
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There is no private airstrip within the vicinity of the site, or within the City of Moreno Valley.

12. POPULATION AND HOUSING. Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?			X	
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As the site is considered an industrial site, with population and housing growth opportunities indirectly related, the project will be planned consistent with the Citywide plan.

b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
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Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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There are no existing residences on the site.

c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X
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There are no existing residences on the site. The project will not displace any residents.

13. **PUBLIC SERVICES.** Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered government facilities, need for new or physically altered government facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

a) Fire protection?			X	
b) Police protection?			X	
c) Schools?			X	
d) Parks?			X	
e) Other public facilities?			X	

(a-e) There will be an incremental increase in the demand for new or altered public services including library, city hall, and city yard facilities. These facilities would be needed with or without the project. Environmental review has already been done for the proposed library as part of the future city hall complex.

14. **RECREATION.**

a) Would the project increase the use of existing neighborhood or regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
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Neighborhood or regional parks are not associated with industrial projects, therefore there will be no impacts associated on these facilities from the proposed project

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				X
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The project does not include recreational facilities.

15. **TRANSPORTATION/TRAFFIC.** Would the project:

a) Cause an increase in the traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?			X	
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The project-specific traffic study estimates the proposed project will generate up to 2,853 trips per day, with 572 trips attributed to trucks. The traffic study evaluated project traffic impacts for both project-level and cumulative impacts for the project opening year of 2011. The analysis evaluated 26 intersections in an area generally defined by Interstate 215 on the west, Harley Knox Boulevard/Oleander Avenue on the south, Cactus Avenue on the north, and Perris Boulevard on the east.

Eleven intersections in the project area are projected to operate at an unacceptable level of service (LOS) for the cumulative, "without project" scenario:

- Heacock Street (NS) at Cactus Avenue (EW)
- Heacock Street (NS) at Gentian Avenue (EW)
- Heacock Street (NS) at Iris Avenue (EW)
- Heacock Street (NS) at San Michele Road (EW)
- Heacock Street (NS) at Nandina Avenue (EW)
- Indian Street (NS) at Iris Avenue (EW)
- Indian Street (NS) at Nandina Avenue (EW)
- Indian Street (NS) at Oleander Avenue (EW)
- Perris Boulevard (NS) at Iris Avenue (EW)
- Perris Boulevard (NS) at San Michele Road (EW)
- Perris Boulevard (NS) at Oleander Avenue (EW)

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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Fourteen intersections are identified as operating at an unacceptable level for the cumulative, "with project" scenario – consisting of the eleven above, with the addition of Heacock Street at Revere Place, Concord Way at Iris Avenue, and Perris Boulevard at Nandina Avenue. The project has been conditioned to complete street improvements at Heacock and Revere and Concord and Iris to address the unacceptable LOS at these intersections. The Perris/Oleander intersection was evaluated as an unsignalized intersection. The intersection has been signalized since the commencement of this study and operates at a satisfactory LOS. The intersection of Perris/Nandina will be reconstructed as part of a City Capital Project that will provide satisfactory LOS. The intersection of Heacock/Cactus will be addressed in a future City Capital Project.

The project has been conditioned to pay standard development impact fees (DIF) and Transportation Uniform Mitigation Fees (TUMF). Payment of DIF and TUMF are considered adequate to mitigate project impacts on the remaining intersections that currently operate at an unacceptable level and are not substantially worsened by the project.

Project conditions of approval require improvements to the perimeter project streets (Heacock Street and Iris Avenue), the installation of a median in Iris Avenue along the project site's frontage as well as a fair share contribution towards the installation of a signal at Perris and Suburban, which is not in any existing fee program.

The above-noted improvements specified in the project conditions of approval would be completed in accordance with established City programs to administer such conditions of approval and would provide mitigation of project-level impacts to below a level of significance. The project as designed and conditioned will reduce the project's contribution to cumulative impacts to below a level of significance. Established City procedures for plan check and permit issuance ensure collection of fees prior to building permit issuance or occupancy.

b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?			X	
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The project is consistent with the General Plan. The project will not exceed a level of service established by an adopted regional congestion management plan.

c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?			X	
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The project is located across the street from March Air Reserve Base but outside of the boundaries of the Air Installation Compatibility Use Overlay District (AICUZ). The proposed project is consistent with the site's existing Industrial zone and the General Plan. This project will not result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks.

d) Substantially increase hazards to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?				X
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As designed, the project will not result in hazards. The project is not adjacent to any potential incompatible uses.

e) Result in inadequate emergency access?				X
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The project has been designed in a manner consistent with City standards. The site will be readily accessible for emergency access.

f) Result in inadequate parking capacity?				X
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The project has provided adequate parking based on the City's Municipal Code and the requirements of the Moreno Valley Industrial Area Plan.

g) Conflict with adopted policies or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?				X
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The project as designed and conditioned will not conflict with adopted transportation policies.

16. UTILITIES AND SERVICE SYSTEMS. Would the project:

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X
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The project will not exceed wastewater treatment requirements of the Regional Water Quality Control Board. The project would not exceed the existing or planned capacity of the Moreno Water Reclamation Facility.

b) Require or result in construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
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The project will not exceed wastewater treatment capacity of the Moreno Water Reclamation Facility.

c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			X	
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The project will not require or result in the construction of unplanned storm water drainage facilities or expansion of existing facilities.

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				X
This project was determined to not be a project of regional significance per CEQA guidelines, so the preparation of a Water Supply Assessment was not required. However, the water purveyor, Eastern Municipal Water District (EMWD), prepared an Urban Water Master Plan demonstrating that it has or will have sufficient water supplies available to serve urban development on the property.				
e) Result in a determination by the wastewater treatment provider which serves or may serve the project determined that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				X
EMWD, the wastewater treatment provider, has adequate capacity to serve the project in addition to the provider's existing commitments. EMWD has plans for major expansions of the Moreno Water Reclamation Facility. Source: EIR for the General Plan Update.				
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				X
The needs of the project for solid waste capacity would be negligible. The proposed project is expected to result in the use of utilities similar to a majority of the industrial uses in the vicinity. The project will be served by a landfill in the Badlands with sufficient permitted capacity to accommodate the project's solid waste disposal needs. Source: EIR for the General Plan.				
g) Comply with federal, state, and local statues and regulations related to solid waste?				X
The City is complying with State and Federal regulations regarding solid waste. All future projects will comply with the current policies regarding solid waste.				
17. MANDATORY FINDINGS OF SIGNIFICANCE.				
a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of an endangered, rare or threatened plant or animal, or eliminate important examples of the major periods of California history or prehistory?			X	
The project would not significantly degrade the quality of the environment or reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal. There are no historic structures on the site, and there will be no impact to historic resources. The project will not eliminate important examples of the major periods of California history or prehistory. The analysis in this Initial Study demonstrates that project and cumulative impacts would be less than significant. Finally, the project consists of a Master Plot Plan for a six building industrial park, a Plot Plan for a warehouse distribution building and a parcel map that would result in no substantial adverse health effects on human beings.				
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of the past projects, the effects of other current projects, and the effects of probable future projects)?			X	
This project will not create any impacts, that when viewed in connection with existing land uses, other recently approved projects, and existing land use designations, would be considered cumulatively considerable. It is not expected that the proposed project would result in incremental effects. The analysis in this Initial Study demonstrates that the proposed project cumulative impacts would be less than significant.				
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?			X	
The project consists of a Master Plot Plan for a six building industrial park, a Plot Plan for a warehouse distribution building and a parcel map. The project as designed and conditioned will not cause substantial adverse effects on human beings, either directly or indirectly for the reasons described in this checklist/initial study. The Air Quality Analysis included an evaluation of potential significant impacts to global climate change that could result from the implementation of the project. As concluded in the evaluation, project related Greenhouse Gas (GHG) emissions and their contribution to global climate change in the State of California are less than significant and less than cumulatively considerable because the project's impacts alone would not cause or significantly contribute to global climate change and the project's contribution from construction emissions is short term and would cease after project construction is completed. The project would not result in GHG emission levels that would substantially conflict with implementation of the GHG reduction goals of AB 32 or other State regulations.				

Issues and Supporting Information	Potentially Significant Impact	Less than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
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IN THE CITY OF MORENO VALLEY, STATE OF CALIFORNIA
PLOT PLAN PA07-0039

PARCEL 1 TO 10, AND 14 TO 24 INCLUSIVE, OF PARCEL MAP NO. 24314 ON FILE IN
BOOK 170 PAGES 1, 2, 3, AND 4 OF PARCEL MAPS, RECORDS OF INDIAN COUNTY, CALIFORNIA
OCTOBER 2008

OWNER/DEVELOPER:
MID NORTH COMPANY
3005 I. SHAWAN AVE.
SUITE 200
DANA POINT, CA 92629
(714) 834-1111

ENGINEER / REP.:
STANTEC CONSULTING INC.
3105 EAST QUAST ROAD, SUITE 100
DANA POINT, CA 92629
(949) 330-8800
9000 3RD STREET SUITE 100
DANA POINT, CA 92629

ASSESSOR'S PARCEL NO.:
45-120-000, 45-120-001, 45-120-002, 45-120-003, 45-120-004, 45-120-005, 45-120-006, 45-120-007, 45-120-008, 45-120-009, 45-120-010

ACREAGE:
TOTAL: 11.32
NET: 3.08

ZONING DATA:
EXISTING GENERAL PLAN - INDUSTRIAL
EXISTING ZONING - INDUSTRIAL (IP 200)
PROPOSED GENERAL PLAN DESIGNATION - INDUSTRIAL / HOUSING
PROPOSED ZONING - INDUSTRIAL

LAND USE:
INDUSTRIAL (MANUFACTURING)
INDUSTRIAL MANUFACTURING
INDUSTRIAL MANUFACTURING (SINGLE FAMILY RESIDENTIAL/INDUSTRIAL)

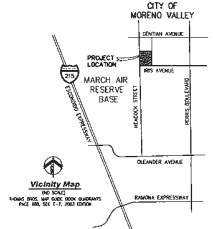
LEGAL DESCRIPTION:
PARCEL 1 TO 10, AND 14 TO 24 INCLUSIVE, OF PARCEL MAP NO. 24314 ON FILE IN BOOK 170 PAGES 1, 2, 3, AND 4 OF PARCEL MAPS, RECORDS OF INDIAN COUNTY, CALIFORNIA

COMMUNITY SERVICES DISTRICTS:
NOT WITHIN A COMMUNITY SERVICE DISTRICT

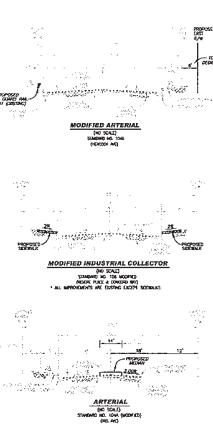
SCHOOLS:
MORNING STAR UNITED STATES SCHOOL DISTRICT
2205 ALBUQUERQUE BLVD
MORNING STAR, CA 92551
(951) 452-4000

UTILITIES:
ELECTRIC: SOUTHERN CALIFORNIA Edison
GAS: SOUTHERN CALIFORNIA GAS
WATER: SOUTHERN CALIFORNIA GAS
SEWER: SOUTHERN CALIFORNIA GAS
TELEPHONE: SOUTHERN CALIFORNIA GAS
CABLE: SOUTHERN CALIFORNIA GAS
FIRE: SOUTHERN CALIFORNIA GAS
WASTE MANAGEMENT: SOUTHERN CALIFORNIA GAS
WATER: SOUTHERN CALIFORNIA GAS
SEWER: SOUTHERN CALIFORNIA GAS
TELEPHONE: SOUTHERN CALIFORNIA GAS
CABLE: SOUTHERN CALIFORNIA GAS
FIRE: SOUTHERN CALIFORNIA GAS
WASTE MANAGEMENT: SOUTHERN CALIFORNIA GAS

TOPOGRAPHY SOURCE:
INDIAN COUNTY FLOOD CONTROL



- GENERAL NOTES:**
1. THIS PLAN IS FOR THE CITY OF MORENO VALLEY.
 2. THE PROJECT IS NOT SUBJECT TO LOCALIZATION.
 3. THIS PLAN IS BASED ON THE RECORDS OF THE PROJECT OR WITHIN THE PROJECT AREA.
 4. THIS PLAN IS BASED ON THE RECORDS OF THE PROJECT OR WITHIN THE PROJECT AREA.
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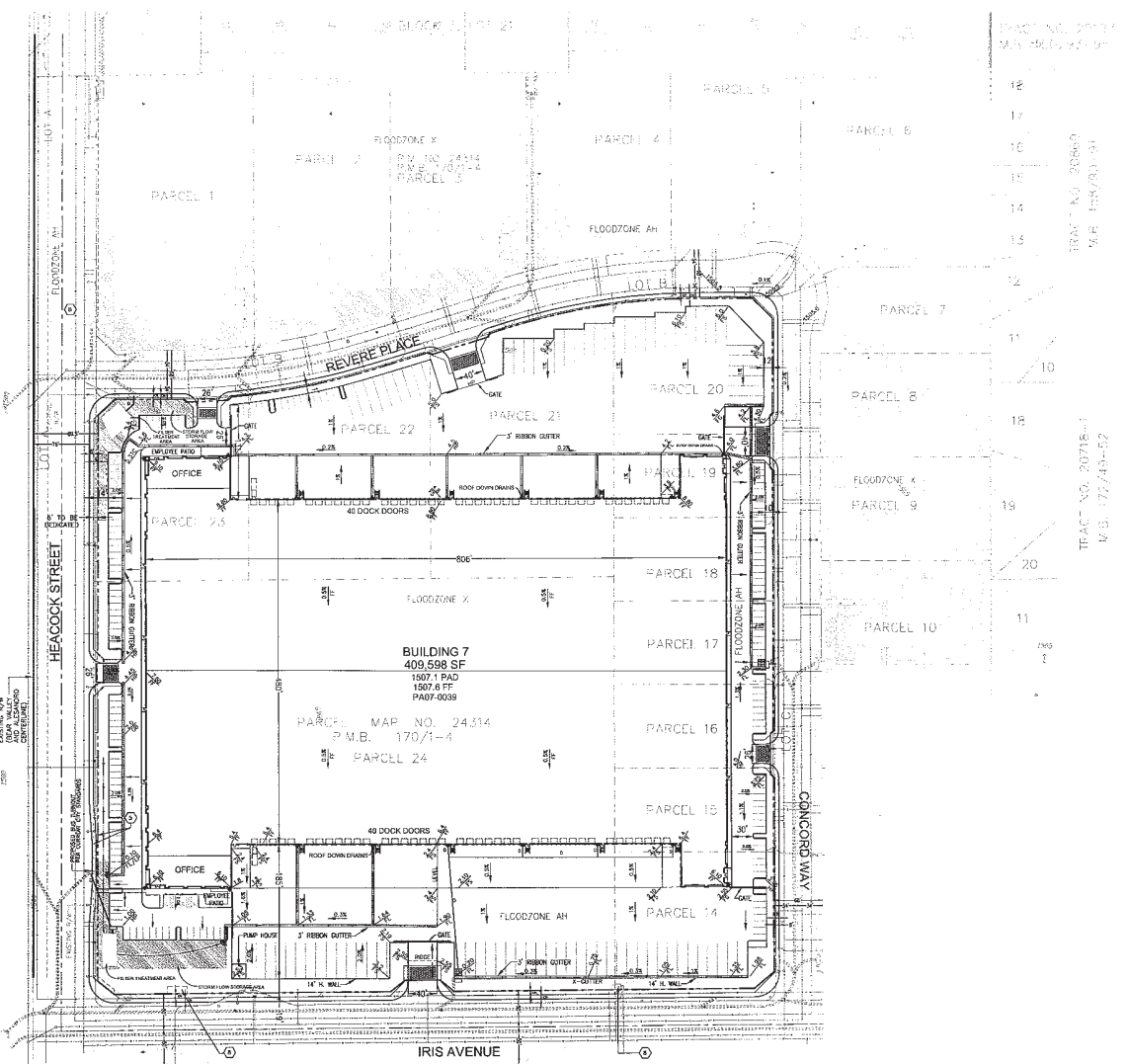
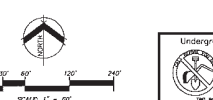


LEGEND

- EXIST. CONTOUR
- PROPOSED 5% SLOPE
- PROPOSED 1% SLOPE
- PROPOSED 0% SLOPE
- PROPOSED 1% SLOPE
- PROPOSED 2% SLOPE
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- PROPOSED 99% SLOPE
- PROPOSED 100% SLOPE

EASEMENT NOTES:

1. EASEMENT FOR PUBLIC UTILITY AND SERVICE, CHARGES TO BE DETERMINED BY THE CITY OF MORENO VALLEY.
2. EASEMENT FOR PUBLIC UTILITY AND SERVICE, CHARGES TO BE DETERMINED BY THE CITY OF MORENO VALLEY.
3. EASEMENT FOR PUBLIC UTILITY AND SERVICE, CHARGES TO BE DETERMINED BY THE CITY OF MORENO VALLEY.
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22. EASEMENT FOR PUBLIC UTILITY AND SERVICE, CHARGES TO BE DETERMINED BY THE CITY OF MORENO VALLEY.

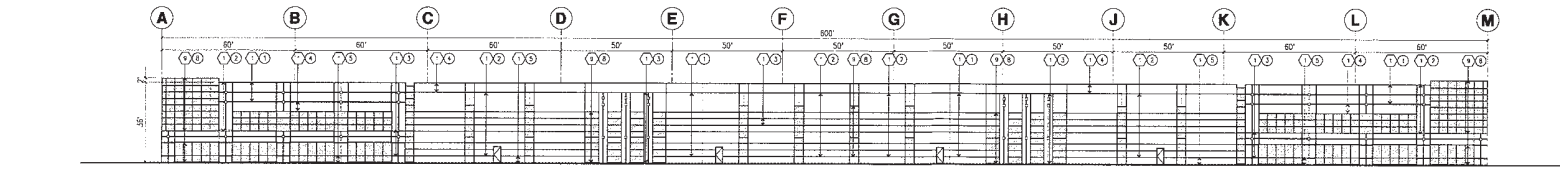


Underground Service Alert
CALL TOLL FREE
1-800-227-2600

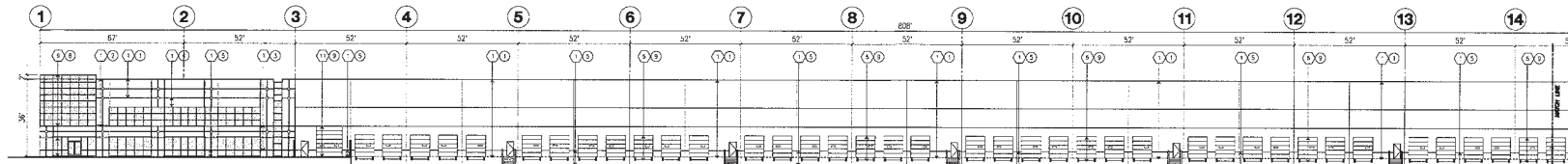
PRIVATE ENGINEERING NOTE
STANTEC CONSULTING INC.
3105 EAST QUAST ROAD
SUITE 100
DANA POINT, CA 92629
949.330.8800

CITY OF MORENO VALLEY
APPROVED BY: _____ DATE: _____
REVISIONS: _____

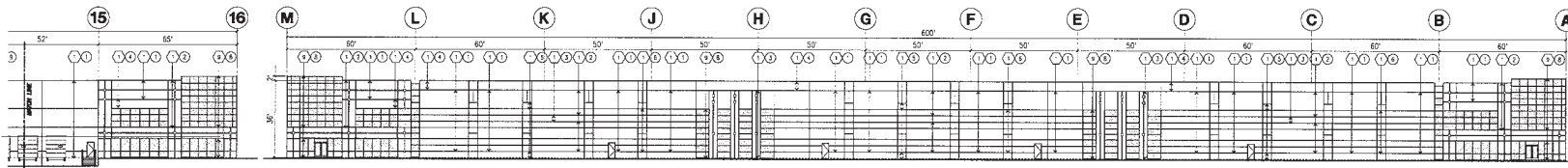
PLOT PLAN PA07-0039
HORIZONTAL SCALE AS SHOWN VERTICAL SCALE: 1/4" = 1'-0"
SHEET 1 OF 1



WEST ELEVATION A
scale: 1/20' = 0'

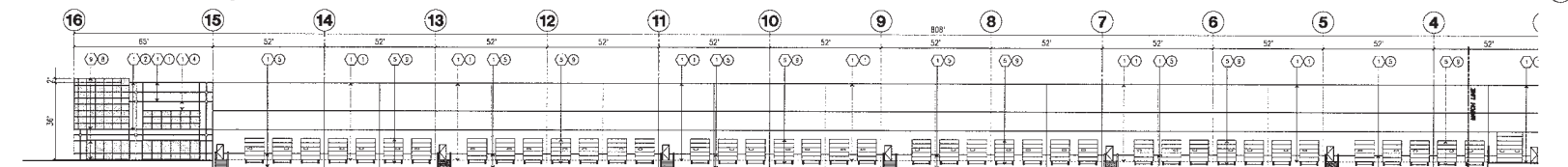


SOUTH ELEVATION B
scale: 1/20' = 0'

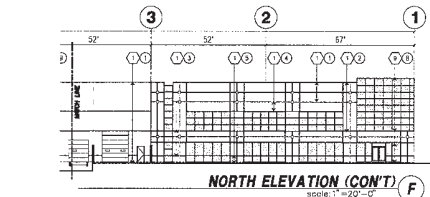


EAST ELEVATION D
scale: 1/20' = 0'

SOUTH ELEVATION (CON'T) C
scale: 1/20' = 0'



NORTH ELEVATION E
scale: 1/20' = 0'



NORTH ELEVATION (CON'T) F
scale: 1/20' = 0'

KEYNOTES - ELEVATIONS

- 1 CONCRETE TILT-UP PANEL (PAINTED)
- 2 PANEL JOINT
- 3 PANEL REVEAL
- 4 CONCRETE TILT-UP SCREEN WALL
- 5 9' x 12' DOOR DOORS
- 6 DOOR BUMPER
- 7 CONCRETE STAIR, LANDING AND CONC. GAMBREL
- 8 CONCRETE RAMP AND CONC. GUARDRAIL
- 9 ALUMINUM STOREFRONT FRAMING W/ TYPED GLAZING AT ALL DOORS
- 10 SILLATES ADJACENT TO DOORS AND GLAZING W/ BOTTOMS LESS THAN 18" ABOVE F.F. ELEVATION
- 11 FOLLOW METAL DOORS
- 12 12' x 14' DRIVE THROUGH DOOR
- 13 ACCENT SQUARE
- 14 METAL CANOPY

GENERAL NOTES - ELEVATIONS

- A. ALL PAINT COLOR CHANGES TO OCCUR AT INSIDE CORNERS UNLESS NOTED OTHERWISE.
- B. ALL PAINT FINISHES ARE TO BE FLAT UNLESS NOTED OTHERWISE.
- C. T.O.P. = TOP OF PARAPET - ELEVATION
- D. F.F. = FINISH FLOOR ELEVATION
- E. STOREFRONT CONSTRUCTION: GLASS, METAL ATTACHMENTS AND UNITS SHALL BE DESIGNED TO RESIST 50 MPH EXPOSURE "C" WINDS. CONTRACTOR SHALL SUBMIT SHOP DRAWINGS PRIOR TO INSTALLATION.
- F. CONTRACTOR SHALL FULLY PAINT ONE CONCRETE PANEL W/ SELECTED COLORS. ARCHITECT AND OWNER SHALL APPROVE PRIOR TO PAINTING REMAINDER OF BUILDING.
- G. PROVIDE INTERIOR ROOF DRAIN @ OFFICE POOLS AND EXTERIOR DOWNSPOUT THROUGHOUT ENTIRE BUILDING. PAINTED TO MATCH BUILDING.

COLOR SCHEDULE - ELEVATIONS

- 1 CONCRETE TILT-UP PANEL PAINT BRAND, FRAZEE 001 WHITE
- 2 CONCRETE TILT-UP PANEL PAINT BRAND, FRAZEE 8633W SMOKY CANDLE
- 3 CONCRETE TILT-UP PANEL PAINT BRAND, FRAZEE 8874M MUDDY RIVER
- 4 CONCRETE ACCENT SQUARE PAINT BRAND, FRAZEE 8804M PAVESTONE
- 5 CONCRETE ACCENT SQUARE PAINT BRAND, FRAZEE 8758M CORDWOOD
- 6 CONCRETE ACCENT SQUARE PAINT BRAND, FRAZEE 7545N BALTIC BLUE
- 7 MULLIONS COLOR CLEAR ANGLICIZED
- 8 GLAZING COLOR BLUE REFLECTIVE
- 9 DOORS PAINT BRAND, FRAZEE 001 WHITE

HPA

REGISTERED ARCHITECT
C-29451
3-21-08
STATE OF CALIFORNIA

HPA, INC.
1881 BARDEEN AVE. - STE #100
IRVINE, CA 92612
tel: 949-852-1170
fax: 949-852-0851

Owner:
RADOS T.C.
2202 E. MCGUIRE AVE
SANTA ANA, CA 92705
tel: (714) 855-4612
fax: (714) 855-2186

Project:
MORENO VALLEY INDUSTRIAL PARK
Moreno Valley, California

BUILDING 7

Consultants:
STANTEC
2860 CACTUS AVENUE SUITE 300
MORENO VALLEY, CA 92553-9024
(951) 691-6622
(951) 693-2214

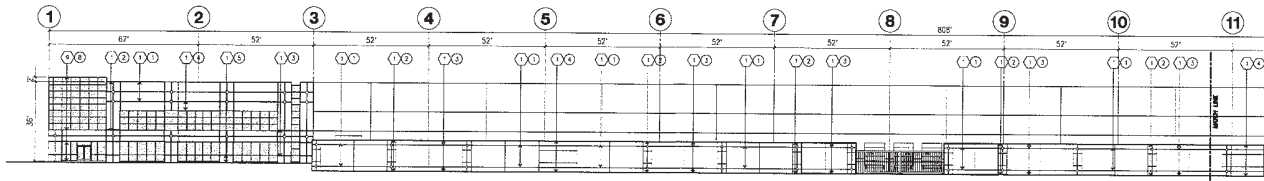
ENVISIONS
1746 N. BRIDGEPORT AVE.
CLAREMONT, CA 91711
tel: (909) 626-6655
fax: (909) 626-6446

Title:

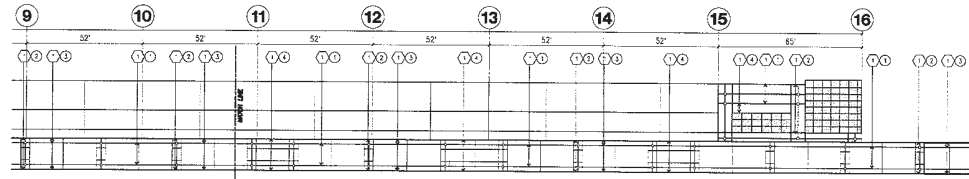
Project Number: 5192
Drawn by: JOCELYN WAN
Date: May 22, 2008
Revision:

Sheet:

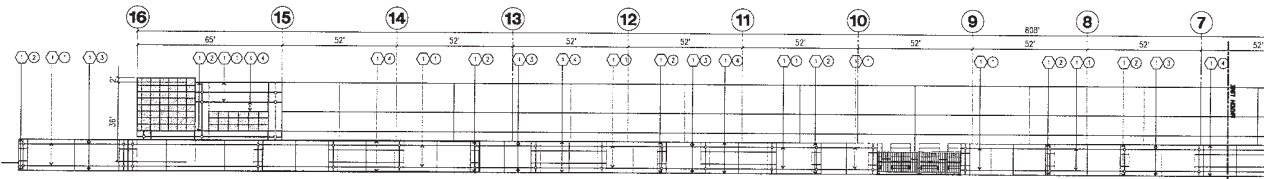
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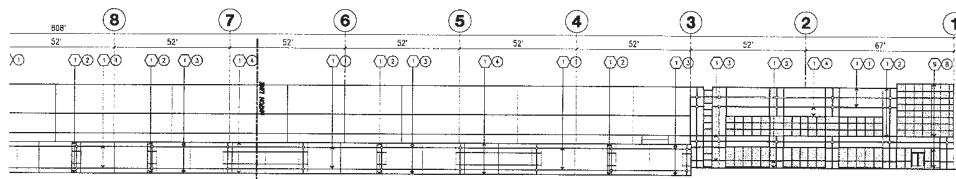
SOUTH SCREEN WALL ELEVATION A
Scale: 1" = 20'-0"



SOUTH SCREEN WALL ELEVATION (CONTINUE) B
Scale: 1" = 20'-0"



NORTH SCREEN WALL ELEVATION C
Scale: 1" = 20'-0"



NORTH SCREEN WALL ELEVATION (CONTINUE) D
Scale: 1" = 20'-0"

KEYNOTES - ELEVATIONS

- 1 CONCRETE TILT-UP PANEL (PAINTED).
- 2 PANEL JOINT.
- 3 PANEL REVEAL.
- 4 CONCRETE TILT-UP SCREEN WALL.
- 5 9" x 10" DOCK DOORS.
- 6 DOCK BUMPER.
- 7 CONCRETE STAR, LANDING AND CONC. GUARDRAIL.
- 8 CONCRETE RAMP AND CONC. GUARDRAIL.
- 9 ALUMINUM STOREFRONT FRAMING W/ TAMPORED GLAZING AT ALL DOORS, RESULTS ADJACENT TO DOORS AND GLAZING W/ BOTTOMS LESS THAN 18" ABOVE F.F. ELEVATION.
- 10 HIDDEN METAL DOORS.
- 11 12' x 14' DRIVE THROUGH DOOR.
- 12 ACCENT SQUARE.
- 13 METAL CANOPY.

GENERAL NOTES - ELEVATIONS

- A. ALL PAINT COLOR CHANGES TO OCCUR AT INSIDE CORNERS UNLESS NOTED OTHERWISE.
- B. ALL PAINT FINISHES ARE TO BE FLAT UNLESS NOTED OTHERWISE.
- C. F.O.P. = 10' OF PARAPET - ELEVATION.
- D. F.F. = FINISH FLOOR ELEVATION.
- E. STOREFRONT CONSTRUCTION: GLASS, METAL ATTACHMENTS AND UNITS SHALL BE DESIGNED TO RESIST 50 MPH EXPOSURE 1/2" WINDS. CONTRACTOR SHALL SUBMIT SHOP DRAWINGS PRIOR TO INSTALLATION.
- F. CONTRACTOR SHALL FULLY PAINT ONE CONCRETE PANEL W/ SELECTED COLOR. ARCHITECT AND OWNER SHALL APPROVE PRIOR TO PAINTING.
- G. PROVIDE INTERIOR ROOF DRAIN @ OFFICE FISS AND EXTERIOR DOWNSPOUT THROUGHOUT ENTIRE BUILDING. PAINTED TO MATCH BUILDING.

COLOR SCHEDULE - ELEVATIONS

- 1 CONCRETE TILT-UP PANEL. PAINT BRAND: FRAZER. 001. WHITE.
- 2 CONCRETE TILT-UP PANEL. PAINT BRAND: FRAZER. 063.5M. SMOCKY CANDLE.
- 3 CONCRETE TILT-UP PANEL. PAINT BRAND: FRAZER. 067.4M. MUDDY RIVER.
- 4 CONCRETE ACCENT SQUARE PAINT BRAND: FRAZER. 085.4M. PAVESTONE.
- 5 CONCRETE ACCENT SQUARE PAINT BRAND: FRAZER. 075.6M. CORDWOOD.
- 6 CONCRETE ACCENT SQUARE PAINT BRAND: FRAZER. 75.6M. BALTIC BLUE.
- 7 MULLIONS. COLOR: CLEAR ANODIZED.
- 8 GLAZING. COLOR: BLUE REFLECTIVE.
- 9 DOORS. PAINT BRAND: FRAZER. 001. WHITE.

HPA

REGISTERED PROFESSIONAL ARCHITECT

C 22451
3.31.09
12/21

HPA, INC.
19831 SANDHORN AVE. - STE #100
IRVINE, CA 92612
Tel: 949-861-1770
Fax: 949-862-2651

Owner:

RADOS T.J.C.
2002 E. McFADDEN AVE.
SANTA ANA, CA 92705
Tel: (714) 835-4512
Fax: (714) 835-2186

Project:

MORENO VALLEY INDUSTRIAL PARK
Moreno Valley, California

BUILDING 7

Consultants:

STANTEC
22890 CACTUS AVENUE, SUITE 200
MORENO VALLEY, CA 92553-9024
(951) 897-8286
(951) 533-2214

ENVIRON
1746 N. BRIDGEPORT AVE.
CLAREMONT, CA 91711
Tel: (909) 608-4683
Fax: (909) 605-0446

Title: BUILDING 7 SCREEN WALL

Project Number: 5195
Drawn by: JOCELYN HAN
Date: May 22, 2005
Revisions:

Sheet:

A3.7A

IN THE CITY OF MORENO VALLEY, STATE OF CALIFORNIA
TENTATIVE PARCEL MAP NO. 35822

PARCEL 1 TO 10, AND 14 TO 24 INCLUSIVE, OF PARCEL MAP NO. 24314 ON FILE IN
 BOOK 170 PAGES 1, 2, 3, AND 4 OF PARCEL MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA
 OCTOBER 2007

OWNER/DEVELOPER: ENGINEER / REP.
 THE PRODS COMPANIES STATTE CONSULTING, INC.
 2000 E. HAWTHORN AVE. SUITE 300
 SANTA ANA, CA 92705 (949) 437-8000
 (714) 830-4612 (651) 531-3028 FAX

ASSESSOR'S PARCEL NO.:
 485-233-001A, 485-233-002, 485-233-003, 485-233-004
 485-233-005, 485-233-006, 485-233-007, 485-233-008
 485-233-009, 485-233-010

ACREAGE:
 GROSS: 30.68
 NET: 30.68

ZONING DATA:

EXISTING ZONING PLAN: INDUSTRIAL
 EXISTING ZONE: INDUSTRIAL (SP 208)
 PROPOSED GENERAL PLANNING BUSINESS PARK / INDUSTRIAL
 PROPOSED ZONE: INDUSTRIAL

LAND USE:

EXISTING: VACANT (UNDERDEVELOPED)
 PROPOSED: INDUSTRIAL
 EXISTING SURROUNDING LAND USE: SINGLE FAMILY RESIDENTIAL/ACRANT

LEGAL DESCRIPTION:

PARCELS 1 TO 10, AND 14 TO 24 INCLUSIVE, OF PARCEL MAP NO. 24314 ON FILE IN BOOK 170 PAGES 1, 2, 3, AND 4 OF PARCEL MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA

COMMUNITY SERVICES DISTRICTS:

WATER WITH A COMMUNITY SERVICE DISTRICT

SCHOOL:

MORENO VALLEY UNIFIED SCHOOL DISTRICT
 25000 ADELPHI BOULEVARD
 MORENO VALLEY, CA 92553
 PH: (951) 485-2600

UTILITIES:

WATER:
 2760 TRUMBULL ROAD
 RIVERSIDE, CA 92503
 (951) 928-3777

ELECTRIC:

SOUTHERN CALIFORNIA Edison
 26100 WENTWORTH ROAD
 RIVERSIDE, CA 92508
 (800) 984-8123

GAS:

SOUTHERN CALIFORNIA GAS
 1881 W. LUCIANA AVE.
 RIVERSIDE, CA 92574
 (951) 425-2200

SEWER:

RIVERSIDE COUNTY
 1995 WARENE STREET
 RIVERSIDE, CA 92504
 (951) 953-1200

TOPOGRAPHY SOURCE:

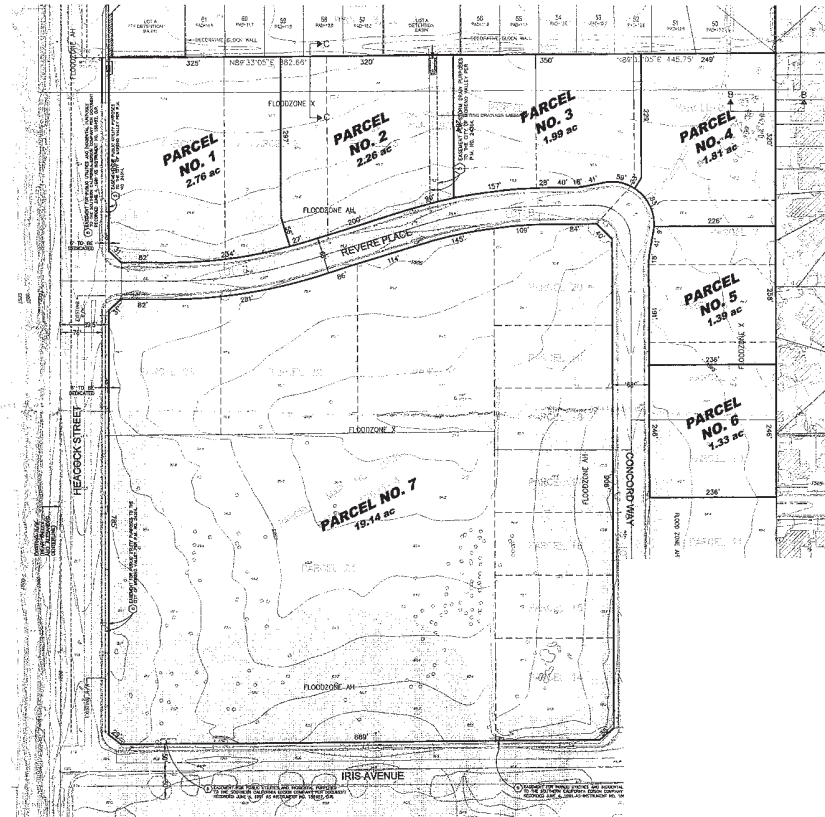
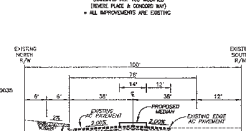
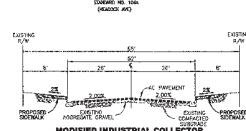
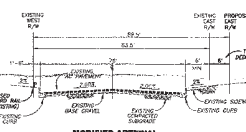
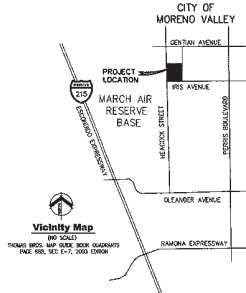
RIVERSIDE COUNTY ROAD CONTROL

GENERAL NOTES:

- TOTAL NUMBER OF LOTS: 7
- THIS PROJECT IS NOT SUBJECT TO UNDERGROUND
- THERE ARE NO KNOWN EXISTING WELLS ON THE PROPERTY OR WITHIN 200' OF THE PROJECT
- THERE ARE NO KNOWN EXISTING BUILDINGS, BUILDINGS OR OTHER STRUCTURES ON THE PROPERTY
- FLOOD ZONE - ZONE AH (100' YEAR) AND X
- SEWER SHALL CONFORM TO STANDARD DRAINAGE APPROACH STANDARD 30.1.1(B)
- TRUCK PARKING IS ONE PHASE
- TRUCK PARKING IS ONE PHASE (14' X 50') PER EACH LOADING BAY.

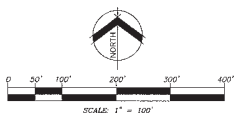
LEGEND

- 100' - EXIST. CONTIGUR
- - PARCEL BOUNDARY
- - POWERLINE
- - FLOOD ZONE



-789-

Item No. E.3



Underground Service Alert
 Call: TOLL FREE
1-800-227-2800
 TWO WORKING DAYS BEFORE YOU DIG

PRIVATE ENGINEERING NOTE
 I, THE ENGINEER, HEREBY CERTIFY THAT I AM A REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF CALIFORNIA AND THAT I AM THE AUTHOR OF THIS TENTATIVE PARCEL MAP. I HAVE CONDUCTED A VISUAL INSPECTION OF THE PROPERTY AND HAVE FOUND THAT THE INFORMATION PROVIDED TO ME IS TRUE AND CORRECT. I HAVE ALSO CONDUCTED A VISUAL INSPECTION OF THE SURROUNDING AREA AND HAVE FOUND THAT THE INFORMATION PROVIDED TO ME IS TRUE AND CORRECT. I HAVE ALSO CONDUCTED A VISUAL INSPECTION OF THE SURROUNDING AREA AND HAVE FOUND THAT THE INFORMATION PROVIDED TO ME IS TRUE AND CORRECT. I HAVE ALSO CONDUCTED A VISUAL INSPECTION OF THE SURROUNDING AREA AND HAVE FOUND THAT THE INFORMATION PROVIDED TO ME IS TRUE AND CORRECT.

STATTE CONSULTING INC.
 22690 CACTUS AVENUE
 SUITE 300
 MORENO VALLEY, CA 92553
 951.697.8300

NO.	REVISIONS	DATE	BY	CHKD.

CITY OF MORENO VALLEY
 APPROVED BY: _____ DATE: _____
 BENCHMARK: _____

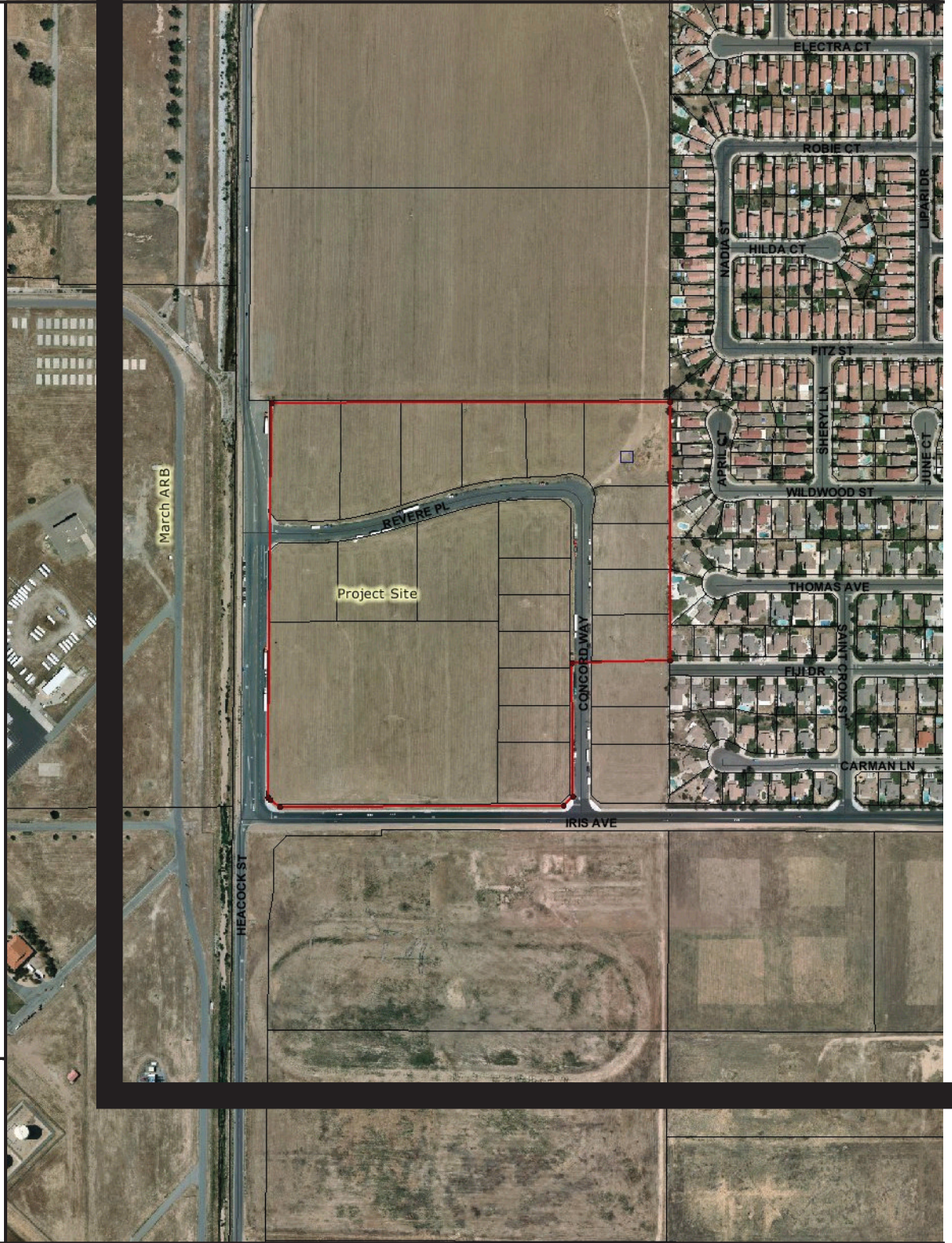
TENTATIVE PARCEL MAP NO. 35822
 HORIZONTAL SCALE: AS SHOWN VERTICAL SCALE: N/A
 SHEET 1 OF 1

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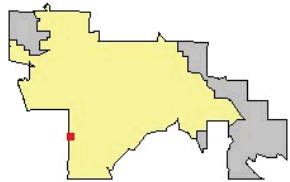
Aerial Photograph

Legend

-  Highways
-  Parcels
-  Roads
-  Waterbodies
-  City Boundaries
-  Calimesa
-  Moreno Valley
-  Perris
-  Riverside



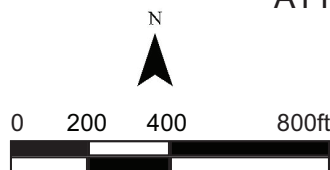
Powered By GeoSmart.net



City of Moreno Valley
 14177 Frederick St
 Moreno Valley, CA 92553

DISCLAIMER: The information shown on this map was compiled from the Riverside County GIS and the City of Moreno Valley GIS. The land base and facility information on this map is for display purposes only and should not be relied upon without independent verification as to its accuracy. Riverside County and City of Moreno Valley will not be held responsible for any claims, losses, or damages resulting from the use of this map.

ATTACHMENT 9



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-791-



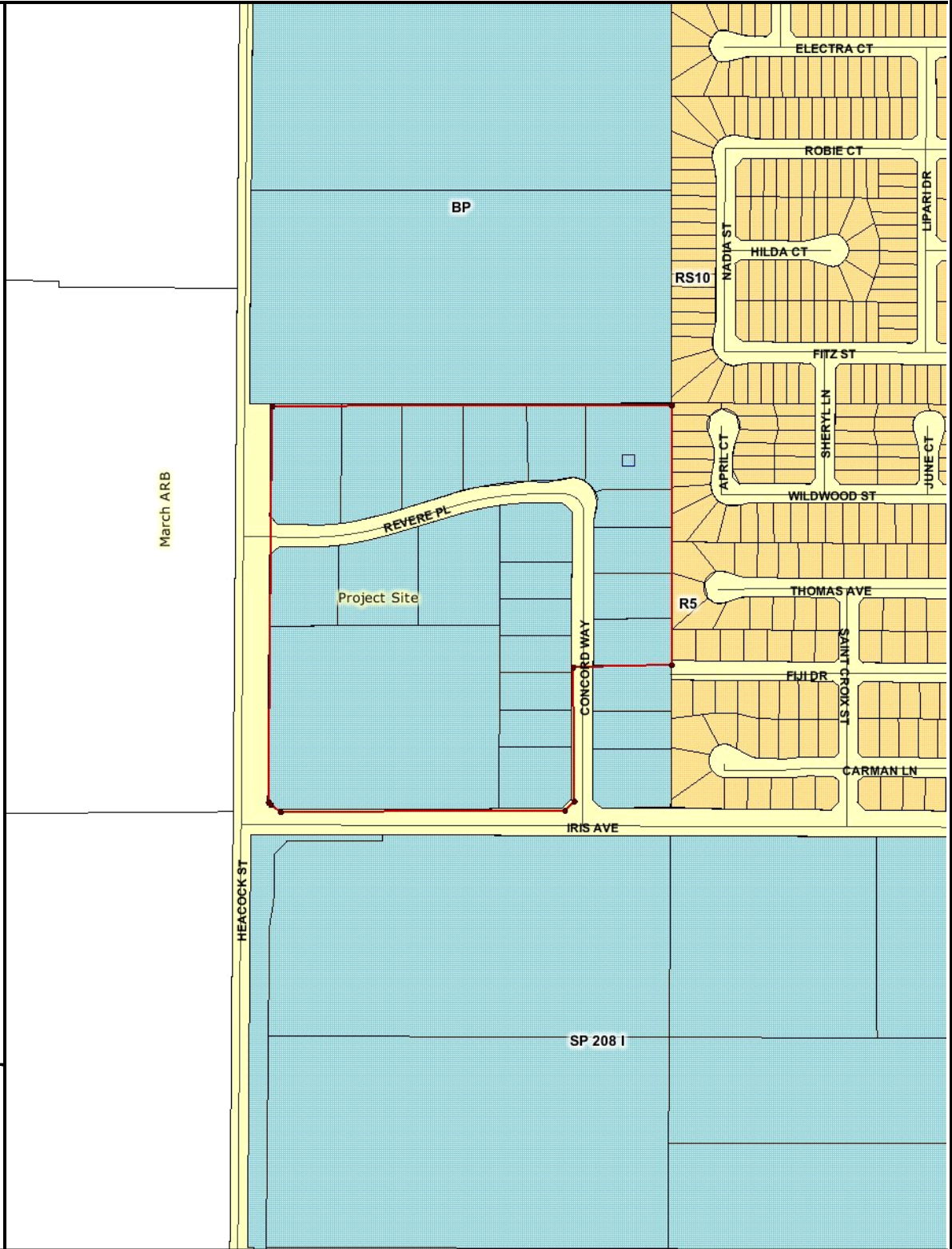
Item No. E.3

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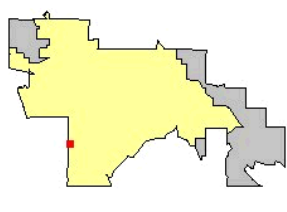
Project Area Zoning Map

Legend

-  Highways
-  Parcels
-  Roads
- Zoning**
-  Commercial
-  Industrial/Business Park
-  Large Lot Residential
-  Multi-family
-  Office
-  Open Space/Park
-  Planned Development
-  Public Facilities
-  Residential 2 Dwellings/Acre
-  Residential Agriculture 2 Dwellings/Acre
-  Suburban Residential
-  Waterbodies
- City Boundaries**
-  Calimesa
-  Moreno Valley
-  Perris
-  Riverside



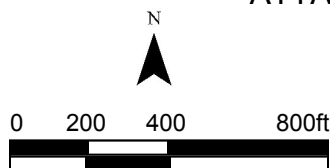
Powered By GeoSmart.net



City of Moreno Valley
14177 Frederick St
Moreno Valley, CA 92553

DISCLAIMER: The information shown on this map was compiled from the Riverside County GIS and the City of Moreno Valley GIS. The land base and facility information on this map is for display purposes only and should not be relied upon without independent verification as to its accuracy. Riverside County and City of Moreno Valley will not be held responsible for any claims, losses, or damages resulting from the use of this map.

ATTACHMENT 10



Printed: 12/31/2009 2:44:46 PM

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Johnson Sedlack
ATTORNEYS AT LAW

Raymond W. Johnson, Esq. AICP
Carl T. Sedlack, Esq., *Retired*
Abigail A. Broedling, Esq.
Veera K. Tyagi, Esq.

26785 Camino Seco, Temecula CA 92590
www.johnson-sedlack.com

E-mail: EsqAICP@Wildblue.net

Abby.JSLaw@Gmail.com
Veera.JSLaw@Gmail.com
Telephone: 951-506-9925
Facsimile: 951-506-9725

August 5, 2009

City Council
City of Moreno Valley
14177 Frederick St.
Moreno Valley, CA 92552-0805

Community Development Director
City of Moreno Valley
14177 Frederick St.
Moreno Valley, CA 92552-0805

RE: Appeal of the Planning Commission Decisions approving PA07-0035, PA07-0039, PA08-0021, Negative Declaration and all associated approvals.

Greetings:

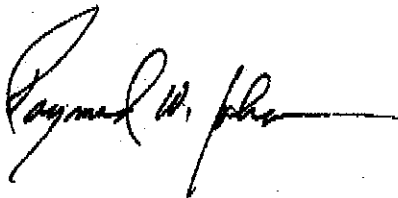
By this letter, Residents For A Livable Moreno Valley, hereby appeal the Planning Commission Decisions approving PA07-0035, PA07-0039, PA08-0021, Negative Declaration and all associated approvals on July 23, 2009.

The basis for the appeal is that the approvals are inconsistent with the Moreno Valley General Plan and the Environmental Review is procedurally and substantively inadequate. The Project will have significant impacts on air quality, noise, traffic, hazardous materials, land use, flooding, water quality, biological resources, and global climate change both individually and cumulatively. Additionally, conditions of approval relied upon to mitigate impacts are inadequate, uncertain and not legally enforceable.

Please advise me of the scheduled hearing date for the appeal.

Sincerely,

Johnson & Sedlack



Raymond W. Johnson, Esq. AICP
Attorneys for Appellant

RECEIVED

AUG 06 2009

PLANNING
CITY OF MORENO VALLEY

ATTACHMENT 11

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COMMUNITY MEETING INVITATION

— Wednesday • February 27, 2008 • 6:30 —

INVITACION PARA UNA JUNTA COMUNITARIA

— Martes • 27 de Febrero • 6:30 —



ATTACHMENT 12



Hogle-Ireland, Inc.
1500 Iowa Avenue, Suite 110
Riverside, CA 92507

Community Meeting

You are invited to attend a Community Meeting to **review and comment on revised plans** for the development of property located on the east side of Heacock Street, between Gentian and Iris Avenues:

- New Single Family Residential Development (140 Homes) on 40+ acres
- Moreno Valley Industrial Park Project on 30+ acres

Additional topics of discussion include:

- Changes made from previous project proposal (from 2004)
- How community concerns are addressed

Date/Time:

Wednesday, February 27, 2008; 6:30PM - 7:30PM

Location:

Rainbow Ridge Elementary School
5950 Indian Street, Moreno Valley

Questions/Comments:

Contact Hogle-Ireland, Inc. - Virginia Viado or Pam Steele at 951-787-9222

Junta Comunitaria

Esta invitado para atender una junta comunitaria para **examinar los nuevos planes** del desarrollo en el terreno localizado al este de la calle Heacock Street, entre Gentian Avenue y Iris Avenue:

- Nuevos desarrollos residenciales (140 Hogares) en 40+ acres
- Fraccionamiento Industrial en 30+ acres

Temas adicionales de la discusión incluyen:

- Cambios hechos sobre la junta anterior (2004)
- Como serán dirigidas las preocupaciones de la comunidad

Día y Hora:

Miércoles, February 27, 2008 de 6:30PM - 7:30 PM

Lugar:

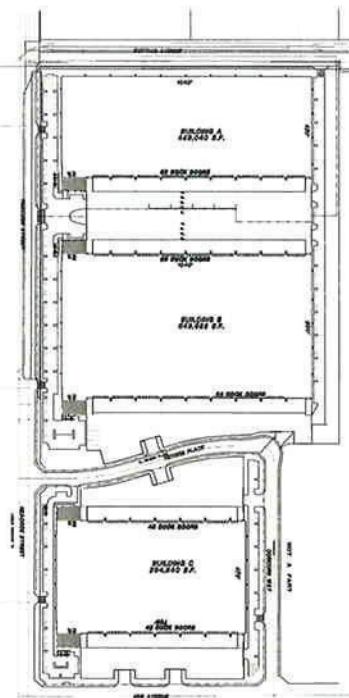
Rainbow Ridge Elementary School
5950 Indian Street, Moreno Valley

Preguntas y Comentarios:

Contacte a Hogle-Ireland, Inc. - Virginia Viado ó Pam Steele al 951-787-9222

2004

- 3 Warehouse Distribution Buildings (Approx. 1.5 mil square feet)



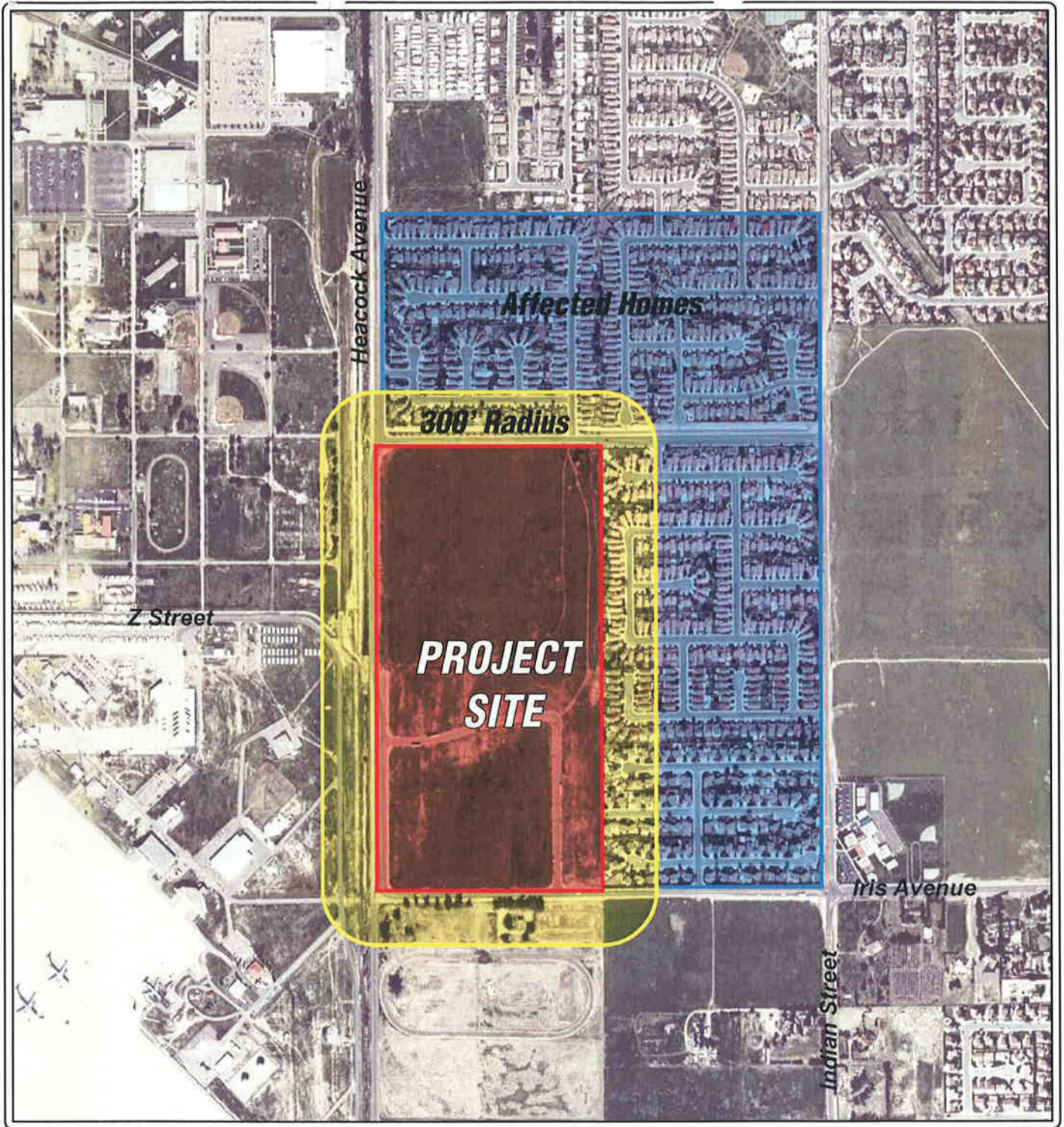
Previous

2008

- Single Family Residential
- Business Park (Approx. 617,000 square feet)

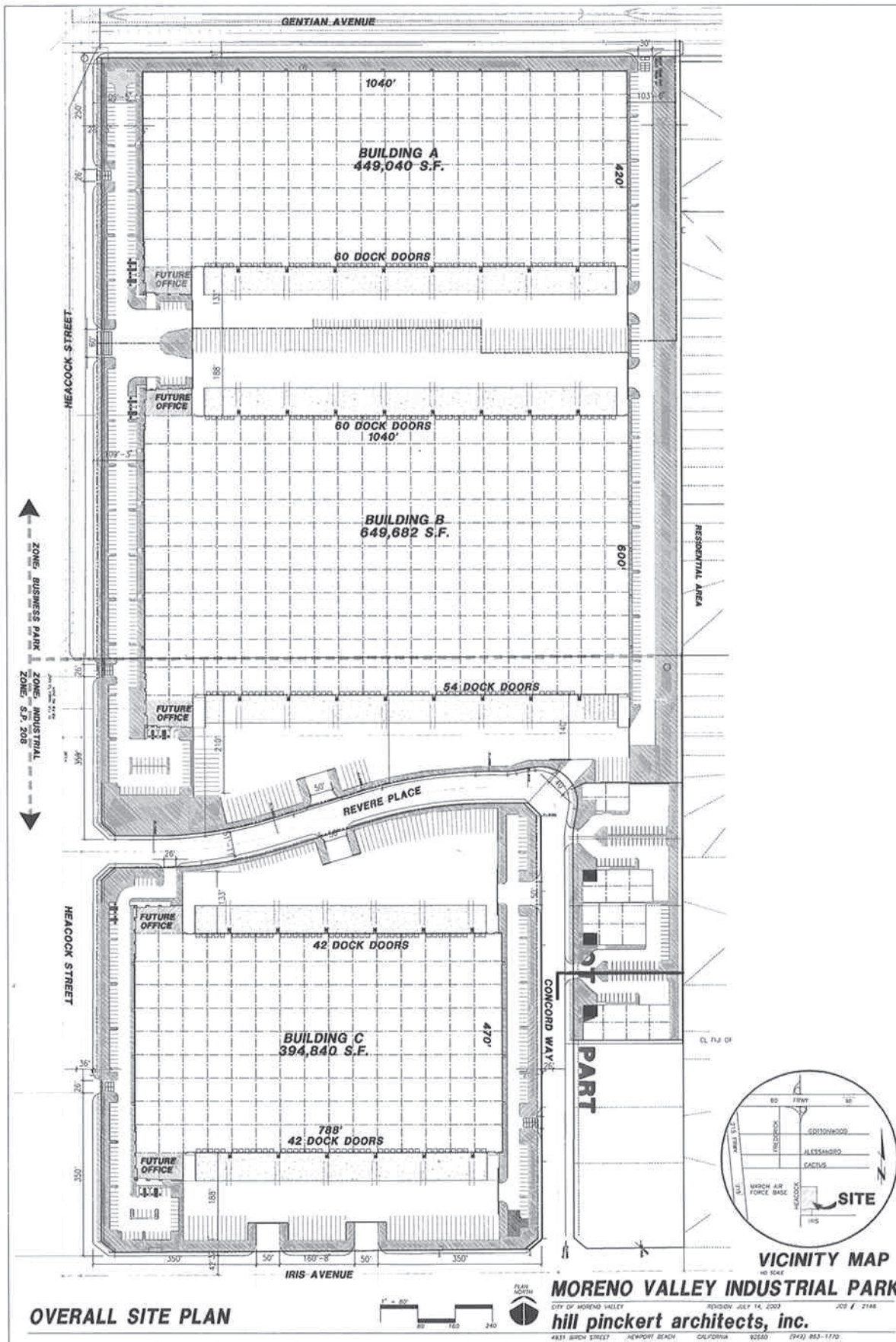


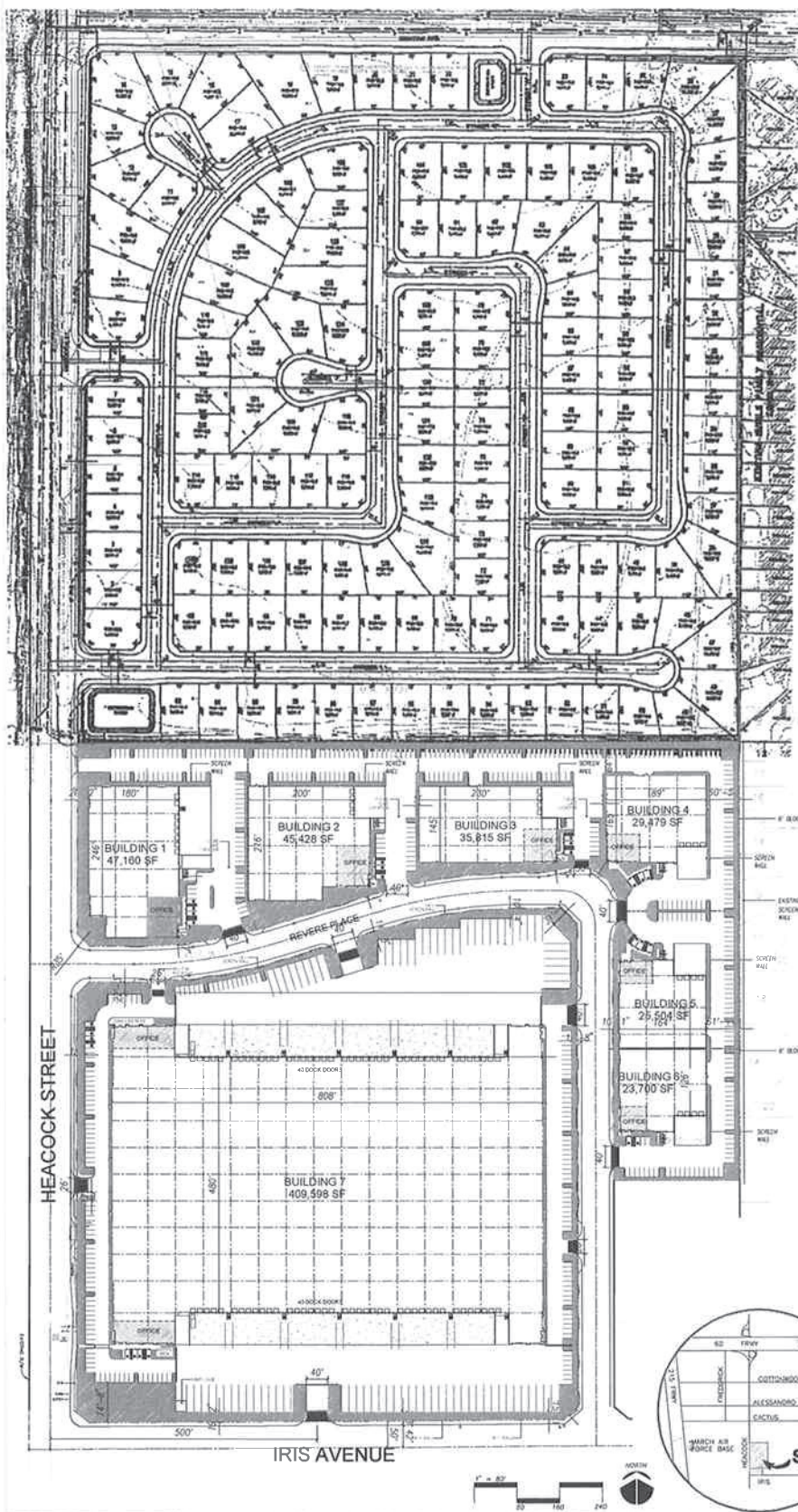
As Now Proposed



Radius Map

Moreno Valley Business Park
 Moreno Valley, CA
 February 1, 2008





HPA

HPA, INC.
1801 BARDEEN AVE. - STE #100
IRVINE, CA 92614
tel: 949-483-1770
fax: 949-483-0851

Owner:
RADOS LLC
3002 E. MCFADDEN AVE.
SANTA ANA, CA 92705
tel: (714) 855-4612
fax: (714) 855-6198

Project:
MORENO VALLEY
INDUSTRIAL PARK
Moreno Valley,
California

Consultants:

STANTEC
20800 CACTUS AVENUE SUITE 300
MORENO VALLEY, CA 92553-9204
(951) 877-8288
(951) 853-8214

ENVIROM
1740 N. BRIDGEPORT AVE.
CARLSBORO, CA 92008
tel: (609) 828-4883
fax: (609) 828-0448

Title:

Prop'd Number: 0102
Drawn by: JOCELYN WAI
Date: October 15, 2007
Revision:

Sheet

A1.1



Conceptual Site Plan
Moreno Valley Industrial Park

Moreno Valley, California

THE RADOS COMPANY

February 21, 2008 / job #1192



HPA
 10011 Blackhawk Ave., Suite 900
 Irvine, CA 92618
 949.853.3720
 www.hpaonline.com



EAST ELEVATION



NORTH ELEVATION



WEST ELEVATION (HEACOCK STREET)



SOUTH ELEVATION (REVERE STREET)



Revere Street Elevation

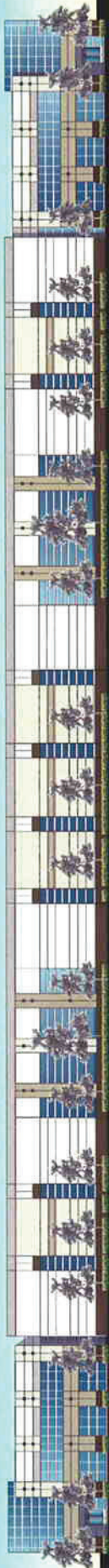
MORENO VALLEY
INDUSTRIAL PARK

RADOS PROPERTIES

Job #5192



HEACOCK STREET - BUILDING 7



COLOR RENDERING



ENLARGED OFFICE ELEVATION

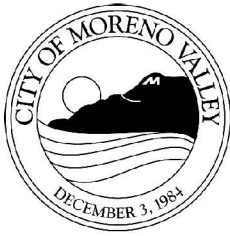


MORENO VALLEY
INDUSTRIAL PARK

RADOS PROPERTIES

Job #5192

HPA



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

Report to City Council

TO: Mayor and City Council
FROM: Barry Foster, Economic Development Director
AGENDA DATE: January 26, 2010
TITLE: PUBLIC HEARING TO ADOPT CDBG SUBSTANTIAL AMENDMENTS THAT REALLOCATE FUNDS BETWEEN APPROVED ACTIVITIES

RECOMMENDED ACTION

Staff recommends that the City Council:

1. Review proposed **FY 2009-10 Substantial Amendment 1** to expand and broaden the scope of the Moreno Valley Retail Business Incentive Program activity and allocate \$110,000 in CDBG funds from the FY 2009-10 Employment Resource Center (ERC) to the revised FY 2009-10 Moreno Valley New Business Incentive Program, then:
 - a) Conduct a Public Hearing to allow the public an opportunity to comment on the proposed 2009-10 Annual Action Plan Substantial Amendment #1,
 - b) Adopt the proposed Amendment #1 and
 - c) Authorize the transfer of \$110,000 from account #284.73939.6854 (Employment Resource Center) to 284.73939.6853 (newly expanded Moreno Valley New Business Incentive Program) account.

2. Review proposed **Amendment to FY 2008-09 Substantial Amendment 1, NSP** to reallocate \$2,701,788 CDBG (NSP) funds within the HUD-approved Neighborhood Stabilization Program (NSP) activities, then:
 - a) Conduct a Public Hearing to allow the public an opportunity to comment on the proposed substantial amendment to FY 2008-09 Annual Action Plan Amendment 1, NSP
 - b) Adopt the proposed substantial amendment to the NSP program, and
 - c) Authorize the transfer of \$2,701,788 from account #197.19710.6848.002 (NSP Homebuyer Assistance Program) with \$1,200,000 transferring to account # 197.19710.6848.001 (NSP Multi-family Residence Acquisition, Rehabilitation and Rental Program) and \$1,501,788 to account # 197.19710.6848.003 (NSP Single Family Residence Acquisition, Rehabilitation and Rental Program).

- d) Authorize the City Manager to reallocate NSP funds between HUD-approved grant activities.

BACKGROUND

The U.S. Department of Housing and Urban Development (HUD) requires that Community Development Block Grant (CDBG) and HOME Investment Partnership (HOME) recipient cities such as Moreno Valley prepare a strategic planning document called the Annual Action Plan. The Annual Action Plan details the activities and projects the City will undertake over the course of the upcoming program year using the CDBG and HOME grant monies.

When there is a change to the Annual Action Plan, such as the reallocation of funding from one project to another, it is considered by HUD to be a 'substantial amendment' and therefore requires the opportunity for citizen participation/comment through a public hearing. This report proposes three separate substantial amendments for City Council consideration, each of which are summarized below.

DISCUSSION

Staff proposes that the City Council review two proposed substantial amendments to the CDBG Annual Action Plans for **FY 2009-10 and FY 2008-09.**

PROPOSED FY 2009-10 AMENDMENT 1 – Expand the scope of the Moreno Valley Retail Business Incentive Program and reallocate available funding from the Employment Resource Center (ERC) to the newly revised Moreno Valley New Business Incentive Program.

The FY 2009-10 Amendment 1 proposes to expand the scope of the Moreno Valley Retail Business Incentive Program and change the program name to the Moreno Valley New Business Incentive Program. The current program is specifically described in the FY 2009-10 Annual Action Plan on page 32 of 46. The program is currently available to retailers occupying vacant retail space in the TownGate area. Staff proposes to expand the scope of this activity, making it eligible for a new major business in the TownGate Area, Centerpointe Business Park, or Moreno Valley Industrial Area Specific Plan that creates eligible jobs for low and moderate-income people.

Staff further proposes to transfer \$110,000 of the savings from the Employment Resource Center to the newly expanded Moreno Valley New Business Incentive Program. The New Business Incentive Program would be used to expand business attraction efforts in the City's major business and employment centers, along with creating jobs for low to moderate-income persons in the community. Expanding this program beyond TownGate to include the Centerpointe Business Park and the Moreno Valley Industrial Area Specific Plan will allow potential funding opportunities for new distribution or light manufacturing businesses interested in locating in one of Moreno Valley's major employment areas.

In May 2009, as part of the FY 2009-10 Annual Action Plan, the City Council authorized an allocation of \$308,498 toward creation of a local Employment Resource Center (ERC). The ERC was created to provide low-income and unemployed individuals with a location within Moreno Valley where they may utilize computers and the internet to create/update their resumés, perform job searches, take tutorials, complete on-line employment applications, etc. while relieving the City library of overcrowding at their computer lab. In August 2009, the ERC opened its doors and to date has served over 5,000 patrons. The ERC has been established as a fully operational facility while realizing a significant budget savings of \$143,000, due to partnerships with Riverside County's Workforce Development Center (which included in-kind donations of equipment and staff time) and the shopping center owner (The Fritz Duda Company) has provided the building space to the ERC for two years at no cost.

PROPOSED AMENDMENT TO FY 2008-09 AMENDMENT 1, NSP – Reallocation of funds within designated (HUD approved) NSP activities.

In an effort to address and mitigate the impact of the national foreclosure crisis, the federal government created the Federal Housing and Economic Recovery Act (HERA) of 2008. Under the HERA, the City of Moreno Valley received a CDBG allocation of \$11,390,116, to formulate a Neighborhood Stabilization Program (NSP) designed to stabilize the neighborhoods of the city most impacted by foreclosures. In accordance with the regulations and guidelines set forth by HUD and the HERA, and as a prerequisite of receipt of the CDBG allocation, the City of Moreno Valley adopted a Substantial Amendment to the City's 2008-2009 CDBG Annual Action Plan to develop the NSP. The NSP plan identified "targeted areas" (neighborhoods within the City with the greatest impact and/or foreclosure risks levels) and programmatic activities to be implemented to stabilize the designated targeted areas. On November 25, 2008, the City Council approved a Substantial Amendment to the City's 2008-2009 CDBG Annual Action Plan and approved the NSP Program proposed by staff to address the single (SFR) and multi (MFR) family housing foreclosure crisis.

The following are the key program activities and budget appropriations identified to most effectively address the needs of the City:

Single Family Residential Acquisition, Rehabilitation and Resale (SFR-ARR)

Given the impact of SFR foreclosures to the City and the abundance of inventory that was expected to become readily available due to the foreclosure crisis, 33% or \$3,701,788 of the NSP allocation was budgeted toward SFR-ARR activities. In partnership with ANR Industries, Inc., Mayans Development, Sheffield Homes, and VCD Corporation (Development Partners selected via a thorough selection process) a single-family residences would be acquired, rehabilitated, and sold to income eligible homebuyers earning up to 120% AML. The focus of the City's program and efforts of the Development Partners is to seek out foreclosed properties that need significant rehabilitation work before being resold.

The SFR-ARR component of the City's NSP Program has been successful. To date, the Development Partners have acquired a total of fourteen (14) single-family residences and have negotiated accepted offers on additional four (4). The Development Partners are actively pursuing other acquisition opportunities. While the market has changed (with less bank-owned properties available), many of the banks are comfortable selling REOs to local municipalities and their development partners through the NSP.

Considering the positive response the Development Partners are receiving from the banks and given their ability to acquire properties, staff is proposing to increase the SFR-ARR budget by \$1,501,788, maximizing acquisition abilities of the Development Partners to:

- 1) Increase the inventory of NSP properties to be used in conjunction with the NSP-HAP program and
- 2) Reduce the number of foreclosed single-family residences on the market that need substantial rehabilitation, stabilizing Moreno Valley neighborhoods.

Multi-Family Residential Acquisition, Rehabilitation and Rental (MFR-ARR)

In accordance with HUD requirements for NSP, twenty-five percent (25%) or \$2,847,529 of the total grant allocation was appropriated to activities that would create and/or provide affordable rental housing opportunities to the population earning up to 50% AMI. To assist with the implementation of this activity, the City selected Mary Erickson Community Housing (MECH) and Riverside Housing Development Corporation (RHDC) as Development Partners. Both are non-profit affordable housing/residential developers experienced in the acquisition, rehabilitation and management of affordable rental housing projects. Like the SFR-ARR component, the MFR-ARR component is functioning successfully. In partnership with MECH, the City was able to acquire two apartment buildings totaling 27-dwelling units. The units are currently being rehabilitated. All units, with exception of the manager's unit, will be restricted to residents earning up to 50% AMI. The costs to acquire these units and the estimated rehabilitation cost have expended the majority of the budget for MFR-ARR activities. To be able to respond to additional multi-family acquisition opportunities, staff is proposing to transfer \$1,200,000 from the NSP-HAP activity to the MFR-ARR activity.

NSP First Time Homebuyer Assistance Program (NSP-HAP)

To assist first time homebuyers with the opportunity to make homeownership a reality, the First Time Homebuyer Assistance Program (NSP-HAP) was identified as one of the primary NSP activities. The City allocated \$3,701,788 of the grant to be used to provide financial assistance of up to 20% of the purchase price to income-qualified first-time homebuyers who earn up to 120% of the area median income (AMI). The NSP-HAP replaced the homebuyer's assistance program the Redevelopment Agency (RDA) was operating at the time. Unlike the previous down-payment assistance program, the NSP-HAP requires the homebuyer to negotiate a minimum discount of 1% off the appraised value of the property and requires affordability covenants to be recorded against the property. The length of the affordability covenant period - which is between 5 and 15

years - is determined by the amount of assistance (subsidy) received by the homebuyer.

At the time of creation of the NSP-HAP, the residential real estate market was different than today. When the NSP plan was devised, the market possessed an abundance of the REO (Real Estate Owned) or bank-owned properties as standing inventory. It had been reported that during that time, Moreno Valley's real estate market had as much as a five to seven month inventory. This abundance of available residential properties created a buyers market. The high ratio of supply to demand gave the NSP-HAP and increased ability to succeed, as the banks were more flexible in their pricing. However, while yet in the process of modifying the RDA-HAP for conformance with NSP regulations, the Moreno Valley residential real estate market began to experience a significant shift. In recent months, the five to seven month supply has slipped to a one-month supply. The reason for the decrease in supply is that lenders have decreased foreclosures because of attempts at loan modifications, as well as many lenders holding back placing too many properties on the real estate market as a way to help stabilize resale home values.

Meanwhile, competition has become fierce as investors - with cash offers - have increased interest in the Moreno Valley market (as well as many other Inland Region cities). Staff has heard from homebuyers, representatives from other cities with NSPs, and real estate professionals that investors are outbidding homebuyers and are frequently paying far more than appraised value for residential properties. The radical and abrupt changes in Moreno Valley's residential real estate market have affected the methodology by which the banks manage their assets, namely, the banks have become increasingly less flexible in their pricing.

As previously stated, an NSP-HAP program is regulated that each home being purchased with the use of NSP funds:

- 1) be located within one of the City's targeted areas, as approved by HUD;
- 2) receive a minimum discount of 1% off appraised value from the seller (This discount rate was already reduced by HUD from the initial 15% requirement due to the sellers'/banks' disinterest with providing that level of discount); and
- 3) have affordability restrictions recorded against the property (the length of the restrictions are determined by the amount of assistance received).

Considering the shift in the City's real estate market, such restrictions impact the ability for the NSP-HAP to operate at its maximum capacity, as many of the banks - due to HUD program requirements - are less open to selling to homebuyers that are utilizing NSP funds that require a second-position lien against the property. As a result, it has been determined that NSP-HAP program can function more effectively if some of the funds allocated to the NSP-HAP are transferred to the SFR acquisition/rehabilitation and MFR acquisition/rehabilitation components of NSP. The additional acquisition/rehabilitation funds could be used to acquire more foreclosed properties through NSP and make them readily available to homebuyers interested in receive

assistance through NSP-HAP. As the seller of the NSP acquired properties, the Development Partners have the ability to offer discounted prices, adhering to the requirements of NSP-HAP.

As a stipulation of NSP guidelines, all funds allocated to each activity must be expended within 18-months of the program's commencement (which was May 2009 for Moreno Valley). Consequently, staff is proposing to reduce the NSP-HAP budget from \$3,701,788 to \$1,000,000. Given the challenges associated with the NSP-HAP program and some of the known difficulties- that other cities are experiencing operating their NSP funded Homebuyer Assistance Programs, as shared by the City's designated NSP HUD representative, it is necessary to adjust the City's NSP-HAP program, accordingly. Reprogramming \$2,701,788 of the NSP-HAP budget will also allow additional funding for the other NSP related activities (e.g. SFR-ARR and MFR-ARR) and garner greater success of the NSP Program as a whole.

In conjunction with retaining \$1,000,000 in the NSP-HAP budget, staff will be proposing to re-implement the RDA's former HAP program utilizing the RDA Housing Set-Aside Fund. It is staff's expectation that utilizing dual funding sources (NSP and RDA funds) will provide the flexibility needed to successfully offer homebuyer assistance, while keeping the City / RDA consistent with program guidelines from HUD and redevelopment law.

The request to re-implement the previous City-s HAP Program utilizing RDA Housing funds will be brought before City Council/the RDA Board of Directors under a separate staff report on January 26, 2010.

Administration

Per NSP guidelines, a maximum of 10% of the total grant allocation can be used toward administrative costs of the NSP program (e.g. personnel/staffing, planning costs, etc.); accordingly, \$1,139,012 has been budgeted toward administrative activities. A transfer of funds to and/or from this designated activity is not being requested at this time.

Future Authority to Shift Funding between HUD-approved NSP Activities

Staff continuously strives to ensure a program is administered as efficiently as possible. Per the recommendation of the City's NSP HUD representative (evaluating management of the City's NSP Program), staff is requesting authority be granted to the City Manager to move NSP funds between HUD-approved activities if and when it is found necessary for the duration of the program. As recommended by HUD's NSP representative, this authority would assist the City to respond quickly to situations affecting the program, such as changing market conditions. This authority would also help expedite expenditures and is a practice many other jurisdictions are exercising to meet the HUD's mandatory spending deadlines.

ALTERNATIVES

1. **Alternative 1** - Conduct a Public Hearing for the proposed Substantial Amendments, adopt the proposed Substantial Amendments, expand the scope of the existing Moreno Valley Retail Business Incentive Program, by revising it as Moreno Valley New Business Incentive Program, and authorize the transfer of requested funds between the stipulated business units. **Staff recommends this alternative as it will increase the overall effectiveness of the CDBG (including the NSP) program and allow more flexibility with program management. It also will ensure compliance with the Federal Housing and Economic Recovery Act of 2008, meet the Public Hearing requirements, and adhere to HUD's noticing guidelines.**

2. **Alternative 2** – Decline to conduct the public hearings or decline to adopt the Amendments including authorization of the transfer of grant monies to the stipulated accounts. **Staff does not recommend this alternative as it may adversely impact the overall effectiveness of CDBG efforts including NSP, as well as failure in meeting HUD's expenditure deadlines and potential risk of non-compliance with the Federal Housing and Economic Recovery Act of 2008 and the Public Hearing/Noticing requirements.**

FISCAL IMPACT

The recommended actions to the CDBG and NSP Program will pose no fiscal impact to the General Fund. **By federal law, these funds are to be used solely for designated CDBG and NSP eligible activities.**

- 1) Reallocation of funding from the Community Employment Resource Center (ERC) to the newly expanded Moreno Valley New Business Incentive Program.
From: 284.73939.6854 To: 284.73939.6853 \$110,000

- 2) The following table shows how the funds will be redistributed within qualified NSP activities:

<u>NSP Activity</u>	<u>Account #</u>	<u>Current Budget</u>	<u>Proposed Amended Budget</u>	<u>Net Change</u>
Single Family- ARR	197.19710.6848.003	\$3,701,787	\$5,203,575	\$1,501,788
Multi-Family- ARR	197.19710.6848.001	\$2,847,529	\$4,047,529	\$1,200,000
NSP- HAP	197.19710.6848.002	\$3,701,788	\$1,000,000	-\$2,701,788
Administration	197.19710.6848.004	\$1,139,012	\$1,139,012	\$0
		\$11,390,116	\$11,390,116	

The NSP funds are to be used solely for the City's NSP activities including:

- 1) Acquisition, rehabilitation, and resale of vacant and foreclosed single family properties to homebuyers earning up to 120% of the Area Median Income,
- 2) The acquisition, rehabilitation, and rental of vacant and foreclosed multi-family properties to be rented to tenants earning up to 50% of the Area Median Income and
- 3) Homebuyers (down-payment) assistance up to 20% of the purchase price for first time homebuyers.

CITY COUNCIL GOALS

REVENUE DIVERSIFICATION & PRESERVATION

CDBG funds enhance the City's ability to create a stable revenue base and fiscal policies that support essential City improvements and services.

PUBLIC SAFETY

CDBG projects and programs directly or indirectly help to provide a secure environment for people and property in the community.

COMMUNITY IMAGE, NEIGHBORHOOD PRIDE & CLEANLINESS

The Foreclosure Prevention Workshops may preserve Moreno Valley's existing neighborhoods and the overall attractiveness of the City.

POSITIVE ENVIRONMENT

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

SUMMARY

This report proposes two CDBG substantial amendments.

- 1) Substantial amendment to the FY 2009-10 CDBG Annual Action Plan: expands the program description for the current Moreno Valley Retail Business Incentive Program to also include new major business opportunities in Centerpointe Business Park or Moreno Valley Industrial Area Specific Plan and reallocates \$110,000 in CDBG grant fund savings from the Employment Resource Center (ERC) to the newly expanded and renamed Moreno Valley New Business Incentive Program.

The ERC has been successfully established as a fully operational facility while realizing a project savings. The amendment proposes to shift the savings from one economic development activity to another increasingly active economic development program aimed at attracting employers to existing vacant space and (under a formal agreement) creating jobs for low to moderate income persons.

- 2) Substantial Amendment of the FY 2008-2009 Annual Action Plan related to the City's NSP program: designates authority to the City Manager to transfer funds between City Council- and HUD-approved NSP grant activities to comply with HUD's spending deadlines and enhance the efficiency of grant expenditures. Also, reallocates \$2,701,788 from the NSP Homebuyer Assistance Program (NSP-HAP) activity to other NSP activities previously approved by the City Council and HUD, as follows:
- a. \$1,200,000 in NSP funds will be reallocated to the Multi-family Residential Acquisition, Rehabilitation, and Rental (MFR-ARR) activity, and
 - b. \$1,501,788 in NSP funds will be reallocated to the Single Family Residential Acquisition, Rehabilitation, and Resale (SFR-ARR) activity.
 - c. NOTE: \$1,000,000 will remain allocated to the NSP-HAP.

On November 25, 2008, the City Council approved a Substantial Amendment to the City's 2008-2009 CDBG Annual Action Plan and approved the NSP Program proposed by staff to address the single (SFR) and multi (MFR) family housing foreclosure crisis. Staff has since begun the implementation and administration of the City's NSP program. As implementation of the program occurs, staff continually monitors Moreno Valley's residential real estate market, communicates with the City's Development Partners, consultants, and HUD representatives, and has identified necessary changes to the program to improve its overall effectiveness. In doing so, it's been recommended that reallocating funds from the NSP-HAP activity to the SFR-ARR and MFR-ARR activities increases the overall effectiveness of the NSP program.

NOTIFICATION

In order to reallocate this funding, the proposed Substantial Amendments must adhere to the citizen participation requirements prior to being adopted by the City Council. In conforming with the federal requirements, the proposed amendments were made available for public review from December 26, 2009 through January 26, 2010. Notice of this meeting was published in the Press-Enterprise newspaper on December 26, 2009. Further opportunities for public comment were made available via the City website and by contacting the Neighborhood Preservation Division within the Economic Development Department.

ATTACHMENTS

ATTACHMENT A	FY 2009-10 CDBG Annual Action Plan existing and proposed descriptions for the Moreno Valley Retail Business / New Business Incentive Program
ATTACHMENT B	Proposed 2009-10 Annual Action Plan Amendments 1
ATTACHMENT C	Proposed 2008-09 Annual Action Plan Amendment to Substantial Amendment 1, NSP

Prepared By:
Isa Rojas, Management Analyst

Prepared By:
Shaniqua Freeman, Housing Program Coordinator

Concurred By:
Michele Patterson,
Redevelopment & Neighborhood Programs Administrator

Department Head Approval:
Barry Foster, Economic Development Director

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

ATTACHMENT A
 FY 2009-10 CDBG Annual Action Plan
 Existing and Proposed Program Descriptions for the
 Moreno Valley Retail Business / New Business Incentive Program

<p>CURRENT PROGRAM DESCRIPTION:</p>	<p>MORENO VALLEY RETAIL BUSINESS INCENTIVE PROGRAM</p> <p>The Retail Business Incentive Program is intended to attract reputable retailers to locate in large, vacant retail space in the TownGate area of the community through loans, grants or interest subsidies. The program intent is to create full-time permanent jobs of which 51% are held by or made available to low and moderate-income persons.</p>
<p>PROPOSED PROGRAM DESCRIPTION:</p>	<p>MORENO VALLEY NEW BUSINESS INCENTIVE PROGRAM</p> <p>The New Business Incentive Program is intended to attract reputable employers to locate in large, vacant business space in the TownGate Area, Centerpointe Business Park, or Moreno Valley Industrial Area Specific Plan through loans or grants. The program intent is to create full-time permanent jobs of which 51% are held by or made available to low and moderate-income persons.</p>

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ATTACHMENT B

**CITY OF MORENO VALLEY
FY 2009/10 ACTION PLAN
AMENDMENT NO. 1**

The Action Plan addresses the City's plan for use of CDBG and HOME funds during Fiscal Year 2009/10. The plan is based upon the Consolidated Plan prepared for both programs. The Action Plan facilitates the strategy outlined in the Consolidated Plan by addressing community needs through various mechanisms.

This amendment to the FY 2009/10 Annual Action Plan requires citizen participation (including public hearing, public notice and 30-day review period) because the issue is considered a "substantial amendment." This substantial amendment will be available for public review from December 26, 2009 through January 26, 2010. A public hearing will be conducted at the January 26, 2010 Moreno Valley City Council Meeting at 6:30 p.m. Amendment 1 to the City of Moreno Valley's 2009/10 Annual Action Plan includes the following changes:

The proposed FY 2009-10 Amendment 1 includes the expansion of the existing Moreno Valley Retail Business Incentive Program to include new distribution or light manufacturing businesses locating in the TownGate Area, Centerpointe Business Park, or Moreno Valley Industrial Area Specific Plan and renames it as the Moreno Valley New Business Incentive Program. Amendment 1 also proposes the reallocation of \$110,000 in CDBG funds from the FY 2009-10 Community Employment Resource Center (ERC) to the newly expanded and renamed Moreno Valley New Business Incentive Program.

The ERC has been able to successfully establish itself to a fully operational facility while realizing a project savings. The amendment proposes to shift the savings to another increasingly active program aimed at attracting large retailers or major businesses to existing vacant space and (under a formal agreement) creating jobs for low and moderate income persons.

Approved by: _____
William L. Bopf, Interim City Manager

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ATTACHMENT C

**CITY OF MORENO VALLEY
FY 2008/09 ACTION PLAN
AMENDMENT to AMENDMENT NO. 1, NSP**

The Action Plan addresses the City's plan for use of CDBG and HOME funds during Fiscal Year 2008/09. The plan is based upon the Consolidated Plan prepared for both programs. The Annual Action Plan facilitates the strategy outlined in the Consolidated Plan by addressing community needs through various mechanisms.

This amendment to amendment 1 the FY 2008/09 Action Plan requires citizen participation (including public hearing, public notice and 15-day review period) because the issue is considered a "substantial amendment". This substantial amendment will be available for public review from December 26, 2009 through January 26, 2010. A public hearing will be conducted at the January 26, 2010 Moreno Valley City Council Meeting at 6:30 p.m. Amendment 1 to Amendment 1 of the City of Moreno Valley's 2008/09 Annual Action Plan includes the following changes:

The Proposed Amendment to Amendment No. 1 (NSP) includes the reallocation of funds within designated NSP activities previously approved by HUD. \$1,200,000 in NSP funds will be reallocated from the NSP Homebuyer Assistance Program (NSP-HAP) activity to the Multi-family Residential Acquisition, Rehabilitation, and Rental (MFR-ARR) activity, and \$1,501,788 in NSP funds will be reallocated from the NSP-HAP activity to the Single Family Residential Acquisition, Rehabilitation, and Resale (SFR-ARR) activity. \$1,000,000 will remain allocated to the NSP-HAP.

The MFR-ARR and SFR-ARR activities have proven to be successful; the proposed shifts in funding will be used to continue the success of the acquisition and rehabilitation activities.

Per the recommendation of the City's NSP HUD representative, staff is also proposing the designation of authority to transfer funds between HUD-approved NSP grant activities be given to the City Manager or his designee to allow the City to more quickly respond to situations affecting the program, such as changing real estate market conditions and ensuring grant expenditures meet the HUD's mandatory deadlines.

Approved by: _____
William L. Bopf, Interim City Manager

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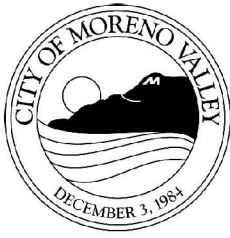
CITY COUNCIL REPORTS ON REGIONAL ACTIVITIES

- a)** Report by Mayor Pro Tem Robin N. Hastings on Western Riverside Council of Governments (WRCOG)

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**G. 2 ANNUAL REPORT OF BOARDS AND
COMMISSIONS (INFORMATIONAL ORAL
PRESENTATIONS)**

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APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>JMB</i>
CITY MANAGER	<i>WMB</i>

Report to City Council

TO: Mayor and City Council

FROM: Jane Halstead, City Clerk, CMC

AGENDA DATE: January 26, 2010

TITLE: APPOINTMENT TO THE PARKS AND RECREATION COMMISSION (TEENAGE MEMBER)

RECOMMENDED ACTION

Staff recommends that the City Council:

1. Appoint James Lucha to the Parks and Recreation Commission as a teenage member for a term expiring January 27, 2013, or until high school graduation, whichever comes first; or
2. If an appointment is not made, declare the position vacant and authorize the City Clerk to re-notice the position as vacant.

BACKGROUND

The City Clerk's Office posted a Notice of Opening to fill the vacancy for the teen member position on the Parks and Recreation Commission, due to the expiration date of the term on January 27, 2010. Appropriate time frames with respect to posting notices of vacancies were followed.

As provided in the City's Municipal Code, the appointee will serve without compensation for a designated term.

The City Clerk's Office received two applications for this position. Applications were submitted by Terrienne Dixon and James Lucha, the incumbent.

The applications were reviewed by the Parks and Recreation Commission staff liaison and the staff liaison recommends that the City Council appoint James Lucha to the Parks and Recreation Commission as a teenage member.

ALTERNATIVES

A teenage member on the Parks and Recreation Commission provides input on activities and programs for teenagers in and around the City. By not appointing a teen representative, contributions from the teenage population would be greatly reduced, which is not consistent with the City Council goal of creating a positive environment for the development of Moreno Valley’s future. Therefore, staff recommends that the City Council appoint a teen member to the Parks and Recreation Commission.

NOTIFICATION

1. Posting of Notice of Opening
2. Publication of the agenda
3. Report and agenda mailed to the applicants

ATTACHMENTS

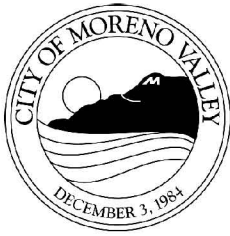
None

Prepared by:
Ewa Lopez
Deputy City Clerk, CMC

Department Head Approval:
Jane Halstead
City Clerk, CMC

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

\\zurich\shared\InterDept\Council-Clerk\City Clerk Files\Advisory Boards and Commissions\Appointment Staff Reports\2010\Parks & Recreation Teen 1 27.doc



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

Report to City Council

TO: Mayor and City Council

FROM: Steve Elam, Interim Financial & Administrative Services Director/
City Treasurer

AGENDA DATE: January 26, 2010

TITLE: APPROVAL OF AGREEMENT FOR INVESTMENT
MANAGEMENT AND ADVISORY SERVICES

RECOMMENDED ACTION

Staff recommends that the City Council approve the attached Agreement for Investment Management and Advisory Services with Chandler Asset Management and authorize the Mayor to sign the Agreement.

ADVISORY BOARD/COMMISSION/COMMITTEE RECOMMENDATION

The Finance Sub-Committee reviewed the proposed Agreement on January 6, 2010, and indicated support for its approval.

BACKGROUND

A Request for Proposals (RFP) for Investment Management and Advisory Services was developed by staff and issued in September 2009. The purpose of the RFP was to solicit proposals from companies specializing in investment management and advisory services with the goal of outsourcing management of the City's general investment portfolio. The purpose of such outsourcing is twofold:

1. To assume the burden of daily investment oversight, which staff no longer has the time to perform, given the 40% staffing reduction in the Treasury Operations Division that has occurred in the last year.
2. To provide enhanced investment expertise, so that the City can achieve a competitive return on its investment portfolio without incurring undue risk.

Although not part of the initial justification for issuing the RFP for Investment Management and Advisory Services, the Treasury Operations Division Manager position is now vacant, following the incumbent's separation in September, 2009. A recruitment to fill the vacant position was unsuccessful, leaving a vacancy in this critical position, as well as an overall vacancy rate in the Treasury Operations Division of 50%. (Five of ten authorized positions are vacant; one position is being filled with a temporary employee; the Division Manager position is being filled on a part-time basis by the Technology Services Division Manager.)

In response to the RFP for Investment Management and Advisory Services, six proposals were received by the submittal deadline of October 8, 2009 from the following companies:

- American Beacon Advisors, Inc.
- Chandler Asset Management
- MBIA Asset Management
- PFM Asset Management
- United American Capital Corporation
- Wells Capital Management

Proposals from the above companies were evaluated by staff based on the following criteria and weighting:

- 10% - Responsiveness to the RFP, communicating an understanding of the overall program and services required;
- 25% - Experience of the firm in providing services to public sector entities of similar size and with similar investment objectives;
- 25% - Professional experience and qualifications of the individuals assigned to the City's account;
- 15% - Portfolio management resources, investment philosophy, and approach;
- 15% - Reporting capabilities;
- 10% - Fees.

Following a comprehensive review of the six proposals, the companies submitting the top three proposals were selected for interviews with the Assistant City Manager and Financial & Administrative Services Director/City Treasurer, as shown below:

- Chandler Asset Management
- MBIA Asset Management
- PFM Asset Management

Following the interview process, Chandler Asset Management and PFM Asset Management were selected as the two companies best meeting the City's selection criteria. Comprehensive reference checks were conducted on these two companies. Following this process, Chandler Asset Management was selected as the company best qualified and suited to provide the City with Investment Management and Advisory Services.

DISCUSSION

Chandler Asset Management (Chandler) was founded in 1988 by Kay Chandler as a company specializing in the management of high-grade fixed income portfolios for public agencies, foundations, and corporations. Chandler's primary focus since its inception has been managing funds for California public agencies. Chandler is fully independent from broker/dealers, banks, and other financial institutions. They currently manage nearly \$4 billion in assets for 67 clients. Chandler's client list includes the following cities:

Alameda	La Habra	San Bernardino
Arcata	Los Angeles	San Leandro
Brea	La Mirada	San Luis Obispo
Buena Park	Monterey	San Marcos
Corona	Mountain View	Santa Clarita
Camarillo	Napa	South San Francisco
Danville	Newport Beach	Stockton
Eureka	Perris	Tracy
Fairfield	Pleasant Hill	Truckee
Indio	Rocklin	Westminster

The members of Chandler's professional team are well known in the municipal finance industry and lend their experience to public sector associations through active participation in advisory committees for both the Government Finance Officers Association (GFOA) and the California Debt and Investment Advisory Commission (CDIAC).

Chandler's team of high-qualified investment professionals has extensive experience designing and managing investment programs that meet their clients' investment objectives. The principals, Kay Chandler, President, and Martin Cassell, CEO and Chief Investment Officer, set the standard. Both began their careers as investment officers for large public agencies. Ms. Chandler served as investment officer for San Diego County, and later for the City of San Diego, for a total of over ten years. Mr. Cassell also served as investment officer for the City of San Diego. Ms. Chandler has managed public sector portfolios for over 30 years, while Mr. Cassell's experience with public portfolios spans over 21 years. Chandler also utilizes an extensive team of portfolio managers, which provides extensive depth of experience. Additionally, Chandler utilizes their own credit analysts to stay abreast of market trends, conditions, and individual company performance.

The expertise of Chandler's credit analysts was a key consideration in their selection as the company best suited to manage the City of Moreno Valley's investment portfolio. As part of the proposal evaluation, interview, and reference-checking process, questions were asked regarding when Chandler identified problems in the financial sector that led to the failure of various companies during the Fall of 2008, including the bankruptcy filing of Lehman Brothers on September 15, 2008. Chandler's credit analysts identified

the problems with AIG, Lehman Brothers, Washington Mutual, and other financial institutions, and moved their clients out of these troubled assets well before these companies failed. **All Chandler references indicated that they had no holdings of troubled assets in the investment portfolios managed by Chandler.** This type of credit expertise is vital to the City of Moreno Valley.

In addition to managing the City's investment portfolio, Chandler will provide a variety of services under the proposed Agreement including:

- Assisting staff in analyzing cash flow requirements;
- Assisting in determining the investment risk tolerance and establishing an appropriate investment benchmark;
- Meeting with staff quarterly to review the investment portfolio and performance;
- Providing staff with on-line access to investment information and a variety of reports regarding the City's investment portfolio;
- Providing monthly investment reports; and
- Annually reviewing and updating the City's Investment Policy.

ALTERNATIVES

The following alternatives are available to the City Council:

1. Approve the proposed Agreement for Investment Management and Advisory Services between the City and Chandler Asset Management and authorize the Mayor to sign the Agreement.
2. Do not support the proposed Agreement for Investment Management and Advisory Services between the City and Chandler Asset Management; provide staff with further direction.

Staff recommends Alternative No. 1.

FISCAL IMPACT

The following table depicts the fees proposed by Chandler and PFM Asset Management, as the companies submitting the top two proposals for the City's Investment Management and Advisory Services.

Company	Annual Fee (based on assets under management)
Chandler	First \$20 million: 0.12 of 1% (12 basis points) Next \$10 million: 0.09 of 1% (9 basis points) Assets in excess of \$30 million: 0.06 of 1% (6 basis points)
PFM	First \$25 million: 0.10 of 1% (10 basis points) Assets between \$25 - \$50 million: 0.09 of 1% (9 basis points) Assets between \$50 - \$100 million: 0.07 of 1% (7 basis points) Assets above \$100 million: 0.06 of 1% (6 basis points)

After selecting Chandler as the top-ranked company following the extensive evaluation process, discussions ensued with Chandler regarding providing Moreno Valley with more competitive pricing. Chandler was willing to adjust their fee structure to 6 basis points for all City of Moreno Valley assets under management, rather than the tiered pricing structure that was proposed and which is a norm in the industry. If the City's assets under management average \$150 million, this would represent an annual savings to the City of \$15,000, or 14% of the annual fee.

The City's current general investment portfolio is approximately \$213 million. Of this amount, some funds will be maintained with the State of California Local Agency Investment Fund (LAIF) to accommodate short-term cash flow needs. This amount will be determined following a comprehensive cash flow analysis, with which Chandler will assist. The balance of funds will be invested through Chandler. The following table depicts the annual fee to be earned by Chandler based on various levels of assets under management.

Assets Under Management	Annual Fee
\$125 million	\$75,000
\$150 million	\$90,000
\$175 million	\$105,000

A key premise in issuing the RFP for Investment Management and Advisory Services was that an outside investment company would not only safeguard the City's assets but enhance the portfolio yield such that their annual fees would be more than offset by the increased investment income. Discussions with each agency contacted for reference checks confirmed this experience. **Therefore, there will be no net budgetary increase associated with the proposed Agreement for Investment Management and Advisory Services, as the fees paid to Chandler are expected to be fully offset by increased investment income revenue.** Additionally, a workload reduction of approximately 40% of one full-time equivalent (FTE) position will be realized through the proposed outsourcing arrangement. This reduction will be critical in maintaining essential functions in the Treasury Operations Division given the 50% staffing reduction that has occurred.

If the attached Agreement with Chandler is approved as proposed, the professional services budget in the Treasury Operations Division (010.31410.6255) will be increased by \$50,000 for the balance of FY 2009-10. However, the Investment Income revenue account (010.100.4556.10) will also be increased by this amount, resulting in no net budgetary increase. Longer term, it is expected that the increased investment income realized by the City will far exceed the cost of the Investment Management and Advisory Services.

The proposed Agreement with Chandler will cover the balance of this fiscal year, plus two additional fiscal years (ending June 30, 2012). Upon mutual consent, the Agreement may be extended for two additional fiscal years, through June 30, 2014.

CITY COUNCIL GOALS

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

SUMMARY

An RFP for Investment Management and Advisory Services was issued by the City in September 2009, in order to achieve the following objectives:

1. To assume the burden of daily investment oversight, which staff no longer has the time to perform, given the 40% staffing reduction in the Treasury Operations Division that has occurred in the last year.
2. To provide enhanced investment expertise, so that the City can achieve a competitive return on its investment portfolio without incurring undue risk.

In response to the RFP, six proposals were received and thoroughly evaluated. The companies submitting the top three proposals were interviewed; then detailed reference checks were conducted on the top two companies. Following this extensive evaluation process, Chandler Asset Management (Chandler) was selected as the company that is best qualified and best suited to manage the City's general investment portfolio. In discussions that ensued with Chandler, they were willing to adjust their proposed fee structure to be more favorable for the City, even though it is a departure from their regular fee structure and the industry norm.

The fees paid to Chandler under the proposed Agreement are expected to be fully offset by increased investment income, such that there will be no net budgetary impact associated with the Agreement. Longer term, it is expected that the increased investment income to be realized through the Agreement for Investment Management and Advisory Services will far exceed the cost of the professional services.

The proposed Agreement with Chandler will cover the balance of this fiscal year, plus two additional fiscal years (ending June 30, 2012). Upon mutual consent, the Agreement may be extended for two additional fiscal years, through June 30, 2014.

NOTIFICATION

Publication of the agenda

ATTACHMENTS/EXHIBITS

Attachment 1 - Agreement for Investment Management and Advisory Services

Prepared By:
Steve Elam
Interim Financial & Administrative Services Director/City Treasurer

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

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City of Moreno Valley

**AGREEMENT FOR INVESTMENT MANAGEMENT
AND ADVISORY SERVICES**

This Agreement is made by and between the City of Moreno Valley, California, a municipal corporation, hereinafter referred to as the "City", and the following named independent contractor, hereinafter referred to as the "Contractor," based upon City policies and the following legal citations:

A. Government Code Section 53060 authorizes the engagement of persons to perform special services as independent contractors; and

B. The public interest, convenience, necessity and general welfare will be served by this Agreement.

This Agreement is made and entered into effective the date the City signs this Agreement.

1. CONTRACTOR INFORMATION:

Contractor's Name: Chandler Asset Management
Address: 6225 Lusk Boulevard., Suite B
City: San Diego State: CA Zip: 92121
Business Phone: 800.317.4747 Fax No. 858.546.3741
Web: www.chandlerasset.com
Business License Number: 21623
Federal Tax I.D. Number: 33-0570869

2. CONTRACTOR SERVICES, FEES, AND RELEVANT DATES:

A. The Contractor's scope of service and other terms and conditions are described in Exhibit "A" attached hereto and incorporated herein by this reference.

B. Payment terms are provided in Exhibit "B" attached hereto and incorporated herein by this reference.

C. The City's current Investment Policy is provided in Exhibit "C" attached hereto and incorporated herein by this reference.

D. The Contractor Starting Date is upon execution of this Agreement and the Contractor Ending Date is June 30, 2012. Upon mutual consent in writing of the City and Contractor, this Agreement may be extended for two (2) additional one-year terms, but not beyond June 30, 2014. Services with Contractor may extend beyond June 30, 2014, but will require execution of a new agreement.

3. STANDARD TERMS AND CONDITIONS:

A. Control of Work. Contractor is solely responsible for the content and sequence of the work, and will not be subject to control and direction as to the details and means for accomplishing the anticipated results of services. The City will not provide any training to Contractor or his/her/its employees.

- B. Intent of Parties. Contractor is, and at all times shall be, an independent contractor and nothing contained herein shall be construed as making the Contractor or any individual whose compensation for services is paid by the Contractor, an agent or employee of the City, or authorizing the Contractor to create or assume any obligation or liability for or on behalf of the City, or entitling the Contractor to any right, benefit, or privilege applicable to any officer or employee of the City.
- C. Subcontracting. Contractor may retain or subcontract for the services of other necessary contractors with the prior written approval of the City. Payment for such services shall be the responsibility of the Contractor. Any and all subcontractors shall be subject to the terms and conditions of this Agreement, with the exception that the City shall have no obligation to pay for any subcontractor services rendered. Contractor shall be responsible for paying prevailing wages where required by law [See California Labor Code Sections 1770 through 1777.7].
- D. Legal Considerations. The Contractor shall comply with applicable federal, state, and local laws in the performance of this Agreement.
- E. Contractor Indemnification. Contractor shall indemnify, defend and hold the City, the Community Redevelopment Agency of the City of Moreno Valley (RDA), and the Moreno Valley Community Services District (CSD), their officers, agents and employees harmless from any and all claims, damages, losses, causes of action and demands, including reasonable attorney's fees and costs, incurred in connection with or in any manner arising out of Contractor's performance of the work contemplated by this Agreement. Acceptance of this Agreement signifies that the Contractor is not covered under the City's general liability insurance, employee benefits, or worker's compensation. It further establishes that the Contractor shall be fully responsible for such coverage.
- F. City Indemnification. The City agrees to indemnify, defend and save the Contractor and its officers, agents and employees harmless from any and all liability, claims, damages or injuries to any person, including injury to the City's, RDA's and CSD's employees and all claims which arise from or are connected with the negligent performance or failure to perform the services or other obligations of the City under this Agreement, or are caused or claim to be caused by the negligent acts of the City, RDA and CSD, their officers, agents or employees, or its subcontractor(s) or any person acting for the City or under its control or direction; provided, however, that this indemnification and hold harmless shall not include any claims arising from the negligence or willful misconduct of the Contractor, its officers, agent, employees, or subcontractors.
- G. Insurance Requirements. Where determined applicable by the City, Contractor will comply with the following insurance requirements at its sole expense. Insurance companies shall be rated (A Minus: VII—Admitted) or better in Best's Insurance Rating Guide and shall be legally licensed and qualified to conduct business in the State of California:

General Liability Insurance—to protect against loss from liability imposed by law for damages on account of bodily injury, including death, and/or property damage suffered or alleged to be suffered by any person or persons whomever, resulting directly or indirectly from any act or activities of the Contractor, sub-Contractor, or any person acting for the Contractor or under its control or direction. Such insurance shall be maintained in full force and effect throughout the terms of the Agreement and any extension thereof in the minimum amounts provided below:

Bodily Injury	\$1,000,000 per occurrence/ \$2,000,000 aggregate
Property Damage	\$500,000 per occurrence/ \$500,000 aggregate

Investment Advisor Professional Liability Insurance—such coverage shall not be less than \$10,000,000 aggregate.

Workers' Compensation Insurance—in such amounts as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both the Contractor and the City, RDA, and CSD against any loss, claim or damage arising from any injuries or occupational diseases happening to any worker employed by the Contractor in the course of carrying out the Agreement. This coverage may be waived if the Contractor is determined to be functioning as a sole proprietor and the city provided form "Exception to Worker's Compensation Coverage" is signed, notarized and attached to this Agreement

Liability and Property Damage Insurance coverage for owned and non-owned automotive equipment operated on City/CSD/RDA premises. Such coverage limits shall not be less than \$1,000,000 combined single limit.

Insurance requirements waived with Risk Manager's approval.

Insurance requirements modified with Risk Manager's approval and attached hereto as Exhibit "D" and incorporated herein by this reference.

A Certificate of Insurance and appropriate additional insured endorsement evidencing the above applicable insurance coverage shall be submitted to the City Risk Manager prior to the execution of this Agreement. The Certificate of Insurance or an appropriate binder shall bear an endorsement containing the following provisions:

Solely as respect to services done by or on behalf of the named insured for the City of Moreno Valley, it is agreed that the City of Moreno Valley, the Community Redevelopment Agency of the City of Moreno Valley, and the Moreno Valley Community Services District, their officers, employees and agents are included as additional insured under this policy and the coverage(s) provided shall be primary insurance and not contributing with any other insurance available to the City of Moreno Valley, the Community Redevelopment Agency of the City of Moreno Valley, and

the Moreno Valley Community Services District, its officers, employees and agents, under any third party liability policy

The terms of the insurance policy or policies issued to provide the above coverage shall neither be amended to reduce the required insurance limits and coverages nor shall such policies be canceled by the carrier without thirty (30) days prior written notice by certified or registered mail of amendment or cancellation to the City, except that cancellation for non-payment of premium shall require ten (10) days prior written notice by certified or registered mail. In the event the insurance is canceled, the Contractor shall, prior to the cancellation date, submit to the Risk Manager new evidence of insurance in the amounts established.

- H. Intellectual Property. Any system or documents developed, produced or provided under this Agreement, including any intellectual property discovered or developed by Contractor in the course of performing or otherwise as a result of its work, shall become the sole property of the City unless explicitly stated otherwise in this Agreement. The Contractor may retain copies of any and all material, including drawings, documents, and specifications, produced by the Contractor in performance of this Agreement. The City and the Contractor agree that to the extent permitted by law, until final approval by the City, all data shall be treated as confidential and will not be released to third parties without the prior written consent of both parties.
- I. Entire Agreement. This Agreement constitutes the entire agreement between the parties. There are no understandings, agreements, or representations of warranties, expressed or implied, not specified in this Agreement. This Agreement applies only to the current proposal as attached. This Agreement may be modified or amended only by a subsequent written Agreement signed by both parties. Assignment of this Agreement is prohibited without prior written consent.
- J. Termination. (a) Except as specified in Exhibit "A", section 13, the City may terminate this Agreement without cause by giving at least ten (10) days written notice to the Contractor. The written notice shall specify the date of termination. Upon receipt of such notice, the Contractor may continue work through the date of termination, provided that no work or service(s) shall be commenced or continued after receipt of the notice which is not intended to protect the interest of the City. The City shall pay the Contractor within thirty (30) days after receiving any invoice after the date of termination for all non-objected to services performed by the Contractor in accordance herewith through the date of termination.
(b) Either party may terminate this Agreement for cause. In the event the City terminates this Agreement for cause, the Contractor shall perform no further work or service(s) under the Agreement unless the notice of termination authorizes such further work.
- K. Payment. Payments to the Contractor pursuant to this Agreement will be reported to Federal and State taxing authorities as required. The City will not withhold any sums from compensation payable to Contractor. Contractor is independently responsible for the payment of all applicable taxes. Where the

payment terms provide for compensation on a time and materials basis, the Contractor shall maintain adequate records to permit inspection and audit of the Contractor's time and materials charges under the Agreement. Upon reasonable notice, such records must be made available to the City's agent; however, nothing herein shall convert such records into public records. Such records shall be retained by the Contractor for three (3) years following completion of the services under the Agreement.

- L. Restrictions on City Employees. The Contractor shall not employ any City employee or official in the work performed pursuant to this Agreement. No officer or employee of the City shall have any financial interest in this Agreement in violation of federal, state, or local law.
- M. Choice of Law and Venue. The laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement, and shall govern the interpretation of this Agreement. Any legal proceeding arising from this Agreement shall be brought in the appropriate court located in Riverside County, State of California.
- N. Severability. Any provision of this Agreement which is prohibited or unenforceable shall be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.

SIGNATURE PAGE TO FOLLOW

IN WITNESS HEREOF, the parties have each caused their authorized representative to execute this Agreement.

City of Moreno Valley

Contractor/Consultant Name

BY: _____
Bonnie Flickinger, Mayor

BY: Kay Chandler
Kay Chandler, CFA

Date

TITLE: President

12/22/09
Date

INTERNAL USE ONLY

ATTEST:

City Clerk

APPROVED AS TO LEGAL FORM:

City Attorney

Date

RECOMMENDED FOR APPROVAL:

[Signature]
Financial & Administrative Services Director/
City Treasurer

1/7/10
Date

**AGREEMENT FOR INVESTMENT MANAGEMENT
AND ADVISORY SERVICES**

Exhibit "A"

**Scope of Services;
Other Terms and Conditions**

1. Scope of Services. Chandler Asset Management (Chandler) shall provide investment management and advisory services for the City of Moreno Valley (City) on all funds authorized by the City to be managed by Chandler. Except for those funds invested in the State of California Local Agency Investment Fund (LAIF) to meet short-term obligations, it is intended that the City's remaining general investment portfolio will be managed by Chandler. Other services to be provided by Chandler include but are not limited to the following:
 - a. Assisting the City in analyzing its cash flow requirements to determine the amount of funds to be invested with LAIF versus those to be invested with Chandler.
 - b. Assisting the City in determining its investment risk tolerance and appropriate portfolio benchmark.
 - c. Meeting with City staff on a quarterly basis to review the investment portfolio and performance.
 - d. On an annual basis, advising the City on recommended changes to its Investment Policy based on legislative changes and other relevant market conditions; attending the City Council meeting in which the annual update to the Investment Policy is presented, if requested by the City.
 - e. Providing the City with on-line access to investment information and providing monthly investment reports for City management and the City Council as specified by the City.
 - f. Providing other services as specified in Chandler's proposal dated October 8, 2009, submitted in response to the City's Request for Proposals (RFP) VAG # 09/10-01.

2. Client Representative. In its capacity as investment manager, Chandler shall receive all instructions, directions and other communications on behalf of the City respecting City's account from the Financial & Administrative Services Director/City Treasurer or Treasury Operations Division Manager. Chandler is hereby authorized to rely and act upon all such instructions, directions and communications from either of the above representatives.

3. Fees. City shall compensate Chandler monthly an amount calculated on the average market value of City's portfolio under management by Chandler, including accrued interest, in accordance with the following schedule:

Assets Under Management

All City assets managed by Chandler

Annual Investment Management Fee

0.06 of 1% (6 basis points)

The fees expressed above do not include any custody fees that may be charged by the City's bank or other third-party custodian.

Fees shall be prorated to the effective date of termination on the basis of actual days elapsed, and any unearned portion of prepaid fees shall be refunded. City is not required to pay any start-up or closing fees; there are no penalty fees.

At the City's option, fees may be deducted monthly in arrears from the City's custody account. Such option must be authorized in writing by the City's Financial & Administrative Services Director/City Treasurer.

4. Investment Policy. In investing and reinvesting the City's assets, Chandler shall comply with the City's Investment Policy, which is attached hereto as Exhibit "C".
5. Authority of Chandler. Chandler is hereby granted full discretion to invest and reinvest all assets under its management in any type of security it deems appropriate, subject to the instructions given or guidelines set by the representatives names in paragraph 2 of this Exhibit.

6. Notices. Any notice shall be mailed to the City at the following address:

City of Moreno Valley
Financial & Administrative Services Director/City Treasurer
P.O. Box 88005
Moreno Valley, CA 92552-0805

and to Chandler at the following address:

Chandler Asset Management
6225 Lusk Boulevard, Suite B
San Diego, CA 92121

7. Proxy Voting. Chandler will vote proxies on behalf of the City unless otherwise instructed. Chandler has adopted and implemented written policies and procedures and will provide the City with a description of the proxy voting procedures upon request. Chandler will provide information regarding how the City's proxies were voted upon request by calling 800.317.4747 or by e-mailing request to info@chandlerasset.com.
8. Custody of Securities and Funds. Chandler shall not have custody or possession of the funds or securities that the City has placed under its management. City shall appoint a custodian to take and have possession of its assets. City recognizes that the fees expressed in paragraph 3 of this Exhibit do not include fees the City will incur for custodial services.
9. Valuation. Chandler will value securities held in portfolios managed by Chandler no less than monthly. Securities or investments in the portfolio will be valued in a manner determined in good faith by Chandler to reflect fair market value.
10. Investment Advice. City recognizes that the opinions, recommendations and actions of Chandler will be based on information deemed by it to be reliable, but not guaranteed to or by it. Provided that Chandler acts in good faith, the City agrees that Chandler will not in any

way be liable for any error in judgment or for any act or omission, except as may otherwise be provided for under the Federal Securities laws or other applicable laws.

11. Payment of Commissions. Chandler may place buy and sell orders with or through such brokers or dealers as it may select. It is the policy and practice of Chandler to strive for the best price and execution and for commission and discounts which are competitive in relation to the value of the transaction and which comply with Section 28(e) of the Securities and Exchange Act. Nevertheless, it is understood that Chandler may pay a commission on transactions in excess of the amount another broker or dealer may charge, and that Chandler makes no warranty or representation regarding commissions paid on transactions hereunder.
12. Other Clients. It is further understood that Chandler may be acting in a similar capacity for other institutional and individual clients, and that investments and reinvestments for client's portfolio may differ from those made or recommended with respect to other accounts and clients even though the investment objectives may be the same or similar. Accordingly, it is agreed that Chandler will have no obligation to purchase or sell for the City's account any securities which it may purchase or sell for other clients.
13. Receipt of Brochure and Privacy Policy. City has received the disclosure statement or "brochure" required to be delivered pursuant to Rule 204-3 of the Investment Advisers Act of 1940 (Brochure). City has received a copy of Chandler's Privacy Policy. City understands that it has the right to terminate this Agreement without penalty within five (5) days after entering into this Agreement.

AGREEMENT FOR INVESTMENT MANAGEMENT AND ADVISORY SERVICES

Exhibit "B"

Payment Terms

1. Chandler will submit an invoice to the City's Treasury Operations Division Manager on a monthly basis for its Investment Management and Advisory Services.
2. City will remit payment to Chandler within thirty (30) days of its receipt of the invoice.
3. If any amount(s) included on the invoice are disputed by the City, all attempts will be made to resolve the dispute before payment is made.
4. If disputed amount(s) cannot be resolved within the 30-day period, City will remit payment for the invoice amount after deducting the amount(s) in dispute.
5. As an efficiency measure, Chandler will accept payment of its invoices via Automated Clearing House (ACH) electronic funds transfer rather than City check.
6. As an optional payment method, fees for Chandler's Investment Management and Advisory Services may be deducted monthly in arrears from the City's custody account, if so authorized in writing by the City's Financial & Administrative Services Director/City Treasurer.

INVESTMENT POLICY

PURPOSE: The City Council of the City of Moreno Valley (City) and its related authorities and agencies recognizes its responsibility to properly direct the investments of funds under its care. It is the purpose of this policy to provide guidelines for the prudent investment of unexpended funds in a manner which allows for maximum security, while at the same time providing the best investment return to meet the daily cash flow demands of the City, and conform to all applicable statutes pertaining to the investment of public funds. In instances in which the Policy is more restrictive than Federal or State law, the Policy supersedes.

I. Scope

- A.** Investments for the City and its related authorities and agencies will be made on a pooled basis including the City of Moreno Valley, the Community Redevelopment Agency of the City of Moreno Valley, the Moreno Valley Community Services District, the Moreno Valley Public Facilities Financing Corporation, the Moreno Valley Public Financing Authority, and the Moreno Valley Industrial Development Authority. These funds are accounted for in the City's Comprehensive Annual Financial Report (CAFR) and include:
1. General Fund
 2. Special Revenue Funds
 3. Debt Service Funds
 4. Capital Project Funds
 5. Internal Service Funds
 6. Agency Funds
 7. Enterprise Funds
- B.** The City Council has the authority to allow investments that do not follow this policy as long as such investments are recommended by the City Manager and City Treasurer, and expressly authorized by the City Council.
- C.** At the time this policy is adopted, the portfolio may hold investments which were made in the past and in accordance with previous policies and existing State law, but do not meet the provisions of this policy. These past investments are grandfathered as permissible investments. The City may choose to hold these investments until their maturity, however, their maturity cannot be extended without the expressed authorization of the City Council.
- D.** Funds excluded from this policy
1. **Bond Proceeds.** The overriding policy for the investment of bond proceeds will be dictated by the bond documents governing such funds as long as the documents are approved by the City Council or related governing board. As a minimum standard for the investment of bond proceeds, the governing bond documents will have permitted investment language which follows guidelines used by one of the two largest bond insurers in the United States. This standard will also include investments permitted in this policy.

In addition the City may also invest bond proceeds in the State Local Agency Investment Fund (LAIF) bond proceeds program or municipally sponsored investment pools rated "Aam" or better with an average weighted maturity of 3 years or less. The investment of debt service reserve funds longer than 5 years is permitted by state law and is permitted, provided that the funds are readily available for bond payments or other bond purposes (refunding, defeasances, etc.). For defeasance escrows, the City may procure U.S. Treasury securities and State and Local Government Securities (SLGS) having a maturity longer than 5 years.

Approved by: City Council
December 17, 1996

Revised 1/13/98; 1/12/99; 2/8/00; 1/3/01; 5/14/02; 11/22/05; 2/26/08; 2/24/09

INVESTMENT POLICY

2. **Deferred Compensation Plans.** Investments related to the City's deferred compensation plans are not subject to this policy since third-party administrators manage them and the individual plan participants direct investment and mutual fund selection. Deferred compensation plans must be approved by the City Council.

II. Prudence

- A. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment considering the probable safety of their capital as well as the probable income to be derived.
- B. The standard of prudence to be used by investment officials shall be the "prudent person" and/or "prudent investor" standard and shall be applied in the context of managing an overall portfolio.
- C. Investment officers acting in accordance with written procedures and the investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

III. Objectives

- A. The City's investment philosophy sets the tone for its policies, practices, procedures and objectives that control the investment function. The investment of funds will be guided by the primary objectives of safety, liquidity and a reasonable market rate of return.
 1. **Safety** – Safety of principal is the foremost objective of the investment program. The City will undertake investments in a manner that ensures the preservation of capital in the portfolio taken as a whole. To attain this objective, the City will practice diversification by investing funds with different financial institutions and across various types of securities that offer independent returns.
 2. **Liquidity** – The City will maintain sufficient cash and short-term investment instruments, which together with projected revenues, will provide sufficient liquidity so that the City will be able to meet all operating requirements which might be reasonably anticipated. To the extent possible, the maturity of investments selected will match the City's projected cash requirements, including an amount to cover reasonably estimated contingencies.
 3. **Reasonable market rate of return (Yield)** – The City's investment portfolio will be designed with the objective to attain a benchmark rate of return throughout budgetary and economic cycles, commensurate with the City's investment risk constraints and the cash flow characteristics of the portfolio.
- B. The investment function will have the ongoing objectives of: assuring compliance with Federal, State and local laws governing the investment of public funds, maintaining reserves for long-term projects and contingencies, and establishing quality standards and limits related to the type of investments made and with which institutions investments are placed.

Approved by: City Council
December 17, 1996

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INVESTMENT POLICY

IV. Delegation of Authority

- A. The City of Moreno Valley Municipal Code specifies that the City Council will appoint the City Treasurer. By resolution, the City Council has appointed the Financial & Administrative Services Director to serve as the City Treasurer. The Treasurer serves as the chief investment officer for the City and is authorized to invest or deposit the City's funds in accordance with this policy, California Government Code Sections 53600 and 53630 et seq., and all other related Federal and State laws. The City Treasurer also serves as the Treasurer for the Community Redevelopment Agency of the City of Moreno Valley, the Moreno Valley Public Financing Authority, the Moreno Valley Public Facilities Financing Corporation, the Moreno Valley Community Services District and other related City entities. In the absence of the City Treasurer, and unless otherwise delegated, the Treasury Operations Division Manager/Assistant City Treasurer will serve as the Acting Treasurer. The City Treasurer may appoint deputy treasurers to act on behalf of the City. The City Treasurer will provide written authorization in delegating any of his/her authority.
- B. The City Manager will provide periodic oversight to the investment function which includes but is not limited to reviewing monthly investment reports issued by the City Treasurer.
- C. The City Council's primary responsibilities over the investment function include approving the Investment Policy, annually reviewing such policy, reviewing monthly investment reports issued by the Treasurer, authorizing bond documents and other unique financing transactions, and authorizing any deviations from the City's investment policies.
- D. The Finance Sub-Committee of the City Council will provide oversight to the investment function through the periodic review of the investment report at their committee meetings.

V. Investment Procedures

- A. The City Treasurer shall establish a separate written investment procedures manual for the operation of the investment program consistent with this policy. This procedure manual shall include, but is not limited to, the following:
 - 1. Safekeeping
 - 2. Master repurchase agreements
 - 3. Wire transfer agreements
 - 4. Collateral/Depository agreements
 - 5. Broker/Dealer relationships
- B. Cash handling and cash management are integral components of an effective investment management program. In keeping with the Administrative Policy on Cash Control, the aforementioned procedure manual shall include references to the following:
 - 1. Cash collection practices
 - 2. Depository practices
 - 3. Cash flow issues
 - 4. Cash flow projections
 - 5. Anti-theft/Anti-fraud practices
 - 6. Banking agreements
 - 7. Accounting practices

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December 17, 1996

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INVESTMENT POLICY

- C. Such procedures shall include explicit delegation of authority to persons responsible for investment transactions. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the City Treasurer.
- D. Allocation of Pool Interest
 - 1. All interest earnings related to the investment pool will be allocated to the General Fund unless specifically directed by Federal or State statute, City Council directive or contractual agreement.
 - 2. Pool interest earnings will be allocated to the eligible and appropriate funds or programs based on their contribution to the pool. The allocation methodology will be maintained by the City Treasurer.

VI. Ethics and Conflict of Interest

- A. All officials, staff members and consultants, involved in the investment functions will refrain from personal business activity that could conflict with the execution of the investment function or which may impair their ability to make impartial investment decisions. Officials, staff members, and consultants, will disclose to the City Manager any financial interests with a financial institution, provider, dealer or broker that conducts business with the City.
- B. Officials, staff members and consultants will further disclose any personal financial positions that could be related to the City's cash and investment portfolio.
- C. All bond issue participants, including but not limited to, underwriters, bond counsel, financial advisors, brokers and dealers will disclose any fee sharing arrangements or fee splitting to the City Manager prior to the execution of any transactions. The providers must disclose the percentage share and approximate dollar amount share to the City prior to the execution of any transactions.

VII. Investment Controls

- A. The City Manager shall oversee and ensure that the City Treasurer implements and maintains a system of internal investment controls and segregated responsibilities of the investment function in order to prevent the following:
 - 1. Fraud
 - 2. Theft
 - 3. Loss of principal
 - 4. Loss of control over funds
 - 5. Inaccurate reporting
 - 6. Negligence
 - 7. Over-reliance on a single employee for investment decisions
- B. Internal controls should include but are not limited to (for a more specific list of internal controls see the investment management plan) :
 - 1. Segregation of duties (e.g., the purchaser of investments is different than the person recording the transaction)
 - 2. Reconciliation of investment report and cash balances
 - 3. Dual authorization of transactions

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December 17, 1996

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INVESTMENT POLICY

- C. An external auditor will review the investment program annually in order to provide reasonable assurance that policies and procedures are complied with.

VIII. Authorized Financial Dealers and Institutions

- A. The City Treasurer will obtain financial information from qualified institutions to determine if the institution markets in securities appropriate to the City's needs, can assign qualified sales representatives and can provide written agreement to abide by the conditions set forth in the City of Moreno Valley Investment Policy.
- B. The City Treasurer will maintain a list of financial institutions and broker/dealers authorized to provide investment services to the City who are authorized to provide investment services in the State of California. An eligible designation does not guarantee that the City will do business with the firm or institution.
- C. The following criteria will be used in determining investment providers
1. Broker/Dealers: The purchase by the City of any investment other than those purchased directly from the issuer shall be purchased from a broker/dealer firm designated as a "Primary Government Dealer" by the Federal Reserve Bank of New York or a regional dealer that qualifies under SEC Rule 15C3-1 (uniform net capital rule).
 2. Banks: The City shall purchase securities from banks which are:
 - a. Nationally or State chartered banks
 - b. Registered as investment securities dealers
 - c. Ranked in the top 25% of its peer group as independently rated by a nationally recognized ranking service.
 3. Investment Bankers, Underwriters and Financial Advisors: The purchase by the City of any investments from these providers in the course of completing a bond transaction must be expressly authorized by the City Council after such a provider discloses their commission, spread or fee in approximate dollar amount. Otherwise, the acquisition of such investments must be procured from the broker/dealers customarily used by the City.
 4. The Federal Reserve Bank: Direct purchases of Treasury bills, notes and bonds from the U.S. Federal Reserve Banks branches are allowed and are exempt from quality requirements.
- D. All financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must provide the following information to the City Treasurer:
1. A completed City of Moreno Valley Broker/Dealer Questionnaire.
 2. Audited financial statements
 3. Proof of National Association of Security Dealers (NASD) certification
 4. Trading resolution
 5. Proof of state registration
 6. Certification of having read and willingness to comply with City's investment policy.
- E. The City Treasurer will conduct an annual review of the financial condition and registrations of brokers/dealers on the City's approved list.

Approved by: City Council
December 17, 1996

Revised 1/13/98; 1/12/99; 2/8/00; 1/3/01; 5/14/02; 11/22/05; 2/26/08; 2/24/09

INVESTMENT POLICY

- F. A current audited financial statement is required to be on file for each financial institution and broker/dealer in which or with which the City invests.
- G. Certificates of deposit will not be placed with an institution once it has received a cease and desist order from any bank regulatory agency.

IX. Authorized and Suitable Investments (with quality and limitation guidelines)

- A. The California Government Code sections 53600 et seq. govern the allowable investments into which a local government agency can enter. These Government Code sections also stipulate as to the portfolio percentage limits and investment quality standards for some but not all permitted investments. The Government Code sections provide a starting point for establishing the City quality standards, percentage limits and maturity levels. In present form, this policy exceeds the standards set forth by the State. Should the Government Code become more restrictive than this policy, the Government Code restrictions shall prevail.
- B. Whenever a maximum allowable percentage of the portfolio is stipulated for any type of security as detailed below, the limit or maximum allowable is determined by the portfolio size or composition at the close of the date on which the security is purchased.
- C. Allowable investments (for a more detailed description of these investment types and for the state limitations see the Investment Management Plan)

(items presented in italics denote policy restrictions which are more restrictive than those dictated by state law)

1. U.S. Treasury bills, notes and bonds
Quality: Equivalent to "AAA"
Portion of Portfolio: not to exceed 70%
Maturity Limit: 5 years
2. Government Sponsored Enterprises (GSE's) or U.S. Agencies
Quality: Equivalent to "AAA"
Portion of Portfolio: not to exceed 70%
Issuer Limit: not to exceed 50%
Maturity Limit: 5 years
3. California State Local Agency Investment Fund (LAIF)
Quality: Not Applicable
Portion of Portfolio: not to exceed 50%
Maturity Limit: Average maturity of fund must be less than 3 years
4. Bonds, notes or other indebtedness of the State of California
Quality: rated "AA" or better
Portion of Portfolio: not to exceed 10%
Maturity Limit: 5 years
5. Bonds, notes or other indebtedness of local agencies in California
Quality: rated "AA" or better
Portion of Portfolio (not to exceed): 10%
Issuer Limit: not to exceed 5%
Maturity Limit: 5 years or less

Approved by: City Council
December 17, 1996

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INVESTMENT POLICY

6. Bankers Acceptances
Quality: Only issuers deemed eligible for purchase by the Federal Reserve Bank
Portion of Portfolio: not to exceed 10%
Issuer Limit: not to exceed 10%
Maturity Limit: 180 days
7. Commercial Paper
Quality: "A1" (Standard and Poors) and "P1" (Moody's) *no split rating*
Portion of Portfolio: not to exceed 15%
Issuer Limit: not to exceed 10% in combination with medium-term notes
Maturity Limit: 270 days
8. Commercial Paper issued under the Temporary Liquidity Guarantee Program (TLGP)
Quality: "A1" (Standard and Poors) and "P1" (Moody's) *no split rating*
Portion of Portfolio: not to exceed 15%
Issuer Limit: not to exceed 10% in combination with medium-term notes
Maturity Limit: 270 days
9. Time Deposits and Non-negotiable Certificates of Deposit
Quality: Deposits in excess of federal insurance programs must be with entities in the Top 25% of peer group as independently rated.
Portion of Portfolio: not to exceed 20%
Issuer Limit: not to exceed: \$500,000
Collateral: Federally insured or 110% in US Treasuries
Maturity Limit: 2 years
10. Negotiable Certificates of Deposit
Quality: rated "A", "A-1", "P-1" or better
Portion of Portfolio: not to exceed 30%
Issuer Limit: not to exceed 10%
Maturity Limit: 5 years
Additional Requirement: Issued by national or state chartered bank, savings or federal association, state or federal credit unions or state licensed branch of foreign bank.
11. Repurchase Agreements
Quality: Not applicable
Portion of Portfolio: not to exceed 20%
Counterparty Limit: not to exceed 5%
Collateral: 102% US Treasuries marked-to-market weekly
Maximum Term: 3 months
Additional Requirements: A Master Repurchase Agreement must be signed with the bank or broker/dealer who is selling the securities to the City.
12. Medium-term Notes (Corporate Obligations)
Quality: "AAA/Aaa" rated (with split ratings, the lower rating must meet the standard)
Portion of Portfolio: not to exceed 20%
Issuer Limit: not to exceed 10% in combination with commercial paper and notes issued under the TLGP
Maturity Limit: 3 years

Approved by: City Council
December 17, 1996

Revised 1/13/98; 1/12/99; 2/8/00; 1/3/01; 5/14/02; 11/22/05; 2/26/08; 2/24/09

INVESTMENT POLICY

13. Medium-term Notes issued under the Temporary Liquidity Guarantee Program (TLGP)
Quality: "AAA" rated or better
Portion of Portfolio: not to exceed 20%
Issuer Limit: not to exceed 10% in combination with commercial paper and Medium-term Notes
Maturity Limit: Must mature on or before June 30, 2012

 14. Mutual Funds and Money Market Accounts
Quality: "AAA" or highest rating for its class
Portion of Portfolio: not to exceed 15%
Issuer Limit: not to exceed 10%
Other restrictions: No back load funds and all funds must be composed of instruments permitted by the Government Code.
Maturity Limit: 3 years average weighted maturity or less

 15. Other State Government, Local Government or Joint Powers Authority Investment Pools
Quality: Equivalent to "AAAf/S1"
Portion of Portfolio: not to exceed 20%
Issuer Limit: not to exceed 10%
Maturity Limit: 3 years average maturity or less
- D.** Investment Pools, Mutual Funds, and Money Market Accounts: A thorough investigation of the pool/fund/account is required prior to investing, and on a continual basis. A questionnaire shall be developed which will answer the following general questions:
1. A description of eligible investment securities, and a written statement of investment policy.
 2. A description of interest calculations and distribution and how gains and losses will be treated.
 3. A description of how the securities are safeguarded (including the settlement process), and how often the securities are priced and the program audited.
 4. A description of who may invest in the program, how often and what is the allowable size of deposits and withdrawals, and any limitations as to number of transactions.
 5. A schedule for receiving statements and portfolio listings.
 6. Are reserves, retained earnings, etc. utilized by the pool/fund?
 7. Is the pool/fund eligible for bond proceeds and/or will it accept such proceeds?
- E.** Repurchase Agreements are legal and authorized by policy. In order to invest in repurchase agreements the City must obtain a signed Master Repurchase Agreement from the participating bank or broker/dealer.
- F.** Prohibited Investment Transactions and Derivatives:
1. The Government Code specifically prohibits certain types of investment instruments for municipalities. In addition to those prohibitions, the following investments are not permitted:
 - a. Reverse Repurchase Agreements
 - b. Financial futures or financial option contracts
 - c. Security lending

 2. Additionally the City shall not invest in any security that could result in zero interest accrual if held to maturity.

 3. Due to the complexity of the securities market and ever-changing market conditions, it is difficult to define derivatives and specifically prohibit their acquisition. Therefore, the City desires to limit the potential risk of derivatives by specifically prohibiting the most common

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INVESTMENT POLICY

types of derivatives with certain market exposures. These prohibited derivatives include but are not limited to: inverse floaters, interest only securities derived from mortgages, residual securities, structured notes, forward based derivatives, forward contracts, forward rate agreements, futures contracts, interest rate futures contracts, foreign currency futures contracts, option based derivatives, option contracts, interest rate caps, interest rate floors, swap contracts, interest rate swaps, interest rate collars, foreign currency swaps, cross currency exchange agreements, fixed rate currency swaps, basis swaps, equity swaps, fixed rate equity swaps, floating rate equity swaps and commodity swaps.

4. Leveraging

- a. The City may not purchase investments on a margin or through a margin account.
- b. The General Portfolio may not be leveraged by more than 30% through the issuance of tax and revenue anticipation notes (TRANS). The proceeds of any TRANS issue are to be invested in accordance with the guidelines in this policy, with investment maturities not to exceed the life of the TRANS.
- c. The City may not leverage its investments through the use of reverse repurchase agreements.

X. Collateralization

- A. **Bank Deposits:** Under provisions of the Government Code, California banks and savings and loan associations are required to secure the City's deposits by pledging government securities with a value of 110% of principal and accrued interest. State law also allows financial institutions to secure City deposits by pledging first trust deed mortgage notes having a value of 150% of the City's total deposits.
- B. **Certificates of deposit:**
 1. The market value of securities that underlay certificates of deposit shall be valued at 110% of the market value of principal and accrued interest.
 2. The City Treasurer, at his/her discretion may waive the collateral requirement for deposits up to the \$100,000 which are covered by the Federal Deposit Insurance Corporation.
- C. **Repurchase Agreements**
 1. The market value of securities that underlay certificates of deposit shall be valued at 102% of the market value of principal and accrued interest.
 2. The value shall be adjusted no less than weekly. Since the market value of the underlying securities is subject to daily market fluctuations, the investments in repurchase agreements shall be in compliance if the value of the underlying securities is brought back to 102% no later than the next business day.
- D. A clearly marked evidence of ownership, safekeeping receipt, must be supplied to the City and retained.
- E. The City chooses to limit collateral to US Treasuries.

Approved by: City Council
December 17, 1996

Revised 1/13/98; 1/12/99; 2/8/00; 1/3/01; 5/14/02; 11/22/05; 2/26/08; 2/24/09

INVESTMENT POLICY

- F. Collateral will always be held by an independent third-party with whom the entity has a current written custodial agreement.
- G. The right of collateral substitution is granted based on the approval of the City Treasurer and City Manager.

XI. Safekeeping and Custody

- A. Third-party safekeeping is required for all investments. Securities may be maintained by a banking institution or a broker/dealer firm for safekeeping as long as the securities are held in the City's name.
- B. Third-party safekeeping arrangements will be approved by the City Treasurer and will be corroborated by a written custodial agreement.
- C. All investment transactions of the City will be conducted using standard delivery vs. payment (DVP) procedures.
- D. All securities held by the safekeeper on behalf of the City shall have the City of Moreno Valley as the registered owner, and all interest and principal payments and withdrawals shall indicate the City of Moreno Valley as the payee.
- E. All bank deposits will be FDIC insured or deposited with institutions that comply with the State collateral requirements for public funds.
- F. Securities used as collateral for repurchase agreements with a maturity from one to seven days can be held in safekeeping by a third party bank trust department or by the broker/dealer's safekeeping institution, acting as the agent for the City, under the terms of a custody agreement executed by the selling institution and by the City specifying the City's "perfected" ownership of the collateral.

XII. Diversification

- A. Investments contained within the portfolio will be diversified by security type, institution and maturity.
- B. At no time shall the City increase the amount of funds kept with a financial institution or in a single type of investment instrument once its share of the general portfolio reaches 70%.

XIII. Maximum Maturities

- A. The City Treasurer will maintain sufficient liquidity in cash and short-term investments, which together with projected revenue receipts will meet the cash flow requirements of the City for the upcoming six months.
- B. To the extent possible, the City will attempt to match its investments with anticipated cash flow requirements.
- C. The City will not directly invest in securities maturing more than five years away from the settlement date. In any case, where a cash flow is matched with an investment which exceeds the five year limit, the investment must be approved by the City Council.
- D. The average weighted maturity of the general portfolio shall not exceed 3 years. The general portfolio does not include bond proceeds or deferred compensation funds.

Approved by: City Council
December 17, 1996

Revised 1/13/98; 1/12/99; 2/8/00; 1/3/01; 5/14/02; 11/22/05; 2/26/08; 2/24/09

INVESTMENT POLICY

- E. To the extent possible, longer-term investment maturities will be spaced so that a portion of such investments mature each year to cover unanticipated emergencies.

XIV. Performance Standards

- A. The investment portfolio shall be designed with the objective of obtaining a rate of return throughout budgetary and economic cycles, commensurate with the investment risk constraints and cash flow needs.
- B. The City employs a passive investment strategy. Given this strategy, the basis used to determine whether market yields are being achieved shall be the State of California's LAIF return rate.
- C. While the City employs a passive investment strategy, the City Treasurer will make his/her best effort to observe, review and react to changing conditions that affect the portfolio.

XV. Reporting

- A. The City Treasurer will provide a monthly report to the City Manager and City Council which will include the following information by security held at the end of the reporting period:
1. Investment Type
 2. Issuer
 3. Maturity Date
 4. Par Value
 5. Market Value
 6. Book Value
 7. Weighted Average Maturity
 8. Source of Market Valuation
 9. Monies maintained within the treasury
 10. Funds, investments and loans that are under the management of contracted parties
- B. Quarterly, and within 60 days of the completion of the quarter, the City Treasurer will submit a report to the City Council in open public meeting with the same investment information provided to the City Manager and City Council on a monthly basis with the addition of the following data:
1. A description of the compliance with the statement of investment policy, or manner in which the portfolio is not in compliance.
 2. A statement denoting the ability of the City to meet cash flow requirements for the next six months, or provide an explanation as to why sufficient money shall, or may, not be available.

XVI. Investment Policy Adoption

- A. Annually, the City Treasurer will render to the City Council a Statement of Investment Policy, including any changes or revisions, to be reviewed and approved at a public meeting.

XVII. Record Retention

- A. The following investment or cash management documents will be maintained in accordance with Chapter 2.60 of Title 2 of the City of Moreno Valley Municipal Code:

Approved by: City Council
December 17, 1996

Revised 1/13/98; 1/12/99; 2/8/00; 1/3/01; 5/14/02; 11/22/05; 2/26/08; 2/24/09

INVESTMENT POLICY

1. Investment Reports and supporting documentation
2. Third-party statements of assets held
3. Investment permanent files
4. Market pricing documentation

Approved by: City Council
December 17, 1996

Revised 1/13/98; 1/12/99; 2/8/00; 1/3/01; 5/14/02; 11/22/05; 2/26/08; 2/24/09

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

JCD
P1DC 12-17-2009
DATE

PRODUCER

TUSTIN INSURANCE AGENCY/PHS
185750 P: (866) 467-8730 F: (877) 905-0457
PO BOX 33015
SAN ANTONIO TX 78265

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

INSURED

CHANDLER ASSET MANAGEMENT, INC.
6225 LUSK BLVD STE B
SAN DIEGO CA 92121

INSURER A: Hartford Casualty Ins Co *AXL*
INSURER B:
INSURER C:
INSURER D:
INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> General Liab GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC	72 SBA AE8637	09/01/09	09/01/10	EACH OCCURRENCE \$2,000,000 FIRE DAMAGE (Any one fire) \$300,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMP/OP AGG \$4,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	72 UEC UM7428	09/01/09	09/01/10	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
A	EXCESS LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$10,000	<i>M. Wong</i> By <u>12-17-09</u> Date	09/01/09	09/01/10	EACH OCCURRENCE \$1,000,000 AGGREGATE \$1,000,000 \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATU-TORY LIMITS OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
	OTHER				

RISK MANAGEMENT Approved

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

Those usual to the Insured's Operations.

CERTIFICATE HOLDER

ADDITIONAL INSURED; INSURER LETTER: _____

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE (10 DAYS FOR NON-PAYMENT) TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Joe Taylor

The City of Moreno Valley
Attn: Steve Elam
PO BOX 88005
MORENO VALLEY, CA 92552

PRODUCER (617)439-9595 Theodore Liftman Insurance, Inc. 101 Federal Street Boston, MA 02110	FAX (617)439-3099		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
	INSURERS AFFORDING COVERAGE		NAIC #	
INSURED Chandler Asset Management, Inc. Ms. Kay Chandler 6225 Lusk Blvd, Suite B San Diego, CA 92121	INSURER A: Twin City Fire Insurance Co.		AXV	
	INSURER B:			
	INSURER C:			
	INSURER D:			
	INSURER E:			

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
	EXCESS / UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y/N (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below				WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	OTHER Investment Adviser Professional Liability Insurance	00 DC 0219845-09	08/02/2009	08/02/2010	Aggregate Limit of Liability: \$10,000,000.00*

RISK MANAGEMENT
Approved

m. uloy 12-17-09
By Date

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

*The aggregate limit of liability is subject to a per claim deductible.

CERTIFICATE HOLDER City of Moreno Valley Attn: Steve Elam Financial & Administrative Services Directory City Treasurer P.O. Box 88005 Moreno Valley, CA 92552-0805	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE Mark Liftman/MSL
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IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

This Certificate of Insurance does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
12/17/2009

PRODUCER Automatic Data Processing Insurance Agency, Inc 1 ADP Boulevard Roseland, NJ 07068	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
	INSURERS AFFORDING COVERAGE	NAIC #
INSURED Chandler Asset Management, Inc. 6225 Lusk Blvd Suite B San Diego, CA 92121-2796	INSURER A: Employers Compensation Ins Co	AX
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	

COVERAGES


THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

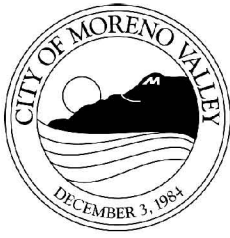
INSR ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
		GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR _____ GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJ-JECT <input type="checkbox"/> LOC				EACH OCCURRENCE	\$
						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$
						MED EXP (Any one person)	\$
						PERSONAL & ADV INJURY	\$
						GENERAL AGGREGATE	\$
						PRODUCTS - COMP/OP AGG	\$
		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS _____				COMBINED SINGLE LIMIT (Ea accident)	\$
						BODILY INJURY (Per person)	\$
						BODILY INJURY (Per accident)	\$
						PROPERTY DAMAGE (Per accident)	\$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT	\$
						OTHER THAN AUTO ONLY: EA ACC	\$
						AGG	\$
		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE _____ DEDUCTIBLE RETENTION \$				EACH OCCURRENCE	\$
						AGGREGATE	\$
							\$
							\$
A		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	ADP032414506	9/1/2009	9/1/2010	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER	
						E.L. EACH ACCIDENT	\$ 1000000.00
						E.L. DISEASE - EA EMPLOYEE	\$ 1000000.00
						E.L. DISEASE - POLICY LIMIT	\$ 1000000.00
		OTHER					

RISK MANAGEMENT
Approved

m. uloy 12-17-09
By Date

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

CERTIFICATE HOLDER CITY OF MORENO VALLEY ATTN: STEVE ELAM P.O. BOX 88005 Moreno Valley, CA 92552-	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE: 
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APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>RH</i>
CITY MANAGER	<i>WBS</i>

Report to City Council

TO: Mayor and City Council
FROM: Barry Foster, Economic Development Director
AGENDA DATE: January 26, 2010
TITLE: RECOVERY ZONE BONDS – PLAN OF ISSUANCE

RECOMMENDED ACTION

Staff recommends that the City Council consider adopting the Recovery Zone Bonds—Plan of Issuance and direct staff to submit it to the California Debt Limit Allocation Committee by January 31, 2010.

BACKGROUND

The American Recovery & Reinvestment Act (ARRA) of 2009, which was a component of the Federal government’s stimulus plan, created a new category of bond financing called Recovery Zone Bonds. The ARRA included an allocation of \$25 billion nationwide for the Recovery Zone Bond program and Moreno Valley was provided a total of \$18.4 million in two allocations for the two different types of Recovery Zone Bonds including:

- \$7,360,000 for Recovery Zone Economic Development Bonds
- \$11,041,000 for Recovery Zone Facility Bonds

Please note that Recovery Zone Bonds are **NOT** grants, but rather allocations for possible bond financing and still requires proper debt service coverage—including a sufficient revenue stream for ongoing bond payments. Several other nearby local governments received allocations for Recovery Zone Bonds including, Corona, Ontario, Rancho Cucamonga, City of Riverside, County of Riverside, City of San Bernardino, and the County of San Bernardino.

DISCUSSION

In September 2009, Moreno Valley established a Recovery Zone city-wide for the possible use of the Recovery Zone Bonds, which need to be issued prior to sunset of the program on December 31, 2010. The Federal government has charged each state to develop a system to ensure that each jurisdiction that received Recovery Zone Bond allocation effectively use their allocations in a timely manner or then reallocate them to other local governments that didn't originally secure an allocation. In California, the California Debt Limit allocation Committee (CDLAC) is the responsible party for the Recovery Zone Bond allocations. To maintain its allocation a city or county must adopt a Recovery Zone—Plan of Issuance, identifying possible qualified projects and then submit the Plan of Issuance to CDLAC by January 31, 2010.

The Plan of Issuance is a broad ranging outline of possible projects that Moreno Valley might consider for use with Recovery Zone Bond financing. The Plan of Issuance doesn't obligate a local government to use Recovery Zone Bonds, but rather just identify possible uses for the City's allocation of Recovery Zone Bonds.

Attachment A provides the proposed Recovery Zone Bonds-Plan of Issuance. The possible projects include:

RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS

- Upgrade Improvement Project for the Edgemont Water System
- Installation of Southerly Ramps at SR 60/Moreno Beach, including the easterly connection of Eucalyptus Avenue to Moreno Beach Drive

RECOVERY ZONE FACILITY BONDS

- Development of a 1.8 million sq. ft. warehouse distribution facility (Skechers) and related improvement associated with the Highland Fairview Corporate Park a 2.62 million sq. ft. mixed-use logistics/commercial development project south of SR 60, between Redlands Boulevard and Theodore Street.

ALTERNATIVES

1. Adopt the Recovery Zone Bonds—Plan of Issuance and direct staff to submit this to CDLAC, which will ensure the City's compliance with the ARRA requirements and the possible use of Recovery Zone Bonds
2. Do not approve the Recovery Zone Bonds—Plan of Issuance, which would cause the City to lose its allocation of Recovery Zone Bonds.

FISCAL IMPACT

The Plan of Issuance only identifies possible projects that might be funded with Recovery Zone Bond financing. Any actual proposed bond issuance shall be subject to a comprehensive financial analysis prior to being considered for financing. The City Council shall have the complete and full consideration of any future financing.

SUMMARY

Recovery Zone Bonds are a new type of bond financing by the Federal government that is a component of the stimulus plan. Moreno Valley received an allocation of \$18.4 million in two different types of Recovery Zone Bonds. In September 2009, Moreno Valley created a Recovery Zone city-wide. A Recovery Zone Bond—Plan of Issuance is required to be prepared to identify possible projects that could be financed with the City's allocation of Recovery Zone Bonds.

ATTACHMENTS/EXHIBITS

Attachment A—Recovery Zone Bonds-Plan of Issuance

Prepared By:
Barry Foster
Economic Development Director

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

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RECOVERY ZONE BONDS-PLAN OF ISSUANCE

CITY OF MORENO VALLEY, CALIFORNIA

January 2010

OVERVIEW

The City of Moreno Valley received the following bond volume allocations for Recovery Zone Bonds:

- \$7,360,000 for Recovery Zone Economic Development Bonds
- \$11,041,000 for Recovery Zone Facility Bonds

On October 13, 2009 the City of Moreno Valley adopted Ordinance No. 799 designating the entire geographic area of the City of Moreno Valley as a Recovery Zone for the purpose of issuing Recovery Zone Bonds.

POSSIBLE PROJECTS FOR RECOVERY ZONE BONDS

The following projects have been designated as possible projects in the City of Moreno Valley to utilize Recovery Zone Bond financing.

RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS

Upgrade & Improvement Project for Edgemont Water System

Project Description

The 480-acre Edgemont area of Moreno Valley is served by Box Springs Water Mutual Company. Using an EPA grant, a comprehensive assessment by Webb Associates has evaluated the existing water system in the Edgemont area and identified the need for an estimated \$15 million in upgrades and improvements to enhance fire suppression capability and domestic water service. Three different phased options of improvements have been identified ranging from \$2.4 million to \$8 million, including:

- Option 1--\$2.4 million. Provides upgrades and new water improvements to approximately 20% of the Edgemont area.
- Option 2--\$5.6 million. Expands improvements area included in Option 1 to provide new water improvements to approximately 50% of the Edgemont area.
- Option 3--\$8.0 million. Includes Options 1 & 2, as well as expanding the new water improvements to service approximately 80% of the Edgemont area.

Timeline

Final improvement plans, including construction drawings and bid specifications would be prepared in 8 to 12 months for the three different options. Construction is estimated at 12 to 18 months.

Approvals of Proposed Project To-Date

The update of the Edgemont Water Master Plan has been completed, including the estimated cost of improvements. The required CEQA evaluation and documentation has been completed.

Phases Improvements to the SR 60/Moreno Beach Drive Interchange

Project Description

The reconstruction and upgrade of the SR 60/Moreno Beach Interchange has progressed to 95% design. Because of diminished funding resources because of the economic slowdown, the reconfiguration of the eastbound ramps on the south side of highway has been proposed for a first phase of development that would eventually tie into the comprehensive interchange project. Undertaking the phased approach would not only be more cost-effective in the short-term but also enhance existing freeway access and allow for the extension of Eucalyptus Avenue to connect with Moreno Beach Blvd. The total estimated cost for the project, including design and bid specifications is \$10.6 million. The SR 60/Moreno Beach Interchange project is a TUMF approved project that is currently funded for the ongoing design and right of way work. The project is also eligible for further TUMF funding when available.

Timeline

Final improvement plans, including construction drawings and bid specifications would be prepared in a minimum of 18 months and also includes the approval of Caltrans.

Approvals of Proposed Project To-Date

Design drawings are at 95% completion. The reconfiguration of the project requires the approval of WRCOG and Caltrans.

RECOVERY ZONE FACILITY BONDS

Development of the Highland Fairview Corporate Park

Project Description including amount

The Highland Fairview Corporate Park (HFCP) project will be a 2,620,000 square foot, LEED-certified, mixed-use logistics/office/commercial development on a 160-acre site. The project is located immediately south of the SR60 Freeway between Redlands Boulevard and Theodore Street. The project consists of four buildable parcels; two logistics sites which will consist of 2,420,000 square feet of warehouse, office and retail space and two commercial sites which will accommodate 200,000 square feet of commercial/office uses. The project will be developed in three phases. The first building

in the project will be the 1,820,000 square foot North American Operational Headquarters Building for Skechers – USA.

The project costs are estimated to be:

Land Value/Improvements	\$ 75 million
Infrastructure Improvements & Fees	\$ 56 million
Development of Buildings	<u>\$ 89 million</u>
TOTAL PROJECT COST	\$220 million

Timeline

Once permits are issued, site development will commence immediately. The entire 160-acre site will be graded and the most of the site infrastructure will be installed in Phase One. When the first building pad is complete and certified, construction of the Skechers building will commence. The overall construction process for Phase One is expected to take 12 months from permit issuance to building occupancy.

Phase One construction	2010-2011
Phase Two construction	2012
Phase Three construction	2014

Approvals of Proposed Project To Date

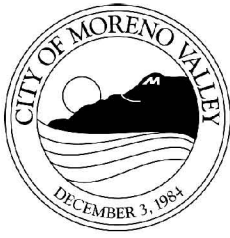
All required planning entitlements have been secured, including a General Plan Amendment, Change Zone, a Tentative Parcel Map and the Plot Plan for the 1,820,000 square foot Skechers building.

Many of engineering plans for public and private infrastructure have been prepared and are completing the plan check process. Building plans have also been prepared and are in plan check.

Note:

The Developer of the Highland Fairview Corporate Park project has submitted a proposal for Recovery Zone Facility Bond financing in response to Riverside County’s Request for Proposals for the County’s allocation of \$74,702,000 in Recovery Zone Bonds. As part of a financing with Riverside County, the City of Moreno Valley would be willing to assign its allocation of \$11,041,000 to be used with a Recovery Zone Bond issuance with the Highland Fairview project in Moreno Valley.

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

Report to City Council

TO: Chairperson and Boardmembers of the Community Redevelopment Agency of the City of Moreno Valley

FROM: Barry Foster, Economic Development Director

AGENDA DATE: January 26, 2010

TITLE: AN ALLOCATION FROM RDA HOUSING SET-ASIDE FUND BALANCE FOR FISCAL YEAR 2009-2010 TO RE-IMPLEMENT AND FUND THE CITY'S HOMEBUYERS ASSISTANCE PROGRAM

RECOMMENDED ACTION

Staff recommends that the Chairperson and Boardmembers of the Community Redevelopment Agency:

1. Authorize an allocation of \$300,000 from the RDA Housing Set-Aside Fund balance (Fund 894) to account # 894.91310.6812 for the re-implementation of the Redevelopment Agency's Homebuyer Assistance Program.

BACKGROUND

On September 29, 2008, the City of Moreno Valley received an allocation of \$11,390,116 under the Federal Housing and Economic Recovery Act of 2008 to formulate a Neighborhood Stabilization Program (NSP). Guidance from the Department of Housing and Urban Development (HUD) requires design of NSP activities that stabilize the neighborhoods of the city most challenged with foreclosures. On November 25, 2008, the City Council approved a Substantial Amendment to the City's FY 08/09 Community Development Block Grant Annual Action Plan and approved the NSP plan to address the single (SFR) and multi (MFR) family housing foreclosure crisis. HUD approved Moreno Valley's NSP grant agreement in March 2009.

Activities that would most effectively address the needs of the City were identified as part of the NSP plan for Moreno Valley. The primary functions of the NSP plan included:

- Acquiring, rehabilitating, and reselling single-family residences to income-qualifying buyers earning up to 120% of the Area Median Income (AMI);
- Acquiring, rehabilitating, and renting multi-family residences to income-qualifying tenants earning up to 50% AMI; and,
- Providing down-payment assistance to first-time homebuyers through a homebuyers assistance program (HAP) similar to the Redevelopment Agency's (RDA) existing HAP.

DISCUSSION

The City budgeted \$3,701,788 of the NSP to providing income-qualifying homebuyers who earn up to 120% AMI financial assistance (up to 20% of the purchase price) toward the purchase of their first home.

During budget preparations for FY 09/10, HAP activities were exclusively budgeted with NSP due to the magnitude of NSP funds allocated to the NSP-HAP compared to the volume of HAP loans that had been issued under the RDA's previous HAP program (typically 5-6 loans, annually through the RDA-HAP) and HUD's 18-month expenditure deadline for the NSP. Consequently, the existing RDA-HAP was de-funded for FY 09/10 and replaced by the NSP-HAP.

Utilizing NSP to fund a homebuyers' assistance program necessitates changes to the former RDA program structure because of HUD requirements for NSP. The former HAP provided homebuyers with down-payment assistance in the form of a zero-interest, 30-year deferred payment loan with an equity-share provision when the property is resold. Unlike the previous homebuyers assistance program, the NSP regulations require the homebuyer to negotiate a minimum discount of 1% off the appraised value and mandate recordation of affordability covenants against the property. The length of the affordability covenant period - minimum of 5 years and maximum of 15 years - is determined by the amount of assistance (subsidy) received by the homebuyer.

At the time Moreno Valley was allocated NSP funds in the Fall of 2008, the residential market offered an abundance of foreclosures as standing inventory. It had been reported that during that time period, Moreno Valley's real estate market had as much as a five to seven month supply of inventory. This abundance of available residential properties created a buyer's market. The high ratio of supply to demand gave the NSP-HAP an increased ability to succeed, as the banks were more flexible in their pricing. However, while yet in the process of modifying the former HAP Program for conformance with NSP regulations, the Moreno Valley residential real estate market began to experience a significant shift. In recent months, the five to seven month supply has slipped to only a one-month supply. Competition has become fierce as investors - with cash offers - have increased interest in the Moreno Valley market. Staff has heard from homebuyers, representatives from other cities with NSPs, and real estate professionals that investors are often outbidding homebuyers and are frequently paying much more than the appraised value for residential properties. The radical and abrupt changes in Moreno Valley's residential real estate market have affected the

methodology by which the banks manage their assets, namely, the banks have become increasingly less flexible in their pricing and structure for accepting offers.

Considering the shift in the Moreno Valley residential real estate market, restrictions imposed by the NSP-HAP impact the City's ability to operate a successful NSP-HAP. Many of the banks – due to program requirements - are less open to selling to homebuyers utilizing NSP funds or other down-payment assistance programs that require a second-position lien to be recorded against the property. However, the likelihood for operating a successful homebuyers assistance program is increased if funded with RDA Housing Set-aside funds, for the following reasons:

- RDA-HAP would be available for residential purchases citywide – not just in the HUD NSP target area.
- No affordability covenants would limit resale pricing.
- No mandatory purchase discount is required – homebuyers may purchase properties at the full appraised value.

To expedite HAP availability, staff is proposing to re-implement the previous RDA-HAP and utilize \$300,000 from the RDA Housing Set-aside Fund to fund the program for the remainder of FY 09/10. For FY 10/11, staff intends to propose RDA-HAP funding of \$500,000. Future year appropriations will be made during the RDA's annual budget cycle. In conjunction with the RDA Budget Appropriation Adjustment proposed in this staff report, the City Council will be considering the re-allocation of some NSP-HAP funds to other HUD-approved NSP activities, under another staff report on January 26, 2010, as follows:

- Retain allocation of \$1,000,000 to the NSP-HAP activity.
- Reallocate \$1,501,788 to NSP Single-family Acquisition, Rehabilitation, and Resale.
- Reallocate \$1,200,000 to NSP Multi-family Acquisition, Rehabilitation, Rental.

By retaining \$1,000,000 in NSP-HAP funding, NSP Development Partners will be able to assist homebuyers interested in purchasing single-family residences acquired and rehabilitated through the NSP Program. It is staff's expectation that utilizing dual funding sources (NSP and RDA funds) will provide the flexibility needed to successfully offer homebuyer assistance, while keeping the City / RDA consistent with program requirements from HUD and redevelopment law.

ALTERNATIVES

1. Authorize an allocation of \$300,000 from the RDA Housing Set-Aside Fund (Fund 894) to business unit # 894.91310.6812 for the reimplementation of the RDA's Homebuyers Assistance Program. **Staff recommends this action as it allows the RDA's Homebuyers Assistance Program to be re-implemented utilizing RDA Housing Set-aside funds. It also promotes program flexibility and provides more options for homebuyers.**

2. Decline to authorize an allocation of \$300,000 from RDA Housing Set-Aside Fund (Fund 894) to business unit # 894.91310.6812 for the reimplementation of the RDA's Homebuyers Assistance Program. **Staff does not recommend this action as it will impede the ability to create a flexible and successful Homebuyers Assistance Program.**

FISCAL IMPACT

The recommended actions to the NSP Program will pose no fiscal impact to the General Fund. If approved, the RDA will appropriate \$300,000 from RDA Housing Set-Aside fund balance (Fund 894) to account number 891.91310.6812 (Homebuyers Assistance Program).

<u>From</u>	<u>To</u>	<u>Amount</u>
894 Fund Balance	894.91310.6812	\$300,000

Under state law, the RDA Housing Set-Aside funds are restricted for uses that support affordable housing. Consistent with state redevelopment law, the HAP makes homeownership affordable and achievable for first-time homebuyers earning up to 120% of the Area Median Income.

CITY COUNCIL GOALS

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, enhanced neighborhood preservation efforts, including home rehabilitation and neighborhood restoration.

Positive Environment

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

SUMMARY

The Moreno Valley residential real estate market has experienced changes over the last year. Such changes have required staff to reevaluate some of the RDA's programs (e.g. the Neighborhood Stabilization Program and the RDA's Homebuyers Assistance Program - HAP). In re-evaluating the market, the RDA's programs, and how they interrelate and/or function, staff is proposing to re-implement the RDA's funding for homebuyers assistance and utilize \$300,000 from the RDA Housing Set-aside Fund to fund the program for the remainder of FY 09/10. For FY 10/11, staff intends to propose RDA-HAP funding of \$500,000. Future year appropriations will be made during the RDA's annual budget cycle. In conjunction with using the RDA funds for the HAP, the City Council will also consider reallocating NSP funds to other HUD-approved NSP activities, under a different staff report but at the same City Council / RDA Board meeting.

The objective in utilizing dual funding sources (NSP and RDA funds) will provide the flexibility needed to successfully offer homebuyers assistance, while keeping the City / RDA consistent with program requirements from HUD and redevelopment law. Additionally, operating the RDA's former HAP along with the NSP-HAP provides more options to the homebuyer, as the restrictions that apply to the NSP-HAP will not be applicable to the RDA's HAP Program.

ATTACHMENTS/EXHIBITS

Attachment A Guidelines of the former HAP Program

Prepared By:
 Name Shanikqua Freeman
 Title Housing Program Coordinator

Department Head Approval:
 Name Barry Foster
 Title Economic Development Director

Concurred By:
 Name Michele Patterson
 Title Redevelopment & Neighborhood Programs Administrator

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

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CITY OF MORENO VALLEY HOMEBUYER ASSISTANCE PROGRAM POLICY AND PROCEDURES

Approved May 19, 2004
Revised July 1, 2008
Revision 8.1

*Making the
Dream
of
Homeownership
a
Reality*

City of Moreno Valley
Economic Development Department
Neighborhood Preservation Division
14177 Frederick Street
P.O. Box 88005
Moreno Valley, CA 92552-0805
951.413.3450

**CITY OF MORENO VALLEY
HOMEBUYER ASSISTANCE PROGRAM
POLICY AND PROCEDURES**



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**CITY OF MORENO VALLEY
HOMEBUYER ASSISTANCE PROGRAM (HAP)
PROGRAM PROCEDURES MANUAL**

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SECTION 1: HAP OVERVIEW

1.1 INTRODUCTION

The Homebuyer Assistance Program (HAP) Procedures Manual describes the HAP program and sets forth the role and requirements of the City, participating lenders, escrow companies, real estate agents, and the homebuyer, (hereinafter called the borrower) and seller. This document contains a description of the HAP loan parameters, processing procedures, and program administration. The City may revise these guidelines from time to time as deemed necessary.

The City encourages all eligible first-time borrowers to apply for a HAP loan. Participating lenders are expected to be well informed about all the restrictions contained in this manual so that both borrowers and sellers alike are aware of these restrictions before the loan application is taken.

1.2 PURPOSE AND OBJECTIVE

The City Council authorized the Homebuyer Assistance Program (HAP) for the purpose of providing down payment assistance to low, median, and moderate-income homebuyers purchasing a home within the City of Moreno Valley.

The program funding sources are the Redevelopment Agency (RDA) 20 percent set-aside Low and Moderate Income Housing Fund, and the Federal HOME Investment Partnership Program (HOME).

The Health and Safety Code provides that not less than 20 percent of all taxes allocated to a jurisdiction's RDA set-aside funds must be used to preserve, increase, or improve the community supply of housing available to families of low or moderate and very low-income households.

The purpose of HOME funds is to expand the supply of affordable housing for low- and very low-income families. HOME funds are subject to all federal rules and regulations as published in 24 CFR Part 92.

The objective of the Homebuyer Assistance Program (HAP) is to promote neighborhood stabilization and revitalization.

1.3 HOW A HOMEBUYER/BORROWER APPLIES FOR A HAP LOAN

The borrower must obtain a first mortgage loan and apply for the HAP loan through one of the HAP Participating Lenders approved by the City. The Lender will calculate the needed HAP assistance in conjunction with the City and submit the Application Package to the City for approval.

SECTION 2: HAP LOAN PARAMETERS AND FIRST MORTGAGE REQUIREMENTS

2.1 LOAN TERMS

- Second Lien:** The City HAP loan is a second mortgage, and must be in second lien position.
- Interest Rate:** 0% Interest.
- Loan Term:** Due and payable in 30 years.
If the property is sold, the buyer ceases to occupy the property, or the property is refinanced and cash taken out during the 30-year term, the loan will become immediately due and payable.
- Payments:** Deferred no (principal or interest) payments are required during the loan term.
- Shared Equity:** The loan terms include an equity sharing arrangement in lieu of interest on the deferred loan. When the property is sold or transferred, the City will receive a share of the gain on sale in addition to the original amount loaned. The percentage factor of the equity share percentage is calculated by dividing the original HAP loan amount by the original purchase price.

Share of Equity Example:

If the HAP loan amount was \$52,345 and the original purchase price was \$261,725, the equity share percentage would be 20% (52,345 divided by 261,725). Next, the equity share percentage is multiplied by the gain on the sale (as determined by the sales price or the property value certified by a professional appraiser) to determine the City's share of the profit on the sale. If the gain on the sale were \$50,000, the City's share would be 20% of \$50,000, or \$10,000. The equity share amount is added to the HAP loan principal balance. The total repayment to the City would be \$62,345.

- Assumability:** The HAP loan is not assumable or transferable.

2.2 LOAN AMOUNT

The amount of HAP down payment assistance is based on the purchase price and the borrower's income. The borrower may only receive what is needed to close the purchase transaction. The maximum HAP loan amount is 20% of the purchase price as determined by the City. *The purchase price cannot exceed the appraised value.*

SECTION 2: HAP LOAN PARAMETERS AND FIRST MORTGAGE REQUIREMENTS CONTINUED...

2.3 FUNDS USAGE

HAP funds are restricted for down payment only, and **cannot** be used to pay for any closing costs.

2.4 PROGRAM CHARGES AND FEES

The Lender may only charge the borrower reasonable fees as would be charged to a borrower applying for a mortgage not provided in connection with the HAP loan.

The cost for title insurance (limited coverage) for the HAP should also be included as part of the first mortgage loan fees. There will be no other fees incurred by the HAP loan process.

2.5 ELIGIBLE FIRST MORTGAGE TYPE

The HAP loan may only be used in conjunction with fixed-rate, fully amortized, 30-year FHA or Conventional (FNMA or Freddie Mac) loan types.



Lease Option, VA loans, ARM, Buy Down, and Interest Only loans are not eligible for use with the HAP.

The first mortgage lender will estimate the HAP loan amount and process the first mortgage and HAP loans concurrently. The City will determine the final amount of the HAP assistance upon receipt of the HAP Loan Submission Package (Approval Phase). The HAP loan can only be used with original first mortgage financing, and will only be subordinated to the first mortgage.

Lenders will process the underlying mortgages using standard procedures, with adjustments to those procedures to conform to the HAP guidelines. The borrower must accept the highest loan-to-value ratio first mortgage amount for which they can qualify.



Note: Lenders must use the more restrictive program parameters of the HAP loan program or first mortgage loan program, (e.g. FHA, Fannie Mae, Freddie Mac).

2.6 COMBINED LOAN-TO VALUE


The borrower(s) must receive the highest loan-to-value ratio first mortgage amount for which they can qualify. The combined loan-to-value (CLTV) of the first mortgage without financed MIP, if applicable, and the HAP loan **cannot exceed the maximum CLTV of 100%**.



Note: Lenders must use the more restrictive CLTV limits of the HAP Program or the first mortgage loan program, (e.g. FHA, Fannie Mae, Freddie Mac).

SECTION 3: BORROWER ELIGIBILITY

3.1 FIRST TIME-HOMEBUYER

To qualify, the borrower must not have owned a home or held an interest in residential real property for the previous three (3) years prior to the date of the application. *Exception: A person who qualifies as a displaced homemaker or a single parent ( See Definition Section), while previously married, owned a home with his/her spouse, does not need to meet this HAP requirement.*



To comply with first-time homebuyer requirements and ensure the household does not exceed the maximum income limit, each borrower and all persons expected to reside in the residence must provide copies of their most recent three years' **Federal Income Tax Returns**. The Returns must be **re-signed and dated (live ink) by the applicable borrower(s) or household member** as certification that they are true and exact copies of the returns submitted to the IRS.

If the borrower(s) or any other household member cannot provide a copy of his or her Federal Income Tax Returns, he or she may:

1. Request copy from the IRS; or
2. Request form #1722 from the IRS (This form may be accepted if it can be determined that the he or she did not itemize their deductions.)

3.2 HOMEBUYER EDUCATION

Each borrower receiving HAP assistance (taking title) is required to attend a Homebuyers Education/Counseling Seminar before the loan documents are drawn. The City has approved the following three non-profit agencies as the providers. The first lender is responsible for ensuring the borrower(s) a session and must forward the original Certificate of Completion for **each** borrower before the HAP loan documents are drawn.

Approved Providers	Address	Telephone
Fair Housing Council of Riverside Co., Inc.	3933 Mission Inn Avenue Riverside, CA 92501 Web: www.fairhousing.net	951.682.6581 800.655.1812
Inland Fair Housing and Mediation Board	60 East 9 th Street, Ste. 100 Upland, CA 91786 Web: www.inmedbd.com	909.984.2254 800.321.0911
Springboard	1605 Spruce Street, Ste. 100 Riverside, CA 92507 Web: www.credit.org	800.947.3752

SECTION 3: BORROWER ELIGIBILITY CONTINUED...

3.3 INCOME LIMITS

The borrower's **total annualized current gross household income cannot exceed 120%** of the Riverside County area median income (AMI) adjusted by household size.

The annual gross income of the borrower(s) **and** any other adult who will live in the subject property must be included when determining maximum income eligibility. The maximum income limits are subject to change each year.

The 2008 annual income limits effective April 12, 2008, are as follows:

Household Size	50% (Very Low)	70% (Low)	80% (Lower)	100% (Median)	110% (Moderate)	115%- FHA (Moderate)	120% (Moderate)
1 Person	23,300	30,380	37,300	43,400	47,740	49,900	52,100
2 Person	26,650	34,720	42,650	49,600	54,560	57,050	59,500
3 Person	29,950	39,060	47,950	55,800	61,380	64,150	67,000
4 Person	33,300	43,400	53,300	62,000	68,200	71,300	74,400
5 Person	35,950	46,900	57,550	67,000	73,700	77,000	80,400
6 Person	38,650	50,330	61,850	71,900	79,090	82,700	86,300
7 Person	41,300	53,830	66,100	76,900	84,590	88,400	92,300
8 Person	43,950	57,260	70,350	81,800	89,980	94,100	98,200



Note: Lenders must use the more restrictive income limit of the HAP Program, HOME Program, or first mortgage loan program, (e.g. FHA, Fannie Mae, Freddie Mac).

3.4 INCOME QUALIFICATION CRITERIA

The annual income for purposes of qualifying for a HAP loan includes **all** household income, and may be lower or higher than the income amount utilized by the lender to underwrite the first mortgage (👁 **See the Income Worksheet**). There are two major differences:

- **Anticipated Income:** The HAP figure represents ANTICIPATED income, while the Lender's figure represents income AVERAGED over the last few years; and
- **Income Sources:** The HAP requires that every source of income, taxed or untaxed, be included in the HAP computation, while the underwriter for the first mortgage lender may choose not to honor sources of income that are sporadic and lack a strong track record.

Continued on next page.

SECTION 3: BORROWER ELIGIBILITY CONTINUED...

3.4 INCOME QUALIFICATION CRITERIA CONTINUED...

Gross Income is calculated based on **annual household income** that will be used as set forth as follows:

1. All of the income of all adult working household members over the age of 18 who share the same dwelling unit or share in the ownership of the unit shall be considered in the total family income. If over 18 and a full time student, verification of full time status will be required.
2. Gross income will be the full amount before taxes and any payroll deductions. All overtime, bonuses and commissions will be counted as income.
3. For self-employed individuals, adjusted gross income will be the net income from the operation of the business and profession, as calculated by averaging the net income manifested by their Federal income taxes for the past three (3) years.
4. Interest earned, dividends, and other net income of any kind will be counted as part of the household gross income.
5. Social security payments, income from annuities, insurance policies, retirement funds, pensions, disability or death benefits, including other similar periodic receipt of income will be counted as part of the household gross income.
6. Payments in lieu of earnings, such as unemployment, worker's compensation, severance pay, and welfare assistance will be included in the computation of gross income, even though lenders may not utilize these earnings for the issuance of credit. Food stamps value are not included in the income calculation.
7. Periodic and determinable allowances, such as alimony and child support payments will also be included in the computation of gross income.
8. All regular pay, special pay, and allowances of a member of the Armed Forces will be included as Gross income.
9. Any other income that must be reported for Federal income tax purposes will be included.

If the borrower(s) receives overtime, commission, or other wages in addition to their regular salary/hourly rate, the Verification of Employment (VOE) must have each amount listed separated to determine anticipated income.

In addition to the VOE, the borrower(s) will be required to provide signed and dated Federal tax returns for the last three (3) years and verification of current income, as evidenced by copies of the most recent pay stubs for the last 30 days.

SECTION 3: BORROWER ELIGIBILITY CONTINUED...

3.5 MAXIMUM AFFORDABLE HOUSING COST AND HOUSING RATIO

Affordable Housing Cost Definition:

The Affordable Housing Cost (AHC) is the maximum monthly housing cost that a borrower in a certain income level may pay based on a percentage of income adjusted by household size.

Section 6920 of Title 25 of the California Code of Regulations defines the affordable housing cost to include the following:

- Principal and interest (first mortgage)
- Property Taxes and Assessments
- Homeowners' Association (HOA) Dues
- Hazard Insurance (if not included in HOA)
- Mortgage Insurance Premium
- Utility Allowance: including garbage collection, sewer, water, electricity, gas, and other heating, cooking, and refrigeration fuels
- Maintenance and Repair Allowance

Summary of Affordable Housing Cost (AHC) Expense and Housing Ratio:

The following is a summary of the AHC expense and front-end ratio. Refer to **Table 3.2 - Maximum Monthly Housing Cost and Ratio Schedule** for additional requirements.

- **Households earning less than 80% AMI (Lower):** Cannot exceed the **lesser** of:
 - **30%** of the borrower's gross monthly income; **or**
 - The affordable housing cost limits stated in the **Maximum Monthly Housing Cost Schedule in Table 3.2.**
- **Households earning more than 80.01% - 120% AMI (Low - Moderate):**
 - Minimum housing expense ratio is 28% of the borrower's gross monthly income; and
 - cannot exceed the **lesser** of 35% of the borrower's gross monthly income, **or**
 - The affordable housing cost limits stated in the **Maximum Monthly Housing Cost Schedule in Table 3.2.**

Continued on next page.

SECTION 3: BORROWER ELIGIBILITY CONTINUED...

3.5 MAXIMUM AFFORDABLE HOUSING COST AND HOUSING RATIO CONTINUED...

 **Maximum Monthly Housing Cost and Housing Ratios:**

Table 3.2 provides the maximum monthly affordable housing cost limits and ratios defined by the applicable income level and unit size. **The maximum monthly housing cost must include utility and maintenance allowance per Table 3.3.**

Table 3.2 Maximum Monthly Housing Cost and Ratio Schedule						
AMI Level	One Bedroom	Two Bedroom	Three Bedroom	Four Bedroom	Five Bedroom	Six Bedroom
50% - Very Low 30% of 50% of Median	<ul style="list-style-type: none"> No Minimum housing expense ratio requirement Not to exceed the lesser of 30% of borrower's gross monthly income <u>or</u> the amounts listed below 					
	\$543	\$620	\$698	\$775	\$838	\$899
70% - Low 30% of 70% of Median	<ul style="list-style-type: none"> No Minimum housing expense ratio requirement Not to exceed the lesser of 30% of borrower's gross monthly income <u>or</u> the amounts listed below 					
	\$868	\$977	\$1,085	\$1,173	\$1,258	\$1,432
70.01% - 80.00% Low - Lower	<ul style="list-style-type: none"> No Minimum ratio requirement Not to exceed 30% of Gross Monthly Income 					
80.01% - 110% Moderate	<ul style="list-style-type: none"> Minimum 28% Not to exceed the lesser of 35% of Gross Monthly Income or the amounts listed below 					
	\$1,591	\$1,790	\$1,989	\$2,150	\$2,307	\$2,467
110.01%-120% Moderate	<ul style="list-style-type: none"> Minimum 28% Not to exceed 35% of Gross Monthly Income 					

 **Utility and Maintenance Allowance Schedule:**

Table 3.3 defines the **2008 Utility and Maintenance Allowance** amounts to include when determining the borrower's Affordable Housing Cost expense. The amounts are subject to change in July of each year.

Table 3.3 2008 Utility and Maintenance Schedule						
Size of Unit	One Bedroom	Two Bedroom	Three Bedroom	Four Bedroom	Five Bedroom	Six Bedroom
Utilities	\$151	\$183	\$217	\$265	\$299	\$331
Maint. & Repairs	\$20	\$25	\$30	\$35	\$40	\$50
Total	\$171	\$208	\$247	\$300	\$339	\$381

Utility Allowance Source: Housing Authority of the County of Riverside, July 1, 2008

SECTION 3: BORROWER ELIGIBILITY CONTINUED...

3.6 TOTAL DEBT /BACK END RATIO

The borrower's total monthly debt back-end ratio (Total Housing expense and all other debt combined) cannot exceed **42%*** of the borrower's gross monthly income.

**If compensating factors exist, under extenuating circumstances, the borrower(s) may qualify with a higher back-end ratio, not to exceed 45%, subject to supporting documentation and Loan Committee approval.*

3.7 CREDIT STANDARDS

The HAP Program requires the borrower(s) to have fair to good credit. The first mortgage lender's credit standards may differ from those of the City's.

If a bankruptcy and/or a foreclosure exist, a waiting period of **three years** is required before the borrower may participate in the HAP Program. The Loan Committee will reserve the right to approve such loans if extenuating circumstances exist (i.e. death, divorce, etc.) In addition, the credit record(s) must not show substantial disregard for former or existing obligations.

3.8 CASH ASSETS

In order to qualify for the HAP, the borrower(s) must not be able to purchase a home with his/her current assets, yet still have sufficient income and credit with which to qualify for a loan. **The borrower(s) shall have at least one month's total housing expense** (principal, interest, taxes and insurance) in reserves at the time of closing **but not more than six month's total housing expense reserves.**

For purposes of the HAP program, the following are considered assets in determining program eligibility:

- A. Cash savings, marketable securities, stocks, bonds, and other forms of capital investments other than Individual Retirement Accounts, KEOGH plans, or other retirement vehicles.
- B. Inheritances, cash lump sum insurance payments, settlements for personal property damage already received will be considered a household asset.
- C. Any equity in real estate will be considered an asset.
- D. Allowable assets will be the borrower's portions of the down payment and up to six months savings for monthly housing costs.

The cash value of an asset is its market value minus reasonable expenses required to convert the asset to cash.

SECTION 3: BORROWER ELIGIBILITY CONTINUED...

3.9 OWNER OCCUPANCY REQUIREMENTS




The borrower(s) must occupy the residences within 21 days of closing, and continue to occupy, as long as the HAP loan exists, as his or her principal residence.

Borrowers may not rent, sell, assign or transfer the residence as long as the HAP loan exists on the property.

SECTION 4: PROPERTY ELIGIBILITY AND HOME INSPECTION REQUIREMENTS

4.1 PROPERTY TYPES

Eligible homes must be:

-  Located within the **City of Moreno Valley**.
-  An **existing single-family residence or condominium**. Manufactured homes on individually owned parcels might qualify for assistance if they are on a permanent foundation. Preference will be given for foreclosure properties and others that have been vacant over 90 days. Properties with a pool/spa may be considered on case-by-case basis, subject to Loan Committee approval.
-  **The property must be currently owner occupied by the seller, vacant or occupied by tenant buyer/borrower purchasing the home.** The City will not pay relocation expenses for displaced tenants. The Seller's Affidavit requires the seller(s) to certify to the property's occupancy status.

Ineligible homes are:

-  New homes and mobile homes on rented spaces are not eligible.

4.2 MAXIMUM PURCHASE PRICE

The maximum purchase price cannot exceed **95%** of the Riverside County - FHA Single Family Mortgage Limit under 203(b) of the National Housing Act (12.U.S.C. 1709(b)) as determined by HUD. Effective May 29, 2007, the HAP maximum purchase price limit is **\$362,790**. Although HUD has increased the 2008 limit, the city will continue to use the limit in effect in 2007.


(The EDD Director reserves the right to adjust the maximum purchase price based upon market conditions).

4.3 PROPERTY VALUE

The lender must provide the City with a copy of the Appraisal Report with color pictures. A professional appraiser may only determine the property value, and the purchase price cannot exceed the appraised value.

SECTION 4: PROPERTY ELIGIBILITY CONTINUED...

4.4 PROPERTY STANDARDS AND INSPECTION REQUIREMENTS

The home must be in sound condition and meet established City of Moreno Valley Housing Quality Standards. ( **See the Housing Quality Standards Exhibit**).

The City will require an inspection of the property performed by the City Inspector to ensure the property is eligible under the HAP Program. **City staff will contact the lender to schedule the inspection within five (5) business days from receipt and review of a completed HAP Reservation Request Package.** Generally, the inspection will be conducted within 10 business days from the date of the City's issuance of a Reservation Confirmation; however, increased volume may extend the time period.



Note: Inspections are not conducted on Fridays.



The City inspection will include an assessment for lead-based paint for all properties built in or before 1978. The inspection may determine that additional testing and possible abatement may be required due to the age of the property and the condition of the paint. **The HAP Loan Submission Package must include the original City form, "Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards," executed the borrower, seller and listing agent.**

After the City Inspector performs the inspection, and if it is determined that repairs are necessary before the property is HAP program eligible, City staff will prepare an **"Inspection Results Report,"** identifying any deficiency items. The report will be distributed to the lender, borrower, seller and agents.



The seller must complete and return the original Acknowledgement Section of the "Inspection Results Report" to the City, which advises the City of the seller's intention regarding completion of the required repairs. Fax copies are acceptable. **It is the City's recommendation that the seller does not begin the repairs until after the lender submits the HAP Loan Submission Package and the Loan Committee approves the borrower(s).**

In the event that the seller elects to not repair the property as required, the property would not be eligible under the HAP program.



Note: The borrower is prohibited from making or paying for any repairs.





After the seller completes the repairs, the lender must contact the City to schedule a re-inspection of the property. The HAP loan cannot close until all repairs are completed and the City Inspector authorizes clearance.

SECTION 5: HAP APPLICATION PROCESSING AND CLOSING REQUIREMENTS

Lenders must adhere to the HAP processing time frame, and promptly notify the City in writing of any HAP cancellations and/or requests for commitment extensions.

The HAP processing procedures are designed to coincide with standard mortgage loan processing and underwriting procedures that are in place at most mortgage lending institutions. Recognizing there are procedural variations among the participating lenders, the procedures outlined here are meant to serve as guidelines with respect to the sequence of events. However, the City, lender, real estate agent, borrower, escrow, and title companies must at some point complete all the elements of the processing sequence outlined in this manual regardless of sequence.


5.1 **LOAN ORIGATION**

1. Borrower applies for the HAP loan with an approved HAP participating lender in conjunction with the first mortgage loan.
2. The lender discusses the program parameters with the borrower and determines that the borrower is an eligible candidate for HAP based on income, prior home ownership and other borrower eligibility factors as referenced in the Borrower Eligibility Section, and the purchase transaction meets the HAP guidelines.
3. The lender and borrower complete the HAP documents that include specific certifications as required by the HAP Program, Federal and/or State regulations and requirements. ( **See the Exhibits Section.**)
4. Lender submits Reservation Request Package to the City. ( **See Section 5.2 Request for Reservation of HAP Funds below.**)
5. Lender performs standard underwriting procedures and determines that the borrower qualifies for a first mortgage.

5.2 **REQUEST FOR RESERVATION OF HAP FUNDS** **(MINIMUM OF 45 DAYS BEFORE ESTIMATED CLOSE OF ESCROW)**

RESERVATION REQUEST WILL BE PROCESSED IN THE DATE AND TIME ORDER RECEIVED – NO EXCEPTIONS. IF A RESERVATION REQUEST PACKAGE IS INCOMPLETE, THE RESERVATION REQUEST WILL BE DECLINED, AND THE LENDER WILL BE REQUIRED TO SUBMIT A NEW RESERVATION REQUEST PACKAGE.




1. The lender submits the Reservation Request Package to the City a minimum of 45 days before the estimated close of escrow date. ( **See the HAP Reservation Request Form in the Exhibits Section.**) The Reservation Request Package may be submitted by way of fax; however, applicable original HAP documents must be included in the HAP Loan Submission Package (Approval Phase).

Continued on next page.

SECTION 5: HAP APPLICATION PROCESSING AND CLOSING REQUIREMENTS CONTINUED...

5.2 REQUEST FOR RESERVATION OF HAP FUNDS AND PROCESSING CONTINUED...

2. City staff will review the Reservation Request Package within three (3) business days from the receipt date for completeness, consistency, accuracy, and compliance with the HAP loan eligibility requirements regarding the borrower, the property, and the financing structure of the transaction.
3. If the Reservation Request Package is complete, the City will forward a Reservation Confirmation to the lender within the 5 business day period and schedule the property inspection. ( See the Property Eligibility Section for inspection details.)


IF A RESERVATION REQUEST PACKAGE IS INCOMPLETE, THE RESERVATION REQUEST WILL BE DECLINED, AND THE LENDER WILL BE REQUIRED TO SUBMIT A NEW RESERVATION REQUEST PACKAGE.



Note: the reservation confirmation letter is not a loan approval.

4. The reservation will expire in 45 days. If the lender does not submit the HAP Loan Submission Package (Approval Phase) within 45 days from the reservation confirmation date, the City will cancel the reservation request.

5.3 REQUEST FOR HAP LOAN APPROVAL (MINIMUM OF 30 DAYS BEFORE ESTIMATED CLOSE OF ESCROW)

The lender submits the HAP Loan Submission Package (Approval Phase) to the City a **minimum of 30 days before the estimated close of escrow date.** ( See HAP Loan Submission Checklist (Approval Phase) in the Exhibits Section.)

1. City staff will review the HAP Loan Submission Package within 10 business days from the receipt date for completeness, consistency, accuracy, and compliance with the HAP loan eligibility requirements regarding the borrower, the property, and financing structure of the transaction.
2. If the package is complete and the borrower(s), the property, and the purchase transaction meet the HAP eligibility guidelines, staff will prepare the file for submission to the Loan Committee at the next available meeting.



3. The Loan Committee meets regularly on the **1st and 3rd Wednesday of each month.** On occasion, it may be necessary to reschedule the meeting due to holiday or staff schedules. A HAP Loan Submission Package must be received a minimum of seven (7) days before the Loan Committee meeting date. If not, it will be presented on the next scheduled meeting date. Please plan accordingly.

If the HAP Loan Submission Package (Approval Phase) is not complete, the City will suspend the HAP reservation request and/or the incomplete file will be returned to the lender. All suspense items must be received a minimum of seven (7) days before the next Loan Committee meeting date. If the suspense items are not received in sufficient time for staff review, staff will not submit the loan until the next scheduled meeting. (Continued on next page.)

SECTION 5: HAP APPLICATION PROCESSING AND CLOSING REQUIREMENTS CONTINUED...

5.3 REQUEST FOR HAP LOAN APPROVAL CONTINUED...

4. Upon approval/declination, the City will prepare and fax a Approval/Declination Letter to the Lender. The approval is valid for a period of 60 days. The Housing Program Coordinator may grant a 30-day extension, if requested, in writing by the lender. The "approval" shall be contingent on approval of the first mortgage, compliance with all program criteria, and HAP compliance loan conditions.

5.4 HAP LOAN CLOSING CONDITIONS AND PRE-FUNDING REQUIREMENTS (MINIMUM OF 10 BUSINESS DAYS BEFORE CLOSE OF ESCROW)



STANDARD HAP CLOSING CONDITIONS:

1. **Reminder** – the HAP funds are limited for use as down payment assistance only.
2. **DO NOT pad closing cost.** The borrower cannot receive any cash back at closing. The closing agent must return all refunds/overages due to the borrower(s) after closing to the City for principal reduction of the HAP loan along with a copy of the final HUD-1 Settlement Statement.
3. **Hazard Insurance Coverage** – Hazard Insurance cover must include the HAP loan and list the City as the second lien holder/mortgagee on the Declaration of Insurance. The City must review to the Declaration of Insurance before the release of funds to the closing agent.

The City's Loss Payee is:

The City of Moreno Valley, The Community Redevelopment Agency, and The Community Service District
Its Successors and/or Assigns

Address:

City of Moreno Valley
Attention: Neighborhood Preservation Division
P.O. Box 88005
City of Moreno Valley, CA 92552-0805

4. **Title Insurance:** A separate Limited Title Insurance policy is required for the HAP loan and the fee collect from the borrower at closing. The City must receive a final Title Policy referencing the following:

The City of Moreno Valley and The Community Redevelopment Agency,
Its Successors and/or Assigns

5. **Estimated HUD-1:** Closing Agent to provide the City with a certified copy of Estimated HUD-1 prior to funding for review.

SECTION 5: HAP APPLICATION PROCESSING AND CLOSING REQUIREMENTS CONTINUED...

5.5 PRE-CLOSING PROCESSES (MINIMUM OF 10 BUSINESS DAYS BEFORE CLOSE OF ESCROW)



The City prepares the loan documents listed below and a Pre-funding Closing Instructions letter to the closing agent listing the HAP standard conditions as referenced above, and any other "Prior to Funding Conditions," if applicable. The City will contact the lender to schedule pickup.

The Closing Documents Include:

- HAP Deed of Trust and Assignments of Rent
- HAP Promissory Note (HOME or RDA)
- Final Equity Share Disclosure
- HOME Funds Disclosure, if HOME Funds are applicable
- Truth-In-Lending Disclosure Statement
- 4506 or 8821-Tax Information Authorization



NOTE: THE CITY ATTORNEY AND CITY MANAGER MUST SIGN THE DEED OF TRUST. THEY WILL ONLY SIGN IT AFTER THE BORROWER(S) HAS EXECUTED THE DOCUMENT.

5.6 FUNDING PROCESSES (MINIMUM OF 5-7 BUSINESS DAYS BEFORE FUNDING)



After the borrower executes the HAP loan documents and obtains Hazard Insurance, the Closing Agent must return the following items to the City a minimum of 5-7 Business days before funding to facilitate review and execution of the Deed of Trust by the City Attorney and City Manager.

- HAP Deed of Trust and Assignments of Rent (ORIGINAL)
- HAP Promissory Note (HOME or RDA) (ORIGINAL)
- HOME Funds Disclosure, if applicable (ORIGINAL)
- Final Equity Share Disclosure (ORIGINAL)
- Truth-In-Lending Disclosure Statement (ORIGINAL)
- 4506 or 8821-Tax Information Authorization (ORIGINAL)
- First Mortgage Deed of Trust (COPY)
- First Mortgage Note (COPY)
- Declaration of Insurance referencing the City (COPY)
- Certified copy of Estimated Final HUD-1 (COPY)

After the City reviews the Closing Package documents, and the Deed of Trust signed by the City Attorney and City Manager, staff schedules pick up of the HAP Deed of Trust with the closing agent for recordation, and issues wire transfer authorization of the HAP funds.

**SECTION 5: HAP APPLICATION PROCESSING AND CLOSING REQUIREMENTS
CONTINUED...**

5.7 AFTER FUNDING PROCESSES

The closing agent provides the City with a certified copy of the Final HUD-1 Settlement Statement, and a check for any cash proceeds/overages for HAP loan principal balance reduction, if applicable, two weeks after closing.

SECTION 6: MISCELLANEOUS INFORMATION AND ADMINISTRATION PROCESSES

6.1 CANCELLATION AND COMMITMENT EXPIRATIONS

In a situation where the borrower or seller makes the decision to cancel the purchase transaction, written notice must be given to the City before the expiration of the Reservation Commitment or the Approval Commitment. The notice must include the reason(s) for the cancellation and be signed by both the Lender and the Borrower.

Before the Commitment has expired, the Lender must either: (1) submit the closing package; (2) submit a written request for a 30-day extension; or, (3) submit a notice of cancellation as described above.

6.2 REVOCATIONS

Automatic revocation occurs when the residence for which a HAP loan was issued ceases to be the borrower's principal residence; the HAP loan will become due and payable.

Automatic revocation occurs when the original loan/first mortgage is refinanced, unless the City of Moreno Valley has approved a Streamline Refinance loan for which no cash is taken out by the borrower during the transaction.

Revocation will occur upon discovery by the City or a participating Lender of any material misstatement, whether negligent or fraudulent. If the HAP loan is revoked, it is immediately due and payable.

6.3 TRANSFERRING HAP APPLICATIONS TO ANOTHER LENDER

If a Borrower has a pending HAP Reservation Commitment or Approval Commitment, and decides to change from one participating lender to another, the City will honor the original expiration date as long as all other conditions are unchanged and the new lender verifies the commitment documents and provides updated HAP forms accordingly. The transfer will be acceptable to the City only after written notification from the borrower is received.

6.4 CHANGING PROPERTIES DURING THE HAP APPLICATION PROCESS

Should the borrower elect to change properties, which could be the result of the seller's cancellation or the property's failure to meet the City of Moreno Valley Housing quality Standards, the reservation, and/or commitment is no longer valid. If the borrower finds a replacement property, a new application for reservation and commitment is required and is subject to the availability of funds.

6.5 POST AUDIT

The City or its assignee retains the express authority to perform annual random case post audits of participating lender records.

SECTION 7: LENDER ELIGIBILITY

7.1 LENDER ELIGIBILITY

The HAP is available to **direct lenders only**. Brokers are not eligible for designation as an approved participating lenders (hereinafter called “lender”); however, they may enter into arrangements with an approved participating lender to process HAP applications. The participating lenders will remain responsible for all submittals and correspondence.

All lenders who wish to participate in the HAP must be enrolled in the program, maintain an active status, and meet the following requirements:

1. Lender must have a Corporate License to make first mortgage loans in the State of California;
2. Sign a Lender Participation Agreement and provide copy of Corporate Resolution for signature authority;
3. Each approved branch must obtain a City of Moreno Valley Business License;
4. Require all personnel involved with the HAP to attend a HAP training session;
5. Provide the HAP Manual and the Handbook to all HAP processors;
6. Complete the Lender’s Certification for each HAP loan submission perform in accordance with Lender Participation Agreement and the HAP Program Procedures Manual
7. Certify that borrower meets all HAP loan criteria;
8. Cooperate with the City in providing the best possible service to the City’s homebuyers;
9. Designate contact person(s) for the program; and
10. Ensure the borrower(s) attend homebuyer education and counseling as soon as the completed application submission package is received by the City.

7.2 LENDER REMOVAL

The Economic Development Department (EDD) may suspend or remove participating lenders from the Homebuyer Assistance Program in accordance with the terms of the Lender Participation Agreement. Lender may be suspended or removed from the HAP Program based on, but not limited to, the following violations:

1. Failure to follow the HAP Guidelines, as described in this manual and periodic Lender Bulletins.
2. Failure to submit all outstanding documentation within fifteen days of scheduled loan closing.
3. Withholding information that would result in borrower or property disqualification from the program.
4. Negligent or fraudulent misstatements or actions in regard to the Program.
5. Failure to conduct reasonable verification of borrower qualifications for the Program.
6. Failure to maintain complete borrower record for a minimum of seven (7) years after loan closing.

SECTION 8: LOAN MANAGEMENT AFTER CLOSING

8.1 MANAGING AGENCY

The City of Moreno Valley Redevelopment Agency is the appointed trustee for all loans made through the Homebuyer Assistance Program. Forward correspondence to:

City of Moreno Valley
Economic Development Department
Neighborhood Preservation Division
14177 Frederick Street
P.O. Box 88005
Moreno Valley, CA 92552-0805

Telephone: 951.413.3450
Fax: 951.413.3459

8.2 RECONVEYANCE OF HAP LOAN

When the assisted property is sold or other circumstances occur requiring loan pay-off, the City of Moreno Valley will calculate the pay-off amount, collect and complete the Deed of Reconveyance. The Reconveyance should be recorded at the Riverside County Recorder.

SECTION 9: LOAN DEFINITIONS

Affidavit:	An affidavit filed in connection with the program made under oath and subject to penalties of perjury.
Affordable Housing Cost:	Section 6920 of Title 25 of the California Code of Regulations defines the affordable housing cost to include the following: <ul style="list-style-type: none">▪ Principal and interest (first mortgage)▪ Property Taxes and Assessments▪ Homeowners' Association (HOA) Dues▪ Hazard Insurance (if not included in HOA)▪ Mortgage Insurance Premium▪ Utility Allowance*: including garbage collection, sewer, water, electricity, gas, and other heating, cooking, and refrigeration fuels▪ Maintenance and Repair Allowance
Borrower(s):	Any person(s) who applies for a HAP loan.
Approved Lender:	A lender that has been approved by the City to participate in the HAP Program. To participate in the HAP Program, a Lender must: (1) attend the HAP Training session; (2) Sign the Lender Participation Agreement and designate a contact person; and (3) Obtain a City of Moreno Valley Business License.
Assets:	A cash or non-cash item that can be converted to cash. Assets exclude personal property. Cash assets at closing cannot exceed six (6) months monthly housing payment (PITI).
Commitment:	Issued by the City of Moreno Valley based on Loan Committee's approval and are valid for 60 days.
Displaced Homemaker:	An individual who, (1) is an adult; (2) has not worked full-time, or worked a full-year in the labor force, but has during such years, worked primarily without remuneration to care for the home and family; and (3) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment. For the purpose of the HAP, a displaced homemaker may be eligible to apply for a loan providing that the ownership was previously held with a spouse, as joint tenants.
Eligible Borrower:	Any person meeting the criteria of an eligible borrower set forth in this manual that is in the process of securing financing for the purchase of a Principal Residence. Also referred to as "borrower(s)."

Continued on next page.

SECTION 9: LOAN DEFINITIONS CONTINUED...

Eligible Dwelling:	Residential real property located in the City that is an existing home which has been previously occupied, designed as a residential unit for one household and which meets the City of Moreno Housing Quality Standards and the criteria set forth in this manual
Existing Home:	Resale home.
HAP:	Homebuyer Assistance Program of the City of Moreno Valley.
HAP Funds Usage:	The HAP funds usage is limited to down payment only. The HAP funds cannot be used to pay for any closing costs.
Income (Eligibility):	The total gross household income for all borrowers and adults residing in the household that anticipates receiving income during the 12-month period. All income derived from any source as stated in income definitions (☞ See Section 3.4).
Income – Extremely Low (RDA §50106):	30 percent of area median income adjusted for family size.
Income – Very Low (RDA §50105):	50 percent of area median income adjusted for family size.
Income – Lower (RDA §50105):	80 percent of area median income adjusted for family size.
Income - Moderate (RDA §50093):	Households with income at or below 120% of the median income for the area. Maximum income allowed under the HAP of the City of Moreno Valley.
Income – Low (HOME):	Households with income below 80% of the median income for the area.
Interest Recurring:	Lenders usually require borrowers to pay at settlement the interest that accrues on the mortgage from the date of settlement to the beginning of the period covered by the first monthly payment.
Lender:	A direct lender (financial institution) that is licensed by the State, and has met all of the requirements set forth in this manual. (☞ See Section 7.1).
Loan:	An extension of credit provided to an Eligible Borrower to finance the purchase of an Eligible Dwelling which meets the City requirements set forth in this manual.
Non-recurring Closing Costs:	One-time fees and expenses paid at the time of closing. The HAP funds cannot be used for <u>any</u> closing costs.

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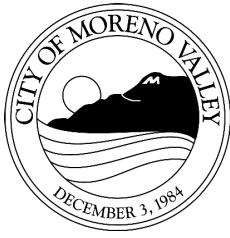
SECTION 9: LOAN DEFINITIONS CONTINUED...

Ownership:	Any of the following interests in residential real property: <ul style="list-style-type: none">■ Fee simple interest■ Joint tenancy■ Tenancy in common■ Interest of a tenant-shareholder in a cooperative■ Life estate■ Interest held in trust for the Borrower that would constitute a present ownership interest if held by the Borrower
Participating Lender:	☞ See Lender Eligibility Section 7.
Principal Residence:	A single-family house; or any manufactured home (including a mobile home) as defined under Federal law which is of a type customarily used at a location and which sits on a permanent foundation. The borrower must expect to occupy the property as their Principal Residence .
Property Standard:	The minimum standards to meet all applicable City of Moreno Valley Housing Quality Standards.
Property Value:	The value of the eligible property as determined by a certified appraisal. The property value, not the purchase price, shall not exceed 95% of the area median purchase price for the house, as annually determined by the United States Department of Housing and Urban Development (HUD).
Purchase Price:	The cost of acquiring the residence excluding usual and reasonable settlement or finance cost. The purchase price cannot exceed 95% of the Riverside County Single Family Mortgage Limits under 203(b) of the National Housing Act (12 U.S.C. 1709(b)) as determined annually by the United States Department of Housing and Urban Development (HUD).
Related Person:	A related person, as that term is defined under the Internal Revenue Code and applicable regulations.
Recurring Closing Costs:	Also known as “pre-paids.” Means annual renewal fees such as property taxes, insurance and MIP. The HAP funds cannot be used for <u>any</u> closing costs.
Single Parent:	An individual who is (1) unmarried or legally separated from a spouse; and (2) has one or more minor children for whom the individual has custody or joint custody of, or is pregnant. For the purpose of the HAP, a single parent may be eligible to apply for a loan providing that the ownership was previously held as joint tenancy.

SECTION 10: HAP EXHIBITS LIST

Form Name		Number of Pages	Revision Date
1.	HAP010-Reservation Request Form	1 Page	07/01/08
2.	HAP011A-Reservation Confirmation (Sample)	1 Page	07/01/08
3.	HAP012-Loan Submission Checklist (Approval Phase)	1 Page	07/01/08
4.	HAP013-Contact Information Sheet	2 Pages	07/01/08
5.	HAP014-Lender's Affidavit	2 Pages	07/01/08
6.	HAP015-Borrower's Affidavit	3 Pages	07/01/08
7.	HAP016-Upfront Equity Share Disclosure	1 Page	07/01/08
8.	HAP017-Income Worksheet & Instructions	2 Pages	07/01/08
9.	HAP018-Non-Filing of Tax Returns Affidavit	1 Page	12/27/07
10.	HAP019-Declaration of Income	1 Page	12/27/07
11.	HAP020-Seller's Affidavit	1 Page	07/01/08
12.	HAP021-Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards	1 Page	06/05/02
13.	HAP022-Protect Your Family From Lead in Your Home (HUD Booklet)	16 Pages	9/01
14.	HAP024-Housing Quality Standards	5 Pages	6/04/02
15.	HAP025-Affordable Housing Cost Limit Worksheet	2 Pages	07/01/08

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Report to City Council

TO: Mayor and City Council

FROM: Kyle Kollar, Interim Director of Community Development

AGENDA DATE: January 26, 2010

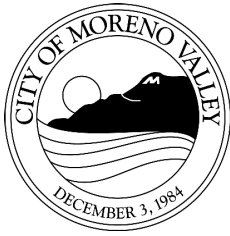
TITLE: Rancho Belago Community Sign Program

This matter has been placed on the City Council agenda at the request of Councilmembers Molina and Stewart. The most recent Council-level discussion of this topic occurred during a City Council Study Session on September 16, 2008. Transmitted via this memo is the staff report provided to Council for that study session and the minutes of Council discussion.

Some direction to staff arose from that study session discussion (i.e., identify other 'communities' within Moreno Valley and develop alternatives for financing 'community' signs for further discussion by Council). However, ensuing reductions in staff have, to date, precluded pursuit of these assignments. It is worth noting that the applicant has not—since the subject study session—further pursued his sign program application.

Attachment #1 – Study Session Staff Report 9/16/2008
#2 – Study Session Minutes 9/16/2008

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APPROVALS	
CITY ATTORNEY	
FINANCE DIRECTOR	
CITY MANAGER	

Report to City Council

TO: Mayor and City Council

FROM: Kyle Kollar, Community Development Director

AGENDA DATE: September 16, 2008

TITLE: Proposed Rancho Belago Community Sign Program

RECOMMENDED ACTION

Staff recommends that the City Council discuss the proposal and provide direction to staff regarding future action on the proposal.

BACKGROUND

On February 13, 2007, the City Council approved a resolution to designate a community name of Rancho Belago for a portion of eastern Moreno Valley.

On October 9, 2007, the Planning Division received an application for a sign program for the area from the Rancho Belago Economic Council. The application included a variety of community identification signs and banners on new and existing poles located in the public right of way (copy sent under separate cover). The proposed sign program has the stated purpose of providing a "sign imagery that gives Rancho Belago a unique character that speaks strongly of the quality that awaits within".

After staff review of the proposal, a letter was sent on December 19, 2007, providing comments and requesting information as to the proposed implementation of the program relative to installation and maintenance of the signs (see attached copy).

On February 27, 2008, the applicant provided a response letter agreeing with nearly all of the comments provided by staff (see attached copy). The letter also indicated their intent to share the cost of the installation and maintenance of the program with the City.

Attachment #1

Given the request for City participation, on March 26, 2008, staff sent a follow up letter requesting information on the projected cost to install and maintain the proposed signs (see attached copy). That information was provided in a series of e-mails.

The City currently has 21 painted simple metal entry signs mounted on signposts as well as major entryway signs at the western Alessandro Boulevard city limits. The metal signs cost approximately \$275 to make and install. On occasion, the signs are replaced due to damage.

Most neighborhood/project identification signs are privately maintained. A limited number of signs are maintained by the City's Public Works Department in conjunction with adjacent street side landscapes with funding from Special District fees levied on benefiting property owners. A similar arrangement has been approved for Sunnymead Boulevard where identification signs and banners will be maintained by the City with funding from fees levied on adjacent property owners.

The proposed sign program would be most like the City entry identification signs or Sunnymead Boulevard signs as they would be in the public right of way and would identify a designated community rather than a specific private development.

DISCUSSION

The proposed signs evidence a high level of quality design and construction. The proposed sign program proposes up to thirty (30) community identification signs and nine (9) community amenity directional signs mounted on new freestanding poles, sixteen (16) community identification signs and nine (9) community amenity directional signs mounted on existing City or Southern California Edison streetlight poles, and fifty-one (51) community identification banners mounted on existing streetlight poles. Tentative locations for the one hundred fifteen (115) proposed signs are identified in the draft sign program. The program also proposes a new design for tract directional signs – these signs are installed by the Building Industry Association (BIA) pursuant to an agreement with the City. No specific locations are provided for these signs as they are located in response to builder requests for directional signs for their developments. Specific locations would require further technical review relative to the issues identified in staff's December 19, 2007, letter.

Information provided by the applicant indicates that the installation cost at \$350,900 for forty nine (49) signs: twenty six (26) community identification signs and seven (7) community amenity signs mounted on new freestanding poles (\$9,300 each) and sixteen (16) community identification signs on existing streetlight poles (\$2,750 each). The cost of the signs reflects the high level of quality design and construction. The annual maintenance cost is identified as \$21,350. The applicant's information is attached. Staff has not pursued independent verification of these cost figures. The cost of the proposed program is similar to that of the Redevelopment Agency funded Sunnymead Boulevard sign program.

The applicant has indicated that the remaining fifteen (15) community signs and all banner signs would be a future phase of the program. Therefore, no installation or maintenance costs were provided for these signs. The tract signs are identified as built and maintained by builder fees.

Given the unique nature of the applicant's request, staff is seeking input and direction from the City Council on future action on the proposal.

Potential areas for City Council discussion include the following issues:

Should a community identification program be permitted for the Rancho Belago community?

While several existing developments (e.g. Moreno Valley Ranch, TownGate, and Sunnymead Ranch) have identification signs, no informally designated communities (e.g. Moreno, Edgemont, Sunnymead) have such signs. Sunnymead Boulevard has an approved identification sign and banner program. A sign program for Rancho Belago would establish a precedent for identification programs for future designated communities.

Should a community identification program be permitted in the City's public rights of way?

Existing development identification signs are located on private property. Except for the existing BIA tract directional signs, private signs are not permitted in the public right of way. The tract signs are installed and maintained by the BIA pursuant to a formal agreement with the City and individual encroachment permits for each sign. As proposed by the applicant, the signs would be publicly owned and maintained and could be placed in the public right of way.

Should the City participate in the funding of the proposed sign program, and if so, to what extent?

To date, no general City monies have been used to fund the construction or maintenance of community identification signs. Redevelopment monies are being used to fund the construction of the Sunnymead Boulevard sign program. Only assessments on benefiting property owners have been used for maintenance of signs, and only in limited circumstances. Several mechanisms are available to assist in covering the costs of the proposed program, ranging from private contribution to community facility districts to use of City General Fund monies.

The questions posed above are intended to provide a framework for City Council discussion, and may not cover all potential policy or technical issues associated with the proposed sign program. The proposed sign program will likely undergo further refinement, based on City Council input and direction.

ALTERNATIVES

Not applicable.

FISCAL IMPACT

If granted, the applicant's request for City participation in the sign program would require the approval of a budget appropriation.

CITY COUNCIL GOALS

Not applicable.

NOTIFICATION

Notification of this discussion was made by listing on the agenda. The applicant was advised directly of the meeting.

ATTACHMENTS/EXHIBITS

1. Rancho Belago Community Sign Design Submittal (provided under separate cover)
2. December 19, 2007, staff comment letter.
3. February 27, 2008, applicant response letter.
4. March 26, 2008, staff follow up letter.
5. Applicant's Rancho Belago Community Signs – Preliminary Budget

Prepared By:
John C. Terell
Planning Official

Department Head Approval:
Kyle Kollar
Community Development Director

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

**MINUTES
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 P.M.
SEPTEMBER 16, 2008**

CALL TO ORDER – The Study Session of the City Council of the City of Moreno Valley, Moreno Valley Community Services District and the Community Redevelopment Agency of the City of Moreno Valley was called to order at 6:00 p.m. by Mayor Batey in the Council Chamber located at 14177 Frederick Street, Moreno Valley, California.

PLEDGE OF ALLEGIANCE – The Pledge of Allegiance was led by Council Member White

INVOCATION – City Attorney Robert Herrick

ROLL CALL

Council:	William H. Batey II	Mayor
	Frank West	Mayor Pro Tem
	Bonnie Flickinger	Council Member
	Richard A. Stewart	Council Member
	Charles R. White	Council Member
Staff:	Jane Halstead	City Clerk
	Robert Gutierrez	City Manager
	Robert Herrick	City Attorney
	Betsy Adams	Assistant City Manager
	Mike McCarty	Parks & Community Services Director
	Steve Chapman	Finance Director/City Treasurer
	Steve Elam	Financial & Administrative Services Director
	Chris Vogt	Public Works Director/City Engineer
	Barry Foster	Economic Development Director
	John Anderson	Police Chief
	John Clark	Fire Chief
	Chris Paxton	Human Resources Director
	Becky Guillan	Acting Library Services Division Manager
	Angela Rushen	Assistant to the City Manager
	Rick Hall	Police Chief

Attachment #2

PUBLIC COMMENTS ON MATTERS UNDER THE JURISDICTION OF THE CITY COUNCIL

Mayor Batey opened the agenda items for public comments, which were received from Sonnie Kenny (Rancho Belago), Pete Bleckert(signal lights), Michael Geller (Representing Moreno Valley Taxpayers Association; Item# 2, foreclosures), Valerie Burrowes (Item# 2), Cathlene Fishman (Item# 2), Meli Van Natta (Item# 2), Susan Gilchrist (Item# 2), Gary Baugh (Item# 2), Michael Greco (Item# 2), and Jamil Dada (Item# 2).

1. Emergency Operations Center Project Progress Report Project No. 06-50182527 **(PW/15 Min.)**
 2. Proposed Rancho Belago Community Sign Program **(Flickinger/Batey/15 Min.)**
Council's direction: Bring the item back for further discussion, including the recognition of other unique communities and alternatives for financing of signs (Batey/Stewart)
 3. Discussion of DMV Policy Regarding Holding Vehicles for Inadequate Payment of Fines **(Flickinger/White/15 Min.)** ❖
Council's direction: develop a policy regarding not sending diminutive fines to DMV for collection (Flickinger/White)
 4. City Council Requests and Communications
- ❖ Oral Presentation only – No written material provided

CLOSED SESSION - canceled

ADJOURNMENT

There being no further business to conduct, the meeting was adjourned at 7:45 p.m. by unanimous informal consent.

Submitted by:

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

enl

**G8. CITY MANAGER'S REPORT
(Informational Oral Presentation only –
not for Council action)**

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